

WHOIS Task Force Teleconference

Transcription

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<http://gnso-audio.icann.org/WHOIS-20070226.mp3>

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Participants on the call:

Attendance:

Jordyn Buchanan - Task Force Chair
Ross Rader - Registrars c.
Tom Keller - Registrars c.
Simon Sheard - gTLD Registries c.
David Fares - CBUC
Marilyn Cade - CBUC
Maggie Mansourkia - ISPCP
Milton Mueller - NCUC
Steve Metalitz - IPC

ICANN Staff

Maria Farrell

Glen de Saint Géry - GNSO Secretariat

Absent with apologies:

Avri Doria - Nominating Committee appointee to GNSO Council

This is officially the last call of the WHOIS Task Force.

Man: Hello?

Jordyn Buchanan: Hello.

Man: Hey, Jordyn

Jordyn Buchanan: Hey, how are you doing?

Man: Good. You're awfully quiet.

Jordyn Buchanan: I thought I was by myself.

((Crosstalk))

Jordyn Buchanan: (Unintelligible). It might have been.

So, is there - aren't anyone else on here? I had you on mute, so.

Man: Oh, okay.

Glen Desaintgery: Thank you. Hi Jordyn.

Jordyn Buchanan: Hi, Glen. How are you?

Glen Desaintgery: Fine, thanks.

I'm (excited) to be in Portugal.

Jordyn, I've got a meeting with you on - this afternoon for the call which is quite easy. If you've just got an ordinary PC, log on to (https)...

Jordyn Buchanan: Uh-huh.

Glen Desaintgery: ...(://meetingview.nci.com)...

Jordyn Buchanan: Okay.

Glen Desaintgery: ...(-)crntexwed, C-R-N-T-E-X-W-E-D...

Jordyn Buchanan: Uh-huh.

Glen Desaintgery: ...(-meetingaview3-loginhtn). But I have an idea that we must substitute that (Meetingview) 3 for (Meetingview) 1.

Jordyn Buchanan: Oh, really? Uh-huh.

Glen Desaintgery: And then you're going to get at the bottom, Username. Put in...

Jordyn Buchanan: Yeah.

Glen Desaintgery: ...your name.

Jordyn Buchanan: Okay.

Glen Desaintgery: And then the number of today's conference is 605...

Jordyn Buchanan: Uh-huh.

Glen Desaintgery: ...6765.

Now, there has been a bit of trouble. I have tried before and it hasn't worked today. So maybe, it might be a bit long getting on the...

Jordyn Buchanan: (Yeah, with this)...

Glen Desaintgery: I thought it might be useful for the (unintelligible). Then you can see who's on the call.

Jordyn Buchanan: Oh, yeah?

(We're actually) going to do this official vote by...

Glen Desaintgery: By email.

Jordyn Buchanan: Yeah.

Maria Farrell: Hi, Glen. It's Maria here. I joined (unintelligible).

Glen Desaintgery: Hi, Maria.

Maria Farrell: Hey there.

Steve Metalitz: Hi, Glen. Steve Metalitz here.

Glen Desaintgery: Hi, Steve.

Steve Metalitz: Hello.

Glen Desaintgery: And we've got (Ross) as well.

(Ross): Yup. Hello, everyone.

Glen Desaintgery: Good.

Coordinator: Hello, Miss - Madame?

Glen Desaintgery: Yes?

Coordinator: If I could ask you could try again? It should be able to (work) now.

Glen Desaintgery: It's working now, thanks. It is...

Coordinator: Okay.

Glen Desaintgery: ...(unintelligible).

Man: (Unintelligible).

Coordinator: Yes, it's working now.

Man: (Unintelligible).

Glen Desaintgery: Yeah, it's working. (Can you put me back in the call please)?

Coordinator: (I'll put you back) in the call.

Glen Desaintgery: Yes please.

And we've got (Simon).

Welcome.

(Simon): Thank you very much, Glen.

Marilyn Cade: Hello?

Hi, it's Marilyn.

Maria Farrell: Hello?

Man: (Unintelligible).

Glen Desaintgery: Yes. Hello, Marilyn.

Marilyn Cade: Hi, Glen.

Glen Desaintgery: Hello (Tom).

Marilyn Cade: (Unintelligible).

Glen Desaintgery: (Nevin), I think we may have (echo) on the line. I'm just going to use a line for Marilyn Cade and we'll just try (again). I think the echo (must come) from that line.

Will you just tell her please? Will you just tell her?

Thank you.

Coordinator: (Unintelligible) you line for a moment?

Thank you.

Coordinator: Hello?

Jordyn Buchanan: Well, (and they) fixed it.

Coordinator: Okay, so I'm just going to call the lady (unintelligible) because echo's coming from her line.

Jordyn Buchanan: Okay.

Coordinator: It'll be just a moment.

Jordyn Buchanan: Marilyn, in a minute get back in and we'll - okay?

(Because she's in Paris she's waiting a long time for an operator.

(Let's compose an) email on this subject and sent it to her.

Coordinator: Hello, Glen...

((Crosstalk))

Coordinator: This is the operator. We just spoke with Miss Cade but she's just going to mute her line while she's not talking and she's doing it now. So she's muting her line herself.

Glen Desaintgery: Okay, that's fine. Thanks a lot.

Coordinator: (Okay).

Glen Desaintgery: (Unintelligible) line is muted. (Unintelligible).

Coordinator: I'll just...

((Crosstalk))

Coordinator: It was - (unintelligible) line is now unmuted.

Man: (I'll try to) (unintelligible)...

Glen Desaintgery: Okay.

((Crosstalk))

Man: Hello?

Hello?

Man: Am I the only one that can hear the operator talking to Glen?

Man: No.

Man: Okay, good.

Glen Desaintgery: Yeah, the operator doesn't seem to (unintelligible). She should take me out of the call but...

Jordyn Buchanan: Well, that's all right.

Glen Desaintgery: ...it's okay.

Coordinator: I do apologize, Madame. We've...

Glen Desaintgery: That's all right.

((Crosstalk))

Coordinator: ...would you (like any speaker's line)? We'll just announce. I can surely just get you into a speaker's line. (You prefer a speaker's)...

Glen Desaintgery: No, that's quite all right.

Coordinator: Thank you.

Glen Desaintgery: David Farrar just joined.

David Farrar: Yeah.

Man: Hi, David.

David Farrar: Sorry, I'm waiting for an operator for a while.

Jordyn Buchanan: No, that's okay.

Glen Desaintgery: Oh. Sorry, David.

David Farrar: No problem. I'm sorry for being late.

Glen Desaintgery: And (Maggie) has joined.

(Maggie): Hi,. Sorry I was on-hold for a while.

Jordyn Buchanan: Okay.

((Crosstalk))

Glen Desaintgery: ...in fact, we're missing just the noncommercial people.

((Crosstalk))

Man: I'm here now.

((Crosstalk))

Jordyn Buchanan: There we go. We (have)...

Glen Desaintgery: Oh, Milton? We've got Milton. Good.

Milton: Yeah. I spent a very long time on hold before they even got me.

Glen Desaintgery: Oh. Excuse us, Milton.

Okay.

Jordyn Buchanan: Okay, why don't we go ahead and get started talking about the agenda at least.
And maybe, we'll have a few more (unintelligible) yesterday (unintelligible)
through the (whole view).

In any case, the main thing that we need to accomplish today is to take a look at the, you know, the reports that Maria sent out. I'm hoping that this is very nearly the final version of the report.

So, the main topic I want to discuss, if we'll have any - if there's any thoughts or other consideration that we should give about any changes to the structure or the content of the report.

Marilyn had I think (raised) -- maybe a backchannel -- a general thought about the - (in the) minority reports, I think there's a very - the special circumstances report now sort of included as a minority position, it may be that some further fleshing out of the minority position would make sense just to give it some more context. That's certainly something we can talk about as well.

And then, finally, the other thing I want to talk about today is just to get us all to agree on what the voting process should be -- (to) conduct the vote by email as we've previously discussed.

And then, after that, assuming the first part of the call has gone well, I'd like to have a quick chat about certain final steps in winding down the task force (specific for) especially the end of our work (at this point).

So, anything else anyone would like to discuss on the agenda today?

Great.

So, first topic then is the report itself. (If) everyone has taken a look at it, (there have been) sort of structural change, is that we have moved - based on

the (extrapo) we've conducted, I believe that the outcome will be such that the OPOC proposal will be, (by a bare majority), the majority position of the task force. And so, that makes the special circumstances proposal the minority position.

So the report has been restructured with essentially a - here's the report, and then that essentially is OPAC plus other sort of procedural work that we've done so far. And then, the special circumstances proposal has been moved later in the report as a minority position.

Maria has also included the existing analysis that she already had before as a sort of a staff analysis of the two positions to compare sort of the some of the differences between the two. That's - I think all that was in the report before. She has been moved around by (unintelligible).

Is that a fair assessment, Maria?

Maria Farrell: Yes, that's pretty much it.

Jordyn Buchanan: And then, the executive summary has been added and fleshed out. People (asked and we've had some) conversation about the report as well.

So those are the changes as I see them, but I guess I'm glad if people have questions for Maria about the structure or comments or anything like that. This would be the time to raise them now.

Marilyn Cade: Jordyn, it's Marilyn.

I'd like to speak about the executive summary.

Jordyn Buchanan: Sure, sure. Anyone else (want to be in the queue)?

Man: Yeah, I just have a quick question about - actually, one (thing on page five).

Jordyn Buchanan: Okay.

Marilyn, (unintelligible)?

David Farres: And this is David.

Can I get in the queue too?

Jordyn Buchanan: Yeah.

Okay, go ahead, Marilyn.

Marilyn Cade: I'm going to defer to David on other comments from the BC. My comment specifically addresses the fact that the executive summary actually is not, as I read it, an executive summary of the report, it's a summary of what is perceived to be as the task force recommendation to the GNSO Council.

And I'm not suggesting that that's not a useful few paragraphs to be used at some place, but an executive summary of the report is actually - needs to be more about a - an executive summary of the full report. It's not just what the recommendation is because it's not an executive summary of the recommendation.

And so, I think that (- come on in) - I think that may have been just a little bit confusing maybe when the discussion was undertaken that we need an executive summary. So I'll just give an example.

Normally, I think we would be numbering this as, (2), Executive Summary and then, numberings or headings. So I'll assume that this - the heading is 2.1 is - starts with this is the final draft, task force report, and then 2.2 would be summary of the task force policy recommendation.

The task force policy recommendation, I believe, is one element of an executive summary. But an executive summary would need to say the task force considered two complete proposals with two smaller contributions from individuals, a discussion took place, we held - we had public comments (they're summarized here), and it would just be an actual overview of the entire report. That's typically what an executive summary does, and I kind of think we're not quite - that that's not quite what this does.

I'll leave further comments from the BC perspective to David Farrar.

Jordyn Buchanan: Thanks, Marilyn. I think you're probably right that some more of the sort of procedural and other inputs to the report probably make sense to include in the executive summary as well.

Well, to me, it may actually make sense that in keeping an executive summary relatively (concise), probably (have) another page two or three pages, is probably all right. But if it grows much beyond that, we may have to actually cut back on some of the existing - well, but it does makes sense, I think, to include some of that in the summary of...

David Farres: Jordyn, before you draw any conclusions like that, I'd like to...

((Crosstalk)) ...Marilyn...

David Farres: ...in the queue. But...

Jordyn Buchanan: I'm glad to have further discussion on that, yeah.

I think (Ross) was next in the queue now.

Go ahead (Milton).

(Ross): Yeah, I just had a question.

The bullet points in the - the second set of bullets on Page 5, "The (specify) OPAC (should have collected contact) for information for the registered nameholder," that statement didn't really parse. So I just wondering what it really says.

Maria Farrell: And Jordyn, it's Maria here.

I think it should read, The OPOC should collect contact information. They can remove ("they have") there.

Jordyn Buchanan: Yeah. So I agree. So this is actually sort of a strange comment to include - and (I) agree that it was a comment that was voiced by several of the commentators. This is sort of a strange comment in that the OPAC doesn't - this information is already collected and the OPAC doesn't change either (collection or this claim).

But it's (really an odd) comment. I think it may not be worth highlighting in the executive.

(Ross): But it sounds like you wanted to delete "collect" rather than "have."

Jordyn Buchanan: Yeah. Well, regardless, it's a very - it's the strange comment because it comments on something that actually the OPAC doesn't affect one way or the other, right?

So people say like, oh, the - there are a number of commentators who essentially say, oh, the OPAC shouldn't, you know, should make sure we - it's important that we have the registered nameholder and...

(Ross): Yeah, to the extent...

((Crosstalk))

(Ross): ...it doesn't need to make sense, right? So...

Jordyn Buchanan: Yeah.

(Ross): That's a fine answer. That's fine with me.

Steve Metalitz: This is Steve. Can I get in the queue?

Jordyn Buchanan: Is it on this particular point, Steve or...

Steve Metalitz: Yes.

Jordyn Buchanan: Yeah, go ahead if your - it's on this point.

Steve Metalitz: Yeah, I think while I agree it should make sense and either "have" or "collect" should come out, I think it's a relevant comment because the issue was raised that there's no - nothing in the current proposal that guarantees that the OPAC

will even know who the registered nameholder is or that it has been designated as the OPAC or (that it knows) how to reach the registered nameholder. And that would kind of defeat the purpose of it. So I think it's irrelevant comment and that...

Jordyn Buchanan: So you're saying - okay, so you're saying the OPAC as the contact itself should have...

Steve Metalitz: They should have...

((Crosstalk))

Jordyn Buchanan: ...not the proposal but the...

Steve Metalitz: They should collect. I think probably "should have" is probably better. But either way, I think it's a relevant comment.

Jordyn Buchanan: (Makes more sense read) that way I think.

Steve Metalitz: Yeah, what really wasn't clear to me on this one, Jordyn, was, A, what it was saying, but, B, who had raise this because I hadn't - in you - in both readings of it I wasn't clear where that actually came out in the public comment process. So if we're going to include it, I'd like to understand that better as well.

(The other) three bullets are great on that subject.

Jordyn Buchanan: Maria, do you know where this came from?

Maria Farrell: Yeah, it was a comment that was raised several times by people joining the public comments process and most of the people who were in favor of the special circumstances proposal. And (it's) basically just (lifted), copy-pasted it from the summary of the public comments and then later on in the report.

So for - what, you know, (whatever) - by the content of it, it has actually survived the three drafts of the report so far.

Jordyn Buchanan: And this is what I actually read, Maria.

So it's probably worth - we don't need to do right now. It's probably worth, just looking at the comments that it came from, to see if we can - (you guys know) to phrase it the way that it really reflects the comments.

Maria Farrell: Sure.

Jordyn Buchanan: Okay, David, you're next in the queue.

David Farres: Thanks, Jordyn.

I just wanted to raise a point, (voting) that, you know, we do have the OPOC proposal and the special circumstances proposal, and there's a division among the constituencies.

Do we generally support one over the other? And which calls me to question whether the minority position should be set out in the Annex or if it should follow immediately after the majority position. And so, I'd like to propose that we bring it back into the body of the text and can explain just how exactly the division among the constituency (falls) in how the voting process would take place.

Jordyn Buchanan: Yeah. So the way that the PDP actually reads is that the - I think - actually, let me pull it up since (you're not being crazy).

But I believe that minority report it's actually supposed to be like a separate (print we did) under a separate cover entirely. But let's take a look and see whether or not. Let me see.

(Uh-huh), that's actually the case.

So, I think the PDP sort of imagined a process where there is a report, and then if there are one or more groups like constituencies that are unhappy with the contents of the report, then they have the ability to essentially say, well, we don't really like that report and here's what we're proposing instead.

And I think that it's what we sort of discussed. I think this is a topic we've discussed in the past of making it so we do have a report in the minority report as opposed to the temporary situations that we had going into the preliminary report where it wasn't clear which might be the majority position.

Now, I agree that it's sort of a bare distinction based on what's likely to essentially be a single vote. But it's - I think it is consistent with the PDP for there to be sort of a clear report and a separate thing that a minority report whether that's in an annex or in a separate cover.

Marilyn Cade: Jordyn, it's Marilyn. Would you put me back in the queue?

It's about this specific point.

Jordyn Buchanan: But you want to talk to the (particular) situation?

Marilyn Cade: Sure.

Jordyn Buchanan: (Unintelligible).

Marilyn Cade: I want to go back to the comment I made about the executive summary.

David's point about where the separate report goes I'm really deferring to him. But I'm just pointing out that (unintelligible) report is supposed to cover the - to summarize and then put forward a recommendation but not to ignore the substantive disagreements that have occurred and still exist.

And so, one thing to be careful about in the executive summary regardless of where the group ends up putting the other option is to not be of (unintelligible) to the fact that there is significant split.

And that's something to be careful about because as you read the executive summary right now, you actually would only know that there was a second proposal when you get down to Summary of Public Comments.

But it doesn't actually stay in the executive summary substantive - substantial - I don't know what the word (would be fit), but substantial disagreement exist. And as a result of that, there is a - the second proposal, blah, blah, blah, blah, which also received consideration, is provided here or where, right?

So just think about that in relation to the executive summary. But that would also mean that in the body of the report it's important to note somewhere neutrally the additional work. And if you look at the work that Maria has done, of course she had analyze the public comments against both proposals.

So, it seems to me it's going to be important to make sure that the report is in the information that provides - explains about both proposals, and then you explain the vote.

Jordyn Buchanan: Yeah, okay. So this is the point that I think that (Milton) wanted to talk to earlier and he's next to you anyway. And so, I'm going to - yeah, I wouldn't mind (further hearing on that).

So then - (well), (then), (maybe later) - and then, I'm going to try to (pull this back to the piece) a little bit, probably sort of bring something (unintelligible) with what Marilyn is saying and maybe not quite with David is.

But go ahead, (Milton).

(Milton): Okay.

Yeah, I think we have to agree with Marilyn that the - if there is a minority position in the overall report that needs to be recognized in the executive summary, I think it's a very easy thing to solve.

And I've just been banging the way here so that I would propose that under the heading "Summary, The Task Force Policy Recommendations" at the end of the first paragraph, you simply say other proposals discussed and considered by the task force are independent of Index X and Y.

And they may want to know that the - what you might call the special circumstances proposal -- sounds so coy -- had significant support but was not the majority position. And that does it.

And I think I just want to stress the need for moving forward and not getting into some major reorganization of the report. I think it's kind of been - again, I'm continually astounded at the slow phase. I mean, I'm - I've been ridiculously busy for the last two months and have (really) - as you probably know, have missed some of these calls. And whenever I come in after missing some of these calls, I feel like absolutely nothing has happened.

And I think that we pretty much have our report here. I mean, this is the report, we all know the politics, we're tweaking, we can delay "to have" or "collect" -- I would suggest collect -- you can add a sentence to address Marilyn's concerns.

But, I mean, come on, that's it, let's get on with it. We're all ready. We all know what the score is on this issue, we all know that it's in the Board's hands and that tweaking our report forever in a day is not going to affect the outcome much at this point; it's in the hands to the Council, it's in hands of the Board and let's just get this process finished.

Jordyn Buchanan: (I think that's -) I have (Ross) next in the queue.

(Ross), (unintelligible).

(Ross): Actually, Jordyn, (Milton) kind of sums up nicely around that. So I'll just - I'll defer.

Jordyn Buchanan: Okay. So while this is going on, I didn't take a quick look at the bylaws.

I think the relevant section of the bylaws is probably - if there's not a supermajority position, which there's not in this case, then there needs to be a clear statement of all the positions (as passed) by task force members and

along with the reasons underlying the position and the constituencies (that held) that position in the report it self.

S I think there are probably some - and this may go the sort of the type of summary that (Milton) and Marilyn were talking about especially, but it probably does make sense to have, certainly in the executive summary, some statements that there is this other position that's supported by a number of constituencies.

And certainly, if they wanted to provide some analysis or reasoning of why they supported that position (or it's going to be helpful in the PDP).

Marilyn Cade: So Jordyn, it's Marilyn. Let me just (give) clarification on this.

Because in reading the bylaws, what I see is without a majority opinion all of the proposals have to be treated equally in their analysis and in being included in the report.

Jordyn Buchanan: So, I read that - so, I probably don't read it quite that broadly. But certainly, there are some - it doesn't - it certainly didn't say that everything needs to be treated equally. They just say that if there are other positions, they need to be (balanced in the report) as long as - as well as a statement as to why very few people support that position.

(Milton): I have a proposed sentence.

Jordyn Buchanan: Yeah. Go ahead, (Milton).

(Milton): Okay. So again, in the executive summary heading, "The Summary of the Task Force Policy Recommendation," which is (2.1) if they were numbering

like that, at the end of the first paragraph (add), other proposals discussed and considered by the task force are in Appendices B and C. The special circumstances proposal defended in Appendix B was supported by three constituencies who prepared the minority report.

Marilyn Cade: And I'm going to have to (butt) - Jordyn, again it's Marilyn.

I certainly think that's the appropriate treatment for the submission that I made and that (Aubrey) and (Robin) I think made, which were, you know, very late submissions and had very limited support.

But as I read the bylaws, I believe the lacking of supermajority that those the OPAC and the special circumstances do have to be put forward in the body, and that's what I thought David Farrar was proposing.

Jordyn Buchanan: (unintelligible).

Maria Farrell: And Jordan, it's Maria here.

Jordyn Buchanan: Yes?

Maria Farrell: On the suggestion which is - and what I had been doing was simply trying to follow what I understood was the accepted practice. And - but what I can do is more proactively go back to these report that have been issued over the last few years that have (unintelligible) reports in them and just give that information to the task force so they know (where the precedent is).

Jordyn Buchanan: Yeah, so - well, so I'm a little concerned we're going to end up where (Milton) doesn't want us to end up and I don't really want to either, which is

needing to come back for another sort of major revision (with some significant) discussion around it if you go do some research.

So, let me just look at the report real quick (unintelligible)...

Marilyn Cade: Jordyn, it's Marilyn.

I have looked at the report with the following ideas.

Jordyn Buchanan: Yeah.

Marilyn Cade: First of all, there'll be a couple of paragraphs in the executive summary that just gives more of a history followed by a single paragraph, maybe two, that summarize the OPAC proposal summarize special circumstances, two sentences saying there were other submissions they - that they were - they received, you know, they were - they didn't receive support from other than the parties who had submitted them and they're therefore (unintelligible).

Then, going on to the introduction and realizing that in the Analysis Section that Maria did, she did take the public comments which she would be required to do and document those against the proposals that were raised.

So we're really, the only significant change that I saw would be in including the summary, which was already done, of the special circumstances proposal and inserting it into the body of the document at the appropriate time and then showing that the - showing the vote.

(Maggie): This is (Maggie). Can I get in queue please?

Jordyn Buchanan: Yeah, you're (at the top), (Maggie), so go ahead.

(Maggie): Okay.

I guess I don't quite understand - well, two things actually. The first (is the constituency), that a number of constituencies for each report were split. I don't quite see the point of putting the special circumstances proposal in the Annex.

I understand that as far as voting on this task force, that there was a slight majority to the OPAC. But again, I - it just - it strikes me as really odd that we're going to push forward a proposal - push behind in the back of a report a proposal that once that it had, you know, everybody had (opinions) - comments on and put - provide input on and was really supported by an equal number of constituencies and it would not in fact - taking that section and moving it back into the body and providing the changes that (Milton) mentioned in the executive summary, it would not delay us at all.

So I really object to the notion of putting it in the Annex.

Jordyn Buchanan: Right. So let me just be clear a little bit about - part of the motivation for this is that making the report so it's somewhat more user-friendly. I think we do want to make sure that we're not giving (unintelligible) to the minority position, but I also don't want to end up with a report where the user - (probably where) a reader of the report who's relatively new to this process is going to read through it and sort of just ends up confused at the end of the process about what's being recommended.

And so, I think it does make sense. We do want to make sure that we're calling attention to the fact that there is another proposal that is - that does have support. The bylaws does call for us to do that.

So, what I'm going to tentatively propose is that we do - we - I guess I'm okay moving the special circumstances proposal back into the body maybe after the Task Force Recommendation Section. We should have an alternative recommendation or alternative - let's see what's the language in the bylaws bylaws.

Man: Well, this is a minority report, Jordyn, it's not an alternative recommendation...

Jordyn Buchanan: Well, so...

Man: ...(unintelligible).

Jordyn Buchanan: ...this is why I want to - so Marilyn is correct that the bylaws do call for, you know, an alternative position to be included in the - alternative - I'm going to use the word position even though I don't necessarily mean that the same sort of...

Woman: Proposal.

Jordyn Buchanan: Yeah. (Well), (make it things that other people supported). The bylaws do call to have - to refer them and explain people's votes on those things as well. It's not - if you have a supermajority position in favor of the policy recommendation, it's pretty clear that the minority position is just sort of transmitted as a separate sort of document, sort of saying here's what the minority - the minority thinks we're not happy (with the position).

But if there's not a supermajority vote in favor of the recommendation, then the bylaws do call for a somewhat broader explanation of alternative positions.

And so, that's why I'm proposing that we would include a section that basically says - and this is why I'm trying to get to language of the bylaws.

The alternative position, I know we could include a brief paragraph at the start of that saying, this is another position that was presented, it's not the - it's not (held) to be the position of the task force, but it is advocated by the following constituencies. (That would) probably frame the - help frame the public comments which come after that a little bit more clearly as well.

(Milton): Jordyn, could I comment?

Jordyn Buchanan: Yeah, go ahead (Milton).

(Milton): Yeah, I think, again, we're kind of shadowboxing here and not really accomplishing very much. I - you're talking about the body of the report and not the executive summary, right?

Jordyn Buchanan: At this point, (I am not) talking about the body of the report.

(Milton): Right. So, I mean, it seems to me that if you put something in the Appendix and you reference, you know, any executive summary as an alternative position, that you have - and then - and you've summarized the public comments and you have constituency statements, that anybody who reads the report knows that there was a variety of positions debated, they know what those positions are, they know who supported them, they know who, you know, the public commenters said about them.

And I just don't understand what the issue here other than, you know, the minority position trying to somehow present itself as (what's), you know, diminish or somehow undermine the status of the minority position.

Jordyn Buchanan: (unintelligible) (up there).

(Milton): And I know it's a close vote and I know that we've been having these close votes for three years. And I just think it's time to realize that to the extent that this task force can come with any kind of a majority position -- that's the OPAC proposal, which we don't particularly like but it's as close as we're going to get to some kind of reform -- so let's just, you know, do it.

The report is 100 pages long, okay? The purpose of the executive summary is to give people the gist of what's there. And I think with the amendment I propose, you're putting much know what the deal is.

David Farrar: Jordyn, if I could get in the queue as well please?

Jordyn Buchanan: Okay. (I have) David first and then...

(Milton): I'm done.

Jordyn Buchanan: (Excellent).

(Jordyn Buchanan): Go ahead, David.

David Farrar: Thanks, Jordyn.

I think, (Milton), you know, the fact that you're saying, (we) - I don't think that we're attempting to be create any confusions here. And that's exactly why I said we would need to identify the voting procedures and how the constituencies - how the division among the constituencies falls out. If you then explain the voting process, I don't think that there's any confusion about where the votes ultimately lie.

But I think, especially given the way the bylaws read as Jordyn just read them to us, it would seem that this should be incorporated in the body of the text given that there's not a supermajority and that there is significant, lengthy document.

And, you know, the fact that this is 100 pages means that people may not go and read what was another (considered) proposal.

That's it. Thank you, Jordyn.

Jordyn Buchanan: (Ross)?

(Ross): Yeah.

Jordyn, I'm looking the same bylaws here and I'm completely on a different page on this.

The bylaws don't even talk about a minority report. What they're talking about are positions submitted by the constituencies during the comment period.

I think we've completely treated those fairly. I think we've also treated all of the proposals very fairly. I think we're just - we're wasting our time with this whole discussion.

((Crosstalk))

Jordyn Buchanan: ...just to be clear, there are two different - so in Section 11 of the PDP, there's a thing that talks about minority position, which I think is distinct from Section 2 in the report summary, which is what happens if there's not a supermajority position.

So just, (I mean), I think there's actually a distinction between a minority report and what this (calls for here).

(Ross): But it's still not - I think the point still stands -- Well, I don't believe there's even a requirement for a minority report unless I'm missing something.

Yeah, looking in Section 11, I'm not sure (we) can get rid of - please, even if there is a requirement for a minority (but another thing to get) rid of it. I think we've treated everything very fairly and we should probably just move on to this (forward).

Jordyn Buchanan: If I may, (Ross) and (Milton), I guess, if we include the special circumstances proposal as the new Section 6 that basically - (I'll turn the) recommendation and include a paragraph like I described before that basically says this is - this, you know, alternative position is not, you know, they're by the following constituencies but was not the majority position of the task force. But how does the report suffer as a result?

(Milton): From my perspective, it's a question of timing, Jordyn. I think there have been a lot of positions put forward during this discussion. I think some of those positions were probably more well-founded than the special circumstances proposal and would therefore warrant at least equivalent treatment.

Some of those positions were comprised out of the picture. I think at this point, we've got more of a duty to (unintelligible) (than we do) of absolutely position around this stuff and I think that the report does fairly present the wide range of views that we have.

Jordyn Buchanan: So I'm trying be (timely) here as well and make sure that at the end of the call today we (take) the direction that is going to get us to wrap up our work.

(Milton): Yeah. Well, let me just directly respond to your question.

Jordyn Buchanan: Yeah. Go ahead, (Milton).

(Milton): In the body of the report now, you have a summary of public comments which has two sections devoted to the special circumstances proposal. In the next section, the summary of task force voting on this report, you can see who voted for which proposal, you have a historically background, you have a staff comparison of the proposals and the minority proposal. And then, you have constituency statements in which each of them goes into detail as to their position on the proposals.

S, you know, maybe I'm responding to this as an academic in terms of neatness of organization of text (or your) material, but it seems to me that you've put the proposals that are not the ones we're making in an appendix.

And then, you have massive discussion of each of these proposals in the report itself. But the idea of putting those proposals that are not the ones we're recommending into the bodies of texts to me sends a confusing message.

I agree with Marilyn that the executive summary gives it (unintelligible) and that I propose an amendment to deal with that. It's one sentence. You can propose to strengthen that one sentence.

But other than that the report is completely thorough, and every proposals, particularly the special circumstances, has a lot of airplay in that report. So I just don't understand that what's going on here.

Marilyn Cade: Jordyn, I'd like to speak when you got to the queue.

Jordyn Buchanan: So there's a (unintelligible).

Marilyn Cade: Well, I'm going to speak in support of what (Maggie) and David said and also speak in support of we are trying to provide factual information to the public. And (I must) say that in the body of the paper we acknowledge appropriately so that the public provided comments on both of the proposals.

And to not include the proposal in the body of the report given that there is not a supermajority I believe this is misleading. And at the same time, I think that the vote will show that there is a narrow margin of preference for one of the proposals over the other.

Jordyn Buchanan: Thanks, Marilyn.

Any other thoughts on this topic or we've got everyone thoughts at this point?

Okay, so lacking vaguely approaching a consensus on this particular topic, we have a couple of tasks we can say we can sort of - I think (it's a) suggestion of one (batch) to the other -- and so undoubtedly leave the other unhappy.

We can - an alternative is that Maria and I (so) - and some folks with the ICANN legal staff interpret what this bylaw might mean and whether or not it would include - whether or not it requires to include the entire position or some summary thereof.

Or I guess another path we could go down would be we could perhaps - and maybe, this - I - my reading of the bylaws, Marilyn, is not quite as (extensive) as yours although I agree that it probably calls for slightly more than a sentence or two in the executive summary.

But maybe, an alternative approach is have a brief synopsis of perhaps a page or so of what the special circumstances proposal does as well as who supports it and why.

(I think that) the other important part that the bylaw just calls for is an explanation of why it's supported by those of you and include that as a brief section as opposed to including the whole.

(In fact), I think - and somewhat sympathetic to (Nelson's) argument and which is why we moved the special circumstances proposal to the Annex in the first place, which is that the clarity of the report, I think, suffers a little bit by having the various proposals laid out in full within the body as (unintelligible).

But I think perhaps like a Page 1 summary of the special circumstances proposal, who supports it and why they support it, along with a reference at

the end of the document with OPAC seems like it might be a reasonable path between...

Marilyn Cade: So Jordyn...

Jordyn Buchanan: I (speak) in favor of Option Number 2 where you kind of go away and forget what - and I would love to (unintelligible) report (unintelligible).

Marilyn Cade: So Jordyn, it's Marilyn.

It does seem to me that you and Maria should take consultation. I think (we would) have done that in the past with (Louis). So I do think you probably ought to do that. And I would ask David and (Maggie) who've spoken on this what their views are.

Steve Metalitz: This is Steve.

Could I get a clarification from Jordyn on his proposal? Would the one-page statement you're talking about go in the executive summary?

Jordyn Buchanan: No, it would go - so there would be an announcement in the executive summary as I think what (Milton) and Marilyn have proposed, you know, to sort of say, you know, there are other position as well including this one that was (proposed) by three constituencies.

And then, there would be a separate of a one-pager later in the report that says, here's a brief synopsis of the special circumstances proposal and here's who supports it and here's why they support it.

Steve Metalitz: I would suggest that that go in the executive summary after The Summary of the Task Force Policy Recommendation. You could say summary of minority views or something like that. We could provide like, (you know), three paragraphs that go in there.

I'm, you know, I think it - while I agree with what (Maggie) and David have been saying about (the placement) of the document, I think if you suggest it goes in the executive summary, then I'm prepared to say that the reference would be to Appendix B or whatever appendix it is.

But I think if you have it in the executive summary, which I think is a lot - is all that a lot of people are going to read, then I think they will get a sense of what the gist of the proposal is and who supports it and then they can read the rest of it the in the Appendix.

Man: I would strongly object to that I think. (It's just a creeping), you know, the executive summary is supposed to - the task force is supposed to do work for the Council, and if you (pass up) to it ambiguous and meaningless statements, you're not, you know, we're wasting our time and we're wasting their time.

Steve Metalitz: Well, I don't think it would be ambiguous and meaningless to say that had the support of minority, a substantial minority, of the task force and briefly describe (it).

Man: And I said that (it might be) the special circumstances proposal is supported by three constituencies who prepare the minority report.

Man: Yeah.

Man: Why do you need to describe a proposal that we're not recommending in the executive summary? I mean that's outrageous.

Steve Metalitz: Well, then if it's outrageous, I guess...

((Crosstalk))

Steve Metalitz: ...and I guess you're (unintelligible).

Marilyn Cade: But guys, (unintelligible), well, you don't have a supermajority. You are right about trying to present the facts, but you don't have a supermajority. So I think probably our fallback is to ask Jordyn and Maria to consult for interpretation because we're just in a (spin) here.

Man: We're not in a (spin). We have a very clear outcome. If you want to add a sentence that the OPAC proposal did not have a supermajority, that's factual and that's okay with me. But the idea that you spend time in an executive summary describing the proposal that is not supported by the task force is outrageous. It's just (not on).

Jordyn Buchanan: Okay, any other comments on this?

Okay. Well, so far, I'm hearing - I've heard several people saying Maria and I should go off and look at (this issue). We're going to do that.

I think in order to not - what I'm going to try to do is to avoid having to come back for another call. So, what I'm hoping we're going to be able to do is Maria and I will be able to go off and we'll consult I guess people, (staff) in order to, (say), interpret the elements of the bylaws (to) make an appropriate adjustment to the report based on that advice.

And then, having done so, we'll recirculate the report and bring (in) final comment, and then we'll likely call for a vote on that point keeping in mind that the bylaws actually don't require - we're not - in theory, the staff is supposed to do all the work after the public comments.

There's not supposed to actually be another Council vote, I mean, that a task force vote on whether or not to go ahead and publish that. So that actually requires that we within call to do that.

But any objection to that approach?

Okay, so we will do that.

Any other - the next question is are there any other questions or comments about the report or on any other topic?

Okay. So that, I guess, is a good segue then to what I anticipate will be the procedure from here and out, which is we've added a new step which is Maria and I are going to back, we're going to consult with the General Counsel to interpret this bylaw, or some you know, General Counsel one of his minions.

And we will make an adjustment to the report; we'll send the report back out for a quick final review that will probably last a day or two in case we've done something particularly (agree these are) silly.

And then, we will call for votes by email and we'll have like a, well, have a three-day period, I (propose) so people could vote by email at which point we'll record the vote, and then the final report will be transmitted to the Council, well, at that point.

(If there are not)...

Man: Jordyn, I just had a question.

Jordyn Buchanan: Yeah, go ahead please.

Man: Are we in the minority supposed to prepare a minority report that would go in here as it stands now, this Appendix? And I recognize this may not (remain) an appendix, but an appendix just - as the proposal that was put forward six months in an initial sentence? There's no discussion of it. So are we supposed to provide that discussion and - for in insertion into the report?

Jordyn Buchanan: Yeah. So I think if the - if you wanted - I think it would be reasonable to add some limited amount of (initial)...

Man: Very brief.

Jordyn Buchanan: ...discussion, yeah. (So it's this current draft. If you want to do something - a lot of extra discussion, I think actually the PDP does call for the ability to essentially transmit a separate report under a separate cover.

Man: Uh-huh.

Jordyn Buchanan: But if you were, you know, going to add a couple of paragraphs (within the report (somehow), (I think), saying why you liked it and so on, (as well as the reasons)...

Man: That's what I propose to do and to, you know, to circulated to the other constituencies that are supporting us. And...

Jordyn Buchanan: Well, I think that's fine if consistent with what the bylaw has asked for, (you know), some explanation of what you're - what you've liked and why you liked it.

Man: Okay, thank you.

Jordyn Buchanan: Any other questions?

Okay, so that will be the procedure kind of going forward then.

And the last topic I have proposed then for today was a discussion of any sort of final activities for the task force in winding down.

I think my understanding based this on all previous conversations is that this report will fulfill all of our terms of reference and that we will - this should end up being the last call of the task force. We will do all of the rest of our work offline including the voting.

We will transmit a report to the Council, and I would expect at that point that that this task force will have completed the work required by - having noted that, there - I understand there are some ongoing discussion and so on about these related topics.

For example, happening at the Lisbon meeting. And I would guess that the Council and GAC and so on are going to be involved in the discussion might like to have the expertise of former task force members available certainly to clarify the report and so on. But I (wouldn't) imagine there'd be any more formal activities of this task force.

So first, I want to make sure everyone or verify that no one just agrees with me on that point.

Okay, so this will in fact, hopefully, (unintelligible) terribly strange because that will be the last call for the task force.

And like I said, there would - there may be - maybe - I think Glen had emailed me there are actually some plans for WHOIS-related stuff in Lisbon, is that right?

Glen Desaintgery: Yes, that's right, Jordyn.

Jordyn Buchanan: And is that - (and at this stage), it's the Council/GAC interaction or what's the scope of...

Glen Desaintgery: I think that supposed to be Council/GAC with the task force (if it's there) and, if possible, yourself.

Jordyn Buchanan: Right, okay. So I guess there are - there will be some opportunities for (unintelligible) members of the task force to participate in ongoing sort of post-report discussion about these topics.

But we will have concluded our work at that point, so it would be (sort of) in a - that the Council being glad have our experience based on the last several years discussing these topics.

: So I'm (concluding then). Does anyone have any other - well, does anyone like to draw my attention to any other work that we need to conclude for sort of just (ending) the task force (with the decision of) the sending the report to the Council? And if not, I will assume that that's what we're doing.

Okay. Well, with that then, another work for us to do and I'm out of topics for this call. So, I think that means that we are well and truly done talking to one another on this weekly or biweekly on whatever calls.

This will be the end of our conference calls and we may have some further discussion, like I said, in a (meritous) capacity. But the report will be wrapped via email and sent to the Council. And we'll finally excitedly agree that task force has completed its work although a slightly - without the supermajority outcome that I had hoped.

Maria Farrell: Jordyn, it's Maria.

Before everyone else (tuned in), can I say it has been an absolute pleasure working with you as the Chair? And your thoughtfulness and persistence and patience have been quite remarkable. So thank you very much.

Jordyn Buchanan: Absolutely. Thanks, Maria.

And certainly, thank you to everyone of the task force for all your patience and participation. I know that the process has been flow and somewhat painful at times, but I'm pleased that we've actually been able to get to the point of issuing this report and that we will have made it through not only an initial - several initial sets of terms of reference but the additional terms of reference that the (Council added to us).

(Milton): But ICANN should issue like those campaign ribbons that the military issues, so it's like we could sit around and say - just like the old guys are saying, I was in Nam, you know? I was in Dien Bien Phu. But I could say I was in the WHOIS task force for three years and...

Jordyn Buchanan: That's an excellent idea, (Milton). I'm going to see if I can get just such a thing made and I'll be sure to present it to you next time we meet.

(Milton): All right.

Man: And at the very least, a t-shirt.

Jordyn Buchanan: And that's true. At the very least, (a t-shirt).

((Crosstalk))

Man: ...I would certainly second what Maria has said and thank you very much for all your (unintelligible) (for)...

Jordyn Buchanan: Personally, I think your (insanity) endured.

These are not inconsistent ideas.

Man: All right.

Jordyn Buchanan: Okay. Well, thanks so much everyone. For those of you that will be in Lisbon, it sounds I'll probably be there for a couple of days as well. So I'm looking forward to seeing you there. But, you know, hopefully hearing relatively little of your voices on Monday morning.

Woman: Okay.

Man: Thanks, Jordyn.

Man: Yeah. Thank you, Jordyn.

Jordyn Buchanan: Bye. Thanks, everyone.

Marilyn Cade: Jordyn, thanks. Everybody...

((Crosstalk))

Woman: ...Jordyn, thank you.

Jordyn Buchanan: Bye.

END