

**GNSO
Operations Steering Committee (OSC) GNSO Council Operations Work Team
15 September 2010 at 17:00 UTC**

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On page:

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

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Participants on the Call:

Ray Fasset – Registries Stakeholder Group

Wolf Ulrich Knoben – ISPC

Ron Andruff – CBUC

Eric Brunner-Williams - Individual

Staff:

Ken Bour

Robert Hoggarth

Liz Gasster

Samantha Eisner – Senior Counsel

Glen de Saint Gery

Apologies:

Avri Doria – NCSG – vice chair

Julie Hedlund

Coordinator: Excuse me. I'd like to remind all participants this conference is being recorded. If you have any objections, you may disconnect at this time. You may begin.

Ray Fassett: Okay. Thank you very much. This is Ray Fassett, the Chair of the GCOT Work Team. Glen would you mind taking a roll call again please?

Glen DeSaintgery: Pleasure. I will do that Ray. On the call we have Ron Andruff, Ray Fassett, Wolf-Ulrich Knoben from the work team. And for staff we have Ken Bauer,

Rob Hoggarth, Samantha Eisner, Liz Gasster and myself, Glen DeSaintgery.
Thank you very much. Ray, over to you.

Ray Fassett: Great. Thank you. So I think a bit of housekeeping first just to start off is this work team has been I'll use the word dormant to the point where we were requested to look at additional issues on the work that we have completed and basically the rules and procedures that were adopted by the GNSO Council.

There were some open points that we anticipated would come back to us in some form. I think that that has happened. So I sent around an agenda working with ICANN staff on what - how to shape today's picking up on this subject matter. So first I'd just like to ask the other work team members are you okay with the agenda as it was sent? Ron.

Ron Andruff: Yes. This is Ron. I'm fine with the agenda. Thank you.

Ray Fassett: Okay. And Wolf?

Wolf-Ulrich Knoben: Yes I'm fine. Thank you Ray.

Ray Fassett: Okay. Great. So I'll stick to the order of the items as they were provided as well.

Robert Hoggarth: Hey Ray. This is Rob.

Ray Fassett: Yes.

Robert Hoggarth: I'm sorry to interrupt. One thing that we didn't list on the agenda that you might want to consider is updating statements - asking members of the team whether they have any updates to their statements of interest.

Ray Fassett: Yes. So this is a working group I suppose so we fall within that guideline although I'll ask a procedural question back to you Rob. Since the Council has not adopted the SOI procedure, is it a requirement to do that at this point?

Robert Hoggarth: Ah, a very good point. A very good point. And actually I was too limiting when I asked SOIs or DOIs. I guess, you know, since the approval of the procedures by the Council, I think it's probably best to just assume that each various, you know, working group or work team is subject to what has been passed.

You're right - there is - while the statement of interest in terms - in certain aspects I think has not been approved, you all do generally - did submit statements of interest if I recall correctly for this work team. So it wouldn't be a great leap to just make that a part of the practice.

Where I think there may still be some question is the treatment of DOIs. I know Julie had circulated some recommendations in that regard to the GNSO Chair and that might be something we want to talk about in the future.

Ray Fassett: Okay. Okay. That's good. Thanks Ron - Rob. So I think in the spirit of that, I think what I'm going to do - I think it should be tried to be implemented in practice because we can learn from it, right.

So my approach to this as the Chair is simply going to be a polling method as to whether the members of the work team - anybody on the work team wishes to disclose now an update to their statement of interest or declaration of interest. And if silence, I will assume not. So I will go ahead and ask. Any updates?

Wolf-Ulrich Knoben: Not from my side. Wolf speaking.

Ron Andruff: And neither from mine. Ron speaking.

Ray Fassett: Okay. Okay. So administratively it appears to me that now this is a small group and I admit that but administratively I don't think it's a large burden for it to be incorporated.

So that said, if no one objects, let's jump to the first line item in the agenda, which is discuss inquiry regarding SOIs and staff. So first of all at a high level, do we all understand how this question has come about? Ron and Wolf.

Wolf-Ulrich Knoblen: No. Sorry, I'm not very close to that at the time being.

Ray Fassett: Okay. Would anybody object if I try to give a high level overview?

Ron Andruff: Please go ahead.

Ray Fassett: Okay. So the issue here is that in the rules of procedure we felt it important that there be statements of interest provided by those participating in ICANN policy processes. And Rob, Mr. Policy Guru or Liz, feel free to correct me if I'm using words out of place here.

But at a high level we felt in the rules of procedure it was important to incorporate rules that pertain to statements of interest and ICANN policy processes.

Now as part of that thinking back then and deliberating that, there was a distinction drawn between what is a statement of interest versus what is a conflict of interest. As we know, certain - and I'm not clear the - I'm not clear exactly who but there are those within ICANN, the organization, that are bound to conflicts of interest requirements.

And as part of that, it was provided to us as an opinion from ICANN Council that GNSO policy processes and practices actually inherently involve a

conflict of interest by its participants. In other words, it should be expected. And in fact, can be health, you know.

But that's a different than having a fiduciary responsibility to ICANN as an organization. So there was a distinction drawn there. And we all accepted that distinction by the way.

So the question that has arisen here is can there be exceptions to those that participate in ICANN GNSO policy processes to the requirement of having a statement of interest on file? Now what could be such exceptions?

How about an ICANN employee or consultant that is providing support work to a working group for example? Is it necessary for someone in a support capacity different than a policy participatory position to submit an SOI? So that is my sort of layman's approach to the high level question at hand here.

And if we really want to be specific of what it is, should ICANN employees and consultants providing support for - to the GNSO policy process be required to follow the rule in the procedures to submit and SOI?

So with that said, is there any discussion?

Ron Andruff: So this is Ron if I may.

Ray Fassett: Yes please.

Ron Andruff: I just want to - I would think that it - I read Liz - there was just this recent exchange between you and Liz Gasster just published something on the list just prior to getting on the call. And I appreciated Council's point of view is that staff - the General Council's point of view that staff are acting in a support function and in fact are just listening rather than creating policy or developing policy structures.

So from that point of view, I think staff are covered by virtue of the fact they signed a contract with ICANN and therefore they are engaged. Excuse me, I just got to get rid of this call. So they are - that means that they've been covered off by virtue of signing a contract with ICANN.

The contracted consultants however could be consultants to others that have some kind of - some kind of business with ICANN or some kind of bearing on policy that may or may not have impact. But I - so therefore I would suggest that we would allow employees, any staff members, to not need to do an SOI. But anyone that's a contracted consultant should fill in an SOI simply to make sure that we have transparency factor in there. Thank you.

Ray Fassett: Sure. Wolf.

Wolf-Ulrich Knoblen: Yes, Wolf speaking. Thanks. I was just thinking about, you know, for me is - the key point is who in this team let me say including a working team or a working group or whatever including all participants, staff, consultants, okay, the team members - who could and how could he/she influence the process or the result of the outcome of the work team's work?

So if there was - and the point is for me voting I would say. So the influence - the major influence is done to voting and staff is not participating in voting. So the members are - the team members vote. Or the question for me, am I wrong? So for example, in work teams where staff is participating, I do not know. But with a part of the business staff is - has the right to vote in cases or not.

So voting would be a key point for me. So if it comes to vote and all participants who are participating in voting, they should filing an SOI - should file SOI. That's for me. So I would just bring it up for discussion. If I'm wrong, then that's fine, specific fine. But I see that way.

Ray Fassett: Okay. This is Ray. I have - I'm going to - I have three things there. So I'll start with Wolf's and I have a couple to Ron's. So, you know, keeping to our principles that really the policy development process within ICAN is to de-emphasize voting. So I might say to that well we don't want to use whether someone has a voting right or not as a - as the litmus test because the idea is to be de-emphasizing voting anyway.

So where it's not - I'm not saying it's contradictory. I'm just say it's again making voting an emphasis when we're trying to de-emphasize that. So I might dissuade that logic for that reason.

To Ron's first comment, he mentioned that because you're an ICANN employee you are therefore bound to be fiduciary obligated to the organization. I believe that's what you said Ron. I might have rephrased it a little bit.

Now I don't know that that is true as it pertains to an ICANN Board member that which absolutely has a conflict of interest policy, which they must abide by. My question that I haven't seen yet a response to is are ICANN employees bound by that same conflicts of interest?

And it doesn't have to be the same or some - is there something that we as a work team can point to that ICANN employees are obligated to the organization different than non-ICANN employees that we can say that qualifies as an exception to not requiring an SOI?

Samantha Eisner: Ray. This is Sam Eisner. Let me know when I can jump in. I might have some information for you.

Ray Fassett: Okay. Sam, we are ready.

Samantha Eisner: All right.

Ray Fassett: And hello by the way.

Samantha Eisner: Hi there.

Ray Fassett: Hi.

Samantha Eisner: So I am in the Office of General Counsel here. And for both staff and the ICANN contractors that in many ways we see except for the form of their relationship with ICANN we consider for all other purposes ICANN staff.

In the General Counsel's office we have great discomfort with this conversation. There's - to your question Ray, ICANN employees are bound by an employee conflict of interest policy. The published conflict of interest policy that you can find on the ICANN Web site goes to the ICANN Board as well as some key employees as defined by IRS regulations and other things.

But we then also have internal employment policies that require ICANN employees to be free of conflicts of interest in doing their work. So we do have - we do have that bind here with the employment relationship.

And separately with our contracts with our contractors, we also include in there a statement that the contractors are to perform their duties for ICANN free of outside conflicts of interest. So we...

Ray Fassett: ICANN the organization? Yes, ICANN the entity, the business, you know, when you say ICANN, right?

Samantha Eisner: Right.

Ray Fassett: I'm just looking to get my hands around and I'm not looking to know what any private documents that may exist within the organization. I'm just looking to find a scope of when you say ICANN.

Samantha Eisner: Right. So when I say ICANN, I mean the entity that any person contracts with. So we're talking about ICANN as the legal entity here. You know, people - whenever anyone enters into an agreement with ICANN they're not entering into an agreement with any specific department within ICANN. They're bound to the organization as a whole.

Ray Fassett: All right. So that to me is very helpful. I think also what you're saying though is that those internal - that internal language that you may be speaking of is not public though, right. It's - and I'm not saying it should but I'm just looking to clarify whether it is or isn't.

Samantha Eisner: Right. I don't believe that we've ever publicized our employment...

Ray Fassett: Yes. Right. Right.

Samantha Eisner: ...policies just because of - it's...

Ray Fassett: Fair enough.

Samantha Eisner: ...(unintelligible) practice in the U.S. that typically employers hold their internal policies as business confidential items. And...

Ray Fassett: Right.

Samantha Eisner: ...so we haven't released those policies but they do exist and we do expect people to hold to them. Then on the contractor's side, you know, typically we have expectations of confidentiality around certain contracts that we need to get contractor approval in order to release.

Ray Fassett: Right. See here's where I'm trying to get to. I want to reconcile - someone looking from the outside looking in. Okay. Any member of the community out there - Internet community outside looking in. And they're looking at the rules of procedure. And they see there's language in there that states that it is to

be expected that members in the policy development process will have conflicts of interest.

We want to be able to - we want to be able to say well, what about ICANN staff members? People are going to ask this question. What about the support members involved in the working groups? How are they covered? They're not required to have an SOI on file.

We want to be able to transparently and publicly provide a response. Anybody provide a response that says understand that those in support functions from ICANN whether an employee or contractor have an obligation to ICANN as the entity. This needs to be understood. Okay.

Samantha Eisner: Right.

Ray Fassett: So we - yes, what we don't want is well, they're pretending to be involved in the working group for the betterment of - for the betterment of the world, okay, when no they are involved in that working group process and they are in fact bound to be representing the organization.

Samantha Eisner: Right.

Ray Fassett: We want to be clear on this point. So why don't you require them to have an SOI? Because they are in fact bound to the organization. That's why. So what we don't want is a gray area to this in my view.

Samantha Eisner: Right.

Ray Fassett: Now I'll throw that up for discussion if Ron and - so this covers consultants and employees in my view.

Samantha Eisner: Right. And I can make a suggestion to that just to throw it out and see if this answers your concern Ray. One thing that we have the ability to do if we're

going back into the operating rules anyway. One thing that we can do is create a more precise definition or at least a more precise exclusion from participant and specify that, you know, ICANN - persons assigned by ICANN to support the work of the working groups are not considered participants.

Ray Fassett: Well I think - no, I think it's the other way. I think they - I think they have to be considered as participants. Okay now we're going to get a little - we're going to get a little lawyerly on the word participant. So just bear with me for a minute.

But I think it's more important to say that they are in fact participants to the extent that they're representing the interest of the ICANN organization. I think that's the truth of it..

Ron Andruff: Ray, this is Ron, if I may.

Ray Fassett: Yes. Yes. I'm sorry.

Ron Andruff: No, I think that - I think that Samantha has kind of nailed it.

Ray Fassett: Yes.

Ron Andruff: It's really about just - what we need is the - we need staff to come back to us with some support language or with some language that says - that supports this concept. Because I think that the - just by virtue of the fact that there is a - this confidentiality, there is these kind of statements within the employment document they have to sign or the document that a consultant signs.

That takes away any concern that I had. Because it just has to be clarified in the definition that employees and/or consultants to ICANN are, you know, subject to thus a such determined language, you know, that therefore precludes them having to fill out an SOI because they already have in fact by virtue of this language solved that problem.

I think we're making a mountain out of a molehill here.

Ray Fassett: I don't know.

Ron Andruff: My bigger concern - my bigger concern was more about consultants to ICANN, not staff. Because again, we have more staff on this call than we do work team members and all of the staff are remaining quiet. They're not doing anything.

But the concern that I could have if I could use it - take advantage of Ken Bauer's good efforts on our behalf. A lot of drafting language that we needed to have done Ken drafted. But he is a consultant to ICANN. Now not knowing what other relationship he had, he could have crafted that language to, you know, in a way that maybe, you know, favored one organization or another and we would never be the wiser.

But by virtue of what I just heard from Sam, he could not do such a thing because he is bound by contract with ICANN.

Ray Fassett: Wolf, any thoughts?

Wolf-Ulrich Knoben: I'm sorry. I was on mute. Well, for me it sounds okay that way. So if the contractual side - if the contractual side covers, you know, that also consultants are bound to the company, you know, and this (unintelligible) to the - a question of conflict of interest and then it's - that's okay for me.

Ray Fassett: Yes, the only concern I have guys, and I'm not trying to be difficult, is this concept of participant. I'm not a - you know, who's a participant and who isn't? That's - this concept of I'm involved in the workgroup but I'm not a participant. I'm not...

Ron Andruff: Well I agree. I agree Ken Bauer was a participant when he was working with us on that language. But it was language to define what we were trying to say in very simple terms.

Ray Fassett: I'd rather have a - I'd rather have though a situation where every participant is covered.

Ron Andruff: Yes, that's my point. Everybody is as I see it. Everyone is covered in the sense that we are covered by an SOI as volunteers and staff who are consultants are covered by the language that's in their contract.

Ray Fassett: Let's hear if Sam is okay with that. Sam, is it okay that staff are participants that are covered? I think there's an issue here whether they are participants or what the definition of what a participants is or maybe I'm making a mountain out of a molehill.

Samantha Eisner: No. I - Ray, I think that you - I understand the tension here. And I think you make a really good point. I think you are all making a very good point about, you know, there are places where, you know, possibly in RAA situations. You know, ICANN does have an interest in such work.

You know, if there's an RAA related work, ICANN is one of the contracted parties. So maybe we can't say the people who are attending on behalf of ICANN aren't participating and aren't contributing to the discussion.

We would - I'd like to go back and look a little bit more closely as to where the word participant is used.

Ray Fassett: Yes.

Samantha Eisner: And just to make sure that we are not binding our ICANN employees...

Ray Fassett: Yes.

Samantha Eisner: ...and staff to something that's not part and parcel of what they're expected to do.

Ray Fassett: I think that - I think that's a good idea. I think we're all saying the same thing. I really do. I just don't want it to be nit picked later.

Samantha Eisner: Right.

Ray Fassett: Yes. That's really what - where I'm going.

Samantha Eisner: Right.

Ray Fassett: Okay.

Samantha Eisner: I understand what the concern is in that there are arguments to be made about certain times when ICANN staff could actually be participating in a process as part of their support of the process.

Ray Fassett: Exactly.

Samantha Eisner: So it takes a little bit more of a holistic look I think just to make sure that we're not crossing any other lines. But I think that we can come back with some language that will address this.

(Eric): Ray, if I could get in the queue. This is (Eric).

Ray Fassett: (Eric), welcome. Please go ahead.

(Eric): Thank you. I suspect I'm the only person who's on the call who's actually been both a contractor to ICANN and a participant. That is I actually worked for the IANA function in 2006 I think or maybe it was '07.

I think we are making a mountain out of a molehill. I see two possible - two problem areas. The first is that we're actually not being specific to where there is a problem with staff and from my experience the security area is one of them where the ICANN staffers who are tasked with that responsibility are basically operating without limits.

The other is that we are elevating as a general principle the ICANN support staff to being persons who might actually be polled for their opinion. If they're participants and we take a poll that's - or - they are enter into the consensus process of a working group or any other entity under the GNSO, we've transformed them from being a neutral instrument of the entity to being a, as you say, a participant within the entity.

And I don't think we want to do that. So I - my issues are two fold. The first is that we're not speaking to an actual problem as we consider a hypothetical problem. And the solution of a hypothetical problem actually transform staff from being a neutral instrument to being well, a participant like you and I.
Thank you.

Ray Fassett: Well, yes, thank you (Eric). I think part of where I'm coming from here is right now we have a situation where these SOI has not been adopted. So we - if there's a hypothetical involved here, it involves the fact that one day it will be.

And then it becomes what, you know, questions then being asked. Why are staff not required? Why - how did you as a work team, how did you as the OSC, how did you as a Council approve this SOI procedure and why and did you discuss it as to why staff members or contractors do not have to file an SOI?

So that's what all I'm trying to do. I'm not trying to make a mountain out of a molehill. I'm just trying to be, you know, cover the bases here and make sure we have investigated. And I think Sam has the right approach here of taking a holistic approach to the word participant and making sure that we discussed

and being able to explain later why in fact we do not feel a need for ICANN staff and contractors to have to submit an SOI.

(Eric): I appreciate your point. My concern is that we're actually ignoring a real problem where there are persons who are acting as if they - I don't know how...

Ray Fassett: You're dropping off.

(Eric): I said I don't know how to say this nicely. The security staffers at ICANN are quite different from the general policy area staffers in that they do insert their opinions, their personalities without any limits that I can discern. So we're ignoring an actual problem by addressing a hypothetical problem.

Ray Fassett: Okay. Fair enough. All right. Have we - is this a sound approach though for - are we all in basic agreement for Sam to look at it as she recommended a few minutes ago? Are we in agreement with that approach and we'll pick it back up in our next call?

Wolf-Ulrich Knoben: Yes.

Ron Andruff: Yes. I can agree with that.

Ray Fassett: Okay. Thanks. If that...

Robert Hoggarth: Ray. Ray.

Ray Fassett: Yes.

Robert Hoggarth: This is Rob. As the recorder of to dos and ownership, I - as we close this out, it seems that staff will work on some language to suggest to the work team. And the defined term by the way in the GNSO Operating Procedures is

relevant party. So we'll just work on some language with Sam to address this issue and then get your all feedback on it.

Ray Fassett: Thank you Rob. All right. So with that said, let's move on to Agenda Item Number 2, which I will read. Discuss list of entities with which ICANN has a transaction contract or other arrangement, confirm OGC advice and resolve need.

Okay. So I'll star the same way. Does everybody understand at a high level how this issue has come back to us?

Ron Andruff: No. And I don't understand what OGC is. Is that a typo for OSC? What does OGC stand for?

Samantha Eisner: OGC is me. It's the Office of General Counsel.

Ron Andruff: Okay. Thank you very much. So I'm not sure how this bounced back to us because I thought the directive was quite clear. So (unintelligible).

Ray Fassett: Well, yes.

Wolf-Ulrich Knoben: Yes.

Ray Fassett: Okay. Okay. So no, actually this directive was not really quite clear. And I'm going to go a little bit off recollection. But when we were asking the OSC to adopt the rules of procedure that included the SOI, a question came back, and it did come back to me, that had to do with - we really - Steve Metalitz if I recall correctly and it was something along these lines so I don't want to - I'm paraphrasing rather than - don't take it verbatim.

It had to do with it's difficult for the OSC to recommend the SOI procedure if there is not a published list of ICANN vendors and contractors, et cetera. And

Steve wanted to know if we were recommending adoption of this by the OSC as a work team absent that.

And my response back to Steve and the OSC at the time was no, we're not recommending that you adopt these absent of that. It is up to the OSC to decide whether such lists by ICANN needs to happen or not happen and it's up to the OSC to make its recommendation whether in parallel to that work being done.

We supported Steve's position that the question of whether ICANN staff should or not develop these lists is in order, that we don't see - we recognize the validity of the question. So we recommended to the OSC that they should go ahead and ask ICANN staff to investigate this and that's where we left it.

And we - and I sort of separated it out as - in other words, we weren't making it conditional. As far as we were concerned as a work team, we were not making it conditional to the OSC to adopt - recommend adopting the SOI DOI based on ICANN staff first doing this. We were not doing that. It was up to the OSC to decide whether this question - it's up to them to decide whether to recommend it pending the review of this question.

They of course chose not to adopt the SOI pending this question being answered by ICANN staff. So it's now circled all the way back to us. And now I'm asking those on staff that are on the call if they could provide any color as to whether this question was in fact investigated by staff - the feasibility, if you will, of maintaining a list of contracted or vendors, et cetera.

Ron Andruff: And Ray, this is Ron if I might - also I'd like to have clarification what was the OGC's advice?

Ray Fassett: Well, I'll have them answer that now.

Robert Hoggarth: But before somebody else jumps in - this is Rob. I just want to clarify the actual board - the actual Council resolution from Brussels. It was actually one of the whereas clauses where - and let me just read that on clause. Whereas the GCOT has completed and submitted certain documents that it recommends be incorporated into the GNSO Operating Procedures as follows.

And it lists the various chapters including Chapter 5, which is the subject matter we're talking about. There's a little note and it says note that two sections, 5.3.2 and 5.3.3 are not approved pending further staff action to be determined. These sections are footnoted in the document as inactive until subsequently approved by the OSC and Council.

And so I think it then became incumbent from a staff perspective to look into the practicalities of - and if you turn to 5.3.2 and 5.3.3, it refers primarily to the statement of interest procedures. And so my understanding is Liz that Julie did begin to look into this. There was some conversations with Sam about what the practicalities of this are.

We now then will need to share those with you so that you guys can, you know, think about them, make a recommendation to the OSC who will make a recommendation back to the Council to move forward. That's just procedurally I think as - I thought I'd put that context on it.

Ray Fassett: Great. Great. That's very good. Thanks Rob.

Robert Hoggarth: What I can't offer unfortunately is the substance of any investigation into it at the moment. Now Liz or Sam you can make a comment on that.

Samantha Eisner: This is Sam. You know, first - one of the things that we've noted in going through this conversation is that, you know, the way that the proposed language was drafted and I will take full responsibility for creating some of this confusion here.

As I as assisting the team and going through and trying to get the language of the operating rules and procedures nailed down, there was language about statement of interests and declarations of interest. And it wasn't - in my legal mind it wasn't quite as precise enough.

So what I did was I went over to the board conflict of interest policy that is based on those who have fiduciary duties to ICANN and we really have to intensively look at their independence under IRS regulations and other things and imported those rules and draft them with some modifications into the operating rules and procedures.

And obviously this is something that as people have read through it, they've determined it creates a very high burden for them to make these sorts of disclosures and could make it really hard for them to make these disclosures without having access to some sort of comprehensive list.

So the first thing is looking back over and seeing everything in place now and basically seeing the error of my ways in suggesting that that could be put in, I think the first thing that needs to be done is for that language to be modified to be more appropriate for the GNSO.

We had a discussion earlier that the participants in GNSO processes are expected to come to the GNSO working groups with their - with interest and not to be free from any sort of outside influence. And so we really need to modify those to better reflect someone who is not going to be evaluated for pure independence from the GNSO.

Separately on the issue of the ability to create the list that's been requested, we don't necessarily have the ability to do that right now. It's not something that's operationally feasible for us to produce.

Ray Fassett: Hey Sam, this is Ray. Let me in (unintelligible). I understand something better now - the relationship of the list to two and three. In other words, two and three is what was prompting the need to the list.

Samantha Eisner: Right.

Ray Fassett: So if we modify under the - I think the same logic, if you will, that we're approaching the statement of interest versus the conflict of interest, I happen now leave that for others to say as well. I happen to now appreciate that perhaps two and three need to be modified.

Ron Andruff: What is two and three? What is two and three you're referring to Ray? Two and three being...

Ray Fassett: Sure. Sure. Let me read - let me read them - let me read them. They're not long. So two is do you have a compensation arrangement with any entity or individual with which ICANN has a transaction, contract or other arrangement?

Now let me stop there. I might not be able to answer that question if I don't have a list from ICANN of everybody that they have a transaction, contract or other arrangement with. See. I didn't quite appreciate that. Now I understand where this came from better than I did before anyway thanks to Sam's explanation.

So the Number 2 is do you have a compensation arrangement with any entity or individual with ICANN with which ICANN has a transaction, contract or other arrangement? Please answer yes or no. IF answer is yes, please provide the name of each entity for which you - for which such an arrangement exists.

So can I really answer that if I don't know all of the entities ICANN has a transaction or contract with?

Ron Andruff: Ray, this is Ron.

Ray Fassett: Yes.

Ron Andruff: That brings up two questions for me if I might interrupt.

Ray Fassett: Yes, no. Please.

Ron Andruff: One is, you know, what's the definition of an arrangement? That just needs - that certainly needs to be - we need clearer language on that. But I think the bigger issue here is, you know, I find it surprising that ICANN could not within one hour draft a document that says we have relationships - contractual relationship with this list of people.

Ray Fassett: Well, hold on.

Ron Andruff: I don't understand.

Ray Fassett: Yes.

Ron Andruff: No. No. Hear me out.

Ray Fassett: Yes.

Ron Andruff: I just don't understand - we're supposed to be this open and transparent organization. How is it possible that the staff that manages this open and transparent organization cannot produce a basic list of names? I can tell you their first - their top of that thing and they're contracted with all the registrars and registries. And they can list them. And they should. We should know who those people are.

((Crosstalk))

Ray Fassett: ...site one example? Can I just site one example for you?

Ron Andruff: Sure. Sure.

Ray Fassett: All right. During the - and maybe this isn't the best example. But I'm just going to site one. So during the 2003, 2004 RFP application around gTLD that we went through, Ron, you and I, you remember they did keep the evaluation team - those that were evaluating now for good reason confidential.

Ron Andruff: Yes. But that was a - that was a separate - that was a separate story. Even in - and that was - and that's all historic. What we're talking about now is trying to put rules of procedure in place to make it an open - a more open and more transparent organization. And so those that are contracting now to be reviewers of the various elements are contracted and they should be stated. It doesn't have to necessarily state what they're doing.

Ray Fassett: Well.

Ron Andruff: But it does have to state that if they - if Deloitte & Touche are doing any element of this for example, any element of this review, it should say Deloitte & Touche. I'm just saying there's no reason why there's not a list.

It doesn't have to say what specific elements their contract - they're contracted for but there should be a list. Because once I look at that list, I can see that no, I have no - there's nobody on that list that's paying me any money. I can go ahead and, you know, fill in that Question Number 2 or 3, whatever you were referring to. But a list itself, I don't understand so maybe staff can, you know, maybe Sam can shed some light on that. Why is a list so difficult to produce?

Samantha Eisner: Well there are two reasons Ron. First is there may be, and I'm not saying that there are, but there may be agreements for which there are confidentiality

obligations about disclosing the fact of the agreement. We've run into that before. We've had situations where we've gone and requested the ability to actually disclose the fact of agreement.

We try not to enter into agreements that are so limiting. But separately there is...

((Crosstalk))

Ron Andruff: I'm sorry Liz - or Sam. Could we just pause on that for a second? Let's not go...

Samantha Eisner: Sure.

Ron Andruff: It's discomfoting to me that ICANN's signing contracts that have clauses in them that say that it will not be released to the general public that we have a contract.

Ray Fassett: Let me...

((Crosstalk))

Ray Fassett: Hold on. On that point I'm just going to hurry up and add - we don't want to turn this into a squabble.

((Crosstalk))

Ray Fassett: I perfectly see the need for any organization to be able to have that flexibility. ICANN is a private organization. While it doesn't have a lot of commitments, this is just my personal view. I'm not speaking as the Chair. So I'm to agree to disagree with you on that one Ron. And I'm not looking for staff to support either way. I just wanted to get that on record. Wolf, you're free to pipe in on this one if you'd like.

Wolf-Ulrich Knoblen: Not here.

Samantha Eisner: I do have a separate answer for this as well. And Ron, you know, (unintelligible), we - the staff that's currently within ICANN is committed to maintaining the organization in as transparent manner as is possible. So, you know, there may have been things that were done before that we're trying to change practice. Okay.

But moving forward and on to the separate issue, there is a plain operational logistical reality that there have been historical contracts that may be reflected in the system, may not be reflected in the system. We have - while we are internally trying to do work to make sure that we have this sort of list.

We currently at this present moment do we have a list of contractors? Yes, we think we have a list of everything that we have. Can we say for sure that we do? No. Do we know that there are holes in it? Yes. And it's the front - just the reality of going from an organization that was so small ten years ago to moving towards the business savvy organization that we are trying to be today.

And there are just some realities that there are things that are missing that you try...

Ron Andruff: I'm sorry for - I'm sorry for laughing and I do appreciate your argument because I've been around for this last 11 years too. So I know this used to be one armed wallpaper hanger, you know, a Louis Tuton trying to do everything.

But that notwithstanding, there are files and there are things called interns. And an intern could go through every file to pull out every contract. And someone they can take that and note it on a list. I just don't see that, you

know, I know we're all busy people but I just cannot see the fact that ICANN is not aware of all of its contractual obligations.

((Crosstalk))

Liz Gasster: It's Liz. I'm going to just jump in a little because I - Sam and I have talked about this a bit too on the logistics. And like one thing that I was concerned about was the constant change that inevitably could be an issue like with - it's less an issue with small consulting groups.

But with larger consulting groups where within a consulting group you could have multiple people coming and going unrelated directly to the contract with ICANN for example but who potentially could, you know, have other involvement with other organization.

I mean there's just - you have to, you know, how specific and updated do you need to keep this when a - so if we sign a new contract, how quickly does it have to be posted? Is this an annual kind of thing or is this an ongoing thing that has to be maintained like within 24 hours. It's some of those logistics - we would have to bring it all together.

Actually I appreciated that you laughed when - at the issue of our evolution because, you know, it really is a challenge to think about, you know, how would we update this on a ongoing basis. We don't have the processes in place internally. And...

Ray Fassett: Liz, this is Ray. Now as the Chair, I'm going to interject a little bit point of order here. The issue here was not for us to address whether ICANN staff should or should not be producing a list of vendors. The issue here with this Point Number 2 was a self-disclosure process. We were including in the SOI for those able and willing to self disclose whether they had some sort of compensation arrangement.

Now I can look at that now and in hindsight read that and say well unless there is a list, how do I know? But the spirit of this was really to allow the parties submitting the statement of interest to self disclose their arrangement. So I think we're just getting off track here in my view as to whether or not ICANN should or should not be producing a list.

I think we need to go back to Bullet Point Number 2, look at what it is saying and capture what it is we're trying to do by modifying both two and three rather than spending time debating whether ICANN should or should not be producing a list.

Now with that said, I would like to hear Wolf and Ron's view on that.

Ron Andruff: Wolf, I cede to you. I'll take second position on this.

Wolf-Ulrich Knoben: Yes. Well I'm just is looking for the - Ron the practicability of such a list. And so I'm now understand more after Ray's last words. You know, what is it about, you know, because the item itself was not that clear to me. I wouldn't see a comprehensive list of contract - of any contracts from ICANN.

So if it is related to the people participating...

Ron Andruff: Did we lose...

(Eric): I don't hear him anymore.

Ron Andruff: Yes. I wondered if I - I was wondering if I fell off the line or if in fact Wolf did.

Wolf-Ulrich Knoben: Hello.

Ron Andruff: There you are. You're back.

Ray Fassett: Okay.

Ron Andruff: Yes.

Wolf-Ulrich Knochen: So I'm very close to that what Ray was saying. And I've - I would appreciate only well to have - if there is a need of a list to have and that's not - it's not yet clear to me - well, the need to have it. But if there is a need to really to have it then it should be a practical as possible.

So and I do not have a solution well of what to propose that respect. But I - if you (unintelligible) it's a list, it might be a comprehensive and then a long list and it doesn't - it is not - it's not of any value then.

Ray Fassett: Ron.

Ron Andruff: Yes. Well thank you. Thank you for that comment. But I still stand in the same position. You know, this - the whole issue for all of us working in these working groups is to build the institution if ICANN. And the first principle of ICANN is, you know, transparency and bottom up development.

If those are the principles, we have to address those principles. And I just - I still - I struggle with the fact - I mean there's lots of arguments one can make say why don't we need the list. From my point of view, I didn't think we needed a list.

Someone from the community came back and said well, if there was a list that I would - at least I could - when I fill it in, I know whether or not I have a - whether I know I have - I know whether or not I have to state that.

But I find that also kind of a strange story because either I'm contracted with someone who's dealing with ICANN or not. I know it. It's not like there's some great surprise. Oh gees, I didn't know that they were related in some way. That company I contracted with actually has a contract with ICANN.

But let's just assume that we should have a list; that we agree that yes a list would be helpful. Again, it's not about the actual - if it's a consulting group, that consulting company has a contract with ICANN. Who the consultants are that flow through that company is not what's relevant.

It's that that corporation has a contract with ICANN and therefore I have a relationship with that corporation therefore I have something I need to make a statement on within my statement of interest. This is a much simpler thing. I just got to - I hate to say it but I have this feeling of (obligation) here. There's no way in the world we should not be able to have a list of all contracted parties with ICANN.

Now if there are some contracts that preclude that then there has to be an asterisk on the bottom of that list saying that there are three companies not listed here and you need to contact the Office of the General Counsel to discuss that further or something.

But I feel if there's going to be a list that it has to be comprehensive and there's no reason why we shouldn't - ICANN should not have that list if we're trying to deal with transparency here. Simple as that.

Ray Fassett: All right. That's good Ron. I appreciate that. I think...

Liz Gasster: Hey, can I get...

Ray Fassett: Yes.

Liz Gasster: ...in the queue? It's Liz.

Ray Fassett: Yes Liz. Go ahead.

Liz Gasster: I just want to ask you Ron, do you - I guess one thing that - I thought Ray said something interesting before when you suggested should we go back to,

you know, how we even got on the path of the discussion about a list. And it was in the context of the SOIs. But I'm wondering if we should just separate the discussion on those.

Ron Andruff: I don't have - I don't have a problem with that Liz. Yes.

Liz Gasster: Do you see - do you see it directly - I guess my question to you is do you see it directly linked to the SOI issue. Because I think we're kind of trying to struggle to resolve both problems. And I want to make sure that like your point about transparency and the contractor list is, you know, discrete from the - even though it came out of the genesis of it came from, you know, (Kristina) and (Steve)'s point about SOIs and...

Ron Andruff: Yes. No, I don't have a problem separating them. But I do have a problem with the transparency element. And here's - I'll give you an example. On the (VI) working group where we spent thousands of hours it feels like of work, it's become quite clear that ICANN doesn't even know with which - which registrars - let's call what we refer to as families of registrars.

ICANN contracts with a registrar. It does not know that that registrar also has another 200 different registrars that are connected to that family of registrars. Now that's a serious lack of transparency. It's not staff's fault. It's not anybody's fault. It's just something that's appeared and we need to correct that.

We need to know that this family, all of these 40 or 50 or these 100 or these 200 or these 300 all belong in one family. And therefore they're all controlled by effectively one entity. That's about transparency.

And I'm just trying to push for the same thing here. I'm saying that there's no reason we should not be looking at this and we can separate it out. No problem. But I don't want it to fall, you know, fall through the cracks and nothing get done with it because we said - we here in the work team let it go.

Liz Gasster: So (unintelligible).

Ray Fassett: Well, hold on. Hold on. Again, I just want to call again a little bit of a point of order here. I'm not convince yet...

Ron Andruff: With respect Chair, this has relevance to that conversation. I do not think we should be changing two and three or those other elements that you were reading to us, those questions, if in fact just to satisfy the issue of staff saying well we can't come up with a list.

Ray Fassett: No. No. Look, what I'm trying to say is I'm not sure it falls under our jurisdiction as a work team in the rules of procedure to be dictating whether or not the staff should be producing a list.

Ron Andruff: No. We send it to the OSC and the OSC takes that decision. That's exactly what we did the last time around and this is what we should be doing this time around. I agree with that. But we have to - we have to give some directive to the OSC and that's why I made the comment when we started this dialog on this point. I thought our instruction to the OSC was quite clear. And so now it's back to us. I hope our instruction is more clear this time.

Ray Fassett: Well I think though as a working group, and others may disagree, and this is not going to be the end of the conversation. We'll be picking it up again with our next call. But I think just for us all to think about and discuss is that as a working group we can look at this language, two and three, and see if there is a remedy.

I'm taking it as substantive for the purposes of this work team. That staff has communicated back to us the lack of feasibility and whether it's administration, whether it's throwing resources at it, people, I don't care. It doesn't matter. What I'm hearing is that it is not feasible at this time to

produce such a list. I think there are other issues involved with this list I don't even want to get into.

My point is I'm taking that as the Chair as substantive feedback for us to be able to move forward and do our work. I think it is perfectly logical to look at the language of two and three - as staff support to look at language of two and three and see if that - it can be reworded in a way to capture the spirit of why two and three exist. I don't think that's unreasonable. But again, that's my position.

Ron Andruff: Well we haven't heard from (Eric).

(Eric): Well thank you.

Ray Fassett: Please.

(Eric): I'm generally concerned that we are pursuing a hypothetical and ignoring what is real. But I don't want to repeat what I've already said. Let me point out that when I was a contractor to the IANA function, I doubt that my activities as a contractor also for ICANN could have been discovered by anyone other than two people perhaps within all of ICANN.

So the idea that a list be complete and comprehensive seems to me attractive but a losery. In fact I think even to this day it would be an extremely lucky thing to find out who knew what I was doing, and it wasn't very important, at ICANN as a contractor.

So I'm not - I don't want to drive the idea of a list forward nor do I want to drive forward the idea that transparency in the - a devotion to minutiae; and coincidence of that although not intentionally I'm sure overlooking actual significant known problems. I'm sorry. I...

Ray Fassett: Well let me suggest a way forward. Okay. Or I don't think - we're not making any definitive decisions today as a work team. I think we all have a lot to think about.

My suggested way forward is to request staff to come up with alternative language to two and three that they feel is acceptable within the spirit of why it exists and to review again the feasibility of creating such a list although I am asking our work team members to separate the need for the two.

To have an open mind and if we can get to the same place as was originally intended with two and three without us jumping into mandating a list, because I'm not sure that's within our jurisdiction, then I would - I'm asking us to keep an open mind to that.

So there's an assumptive close here that there's a two and three language that staff can come back to us with that we feel is acceptable. Is that a reasonable way forward to the others? First of all, is this something staff can do? Can staff revisit the language of two and three and - I'm sure you already have. Do you have ideas of how to reword those prongs, if you will? Have you thought about it or are you at square one? Yes.

Samantha Eisner: This is Sam. And, you know, we've - we haven't put in any words yet because we did want to see if there's any direction from this working group to see if there was some ideas of how to move forward. And it may involve a more holistic view of the whole section but we can certainly come back with language that we would identify.

And I - just to the prior discussion, I don't want to take us back off track here but, you know, when I responded to Ron that we don't have the list now, it does not mean that we are not actively working on getting on top of our contract management. We have a contract management function now here within ICANN.

This is - these are things that we are actively working on as an organization that is maturing. And I don't mean to suggest at all that it's not something that's possible to be created.

But it also is - it's a directive that has to - part of it is, you know, staff is managed by the CEO. And staff can't be managed by people outside of the CEO. So, you know, we're working within the resources that we have and what we have and we are constantly trying to get on top of this contract management issue.

Ray Fassett: Okay. Fair enough. So I'm going to ask again. Is this a reasonable way forward for staff - we're asking staff to go look at the language of two and three. I'm asking the work team members to keep an open mind on the potential of separating out the issue of a list versus what we're trying to accomplish in two and three.

And subject to what we receive back as alternative language to two and three, we will investigate and talk again about such need for a list.

Liz Gasster: Yes Ray. It's Liz.

Ray Fassett: Okay. Ron, how are you? Are you okay with that? I know where you're at.

Ron Andruff: I'm not - no, I'm not going to obstruct the call any further. I just - I think I'm on record as - with my position. And...

Ray Fassett: Fair enough.

Ron Andruff: ...we'll take it from there.

Ray Fassett: Fair enough. Wolf are you...

Liz Gasster: And we're on record, you know, definitely wanting to, you know, find a way forward.

Ray Fassett: Okay.

Liz Gasster: And, you know, appreciate the overall concern about the contractor list completely.

Ray Fassett: Okay. So we're at the top of the hour now. I'm going to ask - usually we keep our calls to an hour. But I'm going to ask if you're available, those on the call for another about - I'm going to guess 10 or 15 minutes.

Wolf-Ulrich Knoben: Yes. Would be okay.

Ron Andruff: Yes, it's fine with me.

Ray Fassett: All right. Because I'd like to jump to the next one which does - which has been bantered about a little bit in the email so I want to at least address it a little bit today. And it has to do with discuss work team member concerns about availability - about available forms for SOIs and DOIs. Resolve into - resolve info collection process.

So our - is everybody familiar with the little bit of discussion that went back and forth on this in terms of should - I mean it really comes down to this. Should this be a form that comes from - should this be a unified form that everybody has to fill out or can there be - if I understand Avri's issues correctly, can there be my own form that I want to send in.

Ron Andruff: Yes. That's a correct statement of Avri's point of view.

Ray Fassett: Okay.

Ron Andruff: And mine.

Ray Fassett: Okay. So I would like to open that up for discussion real quick amongst others here.

Ron Andruff: I...

Wolf-Ulrich Knoben: Yes.

Ron Andruff: Go ahead Wolf. I'll follow you.

Wolf-Ulrich Knoben: Yes Ron. (Unintelligible) for me. So well I'm very satisfied with (unintelligible) form - having a form. I tested the form already so this form and it worked to my satisfaction. I think so. And I think only well I could understand a little bit Avri.

So because if people I know people are working in different teams and all - different organizations maybe international, which in a different way ask for SOIs and DOIs, they may get rid of, you know, two draft for each organization a separate form or separate DOI or SOI and they would like just to attach what they drafted once.

So if that is the case so that is - it could happen. But anyway, I understand, you know, and for me it's - and I also see from others, you know, a consistency for example, this form is okay. Thanks.

Ray Fassett: Ron.

Ron Andruff: For me the issue really - I found it quite surprising actually when I saw this information come through because I never quite saw it this way. I always understood an SOI was a statement of interest that we filed the form that we used when we started this work team was sufficient. We all filled it out and it was - it worked fine.

And I'm - unless there's another form that's now been generated, I'm not sure of that. But I assume that when we talk about the SOI form it's the same one that we did for this working team or the one that we submitted that should be done. So I don't have any problem with that.

So the second part though is - the part that caught me by surprise is the DOI. The DOI is a declaration. It's actually a statement made as per, you know, your discussion with Rob at the top of this call. It's basically saying okay, today we're going to be talking about these items on the agenda. Does anybody have a disclosure of interest, the DOI they want to bring forward?

It's a verbally stated one. And why? It's because yesterday I may have contracted with somebody but I'm not filling out another document because if you fill out another document, there's no difference between the SOI and a DOI. It's really a statement that speaks to the issues that we're talking about that are on the agenda today. Does anyone have something they want to disclose regarding their SOI? And the answer is no. I'm fine with it.

So it's really just a question and an answer. And the whole point of the penalties we tried to strike and so forth in the document when we created the rules of procedure was to bring in the embarrassment factor that if I don't open my mouth and say yes I have an affiliation to this or that, someone could call me on it and then I would lose credibility within the community.

So, that was the only sword over anyone's head to give them a fear that if they didn't disclose then they could be discredited by someone with the community and if it were to come out. So I think that there's been some confusion at least in my mind that between SOI and DOI.

Statement of interest is a written form. We all fill it out. We start the working group or work team however that is. And the declaration of interest is something that's brought up at the beginning of a meeting, you know, ladies

and gentlemen, does anyone have a DOI that they would like to make before we start this meeting?

And just like Ray said, there was no response, fine. Now we move on. I don't think we have to go through one by one by one, poll people. I don't think anyone has to submit any documentation. It's a verbal declaration. It's captured in the record. It's captured in this recording. And if anybody wants to hear it at some point in the future wants to check it some point in the future, it's captured.

So that's how I thought. So a DOI for me was never a written document. SOI was always a written document.

Ray Fassett: I agree with that. I think that was very well said.

Robert Hoggarth: Ray.

Ray Fassett: Yes.

Robert Hoggarth: This is Rob Hoggarth if I can interject.

Ray Fassett: Yes.

Robert Hoggarth: That may have been what you guys thought or discussed but the operational procedures that the Council approved define a disclosure of interest as a written statement named by a relevant party.

And it is pretty substantial because it says by a relevant party of direct and indirect interests, it may be commercial, e.g., monetary payment or non-commercial; example, non-tangible benefit such as publicity, political or academic visibility and, may in fact be perceived to impact the relevant party's judgment on a specific issue.

So - and I don't have - you know, this is a PDF I'm looking at. I don't know if it was the OSC in its deliberations that added these additional components. But that's sort of what we're facing right now as far as the Council is concerned. And it came up in the Council perspective because, you know, they can discuss as many as eight or nine issues during a given meeting.

And it was very troubling to the GNSO leadership say gee, how should we proceed with this? Number 1, it has to be a written statement. So does it have to be every - before every Council meeting? And then Number 2 is even if it's not, do we have to poll, you know, everybody as we go through and come (unintelligible).

Liz Gasster: Right. That was the second thing Rob. There were two things. One was the - this is Liz. Sorry. One was this written statement that was in the definition and then the other thing that the Council focused on was the language in 5.4.2a that said participants should be polled individually by the Chair.

Like so that you couldn't just say, "Does anyone have a change to their disclosure of interest?" You would have to go through and say -- Ray, do you; Ron, do you; (Eric), do you, et cetera.

Robert Hoggarth: Well...

Liz Gasster: And that's what they were - that term polled individually...

Robert Hoggarth: Okay.

Liz Gasster: Yes.

Ron Andruff: Liz, this is Ron. I think there's been something lost in the translation then because the polling part, you know, I think again it's always about definitions, right. But polling may - you know, there's a - like there is a roll call done. You can almost do an - when I had my conversation with Chuck Gomes about this

very issue early on, some months ago, he said, "Ron, how's this going to work in actual practice?" I said, "Very simply. Just ask the question."

Here's the list of agenda items. Clear. Anybody want to add anything to it? No. Anybody have a DOI they want to express? No. Let's go. So there is something lost in the translation. So it looks like we may have to do an amendment to that documentation because it's really - I don't think it had to deal with - if you have 25 people sitting around the table, all 25 people had to be polled.

If I look at the (VI) working group, there's some 40 or 50, 60 people who are listed. They don't all show up. But if we would have to poll each one of them, it's never going to happen. So we have to make a determination here as a group I think - work team how that - how we would like to see it and that modification will have to be made.

But I don't recall the OSC making any modification when we sent it up to it. I think we got - just kind of something got lost in the translation when it got codified in written word.

Liz Gasster: Great. That makes - sure make it easier.

Ron Andruff: Yes.

(Eric): There's an issue I'd like to speak to.

Ray Fassett: (Eric).

(Eric): Yes. First off I agree with I think it was Ray who just spoke that we didn't actually think that we were causing a poll when we came up with this language because there are large working groups and this is supposed to be a self declaration. So it really should be pushed from the affected participants rather than a poll to all participants.

But that's not the issue I want to bring up because that's just been addressed rather well. The issue that concerns me is the notion that a standardized form is somehow going to result in searchable text. Well that's fine except that I think that implies that we're all going to be submitting our statements in English.

Now English may be the working language of the GNSO Council but it's not the working language of every entity, which is created underneath the GNSO Council. So that is why I asked for the Arabic and Chinese and Cyrillic versions of the standard form assuming that a standard form existed.

I was basically taking the Sebastian Bachollet (unintelligible) - someone better speak French in this meeting or we won't know that we actually can speak French. So if the forms aren't originating from the respondents possibly in a language other than English, then we're imposing a model lingualism upon the participants. And I don't think we want to be doing that.

If we need to search for where my statement of interest is and if I curiously wrote it in Arabic, that may be difficult to search in English but it is not undiscoverable. But a far worse consequence is to tell everyone who speaks Arabic that they must declare their interest in English and that there really is only working language for doing work anywhere within the GNSO system. Thank you.

Ray Fassett: I think that's a good point (Eric). I have a question for you though. What do you mean by - what do you mean be search?

(Eric): Well...

Ray Fassett: You used the word search.

(Eric): The argument for a claim that was offered in email was that a standard form made it possible to find the information. And I'm paraphrasing that because I'm standing outside waiting for a child to come on a bus. So I can't look at the original text. But that was the idea I had when I read that was that the standard form would make it - make finding - doing searches more easier.

Ray Fassett: Oh, all right. I - okay. I understand where the context of that.

(Eric): (Unintelligible).

Ray Fassett: All right. I get the context of that now. I don't know if that was our working group position as to...

(Eric): No, it wasn't (unintelligible) at all.

Ray Fassett: ...no, so I think it's irrelevant then to - I think what I'm trying to say is that certainly we are trying to encourage, you know, Multilanguage and not put the burden on the person that's self declaring anything to have to do anything in a certain language but instead I suppose put the burden on those looking to review to have to learn that language, if anything.

Ron Andruff: Chair, if I may.

Ray Fassett: No?

Ron Andruff: I'd like to - I'd like to kind of rebut there - comment.

Ray Fassett: Yes. Yes. Go ahead.

Ron Andruff: Only to the extent (Eric), you know, I agree and I read your post with amusement, you know, where are the Arabic ones and Cyrillic character ones. But, you know, the international business word functions on one language. The air transit - transportation, which you know very well, you

know, every tower in the world speaks English and every pilot speaks English so that there's no confusion of language and no confusion of terms.

So we're not asking people to do anything extraordinary here. We're just saying when you make your statement of interest for all parties to be able to read it or the majority of the parties to be able to read it more simply, we're asking for it in English.

I do feel that we've made great strides within ICANN now that we actually have documentation in Russian and Chinese and other character sets. It's good that we have it. But I think in this case of working groups, it has to be something that anyone who's active in ICANN can read and that I don't have to go off and learn Arabic to be able to check my Arabic friend's SOI.

Ray Fassett: Ah, okay. All right. So this is an interesting point to me. I'm going to - I'm going to ask this time. I want - I'm going to ask Liz, is there - does ICANN itself maintain a policy on one language being predominant over others?

Liz Gasster: Rob should help me on this. But I would say that it's an evolving issue as well. We have a - in the policy department we have the translation policy that we've implemented ubiquitously for report and executive summaries if the reports are too long and such.

And we've experimented I think with soliciting public comment where the announcement is in other languages but where the responses need to be in English. But I think this is really we're at a nascent stage in what I think all of us might hope in the future to be much more ubiquitous in terms of language than we're capable of being today.

Ray Fassett: Let me rephrase my - let me rephrase my question real quick - a real quick rephrasing, okay. Is it out of step with ICANN policies and processes if we did require the SOI to be completed in English? Would that be out of step?

Liz Gasster: I think it would be - I think it would be consistent with ICANN but I'll ask Rob to...

Ray Fassett: Okay. That's very helpful. Okay. That's...

Robert Hoggarth: Yes. Just real briefly and I know that you don't want to keep everyone too long Ray but just to address two points. One, I could have sworn somewhere there is, and I'm looking for it now, which says what the official, you know, language for doing business is within ICANN.

I do know that among the criteria for selection of directors - this is not working groups so I understand that. But it's person's ability to work and communicate in written and spoken English.

Liz is right in that ever since I've been at ICANN there's been an ongoing slow but steady progress to translate more and more of the documents that ICANN produces as final reports and draft reports and the rest.

There is also an effort that we're continue to look at is to - how do we translate and accept documents that are not written in English? The issue, and I created it through some discussions with our IT team, is we've been discussing the communications team recommendations. Is that part of the new GNSO Web site is the ability to, you know, provide information to interested community members in a fast way by allowing them to search?

Well one of the concepts that we then proceeded as we begun implementation is to say gee, if you're going to have a searchable database that has data available and easily shared among a variety of different pages and Web sites is to have some standard ways of inputting it, having some standard fields so that the (drupal) infrastructure can quickly identify, manage and distribute that information.

And that was the context in which I had responded to Avri. So I mean you could always - you know, this work team could recommend to the OSC and could, you know, recommend to the Council for approval that more and more documents produced by the GNSO or input be in multiple languages and you're certainly within your rights to make that recommendation.

There will be operational implementation issues with respect to that. I don't know how much it costs to translate and do the rest of that. It may be very simple to do. But I certainly think it's within your purview to try to do that. I just don't know if you want every SOI and DOI translated into all six U.N. languages and whether that's going to be a useful use of ICANN resources or not. That's not my call.

But it does, you know, I think as we've looked at translations and the ability to provide documents in many different languages it's going to have some substantial logistical issues. Quite frankly, all we were trying to do at this stage was to help out Glen and to make a more clear and streamlined process...

Ray Fassett: Yes.

Robert Hoggarth: ...so the Secretariat wasn't receiving SOIs and written DOIs as our understanding was for 70 person working groups in 12 different formats and then having to reformat them all to put on the Web site.

Ray Fassett: Well I think that's exactly right Rob and I think we were trying to keep an eye on efficiencies here. So improving procedures towards the goal of better efficiencies and then hopefully that translating into the benefit of greater transparency whether it be search functions or what have you.

So what I have to be careful of here folks is that we don't start going off on tangents that are different battles, if you will, than the - what is within our

jurisdiction to try and provide recommendations of. I certainly can appreciate the language issue as pertains to ICANN, the global entity that it is.

So what I would ask us to think about is is it really our task to go down the path of differentiating from what ICANN's position is now on language and how we approach these rules of procedure.

So I don't - we're not going to get to an answer today. But I'm going to ask for our next meeting that this is kind of where we pick that up again. Okay. So I just want to watch we don't go off into battles that we really aren't here to solve, if you will.

I - we're running here - first of all I appreciate everybody's time including staff here. So we're running close to an hour and a half. We did not make it through the entire agenda. I'm going to ask those on the call if they would like to have a meeting next Wednesday or would you prefer going to our biweekly agenda as we had before?

(Eric): Next Wednesday is fine with me.

Ray Fassett: Who was that? (Eric), next week?

(Eric): Yes.

Ray Fassett: Wolf, what do you feel?

Wolf-Ulrich Knoben: Let me just check here. The 22nd yes will be fine for me.

Ron Andruff: I can do that call. This is Ron. I can do the call also. But I would say that just a quick footnote to that Chair is that I think that the three points - this point we've been discussing is the third point. Discuss work team member concerns about available forms.

Ray Fassett: Yes.

Ron Andruff: The next point after, you know, confirm need for written DOIs and the next point after discuss recommendations with regarding the Council meeting process. So I think that those three have all been discussed to a certain extent today with regard to SOIs and DOIs.

So it's really the 4th point or the last point I should say, the voting abstention procedures, which didn't get touched today. But I would say that the other ones - everything else on that list did get spoken to to some extent.

Ray Fassett: Yes, good point. Good point. All right. Rob, I'm going to come back to you. Can you reiterate what you feel the open points from this meeting before the next one. Maybe a week isn't enough time and we've asked Sam, you guys are - have a lot going on.

I don't think there's anything here that's an urgency although I do kind of see the procedural element going on with the need for a written DOI. Somehow I think we can get some communication back worded that would - how it is being read was not the spirit of the work team could be helpful.

But other than that, I'm not seeing anything of dramatic urgency here other than the fact we just want to make sure that we're being responsive and in fact looking to remedy the issues that's being raised back to us.

So let me look back to staff and say okay, is - for example, what Sam is going to be looking at and, you know, points two and three of that particular SOI DOI language. Is a week enough time? Would you prefer to have a couple of weeks?

Samantha Eisner: Thanks Ray. A week is not enough time for me.

Ray Fassett: Yes. I think that makes sense. I'm going to suggest here unless others disagree, let's go ahead and make it two weeks from now. And we'll even make that contingent on staff's resources to be able to get to us what we've asked.

In other words, I don't want to be here mandating unless there's a need of urgency here that I'm not familiar with. I don't want to be mandating a timeline on staff when there are lots of important things going on in their world.

So, but I will say let's plan for today a meeting in two weeks.

Ron Andruff: But Ray, may I interrupt.

Ray Fassett: Yes.

Ron Andruff: This is Ron.

Ray Fassett: Yes. Yes. Yes.

Ron Andruff: I just wanted to say that the issue of abstentions is going to take quite some dialog so I'm not sure why we wouldn't hold that call for next Wednesday. For myself, I would rather take the following four weeks to get this stuff resolved than stretch it over eight weeks because I'm on the other working groups and I've got my own business to run.

So I, you know, the sooner we can get these things checked off the list and dissolve this working team, the happier I would be. Not because I haven't enjoyed working with you but I would just like to see it finished.

So maybe we could consider coming back next week to deal with the abstention issues while staff - that gives them the time they need to work through this for the following meeting that we'll have language on two and three as you recommended.

Ray Fassett: Actually that's a pretty good suggestion. All right. And since there is availability, I think that's a very good suggestion. Let's do that. Let's dedicate next week's call strictly to the abstention issues.

Robert Hoggarth: Ray, this is Rob. I will work with Julie and Glen. We'll get that call calendared and scheduled. If I could observe that there seemed, and I don't want to overstate the case, but there seemed to be a very sort of quick reaction from the work team that no, we didn't think DOIs should be written.

And I'd observed that is in effect the sense of the group, sharing that information as quickly as possible even with the Chairs of the GNSO would be helpful because as you both observed, there are many working groups going on right now. And right now the operating procedure does say written statements.

So if you believe that you're going to be inclined to say no, we're going to change that back to verbal because it's going to be in the transcripts and on mp3 files, I'd suggest a decision on that sooner rather than later so that we can put that cat back in the bag.

Ray Fassett: Yes. I think as guidance from the work team, that's what I heard. I think I can be somewhat committal to that right now to you unless Ron or Wolf or (Eric) object. And I know Avri is not on the call. Avri had a specific request that there'd be nothing that we do today so to speak that was not irrevocable. And I promised her that we would not.

So I think though in this case that we can - I think Avri would be in agreement. I can't imagine Avri not being in agreement on this that the intention of this was not to, you know, document DOIs or cause the administrative headache that it seems to have caused. Does anybody on the call disagree from the work team? All right, so...

Liz Gasster: Ray, if I can give suggestion - it's Liz.

Ray Fassett: Yes.

Liz Gasster: Well, one is a question to Rob I guess whether you would say, and to you, about in addition to the written aspect whether you would feel the same way about clarifying the individual polling or the polling individually and what is really meant by that because it sounded like there was equivalent unanimity around that.

And then whether it's the one or both. Perhaps what would make sense is for staff to pen a quick note to the group suggesting that this was something the group was inclined to do as a consensus and just give Avri and the - any other team members a chance on list to comment so that they have a, you know, idea what the discussion was and what, you know, it's sort of a chance to let them weigh in, you know, right away after the call if that's a concern.

Ray Fassett: Yes. I think that's fair enough.

Robert Hoggarth: And Ray, this is Rob. I would observe that nothing that takes place at ICANN at least in my two years seem to be irrevocable.

Ray Fassett: Good point. I think that's why I felt okay going ahead and committing that Rob so I think that's a very good point. But I think you're looking - I think what you're saying is you're looking for guidance from this work team. I think we're pretty clear on what that guidance is. And I'm saying that it's okay to go ahead and run with that guidance unless someone on the work team objects.

Robert Hoggarth: Well Ray and from our perspective, it would be more probably you communicating with the GNSO Chair...

Ray Fassett: Sure.

Robert Hoggarth: ...to say hey, we talked about it. The inclination is, you know, maybe you as GNSO - the GNSO Council at your next call may want. Because I don't know time wise whether you guys will be finished with your discussion next week. You may be able to provide feedback prior to the next Council meeting on the 7th. And if that's the case then this could all be resolved fairly quickly without...

Ray Fassett: All right. So I'll - yes. So I would reach out the Chuck and let him - have him understand the, you know, the spirit of what we're talking about here. Is that what you're suggesting.

Robert Hoggarth: Yes sir. And I'll share with you some of my notes from this call for you to take a look at before sharing with the larger group just to seeing your comfortable with its view and next steps and timing and stuff like that.

Ray Fassett: I'd appreciate that Rob. Thank you.

Robert Hoggarth: Okay.

Ray Fassett: Okay. Unless there is any other business, I'm going to go ahead and ask for the meeting to be adjourned and the recording et cetera. Any other business? Okay. Again, thank you everybody for attending. Please end the recording and we will adjourn the meeting.

Robert Hoggarth: Thank you sir. Thank you Chair.

(Eric): Thank you. Bye.

Ron Andruff: Thanks all. Bye for now.

Man: Bye bye.

END