

Special GNSO Council AC Chat Transcript 29 February 2016

Marika Konings: (2/29/2016 21:29) Welcome to the Special GNSO Council Session of 29 February 2016

Amr Elsadri: (21:50) Hi all.

James Gannon: (21:54) Morning/Afternoon/Evening All

James Bladel: (21:55) Hi All.

James Bladel: (21:58) Please be sure to mute if possible.

Becky Burr: (21:58) hello all

James Bladel: (21:59) Please mute if not speaking.

volker greimann: (21:59) some echo

Keith Drazek: (21:59) We're getting an echo. Please mute phones and computers.

James Bladel: (21:59) Thanks, Nathalie.

matthew shears: (21:59) evenin'

Carlos Raul: (22:00) 60 minutes or 90 minutes call?

James Gannon: (22:00) 120mins per the invite I got

Carlos Raul: (22:00) ok

Rubens Kuhl - RySG: (22:00) From 120 to 240...

Carlos Raul: (22:00) i will have to become mobiel at the top of the 1st hour

Carlos Raul: (22:00) mobile

James Gannon: (22:00) Altho I cant guarentee I will be awake after the first hour =)

Steve DelBianco [GNSO - CSG]: (22:00) I must drop after 90 minutes, James. Sorry

James Bladel: (22:00) NO worries, Steve.

Donna Austin, RySG: (22:02) I think I might have missed roll call. I'm here and on audio.

Robin Gross: (22:03) Hello all!

Carlos Raul: (22:03) I'm here!

Avri Doria: (22:03) has it started, i hear nothing. do i need to als call in by phone?

Stefania Milan: (22:03) @Glen I am here and on the phone bridge, but seems you guys cannot hear me

James Bladel: (22:03) Avri, we have started.

Nathalie Peregrine: (22:03) @ Avri, there is audio in the AC

Amr Elsadri: (22:04) We couldn't hear you Stef.

James Bladel: (22:04) Please dial in or reconnect if you can't hear.

Amr Elsadri: (22:04) @Avri: Maybe best to dial in?

Rubens Kuhl - RySG: (22:04) Or ask for a dial-out.

Susan Kawaguchi: (22:05) sorry for being late

Nathalie Peregrine: (22:05) Closing and re-opening the AC room with Mozilla Firefox can help with AC room bugs

Philip Corwin: (22:07) Hello all

David Cake: (22:07) Apologies for lateness.

Milton Mueller: (22:08) ;-) Thomas. Great stuff, fun to read

Marika Konings: (22:08) @Thomas - you have scroll control

Milton Mueller: (22:08) I could hardly put it down

Marika Konings: (22:08) but I am happy to release it for everyone to review at their leisure if you prefer

PAUL MCGRADY - IPC: (22:12) Thomas, what is the mechanism for the GNSO to act in such a manner?

James Gannon: (22:13) Paul: Not Thomas but we have designed it primarily to be up to the AC/SO to define its own internal procedures for its participation

Milton Mueller: (22:14) can we get rid of the dial tone?

PAUL MCGRADY - IPC: (22:14) Thanks James, but how does that fit the GNSO Council's narrow policy making remit?

Nathalie Peregrine: (22:14) We are fixing the line drop, hence the beeping, apologies

Nathalie Peregrine: (22:14) *apologies

Steve DelBianco [GNSO - CSG]: (22:14) @Paul -- GNSO is the community participant. Not necessarily GNSO Council, which has a more specific function

Heather Forrest: (22:15) Apologies, all, the drop was me - call just disappeared. I'll re-join asap

PAUL MCGRADY - IPC: (22:15) Thanks Steve. What is the mechanism for GNSO the Community rather than GNSO the Council?

Rubens Kuhl - RySG: (22:15) Paul, could be the SG/Cs ExComs, for instance.

PAUL MCGRADY - IPC: (22:16) @Rubens, not sure. Does the proposal address this?

James Gannon: (22:16) No we leave that to the ACSOs to determine themselves.

Amr Elsadri: (22:16) @Paul: The GNSO already has mechanisms in the guidelines to address issues beyond its narrow policy remit (I'm thinking of the GNSO Input Process). We may need to work on amending the operating procedures for dealing with this mechanism. Just a thought.

James Bladel: (22:16) Paul - I believe we are free to develop our own GNSO process, but generally this would come via motion from Councilors, vote, etc.

Steve DelBianco [GNSO - CSG]: (22:16) Similar to how the GNSO participates in CCWG and reviews. Each constituency / SG can express its preferences. If a decision must come to a vote, Council can be the mechanism to determine GNSO position. Even when it isn't strictly "policy management"

James Gannon: (22:16) As it wasn't in the CCWGs remote or instruct the ACSOs on their internal mechanisms

Rubens Kuhl - RySG: (22:16) It does not at this point, AFAIK.

Keith Drazek: (22:16) @Paul: No, the CCWG intentionally stayed away from dictating (or even assuming) how the SOs and ACs would determine internal processes.

Becky Burr: (22:17) strict autonomy of SOs and ACs to run their own processes

PAUL MCGRADY - IPC: (22:18) Steve seems to think the non-Council GNSO will run this. How do we square that with what @James Bladel states "I believe we are free to develop our own GNSO process, but generally this would come via motion from Councilors, vote, etc."? Will this power reside at Council or at not-Council? Seems like we should understand that sooner rather than later.

PAUL MCGRADY - IPC: (22:18) *should

Steve DelBianco [GNSO - CSG]: (22:19) James and I agree, Paul. This is up the GNSO to determine.

PAUL MCGRADY - IPC: (22:19) @Steve, the GNSO or the GNSO Council?

James Bladel: (22:20) Paul - Can you clarify the distinction? Are you asking if the GNSO Community could invoke the Empowered Community without the Council?

Jonathan Zuck: (22:20) Seems as though council will decide during implementation what the GNSO body and process will be

PAUL MCGRADY - IPC: (22:20) @James B., that is what Steve DelB seems to be saying.

Jonathan Zuck: (22:20) might even end up being the council

James Bladel: (22:21) Currently, the GNSO doesn't have a community-wide decision making framework outside of the Council. Not that it couldn't develop one in the future, but that's my current understanding.

Bruce Tonkin: (22:21) Hello All

PAUL MCGRADY - IPC: (22:22) I think we need to address this issue before Marrakech so that we know who thinks they are part of the empowered community and how that will work.

James Gannon: (22:23) That's an implementation issue for all communities though not a CCWG proposal issue?

Steve DelBianco [GNSO - CSG]: (22:23) @Paul -- I said the GNSO did not necessarily have to use its Council to express views, because you seemed concerned that Council's scope was limited to policy management

PAUL MCGRADY - IPC: (22:24) @James Gannon. How can something so important be an implementation issue? Don't you want to know the definition of Community Power to be settled prior to approving this CCWG charter?

Robin Gross: (22:24) It is an issue that should be clarified. An argument could be made a few different ways.

James Bladel: (22:24) Can we hold this topic for 3.3/3.4? I am worried that others who aren't in Adobe room may want to contribute / hear this discussion.

PAUL MCGRADY - IPC: (22:24) Agree with Robin. I think we need clarity on that.

Steve DelBianco [GNSO - CSG]: (22:24) But hang on, that's not part of the proposal. It's up to each AC/SO to determine how it makes its decisions

James Gannon: (22:25) +1 Steve but as James said let's table until the 3.3/3.4

Robin Gross: (22:25) But has GNSO said how it will do that, Steve? I think that is the issue here.

PAUL MCGRADY - IPC: (22:26) Fine to table it for a few minutes.

James Bladel: (22:27) Just a note that we received confirmation from CWG-Stewardship chairs that their dependency requirements have been addressed.

Amr Elsadri: (22:28) The GNSO Input Process may be one that can be used to do this. If it is found to be ineffective, we would need to figure out how to do this, and probably make changes to the

operating procedures. I can't see how we could have done this before the CCWG recommendations are being implemented.

Mary Wong: (22:28) You may also wish to note that an introductory provision in the GNSO Operating Procedures says: " Taken together, the ICANN Bylaws and the GNSO Operating Procedures are intended to provide a complete set of rules, procedures, and practices for governing the operations of the GNSO."

Milton Mueller: (22:29) can we have the ability to scroll the slides?

Marika Konings: (22:30) @Milton - we'll release the slides as soon as Thomas is done with his presentation

Milton Mueller: (22:30) great, thx

Keith Drazek: (22:31) Thanks very much, Thomas. Excellent summary.

Marika Konings: (22:31) You can scroll through the slides now and we will also circulate these to the list following the call.

PAUL MCGRADY - IPC: (22:32) Not inspection

PAUL MCGRADY - IPC: (22:32) Community powers

Bruce Tonkin: (22:32) Note that 60% of the Board will be 10 votes instead of the current 9 votes to reject GAC advice.

Bruce Tonkin: (22:33) Total number of votes is 16

Robin Gross: (22:34) I guess GNSO should decide if its policy council or its SG's Executive Committees should decide

Johan (Julf) Helsingius: (22:35) What we don't want is a situation where someone can block our community powers by questioning our internal decision process

Amr Elsadri: (22:35) @Paul: I wouldn't expect the CCWG to attempt to make a distinction between the GNSO or GNSO Council. That's the GNSO's concern, not the CCWG's, correct?

matthew shears: (22:35) +1 Amr

Jonathan Zuck: (22:35) Yep

Rubens Kuhl - RySG: (22:35) GNSO Operating Procedures, as Mary mentioned, define GNSO Council procedures but could define how EC decisions would turn out.

PAUL MCGRADY - IPC: (22:36) @Amr - perhaps but if it takes use months or years to sort it, we are a disempowered community during that timeframe

James Gannon: (22:36) That however is our problem to fix rather than an issue with the CCWG report

Bruce Tonkin: (22:37) From the bylaws the mission of the GNSO is There shall be a policy-development body known as the Generic Names Supporting Organization (GNSO), which shall be responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains.

Keith Drazek: (22:37) The GNSO (broadly) will get to decide how we structure our processes. The CCWG report doesn't dictate or assume. It's really a question for later IMO, but a question that we'll need to tackle.

Jonathan Zuck: (22:37) +1 James

Bruce Tonkin: (22:38) The purpose of the GNSO COUNCIL is a GNSO Council responsible for managing the policy development process of the GNSO, as described in Section 3 of this Article.

Amr Elsadri: (22:38) Like I said, the GNSO (or Council) already has procedures to address issues outside its narrow remit using the GIP. If it proves to be inefficient as a process, we would need to work on something else.

Greg Shatan (IPC): (22:38) It would have been completely out of order for the CCWG to dictate how any SO or AC made its decisions. The SOs and ACs made this clear whenever we got too close to doing so.

James Gannon: (22:38) +1 Greg

Amr Elsadri: (22:38) @Greg: +1

matthew shears: (22:38) yes lets not further burden the CCWG

Stefania Milan: (22:38) @Glen et al. could you please call Stephanie Perrin, who is waiting to join the call? thanks

Robin Gross: (22:38) I agree that it is a GNSO decision, but it is one we should take before we are confronted with the question. What will our procedures be for reaching a collective decision?

PAUL MCGRADY - IPC: (22:38) Understood, but it still leaves us with a question over how all of this will actually work.

Amr Elsadri: (22:38) @Robin: Also +1.

Bruce Tonkin: (22:38) I would expect that it would be simpler if the GNSO COUNCIL basically passes a resolution related to community powers - but the GNSO procedures might specify how the

Stakeholder groups develop positions on topics related to a community power and direct their Council members accordingly.

Greg Shatan (IPC): (22:39) I should hope the GNSO is not so dysfunctional that we can't figure this out in the next 6 months or so.

James Gannon: (22:39) Agreed but one that we will have to determine during the implementation phase

Avri Doria: (22:39) Seems something that can be worked out by a GNSO process during the implementation. Maybe you can give it to SCI?

Greg Shatan (IPC): (22:39) The CCWG will know when the GNSO tells it how it intends to proceed.

Nathalie Peregrine: (22:39) @ Stefania, we have been trying and getting a busy tone. Can Stephanie please confirm her number, or provide an alternative one?

Heather Forrest: (22:39) Agree that SCI could be a starting point

Bruce Tonkin: (22:40) @Robin - I think it is wise for the GNSO to develop some documented procedures. No doubt the procedures will evolve over time.

Amr Elsadri: (22:40) Yes..., the SCI is one way to go. The Council could also possibly charter a non-PDP working group to tackle this, if it is thought to be worthy of the work.

Greg Shatan (IPC): (22:40) It was never intended to be otherwise.

James Gannon: (22:40) Good question Paul

Stefania Milan: (22:40) @Nathalie, will pass the message on

Carlos Raul: (22:40) yes

PAUL MCGRADY - IPC: (22:40) Thanks everyone! Very helpful.

Milton Mueller: (22:41) Rec 5, paragraph 146ICANN shall have the ability to negotiate, enter into and enforce agreements, including Public Interest Commitments ("PICs"), with contracted parties in service of its Mission.

Becky Burr: (22:42) here, the PICs must be "in service of its Mission"

Marika Konings: (22:42) Note there are also a number of issues concerning decision making that are related to the CWG-Stewardship proposal that will need GNSO consideration (for example, adoption of CSC membership) so there may be a need for a kind of Implementation Review Team that would work on these issues that are specific to GNSO decision-making ?

Amr Elsadri: (22:42) Aren't the PICS going to be reviewed as part of the new gTLD subsequent rounds PDP?

Amr Elsadri: (22:42) @Marika: Very true.

Becky Burr: (22:42) we specifically discussed this language to ensure that the "in service of its mission" caveat applied to PICs

James Gannon: (22:43) @Marika Yes that's a good point, and something that we should likely run in parallel with the implementation work on the CCWG/CWG side

James Bladel: (22:43) Good point, Marika. WE should collect those gaps as identified, and determine how we will address them. Preferably with a simple process that fits as many situations as possible.

Becky Burr: (22:43) A PIC is just a part of the contract

Greg Shatan (IPC): (22:43) This is a reference to the PICs that are in ICANN's agreements..

Robin Gross: (22:43) I agree with Milton.

Milton Mueller: (22:44) If they are currently in contracts then they don't need to be mentioned in the mission statement

Amr Elsadri: (22:44) Are there PICs in contracts besides the Registry Agreements?

Keith Drazek: (22:44) @Amr: No, just in the new gTLD RA.

Amr Elsadri: (22:45) Thanks Keith. That's what I thought. Was just wondering why we are referring to the contracts as contracts, and not RAs. :)

Greg Shatan (IPC): (22:46) If we were trying to be more lawyerly, we could have said "agreements, including without limitation any Public Interest Commitments ("PICs") set forth therein," But we weren't trying to be that lawyerly.

Keith Drazek: (22:46) Mute lines please

Jordan Carter (CCWG WP1 rapporteur): (22:46) Milton's reference is to the main report, for those who didn't spot it (I looked in Annex 5)

Greg Shatan (IPC): (22:46) Amr, we were being general.

Amr Elsadri: (22:46) OK. Thanks.

Greg Shatan (IPC): (22:48) I think this came about because some questioned whether the reference to "agreements" included PICs. This was added in response, to the best of my recollection.

Rubens Kuhl - RySG: (22:48) Although version 2013 of the registrar agreements don't have PICs, it's a future possibility either for new contracts or new policies to have.

Greg Shatan (IPC): (22:49) Is that a decision that is within the GNSO's power to make?!

Bruce Tonkin: (22:49) Yes @Greg - that was my recollection - that it was put in because some members of the CCWG were focussed on PICs. I think that Becky and Milton are right that it doesn't "need" to be there - but it was included for completeness so that those focussed on PICs can see them mentioned somewhere.

James Bladel: (22:49) Greg - that's my recollection as well.

Rubens Kuhl - RySG: (22:49) It's also possible to remove PICs thru registry amendment procedures.

Robin Gross: (22:49) The GNSO Council never decided there would be PICs.

Bruce Tonkin: (22:49) @True @Robin. They were added at the request of GAC and ALAC

Milton Mueller: (22:49) Well, we agree then that the PICs language in paragraph 146 is not needed, anyway

Donna Austin, RySG: (22:49) The PICS were developed to respond to GAC advice and were a late addition to the RA.

Robin Gross: (22:50) So PICS are the competing policy platform for ALAC and GAC (to trump the GNSO).

Milton Mueller: (22:50) seems odd to have a mention of PICs in the corporation's mission statement

Becky Burr: (22:50) set aside the label for a minute - the "PICs" are just a set of contract obligations.

Milton Mueller: (22:50) That's good to know, Thomas

Becky Burr: (22:51) Robin, everything in an RA or RAA must be measured against the standard of the Mission and the "in service"

Becky Burr: (22:51) this language absolutely does not change that.

Milton Mueller: (22:51) But Becky, reference to PICs is a virtual invitation to certain parties to exceed the mission

Robin Gross: (22:51) But it still take the policy development away from GNSO and gives it to GAC and ALAC

Becky Burr: (22:51) then we will challenge that attempt

Becky Burr: (22:52) and eliminate it as a violation of the Mission

Milton Mueller: (22:52) True, James!

Becky Burr: (22:52) Robin - what about PICs had anything to do with policy development?

James Bladel: (22:52) Becky - new hand?

James Bladel: (22:52) thx. :)

Robin Gross: (22:53) PICs came up with all sorts of new rules, some would say that is policy.

Milton Mueller: (22:53) PICs are policy

Milton Mueller: (22:53) a policy override ;-)

James Gannon: (22:53) Does anyone want to speak about the threshold issues?

Becky Burr: (22:54) the process by which they arose may have been illegitimate (I agree with you on that). But some of the PICs could be in the RA and RAA within ICANN's Mission and in service of that Mission

Bruce Tonkin: (22:55) @Robin the right process is that advice from GAC and ALAC should be sent to GNSO to review with respect to Policy.

Becky Burr: (22:55) Robin and Milton, PICs are just statements of obligation in agreements. And going forward they are not allowed if they exceed and are not in service of ICANN's limited Mission.

Full stop

James Gannon: (22:55) I would like to hear from the councillors about concerns with the proposal as it stands now, issues like Paul's question earlier, lot of people from the CCWG on the call to help clarify things

Matthew Shears: (22:55) agree with Robin and Milton - PICs are policy

Bruce Tonkin: (22:55) This is something I have been trying to encourage the Board to do - particularly now that the new gTLD committee is no longer in operation.

Bruce Tonkin: (22:55) In some ways that Board committee has become the policy body and receives advice from GAC and ALAC.

Robin Gross: (22:56) Becky, ICANN mission creep is only concern about PICs. The other is the GNSO being circumvented as the policy development platform for gTLD policy.

Robin Gross: (22:57) only "ONE" concern, that is.

Johan (Julf) Helsingius: (22:57) Does the current compromise address the concerns of the board?

Volker Greimann: (22:57) nothing to add to James' summary of the RySG discussions

PAUL MCGRADY - IPC: (22:57) We just have very early stages of discussion on our list. These timeframes are so compressed that folks are still sorting through the issues.

Steve DelBianco [GNSO - CSG]: (22:57) Yes, Julf. Chair and Vice Chair confirmed last week they have no further concerns with the proposal

volker greimann: (22:57) the GAC thresholds were the major issues

Johan (Julf) Helsingius: (22:57) Steve: thanks!

Rubens Kuhl - RySG: (22:58) Current PICs have apples, oranges, potatoes and elephants.

Keith Drazek: (22:58) I'll let Becky comment (as the RySG member to the CCWG) but the RySG has identified no red flags.

Stephanie Perrin: (22:58) Apologies for being late, I had inexplicable problems getting a dialout. Finally back in wifiland

Becky Burr: (22:59) remember, the global public interest is determined through the bottom up multistakeholder policy development process as per the Mission, Commitments, and Core Values

Rubens Kuhl - RySG: (22:59) For instance, new gTLDs being obliged to use RAA 2013 registrar is a PIC.

Rubens Kuhl - RySG: (22:59) (registrars)

Robin Gross: (23:00) Yes, Becky. But PICs are not developed in any bottom-up process. So there is going to be some conflict...

Becky Burr: (23:00) but they must be going forward Robin, that's what the bylaws say.

Robin Gross: (23:00) I'll join in that argument! :-)

Steve DelBianco [GNSO - CSG]: (23:00) Thanks, Wulf Ulrich. So ISPCP ha not objections at this time, and prefers to vote on the proposal as a single package. Right?

Becky Burr: (23:01) that is separate from the grandfathering of old/existing PICs which may well exceed the mission

James Gannon: (23:01) Do we even ahve the option of not adopting the package as a whole at this stage in the timelines?

Greg Shatan (IPC): (23:02) PICs could also be developed in a bottom-up process. Maybe I'll bring that up in the Subsequent Rounds WG.

matthew shears: (23:02) charter suggests recommendation by recommendaiton i thought

Robin Gross: (23:02) Yes, Matt. it does

James Gannon: (23:03) So on process in practical terms what happens if we reject x of the reccomendations and support Y of the reccomendations

Amr Elsadri: (23:03) As Ed has pointed out on-list, currently, Ed is planning on requesting a vote on each of the CCWG's recommendation.

Thomas Rickert, CCWG Co-Chair: (23:03) James, to your question: It is not for the CCWG to prescribe how the GNSO Council will vote on this. But if you ask my personal preference, I would go for a block vote as it adds to clarity of the response.

Rubens Kuhl - RySG: (23:03) We should probably cluster the recommendations we already found to be interconnected.

James Bladel: (23:03) Thanks Thomas. I presumed that was the case.

Wolf-Ulrich Knoben: (23:04) @Steve dB: yes

matthew shears: (23:05) @ Farzi - agree issues remain with rec 10

James Bladel: (23:05) Wolf-Ulrich - Noting that at least one Councilor has request an "itemied" vote, does the ISPCP object to that route, or simply prefer the package vote?

Wolf-Ulrich Knoben: (23:07) @James: it's our preference; but we accept the "rules"

Robin Gross: (23:08) Agree with Farzi about the concerns on Rec. 10.

Avri Doria: (23:08) An SO might agree to an IRP if the Board rejigging warped the policy recommendation

Amr Elsadri: (23:09) I'm not sure what would cause an IRP set up to look into policy recommendations made by an SO. How would that work, and why would it be necessary?

Greg Shatan (IPC): (23:10) It would be the Board's implementation of the policy, Amr.

Amr Elsadri: (23:10) @Greg: That's what I imagine it should be.

James Gannon: (23:10) Paul: Just to the point that GNSO has not voted on the transition, the vote on 24th June was on that point exactly no?

James Gannon: (23:10) <https://gnso.icann.org/en/council/voting-iana-cwg-stewardship-24jun15-en.pdf>

Amr Elsadri: (23:10) An IRP directed towards the ICANN board, not the SO.

PAUL MCGRADY - IPC: (23:10) Thanks @JamesB. Will work on that.

Greg Shatan (IPC): (23:10) Similarly, we won't be challenging GAC advice, we would be challenging board implementation of GAC advice.

Amr Elsadri: (23:10) SOs provide policy recommendations that only become ICANN policy after they are adopted by the board.

Amr Elsadri: (23:11) @Greg: Exactly.

Becky Burr: (23:11) IRPs consider whether an action/inaction of the Board or staff violated the bylaws

Greg Shatan (IPC): (23:11) Also, this only relates to a Community IRP, not to other IRPs.

PAUL MCGRADY - IPC: (23:13) @SteveB, there is no possibility of enough time for Council to opt out to the community on the threshold question of whether or not the Transition should happen. WAY too late

matthew shears: (23:13) endorsing the accountability recommendations means that they form part of the transition package?

matthew shears: (23:13) sorry remove ?

Greg Shatan (IPC): (23:13) It could have been done earlier, I suppose. But that was not a question for the CCWG.

Steve DelBianco [GNSO - CSG]: (23:14) Sure, Paul. But don't conflate your question with the Council's consideration of the CCWG proposal !

Jonathan Zuck: (23:14) +1 Greg. It really wasn't

Rubens Kuhl - RySG: (23:14) Gong show ?

Donna Austin, RySG: (23:14) I'm trying to recall if the CWG discussed that question, but I cannot.

PAUL MCGRADY - IPC: (23:15) @SteveD - I'm not conflating, I'm trying to un-conflate or, more accurate, head off conflating at the pass.

James Bladel: (23:15) WE voted on the CWG-Stewardship proposal.

matthew shears: (23:15) voted on the CWG proposal - that's kinda the transition

Greg Shatan (IPC): (23:15) I don't think CWG discussed the question either, Donna, as far as I can recall.

Amr Elsadri: (23:16) @James G.: +1. That is my understanding as well.

matthew shears: (23:16) agree James G

Avri Doria: (23:16) I assume that the transition proposal was voted on as a block. What reason is there for breaking it apart, knowing that rejecting any single piece has the same effect as rejecting the whole proposal.

Keith Drazek: (23:17) Have any SGs or Cs identified any red-flag deal-killer issues?

PAUL MCGRADY - IPC: (23:18) @Keith, not enough time to be sure at this stage. Timeframes too compressed, especially with last minute Board driven changes.

Johan (Julf) Helsingius: (23:19) I think any back pedalling at this point would probably be a deal killer

Avri Doria: (23:19) I believe that the so-called Board driven changes were really an attempt to discuss and resolve Board issues before approval and obviate the need for the formal Board negotiation phase that could be quite lengthy.

matthew shears: (23:19) agree Johan

Steve DelBianco [GNSO - CSG]: (23:20) Agree Julf. We now have a proposal the board has promised to accept and forward to NTIA. Let's just clarify the assumption that community decisions should not require unanimity

Heather Forrest: (23:21) Is there a risk that the Board will reject the proposal?

Heather Forrest: (23:21) A realistic risk, I mean

Keith Drazek: (23:21) Not at this point, Heather.

Heather Forrest: (23:22) That's reassuring

Keith Drazek: (23:22) The Board confirmed that it has no remaining issues with the CCWG report.

James Bladel: (23:22) Bruce has left the call, but I think both Steve and Bruce have confirmed they expect to approve the Supplemental

Becky Burr: (23:22) they have

Heather Forrest: (23:22) It's just that we get silence and then 11th hour input

Avri Doria: (23:23) The point of the Board bringing it concerns in and building compromise was meant to avoid Board rejection. There were also changes made to avoid GNSO rejection.

Brett Schaefer: (23:23) As circulated on the list, Jordan informed me that the GAC is considered to be a decisional participant unless it affirmatively decides not to participate. In effect, the default is GAC participation even though the GAC has not actually decided to participate. My view is that the assumption has is backward and the GAC should be out until it decides to participate.

Keith Drazek: (23:23) The 11th hour was weeks ago! ;-)

matthew shears: (23:23) Thomas - what if the GAC is unable to indicate whether it is or is not a decisional participant

matthew shears: (23:23) ever

Brett Schaefer: (23:23) This is a serious concern that I have.

Thomas Rickert, CCWG Co-Chair: (23:23) It is a decisional participant, unless we get an explicit "opt out"

Robin Gross: (23:24) I agree, Brett.

Thomas Rickert, CCWG Co-Chair: (23:24) We had this in all three reports!

Brett Schaefer: (23:24) @Matthew, if that happens, then we in effect have an absentee participant, which makes exercising the EC powers that much more difficult.

Jordan Carter (CCWG WP1 rapporteur): (23:24) Every other SO/AC is having the same treatment. They are counted as decisional unless they insist they are not. That is natural: the whole point of this Empowered Community was to be as broadly representative of the ICANN community as possible.

Brett Schaefer: (23:25) @Jordan,

Jonathan Zuck: (23:25) +1 Jordan

Jordan Carter (CCWG WP1 rapporteur): (23:25) In all three versions of our report, GAC has been listed as decisional. The notion of turning that around would create severe legitimacy problems for the exercise, I would think.

Steve DelBianco [GNSO - CSG]: (23:25) @Brett -- there may be community powers where the ASO decides to abstain on a given decision. This isn't about the GAC

Brett Schaefer: (23:25) I think each SOAC should be treated the same -- out until they affirm that they are in.

Jordan Carter (CCWG WP1 rapporteur): (23:26) Brett: but we haven't asked any SO or AC to make that decision, is my point. It may have been a nice idea, but it isn't what was done.

PAUL MCGRADY - IPC: (23:26) CCWG-ACCT members, thank you so much for your hard work on this!

Jordan Carter (CCWG WP1 rapporteur): (23:26) anyhow thank you for letting us discuss!

Brett Schaefer: (23:27) @Steve, that is fine. Abstentions are permitted. But the ASO has also indicated that it will affirmatively decide to join the EC. The GAC has not.

Steve DelBianco [GNSO - CSG]: (23:27) we crossed that bridge months ago, Brett. All AC/SOs were invited. They're in, unless they say they are out

Brett Schaefer: (23:28) I wish there was a bigger typing window, my spelling is terrible when I type quickly.

Avri Doria: (23:28) i agree with Jordan and Thomas that the sense of the CCWG was that all SOAC being decisional unless they opt out.

Avri Doria: (23:28) and that a decision to abstain from a particular decision is not an opt-out of decisional status.

matthew shears: (23:29) what if one SO AC never participates in a decisional capacity?

Brett Schaefer: (23:29) I understand what you are saying, it is just not the way I read/understood it was to work.

Jordan Carter (CCWG WP1 rapporteur): (23:30) matthew, then we'd deal with that through the ATRT reviews, I suppose?

Robin Gross: (23:30) It is illogical, Brett, to require SO's to have new obligations UNLESS they say they are "out"

Brett Schaefer: (23:30) @Matthew, then the thresholds will be hard to reach for some powers. It would not be a "no" but would not be a "yes" either.

matthew shears: (23:31) yep

Wolf-Ulrich Knoben: (23:31) will miss the Gala...

Brett Schaefer: (23:32) Agree Robin.

Robin Gross: (23:32) It is my understanding that Ed Morris has requested individual recommendation votes.

Amr Elsadri: (23:32) @Robin: Yes.

Johan (Julf) Helsingius: (23:32) If we disapprove even one recommendation, I think we do need to do a separate vote on the whole package

Wolf-Ulrich Knoben: (23:32) Ed said "probably"

Avri Doria: (23:33) will there be a vote on whether to divide the issue or not.

matthew shears: (23:33) agree Julf

Amr Elsadri: (23:33) @WUK: Did he? I don't think so, but will double check.

Heather Forrest: (23:34) If SGs and Cs wish to respond to any of the minority statements, should that be captured in their written rationale?

Amr Elsadri: (23:34) @WUK: This is what he said: "As the wording of the Proposed Approach indicated that voting on each recommendation individually would be possible if requested by any Council member please note that is my intent to make such a request and I do not expect that intention will change between today and our open Council meeting in Marrakech."

Greg Shatan (IPC): (23:35) This is dealt with to some extent in the CCWG Charter.

matthew shears: (23:35) The Board gets the report after the SOs and ACs have endorsed or not

Wolf-Ulrich Knoben: (23:36) Thanks Amr, very clear.

PAUL MCGRADY - IPC: (23:36) @JamesB - thanks. Lots to ponder on that issue.

Avri Doria: (23:36) I think that if more than one charter org rejects, we go back to the CCWG drawing board.

James Bladel: (23:36) Thats the simplest scenario. :)

volker greimann: (23:37) you'd like tht, wouldn't you, Thomas! ;-)

Robin Gross: (23:37) we should have a complete record. we should have a transparent record. we shouldn't go for "easy"

James Gannon: (23:37) +1 Thomas

matthew shears: (23:37) didn't NTIA ask for a consensus proposal?

Avri Doria: (23:37) the charter does not require unanimity of chatering organization approval as far as i understand.

PAUL MCGRADY - IPC: (23:37) @Thomas RE: the world stage which is why so many of us are unhappy at the breakneck speed of this

James Bladel: (23:37) @Robin, I tend to agree.

PAUL MCGRADY - IPC: (23:38) I lost sound on my phone line.

matthew shears: (23:40) agree James we should be fully transparent

Avri Doria: (23:40) The GNO has always been the ICANN champion of transparency. Agree this should be transparent as per normal.

Nathalie Peregrine: (23:40) @ Paul, do you need a dial out?

Nathalie Peregrine: (23:40) dialing youback

Brett Schaefer: (23:40) There have been many compromises by everyone. Unfortunately, the pace of this process has contributed to confusion and shortened discussions. An example being the misunderstanding about GAC default status in the EC.

Keith Drazek: (23:41) There's a concrete list of WS2 issues.

Keith Drazek: (23:41) o SO and AC accountabilityo Improvements to ICANN's transparency (DIDP, etc.)o Framework of Interpretation on Human Rights o ICANN's jurisdictiono ICANN staff accountabilityo Enhancements to role of the Ombudsmano Improvements to ICANN's diversity standards

Keith Drazek: (23:42) sorry for formatting

PAUL MCGRADY - IPC: (23:42) @JamesB - will we get to vote on whether or not we think the implementation work on the bylaws got it right?

Malcolm Hutt: (23:42) it's going to be very difficult to "fix" things at this stage, especially where there is disagreement as to whether the item needs "fixing", as is likely in the PICs case

Robin Gross: (23:43) Agree with Paul that we need some oversight on implementation.

James Bladel: (23:43) Paul - Yes, we can vote on any bylaw changes, including these.

Becky Burr: (23:44) Stephanie, that was confusion about a very last minute issue

Stephanie Perrin: (23:44) Yes Becky, making it even harder to follow.

Stephanie Perrin: (23:45) Thanks James, I think that was a good answer.

Marika Konings: (23:45) @Paul, James - note that it is the ICANN Board that votes on changes to the ICANN Bylaws (but the community is usually consulted in the form of public comment on any changes that are being proposed).

Becky Burr: (23:45) Indeed, but much of the report has been stable for months

Robin Gross: (23:45) Great, we are stuck with the downfall of the GNSO....

Amr Elsad: (23:46) @James: I also believe your answer was rather good. I recall we had outstanding issues when adopting the CWG recommendations, and since those were identified, they were pointed out.

Stephanie Perrin: (23:46) Can we draft a drafter's appendix?

matthew shears: (23:47) if thee are issues in implemetnaiton I assume that those would be addressed

Stephanie Perrin: (23:47) Yes Matt, I would like a way to not have to take that on faith....

Jordan Carter (CCWG WP1 rapporteur): (23:48) it will be very important for you to help to oversee the implementation. a big risk here is that the bylaws drift from the report under various pressures.

matthew shears: (23:48) + 1 Jordan

James Gannon: (23:48) That will be the case after ccwg implenatino however =)

Jordan Carter (CCWG WP1 rapporteur): (23:48) but our approach will, I think, be to listen to the feedback that you offer in this approval phase and take in on board insofar as we can

Mary Wong: (23:48) All proposed Bylaw changes/amendments are posted for public comment prior to Board adoption.

Stephanie Perrin: (23:49) Thanks Mary, that gives us a good kick at the can

Amr Elsadri: (23:50) @Jordan: My understanding is that the lawyers retained by the CCWG will be doing the drafting of the proposed bylaw changes?

Greg Shatan (IPC): (23:50) We will be riding herd on the implementation process on the Bylaws, along with our own outside counsel.

Keith Drazek: (23:50) This final report is the result of 14 months of intense effort and multiple public comment periods. The entire process has involved representatives from our respective SGs and Cs. We'll still have input during implementation and bylaws drafting. Bylaw changes will be posted for public comment.

Greg Shatan (IPC): (23:50) @Amre, yues.

Stephanie Perrin: (23:50) I thought we could spill the board if it goes off the rails :-)

Avri Doria: (23:51) Condition of the proposal unless they are all implementation issues, would seem to force the issue back to the CCWG to figure out.

Greg Shatan (IPC): (23:51) The Bylaws drafting is not going to be treated like typical "implementation," where it's all handed to staff. It will be the job of the CCWG and our counsel.

PAUL MCGRADY - IPC: (23:51) @Thomas, I think I would be more sympathetic to that if this wasn't a rush job and the CCWG report was crystal clear

Amr Elsadri: (23:51) Thanks Greg. That's reassuring.

Robin Gross: (23:51) "Just agree with everything as quickly and quietly as possible." ;-)

Becky Burr: (23:52) Board spill is possible if there is broad community support that the board has gone off the rails. That is a high standard, as we are a diverse community.

matthew shears: (23:52) +1 Keith and Greg

Greg Shatan (IPC): (23:52) @Robin, have either of us been quick OR quiet? :-)

Mary Wong: (23:52) @Stephanie, I should have been more accurate and noted that my comment was specific to "policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges" and thus Bylaw changes applicable to such actions.

Jordan Carter (CCWG WP1 rapporteur): (23:52) I have to leave now - thanks for the invite, Thomas, James and all

Avri Doria: (23:53) Greg, it takes a sense of humor to call the CCWG quick.

Becky Burr: (23:53) correct, James. This process is not being handed over to an unsupervised party

Greg Shatan (IPC): (23:53) As one of the infected with both JD and CCWG, I expect to be closely involved. I don't know if that inspires confidence or panic, but I offer it anyway.

Amr Elsadri: (23:53) Thanks for that James G.

Becky Burr: (23:53) inspires exhaustion Greg

PAUL MCGRADY - IPC: (23:54) @Greg - confidence!

Avri Doria: (23:54) I think many of us will be watching closely.

matthew shears: (23:54) agree

Greg Shatan (IPC): (23:54) Becky is another with JD/CCWG infection and another who will keep eyes on this. That gives ME confidence...\\

Jonathan Zuck: (23:54) indeed

Greg Shatan (IPC): (23:54) Yes there will be many eyes on the street, and it doesn't take a JD to smell BS.

matthew shears: (23:54) lol

Thomas Rickert, CCWG Co-Chair: (23:54) Thanks James and all for a good discussion!!!

PAUL MCGRADY - IPC: (23:55) Great discussion. Thank you all!

Stephanie Perrin: (23:55) Thanks to everyone for all the work on this. Even if we don't like it we recognize the massive amount of work and conciliation.

Johan (Julf) Helsingius: (23:55) Indeed!

Keith Drazek: (23:55) @Greg: I thought you were saying you're infected with Jones Day (JD). I'm glad I mis-read.

Avri Doria: (23:55) thanks for inviting us to this discussion.

James Gannon: (23:55) I dont have a JD but I feel like i know California Corporate code better than my own birth cert at this stage so I will also be watching the bylaws process closely

Rubens Kuhl - RySG: (23:55) Stressful stress tests

Jonathan Zuck: (23:55) Thanks for having us! See you in Marrakech

Greg Shatan (IPC): (23:55) Ooh, not that kind of JD! Keith....

Heather Forrest: (23:55) Safe travels everyone, see you on Saturday morning

Greg Shatan (IPC): (23:55) Juris Doctor.

James Gannon: (23:55) Enjoy Marrakesh for those going!

Amr Elsadri: (23:56) Thanks all. Safe travels. Bye.

Robin Gross: (23:56) Thanks, James! See you in Marrakech!
matthew shears: (23:56) thanks!
Avri Doria: (23:56) Safe travels and bye
Keith Drazek: (23:56) Yeah, I figured it out.
Susan Kawaguchi: (23:56) safe travels
Johan (Julf) Helsingius: (23:56) Thank you everyone, and see you in Marrakesh!
Rubens Kuhl - RySG: (23:56) Bye all!
Greg Shatan (IPC): (23:56) Thank you for tolerating your guests! Bye all!
David Olive: (23:56) Thanks all Safe travel
James Bladel: (23:56) Thanks, all. Very valuable discussions today.
Glen de Saint Gery: (23:56) thanks James - bye