

Transcript GNSO Council Teleconference 29 September 2016 at 21:00 UTC

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<http://audio.icann.org/gnso/gnso-council-29sep16-en.mp3>

Adobe Chat Transcript - technical issue

on page: <http://gnso.icann.org/en/group-activities/calendar#sep>

List of attendees:

NCA – Non Voting – Carlos Raúl Gutierrez

Contracted Parties House

Registrar Stakeholder Group: James Bladel, Volker Greimann, Darcy Southwell–absent, proxy Volker Greimann

gTLD Registries Stakeholder Group:

Donna Austin – absent, proxy Keith Drazek, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA):

Hsu Phen Valerie Tan

Non-Contracted Parties House

Commercial Stakeholder Group (CSG);

Philip Corwin, Susan Kawaguchi, Wolf-Ulrich Knoben, Tony Harris, Paul McGrady, Heather Forrest

Non-Commercial Stakeholder Group (NCSG): Amr Elsadr, Stephanie Perrin, David Cake, Stefania Milan,

Edward Morris, Marilia Maciel – absent proxy Stefania Milan

Nominating Committee Appointee (NCA):

Julf (Johan) Helsingius

NCA – Non Voting –

Carlos Raúl Gutierrez

GNSO Council Liaisons/Observers:

Olivier Crèpin LeBlond– ALAC Liaison

Patrick Myles - ccNSO Observer - absent

Mason Cole – GNSO liaison to the GAC

ICANN Staff

David Olive -Senior Vice President, Policy Development Support and General Manager, ICANN Regional Headquarters- Istanbul

Marika Konings - Senior Policy Director

Mary Wong – Senior Policy Director

Julie Hedlund – Policy Director

Berry Cobb – Policy consultant

David Tait– Policy Specialist

Emily Barabas – Policy Analyst

Glen de Saint Géry - GNSO Secretariat

Nathalie Peregrine - Specialist, SO/AC Support (GNSO)

Mike Brennan - Meetings Technical Services Specialist

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Adobe Chat Transcript –technical issue

Glen DeSaintgery: Good morning, good afternoon, good evening everyone. This is the GNSO Council Call on 29th of September. And on the call we have - and as I say your name, would you please acknowledge it because we have got a vote and it's good to know that you are able to speak for when the vote comes up.

Keith Drasek. I see you on the line. Please can you talk? We'll pass over. Donna Austin is absent. And Keith Drasek has her proxy. Rubens Kuhl. Rubens.

Carlos Gutierrez: He's on chat Glen. Keith and Rubens are...

Glen DeSaintgery: Yes. Thanks very much. I see that. Thank you Carlos. James Bladel.

James Bladel: Here.

Glen DeSaintgery: Volker Greimann. Don't see Volker yet on the call. Darcy Southwell, our new Registrar and Stakeholder Group Councilor is absent and she has given her proxy to Volker Greimann. I suppose Volker will be on the call shortly.

Valerie Tan.

Valerie Tan: Good morning Glen. I'm here.

Glen DeSaintgery: Thank you. Phil Corwin.

Phil Corwin: Here.

Glen DeSaintgery: Susan Kawaguchi.

Susan Kawaguchi: Here.

Glen DeSaintgery: Paul McGrady. Not on the call yet. Heather Forrest. Not on the call yet.

Heather Forrest: Here Glen. Thank you.

Glen DeSaintgery: Tony Harris.

Tony Harris: I'm here.

Glen DeSaintgery: Tony Harris.

Tony Harris: Here.

Glen DeSaintgery: Wolf-Ulrich Knoben. Wolf-Ulrich Knoben.

Wolf-Ulrich Knoben: Here.

Glen DeSaintgery: Marilia Maciel is absent and she has given her proxy to Stephanie Perrin. Amr
Elsadr.

Amr Elsadr: Present.

Glen DeSaintgery: David Cake. David, can you hear us? Can we hear you?

David Cake: Present.

Glen DeSaintgery: Thank you. Ed Morris.

Ed Morris: Good evening Glen. Here.

Glen DeSaintgery: Thank you. Stefania Milan is - yes, is on the call. Stefania.

Stefania Milan: Yes, I'm here. Thank you Glen.

Glen DeSaintgery: Stephanie Perrin. Stephanie, can you hear us.

Stefania Milan: Glen, I believe Stephanie is - has some with her audio. This is Stefania Milan. And
she's starting to reconnect with Adobe.

Glen DeSaintgery: (Can you hear her).

Stefania Milan: But she's on the case.

Glen DeSaintgery: Thank you very much Stefania. Julf Helsingius. Julf, I think you're on the call. Paul, I see you on the bridge. Thank you. Carlos Gutierrez. Carlos. (is on the) call.

Carlos Gutierrez: Here Glen. Thank you.

Glen DeSaintgery: Thank you. Olivier Crepin LeBlond.

Olivier Crepin LeBlond: I'm present, thank you.

Glen DeSaintgery: Patrick Myles is absent. Mason Cole. Mason, are you on the call?

Mason Cole: Here Glen.

Glen DeSaintgery: Thank you. And we have on the call with us Jonathan Robinson who will be providing an update for Item 7 on the agenda. Welcome Jonathan. Welcome back to the Council. And for staff we have David Olive, Rob Hoggarth, Julie Hedlund, Marika Konings, David Cake, Steve Chan. Our technical staff (Natalie) and (Mike) as well as Emily Barabas. I think that's all.

And may I please ask you to say your name before you speak. And then it's over to you but I think Berry Cobb is also on the call. Yes Berry, I (unintelligible) to leave you off. Thank you James and over to you.

James Bladel: Thank you Glen and welcome everyone to the GNSO Council Call for 29th of September 2016. As Glen mentioned, please state your name for the transcript when speaking. Also, I heard a couple of echoes during the roll call so please mute your line when you're not speaking. That would also be very helpful.

So if we could please as per our usual order of operations, could anyone who has any updates to their statements of interest or any other declarations of status of the Council, please raise their hand or get my attention at this time.

Okay. Seeing no updates to statements of interest, we'll move on to Item 1.3, which is a review of the draft agenda. And this is posted in the Adobe Connect screen. It was also circulated to the Council list earlier today.

We've made a number of changes to the agenda so hopefully everyone has the most recent version. Does anyone have any comments or proposed amendments to today's agenda? Okay. Seeing none, we will dive in.

And note the status of the minutes for the previous Council meeting per the operating procedure. And I believe those were posted or will soon be. Is that correct Glen?

Glen DeSaintgery: That's right. They will soon be James.

James Bladel: Okay. So keep an eye out for that announcement from Glen once those are posted. So we have a fairly ambitious agenda for today's call. We also have a number of important items under AOB.

And for those of you who are newcomers to the Council, I would first say welcome and secondly that we have a little bit of a bad habit of throwing AOB overboard when we run short of time. So we'll have to be very thoughtful about our schedule today to ensure that those last two items are covered and that we allow sufficient time to do so.

So let's dive in then to Item Number 2, which is an overview of the project list and action list. And if I could ask ICANN staff to bring that up on the screen. Okay. That's coming up now. And let's take a look - I wanted specifically to draw attention to a couple of items that may be transitioning from one bucket to the next over the, you know, either recently or in the coming days or weeks.

The first one is I believe that we had a note from Chris Disspain that there is a - sorry. I may be looking at the long list here. I think there's - now it's disappeared. Ah, here we go; the action list. Thanks.

So we have here the outstanding IGO/INGO recommendations. We have a note from Chris from late August that there would be a Board meeting coming - I'm sorry, a Board letter coming on this at some point. I don't believe we've received anything like that currently but we are still on watch for some development here. No that's fine Marika. If you had any updates on that. Okay. (You want to speak)? The next...

Marika Konings: Sorry James. This is Marika.

James Bladel: Yes.

Marika Konings: Which one did you want updates on?

James Bladel: If you had - were aware of any updates from the - or anything from the Board relative to Chris' note that was sent to the Council list for IGO/INGO protection.

Marika Konings: This is Marika. No. I think for the moment we still have the note. We're still waiting the formal response. It is noted here in an action item, as I believe some people indicated that they had some questions or feedback in relation to the note that Chris sent.

So of course if there's still any comments or questions, we're happy to take them back. But noting that a formal response is forthcoming. And as (Mary) notes that in the chat we believe that the Board is actually working on one as we speak.

James Bladel: Okay. Excellent. But we'll be on notice for that. There is - there was also I believe something relative to - on the list to the two character name release. I had something on my to do list for that. And I believe that was a little further down. Phil had waiting on that as well. I don't know if there's been any updates on this. Marika, do you know of any updates on this or Phil, if you would like to make any comments on this action item.

Marika Konings: This is Marika. Just to know that indeed we noted it as an action item and it was requested as an AOB under the last - during the last Council meeting but we didn't have time to cover that item.

So I think there was agreement that it would be - could be flagged on the mailing list for further discussion. But to my knowledge, I don't think that has happened. So I'm not sure if it's still an item that Phil wants to discuss or whether it's something we can take off the action item list.

Phil Corwin: Yes. Sorry James. Which one is that that you're asking about?

James Bladel: Thanks Phil. This was the action item that's at the bottom of the list. It was proposed measures for release of two letter labels.

Phil Corwin: Yes. I raised a question because there was an article about it but I have nothing further at this time. You know, I'd be happy to participate when the Council gets back to that item.

James Bladel: Okay. Well we'll make a note and flag this for AOB Phil if that's okay. The other item on here was the PDP improvements, which I would note that Wolf-Ulrich has also flagged as something that he would like to discuss in AOB as well but as well as 11.2 GNSO improvements - implementation of the GNSO review.

Okay. Then moving - then we also have I think an open action item for liaison to implementation review teams. We had a note I believe - yes. It's noted her from Amr that we have a number of vacancies either current or upcoming when incoming Councilors will need to be made aware of open slots for liaisons to existing implementation review teams that we'll need to build those spaces. Marika, is that a new hand?

Marika Konings: Yes. This is Marika. On that specific item, we noted as well here the action items that Amr had volunteered to take this role for the translation and transliteration IRT.

And just wondering as that group has started its deliberations, you know, whether the Council will be willing to consider him stepping already forward for that appointment as otherwise there's a bit of a lag if we're waiting for that specific group until Hyderabad. I think for some of the other efforts it's probably less urgent as some groups I think are in the process of forming an appointment for Hyderabad might be fine.

But maybe for that one it would be worth as there is a volunteer that has come forward and, you know, that group is up and running and whether that appointment could already be confirmed. Of course if Amr is still willing to serve in that capacity.

James Bladel: Yes. Thanks Marika. And it would probably be helpful if we had a consolidated slate of all of the open liaison positions including the ones that are currently under way as this one is, the one that Amr very gratefully volunteered for as well as the ones that we expect to be opening up and need to be filled by Hyderabad.

And we can essentially start filling in some of those blanks with the names of Councilors or other volunteers. Amr, you wanted to weight in on this. Go ahead.

Amr Elsadr: Yes. Thanks James. This is Amr. Full disclosure. I'm - although I was the Council liaison to the translation and transliteration PDP, the past few months I've been pretty derelict in making - and then some responses concerning (IRB) issues. And I thought you should all know that before deciding to go ahead and appointing me as a liaison to this implementation review team. Thanks.

This includes questions from the Board as well as work on the Next-Gen RDS PDP. So I just wanted you all to be aware of that. Thank you.

James Bladel: Thanks Amr. So just to be clear, you are still able to serve or you're withdrawing your volunteer.

Amr Elsadr: I'm not withdrawing. I'm - but I'm - if anybody else would like the job, I'm not sure if there are any other Councilors on the IRT or not. But if anybody else would like to do it, I'd be fine with that. If not, I'll do my best to liaise with the IRT. Thanks.

James Bladel: Okay. Thanks for that. And we'll see if we can't get you some - get you some assistance on that at a minimum. Okay. And just revisiting some of our discussions from last time and being reminded of staff that we also wanted to open this slate of liaisons up to our incoming Councilors who are joining us in Hyderabad and make sure that some of those folks were aware of the open liaison slots and could possibly volunteer to fill them as well.

So those items were flagged as open on our action list. And we can then move to our project list if we can bring that back up. And I apologize for switching up the order on you.

And now - (been) a little bit so it's readable. Okay. As you can see, we have a number of working groups under way. We have - not being currently in the status of Council deliberations, we have two items I believe that are open for Board action and then a raft of items in implementation phase, which were those things that we were discussing a moment ago with some of the meetings - the meetings (from) liaisons. I see a hand from Wolf-Ulrich. Go ahead Wolf-Ulrich.

Wolf-Ulrich Knoben: Yes. Thanks James. Wolf-Ulrich speaking. Well I think it's a good opportunity you are in this context that I just say a few words what I would like to say on the AOB.

It's just something about the GNSO Review Working Group. You know, this group of the - this group is now tasked with the implementation of the review recommendations. And there was a call for participation in that group. And because there's a timeline until the end of this year, that should be reported - first plan available, which would be delivered to the Board.

So that staff tried (unintelligible) to get this group together. And there was until now the second try and it was low participation we have to say in that. So not all constituencies have sent participants and not all participants or members have been participating in that.

So it is a little bit tricky about the start of work if the participation goes that way in future. So what I would like to do - I would like to raise this and bring it to your attention to all the Councilors and their respective group but to get back to their respective group and request for participation in this implementation group and that would be very helpful. That's all to say. Thank you.

James Bladel: Thank you Wolf-Ulrich. Appreciate you bringing that to our attention. And as you note, we are under a - under the gun to have an implementation plan delivered back to the Board I believe by - before the end of the year.

And so attendance and participation is critical in order for us to be able to make that deadline. So I think we take your recommendation. I don't think there's anything controversial. And I would ask staff and myself and Heather and Donna will follow up after this call to reboot the call for volunteers to the GNSO Review and Implementation Working Group.

And we will reach out once again to the Chairs of the stakeholder groups and constituencies and get - see if we can get some additional volunteers to join and participate in this effort.

Wolf-Ulrich Knoben: Thanks.

James Bladel: Is that - and thanks again for bringing that up. And does that then cover AOB 11.2?

Wolf-Ulrich Knoben: Yes. Perfect. Thanks.

James Bladel: Okay. Great. Thank you. Okay. And we will take that action item. Then does anyone else have any thoughts, comments, concerns or questions relative to our current project list? It is (what I call) project list fairly - it's a fairly full (boat).

Okay. Seeing none. We of course will continue to maintain and active and updated project list and action list on the Council Web site and feel free to weigh in on any of those in between calls as you see necessary.

Can then move on then to Item Number 3 on our agenda, which is our (consent) agenda, which is empty. So that's an easy box to check. And then going to Item Number 4, which is our first vote/motion of the day.

This is a motion that I originally made and generated some discussion on the list. It was then a small group of Councilor who then raised some concerns or questions. Took the language offline and came back with a second motion - a second draft, which met the concerns of all those who were participating in that effort.

And I take all of those changes as friendly. So if there are no other objections at this time, I will go ahead and introduce a motion and read the resolve clauses. This is once again a reminder this is the GNSO validation of the accountability - CCWG Accountability Work Stream 2 budget request and proposed cost control mechanisms.

So going into the resolves. Resolve 1. The GNSO Council hereby accepts the proposed CCWG Accountability fiscal year 2017 budget as well as the cost control processes presented in conjunction with the CCWG budget.

Expects the working groups to be restrained and judicious in their use of outside legal assistance and believes that the legal committee should exercise reasonable and effective controls evaluating requests for outside legal assistance and should approve them only when deemed essential to assist a working group to fully and

objectively understand and develop a particular course of action for which the group has reached a substantial degree of consensus and requires legal advice on its risks and feasibilities.

Two. That the GNSO Council expects to receive regular updates on actual expenditures as tracked against this adopted budget and reserves the right to provide further input on the budget allocation in relation to the CCWG Accountability related activities.

Three. The GNSO Council expects ICANN staff including its Office of General Council to provide the assistance requested by the CCWG and its working groups in an expeditious, comprehensive and unbiased manner.

Four. The GNSO Council expects the CCWG Accountability and staff to work within the constraints of this approved budget and that excess costs or requests for additional funding beyond said budget should be recommended by the legal committee only when deemed essential to the completion of the CCWG's work and objectives.

Five. It is the position of the GNSO Council that revisiting the jurisdiction or organization of the ICANN legal entity is established by CCWG Accountability Work Stream 1 would not likely be supported by this projected budget.

And further that such inquiry should not be undertaken at this time because the new accountability measures are off premise and dependent on California jurisdiction for their effective operation. And any near term changes in organizational jurisdiction would be extremely destabilizing for ICANN and its communities.

And six. The GNSO Council requests the GNSO Secretariat to communicate this resolution to the CCWG Accountability Chairs and to the Office of the ICANN CFO.

That is the motion that was amended and taken as a friendly amendment and circulated to the list. And so we can now begin a discussion. I note that a number of folks on this call were instrumental in helping to polish and fine-tune the language of the motion to what you see in front of you today.

So would first off want to say thank you to those folks, Phil, Keith, Ed, all others I'm probably forgetting. So apologies if I've left anyone out. And if any of those Councilors or anyone else would like weigh in or have any other questions on this motion, we'll open the queue. Keith, you're first.

Keith Drasek: Thanks very much James. I hope everybody can hear me. Keith Drasek for the transcript. Yes. I just wanted to thank Phil for taking the pen and making the suggested amendments that I think have, you know, produced a very acceptable result.

And I would just - I do feel the need for the Registry Stakeholder Group to go on record again as saying that the Registry Stakeholder Group is very concerned about the potential for budget creep or expense creep as it relates to the Work Stream 2 accountability mechanisms and reforms and discussions.

But I think that Phil has crafted some amended language that does provide certain certainty but also allows for the potential for I guess the expectation that the work is important even if it is Work Stream 2 and not Work Stream 1.

And that we should not be hamstrung by a really concrete or locked in or handcuffed budget process but that there needs to be extremely judicious use of those funds and that the, you know, any additional funds would have to, you know, meet a pretty high threshold of needing to get the work done. So I just want to thank Philip for his efforts and support this motion. Thank you.

James Bladel: Thank you Keith. Phil.

Phil Corwin: Thank you James. Phil for the record. I'd like to thank Keith and Ed and - for their appreciation and all the Council for supporting the revised language. I think it's met everyone's concerns in a way that's clearly acceptable to all.

Personally and speaking for the BC, there's not only no appetite to revisit the organizational jurisdiction but a strong belief that it should not be looked at right now.

And of course that looking at it in any kind of comprehensive way could be extremely expensive both in getting legal advice on the pluses and minuses of other

jurisdictions much less redrafting bylaws provisions on which the virtual ink is barely dry.

But as a participant in the jurisdiction subgroup, I don't think they're going that direction. They're going to be spending the next three or four weeks looking at any - for any big gaps between what's required and inability to do it under California law. I'd be shocked if they found one given all the money we spent on attorneys to advise on the bylaws in Work Stream 1.

So I'll stop there but I'm happy to have been of service to the Council on this and to help craft a resolution that meets everyone's viewpoints and needs. Thank you.

James Bladel: Thanks Phil. Appreciate your work on this and also your ongoing work on that group to watchdog this project. Heather's up next. Go ahead.

Heather Forrest: Thanks James very much. This is Heather for the record. I'm - I'll follow suit and on behalf of the IPC thanks Phil and Paul and Ed and others for their work here. And also put on record for good housekeeping purposes the IPC's continued concerns around reopening the jurisdiction question and the costs and time and effort implications that that might have.

We appreciate the language modification here in relation to that point in the motion and feel we're in a better place than where this motion was to start with but those concerns remain. So we put them on the record here. Thank you.

James Bladel: Great. Thank you Heather. Appreciate those thoughts from yourself and from the IPC. Okay. The queue is clear. Does any other Councilor wish to weigh in on this motion? Otherwise we can move towards a vote.

Okay. Seeing none, Glen, if you don't mind - by the way, I should note for the record that we did during the course of our discussion pick up two seconds; Councilors Julf and Keith Drasek have seconded the motion, which was not the case when I introduced it and I apologize for neglecting that in the introduction.

So the motion is now ready for a vote. And Glen, if you don't mind, if you could please we'll vote. If there are no objections, we can vote by acclamation. Otherwise if

any Councilors object, we can certainly move to a roll call vote. But in the interest of time, I think acclimation will probably suit us here.

Glen DeSaintgery. Thank you James. Would anyone like to abstain from voting on this motion? Please state your name. Would anyone like to vote against this motion? Please say your name. Hearing no abstentions, no votes against, please all say yea.

Man: Yea.

((Crosstalk))

Woman: Yea.

Man: Yea.

Woman: Yea.

Man: Yea. (Whoopee).

Woman: Yea.

Woman: Yea.

Man: Yea.

Glen DeSaintgery: Thank you very much. And that goes for the three proxies that we have. Volker Greimann...

Volker Greimann: Yes.

Glen DeSaintgery: ...for Darcy Southwell. Keith Drasek for Donna Austin.

Keith Drasek: Yes.

Glen DeSaintgery: And Stephanie Perrin for Marilia Maciel.

Man: Yes.

Glen DeSaintgery: Thank you very much. James, the motion passes unanimously.

James Bladel: Thank you Glen. Appreciate that and I appreciate whoever voted with the (whoopee). That was a nice bit of levity to this project. If you could please make the note that this was adopted. And we will then - and notify according to resolve (picks).

We'll then move on to Item Number 5, which is another vote; a motion - I'll wait for this to be loaded. Apparently as Amr has correctly pointed out, it is inappropriate to - I'm sorry. We're looking for the other motion I believe. We're looking for the motion on the - oh yes. No. This is correct. Item 5. It says up there in Number 3, sorry.

First off, do we have a second for this motion? Is anyone interested as Amr has pointed out that it's not appropriate to discuss or introduce a motion until we have one. Looks like we do have one from Rubens. So we can make that note for the record.

This is a motion on the - well essentially I'll just read the title, rejection of the modification to procedures that implement the Whois complex with local law because it is not consistent with the intent of policy recommendations.

This motion was made originally by Stephanie. So I will turn the floor over to Stephanie if she's prepared to make a few introductory remarks and then we can discuss the motion and ask her to read the resolve clauses. Stephanie, over to you.

Stephanie Perrin: Thanks very much James. And I do apologize for the poor sound. I'm kind of operating on one foot in Adobe and the other on the phone here because it doesn't seem to be working well.

So it's Stephanie Perrin for the record. I proposed this motion rather at the last minute and I apologize for not discussing it earlier. But you may recall at the last meeting Volker had said that the registrars could not actually support the motion to accept this report.

And anyone who has read the document might be aware that I have tabled the dissent, which was put in as an appendix as a minority report. So did Chris Wilkinson on the actual IAG meeting.

And so I've gone into some detail about why I think the policy needs to be revised and is really quite silly and we have wasted quite a bit of time trying to come up with the procedures and (unintelligible) policy that really needs some revision in the light of the drastic changes to data protection laws that have emerged over the last few years and repeated interventions of the data commissions with ICANN to try to get some traction on respecting law.

So it seems to me that as a Council if we simply - we really had no choice on the Implementation Advisory Group. I accept that some members obviously were very positive about the report and want the new procedure.

But it certainly was a long and fractious and difficult process and one in which I kind of felt that perhaps the registrars had just given up. So for the GNSO Council to go ahead and pass something or just reject it without having a discussion of the policy considerations seemed to me a little silly. We need to discuss this at Council and figure out what to do next.

Now Amr being the expert on rules and procedure that he is has informed me that I - we really need to break this into two and reject the report and then ask if there's any support for a new PDP; ask for a development of a charter for that.

I quite understand that. My whole purpose was to start a discussion. And I'm happy if we don't have the time to discuss it now to defer that until we actually are face-to-face in Hyderabad. So with that, perhaps I'd be happy to answer any questions but throw the floor open. Thanks.

James Bladel: Hi Stephanie. If you don't mind before we go to Volker and any other folks in the queue, could we read the resolve clauses please?

Stephanie Perrin: Okay.

James Bladel: Or I'd be happy to (unintelligible).

Stephanie Perrin: So I just start at the beginning? Proposal for a policy development process, PDP, to revise the Whois conflicts with law policy in order to better avoid the situation where registrars and registries are required by contract to violate data protection and privacy laws in the jurisdictions of their customers.

Whereas in November 2005 the GNSO concluded the policy development process on Whois conflicts with privacy law, which recommended the creation of a procedure to address conflicts between a contracted party's Whois obligations and local/national privacy laws or regulations, the ICANN Board of Directors adopted the recommendations in May 2006 and the final procedure was made effective in January 2008.

As noted in the GNSO operating procedures periodic assessment of PDP recommendations and policies is an important tool to guard against unexpected results or inefficient processes arising from GNSO policies as called for in steps six of the ICANN procedure, for handling Who Is conflicts with privacy law, ICANN launched a review of the procedure in May 2014. Following a call for volunteers addressed to all interested parties an implementation advisory group was formed to review the implementation of the policy recommendations and begin its work -- began its work, rather -- in January 2015.

The IIG devoted most of its time discussing whether additional triggers to invoke the procedure should be incorporated and if so, how to ensure that they remain consistent with the existing policy. On May 26, 2016 the IAG submitted its final report and recommendation to the GNSO Council. The IAG recommends a modification to the existing Who Is conflict procedure. The modification would allow a party to trigger the procedure by obtaining a written statement from the government agency charged with enforcing its data protection - data privacy laws indicating that a particular Who Is obligation conflicts with national law and then submitting that statement to ICANN.

Resolved the GNSO Council has reviewed the IAG final report. Blah, blah, blah. The GNSO Council recognizes -- I'm sorry -- I'm skipping some blah, blah, blah. Do you want me to read the whole thing?

James Bladel: You can start after the link.

Stephanie Perrin: After the...

James Bladel: It concludes...

Stephanie Perrin: After the link - and proposes that the Who Is conflicts with law policy be reviewed and revised by a PDP procedure? Okay. Maybe I better read that bit. Resolved the GNSO Council has reviewed the IAG final report and concludes that the proposed modifications to the procedure does not conform to the intent of the original policy recommendations and because of this the GNSO Council rejects the report of the IAG. The GNSO confirms its objection to the modification being implemented by GDD staff as outlined in Appendix one.

Link - and proposes that the Who Is conflicts with law policy be reviewed and revised by a PDP as soon as possible. The GNSO Council recognizes that the RDS PDP is working through a phased work plan on revision of RDS policies, however it is unlikely that the Who Is conflicts with law policy will be revised as a result of that process in a timely manner, given the volume of work. In the meantime, registrars and registries are faced in the 116 countries with data protection laws in place with considerable risk in attempting to implement the policy and seek waivers from its requirements. This was repeatedly pointed out by members of the working group who were told that the amendments to the policy were out of scope.

Accordingly, it is the view of many members of the working group that a PDP must be struck to revise the policy. The GNSO Council -- can I skip that blah blah -- perhaps good. And perhaps a little elaboration about how this fails to implement the original intent of the policy. The actual fact is that most data protection law -- or perhaps I should say a large number of data protection law -- does not enable its data commissioner -- the public face -- to provide the letter that we are requesting. And I repeatedly propose that we consult the data commissioners on this issue and we didn't do it. This is why it is - as far as I'm concerned -- this policy really casts the GNSO in a very unfavorable light as a policy production organization.

James Bladel: Stephanie, if I can just interrupt you for a second -- and I apologize -- I don't mean to be rude, I just - I note that you were reading the result clauses and we went off script a little bit. So I'll just -- if you don't mind -- can I just finish the resolve clause and then

we've got a queue. Okay, thanks. So the GNSO Council thanked the IAG for its work and regrets that it cannot accept the recommendations included in the final report. The GNSO Council requests that this motion be shared and discussed with next generation RDS PDP and the policy development process envisioned in this motion is not intended to replace the work in the RDS group but rather compliment it.

So again, there was a lot to take in here. This is a continuation of our discussion from last month where we had essentially the mirror image of a motion to accept the report and the recommendations of the IAG which was made by me and also withdrawn. It sounds as though -- and I don't mean to speak for Stephanie -- but it sounds as though she is recognizing that there's further work discussions needing to take place amongst councilors and also amongst folks that are perhaps currently not in - not part of this conversation that will be present in Hyderabad.

So with that in mind, we have a queue of three speakers and anyone else I am going to sort of - kind of jealously guard the time here because of our important work coming up in AOB. So we'll start the queue with Volker and after that I have Paul and Susan. Volker, you're up first.

Volker Greimann: Thank you, James. And thank you Stephanie for bringing this motion which in my view fails to address the problem. I mean, if we are no considering to start a PDP we're looking at a process that will take another at least one and a half years to two years. And where in the meantime the IGS work goes on and the registrars and the registries will be in a position which is frankly untenable. From the registrar perspective what we need is not another PDP to review the process to get a process. We need to just to review the process that the IAG has come up with and re-constitute the IAG and clearly delineate what their job is, because they failed their job the first time, in my opinion.

That would not need another PDP. That could be by an IAG that would be able to do its job in a lot less time and it would be able to control results much quicker. And I think - while PDP might be on the horizon for later times, what we need now is another IAG that has the right task given to it by this council. So I would propose not adopting this motion but in Hyderabad, bringing them over to the table that would reconstitute the IAG. Thank you.

James Bladel: Thank you, Volker. Appreciate your thoughts on that. Next in the list is Paul. Paul, go ahead.

Paul McGrady: Thanks. Paul McGrady for the record. So I have a series of questions. And, I mean, I'm happy to get back in - you know, ask one and then go back into the queue or however you want to manage it, James. But, you know, I've sort of a basic question as sort of a freshman councilor is a motion to reject a thing? Wouldn't it be a motion to accept and if it wasn't accepted then it wasn't accepted? I'm a little - and I think I said something along these lines in the last call, which is I'm a little hesitant to -- because of the optics since we are a volunteer organization, right -- to take a report and reject it. It seems - I don't know, there's just something about that that doesn't seem to strike the right tone.

The other thing I've - I'm struggling with here is this notion that the report does not conform to the intent. And I just don't - I've not heard anybody explain in what ways that's the case. I understand that the people are unhappy with the outcome of it or that they may even believe that the outcomes are unworkable as we heard in the last call. But that doesn't necessarily mean that it conform - that we have all come to the conclusion that it doesn't conform to the intent. It may just be that, you know, that people are unhappy with the outcome itself, right? And we do have to keep in mind that there was at least some measure of consensus building that led to this report, so before we set aside that consensus building I'd at least like to understand a whole lot better what we mean by that.

There's also some language in here that says in the view of many members, the working group that a PDP must be struck to revise the policy. I don't know how we -- again, that's -- I don't know. Is that - I don't know how we have that in here, right? We're not the working group itself, right? And so I don't know how that's included in here. And why it would be part of a motion - part of the resolve clauses. Maybe whereas, but with support of some sort. Again, not sure.

There already been a lot of talk about the PDP and whether or not this is the - you know, I'm a little bit concerned about establishing a PDP or asking for one in a motion like this which is, you know, out of our regular process for PDPs. I think that needs to be done the right way if we're going to do that. And then my last question -- and apologies -- is - I know Volker suggested the IAG be reconstituted and told they got it

wrong. We need to talk about whether or not they did get it wrong, which is what some of my other questions or comments are about. But I didn't even know whether the IAG is reconstitutable (sic). So I guess that's a series of questions and comments. Thanks.

James Bladel: Thanks Paul. And I put myself in the queue mainly just as a bookmark, but to answer a couple of your questions, you know, I tend to agree that a - it is a difference in that this time we are being asked to cast a negative vote -- if that makes any sense -- versus casting a vote in favor of adoption versus casting a vote in favor of a motion that rejects. I think that's - you're correct to note that that is an optics issue. I think that - I think you raised some other points that are good as far as the - as far as whether or not procedurally this is how we want to kick off a PDP when the motion is essentially recommending that as an action, but it doesn't seem that this particular motion contains the necessary recipe to doing that.

So your points are taken and, you know, I would say please don't play the freshman council card when you ask such tough questions. Because I'm maybe not very new, but I'm still struggling with some of these topics as well. So thank you for those thoughts and Susan, you're up next.

Susan Kawaguchi: Thank you, Susan Kawaguchi for the record. And Paul really covered most of my comments, so I'll just reiterate it a little bit. But, you know, my biggest concern is modification of procedure does not conform to the intent of the original policy recommendations. And I'm not sure -- and I agree with Paul -- I don't think we have enough information to agree to that language. I also think, you know, the same concern Paul had, was that we are volunteer organization and it's - I would think unless we did a deep dive into all of the information that the IAG reviewed and considered and really understood what went on there that as a councilor I'd have a hard time rejecting their recommendation.

So - and I do understand to a certain extent how this may be difficult to accept for the registrars. But there's nothing about this recommendation that requires the registrars to do this. This is just an option. And so I'm not sure how harmful it would be to the registrars or registries if it applies. And, you know, maybe this is an option that they would have that would never be used, but I'm not sure that we can clearly point to

anything that - specific to, you know, that this does not conform to the intent of the original policy recommendations. So those are my concerns.

James Bladel: Thank you Susan. I note that I had myself in the queue, but I will put myself at the end of this one here. We're going to go with Volker, Rubens, Stephanie, and then we're going to close the queue, close discussion. I have some thoughts on potential paths forward. So next up is Volker. Go ahead.

Volker Greimann: Thank you, James. When looking at why I think -- and many registrars and many parties within ICANN -- think that this IAG has failed, it is I think important to consider what the original policy actually says. When the policy was finished it was tasked - ICANN was tasked to develop a public document - a process for this situations in which a registrar or registry can credibly demonstrate that it's legally prevented by local and private - national privacy laws from fully complying with the - with ICANN policies.

The policy's goal - the goals for the procedure were that ICANN staff is informed at the earliest appropriate juncture of any possible conflict. Not actual conflict, possible conflict. That the conflict be resolved in the manner conducive to ICANN's mission, that a mechanism for the recognition be developed, and that staff - ICANN staff would have sufficient flexibility to respond to any actual situation that they arise.

Now, this process that has been developed and put into effect in January 2008 was never used because actually the trigger mechanisms were not sufficient. They didn't work for any registrars or registries. So the review process that was launched in May 2014 a couple of questions were asked and following the review the IAG was formed to consider the need for changes to how the process was - or the procedure was invoked and used. I would say that the procedure itself is not flawed. The triggers and the mechanisms for invoking the procedure, they were flawed.

And in looking at the how the procedure is invoking used, the only thing that the IAG actually was able to propose was a mechanism that was even more restrictive than the previous method. Given that the previous method is still in place but didn't work, a more restrictive method would probably not lead to a better result for the affected contracted parties - would be faced with this situation where a problem arises. So actually the IAG's task with the view of the policy that was made before and the

recommendations that were made before, had a task of finding possible trigger mechanisms. They weren't tasked with finding a mechanism how the (unintelligible) be processed to - afterwards. Only with finding trigger mechanisms that would be used and then would lead to ICANN staff starting the procedure to look at possible - a possible problem.

Having not done that in a - such a useful manner, I would say that the implementation advisory group has failed to - failed its mission to find appropriate trigger mechanisms and should therefore - the thing which - the trigger mechanisms should therefore be revisited by - reconstitute the IAG. And that is what we should consider for Hyderabad.

James Bladel: Thank you, Volker. And next up I have Rubens, Stephanie, and then we're going to close the discussion on this. I would just note that we have only a couple of minutes, so I would ask both of our next two speakers to be brief and to focus on items, topics, and concepts that haven't already been introduced by previous speakers. Thank you. Rubens?

Rubens Kuhl: Thank you James. I just quoted (unintelligible) in the chat that this outcome is unworkable in a real-world environment. The risk perceived by our membership that ICANN might reject other options for resolving conflict because they already have one option and says, "Oh, this doesn't fit this option. This is the only option. So this is how we are going to do." So the risk - the perceived risk is being worse than the current situation. So that's why we oppose the report. Thank you.

James Bladel: Thank you, Rubens. And Stephanie, you have the last word on this. And then we'll close the queue. So if you could make some brief comments.

Stephanie Perrin: Stephanie Perrin for the record. I just wanted to remind people that although there is no statement concerning very important stakeholder here -- namely the end user, the beneficial registrant -- in this policy -- in the original policy -- the procedures that we are invoking -- particularly the public consultation of the lawyer's letter -- is bound to impact and affect stakeholders and I would think that a proper policy has to address stakeholder rights under the law. This is not strictly between the data controller -- ICANN -- and the data processor, the registrar. There's an end user here who has rights. Thanks. Bye.

James Bladel: Thank you Stephanie. And thank you to everyone who weighed in on this topic. I will note that this is two meetings in a row where we've had very spirited conversation around this, so if I could just maybe try to sum up what we've heard and what's been proposed and then I have an idea for a way forward which I'm sure will be non-controversial, he said sarcastically.

So I understand - I think Paul made the point first regarding casting a negative vote and the optics associated with that. And I think that is something that we should probably avoid. And if that requires a restructuring of the motion, that's probably something that we should consider. As well as breaking out the motion -- if it is in fact calling for a new PDP -- to separate that structurally into another motion, which I think (Ahmer) has correctly pointed out procedurally -- who's becoming - (Ahmer)'s sort of our in-house parliamentarian -- that that would - could involve different voting thresholds than the vote to accept or reject the IAG report itself.

I note that (Heather) in the chat has pointed out that we repeatedly -- quote -- mingle the topics of the report, the triggers themselves versus the policy that they are attached to or proposed to be attached to. And that we seem to not be very consistent in separating those two concepts. I note that there was some discussion of whether we should form a new PDP or if it would be appropriate to piggyback this over to the existing work of the RDS. The motion of course itself says that it would complement that.

I heard a proposal to reconstitute the IAG. Which again, we would procedurally need to look at that and understand exactly what that was involved. I believe the IAG itself was constituted through an action by the board. So, you know, whether the GNSO itself could reconstitute the IAG or some successor group to take this on is I think an open question for staff. And then we had also finally discussed convening a group to discuss this in Hyderabad and hammer out some paths forward and potentially put a motion in front of the council in our meeting in India.

Let me just weigh in if I could personally. This is the second time that this has now come up. And prompted a fairly spirited discussion. But I still don't feel that we are there yet as a group, as a decision making body. I don't feel that we are in a position

where we can take a concrete action that has even, you know, even a marginal support from the necessary groups that would be required to move this thing forward.

Last time around I completely shoulder all the responsibility for pushing something forward that maybe wasn't ready. I - Stephanie, if you'll forgive me for weighing in, I don't think this motion is ready yet either. I think it could benefit from some additional structural work and - as well as community discussions, including some of the discussions that you mentioned from folks that would perhaps represent registrants or data protection authorities.

So with all of that in mind, I would like to ask Stephanie and now her second or Rubens if they would consider withdrawing this motion and that we would work with Stephanie, with Rubens, with registrar reps -- currently Volker and myself, but soon to be (Darcy) (unintelligible) -- and with the other folks who were involved in this IAG and other folks who have weighed in like Susan and Paul and (Heather) and begin to hammer out a path forward that would put a resolution one way or the other on the table in Hyderabad.

And, you know, just selfishly if I can kind of grandstand a little bit here is I really don't want to see this on any future agendas until it is ready with a clear path forward. Because this issue is so very complex and so very -- I don't want to say contentious - - but I think it just - it provokes very passionate discussions from folks who are very much invested in the outcome and the work that went into this. And respecting the integrity of the process that created the IAG report in the first place.

So I would ask if that is acceptable to the maker and seconder of this motion. The other option -- of course -- any councilor can ask for a deferral of the motion. But that deferral just -- and staff, correct me if I'm wrong -- but that deferral will only delay the motion for a single meeting, which essentially means that it would come back in its current form on our next meeting on the 13th of October. So I don't think that that's what we're looking for. I don't think that gives us enough time to do all of those things and make all of those modifications that we discussed. So that's my ask; that's my proposal. And I would welcome any thoughts from Stephanie or Rubens on if that's acceptable or amenable to them.

Stephanie Perrin: Pardon me for jumping in, James, but nothing seems to be working on Adobe, so that is -- Stephanie Perrin for the record -- that's totally acceptable to me. My goal was to get a discussion going on how to make this work. I'm - I must say that I'm not convinced that an IAG is going to come out with a different conclusion unless it is constituted quite differently from the way the last one was. So I'd be curious to discuss what Volker has in mind. Anyway, I'd be happy to withdraw and re-submit in time for Hyderabad, which doesn't give us a whole lot of time, if I'm not mistaken. The deadline is looming.

James Bladel: That is correct, Stephanie, we would be working under a deadline and I would to that end volunteer (Mary) or Marika or whichever one of staff is more closely associated with this to assist in that effort to make sure that we made that deadline. Then just as a note here procedurally, Rubens would also have to agree to a withdrawal. And I note that he says agreeing on Adobe, but I don't know if that means he was agreeing that Adobe's the problem or if he's agreeing to the withdrawal. Rubens, could you clarify?

Rubens Kuhl: I agree on the withdrawal. Thank you James.

James Bladel: Thank you Rubens, appreciate your clarity there. Okay, so in the interest of time I would -- once again -- thanks to Stephanie and to Rubens both for raising and kicking off the discussion and also for recognizing that we still need to do some additional work here. We're not going to be silent on this issue between now and Hyderabad. As you mentioned, there's quite a bit of work that needs to be done to, you know, get this a little bit further down the road. And so we'll do that in mind and we'll - please look on the list for some updates on that as well as staff support.

Okay, then moving to item number six -- just as a time check we have 54 minutes left in our call -- item number six is another motion that was - I believe it was made by me and is waiting for a second. This is approval of the appointment of an interim GNSO representative to the empowered community. And just as a note, this is separate from the work that is currently ongoing from the - with the drafting team that is examining the new bylaws and how the GNSO will participate in the empowered community on an ongoing basis. However, we have an immediate deadline associated with the transition that requires an interim appointment to be in place for

the transition while we continue to work on some of these long term questions of how the GNSO will participate in the empowered community.

I thank you (Ahmer) for seconding the motion and allowing me to discuss it. I've got to get a little bit better at that. We've also asked Steve DelBianco to join us at this time. And I don't know, Glen, if you can confirm in Adobe whether or not he's been - we've been able to get him on the line. Steve DelBianco is -- as many of you know -- has been very active in participating in the work associated with accountability in the transition and the empowered community. And has also chairing the effort of the drafting team that will examine how the GNSO will participate on this in the long term basis.

I thought it might be appropriate to get an update from him on that effort, which I believe, you know, we are looking for - or we are anticipating their report and recommendations here soon. But I do want to just once again highlight that that is separate and distinct from the idea that we do need an interim appointment in the meantime. So - and Steve is confirmed to be on Adobe and on the line and available for that.

So here's what I'd like to do. I'd like to read the resolve clauses and then as - by way of a discussion I'd like to ask Steve to provide an update on the status of the drafting team and particularly when we can expect that group to issue its report. And then we'll open up the motion and the drafting team for discussion. But noting that Steve was only available for questions for a certain period of time and that we also have other items on our agenda as well. So with that, I'll go forward here with the resolve clauses.

Resolved one; the GNSO council hereby confirms the GNSO chair -- currently James Bladel -- will represent the GNSO as the decisional -- excuse me -- participant on the empowered community administration on an interim basis. Two, the GNSO representative shall act solely as directed by the GNSO Council in accordance with the ICANN bylaws and other related GNSO operating procedures.

Three, within three months of the completion of the work of the GNSO rights and obligations under revised ICANN bylaws drafting team and adoption of its recommendations by the GNSO Council, the GNSO is expected to finalize a decision

appointment of the person designated to represent the GNSO as the decisional participant on the empowered community administration and will communicate this accordingly to the ICANN secretary. And for the GNSO Council requests that the GNSO secretariat to communicate this decision to the ICANN secretary, which will serve as the required written certification from the GNSO chair designating the individual who shall represent the decisional participant on the empowered community administration.

So - and I also - I neglected to point out - thank you Wolf-Ulrich for your contributions to this motion in terms of adding the time boundaries in resolve three. I appreciate that amendment. And with that, we can ask then Steve if you're on the line and if you don't mind if you can give us an update on the work of the rights and obligations under the revised ICANN bylaws drafting team and the staff of that group. We can then open the floor for discussion of both the topic and the motion. Steve, the floor is yours.

Steve DelBianco: Thank you, James. To serve as chair of this particular drafting team with the able assistance of (Ahmer) and (Morris) is part of the call right now. He's also helping on that. And I don't see anyone else from the group who's also on it, but we have nine participants on the drafting team. We had our first call August the 22nd. And then since then we've had five 90 minute calls and circulated three different drafts of our report. Our latest call was today. So I can quickly walk you through how we got to where we are and give you the bottom line conclusion is that your motion is not inconsistent with where our drafting team is headed.

Tomorrow is September 30th. It was the date by which you asked our drafting team to have a report for you. And while we have a nine page report, it needs to be approved by the team and it is not fully complete. And when I explain, you'll see why. Your resolution tasked the drafting team to work with staff on this and to develop new or modified structures and procedures to fully implement the new rights and responsibilities. That was an open invitation for us to take a hard look at things that perhaps haven't been looked at in a long time and weren't looked at in the last GNSO review.

Staff helped us immediately by creating a table of all the new rights and responsibilities for GNSO in the new bylaws and there were 101 relevant instances.

We grouped those into three categories; obligations of the GNSO as a decisional participant in the empowered community, engagement in the new customer standing committee, and then processes related to voting thresholds. Well, with 101 instances and only five weeks to do our work, our drafting team did a different approach.

We said we would look at three things, a nominations for GNSO reps on the empowered community customer standing committee and review teams, decisions made by the GNSO to initiate or respond to petitions that happen in the empowered community, and then finally decisions that the GNSO can make on its own, such as initiating a document inspection request per the bylaws 22.7. But that doesn't even require the empowered community.

Before we tackled those three questions we looked at two levels to address your resolution. The first was who should speak for the GNSO as the decisional participant? Namely, should it be council or can it be -- should it be -- the GNSO stakeholder groups and constituencies directly? The second was, well, how should that entity reach their decisions? What are the voting thresholds for those kinds of decisions? Our report lays it out in excruciating detail including the pros and cons. So let me explain the conclusion to the first question.

The first question was who should represent the GNSO. The drafting team has a majority in favor of having council speak for the GNSO and three of the six members did not feel that council should speak for GNSO on these matters but in fact the underlying constituencies and stakeholder groups could come up with their opinions. And a lot of the argument centered on the fact that these are not policy questions. These new powers are not related to policy. Council was geared for policy and there's not an assumption that council speaks for GNSO when GNSO has constituencies and stakeholder groups with their own accountability structures, their own officers.

But the answer to the question and we proceeded on the basis that council would speak for GNSO. So let me just quickly go to the second question. Given that council speaks for GNSO, we looked at what should be the voting thresholds. Why would we have to assume that it needed to be the default voting threshold in council's bylaws today, which is a majority of each house. We even challenged the notion of whether you had to vote by house, considering this is unrelated to the policy matters that

council was officially charged with and there was no reason to assume that you had to have majorities or something greater than majority in each house.

So we entertained alternatives, we wanted to excel, we looked at alternatives where councilors themselves would vote. Councilors not necessarily worry about each house and accounting for the fact that you would have to contract party (side double weighing) so that there were 12 councilors in each. We also discussed whether the nominating committee reps would be part of a councilor votes threshold considering they were not nominated by or accountable to the GNSO constituencies. But all of that (came) to not since the drafting team itself did not have significant support for a method of voting where councilors themselves voted instead of houses voting. Therefore we moved to the key questions which is how to determine the thresholds assuming we split by house. The drafting team and this is the preliminary conclusions that were reached today, we had one easy one which is that when GNSO could make a decision on its own like requesting a document inspection, that we unanimously believe that any stakeholder group or constituency in the GNSO could make a document request of (ITN) and this is under the new bylaws (22-7 A and E). We also suggested that council itself could come up with this by a simple majority vote that the council itself could make a - in fact we said it was the same threshold as required to initiate a (report) so a quarter of each house or a majority of one house would be enough for council to say to ICANN, we'd like to initiate a document request.

The second category, and I only have two more to go here, the second category was nominations. And nominations are like the one that you're discussing right now James. The nominations for GNSO reps on the (empowered) community for instance, we do not have a majority decision on that. Four of the drafting team members believe that it's enough to say a majority of each house could approve nominations and four believe that a higher threshold should be acquired to approve a nomination for the empowered community roles such as the one that you're filling with this interim resolution.

We believe that just given an additional two weeks, the drafting teams believe we could recommend specific thresholds such that (empowered) community could be higher than a simple majority of each house. We're also aware that your resolution asks us to requests, asks us to prepare a more general proposal process for

nominations but we're not sure we can get that done in two weeks. And then finally for nominations, for decisions that are made by GNSO to respond to the empowered community, a majority of the drafting team believes that a majority of each house is the appropriate way to make those decisions.

There's also an opportunity that when you look at those 100 instances in the bylaws where we may be called upon to weigh in on an (easy) decision, we could, if given an additional two weeks probably suggest specific and higher thresholds of each house for certain decisions to be made in the (empowered) community, decisions such as the exercise of a community power to block the bylaws or spill the board.

We have a minority report brewing on this notion of having council speak for the GNSO but I think I'm pretty confident that we will have a set of recommendations that will be actionable if we had an additional two weeks. Glad to take questions.

James Bladel: Thank you Steve DelBianco, appreciate that comprehensive update and if I'm not mistaken, it sounds like you are specifically asking the council for an additional couple of weeks which would essentially move things to - for consideration of your final report and our discussion and consideration at our meeting in October, I believe it's the 13th of October. If that's correct, we can certainly include that as part of our discussion.

So I'd like to then open the floor for discussion of the status of the drafting team and questions specifically for Steve DelBianco while we have him and can make use of this time and then also any questions relative to the motion which I just, again, want to highlight is a stop gap until the work that Steve DelBianco has described is completed, adopted, and implemented. So, with that I'll begin the queue and first up is Paul. Paul, go ahead.

Paul McGrady: Thanks James, Paul McGrady for the record. So, again, I just have questions and I think two relate to the drafting team and one relates to the - what I'm calling the proposed temp assignment for James because he doesn't have enough on his plate. And so that's a pretty straightforward question which is what's the rush on that? Is there something that the entire community is thinking about doing that I'm not hearing about that we need to make this decision now on putting somebody in there temporarily, just trying to figure that out because it does feel a little bit like by going

along to put somebody in there even on an interim basis, that you know, we're sort of short circuiting the work of the drafting team because you know, while the drafting team seems to be leaning one way it's not done yet and so I'm concerned that absence crisis, that we need to have the entire community up and running for that. I prefer to see how the drafting team turns out.

In terms of the drafting team itself, I guess Steve Del Bianco's update just raises a couple of questions. The first one is do the bylaws give the council this power? I mean, historically the council has just done policy development and that is very, very different than (spilling) the board, right?

And so do we need changes in bylaws in order for this to - what they're proposing, what the drafting team majority of today is proposing or are we all set there, right? And if we don't need any - if we do need changes, how long would that take? And then secondly I - just to raise a concern about the voting thresholds, you know those voting thresholds were developed for policy development process sort of management and, by the way, not everybody is happy with those, some believe that their voices are not as strong or they're diluted based upon how all of that went down. So, I guess my question is, is it really - are we really being thoughtful by just grandfathering in those same old voting thresholds which lots of people don't like. If we are expanding the powers of council or don't we really need to step back and decide whether or not the way we've always done it or recently always done it is, in fact, a fair way to do it.

You know, policy development traffic (copping) is very, very different than taking the vote to (spill) the board, right? And so I mean they're not - the powers of the (empower) community are just so really different than the policy development management that the council has historically done and I just would like to really, I guess, state some concern now that we need to make sure that we get that right. Thanks.

James Bladel: Thank you Paul for those questions. Just for the first one, of whether we have - where's the ticking clock coming from on this interim appointment and I can assure you I didn't actively seek this out. I'll defer to staff. I think that - as far as I'm aware there's nothing currently on deck for the (empowered) community to take up. However, my understanding is presuming the transition goes through and the

(empowered) community comes into existence that that would essentially mean that the chair, the seat that currently has the GNSO's name on it would be empty and whether the work of the drafting team took a couple more weeks or a couple more months to iron out and approve and adopt and implement, could leave us vulnerable to something coming up in that interim and that we would not - and the GNSO would not be represented at the table. At least that's my understanding of what the motion is trying to address and I certainly welcome any corrections or elaborations on that from staff.

Your other two questions regarding the changes that would be required potentially, potential changes that would be required to the bylaws and the voting thresholds and how they would be different versus a policy development role versus access or enacting of the different accountability mechanisms, I would probably defer those over to Steve DelBianco.

So, Steve DelBianco, why don't you go ahead and go first. It looks like you have indicated in the chat but go ahead.

Steve DelBianco: Thank you James. One of the questions we looked at was whether the new bylaws, specifically refer to the word GNSO council or more generally GNSO in instances where the new powers or the new bylaws were delineated. And it's a mixed bag. There were 11 instances of the word GNSO council, six uses of the term GNSO super (majority) and those were among the 39 instances where GNSO appears in the new section of the bylaws. So it is not un-ambiguous that the new bylaws always say council. They sometimes do and they sometimes say GNSO and it was that ambiguity plus the fact that your motion, the motion you gave to this drafting team was "develop new or modified structures and procedures," to fully implement the new considerations. And that is why there was a significant minority of the drafting team that wants to explore having constituencies and stakeholder groups speak directly. As I've told you before, we moved past that, we didn't have majority support for that but that is partly why in the five meetings that we held we didn't complete the entirety of the task.

James Bladel: Thank you Steve DelBianco, thanks for that background. Just mindful of the time here. Next up in the queue is Heather. Heather go ahead.

Heather Dryden: Thanks James very much. I'd like to follow-up on some of the comments made by Paul and Paul is much more diplomatic than I am, let's say. I'd like to go on record expressing the IPC's, let's say, concerns and resentment for the time pressure in relation to this decision and it's clear, in fact, that that's impacting on the work that our team on which Steve DelBianco just reported. It's impacting on their work as well. It seems that quite a few of the decisions, very important ones, perhaps even most important decisions that we've had to make lately have all been rushed through with comments on the record saying we resent the fact that we have to do this more quickly. It means we haven't had a proper time to consider it and yet because it relates to the (unintelligible) transition, we have no choice. The timeline is imposed upon us. This isn't the way to operate and I don't think that this is very helpful. I think another key deficiency that we have here if I speak more to substance than to process is there's no clear picture as to how the GNSO community would instruct the temporary rep to the (empowered) community and that is concerning, let's say. The fact that we don't know how as a community, we can't seem to agree as to how we would instruct the or elect the permanent person for this position. We certainly don't have any (view) as to how we would instruct the temporary rep and that to me is problematic. So, thank you James.

James Bladel: Thank you Heather and your concern about the last minute nature of some of these critical decisions is noted and will probably come up again in (AOB 11.1). But, until we get there, Ed, you're next.

Ed Morris: Thanks James we'll try to keep this brief. First, full props to Steve DelBianco, this has been a relatively difficult group to chair I would say and he's done a fantastic job and I think we all owe him a great debt. Heather's right, we're rushing this. Welcome to the (CCWG), it hasn't been an abnormal pace for any of us who have been involved in the accountability workgroup, that's not to say it's the right way to do things but if we don't ask, if we don't get these powers and these procedures done at least in a provisional basis, we may be left out of the discussion. We don't want that. And I should emphasize the word provisional because the one thing that's come through from those of us who have been in the majority of most of these folks, is that we understand that there are other reviews ongoing about the GNSO, the GNSO review I know the non-contracted party house has a group going and so the one thing we're cognizant of is that we are being rushed. That we are making important decisions and we want to stress, at least I want to stress, that when you get our report,

understand we're just trying to plug the gap between what we need to do now and the wide scale wholesale review of the GNSO that is going on elsewhere and will continue to go on.

But I would ask people to recognize the fact that the transition is going to take place barring actions of a judge in a small Texas city that next week presumably we will have new bylaws, we will have new powers and we just need to get down the road where we take a look at the entire structure of the GNSO. But for now at least my view is that plug and play is the way to go, that seems to be the view of the majority of people on the (DT). We'll be coming back to council but the one thing I'm actually trying to support, or would like to get out, we could use the extra two weeks. I think if we have two more weeks, we made a lot of progress today, I think we could deliver the council a much better and more thorough report that folks will be more easily able to accept. Thanks James.

James Bladel: Thanks Ed appreciate your thoughts and echoing the call for a brief extension. And I would note that the calendar just so happens to support that extension but I don't want to presume that that's the case but it certainly fits with what we have currently planned for our next meeting.

Volker you're up next.

Volker Greimann: Thank you James. All of you are going to like this. I agree with Paul, we have to get this right. This is important work and I think this is an important role and I also agree with Paul that this is something different than from what the council used to do. However, this is not something that any part of the community used to do. So it's something completely new. So, the question for us is, what do we do? Do we take a body that has a certain gravitas that has a certain experience and how it handles it's processes? (Even if the) processes will be handled by that body for this job will be different or do we create an entirely new body that needs ad hoc when it's needed? When people may not know each other so well, may not have worked with each other that much.

I would prefer a body that we already know and expand the powers of that body and look at the processes of that body and look at they must be revised part of this specific job rather than creating something new. Because the risk of failure is always

bigger when we design everything from the start as opposed to taking something that you already have that works and adapting it for this work.

James Bladel: Thank you Volker and we are running short of time but Steve, I just wanted to give you the last word before I close the queue of whether or not you had any - I'm sorry. I see Paul is - is that a new hand Paul?

Paul McGrady: Yes.

James Bladel: Okay, go ahead if you could be brief please?

Paul McGrady: Thanks James. One I'd like to echo Heather's suggestion that we hold this for our October meeting which is extremely close and just so that we have a chance to sort this out and to have the benefit, I think, of the report of - I think that two week window falls within that timeframe and secondly I guess, and maybe this can be answered in the two weeks between now and our next meeting. I guess I'm still trying to wrap my hand around how we're (seating) and interim representative in the (empowered) community if the (empowered) community has not been called into existence yet and the (empowered) community can only be constituted by the vote of the communities, right? So I guess I just don't understand how we ended up needing to seat somebody for the (empowered) community that I don't think has been called forth. So maybe Steve can answer that question too or maybe Steve and I could just talk offline if this is - if we're going to vote on this today I'd like for Steve to answer it. If we're going - if we can take up Heather's suggestion of pushing this to the next call then maybe I can just talk to Steve offline? Thanks.

Steve DelBianco: James, I can give you a very quick answer.

James Bladel: Yes, Paul - Steve, if you don't mind, and particularly I think we're interested in knowing when is the (EC) going to be stood up, what does it mean if the GNSO slot is not filled and what is the timeframe between that and, for example, in our next meeting which I think I mentioned is on the 13th of October? If you could address that just that timeline, that would be great.

Steve DelBianco: The (EC) as an entity, comes into existence upon the adoption of the new bylaws and those are suggested to be effective upon determination of the IANA contract.

So that as an entity Paul, will potentially exist on Saturday morning if the court doesn't defer and extend the IANA contract through a temporary order. And that entity then would exist and it is expecting that that entity would have a representative, the decisional participants and that expectation could be fulfilled by the motion that you have here in front of you for an interim role, the chair of GNSO as instructed by GNSO. I would concur with (Ahmer) and Ed Morris, the other two members of the drafting team that the motion you have in front of you is appropriate and does not violate the principles of where this drafting team is going. We don't see any risk that it would undermine what the drafting team has done and it probably satisfies the risk just in case the drafting team, sorry, just in case the (empowered) community would ask to make a decision that it would be able to look to the GNSO and the GNSO would have a representative. It's a very low likelihood that that would happen between now and the 13th but that the entity could be created as soon as Saturday morning and we ought to have a chair there.

And then finally I heard Volker go on about a new structure but Volker I don't know what you heard in my report, it indicated that we were recommending any new structures. I explained how we got where we got and it is going to be the council that speaks for GNSO and it was a split house majority voting structure and all that we are doing is trying to determine the appropriate voting thresholds for the 100 different types of decisions and nominations that GNSO could be given under the new bylaws.

James, I hope that's helpful.

James Bladel: Thank you Steve, that is helpful and that is aligned with my thinking as well that if the transition does go through by the expiration of the IANA contract that this entity will come into creation on Saturday. And I just posted in the chat here that you know, if there's a concern about setting some sort of a precedent or lending inertia to the idea that the chair of the GNSO, whoever that may be in the future, would somehow be the default representative to the (empowered) community. I'm happy to put forward an alternative name here if there are any nominations or volunteers or if the concern is just generally having an interim chair then I recognize that as well. I'm just trying to separate the position, the role and presumably the person from all of these conversations if necessary. I do however note that we have had two councilors; both Heather and Paul have raised the potential that they would like to defer this to our

meeting on October 13 which, you know, as per our - I believe that's for our operating procedures, at the discretion of the chair, to grant a deferral and I'm inclined to do so if I can be - receive some kind of assurances from staff and I think Steve is an expert on all things accountability that such a deferral would not leave the GNSO inappropriate absent from the formation and perhaps even early work of the (empowered) community and I guess I'm just kind of looking for a risk assessment from staff and from Steve on what that would entail and whether that would be inappropriate and I see that Steve - I'm sorry, I see that Keith has his hand raised, go ahead Keith?

Keith Drasek: Yes, thanks very much James, Keith Drasek. So, I typed this into chat a minute ago and as Steve was speaking earlier, I actually have some concerns about our inability to identify an interim appointment to the (empowered) community in the context of these sort of 11th hour and 59 minute discussions that are going on in the United States whether it's in congress or now in the court system. I could imagine opponents to the IANA transition pointing to the GNSO council's inability to identify a representative to the (empowered) community as a sign of weakness or risk. And so I really think we need to come out of this discussion today identifying an interim candidate and that's all we're doing is identifying an interim representative from the GNSO, one of the supporting organizations and the key members of the (empowered) community to represent the communities interest in this new body.

I think we are creating a lot of risk for ourselves if we don't at least appoint an interim person. It seems so non-controversial to me that whether it's James or one of our co-chairs, I don't really care, but I think it's incredibly important for us to show some leadership and to establish that we believe in this process and we believe in this system and Paul to your point, you know, you and I may have different views on the question of sort of voting thresholds and voting procedure but that's not what we're talking about here. We're simply saying that somebody in the GNSO council is going to represent our community in these very important discussions that will probably never occur but we have to have somebody there in the event that it does.

So I'm sorry if I've gotten a bit sort of spun up about this but I think we're really missing the point here. So let's pick somebody whether it's James or Heather or (Donna) and I don't think (Donna) wants to volunteer for this, she's not on the call right now, I don't think she's interested in it right now, she's got a lot on her plate, so if

it's James or Heather, I'm comfortable with either. Let's just make a decision here and have an interim appointment, thank you.

James Bladel: Thanks Steve - I'm sorry, thanks Keith and I would note that I see in the chat a flurry of plus one agreement. And I think that is exactly the question that I put to the group is can we understand what the risks are in having the GNSO on the sidelines for this early creation of the (empower) community even if it's only for a matter of a couple of weeks. And I think you've articulated a risk that we need to consider which is that that could be seen as - and seized upon as the lack of community support or stability or whatever you want to call it for the GNSO as a decisional participant.

So, Keith is nominating - okay, we've got a number of things going on here. I think Keith is nominating Heather as our interim appointment. I don't know if that's something that Heather is open to. I'm certainly not married to the idea and I have enough going on, on my own plate that I'm certainly happy to stand aside if there's a concern about creating a precedent here. So, okay, and Heather is saying this is not necessarily a person related decision.

Okay, so you know, I don't know. First of all, I guess Heather, Paul, am I understanding that you're specifically asking for a deferral because I think that although I was inclined to grant that earlier I think to Keith's point I think, and seeing that there's strong agreement for Keith's point that we not delay on this. I think I've been sufficiently convinced that that would perhaps not be the way to go and particularly given the very sensitive state of the transition as of today. I think we need to at least show our commitment to this group.

So I think the first step would be, do we have a request for a deferral from the two reps from the IPC? If so I think I would ask that you reconsider that given that we have the support for moving forward. Then the second issue would be do we have any friendly amendments to the named interim representative that's listed here? It's currently myself but we could certainly - I would support any other counselors and I would stress that are currently on this call to fill this role if there's a desire to go in that direction. I know that Heather's name has been floated - Heather, is this something that you would be interested in taking on and substituting your name in the motion for mine? Heather, go ahead.

Heather Forrest: James thanks. I am - I didn't realize I just put up my hand too. I have think this has gone in a very unexpected direction and I don't want to think that, yes, I can't say this enough, this isn't a personal thing. This wasn't in any way shape or form about you James, the IPC simply has concerns about the timing here, about the fact that we're pushing this through. I listened with great interest to Steve DelBianco's comments as to the fact that the group thinks that they can come to agreement within a two week timeframe. I'm still concerned that if a two-week delay isn't going to be fatal, isn't going to be problematic, I take onboard the optics when I - yes, to be honest, I'm not really sure. I appreciate the vote of confidence in putting my name forward, thank you Keith and Phil who seconded that, but that wasn't my intention at all to switch the person, my concern is with the process rather than the person. So James that's my vote of confidence for you as well.

I'd like Paul to weigh in if he's willing because he's raised concerns as well and it's awkward for me to let's say speak on my own nomination. Thanks.

James Bladel: Thanks Heather and sorry to put you on the spot. So now I'm going to put Paul on the spot since you did that, not me. Paul, go ahead.

Paul McGrady: Thanks, thanks Heather. So Paul McGrady for the record. So, yes, so this is not James versus not James and there could be no better candidate than James if this is what we end up choosing to do. The concern here is that by appointing this - by doing this even on an interim basis that we are, as I said before, essentially taking the next step in cementing current voting roles and pre-answering the decision before the report is done about whether or not this is going to be council's role in the long-term and that's where the consternation resides. It's certainly not with James and so while I think heather is terrific, I don't think that swapping her in resolves the issue. It may just give an unhappy optics that somehow there was a problem with James but that's not what the issue is from my point of view, thanks.

James Bladel: Okay, thank you Paul and next up I have Phil and I'm just getting a reminder of the time check from Marika, we still have a lot of our agenda left. So Phil if you don't mind go ahead?

Phil Corwin: Yes James. I'll be very brief because there are other important items I'd like to discuss later on in the agenda. I'm fine with deferring things when there's really

substantive difference of opinions and the deferral will give us an opportunity to work things out. But this is a very low level decision. This is a placeholder decision to put James in as the interim person to ensure that GNSO has somebody on the (empowered) community if it starts up this weekend. It doesn't decide anything else and I really hope we can vote on this today and resolve it. We can come - it doesn't decide any of the bigger issues, we have plenty of time to look at those down the road. Thank you.

James Bladel: Okay, thanks Phil. The queue is clear. I would just note that we're going to proceed to a vote here and Heather has noted that in the chat as well as some others. I would just note that we also have the matter of Mr. DeIBianco has asked for some additional time for the drafting team to complete its work. It's not part of this motion but it certainly seems within the remit of the council to, if there are no objections, while we're on this agenda item to simply grant that I would ask that if there are any objections to that we can certainly add a result clause here to, I believe it would be to resolve between resolve 3 and 4 to grant that extension as was requested by Steve DeIBianco. So if there are no concerns there I don't know if we can quickly make that modification to whomever might have the pen on the motion and set a new expected ETA for that report of the drafting team to be deliverable by our next meeting which will be on the 13th of October.

And we can - yes, and to Marika if there's no burning desire to include it in the language of the motion we can certainly just note it in the minutes. Okay, we have 11 minutes until the top of the hour and several other important items of business to go. So if there are no objections we can move then to a vote. Phil is that an old hand, I think it might be? Okay, thank you Phil. It sounds like if we can move to a voice vote, Glen, if you could begin that process, thank you.

Woman: I'll do that James but first of all, I have I missed the second of this motion?

James Bladel: We seconded it at the beginning by (Ahmer).

Glen DeSaintgery: Thank you very much. Although anyone who would like to abstain from this motion please say your name.

Paul McGrady: Paul McGrady.

Heather Forrest: Glen, it's Heather. I'd like to abstain.

Glen DeSaintgery: Thank you Heather; noted. Was that Paul as well?

Paul McGrady: Glen this is Paul McGrady, yes, correct.

Glen DeSaintgery: Sorry. Paul, Heather. Would anyone like to vote against this motion?

Would the rest of you please say aye?

Woman: Aye.

Man: Aye.

Man: Aye.

(Group): Aye.

Woman: Aye.

(Group): Aye.

Man: Aye.

Man: Aye, early aye.

Glen DeSaintgery: Thank you very much. Heather and Paul would you like to give your reasons for abstention please?

Heather Forrest: Glen this is Heather. I'll be happy to go first, I...

Glen DeSaintgery: Yes.

Heather Forrest: ...appreciate the robust discussion that we had on this. And would like to reiterate that the abstention is not on the basis of any personal issue, personal conflict. Rather

the IPC reiterates its concerns with the speed with which these decisions have to be made and making decisions without, let's say without, you know, procedures in mind.

We have great faith in the work being done by Steve DeIBianco and his team and are confident that they can help us resolve a number of these problems. So hence we're not voting no. We're simply abstaining. Thank you.

Glen DeSaintgery: Thank you very much Heather. Paul.

Paul McGrady: Thanks Glen. This is Paul McGrady. Is it sufficient for me to say that my reasons are reflected by what Heather said?

Glen DeSaintgery: Yes it is Paul. Thank you. Thank you, James.

Paul McGrady: Thank you.

Glen DeSaintgery: The motion – thank you very much Paul, James, the motion process with two abstentions.

James Bladel: And thank you Glen. Thank you for all those who voted and for the discussion. Thank you Steve for your update and the work of the Drafting Team and as noted in the discussion and in the Minutes you have your extension as we've requested and we do appreciate your efforts in leading that working group as well as all of the participants that are hammering out these issues.

I certainly am in agreement with the comments about the timing of this and certainly hope that this is as noted here and as was adopted is a very short assignment.

So with that let's then move to Item Number 7 which is the draft charter for a new CCWG concerning auction proceeds that were derived from the 2012 New gTLD Auction, new gTLD Program.

And to tee this up we have Jonathan who as you all know and love was the former counsel, former chair and is now chairing the Drafting Team that has constructed the charter for this Cross Community Working Group.

Jonathan because I'm not as good as my predecessor we are running short of time. And so if I could ask you to tee up this topic and be available for questions as expeditiously as possible I'll turn the floor over to you. Go ahead.

Jonathan Robinson: James you guys are working hard and I'm relieved I'm not having to participate in all of this, let alone chair it.

But let me give you a quick head's up. I mean really what this is about is providing you with the draft charter. And our concern was if we simply gave each (unintelligible) because it's a community charter if one or more of the chartering organizations voted it down or didn't support it we end up in a difficult position where we've got partial support.

So we've specifically given all of the chartering organizations the draft charter to review and to essentially what we're asking you to do is tell us if you see any showstoppers. And if you don't well we know you're not guaranteeing to vote to support it, we're presuming you're not going to come back with significant issues and you are likely to vote to support it.

So this is your preview if you like. We're not expecting you to vote on this now certainly. But we are hoping that you'll come back to us with any significant concerns or issues.

That said I think it's quite a thorough piece of work already. It's been worked on by a small and focused Drafting Team for around three and a half months. It was based on some pretty solid foundations.

And we've also had two Board liaisons working with us. So we're confident we are relatively well aligned with the ICANN Board.

The confidence of input was that the fact that we did prior sessions. We did engagement work and involved and we had some pretty substantial sessions and a preparatory paper. And so there was quite some background work done on all of this.

Given where you are in the meeting now it's very difficult to know how – what level of detail to go into. I mean there's a few key points I could highlight to you and the fact

that these funds are ring-fenced. They're a single revenue source. There's been quite some substantial discussion about conflict of interest provisions in here. There's quite some substantial discussion and care taking about not in any way prejudicing or impacting on ICANN's tax status. There's recognition of issues like transparency that you expect, lean and effective work, diversity issues.

So I feel confident and feel good about recommending this Draft Charter to you. And I think rather than – just given the lateness of the hour and the time taken so far, I think I'll more or less leave it at that.

But propose that CCWG coming out of this will be something similar to what we recently become used to, members, participants, observers, diverse group, prospect for one or more co-chairs; opportunity for the GNSO to nominate a co-chair.

So familiar concepts as have been developed and refined by recent Cross Community Working Groups and indeed the work that was done on – with the group that set out the principles for Cross Community Working Groups and the prospects for experts, advisors to contribute paid or unpaid. If they were to be paid it would have to be part of a formal ICANN budgeting process.

So I think that's my synopsis James. I don't think we – we're not looking for a vote in the Council now. We're looking for the Council to be well informed when this does come up for a vote and have the opportunity to come back now as soon as possible. Ideally our deadline was the 30th of September but I understand a lot has been going on. To come back to us and say look we're really concerned about this or conversely we think it's a pretty thorough job and we think it's a good basis to move forward and barring any unforeseen circumstance are likely to vote to support the charter and proceed to the formation of the working group.

So hopefully I've summarized that effectively James and that sets the Council in good state to ask any questions or raise any issues they'd like to. And I'll stop there.

James Bladel: Thank you Jonathan. And certainly appreciate your introduction of the charter. And certainly we thank you and the Drafting Team for putting that together. We know that you've been working closely with the members of the Board who are also instrumental in this process.

And I'm guessing that like myself, a number of counselors would perhaps like to spend a little bit more time with the charter before discussing or even voting.

But I would ask that counselors please, you know, try to squeeze in a few minutes to review this charter and highlight any areas of concern particularly on the list or on our next meeting.

With that said are there any questions for Jonathan at this stage as we are teeing up this charter for a discussion in future meetings?

And I see one in the chat Jonathan from Paul McGrady of whether or not this has already gone out for public comment and if not, will it – is that part of the process soon?

Jonathan Robinson: I think you see Marika's put that essentially an answer there. It's not – it hasn't been past practice to the best of my knowledge to put this kind of charter out for public comment. And we had a session as Marika says, a comprehensive session in Helsinki where we took substantial feedback and processed that feedback using the ICANN Public Comments tool, incorporated all of that and that's a matter of public record, all of those comments that were taken in and how they were worked back into it.

And so the planned course of action next is to do something relatively unusual and that's run this by the different charter organizations for the reason and motivation I described previously but not to put it out to comment, to public comment per se. And that's the current plan.

James Bladel: Okay, thank you for that explanation Jonathan. And I think that there's some sentiment on the chat that perhaps we should consider soliciting public comments on the charter between now and the time that it's considered for a vote.

Any other questions for Jonathan while we have him?

Okay, the queue is clear. We are at the top of the hour so here's what I'm proposing Jonathan if you could standby for just a moment. What I'd like to do is first of all we

had a very late addition to the agenda Item 9 which is the proposed framework on future Cross Community Working Groups.

I'm going to ask that we move that item to the list and that would essentially give us just a couple of more items to cover.

So if those counselors who are able to stay on the call for just a few more minutes we certainly are grateful for your patience and your indulgence.

I wanted to keep Jonathan on the call because we have one other item under AOB which is 11.1.

And to Heather's point that everything associated with the transition seems to be coming, you know, the millisecond before it's absolutely due. We also have a letter that was posted to the list earlier from the CWG Stewardship Chairs, Jonathan being one of the co-chairs of that group where the CWG is sending an instruction letter for ICANN to execute the agreements that are associated with management of, I believe it's from IANA Intellectual Property licenses and assignments and so I'm probably misusing some legal terms right now.

But generally the question that is being posed to this Council is do we have any objections for the GNSO being listed as one of the organizations, one of the SO and AC that is instructing ICANN to execute these agreements.

I believe this is a box checking exercise. And that this is fairly noncontroversial. And that this is essentially putting our name on the list of signatories to a letter that is conducting something that we've already agreed to do.

However I have been wrong before. And certainly would open the floor here for any questions or concerns or objections particularly about proceeding to add the GNSO to this letter of instruction and particularly if you have any questions for Jonathan that you'd like to raise at this time.

So first up is Paul. Paul, go ahead.

Paul McGrady: Thanks. Paul McGrady for the record and on the heels of an extension vote I'm afraid to (unintelligible) because I don't want to be viewed as an obstructionist.

But this came in just hours before this meeting. And I've not had time to really study it and I've not had the opportunity to go back and get a robust answer from my constituency about whether or not they support this. It may be a box checking exercise.

But I'm afraid I just don't have what I need to check that box. So I know this is not a formal vote. And I'm not suggesting that – I'm not suggesting anything else for anybody else. But I just wanted to be on the record of saying I don't know. And I'm sorry for not knowing but there just wasn't any time. Thanks.

James Bladel: Thanks Paul. And I completely agree with the timing concern. I would note that I believe that some members of your constituency participated. And I believe will continue to participate in this management of the IANA Intellectual Property as will be expected. We draw upon that pool of expertise for this function.

But Jonathan you don't want to respond or do you have an answer for Paul?

Jonathan Robinson: Sure James I can. I mean the essence of this is that there is a proposed transfer or a planned transfer of the IANA Intellectual Property to the IETF Trust.

There was a setup, a thorough process done with – in fact and Greg Shatan was very involved in that process from the IPC. But in designing a form of multi-community oversight of the work that the IETF Trust will do in relation to the IANA IPR, the problem, the legal one was a requirement for a legal entity to sign on behalf of the names community.

And after some quite careful discussion and thought it was suggested that numerous alternatives were considered including the use of the empowered community but for a variety of reasons.

And this did take in some external legal advice. It was recognized that we were best off getting ICANN to act as the legal signatory but under direction from the names community.

And that direction from the names community first off from the CWG and after the termination of the CWG from the names community comprised of chartering organizations of the CWG.

So really what the GNSO is signing up to here is accepting that it will be one of the key components of the names community and that we access ICANN as the signatory on behalf of the names community for this very specific purpose.

So that's what it amounts to and I hope I've described that in a way that effectively communicates it. Now it's a necessary condition that the GNSO signs up to this before the 30th. The GNSO can sign up to it before or after.

So it is possible that and one cause of serious problem if the GNSO doesn't it would be neater if it does. The SSAC has already and we certainly would like one or more of the chartering organizations to sign up to it before and ideally the GNSO in addition but it's not an absolutely necessary condition. It's not a showstopper for a transition.

So I hope that helps in both explaining it and setting out the options there are.
Thanks James.

James Bladel: Yes, thank you Jonathan, very hopeful background and context. And I'm just kind of following the discussion in the chat as well.

And it sounds like this is something that I think Paul would and I don't mean to paraphrase Paul's concerns here but just noting that for the record that this is something because of the timing he has not had an opportunity to consult with his constituency and I think that's true for a number of other counselors as well.

I – look, I'll put it this way folks. It's not a motion. It's not something that we have to vote on. But I think like the previous discussion optics wise it would make the GNSO and the transition look a lot cleaner if we could indeed sign on to this.

So if possible the transition, you know, the contract doesn't expire until roughly, you know, this time tomorrow.

So can we ask that we put a ticking clock on this on the mailing list and essentially say if you have objection to the GNSO signing on as an instructing signatory to this, can you send it to the list by approximately this time tomorrow which I believe to be about 2300 UTC on the 30th? It's right up against the wall. Otherwise we will ask SSAC to go ahead and go forward and put the GNSO – list the GNSO as part of this instructory letter.

Paul I know it's not much of a window. But it is something to – some opportunity to go back and consult with IPC Leadership and make sure that there's no red flags here that we've all missed.

I'm trying to give us much deference as I can to the CWG and I know the small group that worked on these IP – the IANA Intellectual Property issues which I know were a pretty heavy lift as well.

Okay so thank you for that Jonathan and thank you for – I'm sorry. Olivier if you have a very brief intervention or question for Jonathan. Go ahead please.

Olivier Crepin-LeBlond: Yes, thank you very much James. Olivier Crepin-LeBlond speaking and it was just a brief intervention on behalf of the ALAC. Just to let you know that we've also been I guess consulted at the very last minute. And the ALAC Chair asked both the community on the ALAC mailing list the same question as what you've asked here which is effectively if there are any objections to timing this.

But more specifically has asked for full agreement of the ALAC Leadership Team, the five member committee that one person from each region. And if there is just even one objection to this or an extension to this then the ALAC would be moving forward.

But so far everyone has agreed to move forward. That's all. Thank you.

James Bladel: Okay thank you very much Olivier for that update from ALAC. Jonathan you'll have the last word on this then. Go ahead.

Jonathan Robinson: Thanks James, save me for last word. Look, I know it feels last minute and in many ways it is. There's been a huge amount going on in a short space of time. But this

has been worked on for some months actually and it's really just a question of effective communication.

And I fully accept that it's come to the Council in this – by this route at the last minute. But and technically it shouldn't be a surprise at all even though I accept that it may be for some.

So just want to clarify that this isn't something that has been rushed. But I accept that it has come to the Council list at the last minute.

Thanks James and thanks to the counselors for giving this the attention it deserves and hopefully we can tie it up in short order.

James Bladel: Thank you Keith or I'm sorry, thank you Jonathan. And I note that Keith raised the point in the chat about the letter being new even though the issue is not new.

So here's what I'm proposing. If we have any objections we're giving essentially 24 hours to check back with headquarters and determine whether or not there are any objections to be made. I realize it's not much of a window but it is something.

And then if there are no objections then we will ask Staff to go ahead and add GNSO as the – as one of the SOs in the naming community giving ICANN the instruction to execute these agreements.

If there are objections then we will slow things down. We will put this as a discussion point and perhaps even a motion for our next meeting on the 13th of October. I'm hopeful that there will be no objections and that everyone's concerns will be addressed in 24 hours. But as a contingency we have that next meeting on the 13th.

So thanks again Jonathan for this issue, for providing that much needed background. And for rejoining your old pals here on the Council, we certainly appreciate all of the work that you've done with the Drafting Team and with the CCWG Stewardship so thank you for your leadership on that.

Okay, next up we have Item Number 8 which is a discussion of the Board letter on new gTLD subsequent procedures.

Since we last discussed this issue we've seen a number of let's call it position statements coming in from various SGs and Cs on what they believe to be the gating procedures between now and a subsequent round of new gTLD.

We also asked the leadership of the PDP to weigh-in with their thoughts and to discuss amongst the membership for that PDP. I think the PDP essentially came back with a statement saying that there was no necessarily – not any consensus of a response except that that was – that question was at the very heart of what they were being asked to address.

And so with all of that in mind we have – Staff has compiled a consolidated chart that you see here which essentially lists some of the various positions of the stakeholder groups and constituencies. I think that at some point also notes the response of the PDP.

What I am – and given the short time on this call, what I'm proposing we do now because again as a reminder we need to be prepared to discuss this particular topic and respond to the Board letter in advance of the meeting in Hyderabad.

So what I'm suggesting is that we convene a group of volunteers from this Council or from the community with Staff support and I'm thinking here of a very lightweight sort of Rapid Response Team that is charged with hitching together the various responses that we've received into a report, not a response necessarily but a report to the Board of the divergent views and areas of overlap where there are any.

And present that back to the Council at our October Meeting for discussion and for adoption and transmission to the Board. And that would give them sufficient time to post that and tee it up for discussion in Hyderabad.

I don't know if there's any objection to that approach. Again I would just want to emphasize that this group that I'm proposing we put together is, you know, here to synthesize the different positions into a single report and not to reopen, readdress or argue the merits of any one position over another or to cause the PDP to take a side where they've opted not to. That's not what I'm picturing here. I'm picturing

something more along the lines of something that just takes what Staff has done – started here and finish that and put some polish on it.

So thoughts on that and I see Phil is up first in the queue. Phil go ahead.

Phil Corwin: Thanks James. I'll be brief in view of the hour. Phil for the record. One, I'd like to volunteer to be part of that small group.

Two, just very briefly, I'm not disagreeing but I am somewhat startled that the Board would send this and only refer to the Subsequent Procedures Working Group and seeming to forget that the group of which I'm one of three co-chairs, the ones on rights protection mechanisms which are integral to the development of the Applicant Guidebook. Those two working groups are joined at the hips. They're required to coordinate. We have been coordinating.

And we'll get into it in our small group. But any response on this has to consider adequate appraisal of the effectiveness of the RPMs to date and whether changes have to be made to make them more effective. Thank you.

James Bladel: Thank you Phil. I appreciate that and appreciate you volunteering as well. And I note that Carlos and Keith and Phil so far have volunteered. I would volunteer as well.

And I would also ask that Phil if you joined this work please go through those responses and see if there is mention of the RPM Review, RPM Working Group as something that's on the critical path to a subsequent round. I think it's got to be in there somewhere. And if it's not then probably should be.

Okay, so we have a volunteer of a small team to analyze and synthesize these into a single report. And we'll revisit this issue on our next call with the goal of having a comprehensive response to the Board that accurately reflects all of the various positions that were submitted in response to their question.

So with that we then move onto – we skip Item Number 9. We have Item Number 10. We're 18 minutes past our time so I again thank you for your patience.

We have a Draft Schedule for ICANN 57 that we'd like to put up for your consideration including some of the GNSO Sessions. So I don't know if we have a block schedule or something maybe a little more detailed that Staff can load into the Adobe Room.

But just waiting here to see if this is coming up, here it comes. We did have a meeting.. There was a meeting with the Meeting Planning Staff recently where I think there was some discussion of breaking Constituency Day into two days. And I don't want to go too deep in the weeds here.

But that was quite a surprise to a number of different stakeholder groups and constituencies who planned on that being a single day. And breaking that up would have precipitated a number of, you know, downstream conflicts.

And so we are I think taking a look at that as well. I don't know. Are we waiting for the schedule to be loaded here?

Marika Konings: Yes. Sorry. This is Marika. I can upload the old block schedule but I think we've moved far along from that. The problem is we have the new schedule. It's written in an Excel format across different pages. So it's not really possible to upload.

But I believe that either Glen has already circulated it or maybe she can circulate it now so everyone has that if they haven't had a chance to look at it yet.

James Bladel: Okay. And specifically I think it's important that not only the counselors review that schedule, review the GNSO Sessions but also discuss that with their stakeholder group and constituency leadership particularly as we continue to address this issue of what to do with Constituency Day.

And also to please identify if you plan to be able to attend the early session. If you plan to be able to attend the Council Development Sessions. We're trying to get some accurate attendance figures for those sessions so that we can be sure that we plan accordingly.

I don't know Marika or Glen if there's anything else we need to say relative to the schedule? We have only one more meeting before we all start to – for those of us who are going to make the trip to India, we start to head out here. And I want to be sure that everyone understands what's waiting for us on the other side. So and if there's anything else we need to cover with regard to that. There's a link in the chat. Thank you.

One other note.

Glen DeSaintgery: James this is Glen.

James Bladel: Oh go ahead Glen.

Glen DeSaintgery: Thank you. Just to say that this now in the hands of the Meeting Team. And they are putting the requests into the large schedule so that we should have a full schedule quite soon that can be looked at. And I think they want to make comments. But it's still work in progress.

James Bladel: Okay, thank you Glen.

Glen DeSaintgery: Thank you.

James Bladel: And so when would we expect to have the next updated version of the Draft Schedule?

Glen DeSaintgery: I'm not sure when the Meeting Team will be able to have that up James. The meeting was yesterday. And I think one of the issues is that Marika is going to send out a note about dividing the Constituency Day into two days. Some people are in favor of keeping it as one day. Some people are in favor of keeping it as two half days.

And I think that depends on too where the high interest topics are placed.

So as soon as there is something available we'll send it to the Council.

James Bladel: Thank you Glen. And to Paul's question that will include all events, not only just the GNSO Event on that next draft. Is that a correct statement?

Glen DeSaintgery: Yes. That's right. That's the plan.

James Bladel: Okay. Okay, thank you. We will watch then for that updated Draft Schedule.

And then one other point and I think Glen you circulated something to the Council list regarding Visas and Visa assistance.

And I believe that if that is – basically if there's something that's still struggling to get a Visa there are perhaps some resources that may be able to help you on that. So if you're struggling with that or if you know of folks who are please, you know, let's bring those folks to Glen. I think she may be able to share some links to some services that might be able to help.

And, you know, having just sent all the stuff out myself I know that it's not fun. And I hope that it's going smoother for everyone as much as possible.

Thanks Paul. Okay, so noting that we then kick the can of Item Number 9 in a future CCWG Framework to the next meeting that bring us to the end of our agenda. We covered both of the AOB items during the course of our meeting.

So it's 23 minutes past our normal stopping time. I thank you again for your patience. Does anyone else have any final words before we adjourn?

Olivier.

Olivier Crepin-LeBlond: Thanks very much James. Olivier Crepin-LeBlond speaking. And I just wanted to take ten seconds of your time to let you know about the at large survey. That is the one for the at large review survey performed by a company called (i10).

I've just put a link in the chat. If you want to fill it in everyone is encouraged to do so. And it's got all sorts of questions and things about different aspects of how the at large community conducts its work or should conduct its work. And that's it. Thank you.

James Bladel: Thank you very much Olivier. And just a reminder to folks to participate in those surveys and circulate them amongst your stakeholder groups and constituencies.

Okay, thank you very much again for your patience, for a productive call. We got a lot done today. And we have more to do on the list.

The timeline for documents and motions cutoff is Monday. I know it's crazy short. It's potentially the weekend. So if you have any placeholder motions or anything else that needs to get on the agenda for our 13th of October Meeting please be making haste to get those submitted.

Thank you very much for everyone and to Staff. And we'll consider this call adjourned.

END