

**ICANN
Transcription
GNSO Drafting Team to Further Develop Guidelines and Principles
for the GNSO's Roles and Obligations as a Decisional Participant
in the Empowered Community
Wednesday, 13 February 2019 at 21:00 UTC**

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Coordinator: The recording has started.

Julie Bisland: Okay, thank you. Well good morning, good afternoon and good evening everyone. Welcome to the GNSO Drafting Team call on Wednesday, the 13th of February, 2019. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. If you're only on the audio bridge at this time, could you please let yourself be known now?

All right, hearing no names, I would like to remind all to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid background noise. With this I will turn it over to Heather Forrest. You can begin, Heather.

Heather Forrest: Thanks very much, Julie and Julie, our pair of Julies. Welcome to everyone for those on this side of the Greenwich line, happy Valentine's Day. So Julie Hedlund, thank you very much for putting together the information that you received from the ccNSO and for reviewing the materials that staff had already prepared prior to our forming together. Let's take a moment; we've got our agenda on the right hand side, to review our agenda.

We have today in terms of substantive items there in Number 3, a comparison of the ccNSO procedure Section 1.3, Section 2.2, Section 2.3 against the materials that we have. And Julie has put together or put in the pod here our update with the same three points -- or excuse me -- six points that we had seen on our last call. So we'll have a look at this list, revisit it for the purposes of understanding the scope of our work.

And I think the object today is to determine what the task is ahead of us and try and divide that up in terms of a timeline and confirm that we have everything that we need on this list that would occupy our time and the scope of our effort. So with that in mind, are there any additions to or removals from our agenda for today? No? Seeing none, all right.

Let's move on then to update to statements of interest, does anyone have an update to an SOI that they need to make public? No? All right, excellent, well let's dive right in then.

So you see at the bottom of the 13 February updated draft list of guidelines for the GNSO's roles and responsibilities in the empowered community, we've got a list of six points here or maybe it's seven. One, two, three -- seven -- excuse me. We've got a list of these points and as I understand it these points were identified after staff had gone through the Operating Procedures to identify areas in which work was needed to complete a particular action in relation to the GNSO carrying out its responsibilities as an empowered community member. Julie, over to you.

Julie Hedlund: Yes thank you very much, Heather. I was just going to say I'm happy to speak to the staff approach here. And I can also, if it's helpful, bring up the sort of the more lengthy list of the various areas where the -- this drafting team will need to consider developing guidelines.

But so staff did two things. First of all we determined what guidelines the ccNSO had already developed to see if they might be helpful for this drafting team to consider as, you know, not necessarily as a template but a lot of the actions may be quite similar so it might form the basis for an initial draft of guidelines in some areas. And also we took a look at where work had been completed on the Customer Standing Committee review. That's sort of as a separate item from what ccNSO guidelines exist.

So just to speak to what you see posted here, there have been no ccNSO guidelines developed for the actions pertaining to Article 4, accountability and review. So that is an area where there's really no cross referencing that we had been able to find. On the Customer Standing Committee, we did find that action had been taken with respect to the activities relating to Section 17.2, as you see here and 17.3 with the link there.

Yes, actually Steve's question is and in fact maybe I can show that for illustrative purposes and that is, see here, see if I can quickly pull that up. Yes, so what staff did, and this is actually in response to a request from Farzaneh is that the request was could we produce a list of the actions that this drafting team will have to consider with respect to possibly developing guidelines and pull out those items that are already completed. And we did do that except where we left some items in green where they might add context to work that still needs to be done.

And then what we did in looking through this list is add where we thought there would be ccNSO guidelines. And this might actually be an easier way to go through this. And yes, Steve, exactly right. Where ccNSO guidelines may help in the GNSO drafting its guidelines, but not necessarily to say that they apply. They apply – I suppose one could say they apply in that they relate to the same activities but they may not apply to the extent that the ccNSO may operate differently than the GNSO.

And yes, I see Maxim has joined. And thank you. So for example, Section 18.12, and let me unsync this document so you can move it yourself, on special IFRs, subsequent update from the ccNSO indicates that they have a group that's currently developing guidelines relating to Section 18.12. And so those are to be determined as far as possible guidelines.

With respect to Section 1.3, approval action community forum, staff noted that there is some possible correspondence with the ccNSO guideline on rejection action community forum, but subsequently the ccNSO staff indicated that indeed the ccNSO is in the process of finalizing its guidelines with respect to Section 1.3, approval action community forum, so there may be a document that could be that helpful reference there.

And then with respect to the Section 2.2, petition process for specified action, the ccNSO has completed guidelines on the rejection actions. And here what staff has done is looked at the ccNSO guidelines and referenced the sections in those guidelines and separately highlighted within those guidelines those sections that may be helpful references to the drafting team as it develops its own GNSO guidelines. So that's what those references are so in this case submission period, publication certification, decisions on whether to accept a rejection action petition in informing the community.

Further down you'll see sections on soliciting support from decisional participants, supported ccNSO rejection action petitions, those with no support and procedures for supporting a petition. And there's a link of course to the ccNSO document further down on the community forum procedures with respect to rejection action community forums. And also in this section here and here as well, I'm just moving down -- I'm on Page 6 now if that's helpful to you -- again, more references with respect to the rejection action community forum. And then also on the bottom of Page 6 the final decision on rejection actions supporting petitions.

And that – those were all the references that staff found to possibly helpful documents on the part of the ccNSO that the drafting team can consider whether or not to use or not when developing its own guidelines. So if I were to then go back to the previous document, sort of the summary document, let me go to that. Then that's sort of summarized in this document here. And let me pause there. And thank you, Heather. And...

((Crosstalk))

Heather Forrest: Thanks, Julie. Anyone have questions for Julie? Julie, anything you want to say in summary? Otherwise I'm going to propose a plan of attack for how we go through this.

Julie Hedlund: No, I have nothing in summary so please go ahead, Heather.

Heather Forrest: Super. Julie, could you take us back to the other – the fuller document?

Julie Hedlund: Indeed. One moment please.

Heather Forrest: Cool. Julie and Julie.

Julie Hedlund: It's Julie H or Julie B. Oh I brought the wrong one. How did I do that? Well. Let me just – I'm pretty sure that wasn't the right one. Okay. Yes. All right.

Heather Forrest: Cool. Excellent, thanks Julie. Okay, so everyone should have scroll control on this. As I said, our objective today is to consider the items that – you know, compare let's say what the GNSO or what the ccNSO has done to this list to make sure that everything is on our list. And we had some material I noticed – actually, Julie, forgive me, I'm so sorry, could you go back to that summary because it actually would be an easier way to look at this.

Julie Hedlund: Sure, of course.

Heather Forrest: Sorry about that.

Julie Hedlund: Not at all.

Heather Forrest: Sorry, everyone, for making you seasick with the document here.

Julie Hedlund: Let me see if I get the right one. That's no and I didn't. It would help if I got the right one.

Heather Forrest: It's a bit like (lucky) here.

Julie Hedlund: Let me – hold on. All right, there it is.

Heather Forrest: Cool. Thanks. Okay so on this list of seven what I thought was very interesting here was, you know, we were using the materials from the ccNSO at this early phase just to sanity check our own scoping. And what I noticed was the ccNSO has undertaken some things for the things on this list but not all of them. For example, we have the second point there, CSC, that is something that – now Julie, when we've put that one in green that means GNSO staff have completed that, is that right?

Julie Hedlund: Actually that is sort of a separate document that there was a joint ccNSO sort of IFR review team that went through the process of – well went through the process of completing these steps. And I apologize, I've just been kicked out of the Adobe Connect room so while I'm talking I'm going to try to get myself back in.

So that actually isn't something that staff has drafted. It isn't something really that the ccNSO has drafted, but it is – there was a review team that actually went through the process, the steps identified here and completed the first of the reviews of the CSC. So to the extent that that's completed it means that simply we can look at what happened there and, you know, turn it into the

form of a guideline because it has actually already taken place if that's clear at all.

Heather Forrest: You know what, Julie, as you said that I remembered when this came through Council when the small team had done that work so yes and I note Steve has noted in the chat that the ccNSO went deep on this. They've gone quite deep on a number of things.

So we have the composition appointment term removal type stuff around the CSC. We have Section 18.12, IANA naming function reviews. There's a ccNSO guideline in progress. We have the approval action in Section 1.3. There are ccNSO guidelines on this. So we don't have anything – actually let's look first Section 2.2, I think I was right initially on six and not seven. Julie, just to check in adding in that note there about ccNSO guidelines, see list, I suspect that's added a dot point and I suspect that's meant to refer to Section 2.2, petition, is that right?

Julie Hedlund: So actually there is a – this is a little – it's a bit of an update, but so since I checked back again with the ccNSO support staff, they confirmed that they are actually in the process of finalizing procedures on Section 1.3, approval action community forum. So I actually kind of called that out separately and then Section 2.2 and 2.3 are actually both addressed by the rejection – the community's rights to reject specified actions, the item that Steve DelBianco is referencing. So that's why that's called out a little bit separately. But let me pause there. And I see that David has his hand up. He may be addressing this as well.

Heather Forrest: Julie, just before I turn to David, all I was asking was it looks to me like there's a dot point added next to the ccNSO guidelines that probably shouldn't be there. I think it is really only six points that we're dealing with. And I was just double checking that.

((Crosstalk))

Julie Hedlund: Pardon me, you're absolutely right.

Heather Forrest: That's all right. David, over to you.

David McAuley: Thanks, Heather. And thanks, Julie. It's David McAuley speaking for the record. I happen to work at VeriSign and participate in the GNSO and I also participate in the ccNSO. And as it happens I'm a member of what's called the Guidelines Review Committee in the ccNSO. And so I may be able to put a little context on what the ccNSO's been doing.

Steve is really right, in the ccNSO we went really deep with respect to rejection action and approval action. And we went deep and we went early because the budget was coming along, and I forget – I think the approval of the budget was maybe the first thing that came down the pipe. But in any event, anything to do with Annex D of the ICANN Bylaws was – is being taken care of in the ccNSO in basically what will become I think one guidelines.

And it differs – it will deal with rejection, it will deal with approval actions, it may deal with engagement by the empowered community in IRP. I'm not sure; that might be separate. But other things like you see on this page, Customer Standing Committee, when it comes to composition appointment and terms, anything to do with appointments, that's a separate guideline in the ccNSO.

And so it will be, you know, there'll be stuff that's beneficial that might be able to help us here, but it won't come under this really deep dive that has to do with Annex D of the Bylaws.

And then finally, when it came to rejection action and approval action, well rejection action because we did that first, unfortunately when we did that when we were done with rejection I think many of us in the committee just

sort of mentally dumped all that data, you know, we just – it wasn't important, once it was written down it wasn't important to retain it. And so I will have to go refresh my memory before I can be helpful in that respect.

But there was one gentleman, Stephen Deerhake, who led that effort and he's quite knowledgeable. And if it makes sense maybe we could arrange to have him come and speak to us about that particular guideline if we ever need something like that. Anyway, a little bit of context and what's going on over there on the other side. Thank you.

Heather Forrest: Thanks very much, David. We're very fortunate to have you with us and thanks very much for your willingness to cross fertilize, let's say, between the groups. Wolf-Ulrich.

Wolf-Ulrich Knoben: Yes thanks, Heather. It's Wolf-Ulrich speaking. Thanks, David. Well hearing you is very, very helpful. And I personally I don't have any criticism with that when you go to such details, it may be necessary from your point of view and also from your community's point of view. So it's – it comes to mind and we have, in the past, you know, things to talk about, you know, how to modify our procedures in line of the development, you know, the ongoing development.

So then sometimes it was complicated also, well, to introduce this and sometimes it was done in such a detail as well. So we should – so that would be my thinking here when we think about from the GNSO point of view. We should, one the one hand, really have on the left hand side, you know, our procedures, our existing procedures, and mirror that with the requirement of the new Bylaws, what should be done into that.

And then decide, you know, point by point whether we need some more details, for example, for nomination process of members or these things, maybe sometimes complicated, maybe not. But so I think we could go that way so from my point of view. And not have – not be anxious about, you

know, to go into details on the one hand but just on that point where it's necessary from our point of view. Thank you.

Heather Forrest: Thanks, Wolf-Ulrich, very much. I think we – I have a feeling we're going to find out you guys – many of you were on the Bylaws Review Drafting Team but I suspect we'll find that some of these points require higher level and some – or maybe a deeper level and some might be lower level items. Julie, you have your hand up.

Julie Hedlund: Thank you, Heather. And this is Julie Hedlund from staff. Just to speak to the point that Wolf-Ulrich just made, so what the previous Bylaws Drafting Team and staff endeavored to do in identifying the immediate changes that needed to happen in the GNSO comment's Operating Procedures and also – the GNSO's Operating Procedures and also the Bylaws themselves was we did do a very meticulous mirroring or comparison between the current GNSO Operating Procedures and the new requirements of the empowered community.

And several of the changes that were made – that were identified that needed to be made immediately were some changes to the voting thresholds based on the fact that there are some new voting thresholds in the Bylaws. And this was taken care of. And as Steve DelBianco is noting in the chat, the other thing that staff and the drafting team found is that many of the GNSO – the existing GNSO processes were sufficient to address the actions of the GNSO as a decisional participant in the empowered community.

And that was what's pulled out as green in the other document, the list. And it's not in the current one that I had put into the Adobe room just because Farzaneh had asked if it would be helpful to just look at those items that are in yellow that where staff and the drafting team thought there might need to be additional guidance.

And in addition, some of the items that are marked in green as completed are those where staff determined it just might be helpful to have motion templates so that when a motion needs to be taken there's just some very general language that can be put in sort of as a boilerplate in that Council and staff will know what needs to be included in a particular motion or not. Those are the draft templates that staff has completed and noted today that those are posted on the wiki.

So to – so a fairly detailed and comprehensive exercise has already taken place. And the fallout of that is the items that remain in yellow where guidelines may be needed and they may not be addressed in the existing processes or there may be guidance that needs to be produced in addition to the existing GNSO Operating Procedures. I'm sorry if that was a bit lengthy.

Heather Forrest: Thanks, Julie. And I note Steve's question in the chat, "Can we go to an example?" And Steve, I think that's a very good idea but if you'll indulge me, the one thing I think we want to do, which is really our objective here, is to note where do we not have stuff from the ccNSO and vice versa, where are we doing things that the ccNSO isn't doing just in terms of our scoping.

And I'll just – Steve's typing so I'll just make sure that Steve's okay with that process. Yes, it's true, Steve, you're right. The voting procedure is entirely different. Look, what I see on this summary here is that we don't have anything from the ccNSO on IRP actions, 4.3 and we haven't received anything, we don't know of anything from the ccNSO on the NomCom removal process, 3.1, and the Board recall process.

And Maxim makes a very good point as to explanation. And Julie Hedlund is typing. So Julie says, "That's correct." We don't have anything from those two. It seems to me that there is a logical answer potentially to why the ccNSO doesn't have anything on these two points, but at the same time it seems to me that we unquestionably need to deal with these two. We know

we need to deal with IRP. This is really a sanity check of this list like is the stuff on this list – should it be there?

We know we need to deal with IRP. It makes very good sense to deal with the NomCom director removal and the Board recall process. Does anyone, let's say, the activity here is looking at this list, ignore the extra dot point, looking at this list of six points, does everyone agree that these are things that we need to be looking into? It's clear from the four that we have stuff on this from the ccNSO that they've looked into it which suggests to me that we need to, at a minimum, look at what they've done.

Julie, your hand is up. Is that an old hand? No.

Julie Hedlund: Sorry, old hand.

Heather Forrest: Okay. David, please.

David McAuley: Thanks, Heather. It's David McAuley speaking for the record. I can say that on Article 4, with respect to independent review process, in the ccNSO side we simply haven't had time to look at it yet. The Guidelines Review Committee is very busy, there's just a lot going on. Some of it's very esoteric to ccNSO and I don't need to mention it, but things like rejection action, approval action that's taken a long time because Annex D itself is so complex.

But we will -- excuse me -- the Guidelines Review Committee in the ccNSO will be looking at IRP at least to the extent that it is – involves empowered community requests for IRP. So I know that will be coming down the pipe, I just can't say when. Thanks.

Heather Forrest: That's great, David. Thank you. What that does is that tells us that, you know, it confirms, I don't think any of us would disagree that those points need to be

on our list but it confirms that they're on the ccNSO list too, they just haven't been gotten to.

Let's confirm then these six points, that these six points are the things that we need to work on. It may be that as we work on these six things, as they are broken out in the more detailed document that has the yellow and green coding on it, that we identify some things that need to be added to this list. I think it's going to be hard to identify gaps in this list from the knowledge that we have at the moment. The folks who were on the Bylaws Drafting Team haven't identified anything off top of their heads that looks like it's missing here so I think that's a pretty good start.

So with that, now Julie H, could we turn to the more detailed document please that has that yellow and green coding? All right, what I would like to do with this today with our -- excuse me -- our remaining half an hour is let's look at each of these points that is -- that are marked as yellow and green and see how that impacts our workflow; let's see what they look like and come up with a basic kind of a timeline or a work schedule about how we want to tackle them. And I think as we do that we want to answer Steve's question from earlier in the chat.

Steve, you were looking for an example -- remind me again, Steve what you were looking for an example of? It made very good sense and I'm afraid it slipped my mind. Steve, I wonder, do we have you on audio? Steve's typing. Okay, Steve's mic isn't working so we'll let him type in. Dive into it so we can understand things in the practical way. Okay, I get it Steve, all right.

If I can suggest then let's go through -- let's have a look at the first one here in the chart which has to do with Article 4.3, the IRP process for covered ICANN actions. We can use this as an example of a deep dive, let's say, I wouldn't suggest maybe that we go into the substance today but more the methodology, how we want to go about this. And what I would like for us to

do is have an estimate of how long do we think it would take to tackle this item?

So what we have here, we have a description that says, "GNSO will need to develop further details for the process to," and I have a funny thing on the screen there, there we go, "decide to be an IRP requestor. How to initiate an IRP – how a decision to initiate an IRP is reached, not just threshold but what it covers, the basis for the dispute, who would represent the GNSO, who would pay for representation, how would a claim that's supported by the GNSO be put forward? That could happen in the form of separate guidelines."

And the proposed next steps there are staff to develop a template which would set out here's what information needs to be provided to the extent the GNSO wished to initiate an IRP. And yes, Steve, I'm on Page 2 in – at the top in the first box. So staff to develop a template of what it would look like, let's say, what you'd need to fill out if you wanted to initiate an IRP and by "you" I mean whoever it is that we identify would be the party responsible for doing that.

And then staff to work with the DT to develop guidelines for initiating an IRP, things like these points that are represented in the blocks to that left, representation, payment, the actual decision making process. So here's an example of all we're really told is that, you know, as a member of the empowered community we can request an IRP. We being the GNSO. We need to work out the mechanics of that.

Staff are willing to draft a template as to what sort of information would need to be provided in commencing an IRP. But I think as a starting point we all need to probably workshop a list of what is the information that needs to be provided and then work out let's say the – some of those points will require some decision making on our part, for example, how do we deal with the point of who represents the GNSO. Yes, how do we identify that person?

If we take this as a discrete work effort, this particular point, and here I particularly look to the folks with experience on the Bylaws Drafting Team, is this a task, if we work together with staff to workshop this list of points that need to go into a template for commencing an IRP, and then work out some of the details, is this something that we can do in let's say a two meeting cycle whereby we have some – maybe some starting points that get put together by staff, we work on them, we talk about them over a meeting, we revise those, we come back and at the end of the second meeting we determine if we're in a good position. Steve, please.

Steve DelBianco: Can you hear me okay this time, Heather?

Heather Forrest: We can. Wonderful, Steve.

Steve DelBianco: Thank you. So the default scenario that I led when I chaired the earlier drafting team is that everything you see in yellow on Page 2 under 4.3 are things that could be in a template that staff provides but they need not be locked in to GNSO procedures. Let me give an example.

If the template says that we have to in the motion before Council, indicate who would represent, the template says that in a motion we would have to suggest how it would be paid for, and if all of those elements that were a part of the motion that was duly put forth in Council and we know the thresholds for a non-policy-oriented item, and we know the rules for 10 day consideration, a single opportunity to defer, if we know all that, then all we need is the template and we don't need to change a single word in the GNSO policies and procedures or bylaws.

So that is what I'll say on the far extreme is the simplest possible approach. There are issues when it comes to deferrals, and Julie and her team helped us with this, is that when there is a time critical response to someone else initiating an IRP well then we can't have one party in GNSO Council ask for,

you know, a 30-day deferral that ruin the ability to use the community empower.

So when you consider that for a second, the default case is a template and existing procedures, you could debate that for a while and discover whether that's adequate. And if it's not, then I would go with your approach of considering what procedures we would write and give everyone a week or two to review that and then go through it on the next call. I hope that's helpful.

Heather Forrest: It's very helpful, Steve. And what it also tells me is that I wasn't really clear. I wasn't thinking about drafting new procedures, I was thinking about the template that staff puts together, but you've articulated that so much more clearly. If we put together this template and then take time to review that is what I was thinking. I see David has his hand up...

Steve DelBianco: Heather...

((Crosstalk))

Heather Forrest: ...Steve, let's come back to you first.

Steve DelBianco: Yes, one tiny follow up. The last paragraph in the yellow in front of you on 4.3 says as a potential idea that such details could be in the form of separate guidelines which are added to the GNSO Operating Procedures. And that's what got my attention is suggesting that it doesn't have to go there if we believe the templates and existing rules are adequate. Thank you.

Heather Forrest: Understood, Steve. And that quite logically links back to what Wolf-Ulrich said earlier as well. David, over to you.

David McAuley: Thanks, Heather, and thanks Steve, for those comments. And I just want to put forward a conceptual point because I know a lot about IRP and I lead the team that's doing the – what's called the IRP Implementation Oversight

Team. And so Steve just made reference to the language at the bottom of the middle column which says such details could be in the form of a separate guideline which eventually are to be added to the Operating Procedures or not, I think was the point he was making.

The conceptual point I want to make is we should think of IRP involvement in two buckets. There's two separate efforts and they can become confused quite easily. One is the GNSO in and of itself can bring an IRP. The IRP Bylaw 4.3 recognizes that supporting organizations, whether they're legal entities or not, they can bring an IRP. So let's say for, you know, just for purposes of an example if the GNSO felt that ICANN was inappropriately attending to one of its PDP results it could, if it wished, bring an IRP in the name of the GNSO alone. And so that would, you know, we may want to have processes to follow when that's the goal.

The second goal – the second bucket is the GNSO has to – will take a participatory role in -- excuse me -- IRPs that are brought by the empowered community and there they are more demanding timelines, there's approval, rejection kind of actions involved. For instance, if the ccNSO sent along to us a proposed IRP and said, will you join us in supporting this to create a threshold, those are different questions than the first bucket that I was talking about and we would need separate processes to look at that. So that's the point I wanted to make. Thanks.

Heather Forrest: Yes that's very helpful...

Steve DelBianco: David and Heather, look at the very last page...

Heather Forrest: Yes, Steve.

Steve DelBianco: ...look at the last page of our document, the one that staff put together for us.

Heather Forrest: Yes.

Steve DelBianco: Community IRP is a separate process already and staff anticipated this. Just scroll to Page 9, you'll see 4.2, community IRP.

David McAuley: Okay, well...

Heather Forrest: Yes.

David McAuley: ...this is my first meeting and I didn't, you know, I'm not as well prepared so I appreciate that. That – sorry to waste our time but that's the point I wanted to make.

Heather Forrest: David, I don't think it was a waste of time at all. I think it's good to put this front and center in everyone's mind that, you know, A, that has been thought of and, B, it really focuses our tasks. And Maxim says, you know, some kind of collision could happen in the GNSO Council. And I think, Maxim, at the very heart of it that's what I understand our job to be is to try and prevent that. You know, if we have some sense of what we're supposed to do we can hopefully avoid that sort of situation. And I think that's what David was foreshadowing as well.

So can I suggest this, the IRP keeps you busy, I'm sure it does, David. Can I suggest this, we have here a good example in front of us in terms of this 4.3 and we've noted now the scope of it which is the GNSO commenced IRP. The proposal is that staff put together a draft of a template that what – in terms of what would appear in the motion. Can I suggest that as a work plan we have staff put that together and then we talk about that at our next meeting. This first one that we deal with will give us a bit of a model for how we proceed. And I would like to think that we can take these one at a time and see how we go. Steve.

Steve DelBianco: It's a question for staff, in the GNSO Bylaws Drafting Team we did identify the hazard of allowing a single party in Council to remove GNSO from something

by asking for a deferral. And we don't note this in the yellow here with regard to the withdrawing the availability of a Council's discretionary deferral. And Julie, I swear that we wrote that, this has been a year and a half, but I swear we wrote something about not allowing a Council member to defer a motion.

It's – Julie Hedlund is indicating in chat that yes, that is noted elsewhere in the Operating Procedures. So if you could, Julie, find that in the procedures and read to us what it says and if we believe that solves the deferral problem it's one thing we don't have to do in this round of refinements.

Julie Hedlund: This is Julie Hedlund from staff. I don't have it immediately available but I'm certainly happy to find it fairly quickly after this call and just call it out. It was meant to be done in a way that it would address any of the possible timing issues, you know, by not allowing a deferral in certain instances so I think it's broad enough to cover any of those types of instances. At least that was the intent of that change and it was one that was also reviewed by ICANN's legal team as well to ensure that it would be what we needed to cover those types of situations.

Steve DelBianco: And that follow up, Julie, is whether you're aware of other behaviors that we observe in Council, behaviors that we see by Council members and different groups in each house that need to be guarded against because they would frustrate the otherwise useful empowered community powers. So deferral and delay was one but there may be others and it'd be great to understand whether you think we've covered them all. Thanks, Julie.

Julie Hedlund: Certainly. We'll take that action item.

Heather Forrest: Okay. And Julie, your hand is up but I suspect it's an old hand. Look, in summary what I'm proposing is this, and Julie very efficiently wrote down the action item, but we'll just check that everyone agrees with that. What I would like to do is propose, and let's ask – Julie, I'm going to put you on the spot, for you and your team what sort of a timeline do you need to develop a

template for this one, for 4.3, that we could then look at, come around and discuss again. Is that possible within our sort of fortnightly meeting rotation program or would you need a bit more time?

Julie Hedlund: And this is Julie Hedlund from staff. Yes, we do think that's possible. Staff actually has already developed a basic motion template that has in it some of the information that we know would have to be included such as the – well anyway the information by – according to the Bylaws that would have to be included in order for, you know, this type of action to happen. So we've already got a basic template for the motion that's been started.

And what we can do is see where there might be additional guidelines or additional information that might need to be included in that template with respect to the text that is in yellow that you see here. So I think we can build on what we've already done and try to get something with time for this drafting team to review before the next meeting. So I'd say it may not be a week before the next meeting, although that would be our goal, but I would say to get you all something by next week so that you would have at least a few days to review.

Heather Forrest: That's brilliant. And to Steve's point, and Steve, let me see if I'm thinking correctly in terms of why you're asking what you're asking, you've asked for an example. Is that to anticipate, Steve, what it is that we might be looking at as a drafting team just so we know how this is going to go?

Steve DelBianco: Yes thanks, Heather, it's because while I've been quite involved at ICANN I've never been a councilor so I've never seen a motion template before, that's all. I want to see what one looks like.

Heather Forrest: Oh, fair enough. Fair enough. Just a what does it look like. Julie, do you by any chance have – it might even be from an unrelated template...

Steve DelBianco: Exactly, unrelated is fine.

Heather Forrest: Do you have a template we can show just show what it looks like?

Julie Hedlund: So actually, Steve, it's funny that you should mention this about having never seen a template. You've never seen a template -- this is Julie Hedlund from staff -- because there have not been any templates for motions.

Steve DelBianco: Okay.

((Crosstalk))

Julie Hedlund: ...anything. We've just never had them. This is the first time that we've been -- we would be systematically developing motion templates. Because these are complicated enough actions it just seems that, you know, especially because by the bylaws certain information must be included, you know, or must, you know, certain things have to happen, you know, in the -- as part of the template. So what staff has tried to do is to pull out the relevant language from the bylaws so that we know what might then be in -- needs to be in the motion.

And these are just really bare boned templates because it's -- it doesn't make sense to put too much into it until you know exactly what is, you know, so this is the one I pulled up right here, has to do with Article 4 and 4.2 and -- 4.2 and 4.3. And let me just actually pause there because I see David McAuley has his hand up. And I'll unsync the document.

David McAuley: Well thanks, Julie. It's David McAuley. I'm sorry to interrupt your train of thought. I was just going to make a suggestion for when you do the template for IRP for the GNSO instituting an IRP I was going to make a suggestion that in the template, you know, there be some language that -- excuse me -- like a whereas recital clause that says the GNSO has considered a lesser action and rejected that idea such as a reconsideration request simply to protect the fact that IRPs as the sort of arbitration process are the most formal and the

highest internal ICANN accountability measure and any process ought to take into account should we go somewhere lower. So that's all it was. So thanks very much.

Julie Hedlund: This is Julie again from staff. That's extremely helpful comment because I know that we don't actually have that text in the template here and we've pulled in text basically from the bylaws and as part of the preamble and then we have some whereas clauses. But some of that you'll see is sort of this is – it's boilerplate so it's probably going to change depending on, you know, what needs to go into the motion.

And this is where perhaps having a template with some guidance might be helpful because if there's – there might actually be more than one motion, for instance, there might be a motion to decide to take the action, a motion to decide, you know, how the payment will be determined or whether or not to pay and so on. And as Maxim is noting, none of these things would contradict what's in the Operating Procedures but the idea is that there just might need to be a little bit more guidance so that, you know, people know what needs to be included or not and make sure it's covered.

Heather Forrest: Thanks very much, Julie. And I'm sorry for throwing you into it there on the notion of the template because it was a little bit of a trick question. What you see on the screen here on the pod shows you work in progress. And so this is what staff would continue to work on and turn around to us with comments that we've made today and thinking about what we've discussed. For us to discuss at our next meeting we'd identify any gaps, decide whether or not we needed these extra guidelines to flesh these points out a bit further and then I would see that after we'd had a meeting to discuss let's say a draft of this we then have another meeting that would confirm that point and move onto the next point.

Does that sound like a reasonable work flow to folks? Does anyone object to that as a workflow? So that gives us some action items for our next meeting,

it advances us to the meeting after that and we can, from there, work out a broad timeline of how long it'll take us to get through this. Okay, so David, Steve say fine, no objections from anyone else. Brilliant. Julie, your hand is up. Old hand, good. That's all right.

So with that what I propose is a quick review here of our action items which Julie is typing into the notes pod just to make sure that we've captured everything we need. So staff to draft a template and guidance for Section 4.3 and Julie, I think based on the discussion we've had today let's say start with the template, the guidance may or may not be necessary so we'll see what comes out of what you put together for the template.

You've got that additional note there; the GNSO has considered a lesser action that David has helpfully raised. We've got a timeline of that of the 22nd of February for review at the meeting on the 27th. We also have an additional point, staff to determine if there are other possible actions by the Council that could prevent the GNSO from taking its actions as a decisional participant.

Let's take that as an ongoing action item so we'll consider frustration by a Council member for each of the points that we're looking at. So we'll start with looking at it in relation to an IRP and then we need to do that sort of trouble shooting for each of the items our work items on the list here.

Let's just catch up with the chat, is the definition of "motion" taken from the California corporation laws? So that's a good question. I wonder if...

((Crosstalk))

Steve DelBianco: No, no, no.

Heather Forrest: ...the Bylaws Drafting Team discussed that?

Steve DelBianco: Yes motion is taken from the GNSO procedures.

Heather Forrest: That's what I thought.

((Crosstalk))

Heather Forrest: Which I would assume, Steve, although I can't say as well as I know the Operating Procedures, I'm not that good on their history. I would assume that the Operating Procedures have all been run through Council and that Council would have looked at those with a view, Maxim, to compliance with the Bylaws and then by, you know, reason of compliance with the Bylaws compliance with California corporation law.

Operating Procedures are reviewed by Council, yes and Julie, I know for a fact that there are a few points of Operating Procedures particularly some of the things that came out of the Bylaws Drafting Team changes that we actually referred back to ICANN Legal. So hopefully, Maxim, that answers your question. The answer is effectively no, the definition of a motion isn't from California corporation law but the Operating Procedures aspects of them would have been reviewed by ICANN Legal to make sure that there's compliance there.

And Steve, your point for the second to-do item, "Julie, please examine whether a councilor could block a motion if it were circulated with less than required advance notice." Some of these points, Steve, might come out as well in our discussion so when we review what staff have produced as a draft we might notice that there are gaps, things that need to be filled in and that would be the intention of the meeting after that we get together, we look at the staff – at what staff has done, we make a list of what needs to be in there that isn't and we refine that and come back to it a second time.

All right that gives us a pretty detailed work plan. Julie, just to confirm again, you're comfortable with this and the timeline and we haven't overloaded you?

Julie Hedlund: Yes, this is Julie Hedlund. And yes, staff are comfortable with this and we think that is – we can do this within the deadline to get something to review for the 27th which is the next meeting.

Heather Forrest: Brilliant. Excellent. Well thank you very much, Julie. Thank you very much to everyone. Again, David, super valuable to have your input on this group. Steve, Wolf and all of you folks who are on the Bylaws Drafting Team, you're going to make this, yes, you're going to make this a very efficient and logical effort and we're not going to reinvent the wheel which I think is brilliant. With that I will say we can close the meeting today and look forward to receiving the documentation from staff, the draft from staff by the 22nd. And we'll meet again on the 27th. So thanks very much, everyone. We can stop the call and everyone have a lovely day. Thanks.

Julie Bisland: Thank you, Heather. All right, today's meeting is adjourned. Everyone can drop your lines. And have a good rest of your day or night.

END