

**ICANN  
Transcription  
GNSO Council**

**Thursday, 21 February 2019 at 1200 UTC**

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**List of attendees:**

Nominating Committee Appointee (NCA): – **Non-Voting** – Erika Mann (absent, apology sent)

**Contracted Parties House**

Registrar Stakeholder Group: Pam Little, Michele Neylon, Darcy Southwell

gTLD Registries Stakeholder Group: Maxim Alzoba, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA): Carlos Raul Gutierrez

**Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Marie Pattullo, Scott McCormick, Philippe Fouquart, Osvaldo Novoa, Paul McGrady, Flip Petillion

Non-Commercial Stakeholder Group (NCSG): Martin Silva Valent, Elsa Saade, Tatiana Tropina (Rafik Dammak as proxy in case of connectivity issues), Rafik Dammak, Ayden Férdeline, Arsène Tungali

Nominating Committee Appointee (NCA): Syed Ismail Shah

**GNSO Council Liaisons/Observers:**

Cheryl Langdon-Orr– ALAC Liaison

Julf (Johan) Helsingius– GNSO liaison to the GAC

Adebiyi Oladipo – ccNSO observer

**Guest:** Jeff Neuman, WG Co-Chair New gTLD Subsequent Procedure PDP WG

**ICANN Staff**

David Olive -Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Marika Konings – Vice President, Policy Development Support – GNSO

Mary Wong – Vice President, Strategic Community Operations, Planning and Engagement

Julie Hedlund – Policy Director

Steve Chan – Policy Director

Berry Cobb – Policy Consultant

Emily Barabas – Policy Manager (apologies sent)

Ariel Liang – Policy Support Specialist  
Caitlin Tubergen – Policy Senior Manager  
Mike Brennan - Technical Support  
Nathalie Peregrine – Manager, Operations  
Terri Agnew - Operations Support - GNSO Lead Administrator

Coordinator: Recordings are started.

Nathalie Peregrine: Thank you ever so much. Good morning, good afternoon, good evening everybody. Welcome to the GNSO Council meeting on the 21st of February, 2019. Could you please acknowledge your name when I call it? Thank you ever so much. Pam Little.

Pam Little: Here.

Nathalie Peregrine: Maxim Alzoba.

Maxim Alzoba: Here.

Nathalie Peregrine: Rubens Kuhl. Rubens, I see in the chat, has noted that he's here. Thank you, Rubens. Keith Drazek.

Keith Drazek: Here.

Nathalie Peregrine: Darcy Southwell.

Darcy Southwell: Here.

Nathalie Peregrine: Michele Neylon.

Michele Neylon: Here.

Nathalie Peregrine: Carlos Gutiérrez.

Carlos Raúl Gutiérrez: Here, thank you, Nathalie.

Nathalie Peregrine: Thank you, Carlos. Marie Pattullo.

Marie Pattullo: Here. Thanks, Nathalie.

Nathalie Peregrine: Thanks, Marie. Scott McCormick. I see Scott is working on dialing in.  
Noted, Scott. Paul McGrady.

Paul McGrady: Here.

Nathalie Peregrine: Philippe Fouquart. I don't see Philippe in the Adobe Connect room. We'll follow up with him. Rafik Dammak.

Rafik Dammak: Here.

Nathalie Peregrine: Elsa Saade.

Elsa Saade: Present. Thank you.

Nathalie Peregrine: Thank you, Elsa. Arsene Tungali. We are dialing out to Arsene. I thought he was on the line. I'll follow up with him. I do know that he's present in the Adobe Connect room. Flip Petillion.

Flip Petillion: Present. Hello, Nathalie.

Nathalie Peregrine: Thank you, Flip. Osvaldo Novoa.

Arsene Tungali: I'm here, Nathalie.

Osvaldo Novoa: Present. Thank you.

Nathalie Peregrine: Thank you, Osvaldo. And I think I heard Arsene. Perfect. Thank you both.  
Tatiana Tropina.

Tatiana Tropina: Present. Present. Thank you, Nathalie.

Nathalie Peregrine: Thank you, Tatiana. So Tatiana will be disconnected from the Adobe Connect for the second half of the Council meeting. She has given her tentative proxy to Rafik Dammak should there be any audio connection issues. Martin Silva Valent.

Martin Silva Valent: Here.

Nathalie Peregrine: I see - oh perfect, thank you, Martin. Ayden Férdeline.

Ayden Férdeline: Present, thank you.

Nathalie Peregrine: Thank you. Syed Ismail Shah.

Syed Ismail Shah: Here.

Nathalie Peregrine: Cheryl Langdon-Orr.

Cheryl Langdon-Orr: Present, Nathalie.

Nathalie Peregrine: Erika Mann. We are dialing out to Erika, or at least trying to, but she did send a tentative apology as she is traveling at the moment. Julf Helsingius.

Julf Helsingius: Here.

Nathalie Peregrine: Thank you. Adebisi Oladipo. I did see Adebisi before in the Adobe Connect room, we'll circle back to him. From staff we have David Olive, Marika Konings, Mary Wong, Julie Hedlund, Steve Chan, Caitlin Tubergen, Berry Cobb, Ariel Liang, Terri Agnew, Mike Brennan for technical support and

myself, Nathalie Peregrine. I'd also like to note that we have Jeff Neuman in the Adobe Connect room for agenda Item 6 of today's meeting.

I'd like to remind all to please remember to state your name before speaking for recording purposes. Thank you ever so much, Keith, and it's now over to you.

Keith Drazek: Hi, Nathalie. Thank you very much. Good morning, good afternoon and good evening all. This is Keith Drazek. Welcome to the GNSO Council regular meeting of the 21st of February, 2019. We will go through sort of our administrative stuff and I'll review the agenda and we will get right to business.

So I'd like to ask right now if there are any updates to statements of interest since our last call? Okay, not seeing any hands. Just want to take a note, I know we go through this every meeting but it is important that we all ensure that our statements of interest are up to date so I would ask everybody occasionally to review your own statement of interest as posted, as submitted, and just make sure that it is up to date. Obviously when there are major events we mention it but it is important to make sure that these statements of interest are up to date, so thank you very much for that attention.

So in reviewing the agenda, our administrative matter 1.2; 1.3 is - so we'll go through briefly a review of the - review of Projects and Actions lists and then the consent agenda item Number 3, we have no items on the consent agenda. Item Number 4 is the Council vote scheduled on the adoption of the final report of the EPDP on the temp spec. Item Number 5 is a Council discussion on next steps for the EPDP, looking forward to Phase 2 and also the implementation work of Phase 1.

Item Number 6 on the agenda is an update from the cochairs of the Subsequent Procedures PDP, so Jeff Neuman and Cheryl Langdon-Orr are

both with us, Cheryl always with us as our ALAC liaison but Jeff is with us as well today so look forward to that update.

And then any other business. We have quite a few items under any other business including planning for ICANN 64, we'll have a brief discussion about sort of lessons learned from the public comment formulation on the operating plan and the five year strategic plan, we'll discuss the public comments on - that is open right now on the first consultation on a two-year planning process for ICANN's budget and operating plan.

There are some questions that have been posed to us by the ICANN Board related to discussion topics for ICANN 64. We need to talk about those. There's actually a short turn on that. And then the discussion of the 2018 Council, our strategic planning report that's been pulled together very ably by staff. So that's the agenda for today. Are there any additions or edits or amendments to today's agenda that anybody would like to suggest?

Okay, seeing no hands let's move to the next agenda item. I'll note that the minutes for the previous Council meetings for the Operating Procedures have been posted per the requirements, so the GNSO meeting of the 24th of January was posted on the 7th of February and the minutes for the 14th of February meeting will be posted on the 28th of February within the timeframe required. Okay, any comments before we move on?

Thank you. Let's move on then to the review of the Projects and Action list, if you could project that on the screen? Thank you very much. So we have before us the Projects List. And so there's a few items on here that we should touch on. The - we have the - there's an issue scope in the IRTP Policy Review is underway. Moving on, there is a - work ongoing group with the Whois Procedure Implementation Advisory Group, that for everybody's benefit is, as you probably recall, has been put on hold until such the time the EPDP's work is complete.

We have an item related to the Cross Community Working Group on New gTLD Auction Proceeds, and I think there's no action at this time on that required. There's ongoing work of the PDP on Protection - sorry, Review of All Rights Protection Mechanisms, that's the RPM PDP Working Group. We're going to get an update today from Jeff and Cheryl on the New gTLD SubPro work. And then of course everybody's favorite topic today is the EPDP Phase 1 final report is before us.

And we had discussions during our last call on the IGO INGO Curative Rights issue. There is currently a planning or prep call scheduled with the GNSO Council leadership and Darcy as our liaison to the IGO INGO group and the GAC leadership as well as some interested parties from the GAC. That meeting - that call will take place sometime in the next couple of weeks. There's a Doodle poll out right now essentially to prep before the Kobe meeting so we try to avoid any surprises going into Kobe.

And the - I think that pretty much covers what we've got on the Projects List. So any comments or questions on the Project List? There's a few items on the Action Item List, then we can get down to the regular business of our call today. Yes, Julf, thank you, that's a - I see your note that it'd be good for you to be on that meeting and absolutely and I apologize, you were intended to be on that and I apologize for missing that. Thanks.

All right, so let's then move to the Action Item List. Okay so on the screen we have - there is essentially I think three items just for a brief update here; the rest will be covered in our regular course of business. There is an action item that I have to draft a response related to the Council's views on the Cross Community Engagement Group on Internet Governance.

And again, the sense that I have of the group is that we fully support the engagement here of GNSO members and GNSO councilors in the Cross Community Engagement Group but our view is that at this time a charter is not needed and that the group can continue on in an ad hoc manner, that we

look forward to, you know, engaging further but until such time it becomes clear that a charter is needed that the Council - that the GNSO sort of views this as, you know, a group that is ongoing but not chartered.

So I have the action item to draft a note back to the ccNSO and the ALAC regarding our views on this and I apologize to all for not having completed this action item but this is on my list of things to do. I'll have that for our next meeting or we'll close that out on the email list.

Next item is the Drafting Team on the charter related to the next steps for ICANN Procedure Handling Whois Conflicts, that's the group that we've put on hold pending the conclusion of the EPDP's work. And so that's something that we'll need to consider looking ahead but this one is still currently on hold. Michele, I see your hand, go ahead.

Michele Neylon: Thanks, Keith. Michele for the record. Yes, I mean, this is one of those things that just seems to kind of linger forever. We had originally planned to put this on hold pending the outcome of the EPDP but that was before we split the EPDP into two phases, so I suppose the question we might need to consider, and I'm not suggesting we consider it now but maybe something just to think about or to mull over is whether or not we want to consider that (unintelligible).

Keith Drazek: We're getting somebody's hold music in the background. Michele, I heard you. Hold that thought for a second.

Michele Neylon: Okay. That was lovely music, nice kind of brief musical interlude. So the question I suppose is do we want to progress this now after the EPDP Phase 1, assuming that we're able to pass the vote is finished? Or do we want to wait until Phase 2? That's probably the thing just to plant in people's minds. Thanks.

Keith Drazek: Yes thanks, Michele. That's a really good question. And I have to admit I need to go back and review this substantively and try to figure out, you know, whether it makes sense to start considering, you know, the initiation or the drafting of the charter for this group now or if - we really ought to wait until the Phase 2 work is concluded? I don't have an answer for you but I think you've posed exactly the right question. I see Paul has his hand up. If anybody else has views on that question, feel free to jump in. Paul.

Paul McGrady: Thanks. This is Paul McGrady for the record. It's sort of - it's slightly off topic other than Michele said something that I want to make sure that I mean, understand. He said when we split the EPDP into phases. And I just - I think it's an important issue that I'd like to have some clarity on because I don't remember a Council voting splitting it into phases. And I don't see phases in the EPDP charter.

So again, I know we'll talk about this later but I want to make sure that we, you know, that we're all in agreement on what we're talking about since whether or not this thing is in fact in phases goes to whether or not this next drafting team moves forward. Thanks.

Keith Drazek: Okay. Thanks, Paul. I think, you know, a brief response is that I think clearly we have two phases today in terms of the delivery of a final report on replacing the temp spec and a final report pending on the uniform access model.

So while, you know, we may not have used explicitly the term "phase" I do remember some conversation about that during the drafting phase of the charter, effectively there are two final reports required in the charter; one on replacing the temp spec and one on, you know, the - I think what we referred to as the standardized system for access to nonpublic data or the uniform access model. So anyway but it's a good point and I think it does - it does go right to the question that Michele raised. Michele, is that a new hand?

Michele Neylon: Yes it is. I mean, just - I think, Keith, you clarified a lot of what was said. Just in reaction to Paul, I mean, ultimately the terminology as Keith clarified on the list I think about a week, maybe longer ago, is that there, you know, there are final reports, it's not interim reports. We've already kind of dealt with all of that. So the question when it came to this conflict with local law issue is really a matter of whether - what's been covered in Phase 1, in other words, dealing with the temp spec, is that sufficient to move forward with that other work? Or do we need to wait until the Phase 2 which is looking at the access discussion has run its course.

Keith Drazek: Yes thanks, Michele, and thanks Paul. And on this point, I mean, I think we need to consider, you know, the range of options as it relates to this implementation advisory group, including the fact that, you know, if we were to conclude Phase 1 and conclude Phase 2, does this work even need to take place as it relates to, you know, developing a procedure of handling Whois conflicts with privacy, you know, whatever comes out of this EPDP through both of its phases, might make this - these questions moot.

It may not, but I think that's one of the questions that we need to consider. So Michele, thanks for the question and I agree that it's something that we need to dig into a little bit more. Okay, any further discussion on this point? All right.

And then I think the third and final sort of open issue is this question of the co-chairs for the IANA Functions Review Team and I believe we are still waiting for that group to be composed in terms of its membership and then there's questions before us as Council about the appointment of a GNSO co-chair for that group in cooperation with the ccNSO.

And then there are some questions - I do recall that we were asked by the ccNSO for our views on the question of the composition and whether they, you know, they would be able to appoint a ccNSO member because they couldn't find a non-ccNSO ccTLD manager to participate, so we do have an

open item or open action item there. And Marika's confirming to me that the IFR has not yet been formed so we've got some - we've got a little bit more time on that one.

So with that, let us move onto the next item on the agenda, so back to the agenda document. Thank you. All right. Thank you very much. So we are onto the more substantive portion of our meeting today. Thanks, everybody. So Item Number 3, as we noted, there are no consent agenda items so we'll go directly to Item Number 4, which is the scheduled Council vote on the adoption of the final report of the Expedited PDP on the temporary specification for gTLD registration data.

And this specifically is the final report that has been delivered to us yesterday from the EPDP Working Group concluding its Phase 1 work, which I'll just restate, was the work focused on coming up with policy recommendations to replace the temporary specification that was imposed by the ICANN Board back in May of 2018.

The - and just to remind everybody, that temporary specification by - as required in the contracts, the Registry and Registrar contracts, can only exist for 12 months. It will expire on the - around the 25th of May and basically the work of this EPDP Phase 1 has been focused on coming up with the policy recommendations to replace the temp spec.

Then of course there's the, you know, very important work of the rest of the EPDP charter which focuses on community discussions and the development of consensus policy recommendations on a uniform access model or a standardized system for access to nonpublic registration data.

So this is - this is the time for us to discuss the Council's next steps. I've sent a couple of emails to the Council list over the last, you know, 24 hours including some last week, about, you know, sort of the expectations of Council and what our questions are and what our opportunity is here.

So let me just take one moment, of course, to thank on the record, on behalf of the Council, the incredible work that went into the EPDP Phase 1 work, under extreme sort of duress and very tight timelines.

I just want to note our appreciation and my personal appreciation and thanks to the EPDP Working Group leadership team, including our own Rafik Dammak, who performed a couple of different roles as Council liaison to the group as well as vice chair, to Kurt as the leader and to all of the participants, members of the group, alternates who stepped in and all of the support teams behind them that spent incredible number of hours in a very compressed timeframe to come up with the report that is now before us. So I just wanted to get that on the record.

So the work before us now, as Council, is to consider the final report and to vote to approve that report based on our role as policy and process managers, so the GNSO Council is the manager of the PDP. We chartered the EPDP Working Group to conduct its work and the role before us as Council, as we consider this report, is essentially was the process followed? Was the charter followed? Are there any procedural concerns? And if not, we should be voting yes.

There is not really an opportunity at this point - there is not an opportunity at this point for the Council to be engaging in discussions on the substance of the work from the recommendations or in the recommendations of the EPDP Working Group in its final report. This is not an opportunity for us as Council to sort of reopen or re-litigate discussions that took place within the group. What we're supposed to be doing here today is to consider the report and to essentially make a decision as to whether the process was followed.

So let me pause there. I'll come back and provide a little bit more context but I see Paul has his hand up, so Paul, go ahead.

Paul McGrady: Thanks Paul McGrady for the record. So a couple things, one, I thought Marie had put forward a request for a deferral on this to the already-scheduled May 4 meeting? And again, I'm not the king of process around here, but I thought that - I saw an email back from Keith saying essentially that Marie needed to justify that with a procedural reason. I don't know that I see that in the bylaws anywhere. I have always been under the assumption that if a counselor asked for a deferral, that's a deferral as a matter of right.

We've had a lot of deferrals over the last 3.5 years that if there in fact had to be a justification for it and there had to a vote or some sort of consensus around it, you know, I sure missed a lot of opportunities. So, Keith, could you clarify that? Is it a matter of right that if Marie asks for a deferral that it is in fact deferred to the next meeting? And if not, why not? And then I have a follow up question as to the actual process but I wanted to get that cleared out of the way first. Thank you.

Keith Drazek: Sure thing. Thanks, Paul. This is Keith. Happy to respond. And it's a good question because I had the same question over the last several days and did a little bit of digging, I checked with staff. And the fact is that based on the recommendations that came out of the SCI around an EPDP, if I'm not mistaken, the - basically the decision of a deferral is at the discretion of the chair.

I know that as a matter of practice we have typically and traditionally sort of respected any requests for a deferral provided it was a single deferral. I think as everybody knows if you defer from one meeting to the next you can't defer it again. But we've traditionally sort of respected and given deference to requests for deferral.

But in the Operating Procedures the word that's in there is "may" not "must" and it is discretionary basically up to the discretion of the chair. And so as I noted in my response to Marie on the list I think last night, we will have that discussion and I'm happy to, you know, hear, you know, questions or

comments or views on the request for a deferral from today to March 4, but that's something that we need to discuss.

I will say that my strong preference is for a vote to take place today if we can, that, you know, I think that the sooner we get Phase 1 work approved and also as noted in our motion, sort of authorize the EPDP to move forward to Phase 2, that, you know, we're basically I think setting the stage for a more productive meeting in Kobe if we can have work going on to prepare for phase 2 prior to that.

So I have a strong preference for a vote today but I do want to hear Marie's, you know, views and if anybody else, you know, has a request for a deferral, then, you know, very shortly will be the time to air that. So, Paul I think...

((Crosstalk))

Paul McGrady: Yes, thanks, Keith. And so should we air that now or will you call on us for that?

Keith Drazek: We will get to that very shortly. I've got a couple of folks in queue, so let's just - why don't you go ahead and put your hand down and we'll come back to that and we'll make sure that we have that conversation here very shortly. So Flip, over to you and then to Michele.

Flip Petillion: Thank you, Keith. And if you prefer for me to wait until you start out the discussion about deferral first, that's fine for me.

Keith Drazek: Okay thanks, Flip. Yes, just stand by one second. Michele, did you want to discuss the deferral request?

Michele Neylon: Yes I think the - it's Michele for the record. I'm strongly opposed to the deferral request being granted; I think we should vote today. The rationale presented for the deferral is completely illogical. The EPDP is not having any

more meetings; the time for discussion is done. We have been presented with the final report; we need to vote on it. Thank you.

Keith Drazek: Okay. Thanks, Michele. Elsa, I see you're next, go ahead, and then I'm going to turn back to Marie to make sure that, you know, we have an opportunity to hear the arguments for before we have, you know, everybody piling on and saying no, we should vote today. So Elsa, go ahead.

Elsa Saade: Yes thanks, Keith. You just said that I wanted to say and I just want to join my voice with Michele and say that it is ready to vote today and we're in support of the vote taking place today. Thanks.

Keith Drazek: Okay. Thanks, Elsa. All right so let's - let me turn then - so we might as well deal with this right now. So we have before us a request for a deferral from today to March 4, which is the last opportunity - March 4 would be the last opportunity for the Council to vote prior to the Kobe meeting, which is essentially the timeline that we must meet in order for the timeline and the timeframes to be met prior to the May 25 expiration of the temporary specification.

We went through a lot of this in detail in terms of the timelines and the process during our call of 14th of February, so we're not going to go back into all of that. So let us turn now to the discussion of the deferral. We received on email yesterday I think it was from Marie Pattullo on behalf the BC a request for a deferral from this meeting to the next.

And I'd like to hear the thought process and the rationale behind that and specifically, again, just to go back to what I've responded to in email as well as what I mentioned at the beginning of the call, or the beginning of this section, you know, the Council's role at this time is to basically review the charter, review the work of the EPDP and to vote on essentially whether the process was followed in our role as the managers of the policy process.

This is not an opportunity to sort of reopen the substantive discussions or recommendations of the report. And so I really do want to hear the rationale for a deferral were we to consider granting it. So Marie over to you.

Marie Pattullo: Thanks, Keith. And hi, everybody. Before I go to the rationale, I have to join the view in a comment you made at the beginning which is a massive great huge shout out of thanks to everyone that's been involved in this process. We are very conscious of the man hours, the woman hours, the pain hours that have been involved - put in, sorry, to get us to this point and we are really, really extremely grateful for that.

On the request for deferral that was put forward by my constituency, I understand from my experts who are involved in the team that there's been some extremely good, extremely helpful discussions over the last few days. And although I do understand that the report is now before us for approval, I had, and I'm sorry but if misunderstood this, mea culpa, I had understood that as the manager of the process we were allowed to request the group to continue with that discussion as in to reconvene another meeting or meetings, plural. If that's not the case I'm learning. I wasn't aware of that, I thought we could do that.

You asked for the reason behind the BC requesting the deferral. Firstly, I would refer all of our colleagues to the statements issued by the BC together with our (unintelligible) colleagues in the IPC, which was updated just yesterday, we are very, very keen to retain and keep the good faith collegiate atmosphere of the multistakeholder model, which we believe is essential.

It's essential not just to the members of the BC, it's essential for the community as a whole, which includes of course those who never (unintelligible) to ICANN but are affected by how the DNS works. And as you all know from that statement and many conversations between many of us, our main concern is the purposes, our main concern is the need for consumer

protections, the need for cyber security, the need for law enforcement, and of course the need for IP to all be included in Recommendation 1.

We very much need, want, will support, shall work towards getting a uniformed access model. Please don't think that it's our intention to work against that because quite the contrary. But what we do need to do is ensure that that access model is based on a specific set of purposes that will conform with and that allow conformity with the GDPR.

I'll pause at this point and call upon either Scott, my colleague from the BC, and/or my colleagues from the IPC if they wish to add to that. Thanks, Keith.

Keith Drazek: Okay. Thanks, Marie. And so Scott, if you're on and would like to jump in. I also have hands up from Paul and Flip. I'm not sure, Paul, if you're wanting to speak to this issue specifically?

Paul McGrady: Yes.

Keith Drazek: So who would like to go next?

Scott McCormick: This is Scott. I'll defer.

Keith Drazek: All right. Thanks, Scott. So Paul, over to you.

Paul McGrady: Thanks. So this is Paul McGrady for the record. So the reason why I think we need a deferral, and I don't know if I need to formally ask for one or not, so if I do, I'm asking for one, is because we're supposed to have 14 days to look over the final report before a vote. We got this yesterday at three o'clock. There were changes. People are going to say they're minor. But it doesn't say 14 days unless changes are minor. And I sent this to my constituency yesterday around 3:30, four o'clock here, and you know, less than 24 hours isn't 14 days.

So, you know, the bottom line here is, Keith, you know, yes, it is our tradition that if somebody asks for a deferral that that's a courtesy that's extended to them. And I would hate to see us, you know, diverge from that but especially when we've not followed our rules and provided a final report less than 24 hours before a vote. We need to follow our rules and have a vote 14 - at least 14 days following delivery of the actual final report, not a nearly final report.

So that's the procedural reason. And then on the esprit de corps reason, which is, you know, our last call, our informational call was significantly rosier than the picture turned out to be. I think there's great concern that a lot of this has been railroaded through. I think the rush to a vote within 24 hours after delivery of the actual final report sort of adds to that ethos. I don't think that's the ethos the Council wants to have. I'd rather have an opportunity to, you know, consult with my constituency like the rules anticipate.

And either, you know, come back and vote no because we don't like it or come back and say, okay, we don't like it but maybe there's things we can put into the motion that would give us some comfort that whatever we're worried about might show up in the next segment of this work, or whatever, right? But with 24 hours left I don't have - or less than 24 hours I don't have time to do those things and to have those consultations. So I would go so far as to say that not only is a deferral a nice thing to do, Keith, I think it's the only appropriate thing to do. Thanks.

Keith Drazek: Thanks, Paul. So just a couple of points in reaction. So just for clarity and accuracy, the document advance notice tradition or requirements is 10 days, not 14 days, but I think that your point about the fact that this final report with some updates from the February 11 version is, you know, it was delivered, as you said, less than 24 hours before this call.

My understanding is that there were no substantive or substantial amendments, you know, to the update but that it was an updated document, so it's not exactly the same as the February 11. And I think you know, if

there's a request or if we're going to consider a deferral, that would be the grounds on which I think a deferral would be considered. You know, any expectation that the, you know, that the EPDP Working Group will, you know, continue to have conversations at this stage or continue work on Phase 1 I think is inaccurate.

The EPDP's Phase 1 work is complete and the report is before us now for consideration and a vote. And so I think you know, my view on this is that, you know, if we're going to have a deferral it's because we got the final report yesterday and, you know, basically councilors need more time to engage with their constituencies and stakeholder groups, you know, for guidance on a vote.

But I really do want to make a point here is that, you know, if the - if anybody - if the groups in the EPDP who did not agree to consensus or basically did not agree to support consensus on the final report, if your intention is to vote no, then what's going to change between now and March 4? And I'm not asking for a direct answer at this point but I think it is a question that we need to consider. In other words, are we just deferring and delaying 10 days and are we going to end up with the same situation assuming that the final report doesn't change between now and then?

It appears that, you know, through the work of the EPDP members from BC and IPC that, you know, you've made your point even within the group that you don't support it. And then, you know, I think really the question is, you know, we as the Council are supposed to voting on process, not on the substance of the report. And Paul, you made a comment of, you know, we might not like it. And I don't know that that's necessarily the threshold that we're looking for.

So with that, Flip, let me go to you.

Flip Petillion: Thank you, Keith. Flip here for the record. Flip Petillion. I will try not to repeat what Paul or Marie have already raised as an argument. My profound conviction is that there is still time. You've said, Keith, that we could actually have a vote today or on the 4th of March, so there is actually time - time for what? Because that's the key question. Time for dialogue, I would say.

So if we now say we don't give an opportunity to the people around the table to discuss some points that are still not resolved for which there is no agreement, and for me agreement is consensus, for which there is still divergence, if we say to these people no, we freeze the discussion because there is that document, that is actually coming down to saying there is no dialogue anymore. And that is profoundly against the spirit of ICANN's Bylaws. And that's why I would vote to defer. Thank you.

Keith Drazek: Okay. Thank you, Flip. And again, I responded just before this call to your email about the question on consensus. And I think as, you know, following the Operating Procedures and the charter of the EPDP, there actually was a consensus determination related to Recommendation 1 on Purpose 2. It did not have full consensus, it didn't have full support obviously. We know that IPC and BC did not agree. But as a, you know, as the degrees of consensus were captured in the report, it was a consensus recommendation that came out of the group even if it was something less than full consensus. So, but I...

((Crosstalk))

Flip Petillion: May I ask you?

Keith Drazek: Yes.

Flip Petillion: Could you then clarify because I'm really confused. Consensus for me that is agreement. Look in the Oxford Dictionary and other dictionaries you will see consensus, that means agreement. That's not majority, minority, no, no, that is agreement by everybody around the table.

Reason more is that the EPDP report has clearly taken over in the motion, it's talking about divergence. So why do you mention that there is divergence about Recommendation X and Y when you do not mention that there is divergence regarding Recommendation Z, although there is no agreement regarding Recommendation Z. You see what I mean? Why - I'm confused by the use of the word "consent" and "divergence" I guess.

Keith Drazek: Thanks, Flip. And it's a good question. Marika's also just typed into chat, you know, some language from the Working Group Guidelines. The definition of consensus in the GNSO context is a bit different than what you've just described. And so in the GNSO Working Group Guidelines consensus is defined as, and let me just scroll back up here, "A position," I've lost it in the Adobe chat, sorry. So, yes, from the Guidelines where only a small minority disagree. So I understand your point, your question in terms of the traditional definition but as outlined in the GNSO Working Group procedures, it's slightly different.

So let me get back to the queue here real quick. So but just to reiterate, you know, as following the GNSO PDP Operating Procedures, the, you know, the report reached consensus, by definition in the GNSO Operating Procedures, consensus on the final report except for the two items that we have before us for discussion that we need to figure out whether we vote as a package, whether we have separate votes on the more where we don't vote on them at all.

So with that, Michele, I think you were in queue next, you somehow lost your place, and then we'll come to Tatiana, so Michele and then Tatiana.

Michele Neylon: Thanks, Keith. I think that was me hitting out the wrong key on my keyboard. Okay, a couple of comments. It's Michele for the record. First off, Flip, I think you're getting a little bit hung up on a language issue in terms of how the GNSO defines consensus. I'm sure somebody can share the Working Group

Guidelines which clarify exactly what consensus means within the GNSO context. It doesn't meant unanimity, which is what you described.

The reality is that, and this is just going onto the bigger picture, the reality is that the time for discussing all of this is past. The working group has worked diligently for months, have put in hundreds if not thousands of hours on this. The only people who have issues with a couple of the recommendations in the final report are the BC and IPC, who are claiming, and I consider this to be completely disingenuous on their part, that they are acting in good faith and that they are honest and engaging in good faith with the multistakeholder process.

Yet at the same time, they don't simply ask but they demand that there be changes to the final report in an email that was sent on the EPDP mailing list several days ago. Since then, all the other stakeholder groups and constituencies have engaged as constructively as possible to try to make tweaks and changes to the language in the report in order to pacify the BC and IPC.

To state that there are issues involving the broader community is incorrect. The only people who have issues with some wording in the final report are the BC and IPC. They are the reason why there have been changes to the language in the final report. So if there are any issues around delaying a vote, I too would love to know whether that's going to make any difference because there are no further opportunities for discussion on this. Going back to further discussions will not change the outcome. Thank you.

Keith Drazek: Thanks, Michele. Tatiana.

Tatiana Tropina: Thank you very much. Tatiana Tropina for the record. A short two things in these discussions which really struck me, the first one was allow time for some dialogue. I can only second what Michele said. The last minute changes were requested by the IPC and BC. And I'm very much surprised

that the representatives of these respective constituencies on the Council are not aware of these and still have time to read the report - still want to have time to read the report where the changes were actually requested by their groups.

And I believe that instead of the dialogue or time for the dialogue they (unintelligible) dealing with the time for coercion. And I believe that - I just simply cannot accept this and this Council should not accept this.

And secondly, I've heard that the absence of deferral or not granting deferral might be profoundly against the spirit of ICANN Bylaws. I think that what is profoundly against the spirit of ICANN Bylaws is that with the report which has already been confirmed with the EPDP not convene any meetings until the 4th of March hoping that there would be some dialogue or some changes to the report or some time for those representatives of their respective groups who are supposed to know what their groups did on EPDP and what kind of changes they implemented, I think this is exactly profoundly against multistakeholder engagement.

It is delaying things and it's creating not only problems for the GNSO Council which could have actually started productive work in Kobe on the second phase of this report, delaying things further and further. With what kind of hope I have no idea. But I do think that we have to vote today. We didn't request any changes last minute and we are all aware of the report, so should be those constituencies who request the change. Thank you.

Keith Drazek: Okay. Thanks, Tatiana. Rafik, over to you.

Rafik Dammak: Okay. Thanks, Keith, and thanks everyone for the comments. I just want to maybe to give some update, some reminder what happened in the EPDP level. When we talk about the consensus designation, the consensus call designation, sorry, we did that after we spent a lot of time in term of deliberation. And I do believe we tried to accommodate all the groups when

they had a concern. And when they designated the consensus level it was done in the way that was split in different bundles so we could continue working on some outstanding item until the last minute.

And I want also to remind people that how we designed and engineered this EPDP team is to - was having the representation from all groups and the expectation that the representative from those groups to keep their groups up to date about what's going on. And I think the - what they did they shared the position of their groups. So it's really different from any other working group and that - in that aspect.

So we spend a lot of time regarding that to define that level of consensus. And we went through several cycles and we listened to all groups. And we also have - we did something that's not really usual that we have statements from all the groups in the EPDP team to express their concern. Most of them they support the work but they expressed their concern in different area. But they expressed clearly that they want this done.

We know that the BC and IPC, they made minority statements since they are not supporting the recommendations. So I think in term of process it was made clear, and we spent enough time in term of deliberation, I am really worried that this idea that extending we will fix anything. It can just - it will backfire because I think all groups they made effort to compromise and they reached a level of satisfaction that, okay, we can live with that.

If we try to move from that, it's not really a good thing or messaging (unintelligible). So in term of process I think we are done. And the report was shared and all the representatives were supposed to keep their groups up to date. So I think we are in the time that in term of managing the process we have to make a decision and to move to the next steps. I think that what the groups who are concerned are expecting is that we move to the Phase 2 and to do that we need to get Phase 1 done so.

Keith Drazek: Thank you, Rafik. And thanks for the additional context as it relates to the, you know, sort of inner workings of the group and how we arrived at the consensus recommendations that we have before us and also the two that did not reach full consensus or consensus that I do want to address, and I'm going to turn to that conversation before we make any decision on a deferral. But Paul, I see your hand, go ahead.

Paul McGrady: Thanks. Paul McGrady here. So just a little bit to defend my honor because I know people may not be happy, but the - this additional document coming down the pike was within the context of a meeting which had already been set for March 4, a backup meeting, which meant that we anticipated that a - more than one Council call would be necessary for something this important. That's not unusual.

And secondly, at least in my mind, that we would not be breaking with tradition and not granting a deferral, which has, as far as I know, always been granted and again, you know, this is an important topic, it's, from my point of view, not the time to break with Council tradition. So again, I hear the sort of outrage in people's voices about well all the changes that were made were because the IPC and BC wanted them.

But all the changes that were made were made in the context of an anticipated vote on March 4, you know, because the deferral request was either made or coming down the pike, and we'd already set a date as the Council for a backup date. And I know that March 4 isn't today and that there is some time slip but we've been told that March 4 still was a viable day, that's why we set the second call for it.

So again, you know, there seems to be a big push for a quick vote on this today. You know, and again I won't, you know, I won't imply anybody, it's not acting in good faith, but, you know, our concerns on this end is that, you know, frankly we've not been heard and that the whole thing was sort of a big push.

Frankly, I could use the time between now and March 4 to see if there is any way forward for us to vote yes, to see if there are any assurances that we can get from other people around this table that they're sort of the railroad job from, again, from our point of view, I'm not accusing anybody of railroading but from our point of view that's what I've consistently heard from people who've been participating in this process, that that won't continue in Phase 2.

I don't know if we can get there. I can't promise that we're going to get there. I think a PDP recommendation going to the Board with everybody saying "yes" is much stronger and I think will be a lot less controversial. I can't promise we can get there by March 4. But it's my job, you know, my goal it see if that can be done. If it can't be done, it can't be done. Fine. But, you know, we - that takes time.

And so, here we are, right? So we have to decide, you know, are we going to follow the - and I apologize that I said 14 days - it was 6:00 am here in Chicago when this call started. Are we going to follow the 10-day rule or are we not going to follow the 10-day rule? Are we going to break with our tradition of, you know, granting deferrals because people say they need more time or not? You know, these are - these go to the heart and soul of who we are and as a Council. So, you know, I hope we get it right here.

And then we, you know, work real hard between now and March 4 to see if the GNSO community can come together and if it can't come together, fine. But if we vote today that precludes that effort. Thanks.

Keith Drazek: Thanks, Paul. So this is Keith. I see Michele in queue. And we probably need to draw a line under this conversation. I do want to turn to the discussion of how we handle the, you know, the two recommendations that did not receive consensus. And but Paul, I think I heard you say that at this point at least you speaking for IPC, and that I'm assuming - maybe I shouldn't assume, but the IPC and BC if we were to vote today you would vote no. And correct me if I'm

wrong there. And that there's possibly an opportunity for you to go from no to yes if we defer to the 4th of March.

But I just want to make clear that, you know, again, the EPDP Working Group is done with Phase 1. There will be no changes substantively to or changes at all to the final report at this stage. And so you mentioned something about getting further assurances from, you know, folks around the table and all of that and, I guess it's not clear to me exactly how that would take place or what form that would be or, you know, how we move - how you move from no to yes between now and March 4. And essentially what that leads me to is a question of what are we really gaining and what are we losing?

And I guess the question is, you know, it essentially delays any discussion of Phase 2 because we would not be approving the motion to allow the EPDP to enter Phase 2, that, you know, that basically pushes - I think that makes the face to face meetings, multiple meetings of the EPDP in Kobe, far less productive as it relates to getting to discussions on the uniform access model, which I think is - would be a real missed opportunity.

And clearly implementation work needs to begin, you know, if we're going to, you know, to get this thing going. So the sooner we can begin all of that other work I think the better. And so I guess the question is, and again, you know, back to you all to consider, is, you know, are you really gaining anything by deferring this 10 days and consider what you're losing in terms of the ability to move to Phase 2 because the report isn't going to change between now and the 4th.

I understand and I hear your points about the timing. And I'm, you know, I understand that you may need to go out to your broader constituencies, you know, to have further guidance and further input. But, you know, I really hope that if that were to happen and if we were to grant a deferral, that, you know, there's at least some opportunity to move from no to yes between now and the 4th. And so let me stop there. Michele, briefly, and then I want to get, you

know, back to the point of figuring out how we deal with the two non-consensus recommendations. Thanks.

Michele Neylon: Thanks, Keith. Michele for the record. And I'll try to be brief. Mr. McGrady is stating that the IPC and BC weren't heard is bizarre. They had multiple opportunities which they took on multiple occasions to express their views, which they did. I think he's conflating being heard and people agreeing with; they are two very different things. And I'm surprised that as a lawyer he doesn't understand the difference between the two.

Also as well, to reiterate, if it's a question of convincing the IPC and BC internally to vote in favor of the report, that is one question. But framing it as some kind of discussion within the broader GNSO doesn't make any sense as there can be no further discussion as the report has been delivered. Thank you.

Keith Drazek: Thanks, Michele. And Paul, back to you for responses to the questions that I posed and then we're going to need to move on after your point. Thanks.

Paul McGrady: Thanks. So Keith, you asked whether or not I would vote no today on behalf of the IPC, I don't want to pre-vote but I'll telegraph a little bit that, you know, it doesn't look good. As far as whether or not we can get a yes between now and March 4, I think it's the same answer which is I don't know. I don't know what that process would look like.

I don't know what further assurances would make people within the IPC confident that, you know, the next phase would ultimately end up where we need it to be or at least that they would have a hearing on the issues that would be suitable for them to feel like they've been heard. But what I do know is if we have a vote today then there's none of that; we just have - we just have a vote and depending on how it goes, that's it.

So I understand what you're talking about in terms of losing time on the, you know, this - I guess we'll call it Phase 2 work. The, you know, but again as far as I know there's no deadline on that work like there is for this Phase 1 work because the temporary specification is expiring, right? And so again, yes, we'll lose some time but unless somebody can point where we've given this working group a hard deadline, you know, to get that Phase 2 work done, you know, I guess I'm not as concerned about that as I am about the possibility to work for some sort of unified vote on this.

Again, I can't guarantee that but back in the day that was considered to be a good thing; it was considered to be a good thing if Council could - everybody could get on board and we could tell the Board - the ICANN Board, yes, this is from all of us. If that's no longer something that people care about then, you know, then there that is. So okay, thank you.

Keith Drazek: Okay thanks, Paul. All right so let's move then to a discussion of the two issues that did not reach consensus. So we have essentially a few options before us, folks, we have the ability to vote on a package, basically the entire final report as it is which includes two recommendations that did not reach consensus where there was, you know, strong support but significant disagreement I think was the threshold.

And so we need to decide whether we're going to - and it's up to us as Council to make this decision - as to whether we would vote or will vote on the package, a single vote, or whether we have separate votes on the two items related - the two items that did not reach consensus. We would still need a super majority vote to approve those. Or I guess there's also the option of not including those in the package at all or in the recommendations that get forwarded to the Board.

So I'm going to open this up. I may turn to Marika or, you know, staff to help, you know, sort of make sure that we understand the process here. But I guess my question is, does anybody object to including those

recommendations in the final report under a single vote? And I guess the follow on is, you know, I guess - so that's the question. Does anybody object to including the two non-consensus recommendations in the final report and under a single vote?

So I'm seeing a bunch of votes in - or comments in chat saying "single vote." Please, Michele, I see your hand, go ahead.

Michele Neylon: Thanks. Michele for the record. Single vote I think is the simplest thing. If we try breaking stuff up I'm not sure how exactly we move things forward. So I would be very much in favor of voting on the entire package and being done.

Keith Drazek: Thanks, Michele. And I'm being corrected by Marika that the term was "divergence" not "strong support or significant opposition" so the two other recommendations that didn't receive consensus were - received divergence. And it is not typical in a PDP for the Council to approve divergent recommendations but it is our prerogative under this situation and under this, you know, this package recommendation. So just everybody give me one moment here just to scroll back through chat to make sure I'm not missing anything as it relates to this question.

So I see Ayden says "single vote." Julf, "single vote." Darcy, "single vote." Martin, "single vote." No objection from Philippe. Flip says, "single." No objection from Osvaldo. Yes, it looks like everybody is up for a single vote which basically means that we can, you know, basically take care of this with, you know, with a single vote without having to break out those two recommendations that had divergence.

Paul McGrady, I see your hand, go ahead.

Paul McGrady: Thanks, Keith. Paul here. Paul McGrady again. So will - so assuming we do a single vote, will the fact that there was divergence on those issues actually

makes its way to the Board or will they assume that everybody was just happy with them?

Keith Drazek: So thanks, Paul. That's a good question. I assume that in our, you know, in the report itself is that's clear, right, I mean, so that was made clear. And I think that it's clear in our motion, if I'm not mistaken. And maybe I can turn to Marika - Marika or Mary, if you could please jump in and help me out with this question. Thanks.

Marika Konings: Yes thanks, Keith. This is Marika. So the designation of the recommendations is something that, you know, is done by the EPDP team to help inform the Council deliberations and considerations of those recommendations but once the Council votes on those and if they meet the super majority voting thresholds, those all become recommendations that the GNSO Council is recommending to the ICANN Board.

So there will no longer be a reference to the consensus level that were achieved at the EPDP team although, you know, of course the Board can review those in the final report, but these would all become recommendations that the GNSO Council is recommending the ICANN Board approves.

Keith Drazek: Okay. Thanks very much, Marika. Paul, I hope that answered the question. And Marie, I see you've asked in chat, "Am I right that the BC IPC statement will be included in the report?" The answer is yes, it's already in the final report. All minority statements and comments that were submitted by the various groups over the last week were included in the report so everything is included.

And Paul, I'll just point you to Mary's further elaboration in chat to make sure that you've seen that as far as the question that you asked.

Okay, everybody, so I think we're at a decision point on the question of a deferral. And I have to say as I said going into this call, my strong preference

going into this was for us to vote today. I think that a deferral, as requested by the BC and the IPC in this case, now that we've heard from both Marie and from Paul, is, you know, it's not clear to me how that is going to, you know, change, you know, sort of the situation that we have. It's certainly not going to give an opportunity to change the final report.

But I've heard now from two constituencies that they need more time to engage with their communities and that there's an opportunity to move from a no vote today to a possibly - a yes vote on March 4. My - I'm really - I have to say I think losing the 10 days that we're going to lose in preparation for Kobe is a real disappointment if we were to defer this. But I really feel at this point that we've received a request from two constituencies for a deferral.

I think that we - if we vote on March 4 what we've lost is the 10 days of preparation time and the ability for the EPDP to move forward to Phase 2. But if it gives an opportunity for us to secure yes votes from the IPC and the BC, then we should strive for that. And so I'm going to make the chair's decision at this point that we will defer the vote from today to March 4. That is the final time for the Council to vote on this. There will be no further opportunities for a deferral.

And I just want to say, I want to make sure that as we move forward on this, I know this isn't going to make everybody happy, but I want to make sure that we protect ourselves as Council from any future, you know, sort of claims of process violations because the final report with its amendments and with the additional statements that were including, including the minority statements, were not delivered 10 days in advance, that we basically protect ourselves from any claims of process violations on Phase 1 moving forward.

So I'll stop there. Ayden, I see your hand, please go ahead.

Ayden Férdeline: Thank you, Keith. This is Ayden. I'm very disappointed with that decision. What we have here are three full stakeholder groups who are in agreement

with moving forward today and we have a small minority of two constituencies from the (unintelligible) who are, in my opinion, being obstructionist here as it is highly unlikely that anything is going to change between now and March.

And actually you made very good points, Keith, as to why it makes more sense to vote today rather than in March because if we're ultimately going to have this vote in less than 10 days' time, 10 business days' time anyway, what's going to change? What is going to be the point of the meetings in Kobe that the EPDP team has? So I appreciate you've made a decision, I just want to note that I'm really disappointed that this has happened.

Keith Drazek: Thanks, Ayden. And I completely understand your sentiments. I'm disappointed as well. But again, I think the - I think under the circumstances and under the fact - the timelines that, you know, we're faced with and understanding the EPDP Working Group delivered its report, its final report yesterday, which included the comments and the minority statements and everything that were, you know, that were developed over the last week, you know, I just think it's important that we make sure that we protect ourselves and our decision making at Council from future challenge that we didn't follow our own procedures as it relates to the document deadline.

So I am very disappointed. I wish, and actually, you know, would welcome, I should say, the withdrawal of the requests for a deferral. I'm disappointed that this is before us but I think under the circumstances in the interest of making sure that there is no opportunity for a challenge on process moving forward, that at this stage we defer to March 4.

And so I do, again, I regret that we are unable to vote today but my decision as chair is to grant the deferral requested by the BC and the IPC. And I strongly encourage the IPC and BC to find a way to support this moving forward so that we can move to Phase 2. I note that it's really a shame that the EPDP will not have the opportunity in the next 10 days to prepare for the

meeting in Kobe but that's the result of the deferral so it is what it is and that's the decision.

So I see Michele and Carlos and then we need to move on.

Michele Neylon: Thanks, Keith. Michele for the record. First off, I fully support everything that Ayden said. It's rare that I agree with Ayden but on this occasion I agree with him wholeheartedly. Secondly, with - speaking on behalf of the Registrar Stakeholder Group and our members of the EPDP team, we are frankly disappointed at the delaying tactics and disingenuous abuse of the multistakeholder model as we've seen today from the BC IPC.

And just so that we are clear, the EPDP team shall not be meeting between now and March 4 as they have delivered their report. Also as well, there will be no back channeling or side discussions involving the Registrar Stakeholder Group or our representatives. All of that - that time has passed. If the IPC and BC need time internally within their own constituency to sort out their position in order to be able to support the vote on March 4, then that's fantastic and we look forward to seeing them then. Thank you.

Keith Drazek: Thanks, Michele. Carlos, over to you and then to Rafik and then we'll draw a line under this one.

Carlos Raúl Gutiérrez: Yes, thank you very much. I understand your worries that the decision could be challenged because we have not respected the 14 days. Still, I think we went into this process with a clear timeline which has been set externally. This is not an internal discussion of ICANN or the GNSO, this is an external legal condition which is called GDPR. So we knew we had this deadline.

And I fully understand Keith, your worries that we might be violating deadlines, but sorry to say, this rationale is not enough for me to change my opinion. I would be ready to vote today. We knew all along the deadlines we

had to deal with. This is an external condition. And in my view, it's our responsibility to respect the external condition first even with the risk of not respecting our internal procedures. Thank you very much.

Keith Drazek: Thank you, Carlos. And yes, I think this is a unique situation that was, you know, forced on us in a - by an external deadline, which was essentially created by the imposition of the temporary specification; it gave us the 12-month clock. But a vote on the 4th of March will still give us the ability, prior to Kobe, to finalize the report which will give the GAC and the rest of the community to opportunity to consider it whether the GAC needs to provide advice to the Board, etcetera, etcetera and gives time for a 40-day public comment period, Board consideration and Board vote prior to May 25.

So I understand your concern. I think what we've come down to here is we have a choice between - or had a choice between voting today and allowing the EPDP to move forward potentially without the support of the BC and IPC, or we defer 10 days, we lose 10 days, and hope to get the support of the IPC and BC. That's essentially where we are today. And I think because of the delivery time and date of the EPDP final report, then the deferral is going to be granted. So that's the decision. Rafik, over to you.

Rafik Dammak: Okay, thanks Keith. Just I want to (unintelligible) I understand the parameters for this deferral is that we're expecting BC and IPC to check with their membership about a position or the vote but also that the EPDP team is not going to do any work as it submitted its final report. So we can use this period (unintelligible) defer as just the consultation time. I think this is quite important to - I think you highlighted but maybe to make this clear (unintelligible) as an action item. So I would also be happy also to communicate with the EPDP team just to diffuse any concern and to make it clear about what is next (unintelligible).

Keith Drazek: Thanks, Rafik. So you were difficult to hear but I think I got what you were asking. You were asking for clarification as to whether, you know, basically

the status and yes, with the deferral the IPC and the BC have requested additional time to engage with their membership to be able to have, you know, a more informed vote.

They indicated that they would vote no today or that it didn't look good for a vote today at a minimum and that there's an opportunity perhaps for them to engage with their members and on March 4 perhaps come back with support. So, you know, that is basically the request was made to have further engagement with their communities and we're going to grant that.

And yes, I think to your second question, the EPDP will not be meeting for the next 10 days. It will not meet again until such time we approve the final report from Phase 1 and indicate that the EPDP Working Group can move to Phase 2. And so yes, so I think those were the two questions. And then I think your follow up question was about, do we need a, you know, some sort of action item or a motion to communicate where we stand. And I think the answer to that is yes, but that's the extent of what I heard you say, Rafik. Go ahead and jump back in and, you know, clarify or restate anything that I missed. And then I've got a few folks getting into the queue. Thanks.

Rafik Dammak: No thanks, Keith. And I'm sorry, I used the earphone and that's why. Yes, I think you summarized accurately what I asked, just that we - those are the kind of parameters for the deferral so to make it clear. And I said just I would be happy to communicate with EPDP team just to avoid any confusion or misunderstanding. So thanks again.

Keith Drazek: Okay thanks, Rafik. All right I've got Carlos, Maxim and Flip and then we need to move on. Carlos. Old hand perhaps? Okay, Maxim.

Carlos Raúl Gutiérrez: I'm sorry, it was an old hand. Sorry.

Keith Drazek: Okay. Thanks, Carlos. No problem. Maxim.

Maxim Alzoba: Maxim Alzoba. Just small question, the charter for the EPDP team said that the members have to keep their groups informed and it was a qualification criteria. And if particular members failed to keep their groups informed, they're not following this qualification criteria anymore. I'm saying from perspective of the Customer Standing Committee for GNSO. It's a formal point but if they failed to inform most probably they have to be replaced. Thanks.

Keith Drazek: Okay. Thanks, Maxim. Your point is noted. Flip, over to you and then we will move on.

Flip Petillion: Thank you, Keith. Flip Petillion for the record. Let me first say that I'm personally disappointed and surprised to see some personal comments expressed by people that I thought are friends. I can forgive easily but I will not forget. That having been said, I think of course it is our duty to talk to the groups you represent and to the leadership of the group and the leadership to the members to re-discuss where possible. But I think we have clearly expressed that it is also the view of IPC to continue the dialogue.

So if I hear now that we defer but there is no time to meet, there is no time to discuss, there is no time to dialogue, then I really don't see the point why we should do that, frankly. Thank you, Keith.

Keith Drazek: Thank you, Flip. And to your first point, yes, I would ask everybody to please in the Adobe chat or on the phone, please keep everything civil and professional. I know this is a, you know, a stressful and challenging situation and a lot of hours and time have been put into this and there's disagreement on several points and positions but, you know, let's keep it civil.

So the - Flip, on your second point, I think that's exactly the challenge here is that, you know, we have a final report that is not going to change between now and the 4th of March. You know, our other conversations, you know, possible outside of that structure, I mean, of course there's always

opportunity for communication but the final report is not going to change between now and March 4. I think the key is that, you know, the work of Phase 2 is the next important component of this EPDP and we are with this deferral, losing the 10 days of prep work. And I think that's really the net of, you know, the challenge here.

So anyway so, you know, and again I think the process point, as Michele has noted here, is that we have been requested by BC and IPC for further time to engage with your communities to have further guidance and instruction as we approach the vote. And in light of the fact that the report was delivered yesterday with some additional material and importantly the minority statements and the various views and positions of the groups, that we're going to defer on that ground.

But just to be clear, the final report is not changing and March 4 is the last opportunity for us to vote on this. And there will be a vote. So with that, let us move on. Thanks, everybody, for the discussion and I look forward to hopefully receiving support from everybody for this on the 4th of March.

All right, next item on the agenda is a discussion on the EPDP Phase 2 work. We're not talking about that today. So next item on the agenda is a Council update on Subsequent Procedures. So Jeff, I'm going to hand this over to you and to Cheryl at this point. And thank you very much for joining us. I know that you had expressed interest in joining the call, sorry, joining the meeting during our strategic planning session but we don't invite - or did not invite working group leadership to that session but we did want to extend this opportunity to you and to Cheryl before we get to Kobe. So over to you, Jeff.

Jeff Neuman: Thanks, this is Jeff Neuman. Hopefully you guys can hear me and Cheryl, of course jump in when you - whenever you want. So we're just waiting for some slides to be put up on the screen. I know you guys were just in a intense conversation but hopefully we can keep your interest for a little bit longer because this hopefully will be coming to the Council this year.

So if we just want to go to start in on it, if you go to the slides, so just quick update on the current status. We published an initial report in July last year, had a really lengthy public comment period which almost three months, it was 2.5 - almost three months. We had gotten a lot of comments and have been analyzing the comments through subgroups.

I should be speaking that this is with respect to what we call Work Tracks 1-4 which is everything except for the use of geographic names at the top level which is Work Track 5. Work Track 5 did release their own supplemental initial report in December and comments have - the comment period closed - was extended and then closed just a couple weeks ago and now we are also starting the substantive review on those comments.

In addition, the Work Tracks 1-4, the remaining work tracks, did release a supplemental initial report in October for five issues that weren't as fully addressed in the initial report or in some cases not at all, and so we wanted some other things to go out for public comment. We are also reviewing those comments now as a full working group.

So we can go to the next slide please. We - so the subgroups that are reviewing the comments for the - formerly Work Tracks 1-4, we are almost completed a review of those comments, in fact, one subgroup is complete, the second subgroup will either be complete today or next week, and the third one just shortly after Kobe. Those subgroups were really just clarifying and reviewing the comments for the full group discussions at will start to take place on the substance of those recommendations.

What we did during the triage, which Cheryl likes to call it, is really to see what patterns there were with the comments, what areas there's agreement, what areas there's divergence and other areas where there are new ideas presented for the full working group to discuss.

The goal then is to discuss these with the full working group, and we'll talk about the timeline on the next couple slides, but what we also hope is that we are going to be able to convene after Work Track 5 finishes talking about the comments and comes up with some recommendations to actually join with the work track - or current Work Track 5 with the rest of the group to deliver a final report to the Council.

So looking at time, I think the timeline slides are next, if we go there. This is our - the goal that we're working towards if there is no additional public comment period. The next slide after this one we'll get to in a second, has a contingency for an additional public comment period. But as you can see here, this really anticipates getting a final report to the Council by the beginning of Q3 in 2019, this year, so that's not that far away.

And the next slide, which indicates an alternate - if we did have an additional public comment period, which we're not saying definitively that we will at this point, but if we did have an additional public comment period, as you can see that would add at least another quarter and a half or so to the timeline, but still as Cheryl just posted, our intent is to get this done this year so by Q4, the end of Q4 or actually mid-Q4 this year so that it can be before the Council.

Just a note on if we do have an additional public comment period, that will be limited to those areas which truly were not out for public comment before or could not have been foreseen or addressed before, so in other words, if there were four options presented in the initial report and we end up choosing one of those options, the fact that we hadn't chosen an option in the initial report is not a basis to have an additional public comment on it, but if we choose a new Option 5, that wasn't really foreseeable, and that by foreseeable I mean you know, wasn't a compromise with some of the other solutions but something truly new, then that would be appropriate in our view for an additional public comment.

Go to the next slide. Okay so we obviously, like all PDPs, we have our challenges. There's clearly going to be areas, not unlike the EPDP, that there's not going to be a consensus to recommend a change. There may be some agreement or a good majority of people that agree that a change should be made but there may not be a consensus on how to or what that change should actually be. Or another way to say it is there may be a majority view that there's a problem with the way it was done the last time but there's no consensus on any one solution.

And the default that we've been working towards from the very beginning has been a - that the status quo, meaning whatever happened in 2012, whether it was part of the policy or not, but whatever actually happened in 2012, that's the default.

Now setting that default early on was both good and bad, right? It basically gave some predictability to the group as to what would happen if we couldn't agree, but there are some that have said that this is definitely a disincentive to actually compromise. Right? If you were - if you didn't mind what happened in 2012, then, you know, knowing that the default is that, 2012 implementation, then is there really an incentive to compromise or come up with a other solution?

So this is just something that I'm sure will percolate up to the GNSO. I should also state at this point that thanks to Flip and Elsa, we have been - and of course all of you - for guidance from your strategic meeting in January, to make sure that the roles of the GNSO Council liaisons are emphasized and discussed and make sure that every working group member understands and knows that they can go to the liaisons and the reasons why they can go to them. And we just went over that again on the last full working group call.

So one of the things that we really need to consider, and by "we" I mean really you all, is that there may be an agreement that there was an issue but consensus may not be reached on what that solution may be. And so then

the question is, is that something for the GNSO Council to weigh in on? Is that something that the GNSO Council gives the Board permission to make a decision after it provides the Board with full information from the working group? Is the Council and the community comfortable with the Board just making a decision based on what information it gets?

Some dependencies on delivering our - or sorry, some dependencies for the next round, and not necessarily delivering our report, we have seen, and everyone's seen, the final recommendations of the CCT Review Team, which suggested a couple items for this PDP. We know this hasn't been approved yet by the Board. We know that the Board is still considering an implementation plan of this.

But to be proactive, we have addressed these questions in our - or we've addressed those in our discussions on the comments and will address those in the final report even though they have not quite been approved but we just wanted to be proactive and not have to wait until everything was finally approved.

If we can go to the next slide. You know, obviously we're still - we are not - the Rights Protection Mechanism PDP is still going on. Cheryl and I and the leadership - the full leadership team of the Subsequent Procedures PDP don't believe that this is a dependency for the next round, certainly not a dependency for our final report, but this is something that the Council I'm sure will be faced with if there's no final Phase 1 report from the RPM PDP.

There is and has been discussion on the name collision analysis project but that effort from what we've been told is on hold, so that's not some kind of - that's not a dependency for us at this point. And there is new - sorry, the IDN variant TLD implementation.

So ultimately we do not believe that any of these serve as a dependency for the delivery of our final report or concluding our policy development work but

we obviously wanted to present that status to you all. And, you know, if there's something out of the EPDP that needs to be fed into our PDP then to the extent that we're still up and running we'll obviously do our best to incorporate that.

And I think there may be one last slide. And so this is just, you know, what happens after we deliver our final report. You probably already know all of this, but essentially you know, the next step - our expected next step would be that the GNSO Council would adopt the report, send it to the Board, the Board would do a comment period and of course solicit comments from the other SOs and ACs - or sorry, SOs and ACs and hopefully start implementation.

Our goal and the question we brought up at the Barcelona meeting is that we can start implementation work even when the Board is considering the policy final report, even if it's starting in some informal way but not to lose, you know, four to six months of time preparing for the next round because even at the schedule we're looking at now it's going to be nearly a decade between rounds and that's kind of a long time.

I think that's it. There may be some - yes, some resources. So other than that I just really want to turn it over for questions.

Keith Drazek: Okay. Thanks very much, Jeff. This is Keith. Hi, everybody. Thanks for the report. Lots of information there, you know, very detailed and obviously a lot of work going on in that group across the five work tracks. So let me just see if there are any questions. Would anybody like to pose any questions to Jeff and Cheryl related to this update or the Subsequent Procedures work that's ongoing?

And while folks are thinking maybe, Jeff, I'll pose a question for you and it relates to, you know, sort of the timing of the initial report, the timing of the final report and sort of the levels of consensus assessed and

recommendations made. So I guess directly the question is, you know, coming out of the initial report, the initial report didn't have a lot of recommendations in it and there weren't much in the way of consensus calls; it really was a document that sought, you know, further input from the community.

And coming out of the initial report as you approach developing the final report, you know, to the extent that there is new things that are being proposed as recommendations, do you anticipate having another comment period at some point? I know you and I had a conversation about this during our most recent sync-up but I think for everybody's benefit it would help if you could just provide a little bit more, you know, elaboration there. Thanks.

Jeff Neuman: Sure. Thanks, Keith. This is Jeff. I think first, you know, it'd be interesting because I think the Council may want to consider the nature of an initial report and consider in the future perhaps not requiring the taking of consensus positions. It was our position both when Avri and I were running it and then when Cheryl took over when Avri went to the Board that to take a consensus call prior to an initial report sends, you know, not only sends the wrong message of hey, you know, we've already - we're not really open to the public comments but also I think is really premature to kind of lock yourself into a position.

But that said, I think the - what I said before still holds, which is that if the recommendation was not foreseeable or presented as an option, then yes, we would put that out for public comment. But if there were three options, let's say, that were in the initial report and the group chooses one of those or a hybrid of those two, then it would not be the expectation that that would go out for another public comment period because each of the groups did have an opportunity and the public had an opportunity to make comments.

The fact that we didn't select as the recommendation shouldn't change any of the comments that were - that came in. So that's currently the view. Of

course, you know, we're going to discuss this as a full working group and that's just kind of the leadership team position at this point.

Keith Drazek: Thanks, Jeff. Anybody like to get in at this point? Feel free to put up your hand. I'm not seeing much in the way of hands up in the Adobe room. If anybody on the phone would like to speak, jump in. But Jeff, just going back to the first point you made about, you know, considering the Council might consider moving forward in the chartering of the PDP working groups not having a requirement for a consensus call prior to the initial report, that's I think certainly something we'll need to talk through and think through.

But I think certainly to the extent that if there wasn't a consensus call during the first phase prior to the initial report, it makes it all the more urgent or important that, you know, that that consensus call take place, you know, following, you know, the initial report and following the incorporation of comments that were received. You know, it's sort of like if and then.

So, Paul McGrady, I see your hand. Thank you. Go ahead. Paul, if you're speaking, we can't hear you. Paul, you may having some audio issues. Can somebody check Paul's line please?

Paul McGrady: Sorry about that. Paul McGrady.

Keith Drazek: There you go.

Paul McGrady: I pushed the speaker button instead of the mute button so that tells you, you know, how (unintelligible) I am. Sorry about that. So a question for Cheryl and a question for Keith. Cheryl, and I apologize for not knowing this off the top of my head, but the dependencies that are referenced in the charter for this PDP in relationship to the RPM work, are those specifically (unintelligible) RPM or are they more general? And then a question for Keith, is it within our power to hand down a hard deadline to the - to the RPM PDP so that we aren't fretting about dependencies? Thanks.

Cheryl Langdon-Orr: You want me to jump in, Keith? Cheryl here.

Keith Drazek: Sure thing, Cheryl. Yes, thank you.

Cheryl Langdon-Orr: Thank you. Cheryl Langdon-Orr for the record. Thanks for the question, Paul. In the charter it envisaged that there may be dependencies between the activities of the two working groups. It did not make any assumptions that if there were, what they were, but it did envisage that there may be. And so Jeff and I and Avri before us, have been very keen to ensure that we've been cognizant that there may be.

And if such dependency, and as you've know, we've kept very close interactions going on with the leadership of the RPM Working Group and Council leadership throughout all of our time as well that includes discussion on that matter. And Jeff and I still hold to the fact that at this stage we see no such dependency. Thank you. Jeff, did you want to embellish?

Jeff Neuman: No, you got it. Thanks.

Keith Drazek: Okay thanks, Cheryl. And thanks, Jeff. Thanks, Paul, for the question. My response to your question is, I think in order for us to impose a deadline as Council we would need to re-charter or reopen the charter of the group is my sense. And happy to be corrected with that point or on that point by staff if I got it wrong. But I think we would - in the event there were dependencies and we decided that there needed to be some, you know, pressure and deadlines, we'd need to reopen the charter. I hope that answers the question.

Okay, any other questions or comments before we move on? Okay Jeff and Cheryl, thank you very much for this update. Jeff, thanks for joining us today during our Council meeting. And look forward to seeing you both for further discussions in Kobe. Much appreciated.

Okay, so with that let's move onto the next item on our agenda, we have approximately 15 minutes left in the call today. We have several items under any other business. And if we could put the agenda back up on the screen? Thank you.

So the first item is 7.1, ICANN 64 planning. As you can imagine we - the leadership team working with staff are busy helping to plan for the GNSO Council working sessions and also the meetings that we take place and the interactions that we will be having with GAC and Board so, you know, and the different groups. So I just wanted to note that that work is underway and you'll be seeing some additional information coming out in the near future.

Nathalie, is there anything that you'd like to speak to specifically with regard to ICANN 64 planning?

Nathalie Peregrine: Thanks, Keith. This is Nathalie. Not at this time. Just to mention as Keith said, you'll all be receiving informational emails closer to the time so they don't get drowned in your inboxes. And of course if you have any questions regarding meeting sessions, venue options, etcetera, you may just write to the GNSO secretariat and we'll be happy to help.

Keith Drazek: Great. Thanks very much, Nathalie. Questions or comments on ICANN 64? Very good. Next item on the agenda, 7.2, I put this on the agenda basically said lessons learned from the process that we just went through for Council public comment formulation on the ICANN draft FY'20 operating plan and budget and the five year operating plan.

So I just wanted to put this on the agenda to note as I said in my email, as we were going back and forth on the drafts that were prepared by the SCBO, we all as councilors need to make sure that we are providing input and feedback to drafts that come out of any group but in particular I think our Standing Committee on the Budget and Operations, this, you know, we need to make sure that the group as it does its work has appropriate guidance and

appropriate views and that if a draft is submitted or circulated to the group that we all take the opportunity to look at that early and to provide early response and early feedback to the group.

I know that we sort of had a process there at the end that was a little bit messy. I'll take responsibility for that. But we were able to submit final comments on both of those. I went through the good initial work of the SCBO and edited it to ensure that it could be supported by all councilors and so those documents were submitted.

So again I think there was a question on the list I think posed by Ayden about, you know, we need to discuss - or maybe it was not on the list, maybe it was just an email to the SCBO, I apologize, but basic, you know, questions about, you know, how independent the SCBO should be or how much independence should it have in terms of drafting comments. And I think that's a good question to be asking.

At the end of the day, you know, the comments that we submit must be supported by the entire Council and we as councilors need to make sure that we're providing appropriate input to that group so they have the guidance that it needs to develop those. I don't know if there's any further discussion needed on that but I just wanted to note that for the record that we, you know, all we could do a better job than we did on this last round of providing input to the group.

Okay, next item on the agenda, public comment, there's a public comment period open on a consultation on a two year planning process. This is something that we need to take a look at and we need to review. I'm not sure if there's any documentation that we can present on the screen, but I want to flag this for everybody and we have a fairly short period of time to respond to this.

I know that Berry sent a very detailed, you know, email on this providing some context. And I'm not sure if - Berry, yes, Berry's on the call. Berry, could you - are you available to speak just, you know, a couple of minutes on this and provide everybody the context about what we need to be considering here? Thanks, Berry, go ahead.

Berry Cobb: Thank you, Keith. Berry Cobb for the record. So, you know, as Keith mentioned, you know, we did the FY'20 draft budget as well as the five year operating plan. At the same time, this first consultation on the two year planning process was launched. When I first took a look at it, I thought it was more in line with ICANN Org's trying to put forward a two year budget planning process as well, so for example, FY'21 could include FY'21 and '22.

But after reviewing the two year planning process document here, it's really more about project planning, workload management, operational planning. And it seemed to fit very squarely right into a lot of the things that were being discussed at the GNSO Council in regards to its strategic planning session as well as some items on the PDP 3.0.

So I do think that this is an important comment that the Council should vote on, or I'm sorry, create comments for. And in the light of understanding or helping the Council to build a pipeline of current and planned activities down the road, and that will better inform our draft budgeting process as well as how the Council and its associate groups can plan from a financial perspective and make sure that that aligns with the operational perspective and try to at least front-run some of - resources that may be required for the working groups that are either in flight or in the early parts of the planning pipeline.

So definitely much more about operational planning two years out, than it is about budget planning but eventually both of these will be married together in future consultations. Last thing I'll say is, you know, the title is specifically the first consultation on two year planning process, I haven't gotten more details

about what the second or maybe third consultation may look like. But I hope that's helpful. Thank you.

Keith Drazek: Yes, thanks very much, Berry. Much appreciated and thanks for bringing our attention to this. I guess the only other question I had is can you remind us what the timeline is that we're on for this? I recall that it's fairly tight.

Berry Cobb: Yes, sorry. So we did ask for an extension and Xavier announced that it will close on March 5 as opposed to yesterday. So we do have a couple weeks to get a draft in front of the Council.

Keith Drazek: Very good. Thanks, Berry. So what I'm going to do on this point is ask - we'll take it to the list but I'm going to ask for some volunteers from Council to help coordinate the response on this. I think there was a question about whether this is, you know, sort of appropriate for the SCBO or if this is something we need, you know, sort of a broader participation and input. And I'm sort of, you know, open to either but I think this is one that we as a Council need to take seriously.

As Berry noted, it does relate to and impact, you know, sort of the discussions we've been having around PDP 3.0 and, you know, some of the expectations that we have and plans that we have. So let's take this one to the list in the interest of time, but I thought it was important to flag this and thanks to Berry for providing the detailed explanation.

So moving on, the next item is the ICANN 64 Board discussion topics. Apologies we're running short on time here, just got five minutes left before the top of the hour. I'm getting some questions up on the screen. Okay, so we have received these questions from the Board as we look towards the GNSO Council meeting with the Board in Kobe.

And so I'm not going to read the questions in the interest of time, but this is something that, you know, we need to focus on as a Council. We've

obviously been busy with lots of other things including EPDP efforts, but this is something that we need to develop some responses to. And Nathalie, can you remind me what the deadline is that we're looking at, end of this week? Yes, so we've just got a couple of days to try to develop this. Sorry, Nathalie, is it the deadline to send a response to the Board at the end of the week or deadline for input from Council at the end of the week?

Nathalie Peregrine: Sorry, Keith, this is Nathalie. No, Board support have said that we have until Friday close of business to send our input.

Keith Drazek: All right. So I will take an action item to draft some language in response to these questions and please, everybody, watch the email list, watch the Council list for my draft and provide feedback so I can - so we can deliver a response back to the Board. And this is essentially just a reminder just preparatory work for the meeting that we'll have face to face with the Board in Kobe. So watch the email list for my draft, comments and edits always welcome.

Okay, and then finally the item is - next item - last item on the agenda is 7.5, a reference to the report that was developed from our strategic planning session in January. Particularly thanks to, you know, Steve and Marika and Nathalie and staff for all the work that went into this very detailed report.

It's - the leadership team has had a chance to review it and, you know, we feel it's in great - in a great place and very well captures the, you know, sort of the detailed discussions and the spirit of the strategic planning session so it is now up on the screen. And Nathalie, can you remind me, has this been circulated to the Council list yet? And if not, it will be soon. Maybe that's a question for Steve.

((Crosstalk))

Steve Chan: This is Steve from staff. Yes it was actually just shared I think yesterday I believe. So yes, I was thinking that hopefully we'd be able to set a deadline for input because as I think councilors are aware, sharing this report is a requirement for the ABR, additional budget requests, so I was thinking early next week if that seems agreeable to Keith and the rest of the Council.  
Thanks.

Keith Drazek: Thanks, Steve, and thanks for the reminder about the deadline and the obligation that we have with regard to the report, so yes, so let's set Tuesday next week for any feedback or a response, any comments that you might have on this report. Again, it's a really good summary; it's a really good report that includes quite a bit of detail. I encourage everybody to read it and if you do have any feedback let's make sure we get that to Steve by Tuesday of next week. All right, thank you for that.

All right so we're in any other business so I'm just going to ask if there's any other business. We've got just a minute left. Would anybody like to raise any other issues? Any other comments? All right, so I will wrap up this meeting.  
Thanks to everybody. I appreciate your time.

And thank you for your patience and understanding as it relates to the deferred motion and the deferred vote on the EPDP Phase 1 final report. We will have a call on the 4th of March. It will give everybody time to socialize the latest version with their communities. And I look forward to the approval of the Phase 1 final report on the 4th of March so thanks to everybody for your time.  
And have a great next 10 days. We can conclude the call.

Nathalie Peregrine: Thank you, everyone for joining. This concludes today's Council meeting.  
Operator, you may now stop the recordings and disconnect the line. Thank you.

END