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**ICANN Transcription**  
**GNSO Drafting Team to Further Develop Guidelines and Principles for the**  
**GNSO's Roles and Obligations as Decisional Participant in the Empowered**  
**Community.**

**Wednesday, 04 September 2019 at 21:00 UTC**

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JULIE BISLAND:

Alright, welcome everyone. Good morning, good afternoon, and good evening. Welcome to the GNSO Drafting Team call on Wednesday, the 4th of September, 2019. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom Room, and if you're only on the audio bridge at this time, could you please let yourself be known now?

If there are no name, I would like to remind all to please state your name before speaking for transcription purposes, and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it over to Heather Forrest. You can begin, Heather.

HEATHER FORREST:

Thanks very much, Julie. [Those were] much appreciated. Welcome to everyone. As I've said in the chat, we conflict this morning with a SubPro call, so it's entirely possible that some of

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our folks make the transition over. Thank you to everyone who's here—much appreciated. You'll see we have our agenda in the Zoom Pod. First item, of course, on the agenda is to review and call for any updates to statements of interest. So, either one? Anyone have any changes, or edits, or additions to the agenda, or any updates to their SOI? No, I don't see anything. Excellent.

Alright, then. Let's go ahead and move right on to item number two, which is an update on our fabulous 1812 Overture, the guidelines for joint consultation with the ccNSO, in relation to initiating a special IFR. So, here's where we are with this. Just before—in fact, immediately before—our previous call, we had some movement on this, but it was so close to our meeting that Julie and Ariel and I thought it best not to disrupt where we were and provide the update here.

So, the ccNSO GRC, represented by Katrina Sataki, who's the Chair of ccNSO, and Bart Boswinkel, who leads the staff support for the ccNSO, both had a look at our drafts of the joint consultation guidelines. They had some comments that, unfortunately, were conflicting with each other. Ariel's just about to put the document up in the screen.

So, we called a snap call, although I think they were both going away on holidays for a week or two weeks within a few days. I asked Julie Hedlund to try and arrange a call with them before they went on holidays, because I didn't want to let it go even further, to sit down and try and understand why it is that we conflicting comments between Bart and Katrina, and what did we do about that, let's say. To the extent that we tried to rationalize one, we would get in trouble with the other.

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So, had to switch that down. It was mainly Bart's comments that we needed to question, and just try and understand what it was that he was trying to do in his edits. I think we got some helpful guidance from that, in terms of their understanding of the timeline—that they fundamentally saw the timeline a bit differently than we did. Ariel, I think you can probably ... The best thing to do is show the timeline.

We also got ... A piece of feedback was the Katrina was concerned that, could we have more of a plain-English approach, which I will say I found a little bit ironic, given that we had used ccNSO documents as the template or basis for ours all along the way. Irony notwithstanding, I think it's an excellent idea. I think it's very important that someone who hasn't been involved in our drafting team, or in the GRC, could pick up these documents, who are, in fact, not the users of them, and find them usable. So, hence we need a root-and-branch editing of this, largely for common sense and plain English.

But you'll see that Ariel has put up the timeline here, and the main change in the timeline is this addition of the day X. The GRC saw the timeline starting on these two events before day zero, that when the CSC sends the escalation notice to the ICANN Board, effectively that should have signified the start of the timeline. It's not formally day zero, because it's not the day on which the Board sends the notice to the CSC, that the issue's unresolved, but nevertheless, it starts the whole process.

So, Ariel and Julie very kindly made those edits. As I say, that was really the basis of the substance. I see Steve's in there making some comments. What I want to do is—and what I've proposed to

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not only Bart and Katrina, but to the GNSO Council leadership as well—is we have a lot of work to do yet to finish our package of document in the form of 3.1, 3.2, and 3.3, which will be the bulk of our call today. I didn't see the point in stopping, downing tools, turning back to this 1812, and then coming back to 3.1, when, in fact, 3.1 is a very logical on-progression from the documents that we just did in relation to 2.2 and 2.3, which we'll look at in a moment.

For that reason, and given that this joint consultation is slightly different animal, in that it involves our collaboration with another entity—that's the ccNSO—it's the only task like that in our scope. What I propose we do is that we park this and come back to it after the work in completed on 3.1, 3.2, 3.3, after we've done our total review, and after we've sent off the package, which would now be the package minus the joint consultation guidelines, to the GNSO Council, which means our timeline would be extended very slightly, in order to go back and finalize this document.

Now, I will tell you, I probably did express some frustration to Katrina and Bart that it had taken so long. I certainly expressed my frustration to Julie and Ariel. In the end, I'm not sure that this is necessarily such a bad thing, in the sense that what has been proposed is that, given that this is a joint consultation document, it could be jointly presented to the GNSO and ccNSO Councils in a rather ceremonious fashion in Montreal, and then, potentially discussed or signed off in Montreal. Certainly, it could be discussed in the joint meeting of the Councils in Montreal.

I think that that's a reasonable plan. It certainly doesn't stop our progress on our work. Steve's making some substantive

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comments in the document. Yes, Steve. It is the case that they were ... Their concerns about the timeline were sort of multifold. One, as I said, the primary concern was that start date. Shaving some of the time off was a concern. I think there were a fair few other concerns as well, and you'll notice that the bulk of the changes are here in the timeline, rather than in—in terms of substance, here in the timeline.

What I propose we do, we have quite a bit to do in relation to not only updating on 2.2 and 2.3, but then moving on to 3.1. I will ask if anyone opposed violently this idea of parking this for now, and coming back to it after we're done? I think if we shift gears, we're going to lose some necessary momentum between 2.2 and 3.1, given that they're related. So, quick call. Anyone concerned? Anyone have any questions? I'll be happy to come back to this one. David says he's okay with parking. Thank you, David, very much, particularly since you're our bridge between the GRC and this drafting team. Great. Steve says, "Me too." No one else is screaming. Wonderful. Great.

Let's go then to 2.2, Ariel, if you could do. Now, we had our call last time on the 2.2/2.3 documents. You will remember that these things deal with the petition process. There's this idea of [inaudible]. The one thing, I think, that came out of our discussions last meeting, that there were still comments in the document about, was this idea of the GNSO community feedback. Ariel's put it precisely up on the screen. Ariel had initially raised a comment about, a, had she interpreted the bylaws correctly, and, b, how do we manage this feedback? Did it happen before the community forum, or did it happen after the community forum?

Ariel, Julie, and I, and David all went back and had a look at the bylaws quite carefully. I was fairly convinced that this was something that the SGs and Cs could comment on before the community forum—the Rejection Action Community Forum—and also comment on after the Community Action Rejection Forum. And so, what Ariel has done is insert this new text in green here, which is simply dividing the two, so that it makes more sense. This is really the only major change, I think, in 2.2/2.3.

There were little tinkering along way to, largely, consolidate or make the language consistent. I think what we're noticing now, the further we get on in these things—and particularly Ariel has caught us a number of times—where we've used a particular turn of phrase in a later document, and we, "Oh, that works much better. It makes more sense." We've gone back and added it into the previous documents that we'd already looked at. So, poor Ariel runs blocker back and forth. She sort of warps time, and goes back into the earlier documents to tidy those up, when she remembers where we've seen that before.

So, that's really a summary of where we are with 2.2 and 2.3. Ariel's very generous in saying it's an iterative process. Any questions on 2.2/2.3, particularly this stuff here on the screen about community feedback before and community feedback after? If there aren't any questions on the spot, what I'm going to propose we do is what we've typically done with these documents. Julie and Ariel will circulate them right after the call, and ask for us to do a final review. And I would encourage everyone to do that. Make sure it makes sense, because it's hard to come into them just immediately here on the call.

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But if there are any questions, any concerns about where we are, this is a great time to raise them. David says, “Seems sensible, but happy to do a final review.” Appreciate that David—your giving your drilling down on the 3.1 documents as well, that we’re all consistent. Okay, last call for any concerns, questions. Yeah, I hear you Steve. I think that’s an important point, given that the bylaws really only refer to the SO, so it’s for us to explain what the SO means. Okay, I don’t see any comments. Wolf-Ulrich, plus one. Great.

So, with that in mind, I think we can safely leave 2.2/2.3. We thank Ariel for her fabulous work on that one. And Julie, Ariel, could I trouble you? Let’s add that to the action items for after the meeting, that we circulate this one around for a final review, and any last bits of input. Given that this is a final review, let’s try not to ... Sit on your hands. Resist the temptation to do too much wordsmithing in it, and just look for the big-picture concerns, if we’ve missed anything. And Julie’s already done it. Awesome, thanks Julie. Cool.

Alrighty then. That takes us to our new friend, 3.1. Okay. Ariel’s given a link in the chat. Thanks, Ariel. So, I think what we can do by way of explanation here is say that 3.1, 3.2, and 3.3 are a related suite. I know Steve, it is another 23-page document, and sadly, each of them is—3.1, 3.2, and 3.3—a lengthy document. But, if you like, they’re a suite. 3.1 deals with removing a NomCom director, 3.2 deals with removing an SO/AC-appointed director, and 3.3 deals with spilling the whole board.

So, they are all of a piece, if you like. That explains why, in my note to the drafting team about 12 hours ago, I said if you read

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3.1, I don't think you need to prepare for this call by having to read 3.2 and 3.3 as well, because the process is the same. It's just that the trigger, or the action that triggers the activity. So here, it's the NomCom director that's being removed, and as I said, in 3.2, it's the SO- or AC-appointed director that's being removed, and in 3.3, it's the whole board.

Now, there are some interesting questions in 3.2, in relation to the SO/AC director, because our SO and AC director, and our GNSO directors are appointed by each of the houses, and the involvement of the other house in ... Let's say Contracted Party House. What's the involvement of the Non-Contracted House in the removal of that Contracted side director and vice versa? So, there are some interesting questions there. But I think, let's bed down the process here in 3.1, before we go on to that very specific. I think it's a pretty unique case in that document.

So, Ariel's on the move in this document. I think what we can do ... You notice, we've used the fabulous graphic that Steve helped to develop in all of these documents now, to assist the Council in understanding what's actually going on. One of the suggestions that ... and Wolf-Ulrich, I think you've done the right thing by only looking at 3.1. Truly, you'll see that the language mirrors all the way across all three documents.

One of the changes that I suggested we do, in light of David's comment there on this page, is that the original table ... I don't know if you remember. It seems like a million years ago, but the original table that staff had made in compiling our scope of work, it looked like this table that you see here, although it was missing its header, if you like. We just took the individual snippet of the table,



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as was needed for a particular set of documents, and plugged it in. So, I've added these headings. It seems a minor thing, but hopefully it addresses David's point on the status of bylaws, and already-completed work, and additional proposed steps.

That already-completed work is something the Bylaws Drafting Team before us, which I believe Steve, and maybe [Tanya], and maybe Stephanie, as well, were on. I know, Steve, you were on that one. That's work already done. The additional proposed steps is the stuff that we have yet to do. Hopefully that makes sense. [And Wolf, too]. There we go.

Okay, I think we can scroll down, Ariel. Ariel's raised a comment in relation to David's concern that ... Let's see, we're adding in here. Ariel, could you scroll up just a tiny bit, so we see the top of that sentence? There we go. [Addition] to the GNSO Operating Procedures, number two. Add a provision to clarify that all petitions concerning a director removal process submitted by an individual must be submitted directly to the GNSO Council.

Now, this is a question that runs throughout the whole document—and indeed, it runs through 3.2 and 3.3—is very much in the same way that we talked about this relation to commencing a rejection action, is this something that kicks off ... It comes from an individual. We had Mary on our previous call to help us understand what individual meant. It comes from an individual. In the previous context, we determined that that should go through the SGs and Cs.

The bylaws, as we, I think, interpret them ... Here, I'm going to ask David, and Ariel, and Julie, who have been thinking about this

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for two weeks to correct me if I'm wrong. But I think we're all on the same page, that the bylaws don't really specify. The bylaws simply say that an individual has this power, but the bylaws don't really say how the individual should submit that thing. As I understand it, it's, I suppose, for us to interpret that. David, please. David, I suspect you're on mute.

DAVID MCAULEY: Hi, Heather. Can you hear me now?

HEATHER FORREST: Yep, can do. Thanks, David.

DAVID MCAULEY: With this Zoom, there's more than one mute button, and it gets me so confused. In any event, I think that we can. The language in the bylaws says, "Subject to the procedures and requirements developed by the applicable decisional participant, an individual may submit a petition to a decisional participant." So, the language says the individual has the right submit it, for instance, in this case, to the GNSO, but the GNSO has the right to create procedures and requirements to govern this.

I'm of the view that because the bylaw, in Annex D 3.1, gives an individual the right to submit it to the GNSO, we can't rely on preexisting procedures. I would think that if we want to go through SGs and constituencies, we should develop a procedure/requirement to do just that. I think we have the right to

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do that, but I actually think we have to do that. So, that's my view on it. It is pretty complex stuff. Thank you.

HEATHER FORREST: Thanks, David. Much appreciated. Wolf-Ulrich.

WOLF-ULRICH KNOBEN: Yeah, thanks, Heather. Can you hear me?

HEATHER FORREST: We sure can, Wolf-Ulrich. Thank you.

WOLF-ULRICH KNOBEN: Thank you very much. We had this discussion already, during this checking or developing the action rejection petition process. I think we came to the conclusion that on the one side, the individual should be given a certain power, according to the bylaws—power which can protect against intervention by any other body, like constituencies or stakeholder groups. But on the other hand, as you also mentioned here in the document, in your comment, the GNSO is working through constituencies and stakeholder groups.

Comparing these both sides, we should find a reasonable balance to reflect on this. So far, I was of the opinion that found that in our comments and our writings in the rejection petition process. So, if I'm not wrong, why couldn't we just take over what we already have written in that process? If that is not enough, then we should discuss and follow what David was saying, and really go to more

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details on that. But the basis should be that we should find a reasonable balance between them both. Thank you.

HEATHER FORREST: Thanks, Wolf-Ulrich. I agree with learning from the rejection action process. We've had a similar discussion there, and I think it's important to remember that here. Steve, please.

STEVE DELBIANCO: When David was explaining, he mentioned about the SGs and the constituencies, but I don't think they play a direct role as a conduit for an individual getting to Council. They play a practical role, because if an individual—a member of, say, the Business Constituency—was the one who wanted to see a couple of NomCom directors removed, they could stir things up. They could draft a petition. They could send the petition to the Council Chair. They would probably be wise to send their petition to the BC Councilors, because unless a Councilor makes a motion, a Councilor will not even have the chance to consider a supermajority approval of a petition.

I don't think the constituencies and stakeholder groups need to be factored into the discussion. I agree with Wolf-Ulrich that we want to be consistent, but keep in mind that when we design the empowered community, it's the ACs and SOs that are the decisional participants. Each of them gets to make their own rules to how that AC or SO proceeds, and each of them may allow individuals to start the process, but an individual acting alone has no ability to obligate a decisional participant to take a decision.

HEATHER FORREST: Thanks, Steve. It's an interesting point, what you raised. It's a good counterpoint to the concern that I raised in the document somewhere, which was from a practical point of view, how does this work? Is it the case that ... And I think it's probably ... Yes, you see all these references to rejection action ... Yeah, there.

My comment here—and Ariel zeroed right in on it—is this business that individuals cannot post to the GNSO Council list. From my experience sitting in the hot seat, I'm concerned that the average person doesn't know what the GNSO Secretariat email is. How would they even go about knowing how to send this? I think, Steve, the example you gave is probably someone who's a bit savvy. I was trying to think about examples of where ... Is it often the case that we get someone who randomly, for lack of a better word, tried to communicate with Council—whether that's the Council leadership, whether that's the Secretariat?

It doesn't really often happen. It tends to be someone that the Secretariat has already previously communicated with, that then replies. The one example I could think of was in the context of 3.2. It's certainly a case that, for example, in the most recent ... In the nomination of Becky Burr for the Contracted Board seat, that message came from Donna, and it was copied to Graeme, and it went to the GNSO Secretariat. All of that, to me, makes very good sense, because your SG and C leaders communicate quite regularly with the Council. They know that they have to do that, in order to fulfill their obligations in appointing that that director.

But a random individual, I struggle. I struggle with how that would work, but I do think Steve makes an interesting point, which is at the end of the day, this still has to come down to a motion, and the motion has to come from an SG or C. What do we think about this? Can I propose, maybe, a practical solution, which is to say that where we ... Ariel, can you take us to ... I think it's 4.1. It's the eligibility thing—the very first section. Yeah.

You'll see this is where the language sits in the substantive document, "Such an individual must submit his or her petition, meeting the requirement of 4.2 below," to whatever it is. Can we say here ... Does it satisfy everyone? I think the point that I take from everyone's comments is the bylaws are going to let us do what we want to do, provided we don't prevent that individual from submitting. If we say that they may submit through the SGs and Cs, or to the GNSO Council directly, I suppose that that is an opportunity for that to happen either way. Does that make sense, or have I made it worse?

Okay, cool. Tatiana says, "Makes sense." That's awesome, Tatiana. Thank you. Steve's got a green tick. That's cool. Thank you. No one's screaming it doesn't make sense. David, let me just check with you, because you've been intimately involved with fiddling with this, and making comments in here. What do you think?

DAVID MCAULEY:

So, if I'm not mistaken, the suggestion is to actually create a provision that says the individual could submit either through an SG or constituency, or directly to Council. That seems to me to be

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fine. The problem that I see is we're struggling with a bylaw that was written, that didn't ... When this was written by [Sibley], it was done in a time crush, and so they didn't think of the practicalities, which I think Steve is wise to mention. The need to for a motion to then carry it forward, the bylaws don't say that. They simply say once the Council gets a petition, they have a duty to either accept it or reject it.

So, we're struggling with the language, but what you're suggesting's fine to me, as long as we write out a procedure. That procedure, in this case, would say, "Okay, you have a right under 3.2. An individual has the right under 3.2 to submit a petition. Here's how they submit it—either through an SG or a constituency, or directly to Council." I think that would adequately address the right to submit. Thanks.

HEATHER FORREST: Thanks, Steve. And thanks very much Steve, and Tatiana, and those of you who were involved, as well, in the Bylaws Drafting Team. Your sanity check of this is super-helpful. Wolf-Ulrich.

WOLF-ULRICH KNOBEN: Thanks, Heather. I think the problem is clear. It's only the question for me of, on the one hand, who can provide the petition, and then how it is provided, and what is going to happen on the way of submitting the petition? So, it's clear that the individual can provide a petition. If it takes the petition they way through the constituency or stakeholder group, does it mean that it needs a full agreement by that stakeholder group or constituency to pass to

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the Council, or is it just a kind of medium, the constituency or a stakeholder group, on this part of providing the petition to the Council?

It's needed, [what are the] procedures to pass a petition to the Council. This question should resolve, I think so. And there could be different opinions on that. On the other hand, I would agree in this way. If you provide both opportunities, to pass a petition through the constituency or directly to the Council, I think that would also help. Thank you.

HEATHER FORREST: Thanks, Wolf-Ulrich. What I'm going to suggest that we do, because you'll see that this theme runs throughout ... We'll turn to David in a second, but you'll see that this business of where does the petition go? Where does it come from initially? It runs all through the process, and so I would say let's maybe leave it where we have it on the both. In our go back and review efforts, go back and challenge yourself, and say, "Does this make sense?" With that, David, please.

DAVID MCAULEY: Thank you, Heather. I hope you can hear me.

HEATHER FORREST: All good, David. Go for it.



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DAVID MCAULEY: Okay, thanks. I thought that the question that Wolf-Ulrich just asked is a extremely important one, and it brings up a point that I forgot to mention. That is one of things that concerns me. If the submission of the petition is through an SG or a constituency, that, in my view, would start the clock. To me, the only conceivable way you could do that is have it as a mere passthrough. If, instead, the SG has to take some action on it to approve a petition, I think that could be disastrous, vis-à-vis the timeclock. Anyway, that's my comment on that. Thank you.

STEVE DELBIANCO: David, are you interchangeably using the word SG when you meant SO?

DAVID MCAULEY: No. I thought we were talking about submitting a petition through a stakeholder group—through a subunit of the GNSO. If the petition goes directly to the GNSO, I have no problem. That's the way the bylaw reads right now. That starts the clock, but that's fine. That's what expected. The 21-day, or whatever the number of days is, clock should, in my view, when the GNSO gets it. If the GNSO passes a procedure that allows a petition to be submitted to a stakeholder group before it goes to the GNSO Council, that's going to start the clock in my view.

STEVE DELBIANCO: But Heather's proposal was to allow an individual, who happens to be affiliated with GNSO in some way, the option of sending it to the GNSO Secretariat as a direct submission, or try to round it

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through their Councilor from the SG or C that they belong to. I realize what you're saying is that those are different clock starts, but that option ought to be available to the individual, and we get to write the rules.

It doesn't really matter very much, because ultimately, Council will take a vote. Even a direct submission still has to be voted on by the Council. Someone has to move, and second, and vote on it, and get a supermajority, right? So, either way, Council controls whether they decided to go directly to the Secretariat or through their constituency or stakeholder group.

DAVID MCAULEY:

Well, I guess, maybe I misunderstood. Heather, maybe I misunderstood your proposal. I thought what your proposal was, was that someone could alternatively submit through a stakeholder group, or directly to the Council. If I misheard it, and what the proposal was, someone could submit it to the GNSO Secretariat or to a GNSO Councilor, then my opinion would be different. Then, I misspoke, so I'm sorry if misheard it. I thought it was to a stakeholder group.

HEATHER FORREST:

Yeah, thanks, David. I think this line of questioning raises an interesting question in my mind. There's two things, and Steve has hit on both of them. The first one, before I lose it, because the other one, I've written in the chat, and I know I won't forget ... The first one is, Steve, although you said it casually, it is a concern of mine, and it's somewhere in these comments in the document.

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You said presumably this person is somehow connected to the GNSO.

One of the concerns that I have about individual—just the plain-language meaning of individual—is that, in essence, suggests that anyone under the sun can, through the GNSO, raise one of these petitions. I am concerned about the fact that we don't ... And I think I've suggested somewhere in here. We might get some opinion from legal on what individual means.

Somewhere in here is comment that I made about the ALAC, which is to say, surely individuals who have no affiliation with the GNSO, because they are not a registry, a registrar, a member of the BC, ISP, IPC, or NCSG, or NPOC ... Is that quote unquote individual ... Do they have standing to use this process to the GNSO? And that was the logic behind my concern of should it go through the SG or C, because if it was a completely unknown person. I see David has his hand up, so before I move to the second question, David, over to you.

DAVID MCAULEY:

Thank you, Heather. I think you are raising another important question. That is, what does individual mean? It strikes me that there is an argument to be made that an individual submitting to the GNSO should require that that individual have a tie to the GNSO. But I can understand another person saying, "Hey, wait a minute. This is opening up the ICANN community's ability to challenge a director appointed by the GNSO. So, why should that be limited to people in the GNSO?"

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If somebody in the ALAC thinks that a GNSO director is doing a poor job, and they think they should put their submission in via the GNSO, why shouldn't that be allowed? I think there's arguments on both sides, and I think all I'm really saying is that I do think this is a question we are going to have to address. Thank you.

HEATHER FORREST: Yeah, thanks, David. Steve, it's over to you.

STEVE DELBIANCO: Yeah, I think we would get ourselves in hot water by seeking to create barriers for an individual—an internet user or registrant—to petition an AC or an SO of their choosing. I don't think we want to get in the way of that. Keep in mind that we write the controls, and even if an unaffiliated individual submitted an email to the GNSO Secretariat with a petition to remove a NomCom director, nothing happens unless and until a Councilor moves a motion on the petition that get approved with a supermajority. Councilors control, but you don't have to go through a Councilor if you don't want to.

There should be no need for us to create eligibility rules for individuals to log something into Council, or log something into the Secretariat. We still maintain control, and yet appear to be open to the broader internet community, who doesn't know the ICANN rules.

HEATHER FORREST: Yes. Fair enough, Steve. Fair enough. Just so we're absolutely clear ... I don't think it's necessarily material on this point, but this

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one is for removing the NomCom directors, not so much removing the GNSO-appointed directors. 3.1 is NomCom. But still, I take your point.

STEVE DELBIANCO: Yeah, not an important distinction, because it's about the ACs and SOs, who we designated as the decisional participants in the empowered community, no matter whose director it is. In all [cases], individuals ... George Kirikos comes to mind as a great example. I know Julie's probably laughing when she thinks about that. When an individual—a gadfly, who comes in and out of different groups—decides to start something, we can't be seen as a barrier to that sort of initiative. On the other hand, we've created great controls, and checks and balances, that their initiative goes nowhere unless it gets a supermajority of Councilors.

HEATHER FORREST: Thanks, Steve. David, you had your hand up. I suspect it might be an old hand. I'm going to go to Wolf-Ulrich, please.

WOLF-ULRICH KNOBEN: Yeah. Thanks, Heather. We are talking about the procedure on how to submit this petition. So, there are two ways with which to discuss. One is to provide that directly to the GNSO Council. And then, there is the question, what does it mean? Does it mean GNSO Council Secretariat, or how to do that? Then, Steve said it doesn't help the individual if they provide this directly to the Secretariat because there shall be no reaction unless there's a motion of the Council.

Okay, in this case the reaction could be the Secretariat sends it back to the Council, or to the GNSO leadership or what else, in order to make them aware that there is a petition. They should deal with it. And then, the reaction should start to [come up with this]. There are different ways to handle that. For me, the basic reaction is how this individual is going to be treated during the submission of a petition.

So, does it mean that a constituency or stakeholder group, which the individual is adhered to, has to agree already? That means that the petition shall not be an individual's petition, rather than a constituency's or a stakeholder group's petition. It is submitted, then, to the Council. Or does it mean that it is still an individual? It could be an individual's petition coming up to the Council, which I understand from what was discussed so far.

So, it comes back to what I have said before, that for me, the constituency or the stakeholder group has just a kind of administrative function during this part of the provision of the petition, to put it forward to the Council. So, that's what I understand. Thank you.

HEATHER FORREST:

Thanks, Wolf-Ulrich. I think that takes me back to the second point. The first one was ... I think we've talked about it now. The second one was this idea of, is there some kind of a difference in the treatment? I'm being more substantive. I think the concern's been raised about timeline by David, of if you do submit through an SG or C, does that differ somehow from submitting directly to

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the Council? That was my proposal. What I would like us to do is this.

Again, I think talking about these things in a vacuum is only so helpful. Ariel has changed the language here at the top of the screen to a one and two. What I ask everyone to do is as they go through this document, and where that becomes material, this idea of the petitioner and how that commenced, just have a think about whether this one and two works. If there are problems or issues that we haven't yet seen, let's go ahead and document those, and come back and try and fix them.

But for the moment, I'm going to say let's have it on the table. Does this proposal work? Let's go through the document to see what happens. Ariel says there are a few steps involved in the petition process, which is right. So, this comes up at various points. Rather than talk about it ... I think we've fleshed out some of the big picture issues. Let's look at it in practice on our own review.

I've asked Ariel to take us down to another fundamental question, which is this one here in the ... What happens when the petition is made? Let's park for the moment to whom the petition is submitted. The petition is made. It gets reviewed by Council leadership. Council leadership will look at it, not so much to do a substantive review, but really just to say, has this petition included all the information that it was supposed to under the bylaws?

You see the highlighted sentence, "The Nominating Committee director removal process shall automatically be terminated with respect to the applicable petition." What we're saying there is if

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Council leadership has a look at the petition that is received, and says, "This petition does not contain the requisite information that it's supposed to contain," then the process is over. The question that Ariel raises in the margin is should there be an opportunity for resubmission.

You see that Julie, and David, and I commented on this and said we're not really inclined to say that there should be a resubmission, only because if you ... Ariel, it's in the next section up, isn't it, where it says what the information needs there is? Yeah. It's super basic. It's the name of the petitioner, who they actual director is, what seat they hold, why, a rationale, and this very basic confirmation that the bylaws requires, that this isn't a second bite at the cherry, if you like. They haven't already been subject to this process.

So, I think where Ariel, and Julie, and David, and I, in looking at this over the last two weeks, had come to was if you can't get this right, it's not that much information. They bylaws don't tell us we need to offer an opportunity to correct and resubmit. I suppose it wouldn't stop you from just starting the whole process all over. Steve says, "No need to describe how to resubmit. The petitioner is able to submit again." I think so. I think if we leave this, it doesn't stop a fresh submission, if you like, but I don't think we need to discuss resubmission. Does that make sense? Wolf-Ulrich.

WOLF-ULRICH KNOBEN: Thanks, Heather. I'm fully with you. I just had a question, which I raised here in the text, which I couldn't understand, really. Why



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this confirmation that the affected director, during the same term, had not previously been subject to a petition. I would understand that, if that is related to a petition in the same case, or in a similar case, but why is that important? I'm not clear on that. That's just the question here. On the other hand, I'm with you on what you have said. Thank you.

HEATHER FORREST: Thanks, Wolf-Ulrich. Sorry. My turn to struggle to get off mute. I know David's comment in the chat agrees. On that language that you're looking at here, Wolf-Ulrich, it comes, sadly, directly from the bylaws. It's good that it comes directly from the bylaws, because it means it's not a mess that we've created. It's bad in that we've inherited the mess. And I think this poorly-worded section in the bylaws, what it's really trying to say is you can't ... It's a prohibition against double jeopardy, if you like.

If you had been a director who was subjected to this process, and got quite well through the process, meaning there was a petition filed against you that led to community forum, at which the community discussed openly the problems that had led to the petition, and if you walked away from that process, and, let's say, the process went no further—that the community, after that community forum, decided not to remove you, that this, then, couldn't be an opening for submitting a new petition against you in your term.

Ariel says, "I think it's meant that the community has already spoken with regard to the affected director, so the petition shouldn't be about the same director again." Thanks, Ariel. Wolf-

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Ulrich, it's a badly-worded phrase in the bylaws, but that is actually a requirement of the bylaws, is that you need to confirm that this isn't someone who's already been through the bulk of this process before. As David's pointed out in the chat, if that director acts badly, then the Board could remove, and Wolf-Ulrich's on board with that. Great.

I think the final point for today that we should have a look at is the ... I think we ought to look at the timeline, Ariel. Yeah. I think if we go all the way down, to capture the timeline in the timeline chart, that will sweep up all of our timeline comments. There it is. Great.

So, there is a question here in the timeline. You see that we've followed the same format as before—this idea of a dialog. The dialog, what that is, the bylaws say when this process is kicked off, your removal petition is certified by Council leadership, which is to say it simply ticks the boxes and contains the information. Even if it's badly written—even if it doesn't make a whole lot of sense, but it contains the information that the bylaws say it needs to have, that then goes on the journey, if you like. You see here that all of those early steps are really captured in day two. The Council leadership has to move quite quickly.

If the requirements are met, the Secretariat invites the affected director and the Chair of the Board, or the Vice Chair, if the chair is the party that's subject to the removal action, to a dialog, is the language that's used, with the petitioner and a representative of the decisional participant. Here, of course, we've relied on our GNSO rep on the EC Admin, as we have done in previous documents.

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The Secretariat then also kicks off this process of, just as we saw in 2.2/2.3, there's a feedback process from the SGs and Cs. Again, we have this issue of the feedback before and the feedback after a forum, so you see some commonalities between these documents. The Secretariat logically sets up a Council meeting, which deals with the motion point, which is the one that Steve has already raised.

The question comes into play on this day 10, day 15 business. The dialog, again, it's just the affected director, let's say the Chair of the Board—if it's not the Board Chair him or herself that's suspect. Otherwise it's the Vice Chair—and the EC Admin rep, and then petitioner, whomever that is. The question is, how long do we give them to have their dialog?

Now, my concern about this is ... I understand that there's time zones involved, and I understand that we want to provide enough time that we are sure to find a mutually-agreeable time for this dialog to happen. Then again, I think we want this ... I would hope that the affected Board member would be sufficiently incentivized to make themselves available, and be pretty darn flexible in having this dialog.

So, the question then is, do we shorten ... Do we claw back a few days here? Rather than have it be day 15, do we make it that the dialog invitation goes out on day 10, and should it be shorter? To Steve's point in the chat, I think 15 is plenty. I agree, Steve, that's it's plenty. Is it too much is the question. Should we be asking for this dialog to happen sooner?

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STEVE DELBIANCO: Could you start right after day two, in terms of telling that it satisfies the completeness. You have six days to conduct a dialog. That would be the communication from Council leadership. Six days, seven days, whatever it is. We could even say eight days. If you said eight days, then that means the dialog would need to be done by day 10 instead of day 15, right? There's a huge gap between day two and day 10 that I don't understand.

HEATHER FORREST: Yeah, Steven. And you'll see my comment in the margin here in the document is, there are a quite a few things that have to be done in day two. My question was if we move that confirmation process, of what Council leadership has to do ... If we move that up to give Council leadership a week, then we can move forward the rest of the deadlines. David, over to you.

DAVID MCAULEY: Thank you, Heather. Like you and Steve, 15 days strikes me as long. On the other hand, what a director might be charged with, or accused of doing, or whatever might be complex, and the director should have time to put his or her defense forward reasonably. So, I thought what Steve was saying just a moment ago makes sense. I think if we shorten this ... Maybe the dialog should be done by day 10, but not earlier, or something like that.

There has to be at least a week for someone to gather their thoughts, gather their memory. It might be something that happened a couple years ago. They have a three-year term. So, I

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think it could be shortened, but we also have to be attuned to giving someone the capability to pull their act together. Thanks.

HEATHER FORREST: Yeah, thanks David, and thanks, Steve. I think those are both sensible points. What I'm going to ask is, Ariel, since you have become the wizard of timelines ... I know Tatiana has agreed with David's comment. Ariel, would you be willing to take a stab at tightening the timeline along the lines of what we've discussed here before we recirculate the document with the summary of today's call? Ariel says yes. Thank you, Ariel. Chocolates and flowers from us. Let's see. Let's see what Ariel can pull back in the way of time, and as we review the document, have a look.

Now, you'll notice we haven't been able to do a line-by-line review today, because as Steve noted out from the very beginning, it's a 23 ... Chocolate must be shipped, too. There's a mutual paid factor here, but Ariel gets more chocolates, I think. Yeah, it's not a bad idea.

Alright, so let's wind this up, and summarize where we are. What's going to happen ... Julie's already sent around the 2.2/2.3 with the redlines still in, just so everyone can see them. Please have a look, and have a look with the mindset of some of things we've talked about today, too. Again, some of these things ... The concepts bleed over.

Ariel's going to play with the timeline. When we circulate the summary of the call and these documents, what I'm going to ask that you do is have a look. We can clean up, too, some of the

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points, I think. Ariel, I'm happy to work with you on that. In light of the comments on today's call, and particularly you're looking at this from the perspective of does that proposal of the notion of the individual and submitting through Council, and submitting through SG, as an option to do one or the other ... Does that work? Are there any places where we get new issues? Don't worry, Wolf-Ulrich. I'm not asking you to do it on the spot. It's just before our next call, which is in two weeks' time, so not an instantaneous thing in any way, shape, or form.

So, that gives us direction for our next call. Our next call will be devoted entirely to these 3.1/3.2/3.3 documents. If you're able to ... Remember this is our last item, so if you're able to do a push on this one to get us through ... If you're able to between now and the next call, once we've tidied up 3.1, have a look at 3.1. See if it works, and if it does work—if you haven't noticed anything vile and horrible ... And make your edits in it, because Ariel can track your edit from 3.1 over to 3.2 and 3.3. We'll then turn to the unique aspects of 3.2 and 3.3.

I've taken us two minutes over. Hopefully that makes sense. Anyone, concerns, comments, questions? Steve says, "Okay," which is probably an unwilling okay. Please quit beating us. Alright, everyone. Good work. I know we're tired. It's the end of a long effort, but I think this stuff is ... Arguably, no job is more important, but this one's super important. With that, we'll say thank you to Julie and Ariel for their hard work. Julie Bisland, thank you very much for running the back end, and Julie B., you can sign us off. Thanks, everybody. Have a very good day. Go to bed, Wolf-Ulrich.

JULIE BISLAND: Thank you, Heather. Thanks, everyone, for joining. You can disconnect your lines. This meeting is adjourned.

**[END OF TRANSCRIPTION]**