

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION
Thursday 10 February 2011 at 14:30 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Policy Development Process (PDP) Work Team (WT) meeting on Thursday 10 February 2011, at 14:30 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-ppsc-pdp-20110210-en.mp3>

On page:

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Participants on the Call:

Jeff Neuman - Registry Stakeholder Group - Work Team Chair

Avri Doria - Non Commercial Stakeholder Group

James Bladel – Registrar Stakeholder Group

Alex Gakuru - Non Commercial Stakeholder Group

Paul Diaz - Registrar Stakeholder Group

David Maher - gTLD Registry Stakeholder Group

Wolf-Ulrich Knochen – ISCPC

Alan Greenberg – ALAC

ICANN Staff:

Glen de Saint Gery

Marika Konings

Margie Milam

Gisella Gruber-White

Coordinator: And this call is now being recorded. Please go ahead. Thank you.

Gisella Gruber-White: Thank you. Good morning, good afternoon to everyone. On today's PPSC PDP call on Thursday the 10th of February we have Jeff Neuman, Alan Greenberg, James Bladel, Paul Diaz, Avri Doria. From staff we have Margie Milam, Marika Konings, Glen de Saint G ery and, myself, Giselle Gruber-White. David Maher has just joined the call as well. I don't have any apologies noted.

And if I can please remind everyone to state their names when speaking for transcript purposes? Thank you. Over to you, Jeff.

Jeff Neuman: Thank you very much. Welcome to our Thursday weekly meeting. And it seems like we have a small attendance as well. Hopefully we'll be able to get Alex on the phone. And Alex has raised a new agenda item that he wanted to talk about but I'll wait until Alex gets on the phone before we go into it.

He had sent me an email on it. And I don't know - did he send that to the full group or was it just to myself and Gisella...

Alan Greenberg: To everyone.

Jeff Neuman: Oh it was to everyone, okay. Good. So once he gets back on - I didn't really - just to be honest I didn't fully understand exactly what he wanted to talk about on that issue so like I said I'll wait until he gets on and then we'll ask him.

Okay so we have a couple of action items from the last meeting to cover and then we will go into some of the new items, you know, we're on - we're getting closer to the end and actually we need to finish these issues up. So try to go a little bit quicker and not spend so much time talking about the past issues.

So the first issue was - if you look down at the discussion notes, Recommendation 31, this is the work team agreed approach that further details in guidance on how comments should be reviewed as well as which possible tools could be included - or sorry - could be used - should be included in the PDP procedure manual.

The work team also agrees to refer to other applicable recommendations if appropriate. And Marika notes that none were found. It was suggested that the language from the GNSO working group guidelines might also be appropriate for inclusion in the PDP manual.

Public comments received as a result of a public comment forum held in relation to the activities of the working group should be carefully considered and analyzed. In addition the working group is encouraged to explain their rationale for agreeing or disagreeing with the different comments received and if appropriate how these will be addressed in the report of the working group.

So, Marika, do you want to just cover how that's modified and what you were looking for and obviously did not find?

Marika Konings: Yes this is Marika. I thought we had a recommendation that addressed that issue as well but I couldn't find anything in particular.

So what I did is actually take the - I took the language that was in the working group guidelines and added that in modified form to that recommendation so that, you know, in addition to what was already there it's read, "The PDP work team recommends providing further guidance on how to conduct public comment periods and review public comments received as part of the policy development process procedural manual."

"Such guidance should include the expectation that public comments are carefully considered and analyzed by the working group encouraging working groups to explain their rationale for agreeing or disagreeing with the different comments received. And If appropriate how these will be addressed in the report of the working group and other means to solicit input than the traditional public comment forums such as surveys."

So that's basically - based on the language that's already in the GNSO working group guidelines and adding that element of - as additional means to do - solicit public comments. And then that language would also be added to the procedure manual.

Jeff Neuman: Okay. So that sounds like a logical approach. Is there anyone that's got any comments on that? Does everyone understand that - people following along? I'll take that as a yes.

Okay with no comments on it let's go to the next comment which is on translation. And we spent quite a bit of time on the last call talking about this. And what we've come up with is the agreed approach which was some expressed concerns with relying solely on volunteers for translation.

It was proposed to add - quote, ICANN should consider the use of volunteers to assist with translation where appropriate. And - but we want people to comment on that. So we'll spend a couple minutes talking about this and hopefully finish it out.

So do people think that we need - I think, James, this was kind of a big issue. You and Paul had raised a comment on this so are you okay with this wording? Do you want something more definitive on the use of volunteers?

James Bladel: Yes, I mean, I think it's fine, Jeff. I think I would prefer it to be a little more strongly encouraged. You know, maybe ICANN is encouraged to consider where appropriate and practical or something like that. I don't know; I just - I think - Paul wasn't here on our call on Monday but, you know, we just did raise the issue of the sticker shock associated with translation services so.

Jeff Neuman: Okay. Well let me go to Paul, since you were not on the call but, yes, why don't you - Paul and then Alan.

Paul Diaz: Yes, okay thanks Jeff. Just to echo what James said; I wasn't on the call but from our previous comments the push that we were trying to get is, you know, at some point we have to start thinking about all of these recommendations impact on ICANN's budget.

And the sticker shock is pretty shocking when it comes to translating documents, asking ICANN to formally translate more and more documents into multiple languages. And bluntly I don't see the return on investment in a lot of the instances.

Nevertheless I can live with what we're saying here with the idea that we - ICANN is encouraged to or strongly should consider something that's just a little bit more oomph to try and get them to use volunteers when and where available and not just keeping racking up very, very expensive - excuse me - translation bills.

Jeff Neuman: Okay. And so, Marika, are you able to real time update that discussion notes or is that something that's kind of tough to do?

Marika Konings: I can do that on the screen here; this is a PDF document, sorry. I can include it in the notes section so...

((Crosstalk))

Jeff Neuman: Yes, no, in the notes section if you could just change the ICANN should consider to ICANN is strongly encouraged to use. Right, okay now - then I'll take - well Avri's got - well I was getting down the queue so take a look at that language and Alan and then Avri if you've got comments on that so Alan.

Alan Greenberg: Yes just a brief comment on the reference to return on investment, I think we have to be candid here; I'm not suggesting we put this in the report - the return on investment at least in the short term is probably public relations and perception of ICANN in the rest of the world.

You know, I just don't think there's any other way around it other than that we translate more and yes it is going to become a larger part of ICANN's costs. I think that's part of the cost of doing business and putting on the persona of

being an international organization open to people who are not English-speakers.

In terms of the specific recommendation James had some words - he said where appropriate and something - I don't remember what the and was.

James Bladel: Practical.

Alan Greenberg: Practical. And I think that needs to be added based on - because of some discussions that At Large has been having for years now but more - but specifically at the last meeting on use of volunteer translation.

And the ICANN translation people, you know, have said yes they are interested in specific instances but in the general case and especially for critical documents they find the costs are higher that way just to manage and sort of verify that the translations are appropriate.

Most people around the At Large table weren't happy with that answer but that is the answer that translation is giving. So - and I think we have to be cognizant of it. Thank you.

Jeff Neuman: So, Marika, can you add to that at the end of it - it now says where appropriate and can you add and practical? All right now I'm going to get to Avri.

Avri Doria: Yes, thanks.

Jeff Neuman: Okay.

Avri Doria: Okay yes, this is Avri. I guess I agree with Alan quite strongly. I think that it may be expensive; it's something that needs to be included in the budget. There are so many less important things, perhaps, I would consider, that ICANN spends a lot of money on, you know.

And basically making proper outreach to - for the world's people that don't have English as a primary language I think is critical. And I think using volunteer translators is just not a good idea period.

As I say in ever instance I've heard of it is harder to use them because you've got to spend more time going back and you can't rely on them and they don't have a firm schedule. And it's just in an organization that goes through as many millions on everything under the sun as ICANN does to say but translation is not worth it to us is just really (unintelligible) and not something I recommend doing and something that I would definitely have an opinion against. Thanks.

Jeff Neuman: Okay thanks. And let me go to James.

James Bladel: Hi Jeff, James speaking. You know, somehow we've gotten into - just kind of think of a discussion of what the approach to translation should be versus, you know, the discussion of whether or not it's important.

I think everyone agrees that translation is important; I think we're trying to find the most practical way to achieve it and still have some degree of confidence in the resulting, you know, output.

You know, my concern is that when we first touched this issue some of the numbers that were coming back were staggering. I think that just to translate some of the key documents for ongoing PDPs within the GNSO was more than ICANN was spending on its general meeting or something like - or on par with that. It was millions of dollars.

And so I think that that just struck me as a little, you know, I think it's not a question of, you know, is this a luxury or not, I mean, this is a fundamental shift in where ICANN prioritizes its budget.

So my question is if we are going to encourage ICANN to always use professional translations then I think it behooves us to tell them where they're going to get the money for that and what other areas of ICANN are going to, you know, be given up to support that.

You know, do we go from three meetings to two? Do we take away budgets for the various stakeholder groups and advisory committees or, you know, where does that money come from? Because that answer can't be that it comes from registries and registrars who pass it onto registrants. I don't know that's just - the numbers that I saw were just staggering. Thanks.

Jeff Neuman: Margie.

Margie Milam: Yes this is Margie. I just wanted to comment on a couple of things. I do think that some of this might be moot in the sense that I know that, you know, we're taking a global approach to translation policy and for a lot of the reasons that Alan and Avri, you know, point out. There's, you know, as an organization there's, you know, a desire to come up with a travel policy that works.

But as you bring it down to how it affects the PDP process one of the things that we might think about is if translations is part of our recommendation how does that factor into our public comment period because - for work done under the PDP because if our recommendations end up suggesting or, you know, requiring translation in some way whether it be the executive summary or the full reports, you know, and we want public comment, you know, the timing of it really is impacted because it does take time to get translations.

And sometimes that affects the ability to work on those specific timelines. So I just wanted to raise those issues.

Jeff Neuman: Yes thanks Margie. And I do believe we addressed those timeline issues in the recommendations. Marika, correct me if I'm wrong but I thought we spent a considerable amount of time months ago on that issue?

Marika Konings: This is Marika. We did talk a lot about it and I think we have a lot of elements in the notes. And in our conclusion we do talk about the fact that, you know, there are many elements that need to be taken into account, the cost, timing implications noting as well that, you know, we probably should weigh as well and encourage an overall ICANN policy on translation.

But we do recommend, you know, translation of key documents, working group charter, executive summaries, of initial - final reports. And we note that public comments should be received in other languages and where feasible these comments should also be translated back into English.

Jeff Neuman: Right. So, I mean, I don't think we can go into much more detail on that. I think we would spend days, weeks, you know, months on that particular issue. So other than Avri is there anyone else that objects to the language as is - in the notes section on the bottom left of Adobe as currently written? So I know Avri objects to it. Is there any other objections to that language?

Alan Greenberg: I don't think it's going to get anywhere but I (unintelligible) object to it. I think - to be honest I think these decisions are being made way above our heads in terms of what our scope and prerogative is. So it's just less - we don't have to spend more time talking about it.

Jeff Neuman: Okay.

Avri Doria: This is Avri can I quickly comment? I think it's fine...

Jeff Neuman: Yes.

Avri Doria: ...I just do want to notify that it's one of the places where I will probably write comments contrary to the team I was on work at the end of the process.

Jeff Neuman: Okay. And let's - okay. And, Marika, when - next week when we are reviewing the latest final report can we just make sure there's an agenda item for those that disagree with certain objections to make sure that they have the ability to make those comments or how logistically we're going to publish those.

Marika Konings: Yes, this is Marika. I mean, an option might be to have people, you know, file minority statements if they feel strongly about certain recommendations that they do not support that we basically indicate in the report saying this is a minority statement made by Person X who believes that X, Y, Zed.

And that might be a way if there are certain items where people really disagree as we might not have time to really, you know, have another debate on these issues to really work it out and maybe try and after comments and, you know, after public comments to see if some of the - those minority viewpoints can be addressed and a consensus position can be found.

Jeff Neuman: Okay. Well let's save that conversation for Monday. I want to move on with the recommendations. But let's make sure we have a note of that as an agenda item.

Okay so if we go back then to the outstanding issues we are on Page 31 of the issues - outstanding issues which were updated February 8. And it's on the board vote and it says, "When a final decision on GNSO recommendation or supplemental recommendation is timely the board shall take a preliminary vote and where practical" - sorry, "where practicable will publish a tentative decision that allows for a 10-day period of public comment prior to final decision by the board."

And then Paul and James responded and said - if you look at the right column - that what's the point of a tentative vote? The board vote should not be taken lightly especially in an age of significant resource constraints. If the board is looking for input ahead of a formal vote they have plenty of informal opportunities and communication channels to vet the communities' positions. We strongly recommend deleting Subsection F.

Anybody - any thoughts on - so the proposal is to delete the recommendation. Alan.

Alan Greenberg: I tend to agree because I think it's highly impractical. If this preliminary vote is actually a formal action of the board as opposed to a straw poll on e-mail or something like that which I don't think it's something that's going to be reported and acted on it impractical. The board meets typically like four times a year these days, you know, with several months between meetings.

If the board met monthly or biweekly this might be a practical thing to do but I don't - and this almost guarantees that we're delaying a decision on a PDP for six months so - or for an extra four months or something. So I'm not sure the merit in it is large enough to warrant that kind of delay.

Jeff Neuman: Okay does anybody - I see David agrees with Alan and Paul and James. Does anybody oppose let Paul and James have proposed? Okay, Marika, let's delete it.

Marika Konings: Okay.

Jeff Neuman: All right maintenance of records, throughout the PDP from policy suggestion to a final decision by the board ICANN will maintain on the Website a status Webpage detailing a progress of each PDP issue.

Paul and James have said they would add that such a status page will outline completed and upcoming steps in the PDP process and contain links to key

resources. I think that's a logical and good suggestion. Does anybody oppose that suggestion? It sounds pretty noncontroversial.

Alan Greenberg: I question how practical it is but I support the concept.

Jeff Neuman: Okay. Well hopefully we're improving the Website and improving tools and resources so I think that's a good addition and pretty noncontroversial. So someone stop me if you think I'm going to quick or you want to say something or raise your hand.

But let me get into the next one, it says, "The GNSO policy development process is intended for the development of policies that may become consensus policies applicable to ICANN contracted parties."

And then Alan says, "Shouldn't we include a reference to other uses of PDP as well?" And - Marika, where in the - where does that come up, that statement? Because I kind of agree with Alan; we spent a lot of time talking about other uses of the PDP...

((Crosstalk))

Marika Konings: This is Marika. I think that is at the start of the procedure manual or the bylaws. I think what we basically tried to say there of course that's your original intent that basically to highlight as well that we've spoken about it for other kinds of issues there might be easier ways to address those and you don't necessarily need to do a PDP which you might achieve through, you know, a kind of process that goes quicker or doesn't require all these different steps. I think that's what we're trying to say with that statement.

Jeff Neuman: So I think we spent - and before Alan those because I'm going to bring up the same Alan point that he always brings up before Alan brings it up. We spent a lot of time talking about the different uses of a PDP and we talked about it in terms of when we want stronger consideration by the board or, you know,

entity increased threshold that the board has to have in order to not adopt it even if it's best practices or whatever it is.

I don't think we should have a statement in there that talks about the intent of the PDP without including all of those other concepts that we discussed because I think it's a little misleading to do that. So unless we all kind of think about exactly what we want this statement to make, I mean, is it essential that we have to have that statement in there?

Or better yet why don't we say that that's one of our action items while it's out for public comment that we basically try to come up with a frequently asked questions or something like that on what is the PDP process and, you know, may be in layman's terms try to come up with better words? Marika and then Alan.

Marika Konings: Yet this is Marika. If I can just add something because, I mean, that is the first sentence of the introduction to the PDP procedure manual. But that same introduction finishes with the sentence like, "Although this manual is intended for the development of consensus policies the GNSO Council may at its discretion follow the processes described in this manual for other types of activities that are within the scope of the GNSO Council's mandate as described in Article 10 of the bylaws."

So I don't know if that essentially balances, you know, the two parts.

Jeff Neuman: Alan, do you have any comment?

Alan Greenberg: Yes, no I don't think it does at all. That says we've developed some interesting procedures and the GNSO may choose to use them anywhere it wants. But the focus of it is these are the procedures we're going to use for a PDP regardless of whether the PDP is setting consensus policy or not.

And I think to leave that sentence at the beginning of that manual is misleading and I think it's important to fix it to some level before we put it out for comment otherwise people are reading it with the wrong perception and it's reinforcing a perception that many people had to begin with. So I think that needs to be fixed.

It's certainly true that the PDP is the only mechanism that can be used to set consensus policy. But that isn't the only thing a PDP can be used for. And I think that needs to be reflected, as Marika says, in the introductory sentence of the document.

Jeff Neuman: Yes and...

Alan Greenberg: The fact that we're - the GNSO can also choose to use our really great procedures for other things is interesting but not salient I think to this particular statement.

Jeff Neuman: Yes and I just - I want to point out kind of agreeing - so personal - not chair or even registry necessarily but a personal observation of mine is this leads to a lot of the council debates and a lot of the consternation between people is that there are certain people that believe that the consensus policy or the PDP process is for consensus policies only.

And so you get a lot of fighting when it comes to PDPs both to push for it and both to push against it depending on which side you're on. And I think what we're doing here is we're setting up a reliable process to encourage a good amount of public comment, to also encourage a good strong process that people can rely on and in the end something for the board to very seriously consider as opposed to - at a higher standard and threshold than other GNSO activities.

And so I kind of agree that making a statement that just leads to that kind of stereotype if you will of the PDP process is harmful and will lead to more

fighters in the GNSO. So I don't think we should be saying that the PDP process is intended for the development of policies that may become consensus policies.

Because I think as this last week or two weeks demonstrate when we were talking about the best practices for registries and registrars there was a very heated debate because one side really wants a PDP because they want to force contracted parties to do something. The other side doesn't want a PDP because they don't want to be forced to do something.

But everyone agrees that the processes and procedures for PDPs in general are better than ad hoc processes and procedures. So if it could have been made clearer to people that we can follow the PDP-type processes but not have to worry about whether it's going to be consensus policies we may not have had such a strong fight.

But that's my own personal view, again not a registry view or a chair view. But I think if we basically make it more of a statement - I would say a more predictable and reliable way to engage in small p policy development - small p, small d, then that's much better for the community going forward I think.

Anyway Avri.

Avri Doria: Yes, I think I tend to agree with you on this and perhaps the only wording or indication that needed to be given somewhere is that either - and I'm not sure whether it's a priori or posteriori so whether it's before or after the process but that someone needs to then make a determination is this PDP for consensus policy (unintelligible) contracted parties feel it's being thrust down their throats or is it just recommendation? Is it just, you know, the proper way of working?

But - and so as that determination is made perhaps at the frontend, perhaps at the backend is part of the decision making but that the process we're creating is neutral in that respect. And so I think I'm agreeing with you; the

only thing that might be on Alan's side of the conversation that I'm agreeing with is that there should be some notation saying - someone decides how it's being used, probably council, but, yes, thanks.

Jeff Neuman: Okay. Alan.

Alan Greenberg: I'm not sure what Avri just said. But there was an implication there that up front in the PDP it should be decided whether the output is consensus policy or something else. And I would have thought that's one of the main purposes of the PDP process is determine what the appropriate outcomes are to address whatever the issue is.

I really - we've seen this tendency before to pre-judge what the outcomes are ahead of time and restrict them. And anything that smells of that I really object to because I think that cripples the process itself. If the working group cannot, as part of its deliberations decide what the appropriate outcome is.

Jeff Neuman: Well but...

((Crosstalk))

Jeff Neuman: Yes and I'll respond and then Avri. The other side of the equation though, Alan, is that for things like let's look at the last example of nonbinding best practices which is what the working group - the (RAF) working group had recommended - knowing going in that it's going to be result in nonbinding best practices, I've got to tell you, is what was the impetus for allowing it to go forward.

If it wasn't known up front or it was put in doubt up front then you would not have had the support of a number of players. And so to the extent you can upfront I think it's really important to make that declaration so that the group knows its boundaries. And that is important for contracted parties.

Alan Greenberg: Yes, I guess I differentiate between something whose genesis says this is what we're looking for and who says - and another case where you're trying to solve a generic problem and you're prejudging what the solution is. I don't know how one words this but I see those as two radically different things.

Jeff Neuman: Okay let me go to Avri and then Marika.

Avri Doria: Yes thanks, I'll try to be brief. As I said I wasn't sure whether it was something that was said before or at the end. And I certainly think that you can give a prior impression that we don't believe that this is consensus. I don't think there should be anything that stops the group from coming back with a consensus policy recommendation if it thinks there is one.

So I think that it's okay at the beginning to say we do not believe this is an occasion for consensus policy. I agree with you, Alan, I don't think anything should prevent the group from recommending a consensus policy. Thanks.

Jeff Neuman: Okay.

Alan Greenberg: Presumably we do have all parties represented on the working group and so if they unanimously or close to unanimously come out with a recommendation, you know, this is not going to be just one splinter party thing.

Avri Doria: understood.

Jeff Neuman: Okay so, Marika.

Marika Konings: Yes this is Marika. I just wanted to point out as well that many working groups actually with a mix of recommendations, you know, PDP working groups. Some elements might be recommendations for changes to consensus policies or new consensus policies while other recommendations that they

produce as part of that same PDP are, you know, recommendations for best practices or for other elements.

So I think it will be very hard indeed to define it at the start. And also indeed to add to Allen's comments, indeed if you would have a PDP on best practices but as well doing that PDP everyone agrees there is unanimous consensus that, you know, one or two elements actually should be consensus policy for, you know, whatever reason if you restrict that beforehand, you know, it will restrict the outcomes the group can come up with.

And I think we need to, you know, accept that it's very difficult beforehand to predict what the outcome might be or what is the best approach for the issue you're looking at so.

Jeff Neuman: Okay. James, Paul, David, any thoughts on this? Okay. So where are we on this statement? Let's try to go back here. Personally I think - I'm not sure we need to write the introduction to the policy manual as this goes out for public comment.

So is it just possible to delete the intention for now and then work on it as part of one of our work items while this is out for public comment?

Alan Greenberg: Then I would delete the introduction and say, "To be completed later." I really have a problem with a misleading statement - misleading and technically incorrect statement in the first paragraph of the manual.

Jeff Neuman: Right.

Marika Konings: And this is Marika. If I can just make a suggestion? What if we just take out the first sentence of that introduction? Because basically what it then would say is that these guidelines and processes supplement the requirements for PDPs described in Annex A of the ICANN bylaws, insert the link.

And although this manual is intended for development of consensus policies - well or maybe to leave the last sentence as well if people feel that it is confusing as well; that we only leave that this is a, you know, should be seen together with the Annex A. And then, you know, before the next version add anything that people feel needs to be added on what the PDP is intended for.

Alan Greenberg: What page is this in the manual?

Marika Konings: I think I posted it's on Page 58 of the report that's up on the Adobe...

Alan Greenberg: Yes, sorry, the report I meant.

Marika Konings: Yes, Page 58. And actually I think - pull it up for everyone now; you should see it now?

Alan Greenberg: I have lost the ability to scroll.

Marika Konings: Yes, so I've - you should see now Page 58 on your screen because I've...

Alan Greenberg: It's on my screen but it's so small I can't read it.

Marika Konings: Okay I'll...

((Crosstalk))

Marika Konings: ...and hope it stays still on the same place so you can...

Alan Greenberg: It did.

Marika Konings: ...enlarge it.

Alan Greenberg: Thank you.

Marika Konings: So the proposal would be to delete the first and the last sentence and that basically only leaves these guidelines...

((Crosstalk))

Alan Greenberg: If you say maybe come, among other things, consensus policies I think it addresses it. You know, maybe we can refine it but that would cover it in my mind.

Jeff Neuman: You know what, seriously I would think at this point I kind of like the - just kind of to be provided or something...

Alan Greenberg: Okay.

Jeff Neuman: ...as opposed to just trying to work this out because we have a bunch of other issues and we're running short on time.

Alan Greenberg: Okay I can live with it.

Marika Konings: Are you okay with me leaving that sentence that this goes together with the Annex A so people understand that it's - those two elements, you know, are part of the same package basically?

Jeff Neuman: Oh yes it's just these guidelines (approximately) supplement the requirements - yes, leave that in there that's fine.

Marika Konings: Yes and I just take out the first and the last sentence basically.

Jeff Neuman: Yes.

Alan Greenberg: Yes.

Marika Konings: Okay.

Jeff Neuman: I'm trying to read some of the chat comments here. Avri, James, anything we need to bring into these conversations or are these better just on the chat?

James Bladel: Probably just better on the chat just because I've, you know, I wanted to be clear on what I was not picking up on. But I think we're on the same, right.

Jeff Neuman: Okay. So, guys, just point out if there's anything I'm missing on the chat. I'm trying to pay attention to all the windows and if there's anything I'm missing just please make sure I'm aware of it.

Okay now we're going back to - sorry, going back to Recommendation 6, creation of the issue's report. "No changes to the bylaws are recommended in relation to the creation of the issue's report by the PDP work team. PDP work team recommends including in the PDP process Manual A."

"Recommendation for the entity requesting the issue's report to indicate whether there any specific items they would like to see addressed in the issue's report which could then be taken into consideration by the council when reviewing the request."

"In addition guidance could be provided in the PDP manual that the council and/or staff could provide advice ahead of a vote on the request for an issue's report whether they feel additional research, discussion or outreach should be conducted as part of the development of the issue's report in order to ensure a balanced and informed issue's report."

Alan has posted a comment about his confusion. And it says, "This section is about creating an issue report not requesting it. But it seems to revert to a discussion of what happens prior to the formal request. Also I note that the council only reviews requests generated internal to the council and not those from the board or ACs."

Marika you have a comment?

Marika Konings: Yes, this is Marika. Just to note that that first part of that recommendation has already changed based on previous discussions on where we basically outline which elements should be included in the issue report and which parts of that should be mentioned in the bylaws and which should be mentioned in the procedure manual.

And due to Alan's comment indeed the issue's requests are, you know, they are passed through the council or - but they're not reviewed or voted upon. I think that's basically instilling the current practice but what is not - hasn't been spelled out in the current bylaws.

Jeff Neuman: Alan do you want to comment on that?

Alan Greenberg: No, sorry, I thought I was looking at everything that had been done at the time that I made the comments so maybe I missed something. But in any case the review by council was an error in fact and I think that needs to be adjusted.

And the other part is perhaps more philosophical but I don't think, you know, a section on talking about creation of issue's reports should go back and talk about the preceding things. So not something live or die at this point but I believe it should be corrected to the extent possible certainly the reference to council review has to be corrected. The other part we can do it next pass if necessary.

Jeff Neuman: Okay any other comments on that? All right we ready to move on to the next one? Recommendation 11. Rather than reading the whole thing let me just - Alan's comment is this is the first reference to a preliminary issue's report. Do we need to adjust Recommendation 10 to reflect this; also since the 45 days is presumably for the publication of this preliminary issue's report.

So again this recommendation - Marika, you have a comment on this?

((Crosstalk))

Marika Konings: Yes, this is Marika. I've already updated that because I've already started working on the draft so I've indeed and where we're talking about what is actually the preliminary issue's report I've already made those changes.

And, yes, indeed on the 45 days I understood that as well as being to the publication of the preliminary issue's report.

Jeff Neuman: Okay.

Alan Greenberg: Okay so done.

Jeff Neuman: That should solve it, good. All right policy development procedure manual is the comment from Alan. On the section that says, "Advisory committee requests; an advisory committee may raise an issue for policy development by action of such committee to request an issue report and transmission of that request to GNSO Council. Request for an issue's report by either the board or an advisory committee do not require any GNSO action but are to be reviewed by staff and prepared in accordance with Section 6.4 below."

And the comment from Alan is, "Annex A is unclear on the exact process to be carried out by the AC. It says that the request should be transmitted to the council but the implication is that staff (unintelligible) by and initiates the actual work."

"Specifically it says that the staff manager will initiate the work based on a properly supported motion of the AC. I would suggest that to the GNSO Council be changed to the staff manager and the GNSO Council. I've made a

related change in the paragraph next - in the next paragraph to reflect the process."

Marika do you want to respond to that?

Marika Konings: This is Marika. I mean, I'm happy to add - or I don't have any issues with adding staff manager. I mean, normally if a request goes to the council we'll see it as well so...

Alan Greenberg: Well yes..

Marika Konings: ...and the other...

((Crosstalk))

Alan Greenberg: ...the current one implies - you could infer the staff manager will see it on the council list. I just think it should be - there should be an explicit - request, you know, the document should explicitly go to the person who has to act on it.

Marika Konings: Right, I mean, the challenge part - I mean, if you really go down to the details when it's submitted it might not be clear yet who is the staff manager. But in any event if it goes to staff we'll make sure that...

Alan Greenberg: Staff manager is not a term that's defined anywhere; we just use it.

Marika Konings: Right.

Alan Greenberg: So since we're - since we're happy to use it in other places let's continue.

Marika Konings: Right and what is the...

Jeff Neuman: So let me...

Marika Konings: ...other change you're referring to?

Alan Greenberg: I don't know.

Jeff Neuman: Yes...

((Crosstalk))

Alan Greenberg: I think it was actually in the proposed bylaws I think.

((Crosstalk))

Jeff Neuman: I think this looks fine.

Alan Greenberg: I think it's in the section - I don't remember - I don't recall but I think it's - currently it's in the bylaws, the process for an AC initiating an issue's report, I think. Well it has to be in the bylaws; now there is nothing else.

Marika Konings: Right but that section has now been moved to the...

Alan Greenberg: Okay I...

Marika Konings: ...manual.

Alan Greenberg: ...wherever I put the comment in my document I don't remember.

((Crosstalk))

Alan Greenberg: It's under the policy development procedure manual so it is in the manual right now somewhere.

Jeff Neuman: Okay, have we searched for it here?

Marika Konings: I don't see the comment in here.

Alan Greenberg: Okay hold on, let's see. I'd have to find it. I can find it and get back to you. Or we have 15 minutes; you can listen to me finding it if you want. Why don't you go on? Is there anything else to discuss? Is Alex on the call? Do we have his other items?

Jeff Neuman: Yes, well before we do that - okay...

Alan Greenberg: I'm trying to find it as we're talking so...

Jeff Neuman: Okay Alex, are you on?

Alex Gakuru: Yes I'm on the call.

Jeff Neuman: Okay. I wanted to just bring up - good; I want to bring up the issue that you had raised in email. And so just to - did - you sent that to the full list. Do you want to just go into that and so we could have a discussion on it now?

Alex Gakuru: Oh you'd like me to go into it?

Jeff Neuman: Yes. So you said on email you want to discuss as an item emerging proposals implication on policy work at ICANN regarding the GAC Board meeting. Did you want to just go into a little bit...

((Crosstalk))

Jeff Neuman: Yes.

Alex Gakuru: Yes, very well. I think Avri is still with us here. Our stakeholder group has issued a statement in (unintelligible) to the proposal that has been put forth. Why I see it's relevant to what we are doing is that if you work out all these

nitty-gritties and such for as close as we can get this likelihood of us substantially changing the way policy is developed altogether.

So as we work out all these nice things if - especially on the new gTLDs if there's - there's a big change from the top to how this would - the stakeholder model works then it will have a big impact on how policy is developed altogether at an overall view.

So what I wanted to do is to put maybe our statement - or find out what other stakeholder groups think of that looming change that is being put forth in terms of the scorecard. That was the issue. Thank you.

Jeff Neuman: Okay so I guess if you made the question a little broader what happens when - if there's a PDP that's approved by the GNSO Council and there are - whether it's consensus policies or not and it goes to an advisory committee or - like the GAC and the GAC provides its advice what if that advice is contrary or is inconsistent with the GNSO? What happens at that point in time? Is that kind of your...

Alex Gakuru: Precisely.

((Crosstalk))

Alex Gakuru: That is the - that is the - that's really the issue we're talking about, yes, that's the point, precisely. So maybe you're open to discussion and find out what people think about that.

Jeff Neuman: So okay let's - let's go through what do we have so far in there? We actually don't even have a - it basically says that it goes to the board and the board must approve unless two-thirds of the - a board do not - essentially reject it.

So practically speaking what would happen is the GAC would provide its advice, let's say, then the board would have to, by two-thirds, reject it based on the GAC advice. At that point it would go back to the council anyway.

So is this something we - for a PDP that we really need to address? I totally understand if it's not a PDP but just a regular policy process like - the new gTLD process I do not believe was a formal PDP. So Avri can correct me if I'm wrong but I believe that was just a regular GNSO activity.

But - well let me ask the question, do people believe we're covered in PDPs with the provision that I mentioned that it takes two-thirds of the board to reject a GNSO approval and then it would have to go back to the council anyway if there's a rejection. Avri.

Avri Doria: I actually think that you're right, that we are covered. But I think that's a matter of interpretation and I don't think everyone would necessarily accept because - and the other thing that might open up this whole - is that the board has rejected their advice so in a sense they've already approved the recommendation and it's at that point.

So I guess I would look at it and say in general I agree that we should be covered but I think that there's at least two different arguments that might allow for an adverse decision that did therefore force it back to the GNSO, as I said (unintelligible) is approved by the board in approving the board tells the GAC we did not accept your advice.

Then they have their bylaws obligatory meeting to churn, churn, churn; the board is convinced, it comes out of there and says we amend our previous decision to say ABC. End of story. It doesn't have to come back to the GNSO.

One could argue that. I'd be upset and I'd argue against it perhaps but one could certainly argue that. And there may be other, you know, ways of looking at it. So I don't think it's explicit enough to be secure about it.

Jeff Neuman: Okay I'm trying to think of - sorry, I'm trying to take your comments and think of what the other side would be. How would there - you're saying that the GAC could argue they give their advice, the board approves it with the GAC advice and therefore it's binding and it's consensus policy?

I'm trying to just think about - I don't fully understand how there's another argument.

Avri Doria: There's always another argument.

Jeff Neuman: Okay, fair enough.

Avri Doria: So we're not making it explicit enough is all I'm saying.

Jeff Neuman: Okay. And how do you think we can make it more explicit?

((Crosstalk))

Jeff Neuman: Sorry, go on.

Avri Doria: Yes, probably with a, you know, just - I'm not looking at the screen at the moment, I'm doing other things, but probably with just a few words in the statement of what happens with it and that really clarifies the issue. And, I'm sorry, I'm just - I don't have word-smithing gloves on at the moment.

Jeff Neuman: That's okay. So it's basically just to try to help - it's basically if the recommendations as it gets from the council to the board are modified in any way they would have to go to the council I would say even prior to a board vote.

Avri Doria: Yes but we have to be careful in terms of the vote timing because the board could have already voted before it went into its position of not accepting advice. And as before that was (in) vote. And so the whole temporal issue of when has board - when has GAC advice actually been ignored when the board takes its final vote.

And if the bylaws then kicks in after that then one could argue that, well, the board did accept. And this is a different event that does not impinge or relate to the PDP process at all because it's post-PDP process. The board approved it; the PDP is over. Now they might change their mind about some elements of it.

Jeff Neuman: Right.

Avri Doria: It's just, you know, I'm not ready to get into the full complexities I see but at last one or two examples where you could produce an argument that may or may not have legitimacy but that doesn't matter now - that would allow for the decision of the GNSO working groups and approved by the board to then be obviated in some way.

Jeff Neuman: Okay let me go to Alan.

Alan Greenberg: Yes I think you've got to break it down to the various situations. If there is advice from the GNSO - let's say super majority for the moment - and GAC advice goes against it the board can reject the GNSO recommendation with a sufficient vote of the board. So it has the right to do that and it has the ability to do that should there be a compelling reason.

It's a different situation to say the board is going to approve something that is different from what the GNSO has recommended. If it's consensus policy - well we still have that question pending - the - I don't think we ever got an answer back on what is - the board can act, you know, as what happens if it

did not get super majority within council; we still don't know - I don't think we know what the board can do there.

If the board is going to approve consensus policy which is different from what the GNSO recommended but still consensus policy as far as I read things it has to go back to the GNSO.

So I think the situation is going to be varied depending on the case. And to date what's happened is these changes have been deemed not to be consensus policy or not to be policy but in fact they're implementation and the board has free range at that point.

So I - to analyze the situation I think you've got to break it down to the various component parts and some of them have to go back to the GNSO. If you want to enact consensus policy which is different from what the GNSO suggested I don't see any way of doing it other than to go back to the GNSO. In the other cases the board has a variety of types of discretion. Thank you.

Jeff Neuman: Okay I'm just trying to figure out what if anything we need to do.

Alan Greenberg: I don't think - I don't think we need to do anything to be honest certainly not at this go-around. If between now and doing the final report, you know, with comments coming back if the board makes some radical change in the next few months where - or next month or two we will get some comments back and we can act on them.

Jeff Neuman: Okay. I think that's the right approach for now but it's an issue to think about while - again this is out for public comment. So everyone I think we are done with the outstanding issues. Unless there's anything else the next steps are that hopefully by - let me go to Marika before I say anything I regret so, Marika.

Marika Konings: Yes, this is Marika. There is still one item and I've asked James and I know he's looking into that. There's one recommendation where James was going to suggest language but I think that should appear on the mailing list at some point.

And then I think it's as well to encourage because there are many areas where it basically asks working member to review the agreed upon approach and proposed language so that's another item that, you know, if there's any further feedback or any additional changes to what is in there or anything is incorrectly represented, you know, the sooner people highlight that the better.

Alan Greenberg: Marika, in terms of the change...

Jeff Neuman: Okay.

Alan Greenberg: ...that we were discussing - my last change there were two of them; one was adding any (and action). And the previous - just in the previous paragraph I was suggesting that to the GNSO Council be enlarged to the staff manager and the GNSO Council.

Marika Konings: Yes, I found that so I'll look at it.

Alan Greenberg: Okay.

Marika Konings: I don't know why they don't come up in the version that's on the screen but I'll make sure to see as well if there are any other changes that you've made or edits so that the issue will be included in the next...

((Crosstalk))

Alan Greenberg: Well I didn't actually make - for the first - for the two the staff manager and council I didn't actually make the change I said it in a comment.

Marika Konings: Oh okay.

Jeff Neuman: Okay so that said the - oh Avri, sorry, you have another question?

Avri Doria: Yes, just one thing on that last issue we had I can volunteer, you know, you asked me what language I thought should be changed and I wasn't looking at language. But I could volunteer to take a look at it and send something to the list.

Jeff Neuman: Okay thank you, Avri; that would be helpful. And then people could see whether any changes are necessary. I think visually - a lot of us are visual people so that may help.

Okay with that said, Marika, does Monday sound like a date that you could get the proposed - I was going to say the final proposed final draft - final report out?

((Crosstalk))

Marika Konings: I'll do my best. If not Monday it will be Tuesday.

Jeff Neuman: Okay. Now everyone remember the document publication deadline is on the 28th so we need to - to the extent you can, Marika, Monday would be great before our call so we can kind of go through it on Monday and Thursday and again on Monday the 28th and this way we can have - make sure it goes on - by close of business on the 28th.

Marika Konings: No the publication deadline is the 21st.

Jeff Neuman: I thought you said it's the 28th?

Marika Konings: No. It's three weeks...

Alan Greenberg: Next week is our last week.

Marika Konings: Yes. This is board-mandated three...

Jeff Neuman: Oh I'm sorry. I'm a week ahead, right, sorry it comes out - if you can get it out the 14th so we can get it out the 21st. I'm sorry, I'm a week ahead in my time here. You are correct. So we still have the same amount of time in my head which is a scary place to be. I don't recommend anyone be in my head.

So, yes, sorry, so the 14th we'll come out hopefully 14th, 15th. We'll spend the 14th hopefully and the 17th - is that a Thursday?

Alan Greenberg: Yes.

Jeff Neuman: On this and then publish it by the 21st. And I think that's good; I think we'll have made the document deadline. I appreciate everyone's hard work on this. Any last questions?

Alan Greenberg: We're two minutes over...

Jeff Neuman: Hearing none...

Alan Greenberg: ...we don't have time for questions.

Jeff Neuman: Well we're only two minutes over of the hour time; we technically have an hour and a half. But I take your point and seeing no questions I'm going to end the call.

Alan Greenberg: Thank you Jeff.

Jeff Neuman: All right. Marika, you want to stay on one sec?

Marika Konings: Yes that's fine.

Jeff Neuman: And we could stop the recording and then everyone can hang up.

Avri Doria: Thank you. Bye, bye.

Jeff Neuman: Thanks.

END