

ICANN TRANSCRIPTION
GNSO CCWG Subteam call
Monday 11th January 2016

Note: The following is the output of transcribing from an audio recording. 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.

mp3 recording: <https://icann.box.com/shared/static/feowuhsup4q57d7cfdgd0wh7x1e62pkc.mp3>

Attendance: James Bladel, Keith Drazek, Phil Corwin and Edward Morris

Apologies: Paul McGrady and Marika Konings

Staff: Julie Hedlund, Mary Wong, Glen de St Gery, Lars Hoffmann, Terri Agnew

Coordinator: Recordings are started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the CCWG Sub Team call on Monday, 11 January 2016.

On the call today we have James Bladel, Keith Drazek, Phil Corwin and Edward Moore.

We have apologies listed from Paul McGrady and Marika Konings.

From staff we have Lars Hoffmann, Glen de Saint Gery, Julie Hedlund and myself Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes.

Thank you very much and back over to you James.

James Bladel: Okay thank you Terri and thanks everyone. And for the record this is a sub team established by the GNSO Council to review the CCWG output. This is not a sub team of the CCWG. And just that was a little ambiguous in your announcement and for the recording and transcript make sure that was clear.

So thanks everyone for joining and most importantly thank you for taking away little chunks of this document and working it over the last week. And I appreciate that everyone was, you know, during their best to get some stuff turned in while they were jumping between flights and typing on airport - in airports. And it's not something that's not lost on me in particular. I've been doing the same thing. And so I do appreciate challenging that is. And thank you for your work on that.

So we have a very rough draft of a document that stitches together all of our various conclusions.

And I think what I'd like to do on the call today is to first have this discussion about what we've put together and then secondly have a discussion about how we want the call on Thursday in front of the full council to proceed.

And I there's some questions and I think you see maybe (Steve Wolf) and (Yolf) also had some questions on the council list.

And so it would be great if you had some thoughts on that as well if you wanted to weigh in on those threads as opposed to - I don't want to seem like I'm just making any arbitrary decisions on behalf of the sub team. I want to make sure that everybody's okay with that direction.

So Lars if you don't mind if you can load the document if you have received it.
Okay, okay.

Lars Hoffman: James it's only written in time for the record. And I've only received the motion that I put up in the past. I have not received any other document yet.

James Bladel: Okay not for me and not from Keith correct?

Lars Hoffman: Keith, I received Keith's email and that had the motion on that I put up but no additional document.

Oh hang on, sorry. I've got it all. I'll put it up right now to country.

James Bladel: Okay thank you Lars.

Lars Hoffman: Yes.

((Crosstalk))

James Bladel: And what we now...

Philip Corwin: (Unintelligible) James...

((Crosstalk))

James Bladel: Okay awesome. Thanks Phil and we'll get that going. Thanks Keith for sending that over to Lars.

So again what we're showing you here is a motion refers to this matrix or this table which just has very simply, you know, what is the sense of the sub team on where the GNSO council's unified position is on a particular recommendation and then what comments concerns or conditions or

qualifiers need to be attached to that recommendation when we send that to the CCWG co-chair.

And I think that this is good. This is going to be useful to sending that to, you know, Thomas and Mathieu and Leon. I think that, you know we've given them something that they can actually push off on in their work.

We also made a comment on the list for about whether or not we wanted to comment on some of the responses received from the board.

And I think that, you know, we've been fairly consistent in saying that the - we're responding to the draft report and not any other comments that have come in from other groups including the board.

And I think that's important otherwise we start to get into sort of an infinite loop and then it's very difficult I think for the CCWG and the co-chairs to untangle that.

So hopefully everybody's okay with that approach. But if you have any objections please let me know.

The only other thing I did to this is divide IT up into the pages because it was getting really hard to read.

So each recommendation will appear on its own page. And I understand that's a little cumbersome but that's mainly just for drafting and review purpose. So hopefully, you know, thanks for bearing with me on that one.

Okay so let's - this is the motion itself. And the motion again and one of the questions I hope to resolve on Thursday very early at the onset is whether a motion is the appropriate vehicle or mechanism to proceed with sending our feedback to the CCWG.

A couple of folks have asked, you know, if we could proceed simply with just a letter, you know, from myself and the vice chair saying essentially, you know, we discussed this on council and we've worked on this document and here's our position.

That's fine. You know I don't have any strong feelings one way or the other.

But the others have said that they - something of this magnitude and because the whole process around CCWG's are still little fuzzy that maybe we should err on this side of formality and go forward with a motion that that will at a minimum give us some baseline for future CCWGs and for the formal final recommendations when they come from this CCWG.

So I'm fine but let's get that on the table with council on Thursday. And let's hope that we get that resolved in the next in the first, you know, 20 to 30 minutes of our call and hopefully not that long.

But here is the motion. And it essentially says, you know, what we've you know, hopefully all read here is that, you know, this is our reaction to the draft report and we formed a sub team. We reviewed it, here's the table.

And even though that this response is past the comment due, the close of the comment period and everything that we're referring to came in before the comment period so that we believe it should be treated equally. Phil go ahead.

Philip Corwin: Yes Phil for the record. I think it's much better to go with a motion on an issue of this magnitude. A letter would just be from the chair and vice chair. A motion shows that this is the unanimous consensus position of all the different parts of the GNSO collectively.

I think we're going to need that kind of weight given that some of our conditions and positions may cause some controversy particularly on Number 11.

James Bladel: Thanks Phil. I think that's, you know, an astute observation.

And I would just say that, you know, even though I don't have any strong feelings one way or the other it feels to me that if a one person on the council, one councilor or one group that's represented on council feels strongly that it should be a motion that's the way we're going to have to go.

It just feels like to do otherwise and to push for informality when there's a strong objection to that just seems improper to me. And I don't know if you guys feel like I'm out of align there but if we have to make a call I think, you know, there you have it.

Okay, so yes and (Mary)'s got a good point here about, you know, we can also record the degree of support as well, unanimous, super majority and majority.

Okay so let's so, you know, so the first thing we'll tackle is the format of the response which hope to get that put to bed fairly early. And then the second one will dive into the substance of the response which is what we've all been bashing our head against for the last seven days.

And we can just, you know I don't know if we want to dive into these individually. I think let's just kind of go over each one closely and see if it's approaching a state where you feel like we can tweak it a little bit and get it ready so that we can send it out to the full council list tonight so that the councilors have a chance, the ones who warned wouldn't - weren't on the sub team have a chance to review it before Thursday.

So just looking at Recommendation Number 1 and just holler, raise your hand and stop me if I'm, you know, running past you or if you have a comment or concern.

So Number 1 here the council support level was limited support with some opposition. And see I - we think we have a fairly concise explanation here of what our concerns or, you know, qualifiers are. Ed go ahead.

Edward Moore: Thanks James.

And yes I believe the link was with Recommendation Number 11, not Recommendation Number 7.

James Bladel: I think you are correct here and...

((Crosstalk))

James Bladel: Was this on Paul's or - this was on Paul's list wasn't it?

Edward Moore: I don't know who did Number 1.

James Bladel: Oh you know what, this is the one that we talked. You're at - the one we went through last week. And I think Lars can you make a note that Marika I think this is a typo here. That's Recommendation 11 and not Recommendation 7.

Philip Corwin: Yes Phil here. My recollection is that Numbers 1, 2 and 3 are the result of the last conversation we had and weren't assigned to an individual.

James Bladel: Yes, absolutely correct Phil and sorry, I forgot that.

And Phil also you raised I think an important point after that that you are not 100% on board with some of the comments by staff. Do you remember what those were here on one, two and three?

Philip Corwin: I don't know if I said I wasn't on board. I just said that we should devote some time on this call to making sure that 1, 2 and 3 accurately reflected the viewpoints of all the constituencies and stakeholder groups since none of us actually...

((Crosstalk))

James Bladel: But you didn't spot anything? Okay, but there wasn't anything...

Philip Corwin: No I don't recall spotting anything that I thought was incorrect. I just wasn't sure that it encompassed the full scope of comments from all different parts of the GNSO. So...

James Bladel: Okay understood. Thanks.

Philip Corwin: And as we put this out for full council review if people think we've missed something important that came from their constituency or stakeholder group they can raise that before Thursday's call.

James Bladel: Okay got it. Thanks.

Ed?

Edward Moore: Old hand, sorry.

James Bladel: No problem. Thanks.

Okay so then just moving into the comments for Number 1 clearly we're going to correct the link between Recommendation 1 and Recommendation 7 to reflect that it's 11. This is about the balancing of the SOs and ACs and the affect the recommendation would have on the role of the GAC.

And I think that essentially what our statement as a council was essentially saying that if Recommendation 11 changes the role of the GAC and the obligations of the board to respond to respond to GAC advice then we can't support Recommendation Number 1 which elevates them to the part of the empowered community.

So okay and then I don't know if it makes a whole lot of value to say for further details please review the SG&C submissions for the public comment period. I think you could tack that on to every one of these comments.

So I don't know if it makes sense to put that as an overarching header or perhaps in the other column say comments, you know, derived from SG&C submissions to the public conform please see, you know, some kind of a link to that. Phil?

Philip Corwin: Yes I guess I have some comments on the second sentence first on the referral, the transparency. Should we be more specific there?

You know, so are we talking there about what's the word I'm looking for, inspection rights, DIDT -- that kind of thing? Should we flush that out where we're talking about that transparency?

I'm not comfortable with the wording that where further on where it says what is required it says and a complete understanding needs to exist to ensure understanding.

I mean we need a different word than understanding because it's using it twice is - just seems to confuse things rather than clarify them.

James Bladel: Yes I'd almost like a complete understanding of the difference...

Philip Corwin: Yes.

James Bladel: ...or differences. And you can take out all that other stuff.

I don't know Lars if we're going to...

((Crosstalk))

Philip Corwin: And the other model, you know, again are we talking about the single member model rather than, you know, other model?

So I guess I'm pleading for more specificity here with for - to flesh out some of these terms so it's a clear what we're talking about.

James Bladel: Okay. So what we're saying is transparency should be expanded to specifically reference right of inspection and DIDP and that other models should instead say that single member model that was initially proposed. And then that other sentence...

Philip Corwin: Yes.

James Bladel: ...needs to be cleaned up where we say complete understanding of the differences between the single-member model.

Sound good Phil?

Philip Corwin: Yes that's certainly better.

James Bladel: Okay. Lars if you could capture that and or - okay. I'm assuming you're getting that green checkmark, awesome. Thank you.

And then I just think we should strike this for further details please review because that is inherent or implied in every one of these comments.

So whether we want to put that up at the top or whether we want to make note of that in the box here where it says comments and then say for further details and, you know, like a parenthetical under comments.

Okay so moving then to item Number 2 again this was a staff response or a staff synthesis of our last call general support here.

Some concern expressed in relation to time frames which were not workable in practice as well as the undefined nature of some aspects of the escalation and enforce the process. Anyone remember which aspects of the escalation enforcement process so we can get more specific on that?

And I hate to give Lars a scavenger hunt here but perhaps we should go back to last week's call and figure out exactly which undefined elements of the time frames and the aspects of the escalation of enforcement so we can be specific here to Phil's point.

Questions have been raised in relation to liability relating to directors that are removed as well as a location of the ICANN headquarters in California.

I, you know, again I think that we need to be as clear as possible here as opposed to saying questions what, you know, I think we were all saying that all of our groups were in favor of ICANN headquarters remaining in California, not that there were questions about the location or those headquarters.

So I think stating that emphatically here would make this a clearer document and give the CCWGs something a little bit more meaty that they can sink their teeth into here. And then again that last line is extraneous.

Okay moving on here then to Recommendation 3 I think we have general support with some qualifications about the different bylaws.

Here we specifically mentioned inspection rights must be included as a fundamental bylaw and that the - this is - this isn't - was a condition in switching from the single-member model to the designator model.

And scrolling down here the article could be treated like fundamental analysis.

I don't - actually I - can someone help me here? I don't remember that part of the conversation about the Articles of Incorporation versus fundamental bylaws.

Anybody remember what we were - what track we were on with that?

I mean looks like we spent enough time on it that staff and, you know Marika flushed it out here. But I want to make sure that everybody's okay with that. It's not ringing a bell for me.

Keith Drazek: So James this is Keith. I don't specifically remember that conversation. It may be that the language or the reference was pulled from the actual comments that were drafted by one, you know, one or another stakeholder group or constituency. But it's not ringing a bell with me either as far as the last week's conversation.

James Bladel: Okay. Thanks Keith.

Lars, maybe the action item here is to go take a look at last week's transcript when we discussed this and see if we can flesh this out a little bit more.

I think that we've spent a lot of time discussing inspection rights which is there the first sentence. But the rest of this I think used to be a little more specific. Phil?

Philip Corwin: Yes. I would hope maybe or at least going to cover in those to the full council when we send those out these places where it says some think, you know, think this, some think that or some of the (unintelligible).

I would hope that by Thursday's call we could get rid of some and hopefully achieve consensus on, you know, fundamental positions that the Articles of Incorporation you know, are really as important as the fundamental bylaws and should be, you know, changes should be treated the same way.

So I think the some, you know, it's true some constituencies and stakeholder groups raised these points. But I hope that by the end of Thursday's call we can get rid of the term some and the least some of these recommendations and, you know, give a stronger, you know, it'll make it stronger if we say this is the consensus view of the GNSO that's on these points that we're raising.

Because stating it is just some kind of - it's kind of wishy-washy we see for a CCWG with some uncertainty about how strongly we feel on some of these points.

James Bladel: Yes. I completely agree Phil.

I think that our goal today and Thursday would be to crystallize this and get rid of some of that squishiness.

Note that if we have a recommendation, I think there's a recommendation later where all of the SGs and C -- I think it's the one about human rights as a part of the Workstream 2 effort that the registrars were in their comments said something less than full support. And we were the only stakeholder group that said that.

So you know let's call it out. And then when we get together on Thursday if we have a vote then the registrars kind of throw up their hands and say, "Well you know what, are position didn't carry." So this is the position of the GNSO

that, you know, we're on the wrong side of it and that's okay. And that's okay. That's how it happens sometimes. That's why we vote.

So, you know, I'm completely on board with either we should be looking to purge this response of any of that ambiguity.

Now some of them may be a little bit trickier and I certainly don't want to go too far on the other extreme where we have a group that feels like their concerns or their qualifications were ignored.

I think the goal would be to capture all of those and then say that if one group believes strongly that there's a condition in place if we're supporting a recommendation that the rest of the council can live with that as long as it's not incompatible with the stuff they're saying.

So I know Lars if that makes sense. I see you've got a green checkmark there but we're really abusing you today. And I'm afraid it's only going to get worse. So hang with us man.

Lars Hoffman: No problem.

James Bladel: Okay. But yes to your point Phil I agree is when we say that someone, you know, that we should be moving towards unity or unifying positions one way or the other. And again that last sentence is extraneous.

Recommendation 4, this I believe was submitted by Keith?

Philip Corwin: No.

James Bladel: And we have...

((Crosstalk))

Philip Corwin: James could I just...

James Bladel: No.

((Crosstalk))

Philip Corwin: Phil - this is Phil. I did 4 and 5 now. What I wanted to do, you know (unintelligible) 4 and 5. But there were quite a diversity of conditions that different groups wanted to put on their adoption.

So what I did was pretty much cut and paste the key provisions from different stakeholder groups and constituencies and put them in here with this notion that, you know, knowing that this was too long but that you know I didn't feel it's my place to edit down or omit anything and that we should have this - we should see what different conditions, groups wanted and then think about boiling this down or something shorter.

So this was - this is - 4 and 5 are not intended to be final language but to help us in this conversation understand what different parts of the GNSO are looking for to get fully behind these to recommendations.

James Bladel: Okay thanks Phil. And I remember your message on that and understand, you know, didn't want to gloss over anything or leave anything on the floor.

I do think that your, you know, you're right that we want to boil this down to something a little more succinct. But we can always referred them back to the actual text that was submitted in the raw comments to ensure that there's no - there are no omissions when we get to conditions here.

So let's...

Philip Corwin: Yes. And that...

James Bladel: ...unpack this one and...

Philip Corwin: Yes just like I say I note that some of the things in here are already in some of the ones we just reviewed such as the first bullet point is about document inspection rights. And that's a draft in one of these other recommendations.

The second one is about addressing a potential ability and making sure that the members of the community aren't exposed to legal liability or financial liability by exercising the powers.

The third goes to the time frame which is also brought up.

So there's some now that, you know, we've reviewed the early ones I see there's some duplication within these bullet points of things we've already brought up out of the recommendations.

James Bladel: Okay. So Lars are you seeing that there's opportunities at least in these first three bullet points that probably refer back to Recommendation 2 and 3, well actually 1, 2 and 3 and essentially say that our support for Recommendation 4 is general support with some qualifications again noting that there's concern about right of inspection, DIDP, the timeframes associated with the enforcement, liability associated with removal of director?

And I think that, you know, in broad brush strokes starts to capture and emphasize and reinforce what we've already said but also capturing some of the conditions that were laid out here.

And I think we start to diverge a little bit when we get to bullet point Number 4 here. I think that something that's new that's not covered in the previous recommendations. Is that correct Phil?

Philip Corwin: Yes. I would say the bullet Point 4 as well as 5 and 6 are new conditions, not existing in previous recommendations we've just reviewed. So one approach

to consolidating this might be to decide on the first three bullets which recommendation they should be.

There's no need to bring them up multiple times. But these - the latter three bullet points are in the subject matter. They can probably be boiled down to some extent.

Yes I think here's the proposal Phil. See if you can get behind this is that we boil the first three bullet points down to a sentence that refers to our recommendation conditions on Recommendations 1 through 3 and reiterate right of inspection, liability time frame and just kind of hit those notes again and then immediately pivot to the new items, 4, 5 and 6 and boil those down a little bit here.

I mean I think we can condense them without losing any of the substance essentially.

You know, I think that the fourth one we're going to have to have some discussions on the group. You know, if we send a board member from the SOACs I think that, you know, and this has come up on the CCWG as well is what is the path forward for if everyone - if all the other SOs and ACs want to remove the GNSO board members does the GNSO have a veto over the rest of the community?

I think that was addressed in the CCWG. And then the flip side of that is who touches the noncom appointees which essentially have no sponsoring SO or AC?

So I'm not saying we need to include that here but I think we should be prepared on Thursday for when those questions will - are going to be raised.

And I know that the three of you guys especially are much closer to the CCWG's work or much more current on the CCWG's work than I am. So if

you can be prepared to have that teed up that would probably be really helpful.

The fifth one refers back to disputes about DIDP and whether that those can be the subject of an IRP.

I think that's fairly clear and really kind of goes also back to the right of inspection where if the DIDP request is rejected that the IRP can be used as a mechanism to reconsider that request.

And then the final one here is - well I'm not sure I understand this. Recommendation further...

((Crosstalk))

James Bladel: Yes?

Philip Corwin: As I cut and paste what other groups thought was important I don't fully understand this one. I'm forgetting at the moment which group it came from. I'm thinking it came from either the NCSG or the NCUC.

But you know, it was important to them. And I just put it in verbatim so we could take a look at it.

James Bladel: Ed does - I think hate to put you on the spot but does this ring a bell in your group's conversations?

I don't know still have Ed?

Terri Agnew: This is Terri. Ed has disconnected at this time...

James Bladel: Okay.

Terri Agnew: ...from the audio.

James Bladel: Okay that's unfortunate but I know that it's probably terribly late for him. So Lars maybe can you highlight where this last bullet point came from and we'll tee it up for our conversation on Thursday?

So yes sir Lars? All right, oh, green checkmark, awesome. And then the last sentence of course can be dropped.

So that was the small one Phil I think (unintelligible).

Philip Corwin: Yes. Yes the next one there was - wait where are we here?

James Bladel: We're on Page 6 Recommendation 5. There's the mission commitments and core values.

Philip Corwin: Yes. Yes people had - there were a lot of views on this about changing the mission commitments and core value.

Why don't we just go through what I put in and then you know the...

James Bladel: Yes?

Philip Corwin: Well I guess, you know, the first point Number 1 says that certain things have to be retained which we're not asking for new things to be put in. We're saying these things must be retained in the final proposal that we view them. It's really important.

The second one says that it's really about enforcement of contractual agreements working toward satisfactory drafting of the bible of implementing this and that clarifying that the IRP may invoke action.

There's a lot of detail in these separate points. Again I wasn't sure how to boil this all down to something shorter...

James Bladel: Yes I..

((Crosstalk))

James Bladel: I don't envy that. Can I backup just a second Phil?

Philip Corwin: Sure.

James Bladel: One of the things I don't like about Item Number 2 it's it says the GNSO cautiously supports. And I know you copied that probably verbatim from another, you know, another group's comments.

But I think that, you know, to that earlier - to your earlier point I mean that word cautiously word cautiously is one of the terms we should be working to drive out of this document right? We either support it or we don't or we can say...

Philip Corwin: Yes.

James Bladel: ...conditionally I guess instead of cautiously.

Philip Corwin: Yes we could say we conditionally support the revised statements subject to the following and then just list the things that we need to get fully behind it.

James Bladel: Yes. So I think definitely changing cautiously to conditional - conditionally would be helpful.

Philip Corwin: Yes.

James Bladel: Yes.

Philip Corwin: Number 3 was about Stress Test 29 and 30. And I'm not sure if this was IPC but there were concerns there.

Number 4's about limit missions.

((Crosstalk))

James Bladel: Again on Number 3 GNSO is disappointed. Does that mean we don't support them? I'm trying to phrase this. I want to capture this but I want to phrase it in a way that it either is a condition for support or justification for nonsupport.

I don't know that - I don't know how to phrase disappointed. I'm not trying to steamroll anybody's opinions here. I just I want to try and put it in one of those buckets so that we can work with it.

But maybe we just flag that and talk a little bit about it when we talk on Thursday but...

Philip Corwin: Yes.

James Bladel: But I think that, you know, something along the lines GNSO requires that clarity or further clarity be, you know, further clarifications on Stress Test 29 and 30, you know...

((Crosstalk))

James Bladel: ...to clarify how their contract enforcement is how ICANN - is essential in ICANN's fulfillment of its mission -- something like that. I don't know. I...

Philip Corwin: I think can be boiled down to just, you know, we want...

James Bladel: I think we lost Phil.

Man: I can't hear Philip at the moment.

Philip Corwin: Can you not hear me?

James Bladel: Phil we've - oh, now we hear you. You're back.

Okay.

Philip Corwin: Okay I don't know what happened because yes I think three we can just boil it down to a statement that, you know, Stress Test 29 and 30 should be eliminated and then see if that's a consensus view within council on Thursday's call.

I guess, okay moving on to Number 4, you know ICANN - basically it's going to be boiled down to ICANN shouldn't entered into contracts or activities or pursue objectives outside the mission or core values.

This is really - this is not asking for a change, that someone wanted this to be emphasized. It's something that needs to be...

((Crosstalk))

Philip Corwin: ...retained.

James Bladel: So the GNSO supports recommendations to or proposals that emphasize the limits to ICANN's mission?

And it - yes. I think we can probably compress that a little bit.

Philip Corwin: Yes. And let me just ask how we going to - is based on this conversation is staff going to take a stab at boiling all this down and presenting us with a new draft to look at before it goes out to full council?

James Bladel: Yes, I think so Lars and then we'll put out a iteration on this list and then send it out to the full council.

Philip Corwin: Yes. I'm not trying to shirk work but as you know...

James Bladel: No, you...

Philip Corwin: ...James. Oh go ahead.

James Bladel: Oh, just that you and I and others I know that Paul is in route and we're trying to attend this conference as well.

Philip Corwin: Right.

James Bladel: Yes, I know. Yes. Ed you have your hand up. And Ed probably wants to go to sleep at some point as well so go ahead.

Edward Moore: No. My life is accountability as is most of ours for the past 13 months.

We've got a bit of a problem with Number 5 in that while the GNSO may be disappointed about the outcome for Stress Test 29 and 30 the NCSG is delighted at the outcome.

And my recollection from Dublin is there were a few other groups on the CPA set perhaps would have been equally delighted. So I'm wondering if that is the GNSO position?

James Bladel: Number 3 or you mean Number 5?

Edward Moore: Number 5, point Number 3, yes.

James Bladel: Oh so okay, condition Number 3 of Recommendation 5?

Edward Moore: Yes thanks James.

Philip Corwin: Yes Ed again what I did here was go through each and every stakeholder and constituency comment on the entire proposal and pull out the key things that different groups - this is not supposed to represent a consensus position of the GNSO.

These listing of conditions is it is a listing of things that are important to various parts of the GNSO recognizing that, you know, one constituency might feel it's really important, another one might be totally opposed to that position.

But that's something we have to work out now in the full council meeting to see where...

Edward Moore: Okay.

Philip Corwin: ...the support really lies on these. So this again this is just...

((Crosstalk))

Philip Corwin: ...a list of everything important that people raised in their comments.

Edward Moore: Okay thanks Phil.

James Bladel: And to Ed's point I think though Phil is what we need to do is flag, you know, flag those incompatibilities right?

Philip Corwin: Sure.

James Bladel: If we have one group that says we'll support this on the condition that Stress Test 29 and 30 are removed and another group saying we support this on the

condition that Stress Test 29 and 30 are maintained or retained then that starts to look like nonsupport for that overall recommendation if those are deal breakers for two, you know, for two separate reasons, for two separate groups. Then it looks like the GNSO can't reach consensus.

Edward Moore: Then we need to make this clear in what we send out that this is what we're doing. Because if my - if the other councilors from the NCSG read this and take it as a proposed GNSO position they're going to be up in arms. And James you're going to get lots of nasty emails and we don't want that.

So what we should try to flag this in what we send out to the greater council, the larger council that this is a point of dispute or a contention that we need to resolve rather than propose it as it could be read here as a GNSO position.

James Bladel: Totally agree Ed.

And so what I'm recommending here is we flag this item Number 3. We have one proposal that Stress Test 29 and 30 are I guess being characterized as misleading and that they should either be clarified or removed.

And then I guess further down perhaps where does the NCSG or where do the other folks who are supporting Stress Test 29 and 30 weigh in Ed? Is that further down in this recommendation or?

Edward Moore: I don't think it's here. I don't think the NCSG actually commented on it because not - it was considered to be a settled issue.

So this is something I believe the IPC is raising. It's important to them. But I can tell you that - I guess I can see not so much on behalf of the NCSG but as a point of information that if this were to pop up, if this were in the recommendation, if this were in the policy proposal or the third draft report the NCSG what have come up with (unintelligible) given that we support the

decisions made with respect to 29 and 30. But we didn't do it so this time because it was a nonissue because we believe it's been a settled issue.

Philip Corwin: Yes. Well I think on issue, you know, an issue like this or the one James mentioned earlier on human rights if it turns out that just one stakeholder group or constituency, you know, has a position and they're a lot in the final (unintelligible) we're proposing.

Edward Moore: I just want to propose to what we're sending out rather than stating the GNSO was disappointed we can go back to the some are disappointed or so it doesn't look like we're proposing the desperation on the basis of a few groups coming together on this because as far as I know there was only one group that mentioned this.

Philip Corwin: Yes.

James Bladel: Yes. Okay but that's fair Ed. But I think what we should do is we should leave the language intact because it's - it gets rid of that squishy qualifier of some groups like we were talking about earlier.

But we should flag this for the broader discussion. And if it is it turns out that one group is, you know, off on their own on this then this can - and would just simply be removed...

Edward Moore: Okay.

James Bladel: ...from the GNSO support qualifications. And one or more groups may not be - and I think this aligns with what Keith put in the chat.

One or more groups may not vote for it that way. But if it's a simple majority that is the rest of the groups are okay with that then yes I think that that's how these things will start to crystallize.

Okay we'll that's a good conversation. And I think it's good that you flagged that Ed because otherwise I was going to go right over it without, you know, without even detecting it. So thanks.

And please also flag it again if you feel like we don't hit that note hard enough on our call on Thursday.

Edward Moore: Will do Jim, thanks.

James Bladel: And I guess I have a homework assignment to go read Stress Test 29 and 30 again because I don't remember where we landed on that with the CCWG to be honest with you.

Okay any other thoughts? We sort of touched on it. Let's restart here. We've got 15 minutes and we've got to get through this one and some of the others. I'm sorry for that.

The mission must be limited. Any changes to the mission? I think I mean that's a fairly widespread position that the...

Edward Moore: Yes.

James Bladel: ...ICANN should be limited in its mission.

Edward Moore: Yes...

((Crosstalk))

Edward Moore: ...and point Number 6 relates to the same thing. Five and 6 are similar.

James Bladel: Okay. So we can probably compress all of those into a couple of sentences about clarity on the limitations of ICANN's mission as expressed bylaws and how it's - how that would apply going forward to support contingent upon

further review of language to restrain ICANN from acting outside of its picket fence.

So I think that's just reinforcing and using different language to reinforce the idea that ICANN shouldn't expand its own agreement. There's no bottom to that well.

Annex - look at Number 7 here. Annex 5 to the CCWG third draft still reflects only general principles regarding the bylaws.

So is this - and Number 8 is also about limiting the mission. And I think Number 7 is about...

Philip Corwin: Yes.

James Bladel: ...clarity around the - clarity around the - how the bylaws will be drafted, the language of the bylaws.

Philip Corwin: Yes and Phil speaking. My recollection is and a lot of this language was pulled from a very long comment from the NCSG. And I try to pull out what was - what seemed most important to them.

But a lot of this all of these seem to involve basically saying things (unintelligible) and our ultimate judgment on this proposal depends on the specificity and strength of the actual bylaws that are drafted to implement...

James Bladel: Okay.

Philip Corwin: ...to boil it all down...

James Bladel: ...that important point.

Philip Corwin: ...to drafters.

James Bladel: Yes and there's like notes. It says notes to - what does it say here, notes to the drafter. Yes.

Philip Corwin: Yes and same with 9 and 10. They're all about saying, you know, reserve final judgment till we see what the bylaws drafters come back with to implement the recommendation.

James Bladel: Ed you have your hand raised? I don't know if that's - you want to weigh in this or...

Edward Moore: Yet another old hand Jim, apologies.

James Bladel: Okay. But I think Phil - and I think Phil you're on the right course here is that these are providing additional justifications and support for the idea that, you know, that these are still just broad principles and general recommendations and we need to see actual bylaw language before we can say we have reached the level of comfort to support these changes.

So I get that and I think that we can probably express that in a little bit more condensed language without losing some of this as long as we continue to refer back to the substance and the comments.

I'm worried about the time here because I do have a hard stop with another GNSO meeting at the top of the hour. So I'm just trying to drive through.

Implementation language, I think probably falls under the same language for Item Number 10. And again it's about limiting the mission and preventing ICANN from expanding its own agreement into content and other non-DNS functions.

Number 11 is something new and it refers to the use of the global public interest veto over bottom-up consensus development policies to carry out ICANN's mission.

And essentially it looks like the board should be - or that the bylaws should define this concept or at least provide for the community to define this process so we can't be a catchall for the board that doesn't agree with this.

I think we could probably express in one or two sentences in Number 11.

And then the final one Number 12 we need to re-include the words of the DMS on mission statement.

And, you know, if we could have clarity on where we want to reinsert that Lars that would be good because I think that some groups - well hopefully that's not a controversial ad but let's make sure that was an inadvertent omission and not some material deletion.

So there's a lot in that one. They get a little easier now. I'm going to tear through some of these here. And just raise your hand or hit me over the head if you think I'm going too fast. I'm trying to get through the rest of these here.

Recommendation 6 is limited support that this is about the human rights.

And I think this is the one where it was generally support the opposition coming from registrars that believe that diving into this issue now as part of a temporary bylaw change was premature and that this could safely be considered a commitment in Workstream 2.

Whether that's something I personally agree with as a registrar is not really the point something the registrar signed off on.

And again to Keith's point earlier if the registrars are all alone on that then this will have council recommendations regardless over the objection of one group.

There's other points in here but I think that's sufficiently short enough. I think we're good.

Recommendation 7 independent review process was also generally supported. We have a couple of notes here about clarification and details of implementation about spamming and claims and failure to act.

Something to the effect of loser pays, look closer at that. And let's see, GNSO so does not sense any major showstopper for this recommendation. Okay.

Recommendation 8 I think Keith this is one of yours, general support for the recent consideration process for more information. Phil go ahead.

Philip Corwin: Yes I just I wanted to raise a - triggered by the end of the text on which recommendation is this? Sorry.

On seven where in the last sentence it says the (unintelligible) do we have an overall statement (unintelligible) basically saying (unintelligible) what expects to be a supplemental proposal. That reflects the feedback from us or should that be in the preamble of the motion rather than a...

((Crosstalk))

James Bladel: That we are...

Philip Corwin: Well it seems like the overall effect of what we're going to - can you hear me now?

James Bladel: Yes. You you're breaking up when - you know right at the...

((Crosstalk))

James Bladel: ...important part of your last statement so if you could...

Philip Corwin: Yes. It seems like rather than putting in one recommendation that we want to see the CCWG address these concerns that in the preamble of the motion we should make clear that a clear input of the input we're providing is that we expect CCWG to take all these comments under advisement and to come back with a supplemental draft proposal.

And I'm just suggesting we should make that clear in the opening that we expect that that will be just a final proposal that's why we're commenting on.

James Bladel: Yes I think we can capture that Phil either in the intro up above or in the language of the motion where we have a couple of other whereas clauses.

But we'll definitely capture that and then perhaps remove it from here which essentially says, you know, that the GNSO expects that issues and conditions raised here will be addressed in a supplemental proposal for the CCWG.

Because you're right it's kind of a blanket application to all of these conditional support.

Okay Number 8 is the recommendations. It looks like we had some general support here but we have...

Keith Drazek: Yes James I can take this if you like.

Yes Keith if you would. And I'm really just looking for are these conditions for support or additional supporting comments?

Keith Drazek: Yes thanks. I think these were supplementary recommendations. They were not positioned at least in the staff summary document that we used as a, you know, a dependencies or conditions but that there was general support and I think on this particular one pretty strong support for the recommendations around the reconsideration request process.

The - it did include some supplementary recommendations including an independent party such as the ombudsman which should be able to review and advise the full ICANN board as opposed to simply letting ICANN legal have that responsibility.

And so there were a couple of comments on that I think in CUC and in CSG in particular.

And all aspects must - of an RR must be completely transparent and fully communicated and that the recommendation should also make clear that any inaction or action of the PTI would be within the scope of a reconsideration request process.

So I took those in my reading as being supplementary as opposed to conditional. But, you know, the others may feel differently once we have the conversation.

But generally there was strong support for this recommendation.

James Bladel: Okay thank you. Thanks Keith. That's exactly what we were looking for here. And I think that if we can - I think that that's probably - I mean we'll look for ways to tighten this up a little bit. But I think that that's probably short enough summary, think we can probably go forward with that. Phil?

Philip Corwin: Yes I just I'm fine with all these comments. I'm just - it's not enough an official BC position. I'm just suggesting in here we might want to add that the request for reconsideration are responded to in a timely manner.

And I raise that because a (unintelligible) filed with the ICA which is pretty much identical to the one that was found jointly by the DC and the NCSG in October.

The board has not only missed the 30 day or, you know, target date. They have, you know, for responding. But we're now we're going to be passed the 90 day viewpoint and uncertain point. If there's not a time of response it's not a very effective accountability mechanism.

James Bladel: So for that third bullet point where it says all aspects of a reconsideration request must be completely transparent and fully communicated in a timely manner or say fully and promptly communicated -- something along those lines?

Philip Corwin: Yes just something that refers to timeliness of response because you know, if you - it's an important matter (unintelligible) individual or some constituency or stakeholder group and they get into the board it's a very short window for submitting it.

And then the board does not seem to be under any - have any sense of compulsion to even get close to this 30 day response time that they promised for the process.

James Bladel: Yes. It starts to look like a pocket veto where they can just take a reconsideration request and sit on it indefinitely so yes. I totally get you on that one.

Okay that's good and I think we're capturing and going as we go along here. And we've got just a couple of minutes before the next call starts. And I think

it's using the same Adobe chat room as well. So we may start to see others joining here, limited support and some opposition for Recommendation 9 incorporating the AOC into the bylaws...

Keith Drazek: Yes. I'll go James.

James Bladel: ...opposition. Oh go ahead.

Keith Drazek: Yes this is Keith. I did the summary on this one so I'm happy to walk through it.

Again this one I had a little bit more of a I guess some challenging concern. Specifically there were some recommendations that while they're generally supported the incorporation of the affirmation of commitments that there was perhaps a subset of the reviews that we're not comfortable with and specifically saying that the ATRT is one that should continue but the Whois, the Whois Review Team was one that was called out by multiple organizations or groups saying that, you know, the language around Whois was negotiated in a bilateral manner between the US government and ICANN and that that's sort of a artifact of the past and that the things related to Whois shouldn't be the subject of policy development and bottom-up manner as opposed to, you know, sort of top-down decision-making.

So that I think there was a clear desire for the Whois Review Team to not be continued at least not continued in its current form, a call up for the ATRT to continue. And then there was a little bit of silence on, you know, on some of the others. I think let me just scroll down here.

Yes, so I mean I think there were some recommendations here. It was - I did not get the sense than anything here was a deal killer in that these were supplementary recommendations.

I guess they could be considered as a dependencies or conditional requirements from the various groups. And I think we'll need to talk to that a little bit more on our call or on the list.

James Bladel: Okay thanks Keith. And yes I just I don't see how any recommendation that touches on the Whois issue should provoke any controversy.

Keith Drazek: That would be a first Jim.

James Bladel: Yes. So okay and I'm just scrolling through the rest of the bullets here. Not to support other AOC reviews unless - okay, yes okay. I think that's an accurate reflection of what we need to talk about on our call.

So I'm hoping that we can get not get lost up in the weeds on some of these because I think that there's definitely opportunities too. And if we bring out the Whois Review Team I mean I think there's potential that we can spend an hour on that. And I'm hoping that...

Keith Drazek: Yes.

James Bladel: ...and this team especially can help me dig us out of that if we go off course.

Keith Drazek: Yes.

((Crosstalk))

Keith Drazek: Yes this is Keith. On that point, you know, and sort of reflecting what I typed in the chatter earlier, you know, I think the key here is on the call, on the council call and on the list as people sort of review what we've done here is the real questions are, you know, where are the differences of opinion, differences of opinion on the particular recommendations so strong and commonly held across the various stakeholder groups and constituencies that we would be unable today to approach?

And I think that those - that's the real important focus for this group and the communication that we intend to send to the CCWG is to really call out where we've got a problem and where we see as a supporting organization and chartering organization where we see the deal killers.

And, you know, I - I'm with you in that if we get into, you know, back and forth on issues or concerns raised by one group but not held by another in the GNSO, you know, on our call that we will go into the weeds and we will spend a lot of time and not be constructive in our output.

And again I try to keep people focused on where do we agree that there's a problem and to try to give a sense as to, you know, where the deal killers might be if they exist at all.

So I'll stop there. I know we're getting to the top of the hour.

James Bladel: No Keith I think, you know, it's really good. And maybe we can tee that up at the beginning of the conversation so that we can spot it coming and maybe head it off at the past a little bit. Because you know it almost says that there's a couple of possible outcomes here.

The GNSO supports a recommendation. The GNSO opposes a recommendation and they did are mostly united in those positions.

Or there's another possibility here which is that you touched on an issue where there is no agreement on the GNSO. Some support it and some don't, you know, for a variety of different reasons and the GNSO a split as one of the chartering organizations.

So it almost feels like if we get to that point and I think at least when we encounter things like this in the course of a PDP, you know, the status quo has some weight. And if there's not support to make a change I don't know, it

is something that I think we should tee up for discussion because not everybody's going to get 100% of what they want no matter how insular they feel about one particular element of one particular condition on one particular recommendation.

Keith Drazek: Yes, agreed. And this is Keith. And I think the question here is as a supporting organization as the GNSO, you know, we all may have different views. But the key is to, you know, what can we support and what can we not support as the GTLD supporting organization right, the generic name grouped together as opposed to, you know, having it dissolve into, you know, again back down into the stakeholder or constituency part?

I mean all the views are very important but, you know, we're at the point now where it's time to consolidate our position and to identify where there's a majority of support and where there's not. I think that's really our goal for the call on Thursday.

James Bladel: Yes absolutely agree. And, yes, and that's the challenges of having such a diverse stakeholder organization. Other groups may be don't face those similar challenges so...

((Crosstalk))

James Bladel: ...Number 11. Oh go ahead?

Edward Moore: Yes quickly get some clarification. When we say the GNSO will support how are we determining that? From by how - by for example here's the concern I have.

The NCSG has come out opposed the board recommendation.

Ordinarily we would say all right if everyone else was in favor of it that's fine.

But as I understand it if we're doing each house has to be in favor of recommendation if the NCA voted with six NCSG councilors it's no go regardless of how the rest of the council felt. Is that an accurate depiction of how we're going to go forward in this?

James Bladel: I don't have the voting thresholds in front of me at but we're going to use the simple majority as the pass, no pass threshold. And the simple majority is defined one of two ways which is I believe it's just simple majority of both houses or (Mary) and Lars maybe you've got this handy? And the other option is super majority in one house a - I guess I don't have in front of me Ed. I'm sorry.

There is a - it is defined in the GNO operating procedures that a simple majority there's two ways to reach it. One is a simple majority in both houses. And another one is just kind of like overwhelming support in one house like you...

((Crosstalk))

Edward Moore: I (unintelligible). I just want to point out that the NCA in terms of the - getting these support in both houses the NCA is going to become very important. And we should try to determine his views as soon as possible so we don't go into elongated conversations on Thursday on issues that pretty much are going to be resolved by voting.

If you for example is not in alignment with the NCSG position we shouldn't be spending a lot of time on them on everything except 11 where the NCSG are outliers in the other three.

James Bladel: Right, understood. And I think that's something that we should get ahead of as quickly as we can on the call. And I'm already six minutes late for my next call so I just want to look at Number 11 quickly here.

Number 11 is this seems to be the only recommendation where there seems - there's a strong sense that the GNSO does not support Recommendation 11.

And primarily the sticking point is the raising of the threshold the 2/3 majority for the board to reject the GAC advice.

And I think that this - well I don't know if we need to even dive into this one. This is basically we're sending a very clear signal. And I think we can maybe make it clearer that to the CCWG is that you're not going to be able to get at least from this chartering organization you're not going to get our sign off on this if this element is retained in the final report.

And then I think we justify our rejection there very clearly.

And the one that I had I got off fairly easy was that we have general support of Recommendation 12. And this is commitment to Workstream 2 that there are some conditions here as far as that they - the timing being approved no later than the end of this year and that Workstream 2 continue to be supported by staff resources and independent council and that specifically include DIDP and the whistleblower.

And I think all of those are - that's the synthesis of all the comments received.

So here's some bits here down at the bottom. I'll let you guys read through those. I've got to jump. But I thank you very much for your help on this.

And I think, you know, we'll get this - we'll get another - we'll bash against this a little more on the - on our list and then have the goal of sending out a refined draft of - I hate to call it a final but a refined draft for consideration to the council list here in the next 24 hours so that we have at least some time to review it before our call on Thursday.

So thanks again everybody. I know this is pretty heady abstract stuff and I know that it's a lot of work. And I appreciate how everybody's done on this especially stepping outside of maybe your own personal or group positions to try to capture everything that was raised by everybody in the GNSO. Appreciate that. Lars?

Lars Hoffman: Thanks James. Just very quickly (unintelligible).

James Bladel: I don't know if you're still speaking Lars but you went silent (unintelligible) quickly.

Lars Hoffman: Oh can you hear me now? Hello?

James Bladel: Yes.

Lars Hoffman: Thank you James. I was just wondering what the timeframe for the updated drafting is? Obviously as soon as possible.

James Bladel: As soon as possible.

Lars Hoffman: But do you think it would be okay tomorrow morning or do you need it tonight?

James Bladel: You know, I was hoping to be able to work on it tonight after dinner so if...

Lars Hoffman: Okay.

James Bladel: ...that's possible that would be great.

Lars Hoffman: Noted.

James Bladel: I know that if we send it out the first thing in the morning then the Europeans are going to be already behind the eight ball so...

Lars Hoffman: Okay, sounds great.

James Bladel: Okay as fast you can, thank you sir. And thanks everyone.

Lars Hoffman: Thanks James.

Man: (Unintelligible) call.

Man: Take care.

END