

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)  
Work Team (WT)  
TRANSCRIPTION  
Thursday 04 February 2010 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 04 February 2010 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-20100204.mp3>

On page:

<http://gnso.icann.org/calendar/#feb>

(transcripts and recordings are found on the calendar page)

**Participants on the Call:**

Jeff Neuman - Registry Stakeholder Group - Work Team Chair

James Bladel – Registrar Stakeholder Group

Tatiana Khramtsova – Registrar Stakeholder Group

Alex Gakuru - Non Commercial Stakeholder Group

David Maher – Registry Stakeholder Group

Paul Diaz - Registrar Stakeholder Group

**ICANN Staff:**

Margie Milam

Glen de Saint Gery

Gisella Gruber-White

Marika Konings

Liz Gasster

**Absent apologies:**

Gabriel Pineiro - Non Commercial Stakeholder Group

Alan Greenberg - ALAC

Avri Doria - Non Commercial Stakeholder Group

Wolf Knoben – ISPC

Marilyn Cade – Individual

Coordinator: Madam, the recording has started. Thank you.

Gisella Gruber-White: Thank you. Good morning and good afternoon, everyone, on today's PPSC PDP call on Thursday the 4th of February. We have Jeff Neuman, Alex Gakuru, James Bladel, Tatiana Khramtsova.

From staff we have Glen de Saint Géry, Marika Konings, Liz Gasster, Margie Milam and myself, Gisella Gruber-White. And we have apologies from Wolf-Ulrich Knoben. I haven't forgotten anyone on the call. And please if I could just remind you to state your names when speaking. Over to you, Jeff.

Jeff Neuman: Okay, thanks. It looks like Paul Diaz has joined the at least Adobe (Power). Are you on the call as well?

Gisella Gruber-White: He's just joined the call as well, yes.

Paul Diaz: Yes, hello everyone.

Jeff Neuman: Hi. Good morning, good afternoon. It's Thursday, February 4, 2010 and this is the weekly call of the PDP team. It seems like we have a smaller than usual turnout on this call. I'm not sure why that is. But that being said we do have some people on.

Just to recap where we are and then the agenda for today's call, We on the last call had a pretty much finished up most of stage if not all of Stage 4 document which is up on Adobe right now for those of you that are looking.

And then we have issued the survey out for Stage 5 which we'll begin discussions on today. Marika, have you gotten any responses to - I know James said he has responded. Has there - did anyone else that have responded?

Marika Konings: Yes, this is Marika. So far Avri, (Brian), James, (Bertrand), Alex and Wolf-Ulrich have submitted responses.

Jeff Neuman: Okay, good.

Marika Konings: So lower than the usual feedback but I think people still have a couple of days to provide their input.

Jeff Neuman: Yes, I think the plan was to go over some of those results next week. Though I think - yes - for those of you who have not done it - including myself - we'll have to get it done in the next couple of days so we can get some results out by Monday - or I'm sorry - by early next week.

That said, we're also - before I guess some of you actually joined the call earlier we were talking about logistics in Nairobi. It turns out I probably or most definitely will be going to the Nairobi meeting and so it seems like we'll have pretty much the full work team - at least the people that participate, you know, most often.

We'll have representatives from each of the stakeholder groups there. We'll also be setting up some remote participation. We've had to kind of juggle around some meetings.

It seems like there's some new TLD discussion that may be going on and there's still some other meetings that are being finalized so we're going to have to be playing with the schedule.

But it did seem like people who were going to be in Nairobi will be there, you know, on Friday or at least by late Friday night so that if we had to move some meetings till Saturday afternoon we could depending on current NGW discussions. The last thing we want to do is really conflict with those - with those meetings because I think we'll have very few people attend if that's the case.

So with that being said I think, you know, is there any questions on logistics? I think the next - we'll have a call this week, we'll have a call the following -

next week until - we'll continue to have some weekly calls till just before the meeting starts.

Any other questions?

James Bladel: Yes, Jeff, this is James. Am I correct - do we have three calls before the meeting, correct?

Jeff Neuman: I was just looking at the calendar as I was saying that . So we have a call the 12th, then a call the 19th and a call Friday then...

Woman: No, the 11th, 18th, and 25th.

Man: There you go.

Man: Okay. Okay, thank you.

Jeff Neuman: I personally may not be able to make the call on the 25th as I'll be traveling but I'm hoping someone either from policy staff or someone else could kind of step up and help at least chair that individual meeting. Yes, so we have technically three calls before the - yes, we will not meet on the 4th since people will be traveling most likely on that day to get to Nairobi.

James Bladel: Right, so we have three calls plus this one.

Jeff Neuman: Correct.

James Bladel: Okay, thanks.

Jeff Neuman: Okay? Any other questions on logistics? All right, so I know, Marika, you have Stage 4 up there but I think other than the timelines which are in the last question I believe we've covered everything we can.

I'm sorry, I still need to draft that letter to the board - the Board Governance Committee. I'd gotten just some feedback earlier this week from the GNSO council chairs that they are - they believe the GNSO council will be fine with just sending the letter directly from the work team to the Board Governance Committee.

So that hopefully there will not be any political issues, at least according to the chairs. They seemed comfortable with that. Is that - Marika, is that your understanding as well?

Marika Konings: Yes, I think so.

Jeff Neuman: Well, the chairs are comfortable so we'll follow that guidance and of course if others on the council aren't comfortable with it, you know, I'm sure we'll find out after the fact but at least by then, you know, the letter will have gone out to the board.

So I still need to draft that and do a first draft and send that around for everyone. So other than those issues and the timing overarching issue, Marika, I believe we are ready to go on to Stage 5.

Marika Konings: This is Marika. I think we - you know, they might be covered by what we already discussed but we didn't specifically address I think 6c and 6d. I presume the answers follow similar lines but 6c relates more to, you know, if implementation has gone ahead but the council actually feels that it doesn't meet the policy recommendations while, you know, (unintelligible) big feel it was in line what options that the council will have to address that or challenge that.

And the 6d relates to, you know, can an implementation process change recommendations - for example, if the recommendations are deemed not implementable. I mean it might relate back to the question that, you know,

staff would need to come back and verify it with the council. Maybe the 6c question needs a bit further discussion.

Jeff Neuman: Yes, I think on the last call we talked about the notion and it's reflected in the notes of having an implementation or review team or something - I can't remember exactly what we called it. Yes, that's what we did.

So that should be consulted if there's - you know, the council will be watching what's going on and then we had recommended the creation of this implementation review team to be consulted or tasked by GNSO should questions arise.

Is it - so let's do that. Let's throw those last two questions out and see - to make sure we've answered it. So 6c as Marika says is - should, you know, staff is obviously tasked with creating the implementation plans.

Although we did talk about - and we are recommending that the working group will or could recommend in its reports to the council and then obviously the council reports to the board - could recommend certain things, certain implementation mechanisms and to that could give guidance to staff.

Keeping that in mind we had then said that if the staff - that if there's questions that arise that look towards - that are getting towards policy - that the council itself or the council should - could create a team or an ad hoc group that could review the implementation.

Now the question is should there be a procedure for the council to object certain parts or the whole implementation plan if deemed not in line with the recommendations.

James, do you have a comment?

James Bladel: Yes, and it's more of a question, I think. I'm just trying to understand the difference between let's say an active versus a passive involvement of the council in the implementation.

So a passive one would be where the, you know, some part of policy implementation where staff would bring that to council or to the IRT, you know, the Information Review Team versus a time maybe where staff thinks that they're going okay but council wants to reinsert themselves back in the process.

So I'm just trying to figure out, are we addressing both of the active and the passive scenarios in this question or is there some distinction that I'm not getting, or...

Jeff Neuman: No, I think we're kind of adjusting both. I'm not sure which approach the council will want to take. I think it's probably dependent on the issue, right. But I think this question's meant to address both.

James Bladel: Yes.

Jeff Neuman: We started out with the question of should the role of ICANN staff developing implementation of the approved policy be further defined? And if yes, how? That was the initial question.

And then if we go through the notes we all suggested a mechanism should be developed by which there is a number of different options that the staff should come back to the council or working group for some advice, right, consistent with the recommendation.

James Bladel: Right.

Jeff Neuman: And then so I guess that would - it's more of a - picking on your question - I guess the council role is more passive at this point as opposed to active in

that it's really staff's job to come up with the implementation and the council's really more of an oversight advisory type role.

James Bladel: But do you perceive any situation, Jeff, where the council might unilaterally want to reengage staff on the way to implementing the policy? I'm trying to be as open-minded as possible, I guess.

Jeff Neuman: Well, in the abstract - and then I'll go to Marika - in the abstract it could be a whole bunch of different ways. Because I could foresee situations where the working group could specify if it wished what is - how they would like to see it implemented.

James Bladel: Okay.

Jeff Neuman: Because I think if you look at the - like domain tasting was kind of a hybrid. Because the work team that was created, it actually specified a number of implementations. It - I would say 75% of the implementation of - for domain tasting came from the work team itself.

James Bladel: Right.

Jeff Neuman: Whereas, if you have a number of other issues where, you know, maybe 10% or less is discussed by the work team about implementation so in those instances implementation was largely left to staff without any preinvolvement. So it really depends I would think on the amount of or the types of recommendations by the initial group to the, you know, the process.

James Bladel: And I am looking through this at maybe through the glasses of the new gTLD program which has gone on now for, you know, a couple of years where, you know, staff could give a presentation or release a, you know, an applicant guidebook version or something like that.



And the council could see something in there and say, "Now wait a second."  
And you know, without staff coming to the council, you know, for  
reinterpretation or, you know, for, you know review or assessment of the  
implementation, I'm wondering what would council's options be if they felt like  
the policy and the implementation were kind of, you know, starting to diverge.

Jeff Neuman: Yes. Marika, did you have a comment on this?

Marika Konings: Yes, this is Marika. You're going to need to further going to what the scenario  
that James is painting, because another question would be as well like what if  
- you know, what is the process for triggering a review by the council?

If one councilor says, "Oh, well, I don't think this is, you know, how we  
intended it," like what is the threshold that is required to actually - if you  
indeed have a implementation review team on standby, you know, what is  
needed for them to get to work?

Is that, you know, one constituency rated questions, you know, one house  
raising questions? Would you need some kind of you know specifics around  
that or is it just a normal vote that would need to be taken, for example. So  
those are some things that, you know, you might want to think about as well.

Jeff Neuman: Yes, so it's - the question is I guess do we really want to fully define a  
complete process by which the council would get back together. I think that  
might be a little rigid.

I mean so when the staff decides something in general, there's a public  
commentary. It's - let's follow it through. Let's take - now remember the new  
gTLD process is not technically a PDP.

But let's - it's kind of outside that process. Let's assume it was and so the  
question is they come up with something and then the council - the question  
Marika said is there - a process by which the council would call a team

together. And then the question is would that even be binding or would that even impact staff?

That's a tough question. I mean do we want to formally set up some mechanism to do that? Any thoughts on that? Should we - is this something - is it too detailed? Is it something we really need to set up a process for? And if we set up a process is it something that ICANN staff has to even listen to. James?

James Bladel: Yes, and I don't mean to be overly prescriptive and I don't think we should have necessarily a rigid or detailed process but, you know, I think it's good that we're thinking and discussing - things about these things and discussing them.

I think it's, you know, ensuring that in the general case, whether it's initiated by staff or it's initiated by council, just if the implementation of a policy is going to span, you know, multiple meetings and in fact multiple councils, you know, they should periodically get together and re-synchronize, you know, their intention and their plans. I don't know how to say that any more economically than I just did, but...

Jeff Neuman: Right. Margie, you have comment on this?

Margie Milam: Yes, I just had a question. Jeff, you said that the new gTLD process was not through a PDP and I just wanted to get clarification on what you were talking about, because I thought the initial recommendation to allow, you know, allow these gTLDs came out of a PDP but I may be wrong.

James Bladel: No, that's my thought too, Margie. I was looking it up actually but and then I figured well...

James Neuman: So the - so it's kind of - yes, let me explain that a little bit. The initial process which ended in 2007 was a policy development process and I think what's

kind of morphed out of it now - I mean we could say that all the issues kind of stem from that initial PDP.

But I don't think anyone would look at us seriously if we implied that. I think a lot of the issues now have not come out of the PDP or are very, very, very extremely loosely tied in some sort of way to that PDP. But I think what's going on now is, "Gosh, it's kind of creating implementation based on issues that have come up a lot of them since the PDP." Right?

James Bladel: Right, Jeff, but I think that this is a perfect example where some, and not all, but some look at, you know, maybe a slice or two of those implementation decisions and say, "Wait a second. This is, you know, maybe an omission of the original policy but this is something that shouldn't be decided, you know, on the ground, on the fly during implementation. This needs to go back to the community for further discussion, you know."

Jeff Neuman: So we already said - we already said that if there are some policy issues or there's some questions that that should already go back to the council, that that should be required to go back to the council. I guess what we're talking - so that's already in our notes.

James Bladel: Okay.

Jeff Neuman: So we're talking about now is where staff believes there are no issues and they are creating their implementation plan and now all of a sudden the GNSO council says, "Wait a minute, staff. You got it wrong. You didn't come to us. There are issues that we see in it." And really staff is saying, "No, we know we have to come to you if there are policy issues, but we don't think there are."

The question is now is there a process by which the council could go in and somehow stop the staff I guess from finishing their implementation or

implementing their implementation and, you know, preempt that with a new process?

And can someone tell me if you disagree with my interpretation but that's - because we've already made the recommendation that if there's any questions of policy, that that should go to this - at least this implementation review team type process.

James Bladel: Right. And that's - I'm sorry, this is James speaking. And that's the same process, it's just whether its staff initiated or council initiated, right?

Jeff Neuman: Yes. So we've already said the staff needs to initiate it if there are issues. Now the question we're grappling with is should there be a process for council to initiate it if staff doesn't see that there's an issue or doesn't bring something to them and council finds that there's an issue?

Marika Konings: And this is Marika. To add something to that on the trigger by what James said on, you know, of course councils will change and you people will get on the council.

Of course you should take into account as well that kind of procedure couldn't be gained by councilors, you know, that don't agree with the policy recommendations that were adopted maybe some time ago.

So you avoid, you know, that they used that process to say, "Oh, well, you know, our predecessors have said we really actually don't like it so we used this to basically stall it or change implementation because it doesn't really fit with what we thought, you know, think should be done." So that's something, you know, another element to put into the equation.

Jeff Neuman: Unless of course there are changing circumstances that would negate the need, right. So there could be something that was decided three years ago in

a policy process but that doesn't mean if there's a - and I'm looking at what James put on there - it's a comment.

But yes, it doesn't mean that, you know, once it's decided that it can never be changed because there could be circumstances that do change that would justify reopening.

Marika Konings: (Unintelligible) as well what kind of process do you need for that and who, you know, who is the judge at the end of the day whether circumstances have changed or not?

Because sometimes I guess it depends as well who's looking at it. So do you need, you know - I think we spoke about in some other section - I don't know here at one of the other stages, like well, like what kind of review do you build in once policy is adopted to make sure that it's, you know, working as intended?

So that might actually fit in there because of course there you might have depending on who you ask, they might say the situation has changed or not.

Jeff Neuman: So I guess we could just update our recommendation - just say that if either council or staff that believes they're policy issues that the council could then convene this implementation or at its sole discretion to advise staff on the implementation.

Because if they - if we leave it pretty broad like that instead of - my fear is getting too prescriptive and defining an exact process and putting another layer of bureaucracy to make staff run it by council and have this many days for comment and, you know, because right now we've decided on the policy in theory.

It's something that the community really wants or may really need and implementation - speed of implementation could be an issue that's important.

So perhaps we just leave it then as having this implementation reviewed and that could either be called by staff or be called by the council on its own to adjust any policy issues that it believes.

We can't really bind staff to it but we can make the strong recommendation that staff seriously consider the input of the council on this. I mean either case the staff implementation report still needs to go to the board and I believe would still be subject to public comment.

So do people feel like that's enough or that there's more that's needed?  
Margie, you have a comment?

Margie Milam: Yes. I just wanted to also point out that at least if you look at existing practice, a lot of times the implementation work is done under the supervision of the board because it can, you know, as part of the board approval of say the GNSO recommendation it will direct staff to do this.

So I think we want to talk about how that plays into what staff is doing as a result of, you know, direction from the board, because there may be parallel processes going around or, you know.

And I think that's part of the problem we see in today in the implementation of the new gTLD program, is that there is a process. There's been public comment, there's, you know, under the supervision of the board but yet I think the GNSO community seems like - they feel like they want some additional or - and this is what I'm hearing from you guys - an additional way of providing input in the implementation process.

Jeff Neuman: Well, I think part of the problem is that the direction they're getting from the board may in some circumstances contradict or create new policies that were never addressed by the council.

And so there's a view that since policy's supposed to be bottom-up as opposed to top-down, and at that point in time the board should know that it cannot just unilaterally change the direction of implementation and that if it does, it needs to go back to the bottom-up process.

Because I think right now we have a board that's - that is changing course too often and not going back through the bottom-up process simply because individuals on the board may have an idea of how they want to see things go.

So perhaps that is a good idea to put in our report - that's to say that it's not just staff that's - if there's any policy issues from staff - we should also say if there's any policy issues from the staff or recommendations from the board it must go back through the council or the implementation team.

And we should put a strong message to say that it's our recommendation that any policy that is - that does not go through the bottom-up process should not be implemented.

Marika Konings: And I guess the question for you all is I think there may be situations where there's not agreement among the, you know, if you were to try to get the consensus view of the council for example of implementation details, what, you know, I think that's some of the frustration and difficulty that, you know, the board has, is that, you know, they're seeing issues that have complete, you know, divergence and approaches on how to deal with it.

And you know, yet there's a recommendation to proceed with, you know, the policy recommendation of, you know, say in launching new gTLDs as an example.

So I think one of the things we have to think about or the group needs to think about is what type of vote, what of consensus do you need, you know, to make recommendations out of this team because that might very well be

different than the initial consensus that was achieved to make the broad policy recommendation.

Jeff Neuman: So I suppose that's if there's not agreement and there's no majority or simple majority recommendation from the council on something, that's totally different than if there is general agreement and then the board just decides to substitute its own thoughts on it. Right, I mean that's...

Marika Konings: Yes, I think that's right.

Jeff Neuman: You know, but there are issues that come up, you know, for example as much as people will take the expression of interest, right. I mean that's something that was completely new that was introduced in the Seoul meeting.

And, you know, even though that was - that may ultimately support (NEOI) we're not necessarily happy with the way it was handled, because it was basically the board met on that Thursday in Seoul and decided on Friday it was proclaimed that it would have an EOI or create recommendations for an EOI for some out-of-bound process that it didn't involve GNSO community.

Now obviously those that warrant EOI process and want to move very quickly were okay with that. Others were not and so that was completely an ad hoc thing by the board that probably should have been more bottom-up than it was. Until obviously you see some comments - you see some comments to that in the comment form on EOI.

So I think what we're saying and let me go back to kind of just try to close the loop. What we're saying is that if there are any questions of policy or different ways in which something can be implemented, that needs to go back to - our recommendation is that it goes back to the council or the working group through some review team that the council or working group's set up.



Whether that comes from the staff itself, whether that comes from the board or whether that is generated by the GNSO council on its own from, you know, reviewing what the staff has been doing. I think there should be this process to convene this team. Does anybody disagree with that notion? I mean I think that's what I've been hearing.

I see some - at least Paul and James, our registrar guys are agreeing with that. Does anyone - let me ask a question. Does anyone disagree with that recommendation?

Okay, so let's - then let's - does anyone want to define that process any more or pretty much leave it to kind of - as a general notion at this point like we just discussed?

Because I can't really see being too prescriptive of how to comprise that team, how to vote on the creation of that team. I just think that would be at this point - we can get down a (unintelligible) hole discussing that. James, you have a comment on that?

James Bladel: No, just to echo what you just said, Jeff. I think that there should be some team and it should be convened to, you know, review those things. And whether it's staff-initiated, board-initiated, council-initiated - there's a couple of different methods by, you know, by which it could be kicked off.

How that team governs itself and what comes out of it and who comprises it I guess should probably be decided, you know, situationally. But I think, you know, that - what you just said right there just encompasses everything I wanted to say for 6b and 6c.

Jeff Neuman: Okay. And then d, which is, "Can the implementation process change recommendations of the GNSO if deemed not implementable?" It's the actual kind of process.

I think that's subsumed in what we already said, that if there are policy issues that are - and that we can group in changes to recommendations because it's not implementable, I think it's the same process that we just discussed.

It needs to go back to the council through, you know, through some kind of review team to talk about it; A, whether it's even it's - if there's one or two recommendations that are not implementable, I mean we talked about on several occasions that the working group and the council could decide that they're presenting recommendations as a package as opposed to individual recommendations that someone could do kind of a line item veto with, you know, to pick and choose what they like.

So if there are certain recommendations that the working group has deemed to be instrumental or is deemed to be all part of the same package, then if there's any changes to that, whether it's because it's not implementable or because people changed their mind, I think that all kind of is encompassed into this has to go back to the working group.

And James had just asked a question do we have an example of something not implementable. (Unintelligible) do you guys have an example that's come up before of something that's not implementable? Yes, I could think of perhaps, you know, let's say that the - oh, Liz has her hand raised, so Liz you have an example?

Liz Gasster: I don't have an example. I was going to make a different point.

Jeff Neuman: Oh, I'm sorry. Okay, well on that point then just to close it out. I, you know, there in theory could have been some intellectual property protections for new gTLDs that I know I have made strong points of things that were not implementable.

And, you know, knock on wood, you know, people on the teams, review teams had actually, you know, thought about it some more and, you know, after a lengthy discussion came to that agreement.

But I could have foreseen situations where some certain groups would want certain things that may not be implementable keeping in mind, you know, I know the - keeping in mind what the goals were.

So I don't know if we have a specific example James at this point of something that wasn't implementable, but there certainly could have been.

Margie Milam: Hey, Jeff I have an example from the trademark world in the discussions of, you know, IRT, STI. At some point there was a suggestion made that perhaps you pre-clear, you know, every registration against the trademark clearing house. I think, you know, obviously that didn't become a recommendation but I think that's one of things that, you know, was viewed as un-implementable.

Jeff Neuman: Right, and well, yes, it was viewed as non-implementable if we wanted to keep the notion of a real time registration system, yes. And so, yes, that's actually one, Margie, that I was thinking about that didn't ultimately make it through but conceivably it could have.

Margie Milam: Right.

Jeff Neuman: Okay, so Liz, you have a comment?

Liz Gasster: Actually I have two. One has to do with the instances in which this might arise and for example, we talked about new concerns that might come up. We talked about something being not implementable.

We talked about, you know, just basically changing your mind about something. I think there is also maybe a fourth scenario that Marika had touched on where there was no agreement to begin with.

And where in a sense the group punted to implementation and the occasion when that comes to my mind is in the case of domain tasting when the group was negotiating the final resolution language and was trying to decide

whether to define extraordinary circumstances and, you know, the exception that should apply. And essentially I think, at least my take on that was that they couldn't reach agreement so they kind of left it to implementation.

So, you know, that was an unconscious decision in a sense because they couldn't reach agreement you wouldn't want a situation like that to delay implementation to reopen a debate that they could have solved if they wanted to at that time. So in that case I think, you know, that might be an instance when it's not appropriate to send it back to the council.

And then the other thing I want to raise is just asking the group are you saying that implementation should stop while this process occurs. It would be my view that the implementation shouldn't stop while this process occurs. But I think you should be clear on what you are intending as you formulate or flesh out this idea.

Jeff Neuman: So let's take that latter question first. When you say implementation shouldn't stop, I don't think - was implementation actually moving at that point in time? In other words, staff is charged with coming up with an implementation plan and then it goes to the board. But there's been no actual physical implementation of anything until after the implementation plan is put out for comment.

Liz Gasster: I think, you're right, I think it depends on the issue, right, then depends on the implementation new gTLDs - certainly a special case where they've continued to solicit community views throughout an extraordinarily long implementation process as distinct from say domain tasting to much smaller (unintelligible).

I just think you'd want to avoid, you know, you want to at least be conscious about what are you saying happens while this group does its thing. What do you think, what does the group think rather than, you know, leave my opinion aside, what does the group think should happen with implementation work?

Like in the case of new gTLDs where issues have arisen during the implementation. I mean you make a very good point if the implementation hasn't begun yet and we're just at public comments, then that's the point where, you know, lots of opportunity for feedback there.

Jeff Neuman: Yes, and I'll go to James. You would probably, you would definitely be issue specific and may only apply to specific issue within the overall PDP. But in certain - you know I'm not sure we can create a blanket rule to say implementation shouldn't stop because I think in certain circumstances, where there are policy issues or the staff aboard are correcting action that's inconsistent with what the GNSO council has advised then they probably should stop.

But I could see situations that you've mentioned where it shouldn't. So James, do you have a comment?

James Bladel: No, just wanted to echo your last point there Jeff. You know it really depends on what the harm is that the policy is seeking to correct. You know if the harm is something like tasting, well then you want implementation to continue.

But if it's the perceived harm is, you know, introducing new gTLDs that might harm somebody in the incumbents then maybe they feel like it should wait until that issue is settled. So I don't think you could tell in advance, I think it needs to be decided by that group.

Jeff Neuman: Alex?

Alex Gakuru: My thinking is at sometimes I'm echoing what Jim said and looking for a middle ground on what had been said earlier.

Is that sometimes you may want to get past an opportunity that to carry on but in an interim as a decision is being made, perhaps where the instance is a deadlock or maybe decisions or consensus have not been arrived at.

But any sort of agreement that may be entered into is understanding (unintelligible) measure not something that should be taken as a precedent and whoever is involved made the advice in advance to be aware of that situation. For such a situation you may just have to carry on like example cited. Thank you.

Jeff Neuman: Okay, yes I think that - it sounds like everyone here is being consistent on the notion that to answer Liz's question about at least the second one, which is whether to stop implementation or not, I think that's kind of an issue by issue, it's not one we could generalize on. But certainly - so the answer is yes it may and in some cases, and no it may not in other cases.

But I think it's the council that should review that and that should be part of their review process is to, you know, is to basically when it creates the team, is to recommend that the process stop or recommend that the process continue in certain facets, but not with respect to that one particular issue.

So for example in new TLDs, they could have said, you know, look this intellectual property issue is still a big issue, we want to take another look at it but that shouldn't stop you from resolving issues about community and public immorality and other things that were in the new TLD process.

But it should stop you from moving forward with specific mechanisms on IP. I mean that's just a made up example. The - on the first point about where there's no agreement and the council looks to the board to resolve it should there still be a committee? My gut reaction is I think if the council wants to create a committee on it I think yes.

Because I think - let me give you an example of where there's bitter disagreement now with certain groups. Let's say vertical integration, right. So

there's disagreement between, you know, there's the one camp that says that there should be no integration it should be as it exists today and, you know, anything else we shouldn't do. There's another camp that says, no we should allow integration because it's more efficient and, you know, all of those reasons.

If the boards - the staff are making the determination at least for the new round to say, yes we're going to allow integration, I think the camp that doesn't want integration would still want to have a say. If integration's going to happen, it would still want to have a say in how that integration happens.

It may not be able to reopen the complete policy debate, but I think that there are some implementation issues that once you resolve are we going to do it or not, that should go out for implementation review team. Do I make any sense? Anybody - James and Paul, you have a question or a comment?

James Bladel: Yes, Jeff, I mean I see your point there and just, you know, for the record we're staying out of that vertical integration, you know.

Jeff Neuman: Yes I was just trying to...

James Bladel: And, no I understand it was a hypothetical but I just wanted to - but you know what I mean, if there's a - let's say there's a decision on policy acts and there's a minority, you know, a strong vocal and organized minority.

I'm concerned that the process you just described could be used to, you know, death by a thousand cuts of the - whatever policy actually came out of it where it could just continuously be used to undermine the original intention or - and maybe that's the, you know, conspiratorial perspective.

I think the practical perspective is that they could continue to address smaller and smaller aspects of the issue indefinitely and delay, you know forestall implementation altogether.

So, you know, I mean I agree with what you're saying in principal, but I think that I, you know, and I haven't been around ICANN that long, just since, you know, the L.A. meeting, but I just - I'm concerned that how that might actually be put into practice.

Jeff Neuman: Okay, Paul?

Paul Diaz: Yes, I thought it was a good example that you used Jeff, and I recognize it's just an example it's fine. But I would just question anything that, to follow through, anything that staff might say, okay this is the way we're going to move forward, it will still be a public comment period, right?

I mean isn't there always built in still an opportunity for all sides to have a say? It's not like it's just - they're going to say here's the plan and boom, it happens right away. Am I mistaken there?

I guess it's an open question for staff to help. There's always another comment period, so, you know, reality the process will be additional opportunities to try and influence in the overall process, is that correct?

Jeff Neuman: So in general I think there are comment periods, but I'm not sure that - you never know how - what the result of a comment period's going to be.

And I think policy issues can be raised by - so let me use vertical integration as an example. And so, just because it's one that's near and dear, so let's say the ICANN staff says look, you know, it's going to release its paper.

It says, "We're going to go forward with vertical integration but we're only going to do it for new GTLDs and we're not going to do it for existing registries," okay.



Let's say that that's a proclamation or it doesn't address existing registries so it may not say it's not going to apply to existing registries, it's just going to say for new TLDs we'll allow integration going forward.

At that point in time, I think there are a number of policy issues that are raised that are very different from the policy issues initially raised in the debate as to whether there should be integration or not, right.

So I know from a registry stakeholder group perspective that would be something that the registry stakeholder group would not want to just be subject to a public comment period without further analysis done. Or alternatively you know, like - so and that's an issue where I think it can be decided or let's go to a different issue.

Let's say an intellectual property issue that says - let's say there was a debate as to whether there should be a required sunrise period for every new TLD or not. And let's say the board decides, and the community decides to recommend, or can't come to an agreement, so the board decides, yes, every new TLD will have a sunrise period.

But that's the recommend -- once that recommendation is made, there are 20 different ways the sunrise period could be done. And so I think that part would have to be sent to the council to say, "Look, the recommendation is that there will be a sunrise period. Now I need you all to come to an agreement on the best way to do that, or to make recommendations on how to do that."

I just think that leaving that completely to staff and an individual public comment period may not suffice for a number of different groups. James, you have a comment?

James Bladel: Yes, just real quickly Jeff, I just wanted to put out there that if the policy had that many and that large of polls or omissions in it then I would say that the working group that sent it to council probably dropped the ball.

You know, just my initial take. I mean I understand what you're saying and I agree with you for the most part, but I didn't point to that as a failure of the policy or the implementation between staff and council. I think that really goes back to the working group.

Jeff Neuman: Well, I'm not sure if it's a failure or not right, because there was - so if you look at the IRT report and you look at the STI report, they recommended - they said that, you know, there should be a sunrise or IP claim process and there were some guidance given on IP claims. Not so much, you know, the IRT recommended a standard sunrise process.

But I wouldn't say that the community or the policy process really focused on the actual mechanisms. And I wouldn't say it's necessarily a failing of the group. It could be because a lack of time, it could be because, you know, the main overall issue wasn't decided.

And I think there could still be - I guess my only, my point is if you go back to the four layers that Liz had mentioned about convening an implementation team, you know, we said if there's new concerns that come up that weren't addressed, we all agreed that implementation recommendation team should be created by the council to address those new concerns.

We all said that if something's not implementable, then that should go back to the review team to see whether if one or more parts are not implementable, whether the whole thing is worth pursuing or not, you know, that should go back to the review team.

We all kind of addressed and agreed that if there's a changing of the minds if the board or staff changes its mind about the recommendation or, you know,

puts it - something, a recommendation that's conflicting, we all agreed that that should go to back to the implementation recommendation team

The question now is on the fourth category if there was no agreement in the first place, you know, should issues of policy that are decided by the staff or board go back to the council.

And I guess I - I'm not sure why we would treat that category as different than, you know, than the others in giving the council the discretion, create that implementation team if it decides it needs it.

Or you guys let me know if you disagree, do you think that that fourth one is so different from the three other examples that it should be treated differently.  
James?

James Bladel: Yes, I'm just going to restate that I think we can wind all of these up into the idea that there is an implementation review that can be staff initiated, board initiated, or council initiated.

And not be overly prescriptive in what they can and can't do or what has to come out of that just that the, you know, three legs of the stool together to, you know, to, you know, to get over these obstacles during implementation.

Jeff Neuman: Yes, I think that sounds...

James Bladel: Because I mean even for the things that are quote/unquote "not implementable", I mean maybe council has a different idea. I don't know. Maybe it can be slightly modified to remove those concerns, I don't know.

It's really hard to think of all the scenarios that this would have to be built for so I think in just keeping it as general as possible would make it as useful as possible.

Jeff Neuman: Yes, it sounds like I know Paul had put a check mark and Alex agrees. I think that sounds right. I think in the general tone of not getting overly prescriptive, we could say exactly what you did, James, and use these four categories as different examples as to when the council may call this review team together.

All right, any other comments on Question 6 in general? Great, I'd like to actually like to start on - go right to - we're going to skip over the timing because that's an overarching Issue Number 7 which I think we'll get into after we talk about Stage 5. So Marika, you have a comment?

Marika Konings: Yes, that does bring up before we switch to the other document just one comment I posted as well in the chat that like a confirmation that the (gak) is very likely to discuss - to discuss new gTLDs on Sunday afternoon, probably from 2:00 o'clock or maybe a little bit earlier onwards.

So in order to - don't give (Glenn Notliffe) - (Glenn) so much work do you want to just focus then on the morning session for the PDP work team or do you still want to keep both slots?

Jeff Neuman: Yes, let's focus in on the morning and if we need something in the afternoon it may be for the full PPSC but I'll talk to you guys after about that.

Marika Konings: Okay, so we just leave it for now in the two slots then.

Jeff Neuman: Well, the PDP team just in the morning one.

Marika Konings: Okay.

Jeff Neuman: This team.

Marika Konings: Okay. (Unintelligible).

Jeff Neuman: Yes, I need to follow up with you and (Jay Scott) to see what if anything is expected out of the working group for a team. Will it by that point have been referred to the steering committee or it won't?

Marika Konings: No. No, not yet.

Jeff Neuman: Okay, then...

Marika Konings: They're going for public comment tomorrow.

Jeff Neuman: Okay. All right, then at this point we don't need to hold anything for the PPSC. If we need an impromptu meeting - actually I'm not even sure (Jay Scott)'s going to be there.

Marika Konings: No, I don't think he's going to be.

Jeff Neuman: Okay, so yes. We just need - we'll just need the morning.

Marika Konings: Okay, thanks.

Woman: Thanks, Marika.

Jeff Neuman: Okay, so now we're changing a little bit - changing gears. The policy development process has been completed. It's been implemented. It's been in place for a certain period of time and Stage 5 deals with - we talked a little bit about this on the last call when we were creating the questions behind the survey so some of this will probably ring a bell.

But there's - Stage 5 is broken down into two different parts really. The first part being about an individual PDP, you know, reviewing the implementation or assessing the individual PDP.

And then the second part is assessing the overall PDP process kind of like what like we're doing now but on a periodic basis. So keeping that in mind, the first question deals with the assessment of an individual PDP.

Question 1 all deals with the assessment of specific recommendations in a specific PDP. I believe Question 2 also is with a specific - let's say - yes, Question 2 also deals with a specific PDP and Question 3 is on the overall PDP process. That make sense?

I feel like sometime I'm talking around in a circle here. All right. So with the first question the question is - and this is asked on the survey and so perhaps you've already answered some of these - but the question is, "On what metrics would the - would we need to develop the order to assess the effectiveness of the PDP recommendations and/or policy?"

Now I will preface this question with there have been a number of PDPs in the recent history of ICANN as opposed to the history - past history that have actually set in metrics or may not have set metrics but have set in a process to review.

So for example the domain tasting although we haven't convened this group - I'm not sure if we have - they did say that within 12 months of the implementation that there would be a group that got back together to assess whether it has been effective or not.

I think that's been preempted a little bit by (bats) reports to the council that have said that, "Yes, we think it's been effective and here's the statistics that we have."

And because of that there has probably not been a need to meet to create a group to look at this. But you know, I'm not sure with other issues in the future that that may not be the case.

I know that the STI group where the trademark recommendations also recommended that there should be periodic reviews of the - sorry - the (EDRP) - not the (IEDRP) but the - someone help me with the acronym now.

The essentially the faster track (EDRP) - the - wow, I'm blanking. Anyway, the faster-track (EDRP), there should be a review period at least it recommended to the - yes, the URF.

Thank you, James. Gosh, it's already been a long day. With the URF the STI team had made -excuse me - the recommendation that there be a review after six months or a year.

So I definitely noticed a trend in work groups to create that review period inherently in there. Now do we think this is a good practice, do we think this should be kind of a recommendation to their working group to put that in to their report? Or James, do you have a comment on it?

James Bladel: Yes, Jeff. This is James speaking. I responded to the survey and so I'm going to paraphrase from my response and try to be as specific as possible and also qualify it by saying that this is probably one of the biggest issues that got me involved in PPSE PDP working group to begin with.

I'm involved in a number of PDPs right now that are ongoing. And I'm not going to name names, but there's a couple of them where, you know, I think members of the working group have specifically asked, you know, how do we quantify the harm, you know, that's occurring?

What problem is it that we're trying to solve and how can we describe it, you know, objectively. And you know, the one group in particular has just said, "Well, we can't do that right now but let's charge forward with the PDP."

And I think the problem is if you can't define or quantify the problem then you can't determine whether or not the PDP was successful. You know, you're kind of - you're creating policy in a vacuum.

So I think - and I think I put this down here as part of my recommendation for I think it was 1H about what role the working group should have in proposing - or in developing the performance metrics - I think that's critical.

I think that the working group has to be able to define the problem because that way - that is the only way they can define whether or not the policy that they're creating is successful.

And if they can't define the problem then honestly I think that we really need to look at, you know, why the PDP exists. So you know, there's my comment on this particular section.

So I think that roughly, hopefully, you know, consistency is something I'm not known for so hopefully that, you know, pretty much aligns with what I responded to you in the survey.

Jeff Neuman: Would you - another way of saying it is that the working group should basically say, you know, "If we were to look back on this problem in a year or two, what - how would we all look at ourselves and say, yes, what we did was a success?"

James Bladel: That's exactly right, Jeff. And that is something that, you know, a lot of organizations including the company that I work for is very, you know, that's the standard they hold us to.

You've got an idea, you've got a proposal, you've got a new product, whatever. How are you going to know when you're - when you've, you know, when you've reached a successful outcome?



Because if you can't answer that question then I don't think you've really put enough thought in the front end on what the problem is you're setting out to solve.

Jeff Neuman: You're - so just to drill down and then I'll get to Marika and Alex. You believe that that should be a required element in a - in the working group report to the council.

James Bladel: Yes, well, yes I think, you know while we're on the subject of success metrics I'm kind of working backwards at it, but yes, you're correct. The success metrics have to be coming from the working group, and in order for the working group to develop success metrics they have to be able to quantify the problem.

So it's kind of this dependency chain going back from what they're handing to the council for, you know, somewhat driven by what they, you know, what work they should be doing beforehand. So it's just something I think that - it's going to make more effective policy in my opinion.

Jeff Neuman: Okay, let me go to Alex and then I'll go to Marika.

Alex Gakuru: My opinion is that we could borrow from the model of the law why these laws are passed is to correct something misused. So we go to have a problem first and then the police would be like the equivalent of the law which is trying to correct that problem.

We could leave it out in the future, maybe after the introduction of new policies but at least there must be some reason for the existence of the policy so in a way I'm actually backing up what James has just said.

There must be a reason why each PDP was initiated. And that should be known and it should therefore be embedded and creating room also for anything new that may arise.

We have even some examples of these things that have not been considered for various reasons. But I do believe the amount the minimum set of reasons that can be used in the business of metrics of considering whether the objective of that particular PDP has been met. Thanks.

Jeff Neuman: Okay, good. So it sounds like you, James, Paul are in agreement. Marika?

Marika Konings: Yes, this is Marika. I just wanted to - I think that's something we already discussed before that, you know, quantifying the issue and identifying the problem is actually something that should be done before the working group is created and actually should take place, you know, at the initiation of the process.

The issues report, the request for the issues report and the council consideration of that. I don't think - of course, you know a working group can try to quantify what the actual issue is that they're addressing. But the debate shouldn't focus about what is actually the problem because that process should have taken place beforehand.

And I agree, we're not very good at doing that now and hopefully this new processes will help and, you know, getting at the front end of the process so that working works can actually focus, like "Okay, this is what we're trying to address. And here are some metrics and they that - we believe might help to quantify the end of the day whether we've been successful in addressing the problem."

Jeff Neuman: Does anyone disagree with the notion that this should be a required element in the working group report? Well, let me ask it a different way. Can anyone foresee a situation where this wouldn't be included in the working group report or shouldn't be included?

It sounds like we're all in agreement with this notion that it should be a required element of the working group report that if the problem hasn't been adequately defined that they should adequately define and quantify it.

And then, you know, they should also have a section of the report devoted to, you know, if there's a review done in a certain period of time. And we'll leave the question of how much time should the - be left to assess the success.

Putting that issue aside, there should be after some period of time a way to go back and objectively measure whether that - whether the result indicated there's been a success. James, you have a comment?

James Bladel: Yes, Jeff, just real quickly. I never say never and never say always so I tell you, I suppose it's possible there could be a PDP on a binary issue that is - that doesn't open itself or the problem to quantification beyond, you know, true/false.

Maybe in that case it wouldn't make sense to go to the lengths of the quantifying the problem, quantifying the success if it's just a yes/no, on/off, up or down type of an issue. But in all other cases, you know, I think that you're correct.

Jeff Neuman: Okay, Marika?

Marika Konings: This is Marika. My question would be because I think we spoken in one of the previous stages like the bylaws prescribed certain elements that, you know, for example, the issues report needs to have as well which information needs to be gathered in the working group report like (constituency) statements and public comments.

And you know, is this something as well that should be recommended there or is this again one of the elements that we would like to see more in a PDP guidelines document saying, "Well, we would really strongly encourage

working groups to include, you know, guidance on how to review the policy or what is required to effectively assess the effectiveness of a policy down the road?" And what are the views there?

Jeff Neuman: Well, if I could - I'll jump in. This is Jeff. Sounded like to me that people were saying that it should be - this should be a pretty hard requirement is to measure the success.

Even if there's not a binary yes or no answer it sounds like this is a, you know, this is as important as quantify - as defining the problem and therefore sounds like this group is recommending to be a hard requirement in the bylaws. But people - James, Alex, you guys - let me know if you disagree, but James has sounded like a pretty passionate issue for you.

James Bladel: I don't know how to respond to that.

Jeff Neuman: Well, all right. Do you think it should be something that's a hard requirement in the bylaws or do you think it should be something that's more kind of in the operational rules, you know, they should - the working group should do this but not really required?

James Bladel: All right. You know, I guess I hadn't thought of where it goes, Jeff. I just - I really think that if you can't - in a working group, if you can't define a problem that you're setting out to solve then that to me becomes an existential challenge to the working group itself.

Jeff Neuman: Well, is it possible to define a problem but not necessarily to be able to assess what success would be?

James Bladel: Not if it's properly defined, in my opinion.

Jeff Neuman: Okay.

James Bladel: If you can identify a problem and you can quantify it then I think that, you know, whether it's statistically or mathematically or just, you know, even in a binary case whether it exists or not, if you've identified a problem or a harm then you should be able to measure when you successfully mitigated that harm.

You know not perfectly, but made a dent. You know, I'm sure there's still some examples of tasting going on for example, but a 90+% reduction in the incidence I think is pretty good success metric.

Jeff Neuman: Well, let me give you a different type of example although it may still - it may not be quantifiable but it's certainly measurable. And the - so if two years ago - I think it was last - no, two years ago that flaw - Kaminsky found a flaw in DNS.

Now it was possible to have a man in the middle attack to break certain protocols in DNS to actually compromise DNS and have messages inserted in it and queries going to places where it was never intended to go.

And the sender or recipient would never - sorry - the sender of the query would never know that it was going to the wrong place. Right? And that's what DNSSEC- one of the things that DNSSEC is there to solve.

He discovered the flaw but there had been really no - there'd been no record of those attacks actually taking place. But he had discovered it and was able to do it and say theoretically, "This is and can be a real problem."

But it had never been done - it really had never been done before that someone had actually done a man - this type of man in the middle attack.

So the problem couldn't be quantified in a sense of - look it's never been done before but we know that people aren't going to be as smart as I am. They're going to be able to do it and if they do it, you know, it's going to be - it

could be millions and millions of dollars - billions of dollars and all sorts of fraud and all sorts of things - bad things - will happen.

James Bladel: Well then, Jeff - this is James speaking - then your problem definition then becomes the number of unpatched or vulnerable DNS (resulters) in the field. Your success metrics would be how quickly you can release the patches for the various DNS systems and how quickly they're adopted by the operators.

Jeff Neuman: Right. So there the harm was not quantifiable but you were able to quantify - or you were able to define the problem and then come up with a measure of success.

James Bladel: Well, yes. In this case the problem was the vulnerability and you want to close that. You know, I don't think we'll ever eliminate that vulnerability but you want to close the window of vulnerability. So I think you can still define and measure that, yes.

Jeff Neuman: Yes. I agree. Paul?

Paul Diaz: Yes, thanks, Jeff. We got a bit away from the point I was originally going to make but the - I'll just reiterate what you both - what James and yourself have both said about the importance of some effort to quantify.

It's just critical in the problem definition at the beginning to have something that we can consider a metric to look at during the working group deliberations and then down the road to try and assess, you know, the success or failure of whatever recommendations policy we've come up with.

Unlike James, I'm perfectly happy to call a spade a spade and to use an example that we had on the fast flux working group was probably the definition of how not to do a PDP.

You know they - the issues report said, "More work needs to be done." The particular councilor had a bug up his butt about getting this done, managed to get it through with the barest minimum voting threshold.

Everyone recognized there was no data. It was very difficult to keep track of, to quantify, et cetera. We spent well over a year going around in circles and circles. What the - what we ultimately put out was our best effort but it didn't move us anywhere in actually dealing with the issue.

I mean it's sort of like a classic failure of, you know, not defining, not setting up, not doing any of the things that were suggested by the experts that staff has spoken to in creating the issues report, you know, that the council just - particular councilors - just decided they wanted this done - in quotations - "something had to be done."

And you know the community suffers because there are so many requests for our time to assist in these various policy initiatives. And you know, that one - and there are several that are ongoing right now where, you know, you ask them, "Well, demonstrate the harm." "We can't. We know it's happening but we don't have any data."

Now in fairness to staff, you know, we know in particular compliance staff has been very frank in saying when they have data and when they don't. In cases where they don't they're making specific requests that a number of us are supporting for the resources necessary to build databases so that these questions that come up will have something to, you know, we can really sink our teeth into in the future.

But you know, for our purposes here for this particular group it's so very important that this is something that really needs to be pushed hard. And honestly, council needs to, you know, whether it's in bylaws or the operational rules, but it needs to be pretty clear so we don't get these situations where a very small number of councilors can basically (gain) the system, get their pet

projects initiated and then we're all stuck spinning our wheels for a very long period of time with very little to show for it when it's all said and done.

Jeff Neuman: Okay. Thank you, Paul. Alex?

Alex Gakuru: Yes, thanks Jeff for reminding us of that Kaminsky example. What that goes to show is that we may want to actually embed and require that the parameters for the program that have been identified before the issues report and before the PDP are actually used and the success rate based on the maximum number of parameters.

But going back to that example you gave, we should also be cognizant that there are mutualities that will come that may have been overlooked at the PDP stage, that the parameters that were developed.

There are new possibilities that may not have existed then or reactions in the market that sometimes may result in the opposite of the intended market reaction or effects.

So it's maybe in both cases that may be we will want to have some room for extra parameters that can be used or can be incorporated or provided for. But we don't know how new issues may arise, for example that of Kaminsky took so long.

Also if it's a question that maybe the community didn't take it seriously or what was wrong with the system that it could not be responded to - the challenges they posed, not after they demonstrated it, because they - I think they have tried to demonstrating that for a long time but they couldn't get (unintelligible).

Is it a problem with the system? Are they the communities, you know. These are the questions important to get out of this. But somehow related to - that's



why you have some room also open that we create parameters for all future parameters to measure the success rate. Thank you.

Jeff Neuman: Right, now I think that's important. A lot of things can change, especially your point about market conditions or things in the market could address the problems that were not anticipated by the working group.

But, you know, again, it could certainly be assessed after. However, one of the questions in the future is going to go to who assesses it so we haven't gotten there yet. But whoever it does that should certainly be looking at externality, not just the things that initial working group was looking at.

Let me go to Margie and Marika. I don't know which one of you was first, I apologize but you're both on the...

Marika Konings: I think Margie was first.

Jeff Neuman: Okay, Margie.

Margie Milam: Okay, yes. I mean we're back to the prior topic about information and assessment of the problem. And I think the Kaminsky example you gave was a good one.

I can think of another that we're going to be seeing shortly, for example the vertical separation discussion that we will be starting. In a PDP there's a lot of, you know, concern about potential problems that might happen if for example there was no longer separation.

I think, you know, there are valid things to look at but we might be faced with that very situation where you don't have information on what the problems are because the problems haven't happened yet.

And so a lot of the work on the policies front is going to be, you know, evaluated that and I wouldn't want to foreclose a policy development merely because we don't have statistics because it is essentially a future problem.

And so I just want to caution us not to make it too stringent of a requirement. I think it's a good thing to put it as something that should be thought out where available because it certainly, you know, is an important factor of the policy development process.

I just wouldn't want to make it, you know, that you can't have policy if you don't have statistics - something that onerous - because I think there will be lots of examples where that might come into play and where the council would feel that it is appropriate to develop policy.

Jeff Neuman: Yes, Margie, I think that's a good point. I'm not sure - and Paul and James have raised their hands, I'll let them address it - but I'm not sure anyone was saying that there had to be statistics but just it has to be a quantifiable problem.

And maybe in the vertical integration the quantifiable or the problem is that other industries, where there is vertical integration, certain things could happen and the measure of success would be that those things that were - that happened in other industries didn't happen because of certain measures that were put into place. And that could - the onus on the statistics, I agree with you on that. But let me turn over to Paul and then James.

Marika Konings: I was still in the queue too.

James Bladel: Yes, I don't want to cut you off, Marika. Go ahead.

Jeff Neuman: No, wait, hold on...

Marika Konings: Because I have a simple point to Margie's.

Jeff Neuman: Is it different or is it the same?

Marika Konings: It's a similar one, so - and then Paul and James kind of reacted. Well, it's about the question of like how do you quantify or assess as harm, and I just want to make a point there because some people raise for example post expiration domain and recovery group.

Yes, we don't have hard statistics or, you some kind of - we only have anecdotal stories of people losing their domain names but at the same time it's obvious from the research we've done that there's, you know, lack of transparency and understanding.

And, you know, those are elements as well that, you know, are in the interests of the broader Internet community to have transparency, predictability. So those are difficult things to assess as harm, just maybe things that can be better.

So it, you know, there on the point of Margie, might always have statistics or data that, you know, warrant the initiation with PDP but all the elements that come into play making that decision and that's indeed where the council needs to make that assessment.

They I think should be providing as well the working group with that, you know, information as to why they felt this required a PDP. That will help as well the working group to understand and then quantify indeed, okay, what are the, you know, measures of success? How do we make sure that we address the issue that the council saw that needs to be addressed here?

Jeff Neuman: Okay, I think that's a good point. Paul and James.

Paul Diaz: Yes, thanks, Jeff. Yes, both Margie and Marika make excellent points and I agree with most of what they said and wanted to make it clear for the record

that I'm not - I didn't mean to imply that a PDP should not go forward if we don't have the data.

What really bothers me is when staff in compiling the issues report talk and experts and whatnot and very clearly identifies problems, whether they're questions of the scope, questions of data, difficulty in kind of wrapping our heads around the problem.

And yet the PDP is launched anyway because somebody has a particular agenda, you know. When we recognize at the issue support level, right up front at the beginning, that the particular policy question is not ripe for a PDP yet, that some more research has to be done and whatnot.

I think it's very important - almost incumbent on council - to take that recommendation very seriously, to do whatever's necessary to seek out to begin to do the background spade work so that, you know, when the formal PDP is launched we are not, you know, wasting our time either trying to build these databases or kind of looking around for something more than a few anecdotal examples that we would have heeded the staffs' and the experts' initial warnings recommendation to do that stuff beforehand.

Jeff Neuman: Okay. James?

James Bladel: Yes, Jeff. I imagine you're getting tired of hearing from me today, so. But this section particularly is something I'm keenly interested in, so. First I want to say I agree with a lot of what Paul just said so I wanted to lend my support there.

And I just want to address Margie's point earlier about, you know, some problems cannot, you know, lend themselves as well to being quantified or they are not necessarily identified problems but identifiably potential problems and so therefore it's hard to quantify whether or not, you know, that they're hypothetically - could be a problem.

I think that, you know, picking on the vertical separation issue, I mean there's an interesting case because you have competing hypothetical (harms), right? I mean neither side of that issue has I think quantified or demonstrated the harm that is occurring now or, you know, in the absence of that policy.

So I think that's an interesting point. But I think that it still - it still lends itself and it's a good exercise to demonstrate or to, you know, to do as due diligence as far as putting together a definition and substantiation. Maybe that's a better word that quantifies - substantiation of the problem. And I think that better policy will be the result.

And this kind of segues into what Marika was saying about posts expiring. We can always make the processes better but for example if we required a certain notice, let's say to go out via email, since we don't really have a quantifiable data set to back up the, you know, to back up the problem, we don't know if that's actually going to have an impact or not.

You know, at GoDaddy for example, we tried a lot of things to prevent inadvertent loss of names. We tried, you know, sending out messages in 24 point purple font, you know. And sometimes they just - they still occurred.

And we don't know what an acceptable rate of - or a natural rate of this incident would be because we can't quantify the problem. So I would submit that because we can't quantify the problem that doesn't necessarily mean that the PDP has to be stopped dead in its tracks.

But we have to recognize that whatever policy that's going to come out of that is going to be a little gray and a little fuzzy and a little difficult to measure whether or not it was been effective at all. And I think that the policy that results from that process in and of itself, the policy will be flawed.

So you know, I just kind of wanted to touch on those things. I think they're good points, Margie and Marika, and I certainly don't want to seem like I'm coming down on the opposite side of what you're saying, but I just think that there's a, you know, we should never turn away from doing everything we can to, you know, put some boundaries around the problem.

Because you know, in the case of (Tedner), for example, we don't know if what we do has a positive or negative impact, you know, the same way I don't know if the color tie I wore today is going to affect the weather. The causality starts to fall down. Does that make sense?

Jeff Neuman: Yes, I think it does. And for the record, the purple font works with me.

James Bladel: It did?

Jeff Neuman: Just kidding.

James Bladel: There's one now that has a bright red blinking like fire-engine red banner that says, "Your domain is expiring." And it's so annoyingly bright and conspicuous and I got one the other day and I almost had to dim my screen. It was hurting my eyes, so.

Jeff Neuman: Okay. Liz?

Liz Gasster: Thanks. I don't know if this helps or not, but I just - I think some of what you're talking about really goes back to why we all had that very robust discussion about pre-PDP scoping, and the notion that on some of these nebulous areas where you're trying to define or measure the degree to which something is a problem before embarking on a full-scale assault, why that pre-PDP scoping effort is so important.

And the thought that I have is to encourage you to consider whether loading thresholds should be changed in terms of initiating a PDP, initiating a PDP

that perhaps staff recommending against doing. Should there be a higher threshold for that?

I think we haven't talked about thresholds in this group because the thresholds were just too changed in a careful negotiation that, you know, affected the restructuring and that was essential for the restructuring.

But I don't think it's out of bounds for this group to reconsider thresholds because of the issues that you're describing now. And to perhaps give more teeth to these concerns through modifications to thresholds - loading thresholds.

Jeff Neuman: That is an interesting idea. I'm not sure at this point. I think - well, first of all we would need a lot of other groups on the call, since we seem to be mostly represented here by the contracted parties.

I would like to - because that could take us down a huge rat hole for a long period of time I'd like to put that one aside and possibly do that toward the end of the whole process to kind of look back as we look at everything and say, "Okay, are these the right thresholds?" But I think if we do it now and others can weigh in I think it's going to - not that I disagree with your notion.

(Liz Butler): Yes, I mean I wasn't naive in raising it. I understand it's controversial and difficult and that you know, it would - may be something you would do at the end.

But what I don't want is to - for this group to be so - in a sense intimidated by it that, you know, there could be changes that really need to get made there or that you - would translate some of your concerns. And I understand that this isn't a diverse group on the call today, either. So I just want to throw it out there, and Jeff, whatever you recommend about timing is great. I know what that would entail but I think it's important not to ignore it in light of this discussion.

Jeff Neuman: Right. Okay. So with that it's now - we're an hour and half in so we're at the end of the call. I think that was good. We're going to - I'm going to send out an attendance sheet to all constituencies again - or stakeholder groups and constituencies to hopefully get a - make a plea to get more people to attend these calls so that we can have more of a - and we're making very good progress.

The feel I have is that we're making good progress and we're moving faster but all of a sudden people haven't been here for a few weeks or all of a sudden going to see, you know, these reports and things that they may be - taking us backwards by making comments on those.

So with that said, please complete the survey if you haven't - please complete the survey if you haven't done so already and - which just might be me because I think everyone else on this call actually did.

Also then we still have Stages 1, 2 and 3 to report out there so that we can get the last comments on that and, you know, redo those so we can have another version that goes out soon. And I look forward to talking to you all next week.

Man: Great, thank you, Jeff.

Woman: Bye.

Woman: Bye.

Man: Thank you, Jeff.

Man: Thanks, Jeff, have a good one.

Jeff Neuman: See you, bye.



END