

**GNSO
Operations Steering Committee (OSC) GNSO Council Operations Work Team
7 April 2010 at 17:00 UTC**

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Participants on the Call:

Ray Fasset – Registries
Ron Andruff - CBUC
Avri Doria – NCSG

Staff:

Ken Bour
Rob Hoggarth
Julie Hedlund
Glen de Saint Gery

Apologies:

Wolf Ulrich Knohen – ISPC

Coordinator: Excuse me, I would like to remind all participants this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Ray Fasset: Great, thank you. Okay who wants to do the roll call?

Glen de Saint G ry: Can I do it for you Ray?

Ray Fasset: Please.

Glen de Saint G ry: On the call we have yourself Ray Fasset, and for staff we have Ken Bour, Rob Hoggarth, Julie Hedlund, and Glen de Saint G ry,

myself. We have apologies from Wolf-Ulrich Knoben and Avri Doria will be joining the call late.

Ray Fassett: Okay thank you very much. Okay so as an agenda today I think we are still reviewing absentee language, ironing out some more recent flushing out of details that have gone on.

You know, one thing I do want to state for the record is that staff support in helping us draft this language has been very helpful and in no way in my view is the chair has sought to influence the outcome of any such language but has simply looked to support us hearing various views and positions as articulated. And I think that staff support has done an outstanding job in doing that for our work team.

So with that said I would and since I am the only work team member on the call presently I do need some staff support cooperation with regards to a request that I recently received from Philip Sheppard, the chair of the OSC, and I have forwarded to the list which you should all have.

So I'm going to need - basically Julie I'm going to need your help on this one and I would since - I would like to take care of it now as a matter of housekeeping even though I'm only on the call I think it is sort of between work team members or me and staff. So Julie do you have this email that I sent? It's a forwarded email to our GCOT list that has forward OSC plan?

Julie Hedlund: Ray this is Julie. Yes I do have that message and the OSC work plan actually is something that Ken and I worked on. In fact, I relied heavily on Ken as far as identifying the action items for this work team so

many of them involve the operating procedures as you know in trying to determine what work has been done and what work remains.

So I see that he's asking whether or not you concur with the items identified. Those at least were the identified items that Ken and I had noted.

Ray Fassett: Good, good, yeah thank you, I appreciate that, I get that. So first of all thank you for supporting us that way and what I wanted to do was when Philip sent that to me was basically give a quick reply yep, looks good to me. But unfortunately when I opened it up I was - I couldn't follow it very well.

So and I know I'm not the swiftest guy on the block but I figured if I couldn't follow it real well then others that may look at it may not understand a thing in there. Then what utility is it, you know? What - so if you don't mind and since I'm the only one on the call anyway and this is more of a housekeeping question...

Rob Hoggarth: Ray I'm sorry, Ron just got in. I was having some trouble getting into the call. I just joined.

Ray Fassett: Well Ron can you leave so I can get this done?

Rob Hoggarth: Sorry guys, sorry, I'll just pop off.

Ray Fassett: No no no, don't go, don't go. Actually your input on this could be helpful too because like I said, what I was just saying was I opened it up and again while, you know, it may not have made sense to me, maybe it makes sense to others. But so maybe if we can just look at

this real quick and then I can go back to Philip and say yeah, it looks good to me. Would you guys mind doing that?

Julie Hedlund: It would be totally fine with me Ray, this is Julie. Unfortunately I don't have the document in front of me so I'll have to go along with the rest of you, maybe Ken can help out. Unfortunately my computer is being - getting new antivirus software. I'm in the DC office and I had to give it up at some point so this is the point at which I gave it up unfortunately.

Ray Fassett: No that's okay, this will be one of those unforeseen absentee instances, right?

Julie Hedlund: There we are. I'm here, my computer is just not here.

Ray Fassett: Yeah your computer is absent. We didn't think about that problem.

Ken Bour: And I do have the document open in front of me and I participated, I helped Julie with it so I think I can walk us through it.

Ray Fassett: Yeah okay great, so again I just want to say thank you for taking the lead on that. So not much more commentary but other than to say as we talked on the registry constituency call I think last call, one of the improvements we really have seen from ICANN as an organization is the support that has been given to the various policy groups, etc., and this is just a great example of that in my view so I appreciate it.

All right so let's look at the deliverable item. It says GNSO operating procedures, GOP, table of contents, Ken will add table of contents on completion. And then it says complete and over here it says not an OSC task. What does that mean?

Ken Bour: This is Ken. The - I think the blue items are more sort of housekeeping items so what's happening is the current GNSO operating procedures do not have a table of contents and I made a recommendation to Julie and Ron that we should add a table of contents.

The procedures are getting kind of long now, right? There will be maybe seven or eight, maybe nine chapters in it by the time we are finished with everything and so I've already done it. You have not seen it yet because it's really just a housekeeping matter.

So the next time we formally revise the GOP which will - maybe it will be for extensions, maybe it will be for board seat elections, I'm not sure what the council approval action will be.

But once we put a new version out I would like to do two things. One is to add a table of contents and as you'll see at the bottom, I want to add a Section 9 document revision -- actually it's going to be an appendix kind of thing -- so that we can keep track of how this document changes over time.

Ray Fassett: Yeah okay, so let me jump down to the second row where it says Section 1 introduction and scope and then it says no action required. I guess maybe what - okay so let me look at - hold on, we've got deliverable items, status for team.

Ken Bour: If I might add.

Ray Fassett: Yeah go ahead.

Ken Bour: I think what Julie had in mind there was to be exhaustive with respect to what is in the procedures today. One - the other alternative would be to just put the things down that need to be done but in this case we listed everything that's currently in the procedures and whether action was required or not. It's a little like a table of contents.

Ray Fassett: Yeah, okay so Philip is looking for a work plan. What is going to be completed and correct me where I'm wrong here because I don't have dates written down. So but what I understand is what will be completed by our work team by Brussels. Is that correct?

Ken Bour: Yes.

Ray Fassett: By Brussels.

Ken Bour: Yes unless Julie has a - what we could do today for example is to simplify this worksheet a little bit, right? The things that are not going to be done by Brussels or any other time we could just take them out of the table. For example Section 1, there isn't anything that's being requested or being done at the moment with that and if it makes it a little easier we can just delete that row.

Ray Fassett: All right well how about even a higher level? Does it make sense to say to Philip our main task is the GNSO council rules of procedure. We anticipate a final document sent to the OSC by Brussels without getting into the nitty gritty of what the various sections are that we're looking at.

Is there any pushback going on anywhere on - I know there isn't, but for example we're looking at absentee voting. Does it really matter that

we say to Philip at this point well we think absentee voting will be completed by Brussels or is it just sufficient to say we really have one task and that's the rules of procedure that we think can realistically be accomplished by Brussels.

Ken Bour: Ray this is Ken. I don't think I would go that route.

Ray Fassett: Okay.

Ken Bour: Because there's a lot of sections in the procedures that are not being touched and requiring all the council members to read the - I'm not sure how to differentiate that which is being newly added, changed, amended as it were versus stuff that is not being touched at all. And I think it might be easier to deal with them section at a time.

So the task of the GCOT is Section 2.1 term limits, right, Section 2.4 board seat elections, Section 3.8 vacancies and absences, and Section 4. Other - all the other things are not being touched. And so...

Ray Fassett: But there have been ones that have been touched and are completed. How is he going to know which ones those are?

Ken Bour: I don't believe anything has been completed yet. Section 4 was not - I think - didn't we pull that back?

Julie Hedlund: Yeah this is Julie. Actually Ray you're right, I mean, when we sent the procedures, you know, the things that absolutely had to be done on the procedures, you know, in time for the new council to be seated in Seoul, you know, there were certainly pieces that were done.

My two cents is that I think that all Philip wants to know is what are the things that we're going to get done by Brussels and actually I think he's asking for June 1 in anticipation of things being ready, you know, prior to Brussels and being sent up to the council prior to Brussels. At least I've seen him send that date around in other discussions I think in the OSC.

But I would agree perhaps that one could just say, you know, GNSO operating procedures sections, you know, 2.1, you know, and then just list the sections. Maybe we don't even have to list the title for the sections but maybe we don't have to list them all separately just to say, you know, these are the things that we, you know, these are the sections that we're working on and we plan to have completed, you know, by June 1.

Ray Fassett: All right.

Rob Hoggarth: This is Ron, could I?

Ray Fassett: Yeah Ron, please go ahead, yes.

Rob Hoggarth: I think the - I'm more in agreement with the staff view here. I think what Philip wants -- and if I were him this is what I would want. I'd like to know what has been checked off the list and what's outstanding. What's checked off the list is of less relevance to me if I were Philip but what is still outstanding is relevant, you know, so what are the issues that are hanging there.

I like the idea that we have it on one piece of paper all the different elements but I am inclined to agree with what Ken mentioned, that if

there's something that we're not even addressing let's just take it out because it has no relevance. But anything that we are working on - I'm happy to see that we actually have a sheet of paper that says these are the final things that we need to do.

Ray Fassett: Why don't we break it down this way? Why don't we have a high level, the GCOT's main task is to complete the GNSO council rules of procedure. Then a section that says these are the rules of procedure that work team feels are completed.

These - next section, these are the sections that the work team believes will be completed by June 1. Next section, these are the sections that the work team has reviewed and has believed do not require any additional work. And then bottom, conclusion, the work team anticipates its work to be completed on the rules of procedure by June 1.

Ken Bour: So Ray this is Ken if I may. I would refrain from saying that the GCOT is handling the rules of procedure as opposed to sections and let me tell you why. There is another team that's writing a chapter in the rules of procedure, it's going to end up being Chapter 6 for the GNSO work prioritization. That's not even going to go through the GCOT. The working group team, the PDP process, those all have chapters and they're not going to go through.

Ray Fassett: Yeah okay, so, I mean, all I'm trying to get to is a conclusion that come June 1 the GCOT will be of the opinion that its work -- its work is completed for the rules of procedure.

And then I might only qualify that by saying, I mean, while other teams are going to be submitting their work to be included in the rules of procedure, I still think that the rules of procedure fall under our umbrella, and we do have to look at those so we can qualify by saying pending work performed on certain aspects of the rules of procedure, the GCOT was unable to review by June 1.

I mean, is that a fair assumption that even though there are other teams working on aspects of the rules of procedure, at the end of the day we're the work team that is submitting the rules of procedure to the GCOT? Or is that not an appropriate course of action?

Ken Bour: Well this is Ken if I may.

Ray Fassett: I mean, to the OSC I should say.

Ken Bour: Yeah, I know that has become the mantra as it were for GCOT but I went back and looked at the charter and I really can't find any support for the rules of procedure, the GNSO operating procedures being entirely within the auspices of the GCOT.

What I do remember is that very beginning - at the beginning of the team's construct what was desperately needed was a set of procedures that the council could be seated with, a minimal set of procedures that would get the council launched and that was tasked to the GCOT. And I think just by - I don't know if it's osmosis but it just gravitated and other things then landed there like the extensions and the term limits.

But since there are clearly other significant chapters that will be written that are not going to be part of the GCOT unless the GCOT ends up being extended for many months to come, and it has a full plate...

Ray Fassett: No that's fine. I think Ron's going to go along with that and Ron correct me if I'm wrong. I think Ron is going to go along with that thinking. And I don't disagree. So I think maybe a fourth section then that says these are the areas of the rules and procedure that GCOT feels are - have been - are under the purview of other work teams.

So four classifications -- one, work done by the GCOT on sections that are completed and here are those sections. Work not yet completed by the GCOT on these sections and you'll list what those are. A third section, a review of the sections that the GCOT does not believe need - requires any work by the work team. And then a fourth section that is the sections that the GCOT understands is being worked on by other work teams.

Rob Hoggarth: I support that.

Ken Bour: Yeah this table actually would lend itself very nicely. All we have to do is cover these things a little differently. For example, we could take sections 6 and 7, 8 and 9 that are at the bottom of the GCOT list and just move them into a different team, right, a different - and then...

Julie Hedlund: Well Ken after - Ken this is Julie. You won't be able to move them within that table because they don't fall within the OSC so they'll just have to be labeled differently because they fall within the PPSC.

Ken Bour: Ah, nice point.

Julie Hedlund: I mean, but I agree with you. I think you can take the content you have in that table and rearrange it along the lines that Ray has suggested and then, you know, prepare that as a response that Ray could send back to Philip.

Ray Fassett: Yeah if you don't mind, I'm not trying to create more work for you but what I would like to do is be able to say to Philip okay, here is, you know, our primary task has been the rules of procedure, here's what - is everybody there?

Ken Bour: Yep.

Ray Fassett: Okay, I thought it seemed dead there for a minute. Okay so here are the rules of procedure, here's what has been completed, here's what is outstanding, here's what we don't think we need to look at, and here's what's our understanding is under other work teams' purview. And then let him come back with any feedback from there. I think that's logical to me. If you guys don't mind doing that for us. Okay so no issues with that? You guys don't mind?

Ken Bour: This is Ken. I certainly don't mind and I think between Julie and I we can get that done for you.

Ray Fassett: Thank you sir, thank you very much.

Julie Hedlund: Yeah sure, and Ken I would sort of ask you if you could do a first cut since you're more familiar with the content there and I'm happy obviously to look at it as well.

Ken Bour: Sold.

Ray Fassett: And Ron you're okay with that?

Rob Hoggarth: I'm good with that, yeah.

Ray Fassett: Thanks. Okay so let's go on to the more - move away from the housekeeping and now over to the more substantive issues. So...

Ken Bour: Ray this is Ken. I just - let me just say one thing and see if I'm clear about this. I don't think that in the current list of to do's anything has been finished with the possible exception of the term limits chapter or section. In other words, the term limits is a to do and I don't - I think that most of the team members had decided that it's okay but I think you need to - you probably need to call that question.

Ray Fassett: I think how we left that one was if there were no objections on the listed language you could go ahead and accept that as written. I think we had a good - I think we had a healthy discussion on this last call. I don't think we need to revisit it. That's my recollection.

Ron had to drop off a little early but I think he was articulating that he was comfortable, didn't care about the different - wasn't as concerned I should say about the different thresholds as Avri was stating and then I didn't have any objections to that. So I thought the term limit was fairly well taken care of.

Ken Bour: Yeah so there was one change that we got from Wolf about the stakeholder versus constituent. I made those changes and so that - all right. Now would it be okay to just kind of walk through each one of

these because there are only a few and we can just say - I would just try to get a status on where we are with these.

Ray Fassett: Absolutely.

Ken Bour: Okay great. So the second one I have on this chart, right, is 2.4 board seat elections so let me just tell you where we are with that. Today I finished up a draft after talking with Glen de Saint G ry about the - that whole mechanism. That is - I'm going to send that to the team but I did not want to send it an hour before the call.

Ray Fassett: Wait a minute, back up, back up. Are we looking at that chart that I just sent around?

Ken Bour: Yes.

Ray Fassett: Okay where is 2.4?

Ken Bour: It's the second white row.

Ray Fassett: I see it, got it.

Ken Bour: Section 2.4, board seat elections.

Ray Fassett: Okay, got it.

Ken Bour: I got the draft and I'm forwarding that to you.

Ray Fassett: Okay thank you.

Ken Bour: I now have that draft done, you now will be getting that document shortly. Okay moving to the next white row which says Section 3.8, vacancies and absences.

Ray Fassett: Okay.

Ken Bour: That is work that is still pending with the team. There is some controversy and I'm sure we'll get into that in a minute. Section 4, voting, has multiple subsections and maybe if when I redo this I'm going to tuck those all in one box. Because in 4 is 4.1, 4.2, 4.3, 4.4, and 4.5 which is the extensions, right? So all of that goes together under voting. And that one is still under review because 4.4 deals with absentee voting.

And so one of the comments I tried to make in one of my last emails is a lot of these sections touch each other and they relate to each other and they tie together. So if we make a change in absences or we make a change in absentee voting, that may cause us to have to pull back other sections and fix those so that it's all consistent.

Now the last one is Section 5, the last row which is statements of interest. And I think that one has been sent to the OSC, is that correct?

Ray Fassett: Yes.

Julie Hedlund: Yeah Julie, this is Julie. It was sent to the OSC last week I think on (unintelligible).

Ken Bour: The table says 7 March.

Man: Well that was the - the roving meeting I think, that's what...

Julie Hedlund: Yeah but that was actually the...

Ray Fassett: No it was after 7th of March, yeah.

Julie Hedlund: Yeah it was after 7th of March. Well it was meant - it was posted for consideration on the Wiki for the OSC but it wasn't formally submitted, you know, at our last call the week before last we discussed that it needed to be formally submitted which Ray has done and, you know, it's now at the OSC. And there have been a number of comments already on the OSC list on those.

Ken Bour: Thank you Ray, that just - that was helpful to me to get a bead on where things stand.

Ray Fassett: All right, so when we submit something to the OSC like sometimes we are doing that. We're parsing it out and then submitting it like we did with the SOIDOI. There is, you know, we have to suspect that it could come back to us so therefore we can't say it's completed. I think that this sounds like one of those instances.

Rob Hoggarth: Well Ray, this is Ron. I'm on the OSC as you know as well so I don't see - I'm not seeing any pushback on the SOIDOI at this stage of the game.

Ray Fassett: Oh okay.

Ken Bour: Yeah Ray we don't - we don't have it marked as completed. The table actually just shows that it was sent to the OSC or the completed column is empty at the moment on statements of interest.

Ray Fassett: Yeah see and I look at that work product and as far as we're concerned as a work team I would say it's completed.

Rob Hoggarth: Correct.

Ray Fassett: And that's part of my confusion with this.

Ken Bour: Well what we saw in another team, the communications team, was the OSC had feedback based on its final report and we had to go back and change some of the processes or some of the elements of it and then resubmit it. In fact, just yesterday we resubmitted the final amended CCT or communications report. So that could happen here too as you just intimated.

Julie Hedlund: Ray?

Ray Fassett: Yeah (unintelligible) yeah so go ahead Julie.

Julie Hedlund: Yeah, and just a point of clarification. This chart that Philip has is the operation steering committee work products which we roll into so it may be that your work team has completed its work on the SOIDOI if no comments come back from the OSC but the OSC hasn't completed its work until it's ready to send that work product up to the GNSO council.

Ray Fassett: Yeah and I guess I would like to be a little affirmative with the OSC on this which is yeah, I understand your issues and things you have to do but as far as we're concerned, unless you tell us otherwise this product, this work, our work team feels it's completed product. Unless you tell us that you don't think it is and give us reasons as to why and we're - obviously we're reasonable people.

So I'm just trying to - really when I communicate back to Philip I want to be able to, you know, represent for our work team that these - we feel these items are completed and that part of my confusion which is why I didn't just go back to Philip and say yeah, this looks good to me.

Because I want to be able to identify in the affirmative that as far as the work team is concerned, representing the interest of the work team, that we feel this thing is completed and how to do that now.

So I understand his chart and we've got to roll up into that chart I guess is part of the issue here. But on the other hand I would like to see something where we can state that we feel this particular section is completed.

Ken Bour: This is Ken. I don't know how that - I'm not exactly sure how that gets done unless it will be a special communication back from the chair of the OSC. Just take for example in Nairobi we had submitted the voting section, right, including all the extensions and we put the executive summary on it and we put the analysis of all that, right? And there was - there were some constructive criticisms.

Ray Fassett: Yeah no, right.

Ken Bour: And then we came back and we added vacancies, after Steve Metalitz, there were some other things that we changed directly as a result of that feedback. Whether that loop is finished or not on voting I don't know. I mean, could - the next time we send it in could they come up with new things? I don't know.

Ray Fassett: Yeah so I would say we need - what we need is a completed as far as we're concerned and then another column in there that says pending OSC feedback. You know, I just, you know, I don't have to send it back to him in his chart form.

I can send him an email that says, you know, here is the chart the way you want it, in other words I can just go back to him and say yeah Philip, I can confirm that what is in this chart is prepared by staff is accurate.

Now here's - I want to give you something in addition. These are the items that are completed, these are the items we don't think we need to look at, these are the items we think we can get completed by June 1, these are the items we don't think are under our - are under the purview of a different work team. So that's what I'm asking for to do because Ron do you have any comments on this?

Rob Hoggarth: I'm fine with the direction you're going. I mean, it doesn't matter to me one way or the other but the point is, you know, you're the chair, you need to be clear on this so however you want to serve it up is fine with me.

Ray Fassett: Yeah thank you. And that is my request at this time. I want to be able to be definitive with Philip on these things.

Rob Hoggarth: No I think it's really important because the clock is ticking down and effectively what are we in, like the first week of April so we've really got, you know, seven weeks.

Ray Fassett: Yeah and it helps us to prioritize, set our agenda, make commitments, try and meet those commitments, and so a good solid outline with staff help on this would be useful. Whether it fits into this chart or not, you know, that's now coming to be a different issue.

Ken Bour: This is Ken, I think I understand Ray.

Ray Fassett: Thank you. All right, do you want to continue to walk through ones that you want - need clarity on whether or not we're going to do additional work on?

Ken Bour: No, this is Ken. I think we're good. It sounds to me like the SOIDOI is now off the GCOT's plate and into the OSC's hands. The 2.1 term limit is ready to be sent but has not been yet. So I'll clean that document up, get it to you, and then you can send it to Philip and that will be the second that will be in that state. And then we can mark the chart or fix it so that we'll know. The rest of them I think are still pending.

Rob Hoggarth: So in that regard, this is Ron. In terms of the pending, my understanding is that we have addressed Section 3.8 and then most of the Section 4. There's a few itchies that are still there but for the most part that's almost - can we call it 90% done? Is that a fair characterization?

Ken Bour: This is Ken, I think it is.

Rob Hoggarth: Okay, that's where I think it's at too. So really the only thing we - the only real action item that we have is this board seat election and I think that was more of a cleanup item as opposed to any real thought wasn't it? I mean, was there...

Ken Bour: Yes and I don't think that's going to be contentious. I mean, Glen and I have gone over those. I just needed to generalize the procedure rather than have it be specific dates which, you know, was done for the annex for - yeah that was a transitional thing. And I've done that now and it's actually pretty short. And once you see it I think you'll - there might be a few little things that we can tweak here or there but I don't think it's going to be difficult at all.

Rob Hoggarth: Well that's good news. So chair, my recommendation would be to give staff the time now to kind of clean up all these different documents and do the things that we've been discussing, get them out to the list with a request for all of the members of the team to give them the last review of what these elements are, and then get on the call and just knock them off.

Because I think we're pretty close to having it all complete, we just need to get enough people on board the call and people who have read through the final docs to say okay we're good to send this to the OSC.

Ray Fassett: Yes that's fair enough. I think that's...

Rob Hoggarth: I mean rather than you and I kind of whittling away on one or two right now, I don't think that serves the purpose. I think we're, you know, as

Ken pointed out there's a couple of little itchies he's just got to finalize. I'd like to see that done before I started looking at those documents again for the final review.

Ken Bour: Yeah this is Ken. I can certainly do that. The one issue that I would put it a little bit higher up than ticklish or whatever the term was you used, is the absentee voting. I think that one needs some discussion of the team.

I had thought in my head that there was some interest in generalizing the absentee voting rule so that it would be the default condition meaning unless it was prohibited by some special reason council members who were not at a meeting could absentee vote. That would be the default condition.

After speaking with Glen today and listening to Avri's comments, in fact Ron and I think also Ray have all chirped up in recent memory here that said whoa, whoa, whoa, we don't want absentee voting to be done a lot. We want it to be done rarely. And I think this raises a little bit of an issue for me in terms of the holistic procedure and the principal that we have established. I'm happy to summarize that if you like but I'll stop there for a second.

Ray Fassett: No I think in a nutshell Ken, what you're saying is there is a high level principal here that if you are unable to make a vote there should be a remedy to make one later.

Ken Bour: That has been the team's general approach. And everything that we've done thus far with respect to extensions was, you know, if there is some reason you can't vote, the stakeholder groups and

constituencies have the right to have their vote done and we provide various mechanisms and remedies to allow that. So it would be odd to say except for absences. If you're absent sorry, you lose your vote.

Ray Fassett: All right so let me clarify, let me clarify a little bit for you, okay, and Ron can chip in.

Avri Doria: Avri has joined.

Ray Fassett: Avri has joined, thank you Avri. Let me clarify. So the concept here was a conflict of interest. And in the instance of a conflict of interest we felt as a work team there should be a remedy in all cases of conflict of interest and then, you know, it became what, bullish and all or obligational, etc.

I think, my own opinion is you have morphed that high level principal where we said there should always be a remedy in that instance over to absentee and I don't think that's accurate. I don't think that's correct.

Ken Bour: I agree that I morphed it.

Ray Fassett: I don't think that's correct from the work team's perspective.

Ken Bour: Okay.

Ray Fassett: Now with that said, and this is me listening to others as well as myself, but with that said, if Avri has an opinion on that or Ron, please.

Avri Doria: This is Avri if I can. Yeah I think what happened and, you know, definitely an innocent mistake is that we had one category called

conflict of interest and then we directed that category into its obligational and its non-obligational and applied the same level of, you know, consideration to both - whereas what I think should have happened is that the consideration should have been limited only to the obligational and not to the rest of it.

So I think it was in that sense that in dividing one thing into two things it was inappropriate to apply all the remedies of the unitary whole to each of the parts.

Ray Fassett: Yeah so I would agree with that. I understand why we made various remedies available for the two types of conflicts of interest. To me the question becomes for the incidental type of conflict of interest is the high level principal that we came - landed there. Should that apply also to absent - the instances of absentee issues and my feeling is no.

Ken Bour: Well then let me ask Avri because Avri you were the one that kind of brought this to the table if I recall and you said that you didn't like to see absentee voting happening within 24 hours or 48 hours as is the case now, whatever that is, 72 hours.

Avri Doria: No I didn't quite say that.

Ken Bour: Tell me please.

Avri Doria: I meant that certainly for those critical things for absentee ballot has been deemed necessary like policy, you know, PDP. Because those affect contractual conditions and therefore there is an obligation in a sense for every stakeholder group to have representative views.

On all the other stuff that a council can vote on, whether it's, you know, a change in a charter, approving somebody as the chair of a particular group, starting a drafting piece, any, you know, are we going to meet and have lunch on Saturday afternoon or Saturday morning during ICANN week.

All of those things that get voted on do not need the heavyweight process of absentee ballot which is a lot of work on the secretariat, it delays the fact, I mean, in my whole time as chair I don't think we ever had a meeting where everybody was present. I'm sure somebody can go back to the stats and find the exception where that happened but I'm not immediately aware of any. That would mean anytime we had a meeting there would be an absentee ballot.

Now for the obligational conflict of interest, that makes sense because, you know, but if somebody keeps having conflicts of interest that aren't obligational but are purely voluntary, well then maybe their stakeholder group should really wonder whether they're an appropriate representative and do something else about it. If they're absent from meetings all the time well maybe they should do something else about it.

So I'm definitely not against absentee ballots for things that affect contracts, things that affect, you know, the GNSO policy decisions. But for the rest of the stuff they vote on, I just don't see it.

Ken Bour: If we start to bifurcate the processes of what gets voted, you know, this list is, you know, we apply these rules and this list we, you know, don't apply these rules. That's where we're just getting so into the minutia of this thing. And I recognize that, you know, operating procedures are

probably about minutia. But my concern is that we're - we may just be driving this thing into another ten pages long document.

Avri Doria: We've already got that. We already have the condition that says if it's not PDP or election there's no absentee. That's no change from the status quo.

Ken Bour: Then what happens in that - just continue along that vein. So there's no diminution, what happens there? That vote just doesn't get counted?

Avri Doria: That's like now, yes it doesn't get counted.

Ken Bour: This is Ken. Actually though I think that the way we've got it written, the councilor could abstain and then seek a remedy. That's provided in the procedures, right?

Avri Doria: That's what strikes me as a problem, that we've got that for the non-obligational abstention.

Ken Bour: Yeah so I think Avri is doing something that I think is very useful here and that she's sort of pulling us back to the way that this whole abstentions got done. And we did make a distinction between volitional and obligational abstentions but we didn't apply the remedies differently.

Anytime there is an abstention I think maybe we even said -- I have to go back and think about this -- we might have even said, you know, the reason for the abstention isn't that important or we're not going to be

able to - you weren't going to be able to know, right, if somebody (unintelligible).

Man: We gave them the option, we gave them the option if it was a volitional abstention. If it's obligational they had to tell us why. Isn't that correct?

Ken Bour: Yes except that we also made a provision that if it's classified or what's the term I'm looking for, if it's not disclosed you can also put - you can note that. So you can say I have an obligational abstention but I can't tell you about it, sorry.

Rob Hoggarth: Right. Yeah, okay, yeah.

Ken Bour: And so maybe if we go back and sort of rearchitect it and say the only time that a remedy is available is in the limited case of an obligational abstention and not for any volitional cases, then we can remove the case of the absentee absence situation.

Ray Fassett: All right so (unintelligible).

Rob Hoggarth: I'm sorry, one more question. So in this case, let's assume there's going to be a vote tomorrow, I'm a councilor, I get sick tonight. Can I call my president of our - chairman of our constituency and say listen, I just can't make that vote.

Do we allow for enough time - do we allow for, you know, the Marilyn Cade in this case to call and say listen we're going to have Zahid Jamil is going to make that vote on behalf of Ron? Is that possible because Ron is sick today?

Or do we have our other process is sorry, because there was that discussion about, you know, would someone actually be able to, you know, put in their notice that they cannot be there, their abstention, and then ask for...

Ray Fassett: A temporary alternate.

Rob Hoggarth: Right, exactly. Do we allow for that? Is that possible? Because that was also - that was one of the other issues I think that was kind of cumbersome.

Ray Fassett: Well that's a voluntary abstention. You're saying there's 24 hours notice.

Rob Hoggarth: Well it's not even that, it's probably two hours notice because I get sick tonight, I call first thing in the morning, say I can't make that vote today.

Ray Fassett: A stakeholder group would have somebody on standby for these instances. It's a matter of reaching out.

Rob Hoggarth: Making that call.

Ray Fassett: Making that call, whatever that stakeholder group is - the procedures they come up with. Maybe it's the chair of that constituent's group that has to make the decision, I don't know, whatever they come up with.

Rob Hoggarth: Right.

Ray Fassett: And then having that person ready to go. And if the stakeholder group has not, you know, have somebody in that capacity ready to go as a temporary alternate.

Rob Hoggarth: They miss that opportunity.

Ray Fassett: Yeah. All we can is make up the rules.

Ken Bour: I just found that paragraph and it does say in 4.5, in order for any of these remedies to be implemented all required procedures must be completed prior to the conclusion of the vote on the matter before the GNSO council including any time allowed for absentee voting. That might actually need to be reworded too.

Rob Hoggarth: Yep, that last phrase particularly. But I think okay so that seems to be moving in the right direction for my point of view.

Ray Fassett: Yeah so you're just - I think what you're saying Ron is it's just a matter of semantics of whether a voluntary abstention is the same thing as an absentee, you know, an illness for whatever. That's an absentee but it's really the same thing as a voluntary abstention.

Rob Hoggarth: Yeah and see where I'm coming from is I'm agreeing with, you know, Avri has got the best experience of all of us in this and she's had the chair for those number of years. So as she's pointed out, it's very rare everyone was on the call or in the meeting. So as a result of that we want to have something that's streamlined and is easy to implement and that's why I ran through that scenario of what happens if.

Because if that's - if it's already there, we just need to tighten up that language, then I think maybe we've got - we might have already knocked this one in the head, we just need to go back and look at it again with some revised wording that Ken and Julie could work on.

Ray Fassett: Yeah so I'm kind of hearing and I think Avri is logical in that there are already these prescribed...

Avri Doria: This is Avri. I (unintelligible).

Ray Fassett: What?

Avri Doria: And I'm obviously in a minority here.

Ray Fassett: No I don't think you are.

Avri Doria: But having - no I think having those remedies for voluntary abstention, and I don't know how far, whether they've already gotten approved in which case we're stuck with them, I think that was a mistake. I think extending that even further is compounding the mistake.

Ken Bour: This is Ken, they have not been approved.

Avri Doria: Oh okay. So I think that itself was the mistake.

Ken Bour: Yeah and this is...

Avri Doria: Those should only apply to the obligational and not to the voluntary.

Ken Bour: Is this - I'm sorry, this is Ken. I'm just going to read a sentence here and I guess this is the one that I think has been driving my understanding. We have in Section Duty of Councilors, Constituencies, and Stakeholder Groups.

Given the council size and voting thresholds that have been defined it is important that each stakeholder group or constituency where applicable votes decisively through its appointed or elected councilors on every matter that is before the council for action.

That never - that has always for me been the mantra that is the stakeholder groups own these votes and if their councilors can't exercise them then we find a way to get it done. And maybe that's been wrong but that's what's been - I've been tiering down the logic from that principle all the way down and that's probably how it got the way it is.

Rob Hoggarth: Yeah my view Avri, maybe I am disagreeing with you after all. I really...

Avri Doria: I think you are.

Rob Hoggarth: Yeah I really don't see the harm. I'm trying to find the harm of somebody's even within two hours notice being able to enact a temporary so that stakeholder group gets its voice. I don't see the harm in allowing that kind of remedy.

Avri Doria: As I say, I see the harm in the basic overgrowing of the process. There will be absentee ballots for the secretariat to manage on everything.

Rob Hoggarth: No, not in that instance. The temporary alternate has to be at the meeting. This is not...

Avri Doria: Oh this is not absentees, this is (unintelligible).

Rob Hoggarth: Yeah this is - no the absentee, I'm saying I'm agreeing with you. Absentees now can only be in these three specific instances or whatever they are right now, is it two or three? I'm not sure. But I get the logic of that. So absentee...

Avri Doria: You're just saying so they can send in a substitute participant to all council meetings.

Rob Hoggarth: Yes.

Avri Doria: Now can they participate or - now they participate in the meeting as full councilors for the meeting that they're there or are we saying that you pass that vote over to another council member? I forget what we're doing.

Ken Bour: The proxy, the case of the proxy -- this is Ken -- is the least obtrusive measure. To appoint a temporary alternate is a much more elaborate ordeal and we recommended in the procedures it be used at the bottom end. If everything else fails then you do a temporary alternate. So the first thing is, you know, tell the councilor what to do and if that doesn't work use a proxy and if that doesn't work then a temporary alternate.

But what - the question I'm wondering about is let's say that a meeting is coming up and I am going to abstain from voting but I'm going to attend the meeting, okay? And I know this.

And because I'm going to abstain and Avri for the moment I'm accepting that we haven't adjusted for - this is a voluntary abstention, this has nothing to do with a conflict of interest. I just don't feel like voting on this measure or I'm not up to date on it or whatever. I follow our procedures, I write to my stakeholder group, and they institute a proxy so that my vote counts.

Now same situation except that I can't be at the meeting, right? I am going to voluntarily abstain and I know it in advance but I also can't make the meeting. Is my - is the fact that I am going to be absent now means that vote can't count when if I attended and abstained then it could count by using a proxy?

Rob Hoggarth: The result is the same though Ken isn't it?

Ken Bour: I don't think so.

Rob Hoggarth: Isn't the fact that the denominator doesn't change, it in both instances is a no vote.

Ken Bour: Oh I see, interesting.

Rob Hoggarth: So the effect of the practical antics of that scenario doesn't matter.

Ken Bour: Well I'm sorry no, it does matter.

Rob Hoggarth: Why?

Ken Bour: Because if I abstain - if I attend the meeting and I know in advance I'm going to abstain and I seek a proxy, the proxy could vote yes. The proxy could say my stakeholder group votes yes on this measure so it's not a defective no, it's not a de facto no.

But what I'm - the character - what I'm trying to do is draw a parallel. Now I'm going to voluntary abstain but I'm going to be absent. Does my absence trump the fact that I was going to voluntarily abstain and make it now no longer possible for my stakeholder group to vote yes because I'm absent?

Avri Doria: And as, I mean, I keep going back to being a complete minority on this. I don't think the volitional abstention should enable the SG to vote.

Ken Bour: So let me...

Avri Doria: Only the obligational abstention (unintelligible).

Ken Bour: Let me try - thank you, that's a good clarification.

Avri Doria: Whether I'm absent or not. And just to finish the sentence, I interpret that high principal that you stated about every SG has to do its best to get its full share of voting on everything means they have to make their councilor go to the meeting.

It means they have to keep their councilors from having too many volitional abstentions unless they're doing it for a stakeholder group's

point because then we end up with a funny situation where I can abstain, make my point, and get our vote in anyway.

And so I interpret that statement to mean yes, stakeholder groups are responsible, councilors are responsible, hell or high water they're supposed to be at those meetings and we keep making it possible for them not to be there, for them not to take a position, for them not to do any number of things. And as I say, the obligational conflict of interest of a lawyer is unavoidable.

Ray Fassett: Yeah but I think Avri.

Avri Doria: It's unavoidable. Other than that, it's unavoidable.

Ray Fassett: Avri I think just the only point you might be underestimating is that, you know, I agree that not all the council meetings are fully populated. How many of those meetings could have potentially be fully populated by a voice of that group, of the respective group if they were allowed to have the temporary alternate?

We don't know the answer to that. So but you might be underestimating that if you made the tool available you would have more of a population attending more meetings.

Avri Doria: In other words if for every three councilors we have a substitute councilor standing in the wings.

Ray Fassett: Two - what are you saying? That for every...

Avri Doria: Basically for every three councilors we have one substitute basically standing by and so therefore if anybody drops out we always have a substitute to stand in their place.

Ray Fassett: The opportunity for that substitute. Right now there is no opportunity so some of those that aren't making it to the meetings may have fallen into these last minute circumstances that we know. It might not just be their neglect if you will of not doing what they are obligated to do. It could be reasons and we're acknowledging that. So all we're saying is make a tool available to the group.

Avri Doria: I guess thinking about it I going to change my position because I think from the perspective of a stakeholder group that's got six people, nah, it doesn't make sense to do it. From a stakeholder group that only has three people, it sets to be a more precious commodity and perhaps it makes sense. And of course you have to do it for both if you're going to do it for one.

So while I kind of don't like the idea of substitutes I guess I can understand if I only had three in my stakeholder group I'd be nervous. If I've got six I'm not quite as nervous.

Ray Fassett: And then if I may switch it back over to absentee, now that's different. I think in that scenario there have to, you know, the bar has to be higher and I think we have outlined that bar already. To Ken's point of, you know, suddenly I can't make my abstention so I'm not able to effectuate my proxy, well, you know, we can't script out every scenario and I'm comfortable with it as is. How do others feel?

Rob Hoggarth: Yeah I'm feeling that way, I'm feeling that way. At least I'm getting much closer on it but I think that there's still some language that needs to be cleaned up and I would like to read it again before I give my firm approval.

Ken Bour: This is Ken. There were a lot of pronouns there and I wasn't sure what it is. You mean the way we have it currently drafted or...

Rob Hoggarth: Well my comment was that, you know, when I first spoke a few minutes ago was that there are some things that are still in your computer that haven't come out, and there's a couple of elements that we've brought forward on this particular topic that could use some revision now that we've kind of fleshed it out a little bit better for you so you understand where we're coming from as a work group.

So I'm wondering if you can go back now and look at those documents and give that a rewrite, and when I say look at those documents I'm specifically speaking to this particular topic of the being able to put a vote in place through the proxy, primarily through the proxy or through an alternate if necessary.

But you said if I may be - maybe there's not much to do here Ken but it seems to me you said there was if you have to look at this document holistically, you touch one part here, you've got to go and check the other part there. That's what I'm asking. I'm just saying I think we've touched a few parts here so I'd like to go back and look at that whole section again and read it clean draft of it. If you say no Ron, it's 99% there, we haven't really changed anything then I'll go back and read that.

Ken Bour: Yeah this is Ken. I'm not saying that. In fact I'm sitting here puzzled because I'm not sure what to write yet.

The - can we just go back to the absence question for a minute? So we have - the way I've written it currently in the draft that you have before you, I made a differentiation between a planned absence and a non-planned absence and we said in the planned absence you have two ways to get things done.

If you're going to be missing the meeting then you can use the absentee voting procedure except that I had changed it to make it default. If we restrict that now to a very narrow list which I think I'm hearing you guys say, the number of times we should use absentee balloting should be limited to the list we have now or maybe even tighter. So let's assume that for a moment.

I still have drafted in there that you could abstain, in other words you can say I'm going to be absent from the meeting, therefore I plan to - all my votes should be considered abstentions. And therefore my stakeholder group can use the abstention procedures to put in proxy or some other method to get those votes registered even though I'm going to be absent. Unless absenteeism, not attending the meeting, requires a punishment in no vote gets counted in which case I'd have to change the way it's drafted.

Ray Fassett: I don't - I'm not looking for punishments.

Ken Bour: I didn't mean to be over dramatic, but in essence the stakeholder group is deprived of an abstention remedy if the councilor is absent whether you plan the absence or you don't plan it.

Ray Fassett: We're looking to encourage participation and create tools and remedies that are reasonable to encourage participation. So if somebody is - knows or unable to attend for whatever reason, they want to invoke the ability of a temporary alternate by way of the abstention as we call it, I don't see the harm in that.

Avri Doria: This is Avri. I would actually like to look at it slightly differently.

Ray Fassett: Sure.

Avri Doria: If we're going to allow for the abstention to be -- and please don't take this wrong -- gamed in that way, then we might as well be direct about it and say in cases of absentee you can invoke the substitution proxy rule.

Ray Fassett: Sure.

Avri Doria: Let's not force somebody to do a fake abstention. If we think - the only reason I'm buying it is because we've got the (silliness) of a three person stakeholder group and I said that (unintelligible). But considering that we're going to buy this notion of or suggest this notion of sending, you know, a temporary, we might as well allow it for absentee as well and not require a fake abstention.

Ray Fassett: Right, right, yeah. I wasn't inferring a fake abstention, no. I'm just articulating the philosophical view, okay, of how we're trying to create rules, reasonable rules that encourage participation, not punish or otherwise restrict participation. But ways that reasonably can encourage participation.

Avri Doria: And as I say, I hate the rule.

Ken Bour: And Ray can I ask you, when you say participation, do you mean attendance of councilors at meetings in person?

Ray Fassett: No, just attendance - the obligation that a high level obligation that you just read earlier that is placed on a council member, you know, if we can recognize that in life there are times when an absence may happen for reasons we can't predict or know but we just know they do. But allowing that councilor to fulfill their obligation if they have to by going back to their stakeholder group and finding a replacement or implementing one of those remedies.

There is an individual obligation but then there's also the obligation of the stakeholder group. Sometimes the individual needs to go back to their stakeholder group for assistance.

Ken Bour: Right, this is Ken. The - it's starting to become a little bit clear. So I think what I'm hearing is if somebody is planning to be absent, the current limit on absentee voting, balloting, absentee balloting will stay the same, in other words we won't open up the absentee balloting mechanism for absences any more than it is today.

So if I'm going to be absent, planned, and it's not - and the vote is not a subject that is in the list, then I have to abstain. That will be my - I don't have to but if I did abstain then the stakeholder group could choose whether or not to invoke a remedy, right? That's what we're saying.

If I am just absent, so take the case that Ron - almost the case Ron put out a minute ago. The day of the meeting, that morning I have a car accident or something or something happens, my phone lines go down, the power is out in the city, I can't even get to the meeting.

If the subject of the vote is one of the available for absence then I can absentee vote. If it's not then that vote just doesn't get cast and that's the way I've written the procedure. So does that sound like a workable mechanism?

Ray Fassett: To me it seems reasonable. Now I'll be quiet and hear others.

Rob Hoggarth: No I find it reasonable.

Ray Fassett: Okay so that direction for you Ken?

Ken Bour: Right. Now the other thing that we - that I did in the new absences section, I'm not sure if we've discussed this, if I know I'm going to be out and I think what I said was two meetings in a row, that's considered a leave of absence and that would generate the potential of having a temporary alternate. Was that - I don't think we ever discussed that as a group and I just wanted to make sure that was okay with everybody.

Rob Hoggarth: I'm going to have to leave this call shortly because I have another commitment that I have to go to but I would ask Avri that question. You know, does two - missing two meetings in your view, is that - it sounds a little bit too small a number to me before we start saying that's an absence.

Ken Bour: A leave of absence.

Rob Hoggarth: A leave of absence, yeah. Avri are you still with us?

Avri Doria: Yeah yeah, I'm still here. It does seem short but then again, you know, I think it's the kind of thing. I think leave of absences should be declared up front. I think multiple absences become a problem for a stakeholder group in terms of dealing with its council members unless of course they happen to be board appointed in which case there's not much you can do about it. But that's an aside.

You know, so I think leave of absence again is something that has to be intentional, that you have to say hey, you know, I'm going into the Arctics for the next month and I won't have access so I am going to miss out the next three meetings.

Ken Bour: And this is Ken, and we did - I did write it that way but then it occurred to me that what if somebody doesn't attend two meetings, doesn't say anything in advance, something just happened, right? So I created something called an effective leave of absence. In other words, if you don't contact anybody and you're gone for two meetings in a row, you are then determined to be on leave of absence and then the stakeholder group is taking a remedy.

Now as Glen points out, it's probable by that time that the stakeholder group has already taken action but...

Rob Hoggarth: Well I'm going to interrupt you there Ken because the question that goes through my mind is I have no idea if the officers from the BC show up for the meetings or don't show up for the meetings. How would I know as a member of the BC, business constituency?

So that - so right now we don't have a mechanism so what's coming to my mind is that there should be a notice sent to the chairperson or president or, you know, the head of the constituency from which that individual is a member to advise them that two meetings have been missed. Because at this stage of the game I don't think we have any sense whatsoever whether our councilors appear or don't appear because many of the meetings take place by telephone.

Ken Bour: Yeah this is Ken and so for an unplanned leave of absence, because I said exactly that in these procedures.

Rob Hoggarth: Right but is there a notice that goes to the constituency?

Ken Bour: Yeah it says when a GNSO council member fails to attend two regularly scheduled council meetings consecutively without prior notification to the GNSO secretariat and councilor has not voted using alternative means, the GNSO secretariat will advise the appointing organization that the councilor has satisfied the conditions for an effective leave of absence.

At the appointing organization's prerogative the remedy in 3.8.2 may be exercised immediately which would be a temporary alternate. So yeah, there was notification.

Rob Hoggarth: So that works for me, that works for me.

Avri Doria: And then let's say having board appointed council members that they can't do anything about it works for me too.

Rob Hoggarth: Perfect. I have to beg your pardon everyone but I need to be on the move. I need to be somewhere at 2:10 and it's a few minutes after now. So if you're going to continue further I'll just say my goodbyes. If you want to wrap up chair?

Avri Doria: I have another working call that I was supposed to be at five minutes ago.

Ray Fassett: I think we're going to wrap up here Ron.

Rob Hoggarth: Okay.

Ray Fassett: But I just wanted to ask Ken if he has the direction that he thinks he needs to have.

Ken Bour: I think I do. I'm going to take a shot at it.

Ray Fassett: You've got (unintelligible).

Ken Bour: And I will describe what I've done and I'm probably going to give you some new documents. They'll be ones you've seen before but there will be some things changed and I'll try to highlight what I've done.

Ray Fassett: Yeah that's a good approach.

Rob Hoggarth: Perfect, absolutely.

Ray Fassett: All right so with that said unless there's any other business I'm going to ask for the meeting to stop being recorded and adjourned.

Ken Bour: Great.

Julie Hedlund: Thanks so much everyone.

Ray Fassett: Thanks for everyone's participation today.

Rob Hoggarth: Bye for now.

Ray Fassett: Bye-bye.

END