

**Transcript GNSO Council Teleconference
13 September 2012 at 15:00 UTC**

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

List of attendees:

<https://community.icann.org/display/gnsocouncilmeetings/GNSO+Council+Meeting-+13+September+2012>

NCA – Non Voting - Carlos Dionisio Aguirre

Contracted Parties House Registrar Stakeholder Group: Stéphane van Gelder, Mason Cole, Yoav Keren – absent

gTLD Registries Stakeholder Group: Jeff Neuman, Jonathan Robinson, Ching Chiao, Nominating Committee Appointee (NCA): Thomas Rickert

Non-Contracted Parties House Commercial Stakeholder Group (CSG): John Berard, David Taylor, Brian Winterfeldt, Osvaldo Novoa, Wolf-Ulrich Knoben, Zahid Jamil absent, proxy to John Berard

Non Commercial Stakeholder Group (NCSG): Joy Liddicoat, Rafik Dammak, Bill Drake, Mary Wong absent, proxy to Joy Liddicoat, Wolfgang Kleinwächter absent, proxy to Bill Drake, Wendy Seltzer absent, proxy to Rafik Dammak

Nominating Committee Appointee (NCA): Lanre Ajayi

GNSO Council Liaisons/Observers Alan Greenberg – ALAC Liaison

Han Chuan Lee – ccNSO Observer

ICANN Staff David Olive- VP Policy Development,

Margie Milam - Senior Policy Counselor

Rob Hoggarth - Senior Policy Director

Julie Hedlund - Policy Director
Marika Konings - Senior Policy Director
Brian Peck - Senior Policy Director
Barbara Roseman –Policy Director and Technical Analyst
Berry Cobb – Policy consultant
Alexander Kulik – Systems Engineer
Glen de Saint Géry - GNSO Secretariat
Guest: Mikey O'Connor – Fake Renewal Working Group
Observer: Jennifer Wolfe – new Nominating Committee appointee

Stéphane van Gelder: All right thanks very much. Welcome, everybody, to this September the 13th Council call. The last one that we'll be having before the Toronto open Council meeting for the last open Council meeting of the year.

We will start with a roll call if possible please, Glen?

Glen de Saint Géry: I will do that, Stéphane, thank you. Good morning, good afternoon, good evening everyone. Jeff Neuman.

Jeff Neuman: Present.

Glen de Saint Géry: Ching Chiao.

Ching Chiao: Present.

Glen de Saint Géry: Jonathan Robinson. Jonathan might be on mute because I know he's on the call. Mason Cole.

Mason Cole: Here.

Glen de Saint Géry: Yoav Keren.

Yoav Keren: Here.

Glen de Saint Géry: Stéphane van Gelder.

Stéphane van Gelder: Yes.

Glen de Saint Géry: Thomas Rickert.

Thomas Rickert: Present.

Glen de Saint Géry: All present for the Contracted Party's House.

John Berard.

John Berard: Yeah, I'm here.

Glen de Saint Géry: Zahid Jamil is absent. He sent his apologies and he has sent a proxy to John Berard.

Brian Winterfeldt.

Brian Winterfeldt: Present.

Glen de Saint Géry: David Taylor.

David Taylor: Present.

Glen de Saint Géry: Osvaldo Novoa. I don't think Osvaldo is line yet. Wolf-Ulrich Knoblen.

Wolf-Ulrich Knoben: Yes.

Glen de Saint Géry: Bill Drake.

Bill Drake: Yes.

Glen de Saint Géry: Wendy Seltzer is absent. Her proxy is given to Rafik Dammak.

Mary Wong is absent. Her proxy is given to Joy Liddicoat. And

Wolfgang Kleinwachter is absent and his proxy goes to Bill Drake.

Joy Liddicoat.

Joy Liddicoat: Present.

Glen de Saint Géry: Lanre Ajayi.

Lanre Ajayi: Present.

Glen de Saint Géry: Carlos Aguirre.

Carlos Aguirre: Yes, I am here.

Glen de Saint Géry: Alan Greenberg.

Alan Greenberg: Present.

Glen de Saint Géry: Han Chuan Lee. Han Chuan might be on mute.

For staff we have Barbara Roseman, David Olive, Rob Hogarth, Margie Milam, Marika Konings, Julie Hedlund, Berry Cobb, Brian Peck and myself, Glen de Saint G ry. As our guest today we have Mikey O'Connor.

Have I missed anybody? Over to you, St phane. Thank you.

St phane van Gelder: Thanks very much, Glen. And we will note also that we will be having on the call or she's already on the call Jennifer Wolf who will be joining the Council in Toronto as the next Nom Comm appointee so welcome to you, Jennifer, if you're on the call.

And at this stage I'd like to ask if there are any statement of interest updates from anybody? Hearing none can I ask if there are any calls to review or amend the agenda? Ching?

Ching Chiao: Yes, St phane, just (write) the (fellow) Council member to recognize the effort put by the staff on the IRD issue, the Internationalization Registration Data. We will hope that to have more, I mean, information from the staff as I was told during the Toronto meeting. So actually I recognize that, St phane, are to - not to list this topic in today's agenda. But just to let everybody know that this thing still in progress and just - I'm saying this just for the record. Thank you.

St phane van Gelder: Thanks very much, Ching. Any further comments? Hearing none I'll just draw your attention to the minutes of our July the 20th meeting which you can access via the link on the agenda. I will also draw your attention, as usual, to our pending projects list, which you can also access via the link on the agenda that is on the wiki. And I will ask if there are any questions on that list please. Hearing no questions.

We have an exception to our normal order of business for today because we have included, as an initial business agenda item, the only motion that we'll be looking at today which is a motion to adopt a number of revisions to our Operating Procedures.

And those include incorporating the notion of the consent agenda. So for obvious reasons I have placed this before our review of the consent agenda. These revisions were worked on by the Standing Committee on Improvements Implementation, the SCI. That committee is chaired by Wolf-Ulrich, as we all know. So, Wolf, can I turn it over to you for a short update on the revisions that we will be looking at today please?

Wolf-Ulrich Knoben: Yes, thank you, Stéphane. Hello everyone. The SCI, the Standing Committee on Improvements Implementation, has worked since - well since last year and since beginning of that year in a more or less regular term.

And the agenda of the SCI comprised items like the consent agenda, the GNSO Council voting results table, proxy voting procedure, which came up all these items from the Council.

And in addition we have still on the agenda items like voting thresholds, (creating limits) voting thresholds regarding delaying a PDP, for example and other things, for example, the working groups review and other things so we are dealing with those things.

So coming to that - what we have agreed so far and what I would like to present today is concerning these three items, consent agenda, proxy voting and change of Council voting results table.

You may recall that we started earlier this year with consent agenda items. And there was no process. Then there was a request, well, to propose a procedure. And I'm delighted that we've found, let me say, as a result we found a consensus on the SCI to make suggestions with regard to a consent agenda.

And just to highlight some points which are important for that is - one point is then the preparation of the consent agenda is done by the prep committee, let me say, of the Council which are the chair and the vice chairs preparing the agenda.

And we were talking about which items may be included or may not be included. And it was easier, well, then to come to an agreement on which should not be included because the other list may be too - not cover all points.

We included items that are not really eligible for inclusion in the consent agenda are those items that are not subject to a simple majority vote and items subject to absentee voting meaning, okay, all items which need more than a simple majority vote from Council are not eligible for the consent agenda.

And then if it comes to that rule then if one - any Council member requests that an item be removed from the consent agenda then it must be removed; that is a must without any discussion on that. And this item should then be talked about through the regular agenda.

So this is - these are the major points which we highlighted with regard to the consent agenda. And then we drafted a text which is attached to

the - or is inserted as draft in the GNSO Operating Rules I believe in Chapter 3.9 if I'm correct.

And this was out for public comment. Then this one as well as the next item the voting thresholds - the voting results table which are an attachment of the GNSO Council Operational Rules.

This, well, voting results table had only to be amended or updated following the implementation of the new PDP. So with regards all the PDP items, for example, termination of a PDP or a modification, amendment of an approved PDP recommendation, these items have been worked out throughout the PDP review process. And then the Council voting results table has been - had to be amended in that way.

So these both items have been put out for public comment. There was just one comment which was in agreement by the Registries Stakeholder Groups and they were in agreement with the recommendations so far. And so there we are and we put those recommendations here to the motion.

That point is regarding the proxy voting procedure which is already in the Operating Rules. And the question was whether the rules should be amended following a request or a case which we had (sent) to investigate and to find the solution for.

You may remember that the - at one meeting a Council member could not attend this Council meeting and there was the request on the spot to allow for proxy notification. So - and then the SCI was asked, well, how to deal with that case in the future and to find out whether the rule should be updated.

However, let me say, after a lot of discussion we had on the one hand so we had to differentiate (unintelligible) so we could not come to a consensus regarding the question whether the proxy notification should be allowed during a Council meeting so there was no consensus found - could not - found on the SCI.

However the minimum, let me say, the minimum - or recommendation was then okay then allow for just a kind of technical change in the rules allowing that the Council members are earlier going to be informed then it is done today.

That means that the one who is sending out a proxy notification is going to send it out to the Council list as well. And this is in line with the procedures and this is technically feasible to do so. So that means that the Council members shall be informed the same time as the Secretariat - Council Secretariat is going to be informed.

There is no amendment to the procedure; nothing because that is covered in the procedure it's just a technical issue, well, to deal with it. So these are the three points which are - which we bring before the Council as a recommendation right now and that is the motion.

So if you have any questions please I'm happy to answer. Thank you.

Stéphane van Gelder: Thanks very much, Wolf. And please thank the SCI as a whole for the work done on this. We have a motion in front of us. The motion hasn't been seconded yet so I will second it. And, Wolf, I will ask you as maker of the motion to read it please.

Wolf-Ulrich Knochen: Yes, thank you. Whereas, the GNSO Council requested the Standing Committee on Improvements Implementation (SCI) on 20 February to formalize the process for a consent agenda with a view to including the consent agenda in the GNSO rules and procedures.

Whereas the SCI deliberated on a process for a consent agenda and reached unanimous consensus on a proposed consent agenda provision for inclusion in the GNSO Operating Procedures.

Whereas the voting results table included in the GNSO Operating Procedures required updating following the adoption of the revised GNSO Policy Development Process.

Whereas the revised GNSO Operating Procedures, including the proposed consent agenda provision as well as the updated voting results table were put out for a minimum 21-day public comment period on 9 July 2011, there's the link, as required by the ICANN Bylaws.

Whereas as a result of the public comment period, no further changes were deemed necessary by the SCI.

Whereas the GNSO Council also requested the SCI to review the current procedures in place for proxy voting.

Whereas the SCI reviewed the current procedures in place and recommends that no changes are made to the proxy notification procedures in the GNSO Council Operating Procedures but instead requests that staff makes a technical change so that the proxy notification is sent to the GNSO Council list at the same time as it is sent to the Secretariat, which occurs when the form is submitted.

Resolved. The GNSO Council adopts the revised GNSO Operating Procedures including the new consent agenda provision and the updated voting results table, see link.

The GNSO Council instructs ICANN staff to post the new version of the GNSO Operating Procedures, which becomes effective immediately upon adoption.

The GNSO Council requests staff to make a technical change so that the proxy notification is sent to the GNSO Council list at the same time as it is sent to the Secretariat, which occurs when the form is submitted.

Thank you. That's the motion.

Stéphane van Gelder: Wolf, thank you very much. May I ask if there is any - if there are any comments or questions on the motion please at this time before we go to the vote.

Hearing no comments, Glen, can we do a voice vote on this please?

Glen de Saint Géry: Certainly, Stéphane. All those in favor of the motion please say aye.

Man: Aye.

((Crosstalk))

Glen de Saint Géry: Is there anybody against the motion, please say nay. Is there anybody who would like to abstain from the motion? Stéphane, the motion passes unanimously.

Stéphane van Gelder: Great, thanks very much, Glen. Thanks to you all. So we'll move into Item 3. We have an officially approved consent agenda now so we will look at the only item that we have on the consent agenda for today, which is a proposal to approve a letter, which is a joint letter drafted both by the GNSO Council and the SSAC and would be signed by both me and Patrick as chair of both organizations sending a letter to the ICANN Board on the IRD Working Group.

You have the letter, at least if not in front of you you can access it by using the link that's on the agenda. And you will see that the letter includes a number of modifications. We have discussed this before. It is my understanding that the Council does not have a problem with the letter as it stands right now. And this is why we have added this as a consent agenda item at this time.

So may I ask if anyone is opposed to this item being on the consent agenda please?

Hearing no opposition may I ask if anyone is opposed to the approval of this agenda please? Hearing no opposition I declare this agenda approved and we will be sending the letter and informing SSAC that we are able to see - to send the letter as suggested. Thanks very much.

And we'll move onto Item 4. And we have a guest on our call today, Mikey O'Connor. Thanks, Mikey, for joining the call and helping us out with this agenda item on the Uniformity of Reporting issue.

We - I'll just go straight into your presentation, Mikey, to make sure we don't go over time on this item and then open it up for discussion afterwards. So, please, Mikey, take it away.

Mikey O'Connor: Thanks, Stéphane. This is Mikey. Can folks hear me okay?

Stéphane van Gelder: Yeah.

Wolf-Ulrich Knoben: Yeah.

((Crosstalk))

Mikey O'Connor: Okay. What you have on your screen is a little - sort of an informal group of former RAP working group members who drafted a little - essentially a memo supporting the idea of at least exploring some way to move forward on what we called uniformity of reporting as a recommendation in the working group.

I'm going to move through this fairly quickly on the presumption that, A, time is short and, B, hopefully you've read this. And the first page - actually, Marika, could you give me command of the screen so that I can sort of aim people at places on the document? I'll get started while that's happening but I'd like to sort of zero in on some stuff.

Essentially what the RAP Working Group was saying was that there's a lot of benefit when we make policy to make sure that there's a - thanks,

Marika, yes I see that - that there's at least uniform way that those issues are reported. And this went off to the - to replay the bidding we came up with this idea and, you, the Council, asked the Compliance folks for some information about all this.

They came back with the response that has to do with their ongoing work in terms of their systems. And then we in the - this small group - this is by no means all of the RAP; many of those folks have either moved on or didn't have time to participate in this so this is a pretty small subset - sort of said well we think it would be great if the Council could move forward with a few things on this.

And so the front page, which is what you see now, really just talks about the benefits of doing this and our hope that something will happen. The next few pages are really replaying the report that was written but with periodic commentary from the alumni group where we were trying to clarify a bit what the - what the RAP was really trying to get at.

And so this - the first one is that we were really trying to get something in place for all polices, not just the ones that Compliance tracks today. When Compliance came back with their response they mostly focused on the policies that they keep track of today. And we were trying to highlight that the RAP was really looking for a somewhat broader view.

We also noted that we probably confused everybody with this meta issue idea. And so during the course of this we tried to narrow this back down to really focusing on things that fit within the GNSO boundaries rather than tackle what turned out to be pretty confusing and hard to realize with this broader meta issue notion.

So I'm not going to replay the bidding of the whole report; that could go way over time. I just want to highlight a few things that we were interested in. We made the distinction between two ways that we actually used the word "reporting."

One is when people have a problem to report there ought to be a consistent way for them to make that complaint, if you will. And then there's also a need for problem report tracking and consistency there. So we sort of highlighted that distinction.

And down towards the bottom of the page we started to respond to the response from Compliance by saying that there might be an opportunity here to join the project that Compliance is doing right now on their reporting systems and perhaps drive some of these requirements into that project. That may or may not still be realistic given that some time has passed. But that was one of the ideas that we had.

If I keep us moving along here that pretty much, you know, the rest of this part of this document is just straight out of the RAP report. And then the last little bit is really, in a way, the repetitive but comes at it a different way.

One of the things that we really wanted to highlight for you, to Council, is that this is an opportunity to improve consumer-facing problem reporting and notification. So when a person has an issue that's covered by ICANN policy, an end-user or a member of any of the communities, it would be very helpful to have a more consistent way

for people to find out how to report those things and make those reports.

One of the issues that we highlighted in our report is that there is frustration when end-users make their complaints to the wrong place or make them before actually checking with the contracted party who can actually solve their problem. And so there was a component of this to try and address that as well.

And then the second theme is really this fact-based policymaking theme. One of the things that were really working on in the RAP was something that many of you who participate in working groups already have experienced, which is that sometimes it's very hard to get good information upon which to make policy decisions.

And by beefing up this capability it's the hope of the RAP - or it was the hope of the RAP Working Group that we might be able to improve that. And that fits pretty well with one of the recommendations that came out of the AOC so it's sort of a two-for-one deal.

The AOC - I've forgotten where we put that. We threw that in here somewhere. But there was a recommendation having to do with improving the ability of ICANN to do fact-based policymaking.

And so very quickly here are a few options that you could consider. You can do an issue report. We specify a couple of ideas there. We could try something new and use it as a pilot to do a broader cross-AC and SO project although there wasn't a lot of appetite for that, and then, you know, either defer or do nothing.

And our suggestion was that given that it's fairly complicated to move outside of the GNSO process maybe we should initiate an issue report that's focused on GNSO policy to address this. And then we circle back to this one other idea, which is to throw some of these RAP goals into the charter of the application design project that the Compliance team is doing and we list off a few ideas there.

So that's a very hopefully quick enough review, Stéphane, of our thoughts. And I really appreciate the chance to present them to you today. Back to you.

Stéphane van Gelder: Thanks very much, Mikey. Thanks for that report. We do appreciate it. I'd like us to concentrate on the possible next steps that you've just mentioned and that feature on Page 6 of the document that you all have on your screen at the moment, and see if our discussions on this topic can lead us to at least imagine what the possible next steps the Council could take on this.

So if we can try and focus our discussions on that aspect of things I think it would probably be more useful at this stage. And having said that let me open it up for questions or comments. And if you're not in Adobe please just speak up so I know to put you in the queue. John.

John Berard: Thank you, Stéphane. Thank you, Mikey. The last point you made is one that I find most compelling, which is in light of the way that ICANN will be viewed under the Affirmation of Commitments that there is a consumer-facing responsibility that we may want to undertake here.

Let me see if I understand correctly, though, what you're suggesting is that in any single program there is enough confusion over how to

report, how to notify and how to know when something's been resolved. When you put all of ICANN's practices together it becomes a very noise environment, which makes it very difficult to know who to talk to, how to talk to them and how long to wait for a response.

So if that's the case then perhaps the issues report we're talking about is identifying those differences with the goal of a PDP to create a single mechanism that could provide the kind of clarity especially for consumers that you're talking about and give ICANN a better chance of showcasing (its) performance once the reviews under the Affirmation of Commitments commence. Does that make sense to you, Mikey?

Mikey O'Connor: This is Mikey again. Yes, John, that's a great summary; actually better than mine. Thanks very much.

Stéphane van Gelder: Thanks to you both. So just to make sure, Mikey, that we're all understanding you perfectly the group suggests that we go down the issue report route but limit the issue report to what's in scope of GNSO policymaking. That equates to Option 2 on your list, right?

Mikey O'Connor: Correct, that's right. This is Mikey.

Stéphane van Gelder: Right. So if there's no further comments on this may I suggest that no one seems to be violently opposed to going down the route that is being suggested by the group and that we may, in that case, want to see a motion at our next meeting to initiate this work and request an issue report in that light.

I will leave that up to councilors obviously but that seems to be the route that we will be taking from the conversation today. Any further comments?

Right, Mikey, thanks very much. I just - so everyone knows I've asked Mikey to stay on through to Item 6, which is an item where we'll be discussing the fake renewal notices. Mikey's been involved in that work to.

And as he was kind enough to participate on our call today I wanted to take the opportunity to have him on hand for that item as well to make sure that he could answer any questions if there were that came up that he was able to answer. So, Mikey, if you are able to stay with us for that that would be much appreciated.

Mikey O'Connor: I'd be happy to.

Stéphane van Gelder: Thank you very much. So we'll move now onto Item 5. As you'll remember there was a Board resolution, which is referenced in the agenda, at the July the 20 meeting of the ICANN Board - sorry, the - it was at the meeting of the ICANN Board and as a response at our July the 20 meeting we created a group to work on a response to the question that was being asked of us by the Board, which was to provide input on the Whois RT's final report.

We had a deadline set by the Board, which unfortunately we were not able to make. That deadline was August 31 so you'll remember that I had written to Steve Crocker, the Chairman of the ICANN Board, just explaining that we were not going to make the deadline but that we

would continue working on this and discuss it again today. So - and let's do that now.

The group that has been working on a draft was led by Brian. And, Brian, if I can ask you to provide us with an update on the work that the group's been doing and what possible next steps we could take now if we're in a position to send something to the Board or not.

Brian Winterfeldt: Certainly, Stéphane. Thank you so much. The team included myself, Thomas Rickert, Jeff Neuman, Wendy Seltzer, Wolf-Ulrich Knoben and also Margie Milam and yourself participated in the oversight capacity.

We, I guess, being me, took the pen to an initial draft of a letter identifying only Recommendation 10 on the list regarding Whois data access and regulation oversight of privacy and proxy service as potentially requiring a PDP. And I circulated the draft to the IPC for feedback and then ultimately the small drafting team that we've already identified.

The NCSG took a very divergent view. Their position was that all 16 recommendations required a PDP. The Registrar Stakeholder Group appeared to second that position.

The Registries Stakeholder Group flagged several recommendations where clarification or a PDP was necessary including Recommendation 2 on single Whois policy and Recommendation 6 on data accuracy and reduction of inaccurate Whois data. The RySG also submitted a letter directly to the Board stating their position.

Based on the Council's inability to agree upon a single letter, and frankly our just extremely divergent points of view, we were considering, basically, what our next steps were going to be. We had discussed the idea about potentially putting a formal motion forward to the Council. Ultimately I did not do that because I just felt like we had so many differences in opinion and obviously they range from, you know, nearly everything requiring a PDP to, you know, almost all of them not requiring a PDP.

And so we are kind of left in a position where I'm not sure what the best path forward is. I don't know if we want to think about a motion for the next Council meeting. I don't know if we want to provide feedback. I noted again earlier that the RySG did submit a letter directly to the Board so I don't know if we just offer individual stakeholder group input to the Board as an alternative to a consensus Council position.

And at this point I really welcome other people on the Council's suggestions and feedback for how we do proceed.

Stéphane van Gelder: Is that it, Brian?

Brian Winterfeldt: That's my spiel.

Stéphane van Gelder: Thanks very much, Brian. Thanks to the group as well for working on this. Just to add to your - the points that you just made that I'm also looking for direction from the Council at least insofar as I indicated to Steve Crocker that I would be following up so - after this call so it would be nice to be in a position to do that. Let's hope we are.

I see, Jeff, you have your hand up.

Jeff Neuman: Yeah, thanks, Stéphane. I think, you know, I - thank you, Brian, for the work you've done. And I think what's really - what this all points to, as kind of Brian was alluding to, is there's such a divergence of views that it's going to be hard for the Council to submit any kind of unified view.

And I think the only communication back from us really should be for the Board to pay attention to what the constituencies and stakeholder groups have said on this and then to weigh those accordingly.

I also do want to kind of note that this is part of a much bigger discussion that I've had with some GAC members and others that view Whois as a matter of public policy, which they distinguish from ordinary GNSO policy. And so there's a belief that a lot of the stuff in the Whois recommendations can be just a matter that's decided on between the governments and the ICANN Board.

And I think that's something that we need to pay attention to to make sure that, at least from the Registries' standpoint, you know, from the Registries' standpoint not everything in those recommendations is something that requires policy development.

There are a couple clarifications like Brian had said and a couple points in the Whois Review Team recommendations like compliance of ICANN staff should report directly to the Board as opposed to the CEO, that the Registries just don't necessarily agree with or doesn't make sense from a management standpoint.

But there are some items in there that the Registries strongly believe are matters of policy development like the development of a proxy or

privacy registration accreditation process. We strongly believe that that is something that should not be done without full community input and through a PDP.

But in essence, well, I don't think we're going to get agreement on any of these other than to say to the Board just look at what the constituencies and stakeholder groups submitted. Thanks.

Stéphane van Gelder: Thanks, Jeff. Alan.

Alan Greenberg: Yeah, thank you. I - just a very brief comment that I'm disappointed the Council didn't submit something and preferably something in time for the Board workshop which is happening as we speak where there's indications they're looking at the Whois report.

I wasn't expecting a unified 100% unanimous consensus on all of the issues but it really would have been good if Council had submitted something at least demonstrating what the ranges are and where there is - where there is general agreement and where there isn't.

There was definitely some very strong disagreement. I'm not sure that things were all over the map as was characterized. And regardless I think a single document coming from Council, given that Council was asked for input, it's unfortunate that nothing could have been done. Thank you.

Stéphane van Gelder: Thanks, Alan. Back to Jeff.

Jeff Neuman: Yeah, I mean, just to respond to that. You know, it's hard to find - I don't think there are areas of agreement, I mean, the Non

Commercials were pretty definitive in their statement that they believe everything is subject to policy development and the IPC and Commercial Stakeholder Group said nothing to be subject to policy development so I'm not sure where there is - you could find agreement somewhere in between there unless one of the groups backs off or says, you know, I don't know how you'd find agreement there.

And a statement from the Council just repeating what other groups have said or are saying in their statements I don't think is very effective but that's my opinion.

Stéphane van Gelder: Thanks, Jeff. Wolf.

Wolf-Ulrich Knoben: Yes, thanks, Stéphane. Well, I would like to support some of what Alan was saying. So I'm also saying, well, it's not good that the Council is not in the position, well, to find a basis, well, to honor the Board question, well. This is one point.

On the other hand we have also - so as Brian was suggesting something so from the CSG side, from the IPC it was supported. So I don't have to repeat that but that is the case so we raised our voices, well.

So we should really think about, you know, also in our discussions about how we handle those questions in future whether we really every time leave it on the constituency stakeholder group level just to answer what we are going to do. And I'm sure, Jeff, you are doing the same from the Registry part as well. And so it's not the best picture we give here. Thank you.

Stéphane van Gelder: Thanks, Wolf. Any further comments? Joy.

Joy Liddicoat: Thanks, Stéphane. I just - a general comment, I mean, I think the points have been well made about the different perspectives on the Whois issue. And I think that, you know, some of this debate points to really I think the reason why we need sort of democratizing processes so that we have more views and more multiplicity of views and allow the Board to allow the Council to sort of give advice to the Board that reflects that rather than feeling we're stuck.

And I think, you know, we have vigorous discussions within the NCSG, you know, group about the various proposals and kept coming back to the need for strong policy development processes because we had some - the underlying issues kept reappearing.

So, I mean, I think we shouldn't necessarily see the lack of clear advice to the Board as a failure of our processes; in fact it may just be the reality that this particular has brought into stark relief some views around the Council table which need more democratization in terms of those who (had) had input.

I would strongly - I guess not to get into situation where individual constituencies feel they need to lobby the Board on every single matter. I think that would undermine us. But I think we shouldn't necessarily see the failure to agree on this as anything other than reflecting the strong views that are held on the topic.

Stéphane van Gelder: Thanks, Joy. Thomas.

Thomas Rickert: Thanks, Stéphane. I think that there might be issues at the GNSO Council level that can't easily be resolved. And one might consider just admitting that and putting together a statement just describing that, you know, what the situation is like.

Alternatively, and this goes back to Alan and Wolf who have expressed their disappointment with the current status other than saying that you are not happy with the situation would you have suggestions on how to move this forward in a constructive way?

Stéphane van Gelder: Any of you two want to answer? Alan.

Alan Greenberg: Yeah, at the very least I would have liked Council to submit a table for all 16 recommendations giving the position and rationale for each of the stakeholder groups, each of the houses.

You know, it's fine for NCSG, for instance, to say that policy development is needed for everything and IPC or whoever it was saying nothing. But it would be interesting to have a very - at least a very brief analysis on each of those one by one explaining why, you know, proxy and privacy doesn't need policy development or why changing the management reporting structure of staff does need policy development.

It would have put some clarity to the positions and I think given the Board something to work from. And right now you're asking them to fit together a jigsaw puzzle with only some of the pieces. And I don't think Council has satisfied the request because of that. So, yes, at the very last Council should have been the funnel to present the positions in a unified, easy to understand manner. Thank you.

Stéphane van Gelder: Thanks, Alan, for making that suggestion. Thomas. Thomas may be on mute. Let's go to John then go back to Thomas.

John Berard: Well thank you, Stéphane. Alan, your point is an interesting one because I think it's - it strikes me as a little bit a sleight of hand when it comes to the role of staff. Every constituency has responded. I mean, I know that the Business Constituency has offered its comments on this matter. Does it really fall to the GNSO Council to put together and Excel spreadsheet?

You know, I mean, effective of what you're saying is that the staff supporting the GNSO Council should now take on some percentage of the responsibilities of all other ICANN staff members. And I don't know that that's fair either.

I think the information exists on a constituency level. I think that the Council's - I wouldn't say inability, I would say unwillingness to torque out of shape the thinking of its individual constituencies to create a letter that essentially takes the place of what I would hope would be the Board picking through the problems themselves.

I mean, if I were on the Board and I got this notice - note from us that said that we could not - that we would not be able to meet the deadline because of a divergence of opinion I would begin to wonder, you know, I said, okay now the task of prioritizing falls to me, which is really where it belongs.

And so I just - I don't think that there's any problem with us saying that we can't meet that deadline, that our views are divergent based upon

our constituency areas of interest and, you know, it falls to you guys and ladies to create the prioritization that is inherent in being a member of the Board. I don't mean to sound strident but I've only had one cup of coffee.

Stéphane van Gelder: Thanks, John. Thomas, you were dropped but you're back on I believe.

Thomas Rickert: Yes, I'm back on. Thank you very much for your patience. I missed one minute or two, unfortunately. What I wanted to say after having heard Alan's answer is that we might staff or even do it ourselves, you know, aggregate such table on what the status quo is to make it easier for the Board to see what the status at the GNSO level is.

And I think that this proposal fits nicely with Jeff's suggestion that we might direct the Board at the individual statements of the group. So if that could be aggregated I think we would at least give the Board something to work on and see what the difficulties are rather than make them twist in the wind. Thank you.

Stéphane van Gelder: Thanks, Thomas. Bill.

Bill Drake: Hi. You know, we've often been in situations where we couldn't really all come together around a singular kind of response to the Board and people have decried that as a sort of collective moral failing that it's terrible, the Board's asked us and we're just not doing the job.

And so then that leads to this kind of feeling like, you know, should we try to force things. You can't force things; it's natural, as Joy said, that

there be disagreement. Disagreement is not failure. We have divergent interests on certain points and that's fine.

So I actually kind of - when I first heard Alan make the point about the table I thought oh that sounds like a lot more busy work. But then upon reflection I actually think it's not a bad concept generally when we're giving responses to the Board to give them some - I mean, it's an opt-in issue. It depends on what people are willing to provide.

But there ought to be a vehicle for stakeholder groups to provide some explanation for whether they did agree or didn't agree with something. That wouldn't bother me too much. I think it's worth thinking about procedurally going forward. And in this particular case, I mean, I'm sure if people really wanted us to do it we could indeed spell out the reasons why we have issues with each of the particular recommendations. Not a problem.

Stéphane van Gelder: Thanks, Bill. Alan, can I give you the final word on this?

Alan Greenberg: Yeah, thank you. Two comments. First of all I wasn't saying that this should be done all as a volunteer effort. If the GNSO wants to ask GNSO staff to help put the table together I think that is completely reasonable.

However to the concept of simply sending in individual reports and having staff summarize them for the Board the GNSO Council has been vociferous in its objection to the concept of the GNSO submitting a document to the Board but the Board actually only looking at a rework that was done privately by staff and not reviewed and approved by the GNSO.

The PDP working group made a strong statement and the GNSO Council, in fact, has objected on a regular basis to the Board working from documents which are summarized by staff perhaps from a perspective of staff.

And for Council to be suggesting now that that's what we want them to do I think is 180 degree reversal and a reversal in an area where I think we were starting to prevail. And to ask to go back to the old regime where staff is summarizing GNSO views and that's what the Board works from I think is a scary idea. Thank you.

Stéphane van Gelder: Thanks a lot. Thanks to you all for that discussion. We have, from what I can ascertain, two main options that have been laid out on the table. One is to respond to the Board saying basically that they ought to listen to individual groups have to say, the constituencies and stakeholder groups that make up the GNSO community.

The other is to go through a set of recommendations, the 16 recommendations that the review team made and attempt to explain why there should or shouldn't be policy development on those recommendations. The idea being that we do provide a response.

And obviously if we go down that road then the response will be longer in coming than just saying we're not going to respond; talk to the individual groups. But obviously we would be supplying the Board with a more detailed response.

So unclear really as to where we take it from here with those two divergent possibilities. Perhaps we can ask the group, Brian, to look at

both possibilities and see if it's possible, at least, to work on - the first one is obviously easy but the work on the second one and what timeframe that would require. And that would enable me, at Council's behest, to go back to the Board and say this is what we're going to do and we're going to do it in this timeframe.

So would that be a - is that something that you think would work, Brian?

Brian Winterfeldt: Certainly, Stéphane. I'm happy to do that. I'm definitely happy to convene the group and have that discussion and then get back to you with our recommendation and hopefully that will give you the opportunity to go back and update the Board.

Stéphane van Gelder: That's great. Thanks, appreciate that. Wolf, did you have some final comments on this?

Wolf-Ulrich Knoben: If I may just briefly. I think but Bill is before me isn't he?

Stéphane van Gelder: No Bill's a carryover from a previous comment.

Wolf-Ulrich Knoben: Okay. Just, well, why not do it this way, you know, if you go that way with Brian together because every constituency, stakeholder group, knows where they would like to have a PDP. We need just an introductory letter and then a table with yes and nos and nothing else.

So - because finding out explanations for this and why that so I think that's - this is what the constituencies can do themselves in their talks to the Board. But, you know, just making it clear here that it is

divergent and this is the status how the SGs and constituencies see that that would help from my point of view. Thanks.

Stéphane van Gelder: Thanks, Wolf. So we'll ask Brian to do - reconvene the group and do the work that we just mentioned. Just as a personal statement I do think that Alan made some pretty strong points on what the Council has asked for in the past and what it might want to do on this issue. But we'll leave that for the group and move on to Item 6 which is another item that has generated and probably will continue to generate discussion, the fake renewal notices.

And I hope you all saw the statement that Mason sent to the Council list on behalf of the Registrars. You'll remember that the Council had requested that the Registrars at least look at this and come back with some views. What the Registrars have done is come back with a note summarizing the issue, reminding us of what the issues are and proposing a set of next steps.

So thanks to the Registrar Stakeholder Group for doing that. Thank you to Mason for leading that work. And, Mason, perhaps you can now update the Council on the work that's been done and what possible next steps we might be looking at.

Mason Cole: Sure. Thank you very much, Stéphane. Yeah, as a reminder, going back to July at our last meeting the issue of the fake renewal notices has been - was on our agenda. And the Council was considering a number of options for dealing with the issue including launching a PDP, addressing the matter through the current negotiations on the RAA, attaching the issue to another PDP working its way through the Council already.

And I'd like to - I know Mikey has - who is the chairman of the drafting team - has stayed on the call. Thank you very much, Mikey. If there are other things you'd like to add I'm sure that would be welcomed.

So in that call I did volunteer to go to the Registrars to talk about the issue and come back with a set of recommendations for the Council. So there were a couple of things that I'd like to share in the way of findings from that discussion. Many of them were summarized in the email that I forwarded to the Council a few days ago.

The first thing that I want to point out is unfortunately with, you know, this and many other issues sometimes what appears to be simple actually becomes more complicated the more you delve into it.

You know, as Mikey and his team pointed out in the - in their report there has been action on the part of fake renewal notices by several law enforcement authorities mainly in the US and Canada. That happened both - in the US it was with the Federal Trade Commission; in Canada I believe it was through the courts.

There have been fines, otherwise legal rulings that are meant to put a stop to the practice. And to date, you know, those have not been particularly effective unfortunately.

And the more we talked about it the more it became fairly clear that much of the reason that this has not been effective is because the people that carry these kinds of activities out has very good lawyers who are able to rework the language in fake renewal notices to get

around the issue of compliance with fines and orders and that kind of thing.

So the idea that this would be a simple fix may be true eventually if we can find a way to do it or it may not be true because history suggests that it's difficult to craft language that would compel compliance on the part of people who are doing these activities.

So what - am I still on, Stéphane?

Stéphane van Gelder: Yes you are, Mason.

Mason Cole: Okay, sorry. I heard some noise. So in terms of next recommended steps what the Registrars would like to do with the agreement of the Council is four things: Discuss the issue with ICANN Compliance to make our concerns and the Council's concerns well known to them and discuss with them the - whether or not previous legal action or noncompliance with legal action or sanctions from jurisdictional authorities can have some sort of impact on the renewal of the accreditation agreement for the offender.

Second, communicate to authorities as a stakeholder group that we continue to be concerned about this, that their previous enforcement efforts are not being complied with and find out whether or not, number one, they're aware that they're not being complied with and, number two, whether or not they can take additional action.

We would report - third, we would report those findings back out to the GNSO Council. And then, fourth, investigate whether or not enforceable contract language can be written in a way that would be

more effective than the current mechanisms already attempted to curtail this activity.

I want to reassure the Council that the Registrars are very interested in, you know, getting this problem behavior eradicated. But before we launch into anything that is meant to address the issue the Registrars want to make sure, first, that it's going to be effective because if we do something that in the end is not effective it's merely going to frustrate everybody and the perception of, you know, the - it's been brought up to me that, you know, the Council needs to be perceived and seen as agile and effective.

I certainly agree with that. But I don't want to fire a blank shot to use a euphemism. You know, I want to make sure that if we do this it's ultimately going to eradicate the problem. So that is what the Registrars are prepared to do in terms of next steps. And I know Mikey is still on the call if - as the chair of the drafting team if he wants to communicate anything in that capacity I'm sure that would be welcomed.

And I'm happy to address questions or comments as we discuss this so back to you, Stéphane.

Stéphane van Gelder: Thanks, Mason. Mikey, do you have some - anything that you'd like to add?

Mikey O'Connor: This is Mikey. Just very briefly I just want to reemphasize the very narrow scope of our working group charter which was we were really sent off to answer the question is there smoke or is there fire? Is this a real problem or not?

We came back with the answer, yes, this is a real problem, and then exceeded our mandate by coming up with a whole bunch of ideas about what to do about it. But those ideas should be considered secondary to the suggestions that Mason's making here.

You know, we were just on a roll. We wrote down a whole bunch of ideas. We prioritized them but by no means should they be considered anything but the ravings of a slightly rogue working group. And so I fully support what Mason's got here on the screen.

Stéphane van Gelder: Thanks very much, Mikey. And that is useful clarification on the - the way the working group has been working and the suggestions that Mason's just given us.

So let's open it up for discussion and we have Yoav first.

Yoav Keren: Yes I just want to raise one issue I just thought about. A few months ago, I don't remember exactly when it was, there was a change in policy resulting in the fact that registrars are now committed to send an email when your domain name is about to be transferred out.

That doesn't mean you need to, as a registrant, you have to approve the transfer out to your current registrar but you do get an email informing you that this process has started.

Now if I'm not wrong from a timetable perspective the - and, Mikey, correct me if I'm wrong - when you check this - it was before this change. I'm not sure but it clearly, going forward, this is something that

needs to be considered to see whether this has any effect on the problem.

Because if someone gets a fake renewal notice and then starts a transfer in practice and then gets an email telling him about it maybe that does make a difference. So I'm just, you know, just a thought.

Stéphane van Gelder: Thanks, Yoav. Mikey, is there any answer you want to provide?

Mikey O'Connor: Just very briefly. Yes, it's true that when we were working this - this was prior to the IRTP-B recommendations - this was described by the IRTP as a slightly different problem but I won't belabor that. Yoav is right.

Stéphane van Gelder: Thanks. David.

David Taylor: Thanks, Stéphane. You know, I do agree with Mikey that this is a real problem. I love his definition or description of the rogue working party. But it is a real problem. And I also agree with Mason here that whatever efforts are done to resolve this problem need to be effective and something which just says then in the email that compliance can enforce whether it's a PDP or whether it's an amendment to the RAA is obviously something which in due time we need to discuss.

And just regarding the - one other point that I was reading there regarding the inadvertently restraining marketing efforts I certainly agree there's no wish to restrain marketing efforts.

But I think marketing efforts that are fraudulent, deceptive or maybe we should say deliberately misleading or likely to be any of those, you know, should be prevented and we, as the Council, do have a duty to try and stamp out such behavior because I think it discredits the entire domain name industry.

So, you know, yes we'd certainly be keen on a PDP or amendment to the RAA. That's my personal thoughts and I say we - that's what I think but we're certainly open to be discussing this in detail. Thanks.

Stéphane van Gelder: Thank you, David. Jonathan.

Jonathan Robinson: Thanks, Stéphane. I think it's - this is probably individual input but - and it tucks in relatively well behind what David has just said. I mean, I think we ought to thank Mason for some thorough and well thought out input. It's the kind of constructive and helpful detail that makes, you know, unraveling an issue like this useful, you know, effective.

This is a frustrating issue. I mean, as some of you know I've done my time in the registrar business as well and, you know, have seen the consequences of this so make no mistake I'm aware of the issue and the negative consequences.

But nevertheless my feeling is that we must be effective in the kind of solution we advocate for. And, you know, I guess I'd like to support the next steps outlined which is, you know, in particular talking with Compliance, seeing how this can be dealt with in that way. And, you know, I guess I'm supporter of the...

((Crosstalk))

Jonathan Robinson: Thank you.

Stéphane van Gelder: Thanks, Jonathan. Is someone else trying to get into the queue? No, I heard something but it was obviously not. Sorry, David, do you want back in?

David Taylor: Yeah, just to help. I wouldn't say - having read the comments there about the difficulties of various jurisdictions to draft appropriate language. I'm not saying I could draft the perfect language but I'm happy to try and put something together and circulate it as a - some language which could be useful and then we can discuss or work around that if that's helpful.

Stéphane van Gelder: Thanks, David. Let's let you and Mason engage on that. And from what I'm hearing, as an action item here, we would go with the suggestions that Mason has outlined earlier on and ask the Registrars to continue with those steps to take this forward.

If that's not a good summary of what we've just discussed please say so now and raise your hand or shout out so that we know that there's disagreement with that. If not I suggest that we will turn this over to Mason to continue with the steps suggested.

Not hearing any violent opposition to that so it sounds like we have a way forward there. Thank you very much to everyone involved. Thanks to Mikey for having stayed on and for your participation in the earlier agenda item, much appreciated.

And we'll now switch to Item 7 which is an item on the protection of IGO names. And we are awaiting a final issue report on this issue from staff. That report will be coming in the next few days; I believe it's going to be ready very, very soon. However it's not quite ready yet so we've asked Brian Peck from ICANN staff to take us through what the report will be saying, recommending and explain the main points of the report to us. So, Brian, if you can do that now please.

Brian Peck: Thank you very much, Stéphane and hello everyone. Before we get started just to give you a brief update on some events that have happened since the Prague meeting.

As you may be aware the ICANN Board's new gTLD committee at its August meeting resolved that the Board should leave these issues related to the protection of IOC and Red Cross names in the hands of ICANN policymaking bodies.

The public comment forum on the preliminary issue report was closed on the 26 of July. The summary report was published on the 14th of July. There were about 12 submissions altogether. Seventy-five percent of them were from IGOs. Not surprisingly they all supported special protection for their names at both the top and second levels.

They also supported the initiation of a PDP with the caveat that it would be completed in time so that any recommendations in terms of protections could be implemented before the designation of the strings of the first batch of new gTLDs. Out of those submissions there was only one submission that opposed special protections.

As you know the Council's drafting team is now meeting on a weekly basis. I think coming close to hopefully reaching consensus on a recommendation that it could pass to the Council in terms of protection for - at the second level for the Red Cross and IOC names.

With regards to the IGOs, as you may know, the GAC's current position remain the same after Prague and that is that there should be no special protections granted to IGO names.

But after hearing presentations from the OICD and other organizations in Prague in its communiqué the GAC indicated that it may at least further consider its position. We haven't seen any changes since that point but there might be a possibility of that happening as well.

In terms of the final issue report the objectives primarily remain the same from the preliminary and that is that one is to define the type of organizations that should be evaluated in the related PDP for protection at both the top and second levels and also how to describe such a PDP could be structured to analyze the issues at hand in coming up with recommendations to protect such organizations.

The scope from the preliminary report was to evaluate to protect names from both IGOs and NGOs at both the top and second level. As you'll see in a minute one of our recommendations to consider expanding that scope to include not only new gTLDs but existing gTLDs as well.

In terms of issues to explore in the PDP the ones that we identified in the preliminary report all remain the same. We've expanded some of them. In particular looking at the scope of protections under

international treaties not only for the Red Cross and IOC in terms of the, you know, the evidence, if you will, that they - or the legal support they've provided for justifying protection of their names but in addition to the information received from IGOs and their claim for treaty protection specifically under the Paris Convention and the TRIPS Agreement.

We also have expanded based on the public comments we received the list of possible suggested objective criteria that could be utilized in determining whether an organization could qualify for special protections. And a new issue that we've identified, there at the bottom of the slide, is whether the PDP should address the broader scope of concerns of the need for defensive registrations at the second level.

In terms of staff recommendations that'll be coming out in the final report staff is recommending that a PDP should be initiated, formally invite representatives from the IGOs, the Red Cross and IOC.

Some new recommendations that came out from the preliminary report would be, again, consider expanding any new gTLD protections to existing gTLDs and also, again, consider expanding the PDP scope to address community concerns or the perceived need for second level defensive registrations.

In addition we've kind of expanded on or at least clarified the recommendation in the initial preliminary issue report and that is that indeed if a PDP is initiated taking into (concern) timing issues and the resources to expedite the PDP so that any recommendations that do come out could be recommended - or could be implemented in time before the designation of the new gTLD strings.

As Stéphane mentioned, you know, the final draft is currently going through final internal review. We're mainly just refining the language. There's no substantive changes expected at this point. And we're hoping to get it out as quickly as possible and certainly in time for, you know, formal consideration by the Council at the Toronto meeting.

So that's a - some additional information in case any of you are interested in follow up reading and that's the basic overview and be happy to take any questions or, Stéphane, if you're ready to open up for discussion. Thank you.

Stéphane van Gelder: Thanks, Brian. Before we do open it up for discussion I wanted to just ask Jeff - it's on a related subject even though it's not the same subject - but to give us an update on the work of the IOCRC group. Jeff, you've got your hand up anyway so could you do that?

Jeff Neuman: I could. Can I ask a question on the previous presentation first?

Stéphane van Gelder: Yeah.

Jeff Neuman: Brian, can you go back to the slide that talked about the added part on defensive registrations?

Brian Peck: Issues that were - sorry...

((Crosstalk))

Jeff Neuman: Sorry, it was the next - yeah, so the PDP addressed the broader scope of - and that's the previous - yeah.

Brian Peck: Okay.

Jeff Neuman: Concerns over the need for defensive - can I - so this is kind of unusual for a final issue report since it wasn't in the preliminary one. And I think it creates a huge - I think defensive registrations is not - is more like a solution if there is a problem with international organizations as opposed to an issue.

And the reason I say that is because the issue is not - defensive registrations, at least as it's been brought up in the community, is not unique to international organizations. And I have a fear that by putting this in the final issue report, especially because it wasn't in the preliminary, you're really opening up a whole can of worms that the Council did not intend to open up when it asked you for an issue report.

So I'm all for discussing with the Council whether we should do a new issue report on defensive registrations, like have that conversation separately. But if I could ask that this actually not in the final issue report because it's totally unrelated to international organizations and it's completely opening up a can of worms that - I'm not sure why you would put that in the final issue report if it wasn't in the preliminary and wasn't even a comment made to the preliminary so I guess that's my question.

Brian Peck: Okay. No and fair point. I think, as you said, it was offered more - one, it's a recommendation to - for the Council to consider whether any PDP that it initiates, you know, with regards to protection for IGO and the

Red Cross IOC names of whether this should be something that could be considered in the sense.

As you say, it might be part of a broader solution - or not a solution but an approach because obviously when you have the concerns of all trademark owners those are, you know, a subset of that would be concerns of these particular organizations. So it's kind of - that was the, you know, the kind of the thinking behind, you know, suggesting that perhaps this could be an issue that - in terms of broadening the scope of any PDP that's initiated.

((Crosstalk))

Brian Peck: It's not specifically - we're not recommending specifically that the PDP should be expanded to, you know, to broaden its scope to consider second level defensive registrations.

It's more of, you know, suggesting that the Council in initiating a PDP, if it decides to do so, would, you know, should maybe want to consider - not should - would want to consider possibly expanding the scope of the PDP it initiates to include that. So we're not recommending that you do so it's simply raising it as a possible approach to include in the PDP.

Jeff Neuman: Yeah, I understand that. I think though we have to kind of take the broader political look at these documents that come out. And when you put that into a document it creates an expectation within the community that it's going to be addressed. And then we as the Council will look pretty bad if we just kind of disregard what you put into a document like that.

So, I mean, I would strongly, strongly prefer that that not be included in this final issue report. And that if you want to submit something else to the Council for it to consider you do that separately. I'm just afraid that it's going to derail the whole process.

But, Stéphane, when you're ready I'm ready to move on to the other group that - Jonathan and others have their - Jonathan's got his hand raised. I don't know if you want to go to him or...

Stéphane van Gelder: Yeah, let's go to Jonathan first and then, Jeff, we'll - just in case, Jonathan, is this on the current discussion?

Jonathan Robinson: Yes, it's directly on, Stéphane...

Stéphane van Gelder: Then let's do that first please. Go ahead.

((Crosstalk))

Jonathan Robinson: And really my point is I probably don't need to articulate it further than to say I'm 100% aligned with Jeff here. Defensive registrations are an important issue but it is, as Jeff has said, confusing to bring them in in this context. And so I think, you know, I'll just keep quiet and say I'm clearly and 100% in support of the point that Jeff has just made.

Stéphane van Gelder: Thanks, Jonathan. So, Jeff, can we just have a short update on the IOCRC group please?

Jeff Neuman: Sure. Really quickly the - as Brian said the drafting team is meeting every week. We are getting close to making a recommendation to the

GNSO on the original GAC proposal submitted last September on the protection of IOC Red Cross names at the second level.

You know, it's been kind of hard over the last several weeks to get great attendance at these meetings although yesterday's call was fairly well attended.

I would still love - well, I'll single you guys out, I would still love more attendance from the Registrars and the Commercial Stakeholder Group which hasn't had too many participants in the last couple weeks. So if you guys could come to the calls that would be great.

What's going on now is that we are going to issue a consensus call on the recommendation that we have so far. And we hope to have that done by September 26 so we can present to the Council with enough time to - for the Council to consider in Toronto or shortly thereafter.

We do want this time - sorry, didn't want to say the Council to consider. What I should have said is part of the recommendation to the Council will be that it goes out for public comment.

So we're going to - and I believe we can do this, Stéphane, correct me if I'm wrong; I don't want to overstep but I believe as a working group - or sorry, as a drafting team, we can ask for this to go out to public comment without getting formal Council support but please correct me if I'm wrong on that.

But the intent is to go put this out for public comment to the wider community. And then after that public comment period is to have the Council act on it.

But essentially what, you know, just to give kind of a flavor of the way I see it coming out is that there seems to be - there's very strong support for a PDP - so making it probably part of this PDP might be a good idea - but a PDP on the second level protection.

And then there's some support for the Red Cross IOC names to be put in some sort of moratorium or quarantine. I'm not calling it reserve names. But basically that if the PDP is not finalized by the time the new TLDs launch that we take some of these names - that we take these names that were requested by the GAC and put them on some sort of moratorium until such time as a PDP is resolved.

I will note that that's not a consensus view; that there is - the NCSG does not support that view. They believe that the default situation is that the names should be registerable until and unless a PDP comes out otherwise. So, you know, we're working through that. We'll see where everything lies in a couple weeks and put it out for public comment.

Stéphane van Gelder: Thanks, Jeff. To answer your question my understanding is actually that you should be coming back to the Council and then have us either put it out for public comment or not. But I'm certain and I don't have the ops in front of me at the moment so unless anyone from staff can help out immediately we'll put that question to one side and get you an answer.

Jeff Neuman: Or if it requires the Council then maybe I can ask, since it doesn't necessarily require a vote, if I can ask the Council that if I could put this

out for public comment so that we have several weeks before Toronto this is out for full public comment.

We could talk about it, again, not necessarily decide anything because it may not be the end of the full comment period but at least it's out there to the public and posted so we can have some good discussions on it. So maybe I'm asking sort of in advance if we do have to ask.

Stéphane van Gelder: Okay. Let's ask staff and just give myself time to have a look at - or Margie, can you help?

Margie Milam: Yes. Hi, it's Margie. Is the question whether you need the Council vote to do a public comment; is that the question?

Stéphane van Gelder: No the question is should the group - is the group able to put its work out for public comment on its own or should it...

Margie Milam: Right.

Stéphane van Gelder: ...or should it go back to Council first.

Margie Milam: Oh yeah, the group can do - they can do that or they can go to Council; they can go either way. We've had working groups publish things without getting GNSO Council vote in the past so it's really up to the working group as to whether they feel that - or the drafting team that they feel, you know, comfortable in doing it. So there's flexibility there.

Stéphane van Gelder: Right. Thanks, Margie, that's really helpful. So, Jeff, you have your answer.

Jeff Neuman: Okay thanks. And I'm happy to take any questions.

Stéphane van Gelder: Any questions or comments on both what Brian has explained and what Jeff has just explained? And, Jonathan, I'm...

Jeff Neuman: And this...

Stéphane van Gelder: ...I suppose you've got your hand up from the last question, right?

Jonathan Robinson: Yes, thanks, Stéphane.

Jeff Neuman: So just a last push. This is Jeff. We have a call - and we meet every Wednesday at - well I know what time it is Eastern Time - I apologies, Eastern US Time it's 2:00 pm. So please your groups that haven't been attending if you could please come that would be fantastic. Thanks.

Stéphane van Gelder: Jeff, thanks very much. Brian, thanks very much. We'll move onto Item 8. You'll recall that we received a note from Bertrand de la Chappelle from the ICANN Board suggesting that we have a look at the possible impact of the new gTLDs on ICANN, the structure and us as a community.

A group has volunteered to have a look at that issue and draft a possible response. Thomas led that group so I'll ask Thomas to just give us a very quick update on the work of the group. A draft was sent to the Council list. People did provide some response to it. I provided some possible edits. So where are we now, Thomas, on this?

Thomas Rickert: Thank you, Stéphane. As you've said Bertrand de la Chappelle had sent out a request for input to the chairs or the group leaders of the SOs and ACs. And we also took up the challenge of providing the response as to what impact there might be resonating from the new gTLDs on ICANN's structure.

Just to give you a little bit of background on what the group discussed behind the scenes, I had originally proposed to take a broader view at the potential impact on ICANN's structure starting with gathering some facts on potential new challenges for individual groups as well as for the entering new parties with the new gTLDs and what their expectations to the GNSO might be and then draw conclusions from that that also would reflect what needed to be changed if any at the GNSO Council level.

The responses from the drafting team or this little group were that we should not that much look into the needs or the preparations that are required in the individual stakeholder groups or constituencies and that these, you know, that the consequences or the preparations for these groups should be looked at by the respective groups and that we should focus at the impact on the GNSO Council as such.

And what I have sent to the list is an amalgamation of the proposals that I have received. And you have seen Stéphane's comment to it. He would like us to do a few edits but I'll show you through that very, very briefly.

Basically what we included in the draft letter is two sections that, number one, qualitative challenges and then - qualitative challenges in terms of the quantitative challenges we expect that there will be more

attention by the general public and also by governments, that there will be more people at meetings, that there will be more groups that need administrative and technical support, that we will have more telephone conferences with more participants and also more remote participation.

That there will be more documents to be produced and read by community members, that there are more decisions to be made and also these decisions to be operationalized. And that more contractors need to be managed by ICANN.

Then comes one of the edits asked for by Stéphane. And I personally do not object against that. I had put into the draft an increased budget to administer and that should be replaced by a set of words saying that there's the need for even more stringent budget management and (control).

Stéphane van Gelder: That needs to be taken care of.

Thomas Rickert: Then we had, in our draft, a little section that would say that ICANN does have sufficient funds to meet these challenges but that growth needs to be managed carefully. And Stéphane has asked for the deletion of that section and I also - I am also more than happy to accept that edit.

We now come to the quantitative challenge that challenges, you know, the quantitative - excuse me, the quantitative challenges require managerial responses that ICANN can prepare for. So ICANN knows roughly how many more contracted parties there will be so they should carefully prepare for that. And that would also encompass the

increased burden on volunteers to deal with even more and potentially more complex material to work on.

What we don't know is how many, if any, new groups will be established. And what their plays and roles through the ICANN ecosystem will be. So we do know that, you know, certain things will happen for sure but other factors we do not know what they're going to be like. But in essence or in summary we think that the GNSO structure is resilient to responding to the challenges that will be going along with the new gTLDs.

Now I would suggest that, you know, unless there is opposition or further - there are further requests for edits that we take this draft and authorize Stéphane to submit it on behalf of the Council.

However in parallel I would personally suggest that we keep up this discussion because I think that there are more things for the Council to think about and prepare for.

To give you one example many of the brand applicants will be registries because they are going to have their accreditation agreement. They might also choose to be the lone registrar. So these entities would qualify to participate in the Registries Stakeholder Group, in the Registrar Stakeholder Group, in the BC as well as in the IPC.

And, as you all know, they are more than welcome to participate in all those groups that they like to but they can only vote in one of the groups. And I think that there is an implicit danger that applicants might agree upon the schedule where to vote so one new species of

stakeholders in the ICANN ecosystem could actually vote in many different groups and also in potentially new groups that might be formed.

And so this is something that I think should be food for thought and maybe stimulate our discussion. And I hand it back over to you, Stéphane.

Stéphane van Gelder: Thanks, Thomas. So there's a suggestion there that the draft, as edited, be sent. Let's open up the discussion. I'm afraid I'll have to keep it very short; we still got quite a lot to cover. Alan.

Alan Greenberg: Yeah, thank you. I'll be very short. I find the last two statements that Thomas made complete contradictions. To say that we believe the Council structure is going to be resilient to any change and then identifying that a single species, I think as he put, could end up controlling the votes in multiple stakeholder groups and with vertical integration, for instance, that's certainly possible.

We're now talking about a new contracted party, proxy and privacy services and where would they fit. I think it's premature to say Council structure is resilient enough, we don't need to worry about it. I think the last statement is the overriding one that there are issues which may make the Council structure not sufficient. Thank you.

Stéphane van Gelder: Thanks, Alan. Yoav.

Yoav Keren: Yes, I just want to - although it's agreed but I just want to stress the fact that I - and I believe there are some others like me - I really think that ICANN has already big enough budget that is kind of tax over the -

and, you know, Internet users. And I think that we should not recommend, at any point, to increase the budget as a result of these changes but rather be more effective in doing the work that needs to be done. Just so I'll be short.

Stéphane van Gelder: Thanks, Yoav. Thomas. Short, short please.

Thomas Rickert: Jeff, I'll let Jeff go first.

Stéphane van Gelder: Jeff, can you make a short comment?

Jeff Neuman: Yeah, I would just disagree with Alan. I do believe that the Council structure is resilient. That's the position the Registries have taken in many stakeholder groups. Thomas has actually considered the effect of vertical integration and the voting in multiple stakeholder groups and constituencies. And I believe it's pretty mature for us to now examine that until we see how the existing structures play out.

And to make a - I think what the groups have set up right now is its best guess. And if in a few years it turns out not to be the case that's when we look at it. But to just presuppose and prejudge and have a different solution I think is a mistake.

Stéphane van Gelder: Thanks, Jeff. Thomas.

Thomas Rickert: Yeah, I just wanted to react to Alan's allegations that there might be a contradiction. I think that there is no contradiction because the groups would still match so the structure could match.

We would just need to think of potentially - we need to think of how the allocation of these new players to the individual groups should be like and whether there might be restrictions so that if you qualify for certain groups that there is an order where you actually have to go and vote so just again just a suggestion. But I think there was no contradiction and I think the structure is resilient.

Stéphane van Gelder: Thanks, Thomas. So can I suggest that either there is agreement, we send the draft as-is or we ask you, Thomas, to just make sure there's - all the views have been taken into account. I'm not sure that I can ask, at this stage, if there is any opposition to the draft as-is. But perhaps that can be done on the Council list in the next few days. And we can then look to send the draft.

Alan, is that - sorry, Thomas, is that something that you think is a feasible way forward?

Thomas Rickert: I'm more than happy to send the updated draft to the list and ask for further comments.

Stéphane van Gelder: Thank you. And let's set a tight deadline, if we can, of maybe, you know, up until the end of next week so that that should give everybody plenty of time to make any further comments and then we can look to responding to Bertrand's call.

((Crosstalk))

Stéphane van Gelder: Thomas, thank you for that work. Thanks to the group. We'll move onto the Toronto schedule. Wolf, I'm going to have to ask you to be very quick on this one. And I know there's lots to say so it might not

be easy. But can you just take us through the main points that we need to know for the schedule that we have in front of us for the Toronto week, please?

Wolf-Ulrich Knoben: Yes, sure, Stéphane. Well, I will be brief and you can read it by yourself. Let me just point out at this stage the current - the current draft is still flexible in time. The real only one - the only session which is fixed in time is the one with the Board on Sunday afternoon.

And as you can see the joint GAC meeting has been switched to - has been moved to Saturday afternoon. But there is still no final confirmation from the GAC on this. And this is a point which I would like to make, it would be really helpful if I could get input from your side on issues the Council should raise during the GAC meeting - the meeting with the GAC so that would be helpful.

Because every time they fire back and come asking me what are the issues you would like to deal with and I started with, okay, something about the impact of new gTLDs as we have one - could be one item. But it would be helpful, really, to get some more feedback from your side. And I would then forward that to the GAC.

The other point is one question we started - as we ended last time in the Web (app) session that we said okay would like to have a brainstorming session where we can circle around what we're doing and what our ideas are. And this is the first session. And - but it should be a little bit structured and therefore I put some lead topics on it, for example, GNSO review and Council workload.

So the question here was whether the GNSO review might be one point which is worthwhile to have a specific session from that point rather than just here including that in a brainstorming session. So I would like also to have some reflection from your side.

In looking to the - yes, okay, just to complete that I heard that the entourage of Fadi is looking for interesting appointments Fadi should have so - with regards to the SOs and ACs and it may depend on so I did not have a specific reaction on that.

But it could be that Fadi could come to our meeting and we should then have some minutes, well, to talk with him but depending on the priorities they are given to him. So I don't know at the time being, maybe somebody who's from staff could then help me afterwards about this point.

I wouldn't like to see anything more. So other - the points that's inflexible in terms of time really and if there's something which I have forgotten if - maybe of more interest please bring it up.

The very last point is normally we have beside the weekend schedule we have a meeting with the ccNSO. And this is going to be moved as well at the time being so it's placed to Monday afternoon not at the lunchtime around Monday because on Monday there is this big meeting which we are talking about later on here in the Council with the - I think government representatives.

So okay so far for my side some comments on that.

Stéphane van Gelder: Thanks, Wolf. Thanks very much. Thanks for your hard work on this. And thank you, Glen, as well. I know you're working very hard on this schedule. I want to echo Wolf's call for some ideas or topics for our three major - or maybe two now - major meetings which are our meetings with the GAC, with the Board and with the ccNSO if it can be slotted in with the schedule having been a bit impacted by the GAC high-level meeting that we'll talk about in a minute.

But please do submit some ideas. Don't do so now because we are very short on time. But this can be done on the list. And it will be very useful to have those ideas submitted now or in advance of Toronto so we can go into the weekend session with some ideas of the topics that we'd like to discuss.

We will be having a session on those - preparation of those meetings as we usually do. And you'll notice, as Wolf has described, that we've also got a - what we've called a brainstorming session which is an idea that came out of our wrap up meeting Prague and I think it's - I'm certainly very interested to see what that discussion will yield and what it will be like to go into our weekend work sessions with an open discussion. I'm sure it will be good.

So that having been said let me just also make one final point about the Toronto week. I've had some questions on this so as you know we will be seating a new Council in Toronto. We will be having our open Council meeting, as usual, on the Wednesday. And we will actually split that meeting into two with the full open Council meeting with the existing council.

We will then disband the existing Council and reconvene for one item meeting of the new Council and that item will obviously be the election of the new chair. I will be leading that meeting. My position as chair officially expires at the end of Toronto so as a neutral party to that election I will continue to lead the Council into that process.

And then we will just have the wrap up on Thursday which I propose to chair - or co chair with the new chair and then I'll be saying goodbye to you all and letting you get on with it.

So that's the way the week will be panning out. And once again any further questions on the agenda or anything that I've just described please contact Wolf or myself on the list.

So as I mentioned we have a new item on the ICANN meeting agenda for Toronto which is a GAC high-level meeting. I had meant to spend a bit of time on this but I do want to get to Item 11 so I won't spend too much time on it. I just wanted to bring this to your attention and bring - focus your attention on it because it's a new meeting; it's an initiative that has come from the GAC.

I sent you an information pack on it which came from the GAC - sorry - which I sent to the Council list a few weeks ago just to highlight the fact that there is a session that they've planned with the chairs of the SOs and ACs. I will be participating as GNSO Council chair.

And there are some topics there which the GAC would like to discuss. Now my understanding is that the GAC would like us to suggest discussion topics and these would probably be different from the

discussion topics that we would be having in our regular joint meeting with the GAC which is currently planned for Saturday.

So I wanted to bring that to your attention, make sure that was on your radar. It's - the idea is for me to go into that meeting with a set of discussion topics so obviously that will be something that we will have to work on as a group to make sure that we are ready for that meeting.

And once again this is something that we can continue to discuss on the list. Jeff, I see you have your hand up but let's please try and keep it short so that we can move onto Item 11. Thank you very much.

Jeff Neuman: Thanks, Stéphane. I'll try to be brief. I think we need to be very careful here. I am all for cross community discussions and all for GAC and open sessions. My fear is that since the GAC has continually blasted the PDP process and the GNSO policy process that this is their way of circumventing and trying to develop policy outside of our existing processes.

I think that you, Stéphane, have an obligation to let the GAC know in a public way that we're happy to do these discussions but this is not a substitute for policy development. And just looking at the topics that they've selected is what kind of worries me a little bit. So thanks.

Stéphane van Gelder: Thanks, Jeff. And this is exactly the kind of thing - I mean, this is exactly the reason why I wanted this on the Council's radar and to make sure that we can talk about it beforehand. I will be going into this meeting strictly as the voice of the GNSO Council. So whatever you have to say tell me but I will not be saying anything of my own

accord; I will be acting on the Council's directive. That's the only way this kind of meeting can work in my view.

Wolf.

Wolf-Ulrich Knoben: Well it's another question regarding this. I just - I wonder if the other meeting, the so-called ICANN Academy meeting, which was supposed, well, to be before the Toronto meeting is - what is the status of that?

Stéphane van Gelder: Yeah, I didn't put that on the agenda. I am the liaison to that group for the Council. But the agenda was too full so thanks for bringing it up. Very quickly the Academy group has been discussing the - there was an intent for an initial meeting to be held in Toronto, as you've just mentioned.

Myself and others did point out that it was probably too soon that the curriculum, the target audience, etcetera, was not clearly defined and that more work was probably needed before we started - before we gave this its first meeting.

So there was a call from myself and others to hold back and not rush into it. And that call has been heard. And the group will be meeting officially on Wednesday. The meeting is set from 7:00 until 10:00 on Wednesday morning so as you can imagine they'll probably not see much of me but I'm sure Bill will be there to dutifully represent us. And Bill's also been on the group with me.

And that meeting will be to advance the points that I've just mentioned so that the Academy can move forward hopefully at the next ICANN meeting.

Wolf-Ulrich Knochen: Okay thanks.

Stéphane van Gelder: Thanks, Wolf. So let's move very quickly onto Item 11. We have six minutes left. I will hand it over straight to John and Berry to explain to us what this agenda item is about.

And then as usual I'm afraid we will not get to Item 12, which is an item that we've just been carrying over meeting after meeting after meeting ever since Prague, which I will not put on the agenda again but suggest that we make this one of our lead-in topics at our unofficial discussion session on the Saturday morning in Toronto.

((Crosstalk))

Stéphane van Gelder: So, John, Berry, over to you.

John Berard: Thank you, Stéphane. I think we can be quick without being reckless. As you know one of the key elements of the Affirmation of Commitments was that a year after the first new gTLDs were in the root that there would be a review of their effect on measures of competition, consumer trust and consumer choice.

Naturally those concepts were not defined and so in Cartagena the Board asked for advice input from GNSO and others with regard to defining those measures and establishing a set of metrics by which we

could know if we had done well or done poorly or somewhere in between.

The work of the group has been, to my eye and ear, extraordinary. Great credit should go to Jonathan - fellow councilor Jonathan Robinson. Steve DelBianco, the VP of Policy Administration for the BC and Berry, who showed extraordinary patience of the sort that I thought was only seen in the lives of saints.

And the result of that work has been vetted by public comments; those comments have been reviewed. The final report has been forwarded to you. I encourage you are reading of it. We need not get into the detail of it today. But I did just now send a motion that I would hope we would be able to get on perhaps even a consent agenda for Toronto so as to allow this advice and letter to be forwarded to the Board in response to its request.

Berry, you want to add anything? Jonathan?

Berry Cobb: Thank you, John. Yes, this is Berry. There's also some supplement material that was provided to the Council from the advice letter. And basically it's a two-page supplementary document. The first page is just kind of a possible next step that the Council may want to consider when deliberating on this topic.

And then the second page is a high-level timeline that if the advice were adopted by the ICANN Board as to what the implementation of the consumer metrics platform may look like.

I won't go through the details of the overall timeline. But the key takeaway here is around Row 5, bulleted Numbers 4 and 5, which basically talk about the formation of the future review team, finalizing any metric requirements, giving time - or allowing time for ICANN to implement some of those before the review team can conduct its review.

If you do have any questions about the possible timeline please feel free to contact me and I can explain. Thank you.

Stéphane van Gelder: John, Berry, thanks very much for being so brief and keeping us on time. And, John, your motion is - suggestion is noted. If it is a motion we won't be putting it on the consent agenda but I will prepare an agenda item for the Toronto agenda so that we can look at this in Toronto. So thank you for this work.

Thanks to you all for your participation in today's meeting. We've managed to keep on time so thanks to you all for that. We'll speak and see each other again in Toronto now. We won't be having another teleconference before that so as this is my last it's been my pleasure to work with you guys and do these teleconferences with you for the last two years.

And I look forward to seeing you all in Toronto. Safe travels to everyone. And in the meantime please make sure that we all work on the items that we have in front of us on the list. Thank you very much.

Yoav Keren: Thanks, Stéphane. Bye-bye.

Man: Thanks, Stéphane. Bye-bye, all.

Glen de Saint Géry: Thanks, Stéphane.

((Crosstalk))

Man: Thanks everyone.

Coordinator: Thank you for participating in today's conference. You may now disconnect at this time. Have a wonderful day.

END