

**ICANN  
Transcription  
GNSO Bylaws Implementation Drafting Team- call  
Wednesday 29 September 2016 at 17:30 UTC**

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**Attendees:**

Farzaneh Badii  
Steve Metalitz  
Darcy Southwell  
Amr Elsadr  
David Maher  
Edward Morris  
Steve Debianco  
Matthew Shears  
Wolf-Ulrich Knoben

**Apologies:**

Tony Harris

**ICANN staff:**

Julie Hedlund  
Marika Konings  
Mary Wong  
Berry Cobb  
Terri Agnew

Coordinator: The recordings have started.

Terri Agnew: Thank you. Good morning good afternoon and good evening. Welcome to the GNSO Bylaws Implementation Drafting Team call held on Thursday the 29th of September 2016. On the call today we have Amr Elsadr, David Maher. Ed Morris, Steve DelBianco, Steve Metalitz, Farzi Badii, Darcy Southwell and Wolf-Ulrich Knoblen. I have no listed apologies for today's meeting. From staff we have Julie Hedlund, Marika Konings, Berry Cobb and myself Terri Agnew. I would like to remind all participants to please state your name before speaking for transcription purposes. With this I'll turn it back over to Steve DelBianco. Please begin.

Steve DelBianco: Hey, hi everyone. I think we're only missing Matthew Shears as the ninth member of the Drafting Team and I would just ask staff to send a quick note to Matthew since this is a call that's an important one just to be sure he knows about the new time and the new length. Thank you for doing that.

We were just discussing statements of interest and I believe staff has put the link t's on the Adobe Connect room right now. And if staff is aware of any of the nine members who need updated statement of interest we could do so. And I think that'll be important because we hope in the next few days to issue our report and I'd hate for us to be lacking a statement of interest. So Terri if you could just quickly check that and see if any of the nine members here are missing one. And I realize we've done some substitution. Wolf-Ulrich for instance is substituting for Tony Harris but Wolf-Ulrich undoubtedly has an SOI for GNSO and if any of the others of us are missing one let us know in the chat and we'll update it.

Terri Agnew: Certainly and yes a couple are missing them and I'll put that in Steve.

Steve DelBianco: Just let us all know. Thank you. We are going to try to get Matthew Shears on the line but I want to thank everybody for responding so quickly and thoroughly to the draft that I circulated after our last call. I was really gratified by the attention that's paid to how we tell our story. But I have to say you all focused on how we got here and we're really supposed to focus on where we're going which was the last page right, the table that indicates that on the assumption that council does so with the majority of each house what would be the appropriate threshold for the three decisions. That is in fact what we have to decide on. And telling the story of how we got here and the minority report for those that disagreed that's going to be good right, but it's not our main job.

So in the agenda Number 3 was to discuss the revised draft report but you folks have been so attentive to review, edit and review each other's edits that I don't believe we need to spend much time on that. I'd like to do for that and go directly to the most important item is Item 4 on the agenda which is going to the voting thresholds and trying to discover whether we can in the next 85 minutes come up with our recommendation whether it's just the majority or a consensus with the minority report as your chair. I think it's as your co-chair Amr and I have our jobs today is to get us to report to council because tomorrow is September 30 and that is the date by which we were asked to prepare an implementation recommendation. Let me stop there and see if Amr as co-chair has anything you want to add and before we dive into Item 4 on the agenda?

Amr Elsadr: Thanks Steve. This is Amr. I can't take any credit for the chairing of this group. You've really done it all on your own and I only offered to help if you needed the help. You've done a fantastic job so I will defer to your chairmanship on this issue. But then again I just would echo what you said. We do need to get our recommendations straight on this call to figure out what

we can agree on and whatever we can't agree on to figure out what level of support for each of the recommendations we do have. So thank you for that Steve.

Steve DelBianco: Thank you Amr. All right everyone let's please advance to Page 7 on the draft. You each have control on the Adobe. This is the same document that was circulated. In fact Page 7 the table that we need to pay attention to hasn't changed at all since I circulated it last weekend because most of you focused on like I said the story as opposed to the ending.

Matthew Shears: Hey Steve...

Steve DelBianco: All right knowing this – go ahead. Please go ahead.

Matthew Shears: I just want to say I'm on a phone so but thanks.

Steve DelBianco: Hey Matthew so glad you could join. You know, Matthew I do hope that you have the email. You'll be able to open up the document and follow along. We're on the last page of the document I circulated last weekend, Page 7 of the document that was circulated today.

Matthew Shears: Okay, thank you.

Steve DelBianco: So I don't even know. I'm a two-dimensional guy so I put a table together there. But I don't even know if that table is that helpful to all of you. And perhaps that's why people didn't pay attention to it.

So underneath the table on Page 7 on the screen in front of you you can see that I just repeated what are the three decisional categories, nominations and then two kinds of decisions and to see whether we could come up with a

recommendation that the usefulness of the table was to reflect how those three decisions so columns, how do their array against the rows which indicate ways in which the majority of each house is implemented with an additional line of a 60% majority which I believe Ed Morris had suggested that for nomination because on the last call I realized that some don't even want to have council vote on this. But the majority of this group did want to have council vote and did not want to have council vote as independent counselors but wanted to retain the majority of each house rule. That is why we are at this point deciding what should the majority level be -- simple majority 60%, 2/3 super majority rule. And those are the rows and how do we array those against the three decisional categories?

If we're successful with this regard we would then ask staff -- and I'm saying in a 90 minute call we could hash this out and decide what our report would look like -- we would be asking staff to help to take the three decisional methods -- nominations, decision one and decision two and array them against the hundred instances in the new bylaws where GNSO would be - have the opportunity to weigh in. And it's our hope that you would be able to map all 101 of those instances against one of these three and we would therefore have a functional recommendation we could put before council. Okay so I'll stop there. I see a queue already so Amr?

Amr Elsadr: Thanks Steve. This is Amr again. I just want to make a clarification because I had actually meant to include in the email I sent earlier today but apologies I forgot because I see my name listed as under the initiation of inspection rights as preferring the same thresholds as required to initiate PDPs. What I thought we were talking all about last week was the same thresholds to request issues reports and that's what I wanted to support which is even lower threshold than initiating a PDP.

The threshold for approving a request for an issues report is a 1/4 of each house or a simple majority of one house. So that's slightly lower than initiating a PDP. And the reason why I would choose this is generally and I agree with Ed here that I think we should have as low a threshold as possible on initiating those in special rights. Thanks.

Steve DelBianco: Thank you Amr. So you're - in the column where I have - I had Amr prefers this I've reflected my notes to say that you would prefer 1/4 of each house or a majority of one house. And thank you for that - got it. And thank you for directing us specifically to the table that's here. And what I'd like to do is to walk through this table. We'll do nominations first and see how close we can come to consensus that if council using a split house threshold is going to make these decisions what should the threshold be? And I know that there's a caveat associated with comments that would come from CSG members that that - that they didn't support having majorities of each house make these decisions. But it would be useful to determine if the drafting team members that feel that way have strong feelings about what the thresholds could be if that were to be the case.

And Ed Morris so when you say your position is the same as Amr you're speaking of the decisions made on the GNSO to request the document inspection is that correct? I'm waiting for - I know Ed's actually not well so I don't want to ask him to speak when he doesn't need to. So that would mean Amr, Ed and David Maher so far are all saying that in the third column that decisions made by GNSO on its own to request a document inspection we have at least three of you -- David, Amr and Ed saying that it ought to be 1/4 of each house or a simple majority of anyone house.

Okay thank you. So let's get back to the - well since you're all focusing on that why don't we stay in that column, stay in the right-hand column. So with

respect to decisions that a GNSO can make on its own like requesting a document inspection and it was our impression that there's only two sections of the new bylaws 227 A and E where the GNSO itself could initiate something like a document inspection request. And that is not decisional because it doesn't resolve a matter. It really kicks something off. It kicks off the request for documents. When the request comes back the request would be disclosed to the entire community and it would then trigger debates or decisions that would have different thresholds, so only one. I had written on here that most of the drafting team thought that a simple majority was appropriate. That was my take on the last call. So at this point I have three of the nine of us suggesting that we ought to do the 1/4 of each house or simple majority of one. And again we're talking about 227 A and E. So let's take a queue on that and see what we decide. Ed you're first.

Ed Morris: Thanks Steve. Yes I - that's the same threshold that's required for to request an issue report I believe. I do support that but I'd even go further. I have, you know, we're trying to get this right down to as low a level as we can. At least I - that would be my goal. Although the inspection right shouldn't be used in an everyday basis I am somewhat concerned at what I'm seeing going on in the Workstream 2 group of transparency. They don't seem to be focusing as I know Steve you and I had encouraged in Helsinki on the four specific rights in the Workstream 1 group.

So I don't know how long it's going to be where this is going to be our principle means of obtaining documentation from ICANN. So in addition to the issue report I'm perfectly fine if we were to state that any constituency or stakeholder group as well would have the right to request your document through council.

Steve DelBianco: Thank you Ed. I think you did have that you would allow any SG or C to request documents. And earlier I recorded though that you agreed with Amr and David that you would also support a different bar which is 1/4 of each or simple majority of one.

((Crosstalk))

Ed Morris: Yes that when I did my thing two weeks ago the 1/4 and 1/2 were what were in the request. I think we screwed up and transposed in that at some point but I think Amr and myself and David have always been in support of the 1/4 and 1/2. And as I said I'm willing to go further if there is the desire in other people to go further as well down to the SG and C level.

Steve DelBianco: Okay. So we're currently now debating between any SG or C could make a request. And it's interesting that this doesn't even involve council. That would be an SG or C. Council doesn't even have to know or approve it. Any SG or C could make a request for documents and it wouldn't take an act of council at all. And all of a sudden the chat I'm seeing Steve Metalitz and Amr now agreeing with Ed's lower threshold but let me take a queue on that. Ed Morris are you finished or is that hand an old hand?

Ed Morris: Steve I think procedurally it would have to be requested because this is a right that goes to the SOs. So I think procedurally that would have to be requested by the SG or C through council. In other words Steve Metalitz or actually Greg I guess is the chair of the IPC. Greg would just have to notify James in the current situation we want this document and then we could take off from there. There would not be a council vote but procedurally we would actually have to act through the SO in terms of the bylaws.



But yes I would - I have no trouble giving the right to the SG and C because I think and frankly it would - if they want the documents rather than having (unintelligible) to the counselors I'd rather save time for the counselors given the longevity of our meetings to date and just have the request go directly to (James) presumably to the - to ICANN.

Steve DelBianco: In the new bylaws the 227 that we're referencing is on Page 118 and you just made the statement that the bylaws directed this one to council. So let's just double check that, there's 227 directed to council or does it direct it to GNSO ACs and SOs? Let's just resolve that before we move on please.

Ed Morris: Yes I may be incorrect...

Steve DelBianco: Twenty-two seven.

Ed Morris: ...here. What I meant to say is it goes to the SO. And since we're going to be - Lord knows. I mean you had mentioned that we would want the - let's see, the constituency SG to be able to do a direct request to ICANN. I'm not sure that...

Steve DelBianco: No they can't. You're right it has to come from a decisional participant. And decisional participants are the - currently the four ACs and SOs who joined the empowered community and it would seem to be that we would have to then instruct the decisional participant. And to the extent that instructing the decisional participant comes through council then council is right. And through that sort of convoluted path any AC and SO - any SG or C could request the council chair to entertain a motion to instruct our EC rep to do a document inspection request okay?

So it would be a new rule in that the council chair would be obliged to pass that on to our decisional representative and it would not require a vote of council is what I guess I'm getting at. Council doesn't have to vote on that. It might come through council's chair if that's the conduit to our EC rep but it would not require a vote of council would you agree with that Ed?

Ed Morris: Yes Steve, that's perfect. I would also keep in the option of the 1/4 1/2 as a public council wishes to request documents by itself. So it would be two routes at least in my view. I'd like to have two routes to request documents, one based upon SGCs through the decisional participant and the other one council as well being able to do on its own if so choose.

Steve DelBianco: Okay. Thank you. Steve Metalitz?

Steve Metalitz: Yes thank you. I would support the first of those options and not the second one. With that, you know, I don't think we need to get into too far into the weeds on who would have to forward it to who. But I support the concept of SGs and constituency, one SG or one constituency being able to start this process and get the decisional participant to or wherever carries that forward to make that request.

Steve DelBianco: Thank you Steve. So saying you prefer the first of them if Ed has modified his proposal that it could be either what you just said...

Steve Metalitz: Yes I don't...

Steve DelBianco: ...any SG or C?

Steve Metalitz: I don't support I don't have any authority to support anything that involves voting by house within the council in this context. So I can't support that. I can support what was down there as after the coma in the table in Ed's...

Steve DelBianco: Yes.

Steve Metalitz: ...and really what Ed said. I would support what Ed said about how that could be about how an inspection request could be made.

Steve DelBianco: All right so I see some questions coming up in the chat so Marika you asked where does that leave nominating committee reps? Well nominating committee reps are not an SG and they're not a C so they would never have had any ability to do a document request through the GNSO decisional participant.

On the other hand...

Man: Thank you very much.

Steve DelBianco: ...if it was a majority sorry a 1/4 of each house or simple majority of one house the NonCom reps would be voting. So like I don't believe there's any exclusion of the NCAs here but if you talk about the GNSO as being composed of stakeholder groups and constituencies you - the nominating committee reps are not one of those. I hope that's not what you're implying?

And Mary Wong is asking does this make the council a mere conduit? The answer is that if any SG or C is given the right to do a document request this would be in the GNSO procedures then council is only a conduit for that path, of course. Now Ed and Amr have also said that in addition council could do its request and in that regard council is not a conduit but in originator using

the rule of 1/4 of each house or simple majority of one. And in that respect council is considering a resolution, it's voting on the resolution and Noncom Ceps have a role. I don't think this is all that complex.

Okay. Not seeing a queue on that so I would try to move to some closure here. Let's take it this way, how many of you would support saying that any SG or C in GNSO could exercise a document request under 227 A and E with the understanding that the council chair would relay that to our decisional rep on the EC, our decisional representative? And so I would just look for a yes or no or why don't we use the voting but I realize that I think Matthew Shears - oh you are online, great. So just use the voting on that.

And Steve this is the first half of it so I presume you would be a yes on this but maybe not on the other. Great thank you. And for the BC I could indicate yes. Okay I still don't see a vote from Darcy. Thank you from Darcy. And Matthew Shears you still haven't clicked anything yet. Could you let us know what your preference is to you - okay fantastic. So we have unanimity at least on the first half of this which is the ability for any SG or C to do a document request under 227 A and E. Thank you everyone.

Let's clear the agrees. And in addition to that what is our level of support for suggesting that the same threshold that's used to do an issues report - and I'm going to ask council to verify this is I want to be able to say it precisely that an issues report is a 1/4 of each house or a simple majority of one.

Would staff please - so Marika look you just tried to clarify something that when you come up with the GNSO Council it has nominating committee of representatives. That's true but Marika they are not a constituency or stakeholder group or are you contending that they are a constituency or stakeholder group? And feel free to speak up.

Marika Konings: Sorry this is Marika. You can probably speak faster than I type. No it was just in relation to your comment that NCAs are not part of the GNSO. But if you look at the way that the GNSO is described I think you could argue that they are part of the GNSO but not as a stakeholder group a constituency as you rightly said.

Steve DelBianco: But to be clear they're not part of the GNSO. They're part of GNSO council and that's a different part of council.

((Crosstalk))

Marika Konings: (Unintelligible) No but the description in the bylaws is the GNSO shall consist of. At least my non-legal reading of that is that the GNSO as a whole consists of all those elements which includes the council which includes in its organization the MCAs. But again maybe it's just semantics but that's how it's reflected in the bylaws.

Right. I quoted it directly from the bylaws and it's on Page 2 of our document. And GNSO is constituencies, four stakeholder groups, two houses within the council and a GNSO council. And only after you read about council do you determine that nominating committee reps have an equal footing role on the council but the bylaws per se set up council and what you're suggesting is that NCA is part of council.

Nobody disputes that at all. We simply said that if you endowed any stakeholder group or constituency in the GNSO with the ability to request documents that would not confer that capability to the nominating committee reps and I don't believe there's any confusion about that.

All right so now we're going to ask a second level question which is in addition to any stakeholder group or constituency how many of you support - and happy to take the queue if it's too early to vote. I'm going to take a queue on it first. How many of you want to discuss supporting or opposing the idea of using the threshold we use to initiate a PDP or is it an issues report? I'm looking for clarification on that.

The 1/4 of each house or simple majority of one. Thank you Amr. It's the issues report example. And I know that's a policy matter so it's not relevant here. I'm just trying to make a little bit more familiar to everyone that it's the issues report threshold. It's a 1/4 of each house or a simple majority of one house with the understanding that of course the nominating committee reps vote within that structure and it is the lowest existing threshold that the council uses according to Amr. We'll take a queue on that. Ed Morris?

Ed Morris: Yes Steve I can confirm the issue report. Yes in terms of allowing council to request by themselves it solves a few problems in addition to the SGs and Cs. One is the NCA problem because if the NCAs are actually going to be participating in some way and we are discussing matters of the empowered community it would be good if they had an avenue to ask council to request of the decisional participant that we actually can get the documents they need to deliberate and debate the issue before us. Secondly occasionally there are matters that come up before council fairly quickly that we haven't had a chance to talk to our stakeholder groups. And I can see where this might happen on these so-called superpowers we're going to be getting. We could be in a scandal for example and we may need or want documentation. And we may need or desire to act quickly. I think by investing in council as well as GNSO as well as the SGs and Cs we allow ourselves to have a bit more of a rapid response which I think would be desirable. Thanks.

Steve DelBianco: Thank you Ed. Let's see are there any other comments from folks on the call before we do a poll on this additional power? David Maher is typing. Okay so I think we're - Steve Metalitz please go ahead.

Steve Metalitz: Just not going to be able to support this because my constituency does not think council should exercise these new powers and certainly not through a house bound voting structure. Thanks.

Steve DelBianco: Thank you Steve. You've been really clear about that and I appreciate that. All right so we would be looking for yeses or nos on allowing council by 1/4 of each house or a majority of one to fashion a document request. So I need yeses or nos. And Steve if you wish you could be an abstainer a no -- whatever you prefer.

Steve Metalitz: I'll abstain.

Steve DelBianco: Okay. Okay so I have seven zero and two abstains to also allow council. Wolf-Ulrich your hand is up. No, sorry.

Wolf-Ulrich Knoben: Yes thanks. Wolf-Ulrich speaking. Well I have the same that issue with that but, you know, we have ongoing discussion in the constituency not finalized with regard to the representation and on the SG AC and therefore also abstain in this regard. Thank you.

Steve DelBianco: Thanks Wolf-Ulrich, appreciate the explanation for the abstention. I think in Steve's case it was that he had no authorization to support a council voting by house. In your case you just hadn't discussed it yet if I have that right. Okay great. All right everyone why don't we can clear those agrees and I appreciate that. We can now move to the column on decisions made. Let's go to the center column. And this would presumably be the highest threshold we would

want to undertake. And that is this notion of decisions made by GNSO for initiating or responding to empowered community petitions and to instruct the GNSO EC rep and initiate investigations which was under 22.8.

So of the instances in the new bylaws where the GNSO is a decisional participant this would be where most of them will fall. And on our last call I got the sense of the room without voting or anything like that that most of the drafting team members preferred the rule call it a GNSO super majority. And just to clarify that is 2/3 of each house or it's 3/4 of one house and a majority of the other. So this is called in the bylaws a GNSO super majority. It was designed for GNSOs primary purpose of policy development. And I believe that's what we used for approval of consensus policies that are advanced to the board.

So let's take a queue on whether that's the appropriate, that very high threshold. Is that appropriate for what could amount to 70 or 80 different decisions that GNSO can make as part of the empowered community? And remember that there's an escalation process where a petition is initiated. The petition has to advance to the next stage of having a meeting convening and then there's another opportunity to make a decision on whether to exercise the community power whether it's to block the bylaws to initiate a community IRP, et cetera. So why don't we take a queue on that. The candidate decision method is GNSO super majority and we're in the middle column of our table.

Yes Julie Hedlund is just asking Wolf-Ulrich to explain your abstention. And it's fine to do that. And Steve Metalitz if you wish you can type yours so staff can get it down verbatim. All right so if there are no hands up should I take it as consensus? We will definitely do a poll because I know Steve and Wolf-Ulrich may well abstain. Go ahead Amr.



Amr Elsadr: Thanks Steve. This is Amr. I just wanted to ask to be clear are we talking about decisions made by the GNSO in regards to the ECs, the GNSOs responses to the empowered community or are we talking about decisions to appoint the folks like the representative on the EC, the customer standing committee, et cetera? I'm just not clear which - we're talking about the mid-middle column right now or the first one?

Steve DelBianco: Thanks Amr. I just simply moved one column over to the middle on decisions and then we'll do nominations after that if that's okay.

Amr Elsadr: Okay thanks.

Steve DelBianco: And while you have the floor Amr what are your thoughts about the appropriate threshold for these decisions?

Amr Elsadr: Well Steve as I indicated last week I'm a bit - I'm still a bit unsure how to answer this question in particular until we sort of somehow resolved the role of the NonCom appointee. Ideally I think it would be desirable for the GNSO to have some form of consensus when these sorts of decisions are made. And to me that would mean that it would be desirable at least achieve a high level of consensus or a high or meet a high threshold. But again I'm also cognizant that this may lead to difficulties in making these decisions especially when there's a divergence of views amongst the stakeholder groups and constituencies represented by their councilors.

So I - at this time -- and I think we did go through this last week. I still - I'm still not very clear on what my preference would be. And I think that somehow we do need to have more discussion on this. I appreciate that this is our last call and we do need to make a decision but at this point I would

abstain from doing extension on that and myself and until - and probably cite the reasons I just mentioned. Thank you.

Steve DelBianco: Amr the first reason you mention was something to do with nominating committee but that reason doesn't have any bearing on what we have in front of us since we are at the point in our recommendations where the nominating committee appointees they vote on council just like they do on everything else and they comprise the 1/4, a majority of whatever it is of each house. So the nominating committee reps are assumed to be part of the voting by house so that's in there.

And with respect to consensus I agree with you, nobody really knows what that means. It doesn't mean unanimity. But for GNSO at least in the policy realm that's been determined by your GNSO super majority because staff will correct me on this but I do understand that when a GNSO super majority is achieved and that document achieved through that it's called a consensus policy that this was going to take offense, at least we call it a consensus policy if it comes out of a super majority and I hope somebody could validate that for me. So Amr given that nominating committee there is no question about nominating committee they are baked into the council voting on a super majority would that allow you to have more clarity and express a preference as to whether super majority is appropriate for these decisions?

Amr Elsadr: Hi Steve. This is Amr again. Yes I- apologies. When we were discussing this last week the issue of the noncom appointee was still not clear and now we're working under the assumption that the council will be voting in its entirety including the NCA. So yes I would prefer a higher voting threshold to something like a super majority. Thanks.

Steve DelBianco: Okay thank you Amr. I'm glad we're to clear that up and your voice will be heard on this one. Okay we got a nice queue developing. Steve Metalitz you're next.

Steve Metalitz: Yes thanks. I just had a question for - and you partly answered it but I'm not sure. I mean Amr's suggestion that this should require a consensus I was just going to ask what that - whether that had been defined within the GNSO council context? And I hear what you say Steve about, you know, if something comes out of a PDP and it's approved by a super majority of the council as defined here then it can if it's approved by the board and if it's implemented become a consensus policy but there are a lot of other things in here that are by this - that require GNSO super majority like terminating a PDP for example. That's something else that requires a supermajority so I think this is - I mean I'm seeing this in the chat also.

So I'm not clear what - and I agree with Amr that it would be worth considering whether there's a consensus threshold here but I'm just not quite sure what that means. But I'm questioning whether that necessarily means GNSO super majority. So maybe somebody who's more familiar with how the council uses these terms can help clarify that situation.

Steve DelBianco: Thank you Steve. For the purpose of this discussion the word consensus is not operationalized until somebody can devise how you could count votes in council by house to get there. Unless somebody can come up with an operational definition for this concept of consensus we won't be able to consider it. It would be meaningless for us to send a report to council that says we considered but didn't pick super majority. Instead we said you should have a consensus. That would - they would have no idea how to implement that and our charter is to give an implementation plan.

So unless somebody can suggest a definition for consensus we're going to be voting on GNSO super majority today. And Steve if you wanted to come back in on that and then we'll go to Ed.

Steve Metalitz: Yes I do because you're basically saying that the only way to achieve a consensus is by voting which it may be the case in the council but it's certainly not the case in a working group which I'm more familiar with.

Steve DelBianco: Definitely not.

Steve Metalitz: So it's a different definition that you're using. You're using consensus as a term that is necessarily linked to in-house voting. Thank you.

Steve DelBianco: Got it Steve. And it Steve I would anticipate that a minority report reflecting the view that a consensus of GNSO constituencies and stakeholder groups could come up with a different definition there. But I would invite you that if you can come up with a way to operationalize it within the house structure of council votes I would love to consider that on this call today as an alternative to super majority.

And given that you have somewhat limiting instructions from your IPC you may not be as comfortable putting it out there and supporting it but I'm asking you to be creative if you have a way to operationalize the word consensus within the constraints of the council, put it on the table and we'd be glad to talk about it. Ed Morris?

Ed Morris: Yes hi Steve. I - if it's the will of the majority I'm happy to support super - the super majority threshold where I to be made the creator of all of GNSO I would actually have a bit lower threshold for initiating. We - these superpowers are going to be exercised in conjunction with a lot of groups here

in ICANN many of which who I think we're going to have some trouble getting involved and acting on anything. So when I initially took a look at this I said yes of course these are important things. We need to check the mob rules so to speak by having the super majority threshold.

But the more I thought of it our powers are going to be so limited going forward because we have to work with the other groups I would be happier with the lower threshold if there was support. We have thought of that among others on the call but as I said I'm happy to go along with the super majority if that gets us closer to a consensus decision. Thanks.

Steve DelBianco: Ed you seem to want to maybe to divide the decisions so that those that initiate are different than the threshold for those that make a final decision. And that's certainly a valid suggestion and one which might...

((Crosstalk))

Steve DelBianco: ...call for different thresholds.

Ed Morris: I think that's - some of the folks here - I - that's definitely not my position although I consider it. I'm not - I guess, you know, just saying I didn't really consider it but thinking out loud I don't think - does that make more sense? At least it doesn't to me or why should there be different thresholds for responding and initiating?

Steve DelBianco: Okay.

Ed Morris: I don't believe I support that. I think I'd like to keep one threshold...

Steve DelBianco: Okay.

Ed Morris: ...for both actions. And I would go as low as majority but again just to get some semblance of consensus I'm happy to support super majority if that's the will of others.

Steve DelBianco: Okay but it's good to have you explain that because if other members of the small team thought the super majority were too high this would be a great time to talk that out so that we could prepare and present alternatives on this call.

Ed Morris: Yes I mean my - the principal thought I have is that these powers are going to be extremely difficult for the community to execute. Now if we were making the decision alone on rejecting a budget and that was just a GNSO decision then yes I do want to have a super majority threshold. These are serious issues.

But if for example there are three segments of ICANN, the three members of the empowered community, decisional participants come to us and say GNSO, this budget is completely out of line and we need to do - we need to reject the budget I'm not sure I would like to have a super majority threshold there so a very - a minority of the GNSO could stop other decisional participants from going forward with enacting the powers. So I think it might just be a little bit too high of a threshold.

I would suggest that if others come to us and say, "Hey GNSO we agree we have to do something about the budget," and we have a majority in the GNSO that are willing to go along with it I think that may be a bit better idea.  
Thanks.

Steve DelBianco: And when you say majority of the GNSO I presume you're saying the simple majority of each house...

Ed Morris: Exactly.

Steve DelBianco: ...because earlier we were - all right got it. So thank you Ed. So on the table under the middle column under Decision we - Ed has suggested that a simple majority of each house might be preferable in his case to the super majority. So that's in the center of the table versus the bottom row table. So let's push this discussion along. Wolf-Ulrich and then Marika. I see your hand up.

Wolf-Ulrich Knoben: Yes thanks Steve. Well but also I'm going to abstain here in this question because of the reason I have given. Well with regards to vote if there is any voting so I'm for clear figures in this respect meaning we shouldn't talk about consensus here because consensus is defined in the working group paper, you know, that and it's outlined in terms of what consents and other terms of consensus not giving a clear figure in voting figures. So I'm - I would be in favor for clear figures thanks.

Steve DelBianco: Wolf-Ulrich as chair and rapporteur I'm not going to accept the word consensus in this table because it doesn't mean anything. It might mean something in some other alternative structure but it isn't part of Page 7 so...

Wolf-Ulrich Knoben: Okay.

Steve DelBianco: ...I'm good with that. We're not going to say the word consensus. You don't see it anywhere in this table. So that the more operational question for you is assuming that council makes the votes do you believe that it should be a simple majority or a super majority for the middle column? And I'll understand completely if you just have to abstain for reasons you gave earlier.

But that's the decision in front of us. There is no consideration of the word consensus for the purposes of this table. But Wolf-Ulrich before we move on I going to give you a chance to respond to that.

Wolf-Ulrich Knoben: No sorry I saw that discussion before also from the notes in the chat and I was thinking about that. So I - you are really clear in that and I agree to what you say. Thanks.

Steve DelBianco: I'm sorry. Do you agree that it should be a simple majority or a super majority or do you think...

Wolf-Ulrich Knoben: No.

Steve DelBianco: ...you would go with abstain?

Wolf-Ulrich Knoben: No I'm sorry I'm - I don't say anything about that because I'm going to abstain.

Steve DelBianco: Okay, very good that's clear. Let's go to Marika and then back to Steve Metalitz. Go ahead Marika.

Marika Konings: Thanks this is Marika. I just want to confirm indeed that at council level there's no definition of such of consensus but if you look at the contracts that ICANN has with registries and registrars it talks there I the context of consensus policies that a consensus of the GNSO needs to be achieved and that in practice translated to super majority voting. So I hope that clarifies a bit where the super majority voting in the council comes from. And indeed in the context of consent policy that is expected to (unintelligible) at the consensus of the GNSO.



Similarly in the GNSO working group guidelines a definition of consensus there is where most agree. But a small minority disagree ten indeed although there are no exact numbers associated with that it's, you know, an iterative process that the chair manages. Of course what is factored in there as well that at the end of the day those recommendations need to meet the thresholds that are set, you know, by the council or through the council voting mechanisms. So presumably that is also something that is factored in within the working group also to of course avoid that, you know, one group with 100 people on a working group and tries to force a decision. So there a chair will also factor in the input received how does that reflect or compare to, you know, the decision that it ultimately needs to be achieved at the council level which in the case of PDP working groups is of course also super majority.

Steve DelBianco: And Marika if everyone would please scroll to Page 2 of our draft document I put verbatim from the ICANN bylaws, not the new bylaws -- it's been there a long time -- what a GNSO supermajority is. If you scroll to the bottom of Page 2 in that document it is exactly defined in Section 11.3 is 2/3 of the councilmembers of each house. It doesn't say both houses, it's each house and 3/4 or 3/4 of the councilmembers of one house and a majority of the councilmembers of the other house.

So the word GNSO super majority that we're using here is not a new word. It has been around for at least seven years. It refers to the way council votes by house and that includes NonCom reps and the numbers are explicit. I don't want to infer that that means consensus and it's - and that's why we're not going to call it that. We're calling it a GNSO supermajority.

And Amr I - you've got me so confused in the chat because I quoted the bylaws verbatim and now I'm confused as to what you've come up with. So I

hope you're going to be able to clarify where you're at, what you've got what you typed into the chat. And while I wait for that I have Ed Morris' hand up and Steve Metalitz. But I think Steve was in the queue after Ed spoke last time so Steve Metalitz please?

Steve Metalitz: Yes. Well first just on Amr's point I think he's quoting from Roman 8 of the bylaws provision which is approving a PDP recommendation without a GNSO supermajority. You could do it by affirmative vote of a majority of each house and a representative at least three of the four stakeholder groups. I think that may be where he got that from.

I just really wanted to make two comments. One is this issue that was raised about, you know, maybe not everything within this column should have the same voting threshold. I think, you know, we - this has been something that has come up several times in our deliberations. These are kind of the what decisions rather than the who decisions which are in the first column.

And some of these may be very big things like instructing on, you know, should our rep vote to spill the board on the empowered community and they may be very minor things. You know, we might want to instruct our council our GNSO EC rep about, you know, the timing of something or the scheduling of something or make sure that that doesn't conflict - X doesn't conflict with Y on this calendar.

There might be some relatively trivial things. And then there might be some extremely consequential things. So the idea that you would necessarily have the same threshold for both I think is sacrificing substance to form. Again I think you're who and what distinction was very useful to help to frame our thinking but it only takes us so far.

And I have to agree with what Amr has been saying on the list that we've been given - well and I'll rephrase it as in my words. We've been given an extremely complex task, an extremely short amount of time to do it. For whatever reason we didn't even get this group constituted until half of its lifespan was over so I don't feel constrained to actually come forward with a concrete one-size-fits-all recommendation that every decision made in this superpower realm that has to do with what rather than who should have the same methodology for reaching a decision.

And the final point I would make is just, you know, again to emphasize that what this group is saying -- and I think you've articulated it very well Steve -- that in exercising these superpowers the concept of consensus as it applies in the working groups is irrelevant. We're just voting here. We're going to make these decisions just by voting. And that's quite different than what consensus policy development means in other parts of ICANN. Thank you.

Steve DelBianco: Steve Metalitz thanks for that. I think that was very well said and it's something that Ed also hinted at earlier. So what I'm thinking is let's do our best to define what we think the decisional threshold should be, simple majority or GNSO supermajority. But we could in our report indicate that we'd like more time to take the - that rule and go down each and every one of the decisions. And that's the staff table that we talked about earlier where staff would apply the decisional rule to the table.

If we had another called it's possible that we could come up with two or potentially more levels of decision-making thresholds for all of the times that the EC has to respond or initiate. So I think we should all agree that we'll note that in our recommendation so that there's an understanding that if we'd had more time we probably could have applied it more carefully. And while we did start late and I will also maybe I should take the blame for this, we did

spend a lot of time on who makes the decisions, council or GNSO and looked at alternative voting thresholds.

I actually maybe I don't apologize for that after all because it's the kind of thinking that should have gone into the GNSO review but didn't because it's often seen as a taboo topic. And you know what we've all survived it. I think we're all still friends. We talked it out. We didn't all see eye to eye but it's definitely constructive to ask questions like who speaks for the GNSO.

And I'm glad we did that and we documented it carefully. But at this point we're saying will there be sufficient support on this drafting team to say that for that whole basket of empowered community decisions can this group agree that the threshold should be simple majority or super majority with the caveat that after we come up with that rule we'd like to examine whether a different threshold is appropriate for certain decisions and then we would do that if we had an extra I don't know two weeks or two calls and that might be acceptable to council.

I don't see any hands up. Ed Morris we do go till - we have another hour I believe Ed. You said not much time if that's what you were speaking. Oh you were speaking of the calendar deadline? Yes okay.

So do we have any more discussion on simple majority versus super majority because I've only heard I think Ed had said simple majority would be better in the context of the fact that we have - we are only one of the empowered community decision-makers and we had everybody believing the supermajority was certainly enough? Okay you're right we only have another 35 minutes. So let's try to move on.

Well let me try this then. Let me try this. Who would indicate that they think a simple majority of each house -- this is the Ed Morris proposal -- that a simple majority of each house is sufficient for the decisions of the empowered community? So we're looking for yes, no checks simple majority and then I'll do the same thing for super majority.

Okay so on simple majority I have one, two, three, four and five. And staff will record the names please. I'm sorry David Maher just went with a no. Okay so we have five yes and one no on simple majority. And now super majority clearly agrees and who would say that supermajority? It shouldn't be the same hands.

So for super majority we have two yeses, the contract parties. Okay all right so and I'm assuming that Steve Metalitz and Wolf-Ulrich that you would both be abstaining for the same reason you gave earlier do I have the right? Thanks Wolf-Ulrich.

Amr you said you're split between two options. Does that mean you want to consider another one in-between or you just can't make up your mind? Amr? Oh he dropped off the call. So Amr I just when you said that you're split between the options I just need to understand whether you want to propose an alternative or just record that you're undecided? Maybe you can't hear me.

((Crosstalk))

Amr Elsadr: This is Amr. Can you hear me?

Steve DelBianco: Okay go ahead.

Amr Elsadr: Sorry let me - I'm getting a dial back to the call so if you can give me just a couple seconds. This is Amr again. Can you hear me?

Steve DelBianco: We do. And we're simply asking you when you say you are split are you going to propose an in-between voting threshold or simply record the fact that you can't make up your mind between the two?

Amr Elsadr: Well to be honest I was initially in favor of a high voting threshold such as a super majority for the reasons I explained earlier. But I can see how it would be difficult for the GNSO to exercise a power in that sense and I'm leaning more towards lower threshold now such as a simple majority of each house. I wouldn't really - I don't think having a middle proposal such as a 60% which is what the council uses to elect a chair, 60% of each house if I'm not mistaken. I don't think it's a very practical threshold.

I think generally you need to achieve the same level of agreements to do that as to achieve a super majority threshold just considering how the votes are distributed amongst different stakeholder groups and constituencies. So generally I think now if I had to choose one choice I would go with a simple majority of each house. Thanks.

Steve DelBianco: Thanks Amr. That's how we recorded your green checkmark earlier but I appreciate the explanation. So there were five who supported simple majority and there were two who went with super majority. So we only have nine people on this team and we had two of the nine who abstained for reasons given earlier. So we've got a - we'll record all that but I - it's hard for me to say that five out of nine is a consensus. It's a majority barely but it's not a consensus. And I don't think our report can reflect that there's a strongly felt recommendation with respect to a simple majority of each house but I think our data has been captured at this point.

And now let's turn to the nominations column. The nominations, the who's going to represent us is different than decisions of what does the GNSO want to do? So the who's going to represent us is the decision that council has made many times. And they don't regard policy matters. We will point people to cross community working groups, to review teams. We'll make decisions on nominating people like the empowered community.

I think we've already made a decision on nominating a liaison to the Customer Standing Committee if you recall. And since that fell to the default rule of council, council used a majority of each house to approve our representative to the custom - the liaison to the customer standing committee. Council today I think is going to be discussing representation on the empowered community. And they've asked me to attend the call just to report on where we are. So I can certainly report on where we've come with all of this so far but we definitely had three different levels of interest on the nominations column on our last call.

Now Marika has put into the chat that if we had more time we would also want to propose to the motion we were given. We were asked to maybe come up with a process by which nominations were offered, not just how a nominee is approved. And so we're not going to get to that on the next 28 minutes on this call so it's noted Marika. And it might be something that we would claim we need more time to look at.

So for now what I'm hoping to suggest is that if we had a couple of nominees for the IANA Function Review Team what would be the way that council would decide when they vote on nominee A what threshold's necessary, when they vote on Nominee B what threshold is necessary? There may be situations

were only a single nominee is put forward and council has to approve that single nominee by his stated threshold.

On our last call I heard most of you say that a simple majority of each house was appropriate. Steve Metalitz I remember you suggesting that when it comes to that rep to the empowered community which is really a conduit right, not supposed to be a decision-maker but the rep to the empowered community should be a higher threshold than the majority of each house.

Ed Morris on the last call you instituted a new threshold called a 60% majority of each house and I say new because I'm not aware of us using that in council now and I don't know how the numbers work out for 60%. And then Amr I remember you mentioning that you thought a nomination would require a GNSO super majority as is defined in the bylaws. So we have a disparate set of opinions and Amr's clarifying in the chat that the 60% of each house is what council has been using to select its chair. And let me ask is that in the bylaws or just in the GNSO procedures if you can get an answer to that into the chat as well.

All right so let's take a queue on the disparate levels of support necessary thresholds to approve a nominee. We don't have to go with the chair election or vice chair and it might actually be simpler to do something like a simple majority of each house which I thought most of this team thought was appropriate. I'll wait another few seconds for a queue. Ed Morris please?

Ed Morris: Steve well I prefer 60% as being a higher level of agreement. I'm fine with simple majority if that's where this want to go, not a big difference it's just what I don't want is super majority because we don't want to have a repeat of say the council chair election that we just went through. We want to have a majority that's attainable and whether that's 50% or 60%, you know, there's



not much difference there. So I'm happy to go with simple majority if that's where others would like to go.

Steve DelBianco: Thank you Ed, appreciate that. Wolf-Ulrich?

Wolf-Ulrich Knoben: Thanks Steve. Well I have one question I chose because I didn't follow with a discussion in former meetings. It is said here it's about nominations for the rep on EC and on CSC and all the other teams. So this is we put all of this together in one package so don't we make this distinctions (sic) between let me say a nomination for the EC and then the others or review teams? That's one question so there may be a difference from my point of view in - with regard to the importance of such a decision. So there is some question.

The other thing is coming back how the council is working in appointing nominating review teams in the past. So that was done in a process through the stakeholder groups and the constituencies. And they came up with let me say our proposals or nominations and the council then decided upon, had a discussion upon that. I think it was done in a majority way with regards to review teams. So that's what I have in mind. So my question was the first. Thank you.

Steve DelBianco: Wolf-Ulrich thank you. Steve Metalitz noted earlier and I had it in the document that he suggested the threshold be higher for the empowered community representative. And if you and Steve I realize you may abstain on the voting threshold discussion but I would love to have the document reflect what you thought the higher threshold should be. For instance if one were a simple majority does the EC rep step up to say super majority? But I realize that because if you're abstaining for other reasons you may not be able to indicate that but anything you guys can tell us I would appreciate it.

I want to clarify something for everyone is that we could say that this review team five of the seven voting members two abstentions decided that simple majority of each house was appropriate for nominations And noted that given more time we might separate some nominations and have a higher threshold for them. We also if given more time might try to respond to the challenge of coming up with a process for slates of nominations. So since there's no hands up let me clarify what I'm talking about.

The bylaws now include the Affirmation of Commitment to reviews. We brought them over because of Stress Test 14. And when we brought them over we allowed each of the ACs and SOs to nominate seven candidates to a review team. And then the chairs of the ACs and SOs not the empowered community because again these reviews don't have anything to do with the empowered community the chairs of the ACs and SOs would pick up to three from each AC and SO for a total of 21 members.

And the bylaws reflect that if say SSAC only put two names up that is another slot that the chairs of the ACs and SOs could award to one of the other groups who had more than three. So for the purpose of the GNSO's role it would be asked hey GNSO can you give us up to seven names for these Security Stability and Resiliency Review team? And then GNSO would find a way to see if it had a call for volunteers. If it had a list of more than seven then council would have to meet some threshold to decide on who to include.

So a slate would go forward. And it would either be approved or not. And that's the threshold we're speaking of here. That's why the review teams make their way into here because the new bylaws say that what used to be an Affirmation of Commitments reviews subject to the chair of ICANN and the chair of the GAC are no longer (unintelligible). Instead we the community make the decisions on who is on his review teams.

All right so I think we do need to move to a decision here to see - we'll do the same thing in this column that we did for the decision column. I'll first ask who would support in a simple majority of each house is appropriate for nominating for approving nominations? So I'll look for a yes or no on simple majority. And if I don't see a vote from Steve and Wolf-Ulrich we'll know why they're standing. (Farzi) your hand is up. Would you like to make a comment right now?

(Farzi Badi): Yes. And I'm sorry I didn't take the mic before. But these nominations are for different roles if I'm not mistaken. So there is the EC rep, and then there is the CSC, and the IANA function I mean they are different and they're importance is so (unintelligible) don't really think we can go with just one overarching voting threshold to be honest. So that's where I think.

Steve DelBianco: Thank you (Farzi). We had specific points from Steve Metalitz and Wolf-Ulrich suggesting that the EC rep needs a higher threshold. I think that what you suggested is you're not prepared to even to even approve simple majority as a base because you'd like to look at them all in detail. I think we agree that whenever we come up - let's just suggest that let's say we got five yeses for simple majority. We are going to note in our report that just like for decisions we'd like to map this to each of the nominations. And given more time we might well have a slightly higher or somewhat higher threshold for some decisions some nomination.

So given that we have some room to revisit that assuming the council will give us more time. So I only see four yeses for simple majority on nominations. I give you another couple of seconds. Are there any other votes on simple majority? Steve Metalitz, your hand is up. Go ahead.

Steve Metalitz: Yes, thank you. I think just if I'm reading this right in the chat I think you have at least as many people on this group who do not think that we can come up with one standard for all nominations as you have voting for the standard. So I'm just pointing that out. I think there are four people who have nominated that point me, Wolf-Ulrich, (Farzi) and Matthew.

Steve DelBianco: Got it. And that will leave us undecided.

Steve Metalitz: And Amr. And Amr so...

Steve DelBianco: Undecided on nominations. And Steve I wonder if we were to pull the EC rep out if and we only have 15, 18 minutes I don't want to drag it on to much longer but if we pulled the EC rep out and made the decision for EC rep and all other I wonder if we could get something closer to a better vote? Would you be able to comment on that? Go ahead.

Steve Metalitz: Yes I can comment on it. And that is that I use that as an example. I don't know there may be others. So I – that would not if I were voting on this that would not change my vote.

Steve DelBianco: Thank you Steve. So I would say that the reports going to reflect that when we said when the drafting team was asked would you support at least a simple majority for nominations with an intent to consider a higher threshold for certain types of nominations we could only get four yeses for that. If I asked the same question on a GNSO supermajority or the 60% I would be interested to see if - let's go to super majority. Why don't we clear the agrees for a moment just so I understand where people are coming from. Clear the agrees, thank you everyone.

If I said super majority to approve a nomination GNSO supermajority how many would say that's necessary? That is in the column (Farzi). It's the GNSO supermajority it's the bottom row. All right we don't have anybody supporting supermajority. I can scratch that one. Ed defers to 60% into the simple. And so let me ask staff did we cover the four who said yes to simple, Darcy, David, Ed and myself? Thank you very much.

So we only had four. And so we're not going to be able to report that we even have a recommendation. I'll record that the reason for that was that we want the time to consider each type of nomination individually. And that extra time would give us the opportunity perhaps to come up with a process for nomination as well. Darcy, David, Ed and Steve D. Okay, thank you everyone.

So I think I know enough to describe where we stand on September 29. And it would be hard to call this a recommendation that everybody approved because until you see the whole document none of you should be asked to say we're ready to vote on the document that clearly we have edits in the previous pages of the document and we have are going to have to give you all an opportunity which is respective groups to approve the language of how we phrased the recommendation.

What I could promise you is that I can turn around probably later today this update to Page 7 and give each of you an opportunity to comment on it on Page 7. Okay so that's a way forward with respect to Page 7. In the 15 minutes that are left I wanted to open the queue for a discussion of any of the edits in pages one through six. And then we'll discuss how to represent some of the views that Steve Metalitz added at the end whether those are part of the report or minority report. But first please something that should be relatively

easy are there any comments or further edits to the first six pages of this document.

And you'll see as you scroll up and down that I accepted all of what I thought were grammatical changes and I believe Amr has a point on Page 4 that the bylaws talking about GGP. I'd like to discuss whether GGP should be in there? I believe we should – it was raised by staff on two different calls and we're going to dismiss it. So we're dismissing it. I feel like it's better to document the fact that we discussed and dismissed then to pretend we didn't know it existed. Steve Metalitz you're in the queue.

Steve Metalitz: Yes. My only point I want to raise is that I on Page 3 I inserted, you know, we had this discussion who should make the decision? And that's - and six people wanted the council and three did not. And so then two how should the council, or stakeholder groups or constituencies arrive at that decision? So I inserted A as okay if the council is going to do it here are the options, you know, weighted voting and then on and going on and on until Page 7.

What I did on Page 8 was just put, you know, that's A. A is if the councils going to do it. B is if the stakeholder groups and constituencies are going to do it. So I don't see that if you accept my inserting subheading A then I think subheading B probably needs to be part of the report also because it's the other alternative. So that's my only comment on this...

Steve DelBianco: Hey thank you Steve.

Steve Metalitz: ...on Page 8. Thank you.

Steve DelBianco: No your - excellent, excellent point. And when I put the document together on Page 3 where we reflected the fact that we were six to three to keep it in

council, six to three to keep it in council that is to say council should speak for the GNSO that assumed that Section 2 on how was only referencing council. It was picking up a building on that decision and not preserving necessarily what we do when we're not in council.

So at least the way this is constructed given that a minority believe should not be council I believe that argues for allowing you to draft an expansive minority report about direct action by GNSO stakeholder groups and constituencies. And that could be prepared by the minority who believe that, that ought to be the way it does. That's really different then having it exist in this report and be subject to the approval of the same nine people six of whom may not support even having it in this document. So if you were to proceed on an A, B format there's a chance we don't get approval. The document and I'm suggesting that you have far more control over making the case in a minority report then as part of this report. I wanted to give you a chance to react to that Steve.

Steve Metalitz: Okay, I hear you. I'm not – there's going to be an expensive minority report. This thing is due in a matter of a couple of days. But if you're going to take that approach then I think you have to change the sentence that's in, you know, two it starts with how on Page 3 because it says how is your GNSO council or stakeholder groups and constituencies arrive at their decision? So take out the reference to stakeholder groups and constituencies I guess. If the majority of this group doesn't even want to talk about that then I accept the will of the majority of that.

Steve DelBianco: Yes, excellent point Steve. But let's not dismiss it out of hand. I'd love to hear if there are any other edits to pages one through six and then we'll revisit the question Steve is raising. Any other edits to pages one through six? Thank you.

So let's revisit Steve's very point in that the text at the end of the report below Page 7 and you can all scroll to Page 8 thank you. So what Steve is proposing is let's see can this group have majority support for describing how other than council how the actual stakeholder groups and constituencies could exercise their powers instead of council.

And if we thought we could come to agreement to support some pros like Steve has proposed fine. And if we can't it probably gets shifted to a minority report that would be submitted along with our recommendations. So let's take a queue on that David Maher?

David Maher: Well this is David Maher. Thank you. I think it belongs in a minority report. I think the final conclusion the Steve Metalitz reaches is out of scope for this group. It's trying to tell the council how it should deliberate about our report. And I think that is definitely not within our powers or responsibilities. Thank you.

Steve DelBianco: So David Maher you're referencing this notion that the underlying stakeholder groups and constituencies that you and I and everyone on this call represents should be given need to review. You don't argue with that as a premise you don't like the scope issue of putting it in a report. Do I have that right?

David Maher: No. I argue that as a premise. I think the council should be allowed to deliberate in its own way.

Steve DelBianco: Okay interesting. So you would - that gets to the scope question that this report should be forwarded by council to the underlying stakeholder groups. We should be confident that each of the stakeholder groups will get a copy but you're suggesting it's not about transparency it's about who should decide



that the councilors and rules that represent the views of their constituencies and you don't want to tell them how to do that. But David...

((Crosstalk))

Steve DelBianco: ...I'm going to ask you while you have the queue what about the more fundamental question about including this if it were not council here's how we think it could work. That's really the part B and most of what's in C in Steve Metalitz's draft. And I sort of need your view as to whether that could be part of our report or should it be a minority report?

David Maher: I think it's - I strongly feel that it should be a minority report.

Steve DelBianco: Okay. Let's move on in the queue, Steve Metalitz and then Amr.

Steve Metalitz: Yes. I just I thought if I understood David correctly it was basically responding to this what's in C rather than...

Steve DelBianco: Right.

Steve Metalitz: ...what's in B. But, you know, that's obviously his call. But that's sort of what I heard because that's where it gets into how the council should deal with this. Our recommendation about how the council should deal with this. I do think we're going to need some kind of section. And I think Steve DelBianco it will, you know, as you mentioned in some of our discussions about things that we still need more time to work on I assume we will need something at the end of this report that kind of runs through that. So maybe we should see what you have before deciding whether this is part of the majority. I just think that what David said was not responsive really to what's in B it was responsive to what's in C. Thank you.

Steve DelBianco: You're right Steve. And in the earlier pages when I described how we moved from the who to the how I did my best to explain how this group discussed having GNSO constituencies and stakeholder groups instead of council and that we came up with the six, three threshold decision to move on with council. And some of what you've written here on Page 8 is further color to that right? And some of it might be saying that if we went with the non-council decision how would they make the decision? But I mean you've got a little bit of both in what you've got in B and C. Amr can't hear you, Amr.

Amr Elsadr: Yes. Sorry about that Steve. This is Amr. It took me a minute to get off mute. Well personally I tend to believe that all viewpoints should be shared within the - any report coming out of any GNSO working group. So if there are conflicting opinions on any issues then they should be clearly stated in the reports. Sometimes those take the shape of this and sometimes those are included in a minority report that is attached to a working group support.

I've been on a few PDPs where more where multiple opinions on each topic were presented as part of the report. And Steve Metalitz will recall for example the Thick Whois when there were several subgroups working on issues arguments for and against Thick Whois in those different scenarios were included in the report as opposed to having a minority report.

But - so I'm generally in principle agreeable to the idea of having this. I think some of the problems that at least I have with some of the language is that it's it seems to be a bit hostile towards the idea of council doing some of the business. And then maybe we should comb through the language itself in more detail to sort of try to figure that out. And - but like I said I think - I don't think it's harmful to have multiple viewpoints in the report. The report is

only meant to reflect what the drafting team members have discussed. And we haven't agreed on everything. And it's okay for the report to indicate this.

As far as the recommendation on the last page that has been - has sort of come up with as a result of the other text he put in. To me this recommendation I think could be reworded if not it may have to ultimately be in a minority statement. But to me also this will depend on how we can tie this to another recommendation that I suggested. And that's still not in the report anywhere. And I was wondering - and Steve DelBianco you haven't really mentioned it right now either so I'm not sure if there's an intent to include this or not. If not then I would personally file a minority statement of my own. But unless this drafting team is allowed to continue its work that I believe another group does have to pick the work up. And like I said there have been a lot of points raised on this drafting team think that we haven't had the time to consider thoroughly that we really should.

I say this because I spent years on the Standing Committee of Improvements that has made changes to the operating procedures. And I've been on this committee for years up until it was disbanded last month or earlier this month actually. So - and we've always had a standing practice of, you know, working through everything and combing through all of the details. And that's why SCI has always managed to achieve unanimity in its recommendations.

And the recommendation for the council to distribute this report to the different stakeholder groups and constituencies well I mean it makes sense to me. I mean normally any working group reports before going to council with a recommendation have to go through a period of comments. In this case it won't. I don't see the harm in the council distributing the reports to different stakeholder groups and constituencies. But again I believe this does need to be presented in a more neutral fashion and not one that seemingly to me at least

appears a bit hostile towards the option of council doing what we're recommending it does. Thank you.

Steve DelBianco: All right. We are out of time on this call. And I think that I would record the BC would believe that this could be included in the report as part of the rationale for a non-council decision. And I believe the who should decide can be perhaps the language can be neutralized a bit so it doesn't seem so hostile. But I didn't actually take it as hostile. I thought it was rather matter of fact indicating that council chartered us. Council has to approve for the majority of each house what we come up with. And Steve Metalitz I think noted that it's sort of inherent in that structure that council is not likely to approve a set of proposals that says the council doesn't get to decide.

So I think it's matter of fact. But I would like to see whether we could include it. So that would indicate that in your case it could be a minority report or it could be in but it depends on what the text is like. Steve Metalitz and the BC has said yes it could be in the report. I haven't heard from Wolf-Ulrich. I have written down the Darcy and Ed thought no it should be a minority report the same thing with David Maher. And I haven't heard from Matthew Shears. Oh Matthew Shears is saying that B and C would go to minority report. And then Wolf-Ulrich I haven't heard you yet. I don't know if we still have him. Go ahead Wolf-Ulrich.

Wolf-Ulrich Knoben: Thanks. Well I was just trying to write but it's easier right now. Well and I would support to have it in a report. So - because it's - so we have at least the one stakeholder group would say, you know, there's a commercial stakeholder group as a whole is as I understand it's for that. And we should be reflecting in the report as well. Thanks.

Steve DelBianco: Okay. All right we're out of time. And so there were three firm yeses to keep it in the report. Amr was it depends on the text. And there were four firm nos. So I may try to see if this text could become part of the report in terms of telling the story of how we got here. But clearly that's going to have to take that's going to have to achieve majority support of all of you or we're not going to have a report to issue. If that were not supported it would end up falling to a minority report. So I guess with your indulgence I'd like to try to pull some of B and C from Steve maybe to see if I can capture the spirit of what they're part of the debate because in some respects Steve is explaining why he preferred and others preferred a non-council solution. And if we can phrase that in a neutral way perhaps we can get majority support from this drafting team.

Okay I think we're out of time. Ed Morris your hand is up. Okay Amr you're asking what do we do to hand off to another group? And it's not our call. We're going to tell council and I have the opportunity to speak to council in a few hours and I'm just going to relay exactly where we got to. And that we would request an extra two weeks with an opportunity to deep dive into the kinds of decisions and kinds of nominations to come up with a decisional rule.

I don't think those two weeks would shift this group into a non-council voting decision. It's not my sense it would go there. What it would do is it would have specificity for the kinds of nominations and what thresholds appropriate and the kinds of decisions and what threshold is appropriate. And as a bonus we might well have majority support for language that reflects some of the concerns that Steve had put into B and C on Page 8. And Amr we are done - not done. And that's really a function of council. The resolution that created us said that they wanted our report tomorrow and we are not going to have as much done as we wanted. And we thank everybody. Amr go ahead.

Amr Elsadr: Thanks Steve, this is Amr again. I was asking because in the event that this drafting team cannot continue its work which it's perfectly within our right to recommend to the council or at least identify issues that we have not resolved and recommend that another group pick it up. And the council would have to consider this recommendation in its motion to adopt the recommendations coming out of the drafting team. Thanks.

Steve DelBianco: Thanks Amr. I'll look to your help and others of you that are on council to do that if in fact we have to put something into the queue for October 3 for a council motion. And it may just be that our report goes to council at the end of the October meeting as opposed to a motion for that meeting. So council meets later tonight, I'll be on that call. I invite you all to be on the call. And I was invited to explain where we are. And I'll do my best to do that. But all of you should chime in if you think I haven't got it right.

Mary Wong you said an estimate when you may complete all the tasks. Look the only two tasks we said we were going to work on was to apply to deep dive onto the decisions and nominations to see if the threshold needs to be adjusted. And those tasks we think are two weeks. I believe that's what we're going to say.

Okay. All right I'm out of time. And I appreciate everybody's indulgence. Staff if you could please turn around the chat notes right away I'll use them coming up with the next draft and the report. Thank you everyone. I hope it's not our last call but I have a feeling we'll have a couple of more. Thanks everyone.

Steve Metalitz: Thanks Steve.

Woman: Thanks everyone. Bye.

Terri Agnew: Thank you. Once again the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines. And so the operator if you could please stop all the recordings.

END