

**GNSO
Operations Steering Committee (OSC) GNSO Council Operations Work Team 13 May
2009 at 16:00 UTC**

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<http://audio.icann.org/gnso/gnso-council-ops-2009O513.mp3>

On page:

<http://gnso.icann.org/calendar/#may>

(All MP3's and transcriptions can be found on the calendar page).

Participants present:

Ray Fasset - Work Team leader Registry c.

Wolf-Ulrich Knoblen - ISPC

Ron Andruff - CBUC

Ken Stubbs - Registry c.

ICANN Staff

Julie Hedlund

Glen de Saint Géry

Absent apologies:

Tony Holmes - ISP

Coordinator: At this time the call is being recorded.

Ray Fassett: Thank you very much. This is Ray Fassett, Chair of our call. Why don't we ask for a roll call? Glen would you like to do that please?

Glen Desaintgery: Certainly Ray I'll do that for you. We have yourself Ray Fassett on the line. Wolf-Ulrich Knoblen from the ISPs and Ron Andruff from the Business Constituency. And for staff we have Julie Hedlund and Glen Desaintgery. Thank you Ray.

Ray Fassett: Thank you Glen. Okay excuse me.

A couple of things going on here at the same time. So a brief update I'd like to give on the high level principles document is I have reached out now formally to those members that we identified is just in the last day or so that I've done that.

So I don't have any formal feedback as yet and keep in mind that those that we did identify are very active in the ICANN community. So I have a number of probably a number of things on their plate in addition to this. But I expect to get good cooperation back in terms of their willingness to provide feedback.

I did have one initial comment come back already from one member I won't identify right now. But the question was are you asking me this in a personal capacity, in my capacity as a constituency member, as - do you want me to answer on behalf of my employer? So that was the question I got back.

And I felt the best answer to that question was those that we've reached out to and chosen for this initial feedback was for the purpose of gaining their experience, you know, that they're a very experienced in the ICANN policy process and what we are looking for is not so much a company's special interest or a constituency special interest.

But really their expertise from being involved from many years in the ICANN policy process so I wanted to share that with the work team if that was an appropriate response.

Man: Yes sure.

Ray Fassett: Okay so...

Ron Andruff: Ray it's Ron sorry.

Ray Fassett: Yes go ahead.

Ron Andruff: Just a little slow getting to the phone. Just wanted to ask the - so the document that you sent out can you just name who the document went to? This is a kite document we're referring to right.

Ray Fassett: Yes it was the kite document. And in the email that I sent out - and the reason I sent them out individually from me is I wanted them to feel that they could speak freely and while I didn't necessarily come out and say it I didn't - I think is has an over tone that, you know, whatever responses come back are not necessarily going to be published. You know, so speak freely. I think that is what the aim is from our group in doing this step. So the...

Ron Andruff: I agree with that by the way.

Ray Fassett: Oh good.

Ron Andruff: Yes.

Ray Fassett: And I also put in my phone number if anybody said they want to - they didn't really understand it they could call and we could discuss it up front. So it went to Avri Doria, Chuck Gomes, Philip Sheppard, Robin Gross, Bruce Tompkin, Marilyn Cade, (Steve Metelus), John Nevitt and (Robert Catano). So there's the group pretty representative I think.

Ron Andruff: Very good.

Ray Fassett: Okay...

Ron Andruff: Did you - I'm sorry just a last thing on that. Is there in terms of next steps with them was there in your mind or did you give them a timeline on that or are you going to do a ring around in a week or so? Or how does that go?

Ray Fassett: Yes that's a good question. I think that's what I'll do. I think I'll give it a week or so and then I'll ping them back again. I did not necessarily put in a timeframe. I certainly stated that we are specifically seeking your input.

You know, so please don't ignore this sort of approach. While at the same time asking for your volunteer cooperation at a time when you have a million other things going on I'm sure. So that's how I framed it and I think we'll be okay.

And if a week goes by and I've got nothing back at all say a week from this Friday or let's say or just say a week from today then I'll pin everybody back and see if there's some comments.

Ron Andruff: Okay.

Ray Fassett: Okay so with that said I think our agenda today as I mentioned might be worthwhile to spend some time on the other nearer term subject matter we have in front of us which is the SOI/DOI documents statement of interest, declaration of interest documents and perhaps from the perspective of there's some work going on here at the ICANN board level on a conflict of interest policy which is not the same thing.

But nonetheless something is out for public comment which I can honestly tell you I've not spent a lot of time analyzing what it's all about and I was hoping maybe Julie might be able to give us some background and what are some of the hot points?

Julie Hedlund: Sure Ray I'd be happy to do that. For those of you who are up on the Wiki side or Ray also sent the links. The link to the revised conflicts of interest policy this is the ICANN board conflicts of interest policy. The Board Governance Committee has revised the policy and posted it for public comment up on the web. If you can't find the link let me know.

Ron Andruff: Julie to just interrupt that was the link that Ray sent. I'm looking at the document now I believe. It says ICANN conflicts of interest policy Article One, purpose and depth administration.

Ray Fassett: Yes thank you.

Julie Hedlund: That's correct yes. So a few points of interest first of all this is a conflicts of interest policy which is consistent with a policy that the board has followed as opposed to a statements of interest or a declaration of interests policy. It does however have procedures for disclosing interests which you will see in Article Two, procedures regarding conflicts of interest disclosure.

And it has procedures for annual statements of interest and procedures for violations of the conflicts of interests policy which is also under Article Two, Section 2.5. Some of these might be of interest to us as we this work team that is develops policy or statements of interest, declarations of interest.

And let me see just looking through the document other things that might be of interest periodic reviews which is Article Six. And that sets procedures for periodically reviewing the conflicts of interest and then the last article is definitions.

I guess I would point out for a purpose of discussion here again as I mentioned this is a conflict of interests policy. The draft statement of interest, declaration of interest, operation of interests policy that I had put together for review and consideration by the work team was more along the lines of something less legally binding.

Because the conflicts of interest policy if you look through this one here has some basis in California law the policy that the council had -GNSO Council had currently been followed was not legally binding per say as far as I understand it. Glen you can correct me if I'm wrong on that but did have, you know, various requirements that council members need to follow as far as making statements and disclosing interests and so on without though a legal aspect attached to that. Any questions on this?

Ray Fassett: Yes this is Ray. I'll make a comment then I'll also take queues. Is there anybody else?

Wolf-Ulrich Knoben: Yes.

Ron Andruff: And Ron.

Ray Fassett: Okay.

Ken Stubbs: And Ken Stubbs Ray.

Ray Fassett: Hey welcome Ken.

Ron Andruff: Hi Ken.

Ken Stubbs: I've been here. I had showed up about three minutes late so.

Ray Fassett: You didn't hear us talking about you then.

Ken Stubbs: No but that's all right. I'll get over it.

Ray Fassett: All right. The first comment I would like to make is that there is definitely what we - I think what we arrived in our last call there's definitely a distinction between what is a conflict of interest policy and what is a statement of interest or a declaration of interest policy.

So and I think where we landed was due to some language concern that was it Ron that brought it forward or some others that were tying people in the ICANN policy process of California law why are we doing that? And this was based on us asking Julie to give us a draft to look at.

And then we came back and said well why does this draft say something to do with California law? And the reason is ICANN board is looking at a conflict of interests approach where the statement of interest or declaration of interests are not the same.

So the concept that we would under our scope and agenda here as a work team be able to come up with a single type of document that can

work for a board member. It could work for a working group member. It would work for a constituency member which sounds great but really does not work in practice.

I think this is why I'm speaking out loud because I think this is where we landed in that we don't want to in the concept of a working group where we're just trying to achieve consensus. We're not looking to tie people down to California law.

So we've moved away from a conflict of interests policy now to a statement of interest and declaration of interests approach and what I'd like to say is how can we - is there anything in this ICANN board conflict of interests policy that can pertain or assist us in coming up with a uniform statement of interests or declaration of interests document that can be used broadly by all constituencies, by all working group members?

You know, something that just really streamlines in order to get - in order for everybody to get their hands around this particular issue. Everybody's kind of doing it their own way now so one of the objectives we have is how can we standardize it?

And is there any from the conflict of interests approach the board is taking that can help us with that? Now Julie you mentioned that there is some citing in here of a statement of interests as part of their conflict of interests policy? Did I hear that correctly?

Julie Hedlund: There's a policy to disclose and, you know, and that would be whether you disclose or say it so essentially you're saying well these are my interests as it relates to the work at hand.

So it has some similarities to what we might be devising which is we might say that these are the procedures for, you know, when council members or working group members have to make their statements. When do they have to declare their interests? And we might be able to pull out some of that language if we felt it was useful.

Ken Stubbs: Ray.

Ray Fassett: Yes.

Ken Stubbs: I'm responding to your question. I'm not trying to jump up on the queue.

Ray Fassett: Okay.

Ken Stubbs: Also I think it's a good idea first us to take a very close look at the definitions that are included in there because there may be quite useful for us. Also I think that we have situations that may very well require a declaration of interests before a vote where someone may already have a statement of interests filed publicly.

But I think its part of a process before a vote especially critical votes. We need to ensure that there's a requirement for instance for the chair of a council or the chairman of a committee to request if there are any declarations of interests that needed to be expressed prior to a specific vote.

Not for intimidation purposes but we may very well have a situation where somebody could have a financial interest or something like this

in something that would result from a decision that needs to be declared that's all.

Ray Fassett: That sounds like Ken what you're describing is a high level principle.

Ken Stubbs: Well if you're looking at the string on the council right now for instance there's some issues that have come up that they're trying to ask council members specifically to sign onto a statement and I think, you know, (Christina Rozell) said pointed out, you know, that I am a representative of a specific group.

And I can't sign on necessarily because the presumption is that I represent a position of from my group. And I need to go back and get counsel so I mean if we need to make very clear that if you have a circumstance in the future where there is a request for an individual to sign on to a specific statement.

There needs to be a different set of standards for an individual. The presumption is that the individuals representing interest groups but in some cases they're acting in a capacity where they're not representing that interest group that's the point I'm making.

Ray Fassett: Okay fair enough.

Julie Hedlund: Ray this is Julie. Can I get in the queue?

Ray Fassett: Who is that?

Julie Hedlund: Julie.

Ray Fassett: Oh Julie sure. I will put you. I assume Ken that's not your comment because I'm putting Julie after you. If it is we'll deal with that. Okay Wolf why don't you go ahead?

Wolf-Ulrich Knoen: Yes thank you Ray. Just for formality standings. So I would say to find out what kind of principles we should use for what is (COIO or CIOI) so my feeling would be okay let's take as much as possible as it is available already that's right down to this paper about it.

Policy from (ICANN so now which is) my question would be with regards to that. I understand that there has been already imposed a COI policy but this is now under - going under review. And this is the paper which has been published (unintelligible) to me is I cannot see what is different of this paper right now the new proposal and the old one.

So where are the real let me say the real differences on this? And looking to those differences mean for me I wouldn't go as to start this discussion (from scratch) because I think there has been done something in the past and there must be something available that's (find out the differences) or some new ideas which are maybe not in that paper (unintelligible).

But I cannot see this difference so I would like to ask Julie or whomever is familiar with that paper what are the difference with the existing policy and this new proposal.

Ray Fassett: Well just for clarification Wolf your question is what's the difference between this new proposed conflict of interest policy that ICANN is asking public comment on versus what already exists today?

Wolf-Ulrich Knoben: Yes.

Ray Fassett: All right. I think that could be a relevant question. All right Julie why don't you go ahead and take a stab if you can. If you're not - if you can't because, you know, you haven't done that analysis that's okay too.

Julie Hedlund: Yes unfortunately I haven't done the analysis between the 1999 conflict of interest policy and the current policy. I'm happy to do so and make that comparison.

Ray Fassett: My suggestion, you know, Wolf that's some point though and my suggestion might be that's a public comment is it would be useful to identify for ICANN staff to identify the changes from the existing policy to the new policy. And I think that's a good public comment to be honest with you.

Wolf-Ulrich Knoben: Because you know, just to underline that, for me I don't think that we have to go into - to start really from the scratch of this because I'm for example I'm not a lawyer. So I cannot judge on somethings that which may be international level already - has been imposed in international laws and what else.

I cannot judge on that. So for me it's only a feeling I get let me say as I go through that document, okay. This might be okay. This might be too weak if I read for example some definitions - for example in compensation there is something in that definition which means that this is kind of gift or favors that are substantial in nature. So what does it mean substantial in nature and other things? It's weak a little bit.

Ray Fassett: Let me cut back into the queue here. I apologize. But let me offer some observation. The idea here is we want to encourage broad participation from as many members in the community that want to participate into working groups what have you.

And the more successful that GNSO is at doing that for policy the better off everybody's interest in ICANN is going to be. That's the logic behind it. So these smaller or less amount of barriers we can up to that would discourage people from participating than the better off we are.

So if we start throwing in things like you will abide by California law I think we're going down a path of a barrier that we don't want. Meanwhile we want to create efficiencies so we could take an approach of well any member of the community that wants to get involved we're going to just have an honor system.

Okay everybody's going to say that they're not trying to advance their own special interests or any of their working in, you know, in a cooperative way, collegial way whatever way we want to use. And it's just going to be an honor system we don't need anything more than that.

Now that would be no barrier. So - but what we're looking at is okay well there should be some minimum approach here that is standardized for everybody. We'll call it a statement of interest. Here's my statement of interest. This is a blanket thing that I'll update from time to time.

And then as it pertains to a specific issue we would as Ken points out we would request the chair of that working group or the leader of that group whatever term you want to use to just say okay now if there's any declaration of interest that you would like to make here's the opportunity for you to do so before we commence work.

So these would be very minimal and maybe even commonsensical thresholds that we would then apply broadly throughout the ICANN policy process that can work for all that want to - that feel compelled to want to participate and that we don't want to discourage and participate and that we don't want to discourage your participation. So does that help provide some - are we all kind of on the same page with that thinking?

Ken Stubbs: Yes right. Thank you.

Ray Fassett: Right so now we've got this ICANN conflict of interest approach here which is now that's more heavy handed. This is an ICANN board. They have new shared responsibility. There is - ICANN is an incorporated entity and under a given state in a given country.

You know, and that brings in the lawyers. And when you bring in the lawyers, you know, some times that can impede rather than invite. So while I think all we would like to do is try and understand is there anything from this conflict of interest policy which is more heavy handed that we want to have incorporated into the statement of interests policy.

And the answer could be no there isn't. It was two different things. And we're trying to do something else here with the statement of interest policy and a declaration of interest approach.

And the question becomes what should the statement of interest the policy contain? And what - and I think Ken hit on a key point. When do you invoke the declaration of interest approach in any of the given policy work? So with that let's go back to the queue Ron.

Ron Andruff: That's a great segue, Chair. Two points in my view the board conflict of interest policy is very specific to the board and it should be addressing the board issues. Because as you said very clearly the board has to address a number of issues here.

And so therefore their conflict of interest policy needs to be specific to the board. For our purposes within our GOT I think we should be looking very clearly at the statement of interest and the disclosure of interest.

And I like Ken have been supporting the fact that the chair of any working group or the chair of any GNSO body whether it's the - even the administrative body over the policy body will ask prior to every meeting just as a standard course. We take the roll. You know, we set the agenda then the first question that's asked is we have everyone here has a statement of interest in? Yes we all do good.

If there is any disclosures of interest with regard to the topics we'll be addressing today so they should - that should be matter - part of the ongoing principles of ICANN. Roll call, agenda review and then go first thing we do is get disclosures of interest for that particular meeting.

Ray Fassett: I think that's a sound comment. I think my request to Julie on this one is going to be what I'm hearing here sort of a high level principle. And I think Ron just framed it which is at the beginning of a deliberation or whatever that might be the leader asks for a roll call.

As for identify that all on the call have had a statement of interests and then ask if there is a declaration of interests that needs it. Did I hear all that correctly?

Ron Andruff: Correctly and I just - I would just say that we also need to get our terms correct looking at disclosure of interest. We're going to call it disclosure or a declaration. But one of the two...

Ray Fassett: Good point and that's me. I keep going - yes that's me it should be disclosure of interest.

Ron Andruff: And that's - so that is the high level principle and then if you take that principle and you go back to look at (Julie's) document then the question comes back to the same one you were posing. Do we need a conflict of interest as well?

And I think, you know, from my view if we have a conflict of interest is she addressing the board? Then from everyone's GNSO and working group a statement of interests and a disclosure of interests are probably enough. A statement of interest is something that's being submitted once a year.

These are my activities. These are like consult whatever. And then declaration happens on this particular topic I do have, you know, something that I need to disclose to the group prior to getting involved.

Ray Fassett: Okay so once a year or as necessary.

Ken Stubbs: Ray it's Ken Stubbs. Can I make a comment?

Ray Fassett: Ken you're next up.

Ken Stubbs: Okay fine. I just wanted to let me take one step further and not trying to elaborate on what Ron said but rather provide some specific examples of why things I think need to be done. First of all to the best of my knowledge we have not changed the process as far as policies go.

If a PDP is passed and a specific policy is recommended to the board with a majority there is a significant requirement on the board not to accept that policy so in affect what we're doing is in many ways amending contracts that exist.

So it's extremely important that any time a vote that has that kind of an impact is taken there needs to be clarity in the process to ensure that all of the parties voting it's strictly for transparency have clearly indicated whether or not there is any interests.

They can do this by first of all filing on an annual basis the - a statement of interest but it's extremely important that a declaration of interest in that specific vote and I think it needs to go one step further. We are dealing with people from various cultures who speak - who

were in many cases say this is not necessary the only language that they deal with.

And I think it's important they that require these votes in the future a ratification by each council member no I have nothing additional rather than just saying anybody who has an interest in this upcoming vote well would you please declare it. It goes too fast and it's too easy to gloss over.

So all I'm trying to do is to create an environment because in the last ten years there have been situations please believe me including situations as high as the board level where interests were not properly declared that's the reason the board has had to go back on two different occasions and revise this.

There have also been situations where the process has not been used properly at the GNSO level in some cases it was an attempt to intimidate people and that's not being fair. And I just want to make sure that there's enough clarity in the way the process is administered that we don't end up with these gray areas where people start second guessing that's all.

Ray Fassett: Well I think it's a good point Ken because again you're talking about administration. And when we're with our, you know, our agenda being how the council can move to a manager of the policy process a lot of it is about it and how do we, you know, what kind of principles can we put together so that gets administered that way. So it's a very valid point that you're making I think.

Ken Stubbs: Well sure and you can tell at this council letter to the GAK that's going on right now. It's a perfect example because (Christina) makes it very clear. If I'm expected to support the letter as a member of the council I have an obligation to consult substantively with at a minimum the leadership of my constituency.

There's always that presumption the optics are extremely important. And we've just, you know, that's the one thing that's been consistently criticized on and in some cases has been purely optic and, you know.

Ray Fassett: Yes good point. Julie you're in the queue.

Julie Hedlund: Right thank you very much Ray. I just wanted to address a couple of things. But first of all to follow up on what Ken has mentioned and that is the importance of making sure there is a process for a disclosure or a declaration of interest.

And I think we're settling on the term disclosure prior to every meeting whether that be a council meeting or a working group meeting or so on. And in the draft policy that I had developed for the team's consideration on Section four, disclosure of interests.

I had indicated that council members should disclose interests and that in the second paragraph that the council chair or vice chair or team chairs, etc. should announce any such disclosures or interests at the beginning of the meeting.

And I think from what I'm gathering we really need to go further and what I'm hearing from most of you and of course you can clarify this is that we could go further and say very specifically that the chairs of any,

you know, any of the meetings would, you know, go through the roll call.

And then the next step would be to ask if there are any disclosures of interest but I think as Ken noted to go even beyond that and say each member, you know, would say no I have no disclosures or yes I do to make it very clear that, you know, there needs to be a response.

The second point I wanted to make was because I'm not sure it's clear but there has been no written policy for GNSO council members as far as how to, you know, what is the policy for stating interests or disclosing interests? That being said there is a wealth of tradition that in various sort of informal guidelines that council chairs have followed.

So that if you are in a council meeting you note that (Aubrey) will ask for declarations of interest, disclosures of interest before any of the work begins and after the roll call. And if any disclosures have been made she announces them.

But to my knowledge this is not written down which is why this team is going through this exercise and I agree very strongly with, you know, with Wolf and others here that if here are things that we can use that already exist pieces out of the conflicts of interest document.

I think that could be helpful to try to have some consistency. But keeping in mind that I think we want to consider what Ray has mentioned that is not setting up too many barriers to participation in that the process for council members and working groups might be less rigid than that required of the board.

Ron Andruff: Two things if I may respond to that Ray.

Ray Fassett: Yes please Ron go ahead.

Ron Andruff: Excuse me. With regard to that Julie I think the statement of interest itself this should be, you know, we need to - I agree with Ken. We need to require an affirmative notice of change or an affirmative comment at each meeting. But I think that we also need to beef up the policy as a whole by saying, you know, it's not merely a change to the private interest statement that, you know, that isn't publicly noted today.

Today if an officer, a counselor makes a change they just make a change to their linked statement but no one notices that there was a change or not. So what we need to do is this process of updating interest statements have to happen in a way where a full interest statement should be posted on say, you know, the council site or something like that.

And the working group sites all of their interest statements should be posted. There should be a place where it's publicly available for people to go look at and not linked some where. So statements of interest from anybody in a working group or a GNSO so that means coming back to or to a little bit your original language.

You where right now we have GNSO council member noted throughout the document. It should say perhaps relevant party/GNSO council member or, you know, working group member/GNSO council. I don't want to just - I would rather keep that definition broader than more narrow coming back to the comment previously that the board needs to have its own statements.

Then to the rest of us we have to have our statements. So therefore the rest of us what does it all entail? Well it's working groups. It's the GNSO and it maybe other groups that we're not thinking about so keep the language broad enough to include those as well.

Ray Fassett: Well, you know - and this is Ray. True all true. Let me offer a thought. There's not going to be a cross check audit system built into this. There's no way for us to know...

Ron Andruff: I'm sorry Ray. The audit is in the public posting. So if I'm working - right now for example we're all working on this GOT. Our names are all attached to it. You look at the Wiki and its all clear who's who and what's what. Statements are there. So if that's where the checking can happen.

Ray Fassett: But no one's validating my statement of interest.

Ron Andruff: So but let me put it this way. I can go look at it as an interested community member and if I saw something there that wasn't quite right I go hey just a second. You know, I know that you're doing this. Or I could contact you; I could contact some authority to say, you know, could you please look into this?

The point being is there's going to be - there's going to need to be a certain amount of policing in small letter P by the community itself in the beginning to make sure that everyone is being, you know, faithful to this principle.

Ray Fassett: Now you've opened a whole new can of worms. A concept of policing whether they're capital P or little P. And...

Ron Andruff: Well capital P means you've got - that you actually have individuals tasked with that responsibility. Small P means more the fact that we're working together as a community to ensure that we're all fulfilling this practice.

Now the point is it's not about being - I think the real issue here is not - well put it another way. If I post my statement of interest with regard to this working group then its incumbent upon me to keep that updated.

And if anybody were to see that it's not updated and were to catch me the embarrassment of that, you know, or the what it could mean to my reputation within ICANN that, you know, I'm really not being a straight shooter is more of a penalty to me than any penalty that ICANN can give me.

Ray Fassett: Right. Well let me offer this thought okay. ICANN, you know, obviously has evolved over the years and gotten bigger over the years but one of the criticisms today is it's still not big enough, not enough participation, not enough public input.

But its increase, increase, increase well as we go down that path and we get people starting to populate working groups and hopefully not one person any more than one group at any time right that's the goal. There could become an issue of who are you and how do we know you are who you say you are?

You're participating in this group. You said your name is X. Here's your statement of interest. We know if it's even real. Do we need to think about this stuff? Is this part of what we need to think about as a work team? And policing is a strong word.

Validating is a strong word. Is there - should, you know, obviously we want to have as few barriers as possible. We don't want people to jump through too many hoops. But can we all envision, you know, could we envision a system where gees we didn't think about that.

And we've got people participating in working groups that are completely not, you know, purposely if you will purposely even hiding who they are and what their interests are.

Wolf-Ulrich Knoben: Ray, Wolf speaking.

Ray Fassett: Yes Wolf.

Wolf-Ulrich Knoben: I think we should really differentiate between those two things. The one is the - to impose a process of kind of process of declaration or statement of interests closer. The one thing and the other thing which just came up is police things.

I think that is not an item which we should think about and cover because well what is necessary in this whole process, in this whole political process? It's something that's necessary to show to the public and to the community that a process has been imposed, implemented which may help to make us see the conditions under which the people who are engaged in ICANN and the meetings and the working groups

under which conditions they are working in their business life. That's one thing.

It could not be let me say a task force to implement the kind of policy of high policing to search whether people have been announced in a correct way. They are - their conditions under which (unintelligible) other way around. This process of (SOI) implementation nothing else that's my opinion.

Ray Fassett: That's a good opinion. Anybody else have any thoughts on that?

Julie Hedlund: Ray, could I get in the queue?

Ray Fassett: Yes please go ahead Julie.

Julie Hedlund: I should mention that there has been some concerns raised and I think these also were in the importance behind the board recommendation for a statement of interest or a disclosure of interest. There was some concern that the information that people have provided in the past has not been consistent.

For instance as you realize for this particular team and any of, you know, those of you who have been council members there are a number of questions that you have to answer in your statement of interest. But if you review statements of interest that are available for the various teams these statements aren't necessarily answered in a consistent manner.

And so while I'm hearing that this group is considering not addressing something such an enforcement issue I guess there's still a question in

my mind as to whether or not there should be some mechanism for checking the accuracy of the information that's provided.

And to ensure that the questions have been answered completely even - and I'll just give an example. When I pulled together statements of interest for the PPSC and the OSC working groups at the beginning of this process there were some questions that people did not answer at all.

Simply just said not applicable and I'm not really sure that that's necessarily an appropriate response. It wasn't for me to question them but I do believe that's a concern that's been raised. And I'll just put that out there for consideration.

Ron Andruff: I agree with what Julie just said. This is Ron.

Ray Fassett: Yes Ron.

Ron Andruff: You know, if you think about it right now we've got all kinds of these little kind of, you know, nagging bobs and negativity. Registrars, you know, not disclosing their companies who may be actively engaged in changing their business model or nominating committee reps not disclosing that they intend to promote a new GTLD or a registry wrap that's, you know, maybe working within a constituency.

But they're prepping, you know, potential applicants. But they're not bringing this to the floor. This is what we're trying to weed out. What we're trying to say is let's be open and transparent and honest. And if that's the case if there's something that, you know, where someone

has not been then there has to be a mechanism as Julie has mentioned.

There's a sanction of some sort now that means if the individual is removed from that committee or from that group of given a period of time where they need to sit out again the stigma of being a bad apple or not playing fair in the sand box with the rest.

I don't think any one of us would like to be, you know, talking in the hallways about how we got thrown off that committee because we didn't disclose such and such. So I think that we have the ability to do this. We just need to make sure that there's something - there's some mechanism there.

I'm a little concerned about having staff get into this untenable because, you know, having the staff have controls or who has over stepped their statement of interest or not that's not right. So we've got to be very careful about that and Julie has something about that in the first draft.

That's why I'm bringing it up. But we do need to have something in there that's substantial. It says if you don't declare then there will be consequences. And once we get those, you know, and what I was talking about policing earlier had to do with the fact that there will be a certain amount of let's check these things like Julie just mentioned.

That if it comes back with some stuff saying not applicable send it back to them and say it is applicable please fill in the answer or you're not on this work group or you're not on this council or you're not on whatever that party might be. We have to have that in place.

Ken Stubbs: Ron, I mean, excuse me, Ray.

Ray Fassett: Yes please go ahead Ken.

Ken Stubbs: Yes and I agree 100% with Ron. One of the easiest ways of doing this is not bearing the requirements for the disclosures and publicly noticing these. Because what that does is that allows the community people then know that you've got the community involved in the verification process. So don't dilute if you're thinking that people aren't just looking these things over very, very carefully.

And I think if people understand that there's an obligation for them to complete these disclosures accurately and then once the disclosure is completed it will be published. And I think that's a good step and I agree with the idea of not getting the steps involved other than if someone could test or has an inquiry regarding a disclosure or non disclosure there has to be a point of contact.

So that can be forwarded and I think it's better if it goes through the staff than it would be if it sent to a committee chair and the council chair. And I think there has to be a process that allows for impartiality in reviewing this thing so that you don't run into an issue as well.

So now the board has some of those things embedded in their conflict policy. They have a committee. They have some place to go to but even then in the past it's not worked as well as it should have worked. You know, it's kind of like if you have situation where you have a conflict who do you talk to?

Do you go the chairman of the board? Do you go to the council for the corporation? And, you know, and it's almost embarrassing in if there isn't a clear detailed process some times you get reluctance on the part of people, you know, and let's delude ourselves over the next ten years there's going to be a lot of important decisions that are made.

And the optics and that's - I think that's why I'm concerned and I'm sure that's why Ron has expressed his concerns about these things. And I think staff has to have clarity exactly how they're going to have to interact in a process like this so that when we don't get into a situation where something gets inadvertently buried or not managed properly that's all.

Ray Fassett: Well a blocking and tackling procedure let's just shift gears a little bit.

Ron Andruff: Ron coming back.

Ray Fassett: Go ahead.

Ron Andruff: Just a quick response to what Ken just said. I agree. Staff or administration is exactly the right way and what occurred to me as he was saying that is that, you know, we've been - we go back to the other work we just did and the idea of separating administration from policy.

This would be one of the roles for the administration group that they would pull together, you know, like a rotating group, you know, that's constantly reviewing any of these things that get brought back to the table saying, you know, we feel that this individual is outside of their, you know, is standing outside of their conflict of interest statement.

Then there has to be a party to review that and perhaps that's part of the administrative side of the GNSO house that is - will have a standing committee that addresses those issues.

Ray Fassett: And Ken were you saying that staff should be reviewing...

Ron Andruff: No staff just does the administrative aspect of it so there would be a committee that could be established within the administrative side of the GNSO supporting organization. And as part of their mandate and they would have a standing committee of let's say three people, five people to do these reviews when and if or if and when they should arise.

So when something would arise then an individual within the community could take it to the chair of that committee and say I'm concerned about this individual for these reasons.

And at that point that chairman of that committee would then go to staff and say would you gather this documentation that's needed for this review. The committee would give a review. The staff would write up the response and it would be submitted in some public form.

Ken Stubbs: That's a good approach to take because if you have to find governance like that it keeps everybody a little bit more on the straight and narrow path, you know. I think that's a very good approach to take.

There's no reason why the GNSO could have in effect some form of conflict of interest committee would be easy to put something like that

together. And we could even propose a structure for that would be easy to deal with, you know.

Ray Fassett: Be careful because what you just said was a conflict of interest committee.

Ken Stubbs: Well you know if you have a statement of interest or if you do not declare a statement of interest all right the point is that in more cases the lack of declaration of a statement of interests it creates, you know, I don't care what we want to call it. You understand what I'm talking about.

Ray Fassett: I get you. Now let me take a pause for a minute. From - let me go off on a related area. From a blocking and tackling perspective can we envision this thing being an online form, you know, required fields sort of thing.

Where people can go online, you know, kind of like I'm sure we've all done a calendar doodle type in my name, click submit and there's my - it's got these questions. Mandatory answers required.

Could that - and then when you click submit it goes to a page if you will that has everybody's name that's submitted a statement of interest. And you can click on my name if you want and read my statement of interest. Does that work?

Ken Stubbs: I think the person who could answer that question for you is on this call as well and that's Glen. Because she's been dealing with statements of interest now for ten years and I'm sure she's lived with the good, the bad and the ugly.

Ray Fassett: Glen, any thoughts on that?

Glen Desaintgery: Yes Ray. I think it could work if that entire interface is well and has no bugs in it as some times online forms seem to have but I think it would be an excellent idea.

Ray Fassett: Okay so we would - that would be something we might want to ask ICANN staff to budget for build this application for us. All right so - but practically speaking operationally speaking we can say that works.

Glen Desaintgery: I think it would work because it would in fact be an easy way for people to go and do their own thing and I think it would save a lot of tough time.

Ray Fassett: Okay so let's run with that assumption for a minute. So now we have this committee over here in a GNSO called a statement of interest committee and every so often they're going to go to this web site that lists all these peoples names. And they're going to review these things for completeness basically right. Or the staff review them for completeness.

Ken Stubbs: My feeling is that's a staff function. I mean the - let's call an interest committee for the moment. The interest committee only deals with issues.

Ray Fassett: Issues okay.

Ken Stubbs: And an issue could be where someone either refuses to disclose something okay or has indicated in a statement of interest that, you

know, either has filled it our improperly or incompletely or something like that.

Ray Fassett: I'm understanding now. So this would be more a reactive committee. Someone brings it to their attention. They're not going to go actively trying to find it but if somebody's going through the statements of interest and they've gone through a completeness test whatever that is by staff. Now I've got an issue. I see one and I go you know what that to me is incomplete or I'm interpreting I guess I could interpret that a certain way.

Ron Andruff: Who are you in this circumstance? Are you just a...

Ray Fassett: I'm anybody. Okay yes I'm just anybody. And now I want to raise my question. I mean it's not even a concern at this point. I just have a question about this. So I need a place to do that. Now here's this interest committee and some how I'm able to contact them and ask them my question or voice my concern. Is that what we're thinking?

Ron Andruff: Yes that's how I thought. I see them as they're a committee that would be a standing committee and the nice part about this kind of committee is that, you know, it can be six months. It could be 12 months. But you just rotate through so, you know, there will always be let's say a body of three or five that is available to hear one of these issues.

And then if nothing comes up in my period of time just like jury duty I go home. You know, I'm finished with that and I move off of that committee and someone else would have moved onto it. But that way there's no capture in the committee. And there's no capture, you know,

no one can influence the committee's view because it's really looking at something that's black and white. Is this information correct or not?

Ray Fassett: No would the person that's offering the question or the concern are they able to remain anonymous?

Ron Andruff: I don't see why not. The issue is really is the individual being questioned has that data correct or not? If the committee then steps forward and finds that it's not correct why does it matter who brought that to their attention.

Ray Fassett: Sure just thinking out loud.

Ron Andruff: My view is, you know, it's just kind of like when you're walking by a work site here in New York City and it says big sign on the wall and it says if you see anything unsafe here call this number to let us know. And of course I don't have to reveal who I am.

Ray Fassett: Okay well we're moving on the hour time so let me kind of recap. In that we're going to move away from this conflict of interest policy. We understand what it is. We understand its purpose in the eye cam realm particularly to board members.

One question I did want to ask was should a conflict of interest policy just for council members different than working group members but let's hold on that. Where we're at right now there is a divergence. We understand it. We see it. We're focusing in on the conflict over statement of interest which is softer which we understand.

We understand probably we want to encourage adoption of encourage participation and it's a statement of interest and a disclosure of interest documents are softer and it's not a hard commitment or enforcement mechanism. But we do want to set up a watch dog mechanism is what I'm hearing.

One for completeness on the one hand and then another in case someone wants to raise a question. So there's that. Now in terms of action steps do we - is - how can we go about what should be in the statement of interest document? What are the questions? You know, what's your name? Do we want to ask for an address? Phone number? Email? And what are the rest of the questions?

Now I know we have something now. Is it complete? Is it what we want? So there's - and what is it? I filled one out. I don't remember what the questions are. Okay so I'm wondering if - should - well how should we do this guys?

Ron Andruff: My knee jerk reaction to that Ray is that the existing document that's out there is pretty good and, you know, I think it fulfills the purpose that we're looking for. We should look at it again but I think my knee jerk reaction is it fulfills that.

But I do not believe we should be putting phone numbers and addresses and other things on there. I don't think we have them now I don't think its necessary then either. Because it's easy enough if I'm on a working group or on a GNSO council it's easy enough for people to fine me.

But I don't think we should be putting it out to the public domain telephone numbers and so forth. Because you never know someone may be part of the community or not they - if they're not happy with the work you're doing on a work group or whatever and they decide they're going to harass you. Let's not make it any easier for them than we have to.

Ray Fassett: Yes makes sense. Okay so action steps is what for us each to review the current statement of interest and in our next call say that it is satisfactory or not satisfactory. Offer any additions to it or changes?

Ron Andruff: I would suggest - I actually have marked up mine and I will submit my comments to Julie and I would suggest we all submit anything - any comments that we think to the original draft that she sent through. And if it makes sense I would suggest that we try to get that done during the course of this next, you know, before Monday. And then Julie can circulate a revised version or even a red line version perhaps for everyone...

Ray Fassett: And this is the actual document we would fill out.

Ron Andruff: No I'm sorry I was talking about (Julie's) draft of the SOI and DOI. Did I misunderstand you? I bet your pardon.

Ray Fassett: No not necessarily.

Ron Andruff: The statement of interest we can all look at in our own time. I mean it's just five or six questions. But what I was getting at I was coming back to (Julie's) original draft to try to move the ball a little further up field. I have marked up her draft with some comments.

And I'm going to submit those to her and my point was to recommend to the rest of the members of the work team that we all submit anything we feel would be of value to that document.

And then Julie can prepare a more let's say call it a version two of by early next week and circulate it to all of us so that when we get on the next call we're actually talking about substantive change to do this. So that by the time we get off the next call we might have an SOI/DOI document that's kind of high level principle ready to go.

Ray Fassett: Okay. I like that approach. Who was that? I'm sorry.

Wolf-Ulrich Knoben: Wolf just asking for clarification. What are you referring to this version four document, SOI/DOI policy document?

Ron Andruff: No I was referring to the title of (Julie's) document that she submitted right back at the beginning when we started talking about this. She sent out a yellow - there's some yellow blocks of text. It's called the OSC/GNSO operations work team suggestions to interest. Right.

Wolf-Ulrich Knoben: That's version four.

Julie Hedlund: Right this is...

Ron Andruff: Four, twenty-seven, zero nine is the date I have well that was the date I printed it.

Julie Hedlund: Yes actually excuse me for stepping in but the latest version is online. It's linked online and we'll he's right it's four. But Ron if you've marked

up an earlier version that's not a problem. Because there aren't - the differences between them aren't that great and I'm happy to take them late and too whatever else I receive.

And please also note Ray had asked about the questions that are currently asked. And those are listed in that document as well. There's four questions that are currently asked of council members and those are the four questions that all of you answered as well.

And if you do have ideas of changes to those questions that you would like to include when you're marking up the document that would be fine too. I'd be happy to note them as well in the new red line version.

Wolf-Ulrich Knoben: Okay.

Ray Fassett: Okay team I think that's a great place to be right now. For our next call we should have feedback on the other document good or bad or we should have something to work with some feedback. And then I think in the meantime Ron is going to send his edits again over to Julie.

They're going to do a little bit of maybe conversing and then at some point (Julie's) going to send out to us as a group this new version and then it's up to us individually now to read it, understand it, and offer ourselves any edits or feedback to the document so that when we're getting the call next call we're hitting the ground running with the SOI/DOI as Ron put it to move the ball a little forward again.

Ken Stubbs: Ron, I mean Ray.

Ray Fassett: Yes.

Ken Stubbs: When is next time?

Ron Andruff: Actually before that just quickly Ray just a correction of what you said I would like everybody on the work team to whatever even if it's a small word change whatever, whatever they have it's just not Julie and I working on this document.

Ray Fassett: Right I meant that. I thought you guys were going to - oh yes I meant that Ron but good clarification. I did mean that whatever I said if I didn't say that. And then our next call Ken is two weeks from today same time.

Ken Stubbs: Can we move it one hour earlier?

Ray Fassett: I can't. I can if we alternate the darn weeks. We keep falling in the wrong week.

Ron Andruff: This time is a bad time for me. So let me - so what is that date exactly?

Glen Desaintgery: It's the 27 of May.

Ron Andruff: May 27.

Ken Stubbs: At this point in time Ron I may be in an airplane over the ponds so I can't guarantee I can make this call Ray in two weeks. I'll do the best I can though.

Ray Fassett: Understood. Okay understood.

Ron Andruff: So the 27 is the day and is it possible to move it forward an hour?

Ray Fassett: I could move it back an hour in other words 1700 UTC. I can't do 1500 UTC.

Glen Desaintgery: No 1500 UTC won't work it over laps with another call.

Ray Fassett: Yes but maybe I don't know 1700 UTC works for everybody. Now that would be difficult for him he's in Israel. I think that would be difficult for him but he has...

Ron Andruff: No that's the whole afternoon like from 12:00 till about 3:00 I'm kind of tied up. But let's do this.

Ray Fassett: Just that one date or every Wednesday.

Ron Andruff: Every Wednesday but then I'm going to be leaving the country going to Europe for June. But let's say this let's call it for 12 and if I will try to arrange myself accordingly. If I can't all of my comments will be submitted in writing in advance in any case.

Ray Fassett: Okay and then Ron if this becomes more of a conflict for you let's work on another. We can work on another day.

Ron Andruff: Yes any other day would be fine. Just Wednesday in mid day in the afternoons I have a commitment a standing commitment so I'd like to try to keep that.

Ray Fassett: I know that's a problem for Glen what I just said.

Ron Andruff: I know so let's just leave it as it stands right now the 27 is the day and the time we will remain the same. If I can't make the call then...

Wolf-Ulrich Knoben: (Unintelligible) don't they?

Glen Desaintgery: Yes and if you need to be dialed out to I can do that again.

Wolf-Ulrich Knoben: Okay thank you.

Ray Fassett: Okay great. And then the other thing I wanted to mention is this ICANN city meeting is coming up. I do have a conflict that week as I every year for this particular ICANN meeting. I will not be attending in person that meeting.

That doesn't mean we can't get together as a group. I would also be able to likely dial in if we wanted to do it that way or someone could step in as an interim chair for an in person meeting in Sydney. So that's food for thought. Maybe we can address that on the 27 as well.

Ron Andruff: Very good.

Ray Fassett: All right with that I am going to ask the recording to cease and unless anybody has any other business we can adjourn the call.

Ken Stubbs: Glen, can you stay on the call for a moment please?

Glen Desaintgery: I'll do that Ken yes.

Ray Fassett: Thank you very much.

Coordinator: All right I'm going to go ahead and disconnect the recording.

END