

GNSO Council Working Session  
Saturday 21 June 08

Agenda: [https://st.icann.org/gnso-council/index.cgi?agenda\\_21\\_june\\_2008](https://st.icann.org/gnso-council/index.cgi?agenda_21_june_2008)

#### **4. Fast Flux discussions Fast Flux Issues report (12:15 -13:00)**

GNSO Issues Report on Fast Flux Hosting

<http://gnso.icann.org/issues/fast-flux-hosting/gnso-issues-report-fast-flux-25mar08.pdf>

Issues Report in French, Spanish Russian on page

<http://gnso.icann.org/issues/>

GNSO Council Resolution on Fast Flux

<http://gnso.icann.org/resolutions/>

20080508-3

<http://gnso.icann.org/meetings/minutes-gnso-08may08.shtml>

available in French, Spanish, Russian, Arabic

Fast Flux Working Group Charter

<http://gnso.icann.org/announcements/announcement-30may08.htm>

Fast Flux Working Space

[https://st.icann.org/pdp-wg-ff/index.cgi?fast\\_flux\\_pdp\\_wg](https://st.icann.org/pdp-wg-ff/index.cgi?fast_flux_pdp_wg)

Fast Flux WIKI

[https://st.icann.org/gnso-council/index.cgi?fast\\_flux](https://st.icann.org/gnso-council/index.cgi?fast_flux)

And now, basically, we go into item number 4, which is the Fast Flux discussions. We have the issues report, and in this case I think the issues report was covered in the meeting.

We came up with a charter for a working group. The working group has been chartered.

This meeting -- This part of the meeting is sort of -- not that anything changes, we don't stop, but it's sort of a joint between the council and that working group. That working group has been formed. The initial membership of the working group has been -- okay. That's the charter.

The working group -- a working group space has been set up for it. It's a separate space. I have got myself listed as interim chair, something I want to get rid of, if possible, today. Well, actually, it would get approved on Wednesday, but such.

We've got a list of members of the group and listing constituency or other, because it's also open to individuals.

We did go through a process with the individuals who were interested in that basically Glen and staff checked to see they were all people and not mailing lists, check to see that they were people that, you know, didn't have a reputation for being trolls or net spammers or what have you and that they were all really nice people. And then I passed the list by the GNSO council. There were no objections to any of these individuals, so that they were included in the working group.

Sort of a process we followed to both be open, to allow anyone to come up to the working group and say, "I want to be in it," and yet not just leave the door open to the unknown.

So anyhow, we have a fair number of group -- it's not a closed group. You will notice that some constituencies have not gotten involved in saying they wanted to be in the group at all. It's not a closed list, but it is the initial group list.

Now, some of the work, there's also -- there's the subject matter reference, which is the issues report. There's the SSAC report.

Things are included, since this is one of our first forays into working groups, while the charter does include some -- some guidelines for doing a working group -- in other words, the charter, and hopefully everyone that's going to be involved in it has included a -- these are the questions that will be looked at: Who benefits, who is harmed, who would benefit from cessation, who would be harmed, are registry operators involved or could they be? If so, how? Are registrars involved? If so, how? Are the registrants affected by it? How are Internet users affected? What technical changes to the way in which DNS updates operate and policy changes to the registry/registrar agreements or rules governing permissible registrant behavior measures could be implemented? That came out of the recommendation from the SSAC.

What would be the impact, positive O I/O negative of establishing limitations, guidelines or restrictions. What are some of the best practices available with regard to protection? And then obtain expert opinion as appropriate on which areas are in scope and out of scope for policy-making.

So there is really a full plate of work for this group. The group reports back to the council within 90 days, so they basically have three months from now, from basically its starting.

If the report is not complete and they need more time or something, then they come back with a report indicating what kind of more time they need, et cetera, and why and where they are at at the moment.

The -- In terms of the working group processes that we have talked about, we have talked about working on a basis of rough consensus, which was very similar to the process that Philip's group worked under, and that the IDN working group worked under before that, meaning all points of view will be discussed until the Chair can ascertain that the point of view is understood and has been covered. Anyone with a minority viewpoint will then be invited to include a discussion in the working group report. Minority reports, which should include name and affiliation of those contributing to the minority report.

And so there's no thing saying if that's a minority of one, it's a minority of one. It clearly labels itself as a minority of one but it can be included in the report as a minority viewpoint.

If it's a minority -- a large minority, then -- In producing the working group report, the Chair will be responsible for designating each position as having one of the following designations. It's a rough consensus position. And that's a position where only a small minority agrees, but most agree. There's strong support, but significant opposition, and there's minority viewpoint.

If several -- And then there's sort of a mechanism for appealing it. If several participants in the working group disagree with the position given the position of the chair or any rough consensus call, they can follow various steps sequentially. Send e-mail to the chair copying the working group explaining why the decision is believed to be in error. If the chair still disagrees, follow the appeal to the council liaison to the group, the chair must explain his or her reasoning in the response. If the liaisons support the chair's position, says yes, the consensus was called correctly, then it can be brought further to the council for appeal.

And any of this appeal and the consensus was not reached correctly statements and all of that gets included in the report.

So again, a consensus is called, but any of the differences of opinion are included in the appendices, are included in the history of the report. So hopefully, we have a consensus report that doesn't bury any minority opinion and does not call a consensus when, you know, people disagree.

But it could still happen, so there's why that sort of appeals chain was put through. And obviously at the end of the day when the board gets the recommendation that the council has passed through, they will look at that and they will be able to say -- understand where it all developed, if they want to read that much.

The chair in consultation with the council is empowered to restrict participation of someone who seriously disrupts. I don't think that will happen, but should that happen, then basically the chair has a process, but the council then at some point still has to say, yeah, that process was followed correctly.

As I say, this is sort of a trial and error, as we move into our age of working group practices.

Working group will have an archived mailing list. That already exists.

Mailing list is open for reading by the community, so everyone can read it but only the working group can actually go back and forth.

All working group meetings recorded. Recordings available. That's fairly normal practice.

Also, this Wiki has been created. Everyone that's in the working group has write privileges. The world has read privileges.

The council liaison will be asked to report on the working group status at each of our monthly meetings.

And all charters are reviewed in six months.

So this is a step to defining, this is basically the process under which this -- milestones were set. I need to add the dates. The dates will pretty much be added from today. This is the initiation of the working group. So with assistance from staff, templates for constituency comments are due 40 days after initiation.

Constituency statements are due 30 days after the template is released.

So in other words, over the next 40 days, the group, working group, will start working on the questions, getting answers. Then basically go out for constituency comments on these issues after 40 days, and nights.

And then there will be a final report released to the council at 90 days unless an extension is asked for. And that will also go out to public comment before proceeding further.

So that's the charter. That's the charter that has been approved by the council at its last meeting.

And as I say, this is sort of the first meeting. And I'll fill in the dates after this meeting for those working group hopefully with the working group chair that will be sort of agreed upon, hopefully, in this meeting and then approved by the council at the Wednesday meeting.

Okay. In terms of the chairs, there's been one volunteer so far, and that's Mike O'Connor who has already chaired working groups. I don't know if there are any other volunteers and thus would present us with a choice. We have the opportunity also of going for a co-chairing if we decide that this group is wide enough to need more than one chair.

So I would like to ask -- I don't know, is Mike here?

>>MIKE O'CONNOR: Over in the corner.

>>AVRI DORIA: I don't know if you want to say anything about having volunteered. I think it's definitely a very welcome sacrifice that one makes.

[ Laughter ]

>>AVRI DORIA: I think it will be an intense thing.

Is there any other person that's either interested in chairing or co-chairing or any issues in discussion on picking a co-chair? Or a chair.

Is everyone happy with that recommendation or volunteering and having the working group basically recommend that that would be the recommendation of the working group to the council, and then the council would have to take a formal vote on it?

Any issue on that at all?

Yes, please.

>>MIKE RODENBAUGH: Just procedurally, I think the vast majority of the working group is not here today. So while those who are here and the council, everyone that's in this room, could agree, I think we should send it to the working group list --

>>AVRI DORIA: Okay.

>>MIKE RODENBAUGH: -- and give them a few days.

>>AVRI DORIA: We can certainly send it to the working group list, though it really is -- it's a good policy to get them to agree, it really is the council's decision, though. But yes, to give everyone a position -- the ability to say something is a good thing.

I will send it out to the list.

Okay. Moving on -- yes, Eric.

>>AVRI DORIA: A microphone, please. You have to press the button so it's on.

>>ERIC BRUNNER-WILLIAMS: Sending it to the list, and -- So when do you propose the council will make its decision?

>>AVRI DORIA: Wednesday is when the council will vote on it.

>>ERIC BRUNNER-WILLIAMS: Thank you. That's all I wanted to know.

>>AVRI DORIA: And we can take any opinions that will come through the -- we will represent them in the meeting and we will vote on it at the Wednesday meeting.

Yes, Chuck.

>>CHUCK GOMES: Yeah, just a quick comment.

I think two of the guidelines that is important for the council to always keep in mind, and maybe it should be communicated in some way to the list, if we're looking for more volunteers, is that hopefully we can get chairs that are relatively neutral. Not perfectly neutral, but relatively neutral when they are leading groups.

And secondly, hopefully have had some experience in leading working groups. So it's not just left wide open. We're, of course, going to work on this in the GNSO improvement plans with regard to this whole area of working group chairs, but those are at least a couple guidelines I think we should keep in mind.

>>AVRI DORIA: And I think that part of it is in a working group chair, you can actually have someone who might be opinionated in their natural state, but when they are participating as a working group chair, they are agreeing to sort of be neutral.

Then the other role that we have got is basically the council liaison. And that's all the council members can participate as individuals in the working group. There's no reason -- although they are not participating as council members. They are participating as regular working members. But the motion that was discussed here is that one council member acts as a liaison between the council and the group, and is responsible for following it, is responsible for reporting to the working group how it's going, whether there are issues, whether there are problems. As was stated before, is sort of in that appeals chain that they are the first person that the group would go to if it felt that the chair wasn't being sufficiently neutral or there were problems. It's the first person of approach, the first person for the working group to appeal to the council if they think there's an issue. So it's a sort of important role for that.

I am basically looking for interest in that.

Mike Rodenbaugh has stated an interest in being that council liaison to that. That is something we also need to select. I am asking members of the council at the moment, most of them are here, whether anyone else wants to express an interest.

I do want to point out, and this is pointing it out without judgment, that -- but just to make sure that it's noticed, is that both Mikes are in the business constituency. If that's considered an issue, it should be realized. It doesn't need to be an issue. There's no certain rule that says people can't be from the same constituency but one should certainly notice that they are from the same constituency.

I would like to open up that topic for discussion and also find out if there is any council members who are interested in this role.

And I know Mike has sort of said if there are others who are interested in this role he welcomes them voluntarily and so far he has been the only one with an interest.

>>ALAN GREENBERG: I have, I guess, a question. I am assuming that the council liaison may also be wearing the hat of a committee member with opinions, but that's a different hat from the liaison. Is that an assumption or are the two mutually exclusive?

>>AVRI DORIA: I would assume more of a -- the person might have two hats. And I think that the person would have to be very careful when they were speaking as a liaison as opposed to as an individual so that there wouldn't be a confusion.

I think in some ways, it's almost best if the liaison is more of an observer than a full participant. But I don't think we have a rule about it. But I do think that one has to be very careful to sort of make it obvious that they're speaking personally. And then, of course, there's always the notion of, is that personal taken as some sort of extra weight because they also happen to be the liaison? I don't think that'll happen. But, of course, it could.

I've seen other worlds where things like that have happened.

Yes.

>>MIKE RODENBAUGH: Just a comment on that briefly.

I think the liaison really, under the guidelines, has very little power. I mean, really, their only duty is to report -- no power, actually, over and above any other working group member. It's really just a duty and obligation to report back to the council, obviously, objectively each month as to the status of the working group.

>>AVRI DORIA: The only power though have is in the appeal chain. And that's not much. But they do. They can certainly agree with the appeal, and then it's pretty much, you know -- so it is --

>>MIKE RODENBAUGH: (inaudible).

>>AVRI DORIA: Not if -- it doesn't go to the council if the liaison goes back to the chair and says, "Chair, you blew it, you know, you need to work some more." Then it would stop at the liaison. It doesn't have to come -- it only comes to the council if the liaison agrees with the working group chair, you know. But...

So any other discussion on the role, on how it's.

And as I say, it's still very much of a learning experience in terms of how we will have done that. But it's good that all the working groups basically do give a status on a monthly basis and that it be a council member doing that.

So unless someone else does want to volunteer, I will propose that we will, you know, vote on both Mikes doing the role at our Wednesday meeting. So unless somebody comes up with another proposal, I will put a motion in to that effect and I will make the motion and look for a second on it.

In which case, we've got a bit more time, having gone through that, to sort of start a discussion on perhaps some of the issues, unless somebody has more process and kicking off the working group issues if they'd like --

>>CHUCK GOMES: Just one process issue, and it's more in the lines of a suggestion.

In the case of the registries, where we have several volunteers to be on this working group, we've identified one as a primary constituency representative, just like we have the liaison to the council on this. And I certainly would suggest that other constituencies, you know, make sure they know who's representing them and have that responsibility as well so that we don't wait until the very end of the process after the working group is done and then all of a sudden get constituencies weighing in. Hopefully, they will do that ongoing during the process so that when we get final recommendations, the constituency input is pretty well entrenched in there already and we don't have to backtrack.

>>AVRI DORIA: I would like to point out that we have two constituencies, I believe, that -- or no. We have IPC. So we just have one constituency not represented.

Yes.

>>TONY HOLMES: Speaking for that constituency, the only reason for that is that we wanted to have some further discussion amongst the members here as to who it's going to be. But we will be participating.

>>AVRI DORIA: As I said, that's the initial group. It's not closed. As soon as somebody tells me who, I'll add them to the permissions list on the Wiki and get them on the list.

So now I'm hoping that the chair will keep the Wiki so that the Wiki will be actually a good source of information. It's definitely available. As I say, all the members of the group will have write privileges on the Wiki. Everyone else will have read privileges. It's open to the world for reading, but not for writing.

So if you really want to write on it, you've got to join the group.

Okay. So we basically have a half hour before our talk on the issues to sort of start working our way through some of -- and basically get any initial discussions that people would like to get going. If there are no more process issues, we can actually sort of start with just some sort of general -- I don't know, are these considerations, are the questions that the working group needs to answer clear enough? Or do we not have enough people from the working group here?

One of the things I forgot to do was ask whether anybody from the working group had joined the phone call at the beginning, although no one ever spoke up.

Is there anyone yet on the phone call?

Probably not even the operator at this point.

>>PHONE: (Speaking French).

>>AVRI DORIA: Okay. Thank you very much. So I'd like to find out how many of the working groups members are here at the moment.

We've got one, we've got two, three, four, five.

Okay. So maybe about seven. So that's good. So I'd like to basically ask especially the working group members who have to deal with these questions whether, while sitting with the council, there's any sort of clarifications, initial issues, initial problems with the charter as it's written. As it's sort of a joint meeting, does anyone want to start out with any questions, issues, comments?

You're going to have to deal with these questions, so it's good -- yes, Mike.

>>MIKE RODENBAUGH: I have one on the last bullet about obtaining expert opinion.

I believe what we intended from that was essentially ICANN counsel opinion. Is that correct? Is that everybody's understanding?

Because that would really be only person -- or at least the first in the first instance that would really judge what's in or out of scope.

>>CHUCK GOMES: My understanding, it was a little broader than that. This is Chuck Gomes.

It could also be technical experts with regard to the issue.

>>MIKE RODENBAUGH: But would they -- They wouldn't really be qualified to give an opinion as to whether something is in or out of scope for GNSO policy-making.

>>AVRI DORIA: Right. But they might be able to give an opinion on -- for example, in some of these issues, as I've looked at them, knowing exactly where the dividing line is between the technical question and the policy question, they may be able to help in sort of explaining the technology to the point of, "This is already in the technology. This was where you to or don't get to make a decision. This is where the technology impinges," so help you clarify the question that you then send on to ICANN legal, sort of being able to make a precise question.

Because some of the issues, as you read through this, you find that the technology -- you know, very often, the edge of technology and policy are fuzzy. It's a fuzzy border between them, because certain decisions that have been made in the engineering tradeoff have actually made some policy presumptions. And so the technical community can help, the SSAC especially, could basically help you come up with where that dividing line actually was.

>>CHUCK GOMES: And, in fact, Mike, we probably wouldn't even need that expert opinion if all it meant was general counsel, because we go to general counsel to make that decision.

>>AVRI DORIA: And as I say, that one was as appropriate. Because there were certain issues that came up when we were putting this together where there were certain questions. And so if those questions come up in the working group when someone starts arguing, "Wait a second, this is not appropriate," or, you know, in -- you know, in looking at the bullet, what technical changes to the way DNS operates their policy agreements, when you're looking at that question, you may find that is the question a policy question or is the question a technical question? Are there technical constraints or limitations on what you can and can't do?

And so that's -- that's -- Yes.

>>MIKE RODENBAUGH: Okay. That makes sense. Thank you.

I think that one thing I'm noting from the current working group list is the staff people on here, I believe, are mostly policy folks. I'd really love to ask if we can get SSAC and specifically ask maybe Dave Piscitello to join. And I think it also might be very useful to have someone from the legal team on staff paying attention to this as we go forward.

>>AVRI DORIA: Okay. I'll certainly pass on that request.

And, I mean, we'll talk about it.

But, yeah, I think that's a good idea. And we can ask -- Liz, do you have any comment on that at the moment.

>>LIZ GASSTER: Only that I don't know that we can -- We can request Dave's participation. But I don't know that we can --

>>AVRI DORIA: Oh -- yeah, no, it was just a request.

>>LIZ GASSTER: Yeah, right. Because he supports the SSAC. So I just would need to follow up on that.

>>MIKE RODENBAUGH: Actually, I believe -- I know Dave, and I believe he's willing to do it. He just needs to be asked.

>>LIZ GASSTER: We'll take that offline.

>>AVRI DORIA: And as staff coordinator, one of the things I did notice or -- or did mention is that we have a staff coordinator, which is Liz for this group.

Okay. Were there any other questions on this one, on any of these issues, going back?

There must be more we can talk on about this at the moment. It's quite a load of work to be done here.

Let me go back to the questions. I should really move a copy of the questions.

In fact, I'll probably -- what I'll do is move the set of questions, cut from the charter into the Wiki. The reason I've got the charter in one place is, since the charter was agreed to by the council, I didn't leave that in a place where the working group could edit the charter. The charter remains as it is. But the Wiki space is totally up to the members of the group.

So would anyone else like to ask for any other clarifying questions on the charter details?

No?

Okay. In which case, we've got about 15 minutes before we have a speaker.

Yes, Chuck.

>>CHUCK GOMES: And with regard to that, --

>>AVRI DORIA: Yes.

>>CHUCK GOMES: -- how many people are planning on participating in the presentation and Q and A on Fast Flux that will start at 1:00? Or --

>>AVRI DORIA: At 1:00, you're right.

>>CHUCK GOMES: At 1:00.

Could you raise your hands?

Okay. So we might -- and let me ask the reverse question. How many are not? I'm just trying to get - without counting -- numbers.

Okay. So we may need -- okay. That's what I need to know. Thank you.

>>AVRI DORIA: So, okay, how are we work this? Is, basically, at 1:00, the lunch starts. And what time does the talk start? Or how do you want to arrange --

>>CHUCK GOMES: We can -- I don't think there's -- if people want to take a little break, they can. The talk will start at 1:00. And it will probably go for about 15 minutes. And then there will be Q and A. And I suspect -- I think it will probably be over within an hour, depending on how many questions and answers. So that people will have a half hour break.

>>AVRI DORIA: Okay.

>>CHUCK GOMES: And it looks like they're set up. We need to confirm with Glen. But if they are, there's no --

>>AVRI DORIA: They're not quite yet. I see at least one empty chafing dish.

>>CHUCK GOMES: Once they're set up, I don't think you have to wait until 1:00 to get lunch.

>>AVRI DORIA: Okay. So if there are no more questions on this working group at the moment or the working group charter or anything else, I'll sort of end the working group part of the meeting. And once food is there, those who are staying for the lunch and the talk and the Q/A, and, once again, I wanted to mention that the lunch is being provided for us by VeriSign, as is the talk. Thank you for the morning. And I'll see the rest of the council and the observers and everyone else back at -- when do we start again? We start again at -- let me get the agenda. Yeah, I just want to make sure I've got it right.

We start again at 2:30 with GNSO improvements.

Thank you.

(Lunch break.)