
ICANN Transcription

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

Wednesday 10 July, 2019 at 2100 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the GNSO Drafting Team call held on Wednesday, the 10th of July 2019 at 21:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now? Thank you. Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not

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speaking to avoid any background noise. Thank you. Over to our Chair, Heather Forrest. Please begin.

HEATHER FORREST: Thanks very much, Andrea, and thanks very much to David and Wolf-Ulrich for being on the call. We are fairly thin in numbers today. I'm just getting started with the Section 1.3 stuff. Before we do that, let's quickly review our agenda. Does anyone have anything at this point that they'd like to add to the agenda? Nope. Nothing from David in the chat. Alright. Very good. Excellent. Always an opportunity if you have to add Any Other Business. Julie, as you were typing, not that it matters but can we clean up the numbers in the agenda, please? We've got 1, 2, 1, 2. Thanks very much.

Any updates to Statements of Interest? None from me and I don't hear anyone shouting. Nope. Great. Wonderful. So, that takes us then to item #2, which is our circle back to Section 18.12 Special IFRs. This is the piece of the puzzle that we're still coordinating with the ccNSO in relation to – and for that, I'll turn it over to Julie for brief update.

JULIE HEDLUND: Yeah, thanks very much, Heather. This is Julie Hedlund from staff. Just to remind everyone, and I sent a reminder out to the list earlier today, we do have a Joint GRC Drafting Team meeting on Monday at 12:00 UTC, Monday, the 15th of July. And to help assist with that meeting, I pulled up the questions that David McAuley had kindly sent around from the last GRC call, the 17th of June.

Also, Bart and I drafted a timeline of various interactions between the ccNSO and GNSO in the joint initiation of the Special IFR, and we sent that around. I think that pertains primarily to questions 1 and 2, but it may provide guidance for other questions as well. We do urge all of you to please do look at the Guidelines document at the link there in the Google Doc and also the questions from David and the timeline from staff in preparation for the call on the 15th.

Let me just ask David, not to put you on the spot, but did you have anything you would like to add? If not, that's fine too. I'm not seeing anything from David, so Heather back to you.

HEATHER FORREST:

Thanks, Julie. Thanks very much. I'm hopeful that we can finish that work or at least make some very good progress on Monday, the 15th and hopefully be able to tie up some loose ends by e-mail after that call and move on from that particular piece of work. So, much appreciated, Julie, all your scheduling with Bart and so on.

Anything further that we need to say about 18.12? David, please, over to you.

DAVID MCAULEY:

Thank you, Heather. And I'm sorry, Julie, when you asked the question, I again got stuck on mute. When I tried to unmute in the Zoom room as opposed to my phone, my screen just blew up and – anyway. But I didn't have anything to add. I do think though on these questions – the meeting on the 15th is early for those of us who are on the East Coast of the U.S. time, and so just be sure and give it some thought.

Julie, when we get there, one of the questions is suggest that can we two groups, this drafting team and GRC of the ccNSO, can we jointly map out the timeline? We may turn to you and Bart and ask you all what do you think on this, but that's all I had to say. Thank you. Thanks, Heather.

JULIE HEDLUND: Heather, over to you.

HEATHER FORREST: Thanks, Julie. I was just chattering away to myself on mute too. So, there you go. We're all having "stuck on mute" problems. I was afraid that the timing wasn't all that brilliant for a lot of folks. If the timing isn't all that bad for me. It's 22:00 my time, so ... Yeah, me too, David. In fact, the reason I got stuck is I'm trying to mute just for the sake of covering all bases, the little button on the Zoom room and on the phone. Anyway.

So, the timing is not optimal. I was delighted to see that it was 10:00 P.M. my time, which is pretty good as APAC standards go, which the flipside of that means it's not going for you guys.

David, you've very helpfully given us that list questions. I think that's going to be super useful and I think you were – caution for whom it is an early call that kind of get their ducks in a row before is a good one. Wolf-Ulrich, over to you please.

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

HEATHER FORREST: I certainly can, Wolf.

WOLF-ULRICH KNOBEN: Thanks, Heather, and thanks, David, for the questions and for the outlook of the talk with the GRC. My question is a little bit related to that. What are we going to expect from this exchange with the GRC and how are we moving forward from that? David, from your knowledge of your insight in the GRC, do you see any bigger problematic questions with regards to what the GRC would like to hear from us or just for clarification? The question why I'm asking is to understand how we move forward. Could that be the case that the GRC could be satisfied from that call next Monday directly or it is more the case they would go back with our answers and then discuss internally and come back feedback then their understanding of it? Thanks.

HEATHER FORREST: Thanks, Wolf-Ulrich. David, over to you. Do you have any thoughts?

DAVID MCAULEY: Can you hear me?

HEATHER FORREST: Yes, sure can. Don't worry.

DAVID MCAULEY:

It's a true struggle today. I am so sorry. Wolf-Ulrich, thank you very much for the questions. It is my expectation that these questions are not all that problematic and it's really a matter of clarification, sort of ironing out some of the administrative approaches of the two groups. And my expectation is that if we talk about the questions and come to a common understanding on Monday, these questions that then the ccNSO GRC and this drafting team here can then go their separate ways and finish their documents. And I believe that we would then have two common approaches that would mesh well if a Special IFR action ever comes before the group. There may be little instances where things would pop up in those circumstances where Heather and Katrina would have to sort of work together to iron them out. But I think by and large, we would be in good shape, to be frank.

And so, I don't expect that this would lead to a separate meeting, so long as on Monday both groups get to address these questions and any other questions that either we or the GRC brings up and go away to do our drafting with a common understanding of where we intend to go. And I think that we would then be in pretty good shape for the two groups to work together side by side to meet the obligations of the Bylaws for a Special IFR. That's my belief right now. Thank you.

I hope that answers your questions.

HEATHER FORREST:

Thanks very much, David, and I see Wolf-Ulrich noting in the chat that he says, "Okay, David. Thank you." On this exact topic, Julie, can you tell us – there were a few items out of that initial call,

there were a few items that we wanted to refer to Legal as to the powers of certain parties, who actually is it that initiates – is it the Board? Is it org? Is it the respective GNSO and ccNSO Councils? Have we gotten any word back from Legal on those questions?

JULIE HEDLUND: That's a really good question, Heather, and thank you for noting that. Bart sent that question over to Legal and I was copied on it, so I should have thought that if there was response, I would have seen it. So, let me check with Bart and see if we can prod a little bit more, so that that is not an issue that is holding us up.

HEATHER FORREST: Yeah. Thanks, Julie. I actually think if you can do that before Monday, I think that would be super helpful because I have to say, I went into that meeting with a pretty clear sense – and David is saying, "I haven't seen anything on the GRC side." I went into that with an assumption, for lack of better word, as to the fact that this was a community-initiated thing and it was GNSO and the ccNSO Councils, and as I understand it, Julie and other GNSO policy staff were also with the same view and yet the ccNSO really consider that an open question. I am afraid that that could slow us down, if that's where we are. I think the sooner we can do that, the better.

David, it appears, is having trouble with Zoom. David, is having a bad Zoom day. Andrea, are you able to help David in the background if he needs that?

ANDREA GLANDON: Yeah, absolutely. I can dial up to him if necessary. I'll message him.

DAVID MCAULEY: Hello, everyone. This is David. I solved the problem. I'm sorry. My headphone battery just went dead.

HEATHER FORREST: Good. I'm glad it was something so simple. You're back. Anything? What did you miss?

DAVID MCAULEY: Julie had just mentioned that she hadn't seen anything from Bart on the legal questions and I meant to type in to the chat that I hadn't seen anything on the Guidelines Review Committee list either and that's where I sort of lost audio.

HEATHER FORREST: Fair enough, David. Your type made it into the chat, so that's good. All I said was, I am afraid not having an answer from Legal could slow us down. We went into that previous call with completely different understandings or interpretations of that initiation power, to the extent that staff is able to get a response from Legal between now and Monday. I think that would be super helpful. That's really to Wolf-Ulrich's point about what's going to come from Monday? Are we going to get [bogged] down? So, I think that's what we'll do.

DAVID MCAULEY: Thank you.

HEATHER FORREST: You bet. Julie, we'll leave that one with you – you and with Bart. Julie and Wolf-Ulrich, you've got your hands up? Old hands? New hands? Before we move on. Julie's hand is down. Wolf-Ulrich's hand is down. Excellent. Alright. Very good.

I think that takes us through 18.12. Julie has just popped Section 1.3 into the screen. So, I will say a few words. I'm going to turn it to Julie to give us a little bit of an introduction in terms of how this was drafted because this is the first time that we're seeing this one.

There are a lot of comments from me in the chat, in the margin before ICANN65, I sat down with the latest versions of Wolf-Ulrich with the drafts that Julie and Ariel had produced just before the meeting in late May, and I committed to go and through them all at the time to make sure that I didn't lose them in the ICANN65 madness. Hence, you see a lot of edits from me. Most of them editorial type things. There are a few questions that I raised in the margins about why things looked a certain way. And so I would say, as by way of introduction, don't be put off by the volume of edits there. It was just me tinkering.

Julie, you and Ariel put this one together as an initial draft. Anything that we need to know in terms of context of background before we jump into discussing?

JULIE HEDLUND: Sure. Thanks, Heather. Section 1.3 has to do with the Approval Action Committee Forum but I was going to try to say, this is an annex D as you see, on the exercising of the Empowered Community's rights to approval action.

As an example of when this might be invoked to give you a real-time example when it will happen soon but not so soon that I don't think that we can have these guidelines in place, the ccNSO, as you may have seen, has requested change to the fundamental Bylaws with respect to the composition of the PTI I think at the CSC.

DAVID MCAULEY: I think it's the IANA Function Review Team.

JULIE HEDLUND: Yeah, you've got it right. Thanks, David. I have an action item to write this up for the GNSO. I haven't done that yet so it's not entirely fresh in my mind. But at any rate, right now the proposed changes to the fundamental Bylaws are out for public comment. Once that ends – I think July 26 – and as the Board approves that change to the fundamental Bylaws, the next step is within 30 days of that approval, the Board has to initiate an Approval Action Community Forum. That is the opportunity for the Empowered Community to consider whether or not to approve a change to the fundamental Bylaws. Any change to the fundamental Bylaws requires an approval action.

This will be the process for how the GNSO as a decisional participant would participate in the Approval Action Community

Forum and how it then would go about making its decision following the forum. That decision – and I think that this is something that we may not have indicated here but we’ll add it because I was just noting this, thinking about how to alert the GNSO Council two things that will be happening then for them to do in the next few months – 20 days of the forum, the various decisional participants have to make a decision. So that would follow fairly quickly from the forum.

So there’s a timing element that I think we need to introduce here but if we can do so fairly easily. But that is a direct example of how these guidelines will be invoked in probably the next few months. If the decision is made by the Board, say for example, in August then within 30 days of that decision, say by September, there will need to be the Approval Action Community Forum and then 20 days after, again, probably sometime in October, there will need to be a decision by the decisional participants.

I think actually there has been a request – David, you may know about this or not – I think there has been a request from the GRC to have this on the agenda for ICANN66. But that might be too late for a decision to be taken.

DAVID MCAULEY: Hi, Julie. I hope I’m off mute. Can you hear me?

JULIE HEDLUND: Sure. Yes, we can hear you just fine.

DAVID MCAULEY:

Thanks. I'm not familiar with that request to do it by ICANN66 but that doesn't mean that it has to happen. It's just something that I don't recall. But I did want to mention about this fundamental Bylaw change, thinking of the question that Wolf-Ulrich asked earlier about, will this be done? This exercise in approving this fundamental Bylaw is actually quite a good one to make sure that everything is in place in both the ccNSOs and our templates for this because this should be an easy approval for fundamental Bylaw.

What has happened here is this is the Bylaw change the ccNSO is asking for because they cannot staff up all three of their appointments that they have under the Bylaws for the currently called IFRT (IANA Function Review Team). And the reason is of the three that the ccNSO has, two of them have to be ccNSO members, but one specifically, as per the Bylaws, has to be a ccTLD manager which is not a member of the ccNSO. The ccNSO has been successful in attracting members over the last several years and there are fewer and fewer ccTLD managers that are not members of the ccNSO, and so it has been extremely hard to find one that's willing to serve. So this fundamental Bylaw change will add some flexibility where the ccNSO will do its best to find one. But absent, that will be able to staff it with someone from the ccNSO. So it should be easy to approve it and it's a good one to go through the motions I think for both the ccNSO and for us because I think the substance of this whole thing will be agreeable.

Anyway, that's the only thing I wanted to say about it. I don't recall the connection with ICANN66 and I'm sorry about that.

JULIE HEDLUND: No apologies necessary, David. I see that Mary has very helpfully updated us on that and a nuance that I wasn't aware of. If there is request to hold a Community Action Forum at ICANN66 Montreal – just noted in the chat here – and that's related to the ccNSO fundamental Bylaws change request. Mary is noting, as I mentioned, "An Approval Action Community Forum can be held 30 days after the Board approval if so requested by the EC Admin and they would be at the next scheduled ICANN meeting." That's the detail which I was unaware. That's why the request is for Montreal. Thank you very much for that, Mary. That's really helpful.

Heather, how would you like me to proceed with respect to the document before us?

HEATHER FORREST: Julie, you know, what I want to do actually is focus on a bigger picture question. I'm delighted to have Mary on the call as well to maybe help fill in some gaps. My only substantive question about this – like I said in the notes leading up to this meeting, I think this is a pretty straightforward, discreet package of guidelines. I think it makes sense. I agree wholeheartedly with David but it's good that we have a pretty uncontroversial one to start with. It makes entirely good sense why the ccNSO is doing what it's doing. It's a great guinea pig in that sense. My only question in all of these from the GNSO side – as you can see, all of my comments are really pretty editorial – is the question of the reference throughout the guidelines, the draft to the GNSO Chair.

I understand Maxim's answer to my question but I need to clarify why I'm not sure that it answers my question. I can't remember if Maxim chairs it now that Susan doesn't. But we have within the GNSO Council – we have a Standing Selection Committee. Any time the GNSO Council or the GNSO is asked to appoint someone to something, whether it's something like SSR2 Review or it's something like a selection committee for the Ethos Award or something like this, the Standing Selection Committee as its name suggests, serves that function, it is populated by some members of council, it's chaired by members of council, and there are some other GNSO community members involved in that. So my question isn't why this document refers to the GNSO Chair in relation to that.

What the Standing Selection Committee has done is it has determined on two occasions – we've only had to do this on two occasions – that it is appropriate for the representatives to the EC Admin for the GNSO to be the GNSO Chair. That has happened on the occasions when it has because we've had a GNSO Chair leave the position, most recently me. So the council then reconsiders and the current GNSO Chair reconsiders whether they and the council are comfortable with the Chair filling that role. That is something that is reviewed on a regular basis, any time there's any sort of impetus for reviewing it. So while it is the case that currently the GNSO Chair is the representative to the EC Admin, it may not always be the case and it's not the case that council or the GNSO more generally has conflated those two roles. In other words, that it's always the case that the GNSO Chair is direct to the EC Admin.

So my question was, does it make more sense? To me it does because we've expressly not conflated those two roles to have references here when it's a representative of the GNSO that has to do something that we refer to that individual as the rep to the EC Admin as opposed to the GNSO Chair.

Julie is noting in the staff, "Right, Heather. So we should make it rep to EC Admin." From Julie's comment, it seems to me that that comment makes sense to Julie. I throw it open to you, David and Wolf-Ulrich. It's probably, in fact, Maxim we need on this because he's the one that questioned my question. Has anything that I've said now not made sense to you, David or Wolf-Ulrich? Does that sound sensible? David, over to you.

DAVID MCAULEY:

Thanks. What you said makes sense to me, Heather. On the other hand, I'm sorry that Maxim is not here to explain his thinking. I'm one of those people that in a case like that, I would tend to say, "Representative to the EC Admin or GNSO Council Chair as circumstances require." Something like that. Just to put the fudge words in there to let it be done correctly in the circumstances but not get hung up necessarily on the language here. The only reason I say that is, I'm not sure I understand Maxim's point from his comment. But everything you said makes sense to me.

HEATHER FORREST:

Thanks, David. Certainly we don't want to make a hard and fast decision on this without Maxim on the call. That would be completely inappropriate and I do agree it's helpful to hear his

thinking. I have a feeling given that Maxim is on the SSC, what Maxim is thinking is, "Hey, wait a minute, we've already determined that right now that person is the GNSO Chair, so why don't we just say the GNSO Chair?" I think my point is we've determined that for now but that's not a permanent thing.

Mary is saying in the chat, "It depends on the role this person is being asked to play in the document in question. Is it the role of the GNSO Chair or of the GNSO rep to the EC Admin who may or may not happen to be the GNSO Chair?"

I think that's my point. That was my explanation for you guys of what I was thinking. I entirely take David's point and I think what we ought to do is come back to this. David, let's turn it over to you and then we'll pick this one up on our next call.

DAVID MCAULEY:

Heather, thank you. The only thing I want to say is I very much agree with you and I think the solution is to say representative if you are pretty sure that's what Maxim is saying. I think you're probably right in interpreting what he's saying. So maybe we ought to just go ahead and say the representative, but I guess I was holding up because maybe he had some different point to make. But I think you're convinced that he's not, so maybe we can go ahead. Thanks.

HEATHER FORREST:

Thanks, David. Don't worry. I've already made the change in the document. What I think we'll do – it's entirely fine. We can reject the change if we've determined later that that's an appropriate

thing to do, but you'll see that throughout the document, any reference to GNSO Chair, I've just gone ahead and changed it. Again, subject to – unless, Wolf-Ulrich, you think we're barking up the wrong tree here, I think we'll just park this one, leave it in the document as it is, as edited. Julie says exactly. I'll reach out to Maxim and say, "Here was my thinking. Let's talk about it in the next call."

Wolf-Ulrich, any concerns from you? You're happy to carry on with that. Silence from Wolf-Ulrich. Oh, hand up. Wolf-Ulrich, over to you. Wolf-Ulrich, you might be on mute. We're all suffering from Zoom mute today. Indeed, Wolf-Ulrich, I have a feeling we've lost you to the Zoom netherworld.

ANDREA GLANDON: You're unmuted now, Wolf-Ulrich. Can you try to speak?

WOLF-ULRICH KNOBEN: Oh, can you hear me?

ANDREA GLANDON: Yes. Now we can hear you.

WOLF-ULRICH KNOBEN: Sorry. I couldn't find the mic. I'm sorry here. In principle, I'm finding that, if you were to go forward in this way, I don't have a big problem for this regard either decision. I was looking, understanding Maxim's comment with disregards to the kind of responsibility she was seeing here regarding the role of either the

[inaudible] or council Chair or the EC Admin representative. For me in this case, about this responsibility is not that serious. They said I would argue in this case. I can fully follow you. Thank you.

HEATHER FORREST: Thanks, Wolf-Ulrich. Much appreciated. Alright, so I would suggest then, let's park this. We'll circle back to it and to the extent that we need to make any corrections, we'll do that. What I would propose that we do now with our 25 minutes remaining is scroll through the document. There are some questions that I had for staff, and maybe Julie and Mary can help us with those.

The first one that I have, it's in two places on the first page down the bottom and it's the reference to I'm local time at the location of ICANN's principal office. Now, I assume that that is California. Could that be misinterpreted and is there anything else out there, Mary or Julie? Where else have we used the phrase like this that we can clarify this, or is it needed? Mary confirming yes, it's L.A. Do we need –

JULIE HEDLUND: This is actually taken directly from the Bylaws. It's perhaps not that clear. I should make it clearer that it's directly from the Bylaws. So it's not text that staff has drafted. Yes, the principal office is indeed the L.A. offices. Mary is confirming.

HEATHER FORREST: Great, Julie. Thank you. It makes good sense to us what I'm going to do and given that that comes directly from the Bylaws, which is

exactly what I needed to know, I'm going to go ahead and delete those comments because I don't think we necessarily need them.

JULIE HEDLUND: Heather, you know, I don't really think it's bad to see them because I think in the first instance, it might be helpful if we put in a footnote just to clarify because you raised the question and frankly, I didn't pay attention to it. It seems to me that it will be helpful to just make that clear.

HEATHER FORREST: Fair enough. Alright. I was overeager and I deleted them. But that's okay. I'll make a note.

JULIE HEDLUND: Oh.

HEATHER FORREST: That's okay. No, no, no. That's fine. I'm so excited to get rid of things that I decided to do that summarily. That is fine. I made a quick note in the document. Just to come back to it, I took away the comment. I just highlighted it. My other comment on this page or question on this page for Julie or Mary is the reference to ICANN Secretary. It exists throughout this document. Is this another term that's in the Bylaws? Throughout my time as GNSO Chair, I never once came across the phrase ICANN Secretary.

JULIE HEDLUND: Yeah, it is. You know, it's funny. I ran into it because when I was supporting SSAC and we needed to reelect whatever the person who would be the SSAC representative on the Board, you needed to notify the ICANN Secretary who is John Jeffrey, I believe. It has been around for quite a while, not just the new Bylaws thing but it has been around for many years.

HEATHER FORREST: Yes, fair enough. It shows it's one of those things that I just haven't paid enough attention to. Thanks, Julie. Actually, you've answered my other question which is, is that company secretary or is that some other use of the term? Based on what you're saying, it is JJ. That means company secretary. I'm sure that Steve would have smacked his forehead and said, "Obviously, Heather, everyone knows what this should be." But there you go.

I have two hands up – Wolf-Ulrich and then after Wolf-Ulrich, David. Wolf-Ulrich, over to you. Wolf-Ulrich, you're struggling with mute again.

WOLF-ULRICH KNOBEN: Sorry, it was an old hand. I'm sorry.

HEATHER FORREST: That's quite alright. David, over to you.

DAVID MCAULEY: Thanks, Heather. I just wanted to mention historical context for the local time at the head office or whatever the language is, and also

the secretary. In Work Stream 1 in CCWG-Accountability, Sidley and I forget the name of the firm from California which was the local firm that was doing all of this drafting. This was critically important to them for some reason. So the ICANN Secretary is the company secretary. It's a company officer mentioned in the Bylaws, and so that shouldn't be a problem. And the local time at the head office was important to them for some reason but there is a historical context to it, and so I think these things are fine and not a real concern.

HEATHER FORREST:

Thanks, David. That's very helpful. It's often the case that these things have some sort of basis in the transition work, which I wasn't involved as directly in. Understood, yeah. Of course, it's the case. Yeah, that's entirely logical that we have a corporate secretary. Yeah, that's fine. In our language, it's not a term that we often use.

Okay, alright. So that makes sense to me. The next question that I had in this document – we now see my question, Maxim's response and referring to part of the reason why I've interpreted Maxim the way that I had is he's referring to discussions or decision of the Standing Selection Committee to appoint at this time, to appoint the GNSO Chair. That's how I've come up with that explanation, so that's fine. If you want to chase that down, you can do that. He's linked to the pipermail post.

I think we can probably scroll down my next question in this substantive question of any sort of import. I've moved in some cases, just shifted text around without changing it. Lots of edits.

So there I have made same comment that I made for Section 2.2. It's not clear to me what this is trying to say. I'm also in the document and I'm trying to decide what it is – am I saying the matter for approval? Is that the thing that I'm questioning? It must be. Julie, you pulled that up and it looks like yeah, it looks like that's what that's highlighting. "To determine the most appropriate course of action, the GNSO Council will take into account and be guided by the matter for approval."

I assume that what we're saying there is whatever the subject of the approval action is, if that's the case then I'm fine with that. But if we're referring to something else then I'm lost.

JULIE HEDLUND:

Yes, that is what we were trying to say. A little bit of background in drafting this. We had the advantage of seeing the ccNSO's version of the same guidelines, essentially. That was their terminology and I thought it was useful because it does matter, depending on what that particular course of action might be, it could make a big difference, so it would then be guided by what it is that's being approved or the request for approval. We perhaps maybe say it a little bit more carefully.

HEATHER FORREST:

No, I think it's alright, Julie. I don't have a problem with it. Wolf-Ulrich, you've got your hand up but it might be an old hand. Just check.

WOLF-ULRICH KNOBEN: Thanks, Heather, it's a new hand but it relates to a former point. So I will come back to that.

HEATHER FORREST: Okay. I'm sorry, Wolf-Ulrich. On this one, Julie, that's fine. In looking at it now in the discussion, I don't think I'm uncomfortable with that. But I did say it above in Section 2.2, so let me just page up quickly and see why I would've made it there. I must be referring to ... what am I referring to at the time at 2.2? It's not awful. Oh, 4.2. I can see. Yeah, I referred to it in 4.2 as well. Not 2.2. Sorry about the typo.

Alright, look, I don't have a problem with it. We can leave the comment in there for now. We'll have to come back to this as a group when we've got a few more people on the call. Matter under consideration. I think the reason it says "for approval" is we're dealing with an approval action. I understand that now.

David, you've got a comment on 4.2. Let's do you and then take me out of my misery, David. Then we'll go to Wolf-Ulrich.

DAVID MCAULEY: Thanks, Heather. It's on 4.2 but it's not on this point about matter of approval. I think matter for approval seems fine to me. But my concern was in the first paragraph under 4.2. I think the second bit of red language – I think that sentence just has some typo in it or something like that. Basically, that sentence reads: "The GNSO Council shall decide by upon the decision of the GNSO Council via vote of simple majority to approve the input."

I think we can just truncate that to say, “The GNSO Council shall decide its view of the matter,” or something like that, “via a simple majority to approve the input.” But it didn’t work. There was an extra word or something like that in that sentence. Thanks.

HEATHER FORREST: David, I’m sure you’re right and it’s a factor of I think I tinkered with the sentence when it was sitting at the last sentence in that paragraph and then I just moved the whole thing and took extra words. I’ve tinkered in there, Julie. If you can just make sure that I haven’t done anything dumb there. I think what it should say now is “GNSO Council shall decide via vote of simple majority to approve the input.” It’s good, David. Okay. Julie says it looks good. Alright, good stuff.

Wolf-Ulrich, with apologies over to you to bring us back to a point.

WOLF-ULRICH KNOBEN: Thank you, Heather. I have to approach – going back to point 2(i). That’s for my understanding maybe. I couldn’t really understand. It says, “During the Approval Action Community Forum Period, an additional one or two Community Forums may be held at the discretion of the Board.”

What I understand is the Community Forum Period is a period of 30 days, and so this paragraph means that the Board can by itself decide, “Okay, there should be in this period another kind of Community Forum should be held – one or two or more.” Is that the right understanding? I was just thinking how that is going to be managed. Is that a kind of bypass of the process? We are talking

here about an additional one or how that is going to be handled. I couldn't really understand that. Is somebody – maybe Mary can help?

JULIE HEDLUND:

I'm checking with Mary too. My reading of it is that, yes, during the Approval Action Community Forum Period, there needs to be an Approval Action Community Forum, assuming that's been requested. Then the Board could decide to schedule one or two additional forums during that period. But if so, they have to provide the rationale and post it. So I think then there could be a maximum of three Community Forums held within that 30-day period. Let me see if Mary has anything to add to that. That's the way I read it. I don't have any special knowledge of how this is drawn up, but that's what it seems to me.

WOLF-ULRICH KNOBEN:

Thanks, Julie. Is that a precondition that a Community Forum Period has been started and then the Board can decide something to put in between? Or is the Board independent to call for at any time, let me say, for a Community Forum? Maybe the question is not the right one but you know what, I tried to understand which cases could arise that it says it's going to happen here.

HEATHER FORREST:

My understanding is the initial trigger for this – and then we'll turn it to David – is that approval action. In the instance example that we have that David mentioned is the ccNSO wants to change a fundamental Bylaw, that triggers under the Bylaws this approval

action process. The purpose of the Community Forum is this, specifically dealing without approval action. David, over to you.

DAVID MCAULEY:

Thanks, Heather. Wolf-Ulrich brings up a very good point about timing. I think it is. In the 30-day period which you can have this forum, how do you have three of them? But I think Mary answered the question earlier when she mentioned the fact these whole Section 2 that's been drafted is right out of the Bylaws. The Bylaws say that "If the EC Administration request that the Approval Action Community Forum" – I'm reading from Section C here of the same paragraph – "if it be held during the next scheduled ICANN public meeting, the Approval Action Community Forum shall be held during the next scheduled ICANN public meeting on the date and time, etc."

So, for instance, if we had the ccNSO Bylaw thing in front of us now, it's possible that the Approval Action Community Forum would not be held until November. So there would be plenty of time to sort of have a series of meetings in the meantime. Anyway, that's my guess. That's what I take away from it. Thanks.

WOLF-ULRICH KNOBEN: Okay. Thanks very much. Thank you.

HEATHER FORREST: Thanks, David. And thanks, Wolf-Ulrich. I know Mary's comment in the chat confirming this starts with the triggering of the EC's approval action power and she says in the case that David

mentioned, the timing, the period would be longer than 30 days. There is actually with all of these things some sort of timing implication. Does that resolve your question, Wolf-Ulrich as to that point (i)? Julie has her hand up. Julie, over to you.

JULIE HEDLUND: Thank you. Just pointing out again, as David noted, to get into point that Mary has made, for the Community Action Forum it must be convened on the 30th day after the approval action Board notification date. But if the EC Administration requests it should be happening at the next ICANN public meeting, it's going to be longer than 30 days. So, there are two possibilities for timing. I think that point that David made is very apropos and that is that "And it has made the request." In this case, the EC Administration has requested that the Approval Action Community Forum shall take place at ICANN66, in which case, it's likely that there'll be more than 30 days time for the forum to occur.

HEATHER FORREST: Thanks, Julie. David, I've got your comment but let me just check. Wolf-Ulrich, are you happy with the point as it relates to that 2(i)? Are you comfortable with where we are?

WOLF-ULRICH KNOBEN: Yes, I am. Thank you very much all. Thank you.

HEATHER FORREST: Excellent. Thank you, Wolf-Ulrich. David, over to you. Another timing comment in relation to 4.3.

DAVID MCAULEY: Yes. If we're at 4.3 then I can go ahead and make the comment. I just wanted to mention that in 4.3, including 4.3.1, 4.3.2, and 4.3.3, we specify periods of time. It's my understanding that when the Approval Action Community Forum concludes then we have 21 days within which to make a decision. So when we talk about in 4.3.1 two weeks and then 14 days in 4.3.2, and these two have to mesh, those two dates, they have to work together. Then 4.3.3, there's a seven days after the council decision has become effective and I guess that depends on council rules, we have to be careful about timing. So I think we need to stick in here somewhere language that says, "But in no event later than the end of the Approval Action Decision Period." Now, that's a term that's defined in Section 1.4 of Annex D. This gets complicated I know and I'm sorry about that, but we just have to be careful on the timing. I think we should say within these periods of days but in no event later than the end of the Approval Action Decision Period, these steps need to be taken. That would be my comment. Thanks.

HEATHER FORREST: David, that makes good sense. To somebody coming at this externally –to us it seems logical and obvious, but from the outside that might not be. Julie is going to make that comment.

DAVID MCAULEY: Thanks. Part of the problem is if we don't act then we will abstain. An abstention is neither a vote for nor a vote against. It's basically doing nothing.

HEATHER FORREST: Yes, understood. David, I'm just going to – while we're at it – and Julie is in there as well but I'm going to say just add that. You had quite sensible language there, David. In no case later than – and it needs to be before. What's the trigger point, David?

DAVID MCAULEY: I said in no case or no later than the end of the Approval Action Decision Period. Those four words appear in Section 1.4 of Annex D. Let me toggle out of Zoom and get over to Annex D. Let me see if I can find it. Yeah, 1.4 says, "Following the expiration of the Approval Action Community Forum Period at any time or date prior to 11:59 P.M. on the 21st day after the expiration of the forum period such period the Approval Action Decision Period." Wow. "Each decisional participant shall inform the EC Administration in writing as to whether they support, object, or abstain."

So that's it. We have 21 days.

HEATHER FORREST: Okay. Understood. This helps me to understand – I had a concern about the term "scheduled" in that sentence. I understand the logic of the consultation but the language in 1.4(d) actually helps to understand why the term – I'm not convinced that "scheduled" is

right there, David. What's your thought? It's not that something is actually is being put on a calendar, is it? It's just a consultation.

DAVID MCAULEY:

Yeah. Well, I guess they should consult Stakeholder Groups. I guess there are cases where they may not – although I'm not sure. "If such a consultation is scheduled" – I think what's meant by that is not that it's actually put on a calendar but rather if it should happen. It seems to me we could change that word to say, "If such a consultation should take place, it would be announced." But, boy, these times really scare me. I can't think of a situation where you wouldn't want to consult with the Stakeholder Groups and constituencies.

HEATHER FORREST:

I agree 100%. It's not the lack of consultation, and I think Julie has solved this or Mary has helped us in the chat. So this is the challenge with toggling back and forth through the documents. I think it needs to be "If such consultation occurs," then we've got this point. It was just my concern with "scheduled." Is this a council meeting? What is this? Yeah, I think "If it takes place" or "If it occurs." So I think that solves my concern.

You are right to say that the timing is dicey here, given that council is a battleship and moves fairly slowly. I mean it can be nimble when it has to but you're right. The timing is sensitive.

I've added in language in light of what David said. I think it's helpful, David, to specifically refer back to Annex D of the Bylaws. Yeah, Julie, a timing chart might not be a bad thing. If council has

to come out this cold, I think that would not hurt. Again, the whole point of this package of guidelines is to be practical for council. So if you're willing to take a stab at that, I think that wouldn't be a bad idea. Step one, step two kind of thing. We tinkered with the language in 4.3. Yeah, T minus, exactly.

Wolf-Ulrich, your hand is up. We're going to make you the last comment here on this point. I'll circle back to David and then we'll wind up.

WOLF-ULRICH KNOBEN: Yeah, thanks, Heather. Two questions other than a comment. This is in regards to 4.3.2 and 4.3.3. The question with regards to the two plus one week period we have here, is that an obligation coming from the Bylaws? Is it something which we can be flexible to draft? That's one question.

The other thing is coming back to what David was saying with regards to the voting, abstention or say yes or no. The question is, is an affirmative vote necessary to put the Approval Action Community Forum forward? Is that necessary? In that case, I will say an abstention has the same value as a no. That's what I would understand here. Maybe my understanding is not that correct but that's at the time being what I understand.

So these two questions I have.

HEATHER FORREST: Thanks, Wolf-Ulrich. I understand the dates in 4.3.2 being that within 14 days of the forum, the council has to take a decision.

And then the subsequent timing point in 4.3.3 after seven days. I understand those to be flexible. As Julie has noted in the chat, we still have to meet that 21-day deadline. We've simply apportioned those 21 days to give council some kind of a framework. I think it's going to be helpful to see that in the timeline as Julie suggests, which Julie and I have had a mind meld yet again to say that's why timing chart would help.

We have 21 days to use, Wolf-Ulrich. It's how we want to recommend to the council that they can do it. And I wonder, Julie, if the language – and Mary is confirming that – you have flexibility within the 21 days. I wonder in light of that really what we're doing, again, these are guidelines but it wouldn't hurt us to make the point a bit more explicit here. You have 21 days, GNSO Council. Here's how we recommend you use them. The council is not obligated to use the 21. If it takes 15 days to do step one and it takes 6 days to do step two, frankly that's for council they have to sort out. That's how I understand it.

I'm mindful that we're overtime. Wolf-Ulrich, I'm going to come back to you and then we'll go to David, and then we'll wind up with a path forward. Wolf-Ulrich, it might have you on mute.

WOLF-ULRICH KNOBEN: Sorry, I didn't catch your question. I'm sorry.

HEATHER FORREST: Oh no. That's fine. I'm just saying are you comfortable for now with the idea that we put this down into a timeline and make it clear that council has 21 days? We give council indication of how

we think they could best use that 21 days, but really it's up to council to make sure.

WOLF-ULRICH KNOBEN: I'm fine with that. Thank you very much. Yeah.

HEATHER FORREST: Okay, alright. David, over to you.

DAVID MCAULEY: Thanks, Heather. I just wanted to address Wolf-Ulrich's second question and that is, does an abstention equal a no vote. I have to go back and do some research on this but my recollection is that an abstention will count as neither a yes nor a no, and the reason is to pass things in approval – and I think we'll see the same in rejection. Basically, you have to have so many votes in favor and not more than so many votes against. So if an abstention should count as against, that would beef up the bottom number of that equation, and that is not what is on offer. I don't think that's what's called for. So I think that an abstention means an abstention that doesn't count one way or the other. So I think that was a good question and that's my recollection. Having said that, I also need to drop off the call in 30 seconds. So, thanks.

HEATHER FORREST: Thanks, David. We're going to note the abstention question for going forward. I'm sorry we've run over time. In 10 seconds, what we have in the next call is the bulk of our time, 45 minutes, to

finish up this piece of work. There are two more questions of mine in the document. I'll reach out to the other members to try and get them on board in between now and the next call, and then we're going to move on introducing the next package of guidelines at the end of the next call. So with that, any final comments, questions, concerns?

DAVID MCAULEY: No. Thanks.

HEATHER FORREST: No? Seeing none. Wonderful. Thank you both very much, David and Wolf-Ulrich. Thanks to Mary for being on the call. To be continued, we'll follow up with some notes after the call. Thanks very much to everyone. Andrea, you can end our call for us.

WOLF-ULRICH KNOBEN: Thank you.

DAVID MCAULEY: Thanks a lot. Thanks all.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]