

Fake Renewal Notice Meeting

TRANSCRIPT

Thursday 16 February 2012 at 1930 UTC

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<http://audio.icann.org/gnso/gnso-frndt-20120216-en.mp3>

Attendees:

Mike O'Connor
Tatiana Khramstova
James Bladel
Poncelet Illeleji

Staff:

Marika Konings
Glen de St Gery
Berry Cobb
Nathalie Peregrine

Apology :

Michele Neylon
Paul Diaz
Ken Stubbs

Coordinator: And excuse me. I would just like to inform all participants that today's conference is being recorded. Thank you.

Nathalie Peregrine: Thank you, Lori. Good morning, good afternoon, good evening. This is the FRN call on the 16th of February, 2012. On the call today we have Mikey O'Connor, Poncelet Illeleji, James Bladel and Tatiana Khramtsova. From staff we have Marika Konings, Glen de Saint Géry, Berry Cobb and myself,

Nathalie Peregrine. We also have apologies from Michele Neylon, Paul Diaz and Ken Stubbs.

I would like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you.

Mikey O'Connor: Thanks, Nathalie and welcome all to what may be our last substantive conversation - I'm hoping so anyway - on this drafting team. Before we get into that just a quick review of the agenda; we'll - you can see that really it's a one-stop agenda today and let's try and get as close as we can to finished on our recommendations.

Before we go into that I'll take that momentary pause to see if there are any changes to statements of interest? Okay.

What you see on your screen is the results of our conversation last week where we really came up with four options. And I went ahead and sort of invented some stuff and tidied some things up so I thought I would walk you through these.

And I think that this is really the sum and substance of our recommendation back to the Council. Marika has done a fabulous job of putting together a first draft of the report.

And I think if we can get through this today that we could drop this into the recommendation section and essentially circulate it on the list for final approval on next week's call. So let me walk you through this; we'll have as much conversation as we need to to get to the point where we're comfortable with this and then call it a day.

The four options that I pulled out of the transcript last time one of them is to recommend that we initiate a PDP; another is to add this issue to the PDP that's coming up on the RAA; another is to suggest that a process be

launched to explore adding a - essentially a paragraph to the RAA in the business practices section that addresses this; and then a final option which would be the recommendation not to do anything at all.

And what I did for each of these is I came up with sort of the - what would be required next; the advantages and disadvantages and then our view. And so let me just quickly run through that.

The next step would be to start the PDP. The Council would vote presumably to request an issue report. And, you know, the advantages to that is that this would provide all the usual good things that happen when we do a PDP; we'd get a lot of discussion and awareness across the community, we'd get a lot of opportunity for fact finding and discussion, you know, the usual value of the rigor that we see when we do a PDP.

The disadvantages are that I think there was a pretty strong sense on the call last time that there's an awful lot of contention for scarce resources. And I didn't have the sense that we felt that this warranted that kind of attention or that kind of resources to address.

Another drawback to this approach is that this is a pretty narrowly defined issue. And it - especially after the poll it really seems to be basically one organization that's doing this in any volume. And it seems like a PDP is sort of overkill for that kind of a problem.

And then last disadvantage of course is that PDPs do take a long time; and so I had the sense from the call that we didn't think that this was a good match for the PDP process.

The next one - same format would be to tack this onto the upcoming RAA PDP. And there the next step would be to put this issue in the scoping conversations that are going on right now about that PDP and see if the

people who are chartering that project agreed with us that this would be a good fit for that.

The good news would be that we would at least not be consuming a whole PDP's worth of resources; we'd be presumably riding along on the resources that are being used in general on the RAA. And so it might be faster to get up to speed and it might, you know, I guess mostly it's more - quicker to get up to speed was our main thought.

We had some - oh James, go ahead.

James Bladel: Just real quickly, Mikey, another down side of this particular approach is I don't know that the PDP on the RAA is a certainty. I don't know, maybe staff can help me out here. I think it's something that's being discussed and I think it's, you know, if I were a better man I would say it's probably likely. But I don't know that, you know, it's inevitable. So I just wanted to put that out there.

Mikey O'Connor: Yes, okay, I'll add that.

James Bladel: There's a risk that it may not happen or it may not happen soon.

Mikey O'Connor: Yes. Marika, go ahead and chime in while I'm typing away here.

Marika Konings: Yes, this is Marika. It is actually a certainty as it was initiated by the Board. There's no intermediate vote by the GNSO Council. So from that perspective it will go through automatically.

James Bladel: Okay. Does it have a charter?

Marika Konings: Yes it will go through the same process. So indeed, you know, the next step would then be, you know, the chartering process. And, you know, of course there might be some time there because as you know in the preliminary issue report, you know, the staff I think had suggested a number of approaches of

tackling it because there are a lot of issues in there so that's something that will need to be worked out.

But at the same time indeed the issue will go to a PDP as the Board initiated. And also I think the Board did indicate, you know, the sense of urgency in this. So of course the details will need to be worked out but from an initiation perspective as it's Board-initiated it will, you know, definitely go through to the next level.

But I understand, I think, you know, my colleagues are working on the final issue report. And I think Margie told the Council today at its meeting that, you know, they hope to deliver it soon so that would mean that, you know, potentially the Council could consider it at its next meeting in Costa Rica.

James Bladel: Okay. One quick question so - and help me remember the process. The Council does not have the option to vote it down then?

Marika Konings: Correct.

James Bladel: Because it's Board-initiated.

Marika Konings: Yes that's right.

James Bladel: Okay. Okay, Mikey, then I withdraw my concern then. Thanks. Thanks for clarifying, Marika.

Mikey O'Connor: Well but I think another one that just came up though which is we may have missed the train on this one if it's already essentially chartered. Marika, can you give us a sense of whether we could slip this issue into the charter at this stage or is the charter already far enough long...

Marika Konings: No the charter, I mean, the way the issue report is written I think it has focused on the law enforcement recommendation for the RAA. But it also has

incorporated the recommendations from the RAA working group that took place some time ago.

And I spoke to my colleagues presumably if the Council would, you know, deem it appropriate to add this issue, you know, it would still be a timely moment because I think the - indeed as I said the next step will be the chartering process and really deciding how to, you know, divide up this PDP.

Because I think in the preliminary issue report it suggests maybe, you know, looking at four tracks and, you know, we still need to discuss whether that would be in parallel or sequentially or - I think that's one of the topics that need to be discussed possibly as well with the Board because it's, you know, doing everything at the same time, you know, doesn't seem a feasible approach.

And of course at the same time in parallel you also have the RAA negotiations going on that might already tackle some of the issues that are also in the PDP so that still needs to be sorted out. But, you know, presumably as that's already - will move forward if the Council would wish so I presume it would be possible to add an issue to that list.

Mikey O'Connor: Okay. So I think that this list then is okay as it stands. Okay I think the punch line at the end of this is that we thought that this was worthy of a broader discussion but it wasn't our favorite approach to tackling this.

In fact our favorite was this one which is to explore adding a section to the RAA that just addresses this business practice. And I through a bunch of question marks in there because I don't exactly know what the process would look like. We could circle back to that if we conclude that this is the way we really want to go. I'm sure that Marika and I could fill in those question marks. But I was sort of winging this on the fly and didn't know.

The thought that I had was that - I lifted this out of the chat - there's currently language that's very similar to this where - that we could basically copy. And I don't know that proposed is really the right term but possible or suggested or something to indicate that some smart people would have to figure out the exact language but something along the lines of what I wrote there that registrars will not deceptively represent themselves as something that they're not.

The good news and the bad news is the good news I think overwhelms the bad news. But I think we need to make sure that we agree on that. Much less resources, much less time, much more targeted both work and solution. It would very handily meet the goals of providing the ICANN compliance team with the tools that they need to go after these folks.

There is some worrisome stuff. One is that it's not as transparent as a PDP but I think that that could be addressed in the implementation. And then, you know, the ever-present concern that we accidentally create more trouble than we solve. But again I think that's fairly easy to handle. And the sense that I had at the end of the call was that that's the one that we prefer as a group.

And then finally the no action at this time - oh, Marika, go ahead.

Marika Konings: Yes, this is Marika. I have a question but maybe I just missed it because of the Council call on the way up. On the adding to the RAA what would be the process for that? Is the idea that that would get added to the current RAA negotiations?

Mikey O'Connor: Well that's why I put question marks in there.

Marika Konings: Oh okay.

Mikey O'Connor: Because I don't know. But...

((Crosstalk))

Mikey O'Connor: ...what we were hoping was that some process could be initiated. James, do you want to chime in on this? Your point...

James Bladel: Just that - yes, this is something that, you know, I think we've identified that registrars could, you know, raise this or volunteer this as, you know, as - in an effort to kind of regulate their own rogue elements within their own constituency here. And that, you know, we would then, you know, unilaterally ask that this be included as a part of the RAA negotiation team.

Now having said that - and by the way having said that is one of my least favorite phrases...

((Crosstalk))

James Bladel: But having said that - having said that - Michele and I both felt as we were discussing this last week that this is just a very sensitive time to be introducing new ideas to the RAA negotiating team. So I do think it's the most expeditious route to get this into an enforceable contract.

And I do believe that the only folks that would be materially impacted by this would be registrars. And they seem to, you know, significantly support this at least the ones that participate in ICANN and participate in our surveys. But there's just so much contention going on with a lot of these RAA components that are on the table right now.

And, you know, there's a lot of good ideas but there's also a lot of sides being taken within the stakeholder group. And I just - I feel like it's not a good time to throw a new, you know, to throw anymore blood into that water right now. You know, the sharks are still, you know, swimming quite a bit.

So that's just my take on that. I still feel that it is the most expeditious way to do it it's just we have to choose our timing very carefully. Thanks.

And I would also just add that maybe Tatyana has - certainly has a different view on that is certainly possible but that was my impression.

Mikey O'Connor: See if that kind of captures your thought, James.

James Bladel: Yes, sounds good.

Mikey O'Connor: Okay. All right so then the last one is just sort of the straw man; the don't do anything which we don't like. But it does have the advantage of no resource requirements. But it has a lot of disadvantages; it doesn't really address this problem in any way. And so I didn't think that we supported it but I thought we should put those in there.

I guess at this point I'd like to just stop and have sort of a general conversation about this - all four of these. Let me see if I can make them small enough to fit on the screen but still be something you can read. Oh I can read that; see if we go to one notch smaller. Oh it doesn't get on the screen anyway so the heck with it. I'll make it readable.

Any thoughts one way or the other? Is this a pretty accurate summary of where we're at; people comfortable with it? If so hurray; if not let's fix it. I'm liking that silence as an indication that it's pretty close. Good deal. Good for us.

If that's the case Marika, do you feel like this is enough of a sketch from which you can write language to drop into that part of the report? If so great; if not I'd be happy to work with you on that to flesh it out. But I sort of wanted to get your sense.

Marika Konings: Yes, this is Marika. I think I can, you know, start working from here. And the only question I guess is that how you want to frame it just take - go through different options and then say like these are two of the potential options? Are you expecting the drafting team to make a final decision and say well this is, you know, these are the options we considered but this is the one we're putting forward to the Council?

Mikey O'Connor: Yes, I think that what I was thinking was that we would do all four of these; put them in order of preference so the one that's highlighted right now - the add a section to the RAA - be the first choice; the add it onto the RAA PDP being the second; and then the other two being the last two so that people can quickly get to the meat of our recommendation.

Because, you know, this is a little less formal process; it's really just a - essentially an advisory memo to the GNSO Council. And so quickly cutting to the chase I think seems like a good thing. But I think it is good to document our reasoning for why we elected not to pursue those other ones.

The other - I think at this point then I'm going to switch over from sharing my screen to the - to sharing the report and put that up there. I think that you all have the power to move within it? Yes.

I might just grab control away from you for a minute and walk us through this. Let me make it a little bit bigger. That still on your screen? Can people still see it? Shout out if it's not.

You know, what we've really got is a nice short report. We'll wait for Marika to do the summary then. We've got the background that really is mostly the charter. We were - how we went about it, the conversation with ICANN staff, the survey and the survey results.

Now one thing that we could do is in addition to the raw - oh here they are. Oh no. In addition to these raw results one of the - I'm going to go back to sharing my screen for just a minute.

I also summarized our analysis of the survey results. Let me get that in front of you. And we could include that if we want. So I sort of went through question by question and typed notes from the transcript. That was the - most of this conversation was on the call that I missed because of that stupid hearing. And so I just listened to the transcript.

And I guess my question to the group is should we include these or not? I think that's sort of the last substantive question of the day. And I'd be curious to hear people's reactions. I could walk you through these or if you've - you've seen them before; I've sent them to the list.

So the question I think is really do you think that the Council would find these useful? And if so I'm sure Marika and I could figure out a way to stitch these into the survey results maybe under each question. Any thoughts one way or the other on that?

Just sort of let you read them for a minute. I mean, it seemed to me that we did a pretty good job with this and it would be a shame not to share it with the decision makers. So if you left it to me I would probably put these in because it was a pretty significant piece of work that we did. And I think if nothing else it's good documentation of what we did.

So tentatively why don't we plan on doing that? Marika, I'll get this to you in an outline format so that you can just chop it into bits and maybe stuff it in under each section of the survey. And so it shouldn't be hard to do. And as I say I think it would be good documentation of our work.

And maybe what we do because that'll make the survey pretty long is we stick all that in an appendix so that the body of the report is a little tighter and

then we put the survey and the analysis of it in an appendix for people who really want to dig in.

This is just swinging right along. We may be just about done because that's about what I had. Let me take us back to the report real quick. Oh so there's the survey. And so what I'm thinking is that maybe we can just stick a section under each one of these questions, Marika, that, you know, just like - just before the beginning of the next one that just summarizes our conversation about each question.

And then I think the only thing left is, yes, the analysis and recommendations. And that's what I - where I think the four - we are never done. James, oh ye of little faith.

Anyway I think that's where we staple our work of today. And then I think we're pretty close to a final draft. And, Marika, if that seems like a reasonable target we - if we could get an updated version of this out to the list within the next couple of days, review it over the following few days and give it our final run through next week then I think we're pretty much right on target for delivering this to the Council at Costa Rica.

That's what I got. Anybody got any thoughts beyond this thing? Big long silence; I love that. Well all right then, I think we'll grant ourselves a half an hour of spare time and wrap this call up.

Marika, do you need to stay on the call with me for a minute to do any specifics or are you pretty comfortable that if I send you an outlined version of this stuff you can take it and run with it?

Marika Konings: Yes, I think that will work. And otherwise we can always have a follow up conversation if something is not clear.

Mikey O'Connor: Yes, because I have no calls tomorrow so any time tomorrow is fine for me if you need to...

Marika Konings: Okay.

Mikey O'Connor: ...pick it up again. Well cool. There you go. That's it for me. Have a great rest of the day or evening. And we'll pick it up in a week having looked at a candidate for a final draft; try and put a bow around this and call it quits. Thanks all. Talk to you soon.

Marika Konings: Thanks.

James Bladel: Thanks.

END