

**Standing Committee on GNSO Improvements Implementation (SCI)
TRANSCRIPTION
Tuesday 10 September 2013 at 19:00 UTC**

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on page: <http://gns0.icann.org/calendar/#sep>

Attendees:

Ronald Andruff – Commercial and Business Users Constituency – Primary – Chair
Angie Graves - Commercial and Business Users Constituency – Alternate
Mikey O'Connor – ISPCP – Alternate
Anne Aikman-Scalese – IPC Primary
Ken Bour – guest speaker
Jennifer Wolfe – NCA primary
Amr Elsadr – NCUC Alternate
James Bladel – Registrar Stakeholder Group – Primary
Ray Fassett – Registry Stakeholder Group - Primary
Jennifer Standiford - – Registrar Stakeholder Group – Alternate
Ken Bour – Guest
Greg Shatan – IPC -

Apologies:

Nuno Garcia – NCUC – Alternate
Avri Doria – Non Commercial SG – Primary – Vice-Chair

ICANN Staff:

Marika Konings
Julie Hedlund
Mary Wong
Nathalie Peregrine

Coordinator: ...to remind all participants this conference is being recorded. If you have any objections you may disconnect at this time. And you may begin.

Nathalie Peregrine: Thank you ever so much, (Kelly). Good morning, good afternoon, good evening everybody. This is the SCI call on the 10th of September, 2013.

On the call today we have Mikey O'Connor, Angie Graves, Jennifer Wolfe, James Bladel, Wolf Knoblen, Amr Elsadr, Greg Shatan, Anne Aikman-Scalese, (unintelligible). We have apologies from Avri Doria and Nuno Garcia. From staff we have Julie Hedlund, Marika Konings, Mary Wong and myself, Nathalie Peregrine.

I'd like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you.

Julie Hedlund: Thank you very much, Nathalie. This is Julie Hedlund. And I have sent a message to Ron so - Andruff - and I hope that he will be able to join. And I see that Angie notes that she is Ron's alternate and - Angie Graves - in the Chat room said she would be willing to run the meeting if need be.

I'm wondering if anyone has an objection to that? I'll note too that Wolf-Ulrich Knoblen is our liaison to the Council. I don't know if he might be willing to step in. But in the view of everyone's time here we just want to try to make sure that we're keeping things moving.

Ron Andruff: Apologies. Ron Andruff checking in.

Julie Hedlund: Oh. Just in the nick of time, Ron.

Ron Andruff: Well, I beg your pardon...

((Crosstalk))

Julie Hedlund: ...I will turn things over to you.

Ron Andruff: I had a tremendous difficulty getting online tonight, I apologize. I'm not in my usual place. I trust that we've gone through the roll call already?

Julie Hedlund: Yes. This is Julie Hedlund. And indeed we have gone through the roll call. And so now we are at Point 2 on the agenda which is statements of interest.

Ron Andruff: Very good. So then let's - are there any changes to our SOIs since we've last spoken in the last month please? Anybody who has any change should advise.

Anne Aikman-Scalese: I'm sorry, could you say that again, Ron?

Ron Andruff: I'm sorry, Anne. Good morning, good afternoon. I asked if there were any changes to anyone's statements of interest since we've last met.

Anne Aikman-Scalese: Ron, I don't know. It's Anne. There's no change there but I don't know when you wanted me to bring up that Greg is appointed alternate for IPC? I believe Greg has a statement of interest on file.

Ron Andruff: Very good. No, that's very helpful. In fact there are - unfortunately I didn't catch the roll call but there are a few new members who have joined the BC - or I'm sorry, the SCI, of late. And so if you would just perhaps all share your names and affiliations for those who have joined within the last couple of months that would be very helpful.

I don't, unfortunately, have the access to the Adobe room. I'm working on getting on that. So if there's anyone raising their hand perhaps Julie could help me?

Greg Shatan: Hi, this is Greg Shatan. I have my hand raised so I figure I'll speak up.

Ron Andruff: Thank you, Greg.

Greg Shatan: This is Greg Shatan. I'm newly joined the SCI as the alternate from the IPC. I am an IP attorney based in New York and also serving on a couple of working groups and looking forward to working with everyone on the SCI. Thank you.

Ron Andruff: Welcome. Welcome.

Anne Aikman-Scalese: Greg, I'll just interject here, Ron. It's Anne Aikman-Scalese, primary for the IPC. Greg, can you just clarify I think you have an SOI on file in relation to your work on Policy and Implementation Working Group, is that correct - and many others, ROC - do you have SOI...

Greg Shatan: Yes, I have an SOI on file and I actually updated it just a few weeks ago and even managed to get my picture in there.

((Crosstalk))

Anne Aikman-Scalese: Fantastic. Okay, thank you.

Ron Andruff: Very good. Thank you, Anne. And thank you, Greg. Welcome.

Greg Shatan: Thank you.

Ron Andruff: I see Amr has raised his hand. Amr, please.

Amr Elsadr: Yeah, hi. I actually don't recall if I introduced myself when I joined. I joined as the alternate representative for the NCUC when Mary was the primary representative.

We haven't exactly worked out who the primary and the secondary are just yet following Mary's new position on staff. But I probably will be serving as primary representative for NCUC with Nuno Garcia who is unable to join the call today as the alternate representative.

My SOI is posted online. I am, by education, I'm a medical doctor actually from Egypt. I'm currently living in Norway where I'm doing a masters in telemedicine and e-health which is the profession I've actually been working for the past eight years.

And one of the recent amendments I made to my SOI is that I am doing research on how the DNS policymaking at ICANN might or might not influence the future of telemedicine and e-health. I don't know if any of this is pertinent or interesting to anyone but just thought I'd mention it. Thanks.

Ron Andruff: Thank you very much, Amr. Pertinent and, welcome. It's always good to know a little bit more background amongst the various members. And I assume that while we didn't have a meeting - a physical face to face meeting in Durban because of all of the other activities, we may well do so in Buenos Aires to give everyone a chance to meet face to face again because it was a - we had one meeting - if I'm not mistaken it was Beijing where we all were face to face most recently and I think it's a helpful thing.

But anyway welcome and nice to see you and Greg having joined. Greg, I see your hand is still up, I don't know if you want to add something or. Greg may be on mute. In any case I wanted just to say thank you to both of you for joining our team and for participating.

The SCI is a body that spends a lot of time working on trying to knock the - as I like to say - the rough edges off of the various implementation issues to see if we can streamline the activities a little bit of the GNSO Council and other working groups. So we are now meeting once a month and look forward to your contribution.

So we'll move on then now to approval of the agenda. If anyone has any thoughts they would like to bring to the agenda? Otherwise we will mark it as approved.

Hearing none let's move on to Agenda Item Number 4 and that is the resubmitting of a motion. This is the document that Julie has up in front of us now. And she sent around a reminder a couple of days ago to all of the members of the committee to please have a look one more time at these three high level criteria.

My understanding is the IPC has approved the passage of this from the point of view that Criteria 1 and 2 are acceptable and then thereafter Criteria 3 was not.

From the BC's point of view we are good to go with all three. And I think there was one other constituency that was questioning Item Number 3 as well. So I wonder if I might look to you and just to get some background as to what was the issues that you were seeing at the IPC level with regard to Number 3 and that caused some consternation?

Anne Aikman-Scalese: Yes, thank you, Ron. This is Anne with IPC. First of all I probably need to ask for a clarification in terms of which is the other constituency that had indicated it had an issue with this because I was asked that question during our IPC call.

And I had not understood that there is another constituency that had an issue with it. So could I get an answer to that question from that constituency? And then I'd be happy to talk about the IPC discussion on this point.

Ron Andruff: I'm at a loss myself, Anne. And I'm not sure if we have all of the constituencies on the call right now. I see that Ray Fassett has weighed in so he's here for the Registries. Mikey O'Connor's on the call as well. Registrars seems to be missing. But perhaps Julie or Marika might have any information on that?

Julie Hedlund: This is Julie Hedlund. I'll have to pull up the list and check the members against the list. But Mikey has pointed out helpfully in the Chat that James Bladel is a Registrar.

Ron Andruff: Oh, thank you. Thank you very much. Of course I missed James. Well if there's no other people speaking up against Number 3 then I'll look back to you, Anne, as...

Anne Aikman-Scalese: Okay.

Ron Andruff: ...somebody else might come forward.

Anne Aikman-Scalese: Right. Thank you very much, Ron. It's Anne again with IPC. I think as I previously explained the IPC had a meeting in Beijing where this specific provision and suggestion was discussed. And at that time there was quite a bit of opposition to this Condition Number 3.

We have continued to discuss it. And I guess, you know, from - in terms of the rationale I think the point is that this Condition Number 3 could potentially result in a motion not ever coming to be debated in the GNSO depending upon where the parties on either side of the house stand, you know, substantively with respect to how they voted the first time the motion came up.

And so there's, you know, the issue being, you know, we already have these two conditions as to the, you know, why a motion - an identical motion might be justified to be resubmitted.

However, in the interest, I guess, of compromise, you know, I would note that I did get some movement from IPC on this issue this morning through the suggestion that we could agree that if it's the third time that an identical motion has been introduced in GNSO that it would be reasonable to request that there be a second from each house.

And I also think that would potentially take care of some of the problems that Marika has raised in connection with, you know, procedural issues that arise on PDPs and other things.

Marika raised several questions about how this particular provision might affect other motions - when a motion that's identical really needs to come again before the GNSO and everybody acknowledges that which I think are some provisions that she found in the rules and in the PDP itself.

So the movement that we have from IPC on this point - and I can even perhaps ask Greg Shatan to chime in on this - is that there is agreement that if it's the third time that an identical motion is introduced that they would agree to each house having to second that motion.

Ron Andruff: Well I'm a little bit - I'm a little bit confused insomuch as I always understood that this resubmission of a motion was only going to happen one time after it had been submitted because I think in the - in the long history of this discussion we all more or less felt that, you know, back in the early days of the discussion, let me put it that way, it was should we allow a resubmission or not and under what conditions should we allow that resubmission?

Because if there was some error or there was some confusion or some element the question was should we give that to the chair to make the determination or should we have some kind of a rule that would watch over this issue? It has never happened before until it came up in the history of ICANN so in the last, you know, 11, 12 years it had only happened one time.

So the question then was should we allow this to - this motion to be returned or not? And I think we got to the position, yes, maybe we should but under very tight constraints. And so that's just a little bit of history for those who have joined more recently.

Jim, I see your hand is up. Please, go ahead.

Anne Aikman-Scalese: Actually, Ron, I'm sorry, but if I may respond to that before...

Ron Andruff: Sure, Anne.

Anne Aikman-Scalese: ...I thought your comment was directed at IPC's position. And I'm -
I'll try not to take up too much time before Jim gets to comment. But there's
actually nothing in the rules of the Council that prohibits an identical motion
from being introduced again.

So when you phrase the history of it as though, you know, that this would not
normally be permitted but maybe under certain circumstances we should
allow it I don't think that's quite an accurate characterization. You know, in the
normal Robert's Rules or whatever, you know, there are other potential
conditions that might apply.

But certainly there are no rules in the GNSO Council's Operating Procedures
that would prevent an identical motion from being reintroduced and what
we're doing here in fact is creating rules that do create barriers to the
introduction of an identical motion. Sorry. Thank you.

Ron Andruff: No, that's fine, Anne. Thank you for that clarification. No, I'm not suggesting
that there was an issue that you've described rather than say it again; you've
done a very good job of clarifying it. The point I was trying to draw out is that
it hadn't ever happened before in the history of ICANN until this one time and
therefore the question was should we be addressing it or not? And that kind
of is what brought us to where we are today.

Jim - James Bladel, please.

James Bladel: Hi. Thanks, Ron. James speaking for the transcript. And forgive me, first of all
because I did miss the previous meeting so I'm now going back to pre-

Durban with my understanding of this issue so I'm probably going to stumble over it a little bit.

But I do recall some other - we want to call, you know, barriers or sanity checks on the reintroducing of a motion that had been raised and discussed. And I was just curious, I don't see them on this particular document or (unintelligible) I'm wondering if they were just abandoned at some point along the road and I missed that.

But one was relative to the putting some sort of finite limits on the frequency or total number of instances where a motion could be reintroduced. So, for example, that it couldn't be reintroduced more than - and I'm just throwing some things out here - three times a year or within the 12 calendar months or something like that.

Could somebody help me? I'm not sure where those went or have we abandoned those in favor of these tests here that are on this draft? Thank you.

Ron Andruff: In fact, James - in fact, James, that's more or less what I was saying that we had got to the point where we felt that it was important that there wouldn't be multiple times we would be reintroducing these motions.

But I see Marika has her hand up so please, Marika.

Marika Konings: Yeah, this is Marika. I just would like us to maybe take a little bit step back and think again where this request from the Council actually came from because that related to a specific instance where a motion was voted upon and immediately after the vote one of the Council members realized that they should have voted a different way or wanted to have voted a different way so they wanted to reintroduce the motion.

And the question at that point was how quickly can that be done or are there any restrictions? So I think that was really the scenario that the Council had in mind when they came up with this question. Because I just want to caution you to over-think this because as one of the points I raised as well and some of the questions I raised at an earlier stage is that we're now talking about introducing an identical motion.

This doesn't talk, for example, about, you know, if I want to put a motion on the table, you know, five times in a row, you know, I can change the heading; I add a whereas clause. It's no longer the identical motion.

So I think we should be careful, as well, in trying to, you know, craft here the perfect motion that would, you know, avoid any kind of reintroductions or set timelines because if people want to introduce a motion there are ways because you just, you know, draft it in a different way or rephrase certain things.

So I think we need to take into account what the actual - or the initial scenario that triggered this question and think of is there, indeed, a need or a provision that could be drafted to, at least, you know, accommodate those kind of instances. For example, you know, how quickly can something be reintroduced? Or, indeed, is it possible during a meeting, you know, for someone to change their mind and reintroduce the same motion for a vote?

I think thinking about those kind of things, you know, may help you come to a provision that will work for those kind of scenarios. But I think it won't be possible to have a kind of catch-all provision addressing any kind of scenario because we're looking in - at a situation that basically any Council member is allowed to put on the table a motion and if it's seconded it will need to be considered.

So I think - so I just wanted to share that with and hopefully that will help focus your discussion a bit further.

Ron Andruff: Thank you, Marika. And I think that's really where the - that third level criteria kind of showed up where people said that, okay, let's make sure that everyone's in agreement that a motion can be reintroduced and therefore you'd need two seconders or seconders from each house. I think that's kind of where that logic came from.

Anne, please go ahead.

Anne Aikman-Scalese: Yes, thank you, Ron. It's Anne with IPC for the recording. Just a clarification - and this is obviously a topic which is near and dear to the IPC's heart, if you will.

There was not, in fact, a change of mind with respect to the IPC councilmember who was voting. I think that's a little bit unclear with respect especially to those who are new to this group.

The impetus for this work that's being done by the SCI is because an IPC councilor believed that he had a conflict of interest and had to abstain from a vote and then during the same meeting learned, whether it's from staff or otherwise I'm not sure, learned that in fact he did not have a conflict that was in the nature of a conflict that would prevent him from voting.

And therefore the motion was - the same motion was reintroduced and at that point the IPC councilor was able to vote. He did not change his mind regarding his vote.

The second thing I wanted to say is that I actually really hope that we are not creating a rule that is very, very easy to circumvent, as Marika was describing. In other words, I don't think a mere change in the heading of a motion or the change of a word here and there would actually take that motion outside of the language that we've proposed.

I think that when we're talking about the same motion it, you know, there is a certain degree of ethical responsibility to evaluate whether it's the same motion or not versus, you know, this only applies if the motion is identical. I just don't think that would be, you know, an efficient operating mechanism for GNSO Council to make a rule that only applies to the identical words with the identical headings so.

Ron Andruff: Thanks, Anne. And so it brings us to the point where the question is do we actually want to try to address this or do we want to turn this back to the chair's discretion?

Because if we're going to address it based upon what you just said - and I'm inclined to agree with it - is that we would have to put some language in here saying that the motion substantially is the same motion as opposed - while it may not have the same heading or may have some different language but in its meaning and its intent is the same motion.

And I think that's when we're going to find ourselves in a real tricky situation trying to write specific language. Mikey, please go ahead.

Mikey O'Connor: Thanks, Ron. It's Mikey.

((Crosstalk))

Mikey O'Connor: Just a couple of things. I went back a little way in the email and there was, once upon a time, a fourth bullet that I stuffed into the Chat and it's mostly aimed at James. And, you know, that's all I could find.

But I kind of want to step back from the state of play and go back to Anne's sort of opening argument that - and sort of join the parade in the spirit of compromise approach that Anne is describing.

It seems to me that it sounds like we have the opportunity maybe to move towards language that would work for everybody in the new version that Anne proposed. And I'd hate to lose that part of the thread in some of this sort of recounting or the bidding that we sort of gotten a little bit off of that.

But I kind of like where things were going when Anne described the IPC's proposal to maybe put a trigger in this and would like - before we just dump it to chair's discretion I'm quite reluctant to do that - just sort of get back to that one. Thanks.

Ron Andruff: Thanks, Mikey. Well I think that you've kind of hit the nail on the head. The question is do we, as a committee, feel that this could go out for three resubmissions. And if we did then - and the IPC were happy with this third - the third high level criteria - then I think we might have solved this problem.

But I do think that there would have to be some language in there that speaks to the issue of changing a header or changing a few words here or there to say it's not the same motion. Any thoughts on that?

James, please go ahead.

James Bladel: Hi. James speaking for the transcript. And I guess going back to Anne's comments I tend to agree that we should not be crafting something that is so easily circumvented.

However, I think trying to build that protection into the language here starts to look very much like a fuzzy logic problem in that we have to determine how much of a change represents a substantive change or a material change to the motion sufficiently enough to call it a new motion versus a resubmission of an old motion.

You know, and until the - unless and until the Council ever gets to a position where they have docket numbers or something like that I guess we're just

kind of stuck with, you know, discretion of the chair, discretion of the Council, discretion of the, you know, the original submitter or something along those lines.

But I think we're going to have to have a human test in here at some point because building it into the language I think will get very cumbersome very quickly. Thank you.

Ron Andruff: All right so I'm going to take Anne and Mikey and then I'm going to close out this session and we'll move on to the next one so please go ahead, Anne.

Anne Aikman-Scalese: Yes thank you, Ron. It's Anne with IPC. I think to address that point we might add something as simple as one sentence which states that a motion which contains a material change is not the same motion. In other words, I liked the fact that James said if there's no material change it's the same motion.

And that, in fact, might be a matter of discretion of the chair because I think, you know, material change is a term that has meaning and that you could give, you know, some discretion to the chair on that issue.

Ron Andruff: Yeah. I think that makes some sense. Mikey, you had a checkmark and I - would you like to also speak?

Mikey O'Connor: Yeah, mostly just to say the exact same thing that I think that's right. I was - I want to back off the statement I made a minute ago where I'm not keen on chair's discretion. I'm actually quite keen on Council's discretion. I thought we were talking about your chair discretion on this issue and I wasn't tracking...

Ron Andruff: Oh no, no, okay. All right, all right, thank you. I see Mary's added a note here in the Chat. "The original problem that created this issue was how to prevent any person/group from resubmitting an identical motion in order to change

the outcome of the previous vote." That may be narrower than what the discussion is going on right now.

Amr, I'm going to give you the floor in a moment. And I think what I'd like to do is - with this one - there's been some fresh ideas brought forward and I think it's more - there's more to discuss. And I'd like to see if we can pick this up on the list between now and our next call and see if we can get some language. I'm going to reach out to Anne to see if she might submit something for us and move in that direction. But, Amr, please go ahead.

Amr Elsadr: Thanks, Ron. This is Amr. For me the third item of the criteria sort of lends support to the first one because when you say that there is a reason to justify a resubmission of a motion my question would be is this reason good enough? And if I need an answer to this question that's where the third item would come in which is requiring a...

Anne Aikman-Scalese: Oops, we lost him.

Ron Andruff: I was wondering if I lost Amr or if Amr lost me. Yeah, he's typed he got disconnected. All right, so, folks, in the - as this has been a very helpful conversation. Let's proceed if we can along the lines I suggested.

And if Anne could bring something to the list and if we can all just focus on that a little bit and see if we can narrow this down a little bit over the next few weeks and see if we get a little sharper focus. I'm glad that we've had this conversation because, indeed, as we look at these things longer we start to see other opportunities or possibilities so good.

Moving on then to Agenda Item Number 5 is the SCI charter revision. And Julie has just graciously put our - the letter that I received from Jonathan on the screen. And in many ways it's come out as I think many of us expected to see. The charter activity should be modified to confirm that we are a standing committee.

This was a discussion, for those who are new to the call, amongst the members - when we have a new member join - and the question was asked, looking at the charter is this a - should we be sunsetting this body or should we be keeping it?

So it gave rise to bringing it to the Council's attention and the Council has deemed this as important to continue. So that was one very important part of our charter revision that's been done.

The second part was to undertake the changes. And the Council now has given that back to us, in fact, to do so. And I think that's also very positive - a positive step forward and we're very clear with our chartering organization that they'd like us to continue and they'd like us to do the charter revision.

And then finally the question about modifying the decision on the methodology, full consensus or consensus is something that's still in their court. But I do understand, having read the transcripts, and reviewed the Chat that it's something that they - the Council views as being very important to get done so they seem to have given this a high priority which I think that's very good for all of us.

So having just kind of given a little bit of background as to what the response was from the Chair of the GNSO Council I open the floor and I turn to Mikey.

Mikey O'Connor: Thanks, Ron. This is Mikey. I listened to the transcript of the call as well and just had a question for the group. I'm sort of sorry that Avri's not on the call. But in listening to the transcript it sounded as though even if we didn't come - let's presume for a minute that we go away from full consensus towards the normal PDP rule definition of consensus, which is, you know, one or two outliers but most everybody agrees.

It seemed to me that in either case the report could get submitted to the Council and thus suddenly didn't seem like it mattered to me whether it was full consensus or not. You know, because the report would get forwarded in any event where we're only an advisory group, we're not making policy so I suddenly was wondering why we care and just wanted a little reaction from others on this as to whether this even matters. Thanks.

Ron Andruff: Thanks, Mikey. I'll turn to Amr and then Wolf-Ulrich. Amr.

Amr Elsadr: Hi, this is Amr. Sorry I dropped off the call in the previous conversation. I think Mikey makes a good point actually because if the SCI does forward the recommendation to Council, Council is going to vote on it anyway.

But, you know, I just wanted to add that during the Council meeting there was another suggestion put forward which was if the SCI continued to work on a full consensus basis in its decision making discussions where there was deadlock and where there wasn't full consensus could still be relayed to Council in reports.

And I just thought that this was something worth mentioning right now and considering. And I understand now that Council has taken upon itself to make the decision on this. And I'm guessing that we have very little to say on the matter anymore. But I think it wouldn't be a bad idea if we at least provided some sort of recommendation on where we stand on that.

And I would hope that we could reach full consensus now on what we think is the right thing for the SCI - the right way for SCI to proceed with its decision making. Thanks.

Ron Andruff: Thanks, Amr. Just to respond quickly to your comment. What - and I agree also with what Mikey said, you know, the question is does it really matter? That was the problem that we were wrestling with and now the Council has

come back to us and has given some kind of direction or they've given us a sense of which direction they're going to be going in terms of this discussion.

And that, in fact, we could submit back to them information that says we weren't able to reach consensus. That was something that we never had before. And so that's what's new out of this is that we actually have a sense that from Council's point of view even if we don't reach consensus on a certain matter that we can send that back to them.

The question then comes to the SCI members of the committee at which point can we then move this towards Council where some may choose to want to continue to debate, others may choose that they don't want to debate it further. So that's one of the elements that certainly need to be discussed.

I see Wolf-Ulrich's hand and I see Marika's hand and then I'll come to you, Anne. Wolf.

Wolf-Ulrich Knoben: Yeah, thanks Ron. Wolf-Ulrich speaking. Well, almost nothing to add what was said here by Amr and also outlined in the Chat from Julie. So it, you know, we exchange views on Council about this - the full consensus or whatever consensus decision taking. And there was a - let me say, a similar picture on that discussion as we have here on the SCI. So there was (unintelligible) that.

And then because of - there was a feeling that this issue is not - should be discussed in more diligence rather than just to decide there are some (unintelligible) and some requirements and to decide right now the Council meeting about that.

But there was also the opinion raised, well, we should discuss it in - more diligently. And that was taken then after the discussion, well, to continue this discussion and to find out, well, really a balance between the arguments and to find out the way for the future.

And then after that is - I saw on the list also explained by Avri and I think also Joy with regard to a certain potential deadlock situation that in this case reports could be also delivered with - together with the different opinions in case we can't reach full consensus on that.

But anyway the discussion should be continued and it's planned, well, to continue the discussion on the Council level as well. If we have, from the SCI, additional arguments how to step forward then we should collect that and also submit it to the Council. Thanks.

Ron Andruff: Thank you, Wolf-Ulrich. Marika.

Marika Konings: Yeah, this is Marika. Just to maybe add a little bit from my perspective to the conversation on the question like, you know, does this matter if we can send a report in any case to the Council even outlining if we have deadlock. I think the key question is basically what is defined as deadlock?

I think currently we're in a situation where anything but full consensus is considered deadlock. And I think the question that the Council will need to answer is is that indeed the correct approach or should, you know, maybe the one lower level of consensus be considered as a response as well and anything below consensus is considered a deadlock or, you know, that may be reported on but not likely that the Council will take a decision on it.

Because I think you do need to take into account as well that the Council will be looking for, you know, in any group they charter if they get back recommendations that they can act on. And of course if they get positions back that are, you know, divergent or, you know, strong support but significant opposition it is very difficult for them to act because it doesn't really represent, you know, consensus within the group.

And, you know, there's no real mechanism how to do that apart from just, you know, putting forward a motion and seeing where the vote goes. But of course ideally they would like to have recommendations that have, you know, the full support or consensus support or whatever level it would be so that it makes it easier for them as well to act as it would reflect as well of course the Council the makeup of the SCI.

So I think the key question will resolve a little bit around that question like what is considered deadlock? Is that anything below full consensus or anything below consensus? And I think, you know, there are various opinions on that. But I think there's a good discussion going on at the Council level so hopefully they'll come up with a solution that will satisfy everyone involved.

Ron Andruff: Thank you, Marika. Anne, please go ahead.

Anne Aikman-Scalese: Thank you, Ron. This is Anne with IPC. One comment is a procedural comment that in reading the letter from Jonathan, which comes from the Council, in Item Number 3 Jonathan states that the SCI should not propose to modify the decision making methodology away from full consensus as the GNSO Council will consider this particular issue further.

As I think most people on the line know I, at one point, had said, well, shouldn't we volunteer to Council to give our views on this and give the pros and cons in this? And then I think that, Ron, that when you did write to Council you gave a very brief summary of that.

But procedurally I read this direction from Council as stating we don't require you, SCI, to do any further work on this point right now. And we expect you to proceed right now based on full consensus.

Now, secondly, and perhaps more substantively, I'm not sure we actually have the issue of deadlock before us. The question whether a report could be submitted to GNSO Council once we reach a deadlock is maybe an issue

that just simply isn't ripe right now. I would appreciate other people's point of view on that. But I don't think we have that issue.

And I wonder if we should be delving into speculation with respect to that issue if we don't actually have it because the group is pretty good at striving for consensus.

Ron Andruff: Thank you, Anne.

Anne Aikman-Scalese: Thank you.

Ron Andruff: Mikey, please go ahead.

Wolf-Ulrich Knoben: Mikey, it's Wolf-Ulrich speaking so Mikey let me pass, you know, thank you, Mikey. Just to answer Anne's question with regard to Number 3 in the letter of Jonathan. And all this is (unintelligible) understanding so with regards to the not to propose to modify the decision making methodology.

It's a timing problem. So it was suggested not to propose that at the time being before the discussion has been taken place diligently. So that means the Council was of the opinion the SCI, you know, at the time being has a basis for working full stop. So that means with the existing methodology of finding - of making decisions.

So there is not a real, let me say, pressure, time pressure to quickly decide upon whether to go this way or that way. So that was the meaning of number - of Point Number 3. But anyway the discussion should continue. Thanks.

Ron Andruff: Thank you, Wolf. Mikey.

Mikey O'Connor: Thanks, Ron. This is Mikey. I wanted to amplify another piece of what Anne said and that is that I think that in a way this consensus versus full consensus is actually - has a lot to do with the dynamics of the group and by having it full

consensus it puts a little bit more pressure on us as a group to actually resolve some of the puzzlers that we sometimes get presented.

And I refer back earlier in this call where, you know, we were pretty close to full consensus on that third bullet in the resubmission of a motion thing. But the IPC couldn't go along with that and so they went back to work, I'm sure at Anne's request, to really explore their reasoning and come up with a constructive proposal that could be brought back here that moved this conversation forward.

Had we not been working under full consensus I'm not sure that the pressure would have been there on either side and there wouldn't be the pressure for us to wait and there wouldn't be the pressure on Anne to go back to her constituency to try and figure out a way through it. And so I think there's a lot of value in full consensus in this.

And so I mostly just wanted to weigh in that in a way this is an unusual group and that full consensus is perhaps important for this. And what surprised me was when the Council said, well even if they don't get to full consensus they can go ahead and submit a report because that, to me, in a way, defeats the whole purpose of the full consensus framework.

So I'm not sure where I stand on all that except to say that the Council needs to be paying particular attention to the subtleties of this particular group and the impact of full consensus on it. Thanks.

Ron Andruff: Thanks, Mikey. I would just add that, you know, for my part speaking now as a BC representative, not the chair, I viewed the idea of going to full consensus from some full consensus to consensus, also referred to as rough consensus where the majority of the group agrees but there may be one or two that are (defenses) as a positive thing insomuch as you would be able to enter into the record if you're one of the (defenses) a very clear statement as to why you felt - or your constituency felt this way.

And that would be a value to the Council insomuch as they would be able to see what the general majority were feeling but they could also see very clearly documented what were the other points of view to help inform their debate and discussion.

So I was standing on the other side of that discussion. At the end of the day knowing, as you just said, Mikey, we can submit it one way or the other it does change that whole dynamic of this discussion.

So I'm going to close this one out for now. I see Amr has made a couple of comments in the Chat that I would just bring to the record about the fact that the Council will in fact be making the decision on this ultimately but we all have councilors from our various constituencies that are participating there so we should be working with our councilors and within our own constituencies to kind of help inform that discussion as well.

So with that I will move on and just - we'll continue this dialogue online and at our next call. But I think it's important we move on now to Number 6 and that is the working group self assessment.

We don't need a lot of time on this. If I'm not mistaken, Mikey, and you can correct me, the - by way of background we have, through the good offices of Kan Bour, developed a very nice working group self assessment document.

And we got to the point now where we wanted to test that document so we were suggesting that we might send it to one of the current working groups. And Mikey's was one of them that we had suggested. And then I understand his co-chair, Avri, also agrees with that. But I'm not sure where that stands from a final position, Mikey, so perhaps you could advise the committee.

Mikey O'Connor: Thanks, Ron, it's Mikey. Where we stand at the moment is that I sent the invitation out basically just forwarded that note that you crafted for me or Ken

did. And I can't - I can't tell you anything about how many responses there were because I don't see those. I know one because I put one in.

But it was sent a while ago. And if Ken is on the call - yeah, he's on the call...

((Crosstalk))

Mikey O'Connor: Actually Ken's in a better spot than me. Ken, how we doing?

Ken Bour: I was just - this is a big - I had asked you to please copy me on that so that I could go in to the question pro and set it up with a start and an end date and I don't have the dates. I didn't do any of that.

Mikey O'Connor: I'm sorry. I screwed it up again. Well I sent a note to them a while back. I throw myself at your mercy on not copying you. I'm really sorry, Ken. By doing that - did I hose up the thing because I'd cheerfully send another note to the gang and say, well Mikey in his usual way screwed it up again. Please resend them. Although the thing took mine.

Ken Bour: Let me see. I didn't even check it because I thought the whole thing had been just - was sort of on the back burner and so I never even...

Mikey O'Connor: No, no...

Ken Bour: ...looked to see where we were. I'm clicking in here now to see if I can see anything.

Mikey O'Connor: Amr says in the Chat that he put one in so at least there's two in there.

Ken Bour: Yes, I wanted to retitle it - I wanted to retitle it as thick - well I guess it does say Thick Whois, let's see...

Mikey O'Connor: Yeah.

((Crosstalk))

Mikey O'Connor: That's fine. It was so smooth I just figured it was totally...

((Crosstalk))

Ken Bour: It says five surveys completed.

Mikey O'Connor: Five? Oh that's not bad. We have about - we probably have 10 hard core on that. But I could bug them again. Does it - if you touch it does it screw those up or can - like a Doodle poll where it breaks...

((Crosstalk))

Ken Bour: I see - it looks like there were 11 views, 7 were started, 5 completed. And, you know, there's yours, there's Avri, Michael Shohat, Susan Prosser and Amr Elsadr.

Mikey O'Connor: Yeah.

Ken Bour: Those names all correct?

Mikey O'Connor: Yeah.

Ken Bour: Well, you know what, it would - here's what I might suggest. Okay, I don't - no harm done. Did you give them...

((Crosstalk))

Ken Bour: Did you give them a deadline, Mikey?

Mikey O'Connor: No, heck no. I basically was in the middle of a frenzy and so I looked at all the words in sort of that 90,000 foot executorial view and said, gee, these words look good and just sent it. So if there was no...

Ken Bour: Okay.

Mikey O'Connor: ...deadline then - and I'm sure there wasn't then I didn't set one. So why don't I take an action to send another note that says great job all you folks who did it. Why don't we give it another week. If you feel so inclined please do fill one out...

Ken Bour: Yeah, here's the link and if you need any tech support...

((Crosstalk))

Ken Bour: ...I'm happy to put you - put my email account in there if you like. I'm happy to answer any questions anybody might have. What kind of a response rate does the committee wish to see? How many did you say the population was, Mikey, in rough numbers?

Mikey O'Connor: Oh, Amr, help me out. I'd say that, you know, on any given call there's never more than 10 and, you know, the core of that group now is 10-15 folks so if we've got five we've probably got about 1/3 of the core group. So I'll bug them again. I mean, we've got a bunch of folks who, like Don Blumenthal and Tim Ruiz and stuff like that who aren't on that list who are definitely in the core. Alan Greenberg hasn't filled one out so I can bug them again.

Ron Andruff: Yeah and this is Ron. This is Ron speaking. Ken, in response to, you know, how many, I would think that if Mikey says they've got a core group of 10-15 and we were to get somewhere around 2/3 of that or so that would be, from my view, significant. But the key here is to see how they're responding and if in fact they're able to go through this thing about too many issues.

So if Mikey is prepared to recirculate that in the interest of time I'll let the two of you sort of that out offline in terms of, you know, what you need in terms of email addresses or other elements. And I'm really happy to hear this news, Mikey, that you had sent that out because I saw that exchange with you and Avri and a few other things but it's been the summer and I kind of got lost myself so thank you for that.

So unless there's any other thoughts with regard to that particular element, the self assessment, I'd like to just take you...

Ken Bour: Oh I'm sorry, Ron I do - may I - I'm sorry, I do, actually. May I just have...

Ron Andruff: Go ahead, Ken.

Ken Bour: This is Ken again. I'm sorry. The whole thrust of this test was not to fill out - not just to fill out the working group assessment on the question pro but to provide the feedback in the working group self assessment wiki page that I set up and there's no comment there yet.

((Crosstalk))

Ken Bour: ...in particular the SCI is interested in learning are the questions intelligible? Are the design formats straightforward? Does the scaling make sense? That's all the kind of stuff we're really looking for here.

Ken Bour: Yeah, yeah.

Mikey O'Connor: Yeah and, you know, Ken, if that wasn't really clear in the draft note I didn't amplify that at all. And so I could add that to the note that I send to the group that says even those of us who've already filled it out we have one more deliverable we need to go and...

((Crosstalk))

Ken Bour: There's a page right in the thick Whois PDP wiki space, it's at the very bottom...

Mikey O'Connor: Yeah.

Ken Bour: ...that can be used for that purpose.

Mikey O'Connor: Yeah, I saw it there and thought, oh, how quaint and had no idea what to do...

((Crosstalk))

Mikey O'Connor: I didn't do anything with it either so I'll add that on.

Ron Andruff: Very good. Thank you, gentlemen. Then, Ken, is there anything else that you'd like to add, Ken?

Ken Bour: No, and I got to hop off on another call.

Ron Andruff: Very good. Thank you very much, Ken, for staying on and for providing us that information. And thank you...

((Crosstalk))

Ron Andruff: ...Mikey and...

Ken Bour: Thank you, guys.

Ron Andruff: ...very good. And so, Mikey, thank you for resubmitting that. I'll leave that with you and Ken to sort. Now moving then quickly to - if everyone could bear with us just a couple of minutes, the new working items for the GNSO Council I wondered if we could just get a briefing on that either from Wolf-Ulrich or from perhaps Marika, whoever would be able to give a - just a quick overview

of what these elements are that we'll be addressing as we move into the work items in the months to come. Who would like to take a shot at that?

Is Wolf-Ulrich still on the call or did we lose him? Wolf?

Wolf-Ulrich Knoblen: I'm sorry.

Ron Andruff: Okay, Wolf, I hear you now. Could you perhaps give us a little background on those?

Wolf-Ulrich Knoblen: Skip to Marika, please.

Ron Andruff: Okay very good. Marika, please, go ahead.

Marika Konings: Yeah, this is Marika. I have to dig into my mind though because I think this was discussed at the wrap up session in Durban. The first issue on voting by email basically relates to the fact that currently there's no provision in the GNSO Operating Procedures which allows the GNSO Council to vote by email or motion.

So basically should there be, in between Council meetings, a need to actually vote on a certain issue a meeting needs to be called, you know, people need to show up or sign proxies or alternates to actually have that vote. So one of the question was should there be an option to allow or consider voting by email?

And, again, I think it's looking at those kind of situations where there is a need to have a vote on a certain issue because of timing issues or priorities to have a vote taking place between scheduled ICANN - or between scheduled GNSO meetings should there be the option to conduct such a vote by email?

The other question is about the possible inclusion of a waiver or exception procedure in the GNSO Operating Procedures? This came up as well in the meeting in Durban whereby it was the question on whether - if a motion is submitted after the deadline but there is no objection to anyone - no objection by anyone to actually consider that motion whether that could go ahead.

Currently there is no explicit waiver in the GNSO Operating Procedures that basically says, you know, if there is no objection from any of the Council members, you know, any of these rules can be waived.

And the question was should that be included to allow for that because at that meeting some groups felt uncomfortable in waiving that rule without that explicit option or provision in the GNSO Operating Procedures to do so. So I think those are the background to those two questions where they came from and what they would like, you know, recommendations on from the SCI.

Ron Andruff: Thank you very much, Marika. I think it would be very helpful to inform the community if we could get a list of how many votes have - are taken over the course of a year and how many in this particular case if there are, you know, these exceptional circumstances where votes are taken and then people need to call in and so forth. If we could get some statistics on that to inform our conversation that would be very helpful.

So that's all I wanted to do with this work item - these two work items. I just wanted to get a sense - give a sense to the committee what we are talking about. And so I expect that Julie will capture that in the draft that we also have, of course, in our record - recorded record of this conversation so that we can go back and look at it. But that's information that would be very helpful to come to the committee as we go forward.

So with that I see Anne has also had to jump off and Jennifer. I would like to thank all of you who stayed on these extra couple of minutes. And, again, my apologies for getting in late today. I just had some trouble getting started here

in Italy with my (unintelligible) but fortunately we've had a fruitful conversation. I thank everyone for taking the time.

And we'll reconvene then on the list working on some of these items particularly the resubmitting of a motion if we can and also on some of the charter discussions. So thank you all very much. If no one has any other business I will close the call. Hearing none, thanks everyone and all the best. Bye for now.

END