

**Policy Process Steering Committee (PPSC) Policy Development Process (PDP)
Work Team (WT)
TRANSCRIPTION
Thursday 16 September 2009 13:30 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy Process Steering Committee Policy Development Process (PDP) Work Team (WT) meeting on Thursday 16 September 2009, at 13:30 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting but should not be treated as an authoritative record. The audio is also available at:

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Participants on the Call:

Jeff Neuman - Registry Stakeholder Group - Work Team Chair

Alan Greenberg – ALAC

James Bladel – Registrar Stakeholder Group

Paul Diaz - Registrar Stakeholder Group

Wolf-Ulrich Knochen – ISCPC

Tatiana Khramtsova - Registrar Stakeholder Group

ICANN Staff:

Glen de Saint Gery

Marika Konings

Margie Milam

Gisella Gruber-White

Absent apologies:

Alex Gakuru - Non Commercial Stakeholder Group

Avri Doria - Non Commercial Stakeholder Group

Coordinator: Please go ahead.

Jeff Neuman: Okay, Gisella you want to...

Gisella Gruber-White: With pleasure, good morning, good afternoon, good evening to everyone on today's PPSD PDP call on Thursday the 16th of September. We have Jeff Neuman, James Bladel, Tatiana Khramtsova, Wolf-Ulrich Knochen, Paul Diaz.

From staff we have Marika Konings, Glen DeSaintgery, Margie Milam, myself Gisella Gruber-White.

We have apologies from Avri Doria and Alex Gakuru, Alan Greenberg should be joining us shortly and if I can please just remind everyone to state their names when speaking for transcript purposes, thank you. Over to you Jeff.

Jeff Neuman: Good morning and good afternoon, this is Jeff Neuman, the chair of the PDP work team. So there's a couple things that before we actually dive into the continuing to work on the chart and reviewing the public comments I just wanted to first we have now been as all working groups have been given guidance.

We are now required to talk about and implement a new requirement for disclosures of interest and I think a number of you are probably members of other working groups and have probably done this already in those other working groups.

So I'm just going to read to you what I was sent and then Marika and others can answer any questions. But essentially this new requirement is really to disclose - is to do a written statement to disclose any direct or indirect interest that may be commercial, which would be monetary or payment or non-commercial which would be a non-tangible benefit such as publicity, political or academic visibility.

And that may affect or be perceived to affect your judgment on a specific issue. And to simply matters, essentially what this is going to be is really an update to the statement of interest that's already - that we already have posted that we did gosh I guess for this group well over a year ago.

So it's really just an update to that and then at every meeting we'll start the agenda with asking if there are any updates to that disclosure of interest.

At some point there's going to be an on line form for this but I think that's down the road and I don't think that's going to be available to us. So does anybody have any questions?

Okay, so Marika I guess technically we probably should give people time obviously to file that statement. So if we give people two weeks to file - to get that on record is that - will that be sufficient for the ICANN rules?

Marika Konings: This is Marika, I think so. I think normally people are supposed to indicate on the call whether they have one and then they can file it afterwards I think in writing.

But Glen is that correct?

Glen DeSaintgery: That's right, yes Marika.

Jeff Neuman: Okay, so I guess I'll start on this call and pretty self evident and I think this is in my statement of interest anyway. Obviously you know I'm an employee of NeuStar and NeuStar is a contracted party.

If there's a change to the policy development process or a change to the way our contracts in theory could be amended and therefore I guess there's an interest there.

SO I am disclosing that. And why don't we go around to the other members that are on the call and if they want to throw in a statement then they can.

Actually I'm sorry, I see James and Alan and Wolf. So if I can go to James.

James Bladel: Well I think this builds on what Marika was saying and the question that Paul raised in chat. If we don't have anything beyond what was in our original statement of interest is it necessary to file anything at all?

Marika Konings: This is Marika, if there's no difference if all the information is there there's no need to point anything out, that's my understanding.

James Bladel: Okay, thank you. I don't have anything to add beyond my original statement of interest which is very similar to Jeff's, we're a contracted party, changes to policy affect our business and could increase liability exposure for us.

And we're very aware of that as we participate in this process to - you know to manage that uncertainty.

Jeff Neuman: Okay, Alan.

Alan Greenberg: Yes, I wasn't involved in the group that created this. My understanding was a little bit different in that the disclosure of interest was required to explicitly identify the overlaps in this particular work group.

So my understanding is the disclosure is required if there is any. My question was a little different, is one required if the answers are no to everything? And, that different groups are running that differently.

Jeff Neuman: So it's up to the individual working group, is that?

Alan Greenberg: I don't know if it's up to the individual working group but some were only requiring it if there is interest to disclose and some were saying we want it from everyone you know with perfunctory no answer to them.

Wolf-Ulrich Knoben: Jeff, it's Wolf speaking, may I?

Jeff Neuman: Absolutely, yes.

Wolf-Ulrich Knoben: Well I'm a member of that group which produced all the new procedures and actually yesterday we had a discussion in the working team about the disclosure of interest and the (unintelligible).

So we have just to make it clear, so you will have in future two kinds of statements or disclosure. One is a statement or as it used to be in the past as well and the other one should be the disclosure of interest which is a slightly different from what Alan was saying.

Disclosure of interest is just related to actual topics which are on the actual agenda of each working team. If there is somebody you know who has a kind of conflict of interest or so in the applicant, so he or she should disclose that.

And that the question which was raised and is still open whether it should be made in written form or not and there is a tendency to do it not in a written form, just to - that the chairman of each working team is going to ask anybody in the team whether he has something to disclose with regards to the actual agenda items.

And if there is nothing then it is fine. That's with regard to the DOI and the statement of interest where you have I think forms available as long as the question there are amendment in between updates.

And it should be handled as easy as possible.

Jeff Neuman: Okay, thanks Wolf and you know I think the agenda for us for the next several weeks is going to be pretty similar or pretty much the same, you know going over the public comments to the PDP and probably would be the same issues week after week.

Okay so is there anybody else that has anything to add? Paul did you want to just...?

Paul Diaz: Sure, Paul Diaz from network solutions, I'll reiterate, paraphrase what James and Jeff both said in that I represent a contracted party, therefore my

interests in this directly pertains to any sort of dramatic changes, level of effort changes, etcetera that would impact my business.

But all of that was stated in the statement of interest and there's no real change.

Jeff Neuman: Okay, actually Wolf you had a question - you had just had a comment but is there anything you want to disclose to us at this time?

Wolf-Ulrich Knochen: Yes, so let me complete that. I'm employed by Deutsche Telecom, telecom communication provider and the company is also running a registrant company, it's called T Online and so we have some interest in that regard.

But we have - there is no intention right now to participate in the present new gTLD process, not yet. That was disclosed in written form as well.

Jeff Neuman: Okay, thank you Wolf and Alan you had a comment but I don't believe you disclosed anything and may not but just want to give you the opportunity.

Alan Greenberg: To answer - same as I did for another one, I have intellectual interests only.

Jeff Neuman: That's a sad intellectual - no, never mind.

Alan Greenberg: Which translates means I don't stand to make any money out of this at all unfortunately.

Jeff Neuman: So let me go to the ICANN participants, are there anything that you ICANN staff, anything you wish to disclose?

Marika Konings: This is Marika, I think actually we're as ICANN staff are not considered participants as such of a working group. I don't think we - I think the discussion is someone going as well on the working group so I think right now we're not required to - we don't file statements of interests either.

And we already have I think you know certain forms that we sign as employees from ICANN that you know address those kind of issues. But I think that's an issue that's also under discussion.

But I had my hand actually raised as well to ask a question to Wolf because I think it would be really helpful if the work that's dealing with the DOI, if we could provide some concrete examples and especially for those that apply to working groups.

Because in a conflict context we think it's quite clear as they deal with five different topics that members indeed are required to make you know at every meeting a disclosure of interest because there are new topics on the agenda.

But in working groups I think you know many feel that because they already provided a statement of interest that normally relates to the issues of a certain working group discusses that it's not very clear what kind of things are expected.

So is there any kind of example, you know the work you could provide that might help in you know making the process smoother and getting a better understanding of what is required.

Because for example in these - you know normally these meetings as we're you know we're now going to run a couple of meetings probably those through public comments, there's no sovereign agenda.

So you know I don't know how to deal with that, if it's like you only need to be clear on issues if they're already on the agenda. What if we don't have an agenda, does it mean that there's no need for disclosure of interest?

Or you know how does that work?

Wolf-Ulrich Knochen: Okay, if I may, it's Wolf speaking. Just a quick answer, so okay it's an ongoing process and we learn (unintelligible) team, also the rules of procedure have been already to some extent accepted by the council so we have some open points still.

And these are the open points and we are really - so thinking about and so we will have weekly call to find solution from that. So every call comes up with new types of examples.

And so it's not that easy to combine it, all that. But I'm sure that they will find a solution and we find also guidance for that - for the working teams that our role is for really as I said for the working team and working groups should handle - should be able to handle that in a very easy form, and easy not to be confused.

Last time at the last council meeting, the councils themselves have been confused about how to deal with that and Chuck was often very clear about that.

So we have tasks to do.

Jeff Neuman: Okay, I'd like to actually try to move on I guess a little bit and I suppose Marika ICANN statement of interest or disclosure of interest could be any changes to the PDP could materially increase or decrease the amount of workload for policy development staff.

Marika Konings: Yes, that sounds good.

Jeff Neuman: Okay with that kind of underway, we'll ask for updates at every meeting and for people that do they will follow up in writing. So I just - I'm actually - I wanted to say I'm actually only on this call for another 15 minutes or so then I'm going to ask Marika to continue on.

I have a previous commitment that I will just say was made for me without my knowledge until late last night. So I have to jump off but that said I want to remind everyone that next week, the 23rd if I've got the date right, a week from today and I don't know if somebody could help me with the UTC time.

But for the east coast US time we're extending the meeting to a three hour meeting and it's going to start half hour earlier and end an hour later and I know there were some people that submitted apologies already that they couldn't do the full session.

But I think hopefully we can get some additional work done and that time seemed to work out for most of the people.

So I just want to remind everyone about that for next week. Any questions?

Marika Konings: This is Marika, just to note that it would start at 13:00 UTC and then run to 16:00 UTC.

Jeff Neuman: Great, thank you.

Marika Konings: Paul already indicated that he couldn't make that meeting and Wolf sent a message saying that he would be joining late, so the question is does that mean that everyone else can make that time?

Jeff Neuman: Yes, so if anyone now knows that they cannot make it, I mean if you could just let us know either now or let us know on email obviously the meeting won't be very effective if we don't have people there.

So you know we missed last week because there was a last minute change to the schedule and there were a lot of people that actually had responded before saying that they couldn't be there.

And with the amount of people that said they couldn't be there, it just didn't seem like we could hold a call last week. So let's - and I see now James files something, so let's see who can actually attend.

But the plan is to go for a full three hours and if it's just myself and Marika we'll just - you know we'll just write the whole thing. I'm kidding about that.

So hopefully people can show up. With that said I want to go back to where we left off and then Marika will help get the discussion going when I can drop off in ten minutes.

Which is for the - so we started off on this public - just to remind people, this is the chart that was done by ICANN Policy staff, Marika to summarize the comments that came in and group them with the issues for the recommendations that we had in the report.

And then WHOIS submitted a comment and then whether we have a response to it. And if so - and the response could be yes, we considered it and you know decided not to that for these reasons or we didn't consider it and here's what we think.

So you know there's no prearranged outcome but in order to comply with you know ICANN policy development and with the AOC and others we do need to make sure we've considered all the comments that we're received and I think we've gotten some really good comments in.

Marika let me ask the question, do we get - and I know we closed the comment period, but - or we are closing it, have we gotten anything new?

Marika Konings: This is Marika, I actually need to check, I didn't check it recently. There was one other comment that I think I did integrate already here, it was a relatively short comment and just checking to see whether I did or not.

Yes, this comment 38, recommendation 38 so will come up later in the discussion. So there was one comment filed after the last meeting and I'll have a look now if anything else has been filed in the meantime.

But last time I checked there wasn't.

Jeff Neuman: Okay great, yes if you could just follow up with that and make sure because I think we officially said we were going to close it at the end of September.

Marika Konings: I'm just checking, the only think we got is a spam message.

Jeff Neuman: Okay, so the issues that we started on or have been discussing the last couple weeks have been more general in nature, they didn't really map to specific recommendations and so that's what we started on.

Now we are on specific recommendations, comments that specific recommendations and so we can hopefully not spend too much time on these because I think a lot of these we actually did talk about.

And so we can indicate that. So the first comment which is up on the screen now relates to recommendation one which is who can request an issues report.

And they want - INTA has asked that or said that we - the PDP ought to address the manner in which unaffiliated groups and individuals can properly raise issues they would like to be considered.

For example is there a funneling mechanism that can be created which would vet or pass this information to GNSO or relevant constituency.

If you recall in the recommendation it was that the existing mechanism to raise an issue were to be maintained which is you know through the GNSO, through - or the advisory committees or the board.

And we did it - I do remember we discussed this issue and I think the outcome and I actually explicitly remember this, the outcome was that if the issue was since we were talking about issues a PDP is for the GNSO, if there was an issue that couldn't be raised to one of those existing mechanisms then it may not be worth addressing.

In other words it was - maybe that's not the right way to say it. I think the way it came out was that if the issue was important enough to one of the constituencies or the advisory committee, then it was that group's job to convince someone, because it's really not that big of a burden to raise an issue.

But it was really to convince someone within the system to raise that issue. Now that's different than can we put on the website information on who the constituencies are, you know what in general - a short description of who they serve and let them decide you know who to go to.

But that's not really the question, the question is is there any other funneling mechanisms. And the way we came out in those previous discussions was that we thought the existing mechanisms were enough and that if the issue were important enough to address that those groups should be able to convince one of the stakeholder groups, constituencies, advisory committees or the board that this was important to address.

Does anybody have any changes from that opinion? People have comments, did I not state that correctly or other memories of it? Okay so I'm hearing silence so I think Marika if we could just indicate that in the chart.

Alan Greenberg: Jeff it's Alan, I did put my hand up. I guess I'll go a little bit further than what you said which what is an accurate repeat of the decision we came to at the time.

That is the converse, if you cannot convince anyone that this has any merit, I don't see how it's going to get very far within the organization anyway.

I mean even if a random individual can put an anonymous request for an issues report and it gets honored, if there's no level of support it's just going to die. So I don't think there's a lot of point in adding that process which just adds work without any reasonable sanity checks in it.

Jeff Neuman: Yes, I think we did discuss that and that's much more direct than my answer but yes.

Alan Greenberg: I'm not sure my words are the ones to be put in the answer but you know essentially that's what it comes down to. It's a make work effort if there's nobody in the whole organization who thinks its important or important enough to ultimately - remember when you're requesting an issues report you're also implicitly making the comment that there are people who are going to work on it.

Jeff Neuman: Yes and you know so other than basically making sure there's information on the website or and in this guidebook that we develop on who the stakeholder group, constituencies and advisory committees you know board, description of who they are and what their interests are and maybe trying to push people along to one of the groups that may be more - most closely would align themselves with those types of interests, I'm not sure what else we can do for all of those reasons.

Alan Greenberg: yes, I mean there's an incident number of things we could have issues reports and PDPs on that we all make - well we're making value judgments along the way of which ones we don't even bother requesting at any given point.

And I think we need that balance otherwise the workload which is already reasonably high would just become nonsensical.

Jeff Neuman: Yes. Okay, if we want to move on to the next one and I'm just going to drop - leave this with Marika. Marika I think we don't have control over the bottom part of the screen, we have control over scrolling through the report but not the bottom.

Marika Konings: You should have control now, sorry about that.

Jeff Neuman: Cool. So Recommendation Number 3 and I'm going to drop off -- there were two comments on Recommendation Number 3 - Recommendation 3 is fairly short, it is that there is a development of a manual or guide book, a policy development process manual or guide book which will constitute part of the rules of procedure intended to provide guidance suggestion to the GNSO and ICANN communities on the overall PDP process.

Including those steps that could assist the community working group member, counselors in gathering evidence and providing sufficient information to facilitate the overall policy development process.

The two comments we got were that there's support for Recommendation Number 3 from the INTA and that would like the manual open for public comment as it's developed.

And the other comments from the registries was that just a question more of how that guidebook is going to be developed and there's a note that this recommendation appears to be duplication - or recommendation five appears to be a duplication of this one.

And I think that's right but it was raised in a different context so I think when one just reads the recommendations kind of in a vacuum it looks identical but when you look at the discussion I think it came up out of different circumstances.

So that's kind of why they're duplicated, and so anyway going back to the first question which seems pretty easy to respond to is that they would like the manual to be open for public comment as developed. I think that's the intention as with all of the rules of procedure.

I believe and someone can correct me if I'm wrong but all of those are open for public comment and so if that requires a statement by us I think that would be a beneficial one to make explicit. And Alan, and then Marika if you could just take over, I'll be - I have to log off my computer but I'll be able to listen for the next five, ten minutes.

Alan Greenberg: Yes, in terms of being open for public comment during development, with a lower case P&C yes, I don't think these things are necessarily going to be open for public comment in the formal sense, in the capitalized sense within ICANN.

I mean I can't imagine the process that we have an open comment on pointing to some documents that are being discussed and being written and rewritten as we speak.

Jeff Neuman: I would think that in essence if you establish an open mailing list to develop this, if there's a group that's working on it or if we work on it you know we all do have open mailing lists and drafts are put on the public wiki and...

Alan Greenberg: That's what I'm saying, public comment in the lower case sense but not the formal defined sense within ICANN.

Jeff Neuman: Right, but I do think so there's two things, so it's open during you know the mailing lists would be open and documents posted on the web.

And I think - I know the GNSO council or if I'm just hallucinating and you can correct me but I believe the GNSO council does when they come up with the

rules or proposals they do put that out for a formal or capital P capital C public comment period.

Alan Greenberg: Certainly. I was commenting on the during development process part.

Jeff Neuman: Gotcha. So if we could just then clarify that you know the way we were thinking about it was that you know when it's being developed that it will be developed through standard process where mailing lists and documents would be open to the public.

And that it would certainly be the expectation to have a public comment period once or after those are developed so that people can review those as well.

And I'm no longer on line so I don't know if there are comments, Marika then can you take over?

Marika Konings: Yes, this is Marika, I actually had my hand raised as well because I think from you know how I have looked at the discussion of developing the manual or version procedure or whatever it's going to be called would be indeed - because since this group comes up with a more firm you know structure for the PDP you know we might already be able to start and finish some of those parts.

Because I think once we have a clear idea of which parts you know are bylaw changes and which elements might go into the rules of procedure, I think we start having already some building blocks.

And then of course that needs to be all knitted together and I think we've spoken several instances as well by providing examples or suggestions on what PDP working group could explore as part of the process.

So I think you know the idea I would have indeed once this working group has come to a firm recommendation of how the PDP could look, I mean for example staff could take as a task to develop a first draft of those rules and procedures which then could be reviewed by this work team or by the PPSD or a separate team.

It depends on how you know how the group would prefer to do that and indeed that would be put out like the GNSO working group guide on something then as well through you know one or two random public comments depending on the other feedback received and changes that need to be made.

And I think again you know they probably will pass through several rounds of public comment as I think with all the other documents that have been recently adopted by the GNSO council they pass through work teams, public comment periods.

Then maybe only receive public comments and then as well current public comments, so I think in that sense there should be plenty of opportunity to provide input and guidance.

And again I think as Alan mentioned as well of course Alan mentioned as well you know at some point I guess there's kind of - documents are never final because I guess on the road there should be a possible place as well that would look at the long term review and the elements need to be changed or added.

But there should be a process as well that takes that into account when future teams are made and then have public comment then in that regard.

Are there any other comments or questions on this issue? Maybe a question, I just explained I think from staff perspective you know how we would

propose maybe to develop this by providing a first draft that could be further fleshed out.

Is that something that - the question by the registry stakeholder group is how are the contents going to be developed? Is it something that members of the work team agree with that approach?

Or do you believe that a work team should be dedicated to writing up such a manual themselves or what do people feel would be the best approach to get that document together?

Anyone still on the call?

Alan Greenberg: I guess it's our job to at least initiate the process, whether it's this group that does it or we try to shanghai somebody else into working on it, I had to add infinitely to our work.

And this isn't the only thing that's mentioned in the document as something we have to do in the future. But I think the onus is on us to initiate the process or given notice to the council it needs to be done or something.

Marika Konings: James?

James Bladel: Hi Marika and apologies to the rest of the group, I've kind of been multitasking during this segment and I think it was quite a while ago that we actually drafted these recommendations so some of them I'm sure we discussed them for you know quite a lengthy discussions on these.

But it was so long ago they actually look new again. So my question is is there any concern that anything that we would put in the form of a manual, I mean if it goes beyond just a frequently asked questions or guidebook or pamphlet, if we start to put any more meat on it than that, doesn't it start to

run the risk of creating differences of interpretation between that and various bylaws and other types of more formal documents?

That would be my concern with going too far with this idea of a policy development manual.

Marika Konings: This is Marika. I think you know maybe we should definitely reflect on the term or update the term because I think the way we've been talking about it more recently is maybe that you would have the bylaws and then you would have the rules of procedure where the rules of procedure then provide more details, examples, you know flesh out some of the elements that are in the bylaws.

But not have certain elements in the bylaws not to make it too strict or you know provide more flexibility. So I think what we're actually talking about and of course there's rules of procedure I think we're you know indicating already in several areas, you know what it should contain or what information should be in there.

So I think they should map quite closely and actually there shouldn't be other things in there that don't ride back to the recommendation that this group provides.

And there are elements that are contained in the bylaws so that should form a complete package. So maybe the term manual guide might be misleading, I think we're actually talking about rules of procedure.

James Bladel: Yes and I can appreciate that but you know having maybe a little more ICANN experience under my belt than I did when we originally wrote this, I've seen you know very drawn out debates and discussions over something as simple as verb confusion in the bylaws or something like that.

So I think that you know it's just something any time you have two documents you get into questions of which one governs that particular scenario, which one is in scope.

So I'm okay with that, I just wanted to point out that we run the risk of more information we put into a guide book, the more possibility or likelihood we will introduce confusion down the road.

That's all.

Marika Konings: Thanks, Alan?

Alan Greenberg: Yes, I - the way the recommendation is worded saying there will be a manual or guidebook as part of the rules of procedure I find that a little bit confusing.

If it is a set of examples and/or scenarios then that makes some sense. I wouldn't want a manual which implies a list of instructions as a separate thing outside of the actual rules you know but appended to it.

But as someone who came into this process and tried to figure out how does one initiate a PDP before you know where we had to go back to the bylaws.

And ended up going to you know ICANN legal counsel to tell us what these words meant because they were conflicting with each other.

We want it a little bit easier than that. And so there should be some sort of a weighting to find out what the process is without having a lawyer by our side.

But I don't think it should be prescriptive, I think we need examples and that kind of stuff over and above whatever is formally in the rules and procedure.

Marika Konings: This is Marika, I put myself in the queue as well because the good news, for example the example of the GNSO working group guidelines, those are as

well guidelines and the idea of those is that they will be indeed an appendix to the GNSO rules of procedure.

And I think the way the PPC envisioned that was that it would be easy to working groups to extract that document from the rules of procedure while building part of it in and therefore an integral part of the overall rules of procedure.

And maybe the working team could think about it in a similar way that indeed it is part of the rules of procedure by just facilitate you know taking that out and giving that to a working group instead of having it integrated with different paragraphs and sections and an overall document.

It might be easier as an annex but still having that - you know the level of - from a status that rules of procedure have. And then indeed maybe the question is indeed if people feel that you know examples and sort of these might be separate and the need for a separate document.

And you know that's something that can be explored. But my preference would be to - because I think we are in turn already trying to work on a first draft of you know what would be part of a new annex A based on the recommendations that the work team have currently developed.

In addition as part of that discussion of course there's some element as well that obviously we need to go to the rules of procedure so you know maybe the best way of going about it is to have a look at what we come up with at the end of the day and see whether indeed there's need for more details maybe in that document.

Or whether there would be a need for a separate document that just might provide some examples that might help working groups to conduct their (unintelligible). Wolf go ahead.

Wolf-Ulrich Knoben: Yes, thank you. I'm - since it's some several months ago that we talked about that so I'm not so clear what we really have decided and what was the content we have already for use.

But what I would like to say is so at first it must be clear the reason why we wanted to put - to come up with a question of what using a manual or guidebook as a necessity of all that.

Is it for example just to give more details around this chart and the PDP flow chart to be put to use? Is it something more which describes you know this process with regard to the PDP flow chart or if it's something more in detail.

So that's what we have to do find out you know and that's what I understand is also behind that question. And then whether it is put then as an appendix to the rules or as a separate rule on the level of bylaws or whatever.

I think that that question which could be solved later on as well. For me the question whether we need it and what should be the content of it?

So - and that's not that clear at the moment for me.

Marika Konings: This is Marika. I think that's probably what the comment marks you know once we have a skeleton of the new NXA where people can see what based on the discussions we've had you know will it be in the bylaws.

And I think from there it will hopefully naturally flow what kind of information needs to be contained in the rules and procedures.

I think we've spoken about things like for example there's the content of an issues report. You know the moment it's spelled out in the bylaws but is it really necessary to be spelled out there?

It's maybe more appropriate for the rules of procedure and I think if you look at some of the other you know rules of procedure there have been recently adopted, for example if you look at the absentee voting, I think it's probably mentioned in the bylaws that there can be absentee voting.

And then the rules of procedure actually flesh out how that in detail works. I think on the line we've thought about that as well that changing the bylaws is much harder and requires more work than changing the rules of procedure.

So you know of course you do go through a different stage of public comment and discussion and before you put it in rules and procedures but if at a certain point in time there's a feeling that some parts need to be changed, an easier way to adopt those than it is for the bylaws.

But as I said I think you know we probably need to review them in further detail once we have the skeleton and hopefully from there will flow naturally what kind of information needs to be in the rules of procedure and what information should be in the bylaws.

So if there are no further comments we can maybe move on to recommendations for comments, recommendation four deals with how the issues report should be request and see here we have a number of comments in relation to that.

So maybe we just take them one by one. I think they're made by interns and by the registry stakeholder group and registrar stakeholder group.

And I tried to separate them out in the different issue to facilitate our review. So the first one there is it's from (unintelligible) saying some basic template detail should probably be mandatory including for instance a statement as to why the issue is important to the relevant constituency.

And to note there in our initial working recommendation I think we said there a template would be helpful but I think if I recall well a discussion seemed people preferred that it would be optional and not mandatory.

And that's what we said as well, further consideration would need to be given as to whether some of these elements should be required before a request is considered by the GNSO council. Alan, please go ahead.

Alan Greenberg: Yes, we definitely did say the template should be optional and I would still support that. I'm a little bit confused about the second half of the statement because I thought that the original definition of an issues report includes the requirement to say why you think it's important to you.

Is that not currently part of the - in the current PDP rules one of the required parts of an issues report list?

Marika Konings: This is Marika, I think there are no - I'm not sure actually, I need to check. I thought there was no requirement or no details as to what such a request would need to look like. I'm quickly checking.

Alan Greenberg: Because my recollection is it's part of the issues report is defined as a required part of the issues report and therefore I would have thought obvious that whoever's asking for it should say why you should give reports to staff.

Marika Konings: I'll just check the bylaws and actually it doesn't specify, it just indicates who can raise an issue.

Alan Greenberg: No, I understand, but isn't it a part of - isn't it a required section of an issues report?

Marika Konings: Yes, the issues report does require how that party is affected by the issue, the party raising it. But again it's not a requirement for the party requesting the issues report to state that.

So that might be a staff interpretation in that regard.

Alan Greenberg: All right, so as part of the template or the suggestion you could say if you don't want staff to have to make up a reason for you maybe you should give your own.

Okay. I knew it was required somewhere, so it's in the issues report, not in the request although anyone making a request I would think would include that to give some rationale for why it's - you know to make sure staff is interpreting it right.

But okay.

Marika Konings: So I guess one of the start of the discussions the work group will need to have indeed is what other recommendation needs to be changed to make certain elements mandatory or not.

I don't know if anyone has any news on that now or whether you want to leave that to a later discussion.

Alan Greenberg: I don't have a strong view, it's one of those things that one can suggest but you can't - you know I wouldn't want to see a request for an issues report rejected by staff because there's no other process for it because it does not meet the correct format.

That becomes a staff decision and I don't think that would be appropriate. There's no one else approving the request for an issues report once the document is submitted to staff.

I don't think we want a staff interpretation rejecting something at that level. So my recommendation is we don't want mandatory things like that which would

then give a level of discretion on staff interpreting whether a condition is met or not.

Marika Konings: Does anyone else have any views on mandatory or non-mandatory?

Alan Greenberg: We are foreseeing an environment where there will be more interaction between the requesting body and staff prior to the formal submission. So hopefully that will cover things like that that are missing if they're really necessary.

Marika Konings: Paul?

Paul Diaz: Yes thanks Marika, I just wanted to support what Alan just said. I think that the group here in our proposals we are clearly envisioning a future where you know sort of what we've experienced in the past, PDPs that were put forward because one person feels very passionately about it but doesn't have really well formed idea of how to go about it.

Or is there data supports that - that sort of thing will be in the past. I agree it should not be mandatory but you know try and get as much the best way - as much detail, as much fact up front and making that a strong recommendation to start off the process.

I think that's where we're going and jumping ahead to the registrar's comments, I think that's what we were thinking that we just don't want to see this case where you know effectively a single councilor can push something through with a bare minimum of support.

Doesn't really have a full fledged idea of what's going - how it's going to play itself out and then we spend many, many months thereafter trying to figure out how to do it.

Marika Konings: Should we look at the next comment also in relation to this also made by inquire is that issues for consideration should be raised to an electronic online process that is linked to relevant sections of the PDP manual.

Alan Greenberg: I guess I have to comment. I've filled out a number - in the last six months or so a number of ICANN processes which are electronic online tools and in all cases one writes the document in Word, one refines it, one gets comments on it.

And then you cut and paste into the electronic tool. I think sometimes we get carried away with the electronic tools. So I would be careful on that.

Marika Konings: And I guess your previous comments might apply as well here that it might be an option but it shouldn't be a required format and it's not submitted that way it's rejected.

Alan Greenberg: I would tend to say that, yes. I would strongly encourage that we work with - that we encourage interaction early in the process to make sure that the document, whatever is submitted is submitted in a useable way.

But mandating in a formal rule that it must be an electronic process. Maybe I'm just too old and I'm not adapted to the real world of the internet but I see it as more obfuscation than a real help.

Marika Konings: Okay let's look at the next comment on the registrar stakeholder group and Paul already popped up on that one then, the registrar stakeholder group believes this is a responsible step toward making future policy debates on evidence and facts.

A template that includes a clearly defined problem, well documented supporting evidence and a rationale for use of increasing very limited resources for development of policy be a useful tool.

Seeing no hands, let's move on to the next one also from the registrar stakeholder group, any manual or guidebook should encourage that ICANN participants are mindful and respectful of ICANN's limited resources.

Alan Greenberg: I yes, is that - this is all true but as I go through various working groups ICANN's real problem there's a resource problem on the staff side. The resource problem on the volunteer side is we're not getting people engaged and we're not giving a convincing argument to people to get engaged.

I participate in a whole bunch of working groups and it's amazing how often the same people over and over again are on these groups.

And these people are getting burnt out and these people are over stressed, there's no question about it. And these people are the same ones who volunteer for the next task.

And I've just seen James's name on a - one of the review teams so we're gluttons for punishment but our real resource problem is we're not getting enough people involved in it.

And I don't know how we make that clear in this kind of document but it's not only ICANN's limited resources, it's our inability to get new people involved in the processes.

Maybe this document is not the place for a political speech but I made it anyway.

Marika Konings: Thank you. So the next comment is also from the registrar stakeholder group, saying that they look forward to a continued discussion of what should constitute a reasonable threshold for initiating a PDP.

And I think I can just comment on that, I think that's an issue that we'll come back to in the overarching issues, I think one of the elements we're looking at is really the voting threshold.

So that will be discussed in further detail in the end that context. No further comments, I propose we move on to recommendation six which deals with the creation of the issues report and in one comment here that was made at the meeting in Brussels basically stating should there be certain requirements for which elements in the initial report should contain.

And I think that comes back as well to what we've seen with a certain recent working group where reports have been put out and have been called initial reports even though they don't contain any draft recommendations. So part of the question there of course is - and I think the intention most working groups that don't produce draft recommendations will put documents out in the next round of public comments.

But the question here is of course you could get around and you don't produce any recommendations in your initial report, you just call it an initial report and you go straight to a final report without any opportunity for the community to comment.

So I guess the question is should there be a requirement that if you call it an initial report it should at least have draft recommendations or conclusions.

Alan Greenberg: Well are there scenarios where PDPs do not come out with recommendations?

Marika Konings: This is Marika, yes I mean...

Alan Greenberg: Or is that a recommendation not to have a recommendation?

Marika Konings: Right, I think that's how some working groups see things. I don't think there have been any, there have always been some recommendations even if it's not recommendations for changes to policy or new consensus policies. I think most - at least as long as I've been with ICANN I think most working groups have produced some kind of recommendation.

But of course the theory indeed I think the recommendation is no changes to policy or no new consensus policies or no further work needed as the recommendation.

Alan Greenberg: One can imagine a scenario where the recommendation is so cut and dry that no one believes that there should be - there needs to be an interim report or an initial report.

I mean I think we can address the problem of a report that comes out that is not at the stage where it has draft recommendations, it's called something else, that's the interim report, not the initial report.

I really don't think we need to get hung up on it, but if the PDP mandates there must be an initial report and we feel comfortable that all recommendations - all PDPs will end up with some recommendations, even if it's to say the status quo is fine.

Then there's no harm in requiring initial report to float the recommendations for public comment before they're cast in concrete. I think that's reasonable.

Marika Konings: Margie?

Margie Milam: Yes, I think I'm saying the same things that Alan is saying, especially in light of the vertical integration issue. I think the issue is not so much whether you're making a recommendation because we don't necessarily have to make recommendations.

But that the report when you get to the point of initial report that it's essentially that some stage of work has been concluded.

In other words if you know I think one of the frustrations I have with the vertical integration report is that it got published despite the fact that the group wasn't even done with its analysis and hadn't even reached consensus on anything.

And with that being the initial report the question is what happens when they come up with recommendations, you obviously don't want the next report to be a final report because you haven't had the ability to submit - you know post it for public comments and get feedback from the community.

And that's one of the key elements I think of the process for transparency and accountability purposes is to make sure that the report when it gets published to satisfy you know the obligations and the bylaws, gives some you know realistic picture as to what the recommendations might look like so that the community who isn't in the working group can respond.

Marika Konings: This is Marika, I mean we're one comment and Alan one other question and that's maybe to be continued in a different context. And as well like indeed if a working group at a certain point realizes that this - you know we don't think a PDP is necessary and realize half way through the process you know at the current way it is you just need to go through the motions and produce a final report.

And that's the end of the PDP but should that be a mechanism as well in which you can stop the PDP just because maybe circumstances have changed or there might be other you know external circumstance that mean that the issue is no longer there or that it has - or that it is indeed no way out and it's very obvious from certain part in the process that you know there's no way forward.

So you know is it worth going through initial report and going to a final report and doing public comments and meeting every week. So that's another thing the work team might want to consider should there be an exit if at certain point, certain decision making process rates are made.

We see that this PDP is no longer relevant or it's not going anywhere, we just stop it here and don't require you know just to go through the motions in this because you know we're going through the motions and nothing else.

So that might be another issue to consider. So if you then look to the next comment on the same recommendation that was made by the registry stakeholder group, in some cases might be useful to do additional research, all discussions or conduct outreach before an issues report is requested.

So it might be useful to include this possibility in the manual guidebook. And I think according from our discussions I don't think we've indicated anywhere that that shouldn't be a possibility.

And I think it's actually something that the work team would like to encourage as much as possible that additional research and discussions are helpful before anything is produced.

Alan Greenberg: It's Alan, I support the intent but I don't see why it's one of our rules, why it need to be one of our rules.

There are various groups that can request an issues report. Each of them may have their own internal procedures that they may go through prior to requesting the issues report.

And that could include years of study or it could include you know virtually nothing except writing the two paragraph request for an issues report.

I don't see how we can mandate what happens in those processes because it's not formally a step of the PDP process. It's something which may lead to the request for an issues report.

So I'm not sure why we need to or even can set those rules.

Marika Konings: This is Marika, I mean I don't think we - I mean I think we had this discussion whether (unintelligible) should be mandated before an issue is requested. But I think we all agree that you know might not be appropriate.

But I think - I did have the feeling that most agree that it should be encouraged, and indeed additional discussions are held or you know if appropriate research is carried out or outreach on an issue.

And I think that's something that we stated on various parts but yes, I don't think we ever spoke about mandating that. And actually realize that the previous comment relates to the initial report and probably should be moved to the relevant section of the issues report.

Alan Greenberg: Yes.

Marika Konings: Any other comments on this recommendation? If not we move on to recommendation seven, in relation to the end result of a PDP, the registrar stakeholder group here states that they welcome this recommendation on issues should be met with the solution that most appropriately resolves them.

I don't know if you can say anything more on that apart from noted. I don't see any hands.

Alan Greenberg: The alternative is come up with recommendations that don't address the problem, so I guess I support it.

Marika Konings: I'll note that. The next one is another comment that came from the meeting in Brussels. Although other comments are possible the focus of a PDP should be foremost on the development of consensus policies relating to issues that are within the (unintelligible).

Just comment on that I think it's something you know staff supports as well and I think for that reason you know we suggested that in the flow chart it's made very clear that there are other processes that can be explored for issues that don't require - are not expected to require consensus policy changes.

And so that indeed PDPs are not initiated for issues. Up front clear that it won't have any impact on consensus policies. Alan?

Alan Greenberg: I think that goes directly against one of the first things we debated long and hard about whether PDPs are only for consensus policy or not and I thought we came out with support from ICANN legal counsel and a number of other groups saying there are other things that are subject to consensus policy to PDPs that are not consensus policy.

And outcomes of things that have consensus policy implications which might not be consensus policy. So I'm not quite sure why they accept this and accept the prior conclusions.

Marika Konings: Right, but I think we did you know at least from our perspective the other processes are if it's really clear that a PDP is not required to achieve you know that kind of outcome you might have a more flexible process and easier way to get there.

Margie?

Margie Milam: Yes, I think that's right, it's not that we're saying that the councilor or the community shouldn't be looking at non-consensus policies. We're just saying

that if you're going to do non-consensus policy you know there's less rigid I guess ways of achieving that.

And we don't have to force everything through the timeline and the - you know the bells and whistles you find in the quote PDP process because that's you know really meant to provide the you know checks and balances for the contracted parties.

So I think that I mean we're saying the same thing in that you know we're not going to say that the PDP rules don't apply to non-consensus policies. If the communities feel that they want to go through that extra enhanced process you can do it.

But that's really the intent of the process is to focus on those issues that are within the picket fence. But I don't know if that helps clarify the...

Alan Greenberg: I guess it's confusing to me because something that goes through a PDP has a force that the board cannot as easily ignore as opposed to something that goes through any of the other processes.

And therefore although I'm not trying to say it should be the only mechanism to convince the board to do something, it does have a bylaw mandated strength that other processes don't.

So I wouldn't want to see that diluted although I'll be the first to agree that the process is complex enough that one shouldn't use it unless there's some rationale for needing it.

Marika Konings: I don't see any further hands, we can move on to the next one, recommendation ten in relation to the timeline for the issues report.

That the registry stakeholder group comment states that the maximum time frames in recording PDP and the bylaws have for the most part had to be ignored because they were unrealistic from any issues.

Time frames are better put into the manual guide who can set up any bylaws. The practice of asking staff to provide estimates of time needed has worked fairly well in GNSO history and better accommodates the reliability of issue complexity.

Any comments? Or maybe any disagreements?

Alan Greenberg: No, it's a good comment and we should make that we end up doing follows that.

Marika Konings: This is Marika, and actually I've been looking at a comparison between the PDP for the CTSNO and the PDP of the GNSO and actually the way it works there is that a timeline for the PDP or tentative timeline for the PDP is part of the issues report and part of then the decision of the council takes on the basis of that proposed timeline.

So it's not all you know the work you might want to explore in further detail as an alternative for the current rigid bylaws that are being applied. If you then move on to recommendation 11, deals with community input as coming from (unintelligible).

(Intag) agrees with this position as it would allow relevant stakeholders and community members to have input on new issues that may not be reflected in the issues report.

Alan Greenberg: Our only comment is thank you for agreeing with us.

Marika Konings: Noted. Going to move on to recommendation 12, the role of workshops determined by the registry stakeholder group. They asked the question what is meant by a workshop?

Workshops traditionally have been held at ICANN international meetings but those are held only three times a year. Note that drafting teams have been used successfully in recent years for several purposes including drafting charters, developing recommendations for consideration before initiating a PDP, etcetera.

The working team sees a place for drafting teams in the PDP process and if so what would that be? Anyone still awake apart from Alan?

Alan Greenberg: Well I won't answer this one then.

Marika Konings: No, go ahead Alan.

Alan Greenberg: All right, I'll step in if I'm the only one talking. Drafting teams tend to be set up when one needs to draft something and I can see PDP working groups setting up drafting teams.

You know we don't always call them that but I'm not sure why we need to add a drafting team stage or requirement in the PDP process. Anyone is free to set them up when you need an ad hoc group to do something and pass it by other people.

So I don't see the need to introduce the concept of drafting teams in our document. That doesn't mean they won't get used at some stage in the PDP process.

Marika Konings: Anyone else? Wolf go ahead.

Wolf-Ulrich Knochen: Yes, by reading the recommendation that (unintelligible) it came to my mind I think it needs some clarification. So when I look back to what I have seen in ICANN happening with regard to developing let me say charters and then first draft and these things, every time it comes up to the question okay, to find people, well to do that.

And well to - and then to give them guidance as well, how to do that or to give them guidance, okay give us guidance through and draft some guidance. What we should do in the future, so the virtual is a little bit - it sounds a little bit too general.

So I think that that's behind the question is okay, the question is all of the workshop and how it should be organized so in the - so I think it needs some more clarifications or on the other side it could be seen as a kind of okay, it's kind of what do you mean you know workshop.

You know who is to participate and it comes up as question okay, different interest groups are participating, how should it be organized? This is the kind of drafting team or this thing so I understand from Alan's point of view that it should be something which is in a pre-status sent out before drafting something.

But then it's a question of what. So if you could find some more guidance, some more details with regard to this role it could be helpful.

Marika Konings: Alan?

Alan Greenberg: Yes, I addressed the concept of drafting teams which is the second half of the specific comment. The first part goes back to what we said, that we recommend the concept of workshops.

But I'll also note I cannot think of a PDP that has been done in my history on council and that goes back almost four years now which didn't have one or

typically more workshops that preceded the creation, the request for an issues report and the PDP process that follows.

It just always happens. Ideas rarely percolate up to the point where they get to the stage of issues report and a PDP with having a number, typically a number of workshops.

Even the infamous Fast Flux there were a number of discussions that were held prior to it getting to that stage. And certainly on most of the others that you know if you think of domain tasting there were many meetings about it.

They just kept on being discussed and so although I think our recommendation and the support of it has merit, I don't think that's different from what has happened in the past.

It's not a revolutionary suggestion.

Marika Konings: We have quite a number of comments on Issue 13 and actually my phone is going to disconnect in two and a half minutes because my operator only gives me an hour and a half before it disconnects me automatically.

The question is I can hand over to Margie to continue or we can wrap up early as I believe some people might need to, recover a bit and get the energy for the next meeting.

Alan Greenberg: Is there a next meeting that I don't know about?

Marika Konings: I'm sure there are next meetings, well we have a next meeting next week.

Alan Greenberg: Oh next week, okay, sorry.

Marika Konings: So hopefully people can come reenergized and give a lot of comments and that.

Alan Greenberg: I support wrapping up early.

Marika Konings: Okay, I'll try to capture then all the discussion we had today and send it around to the list. And then we'll - I think Gisella's going to send out another note on the mailing list to check who is going to be available for next week.

And I saw Paul is not available, James is not available. We need to verify that it's worth going ahead, otherwise just stick to the usual time. But we'll confirm that on the mailing list.

Alan Greenberg: Okay.

Marika Konings: Okay, so with that thank you all for your participation. Bye everybody.

Man: Thank you everybody.

END