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ICANN Transcription
GNSO Council
Thursday, 23 September 2021 at 19:00 UTC

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List of attendees:
Nominating Committee Appointee (NCA): **– Non-Voting** – Olga Cavalli
Contracted Parties House
Registrar Stakeholder Group: Pam Little, Greg Dibiase, Kristian Ørmen
gTLD Registries Stakeholder Group: Maxim Alzoba, Kurt Pritz, Sebastien Ducos
Nominating Committee Appointee (NCA): Tom Dale
Non-Contracted Parties House
Commercial Stakeholder Group (CSG): Marie Pattullo, Mark Datysgeld, Philippe Fouquart, Osvaldo Novoa, John McElwaine, Flip Petillion
Non-Commercial Stakeholder Group (NCSG): Juan Manuel Rojas, Stephanie Perrin, Tatiana Tropina (apology – proxy to Tomslin Samme-Nlar), Wisdom Donkor, Tomslin Samme-Nlar, Farell Folly
Nominating Committee Appointee (NCA): Carlton Samuels
GNSO Council Liaisons/Observers :
Cheryl Langdon-Orr : ALAC Liaison
Jeff Neuman: GNSO liaison to the GAC
Maarten Simon: ccNSO observer

Guests:
Keith Drazek – EPDP P2A Chair
Antonietta Mangiocotti, ICANN Org

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

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Marika Konings - Vice President, Policy Development Support
Mary Wong - Vice President, Strategic Community Operations, Planning and Engagement
Julie Hedlund - Policy Development Support Director
Steve Chan - Senior Director
Berry Cobb - Policy Consultant
Emily Barabas - Policy Senior Manager
Ariel Liang - Policy Senior Specialist (apologies)
Caitlin Tubergen - Policy Director
Nathalie Peregrine - Manager, Operations Support
Terri Agnew - Policy Operations Specialist (GNSO)

NATHALIE PEREGRINE: Good morning, good afternoon, good evening, everybody. Welcome to the GNSO Council meeting of the 23rd of September 2021. Would you please acknowledge your name when I call it? Thank you ever so much. Pam Little.

PAM LITTLE: Here.

NATHALIE PEREGRINE: Maxim Alzoba.

MAXIM ALZOBA: Here.

NATHALIE PEREGRINE: Kurt Pritz.

KURT PRITZ: Here.

NATHALIE PEREGRINE: Sebastien Ducos.

SEBASTIEN DUCOS: Here.

NATHALIE PEREGRINE: Greg DiBiase.

GREG DIBIASE: Here.

NATHALIE PEREGRINE: Kristian Ørmen.

KRISTIAN ØRMEN: Here.

NATHALIE PEREGRINE: Tom Dale.

TOM DALE: Here.

NATHALIE PEREGRINE: Marie Pattullo.

MARIE PATTULLO: Here. Thanks, Nathalie.

NATHALIE PEREGRINE: Thank you, Marie. Mark Datsygeld.

MARK DATYSGELD: Present.

NATHALIE PEREGRINE: John McElwaine.

JOHN MCELWAINE: Here.

NATHALIE PEREGRINE: Flip Petillion.

FLIP PETILLION: Here.

NATHALIE PEREGRINE: Philippe Fouquart.

PHILIPPE FOUQUART: Here.

NATHALIE PEREGRINE: Osvaldo Novoa.

OSVALDO NOVOA: Here.

NATHALIE PEREGRINE: Thank you. Wisdom Donkor.

WISDOM DONKOR: Present.

NATHALIE PEREGRINE: Thank you. Carlton Samuels. I don't see Carlton in the Zoom room yet. Stephanie Perrin. I don't see Stephanie either. Farrell Folly.

FARRELL FOLLY: Here.

NATHALIE PEREGRINE: Tatiana Tropina has sent her apologies for today's call and she assigned a proxy to Tomslin Samme-Nlar. So Tomslin Samme-Nlar.

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TOMSLIN SAMME-NLAR: Present.

NATHALIE PEREGRINE: Thank you. Juan Manuel Rojas.

JUAN MANUEL ROJAS: Here. Thank you.

NATHALIE PEREGRINE: Thank you. Olga Cavalli. I see Olga is in the Zoom room. Jeffrey Neuman.

JEFFREY NEUMAN: Present.

NATHALIE PEREGRINE: Cheryl Langdon-Orr.

CHERYL LANGDON-ORR: Present, Nathalie.

NATHALIE PEREGRINE: Thank you, Cheryl. Maarten Simon.

MAARTEN SIMON: Here.

NATHALIE PEREGRINE: Thank you. I note for the record that Stephanie Perrin has joined the call. We'll be having guest speakers on today's call, Keith Drazek, the EPDP phase 2A chair, and Antonietta Mangiacotti from ICANN Org. From staff, we have Steve Chan, Marika Konings, Julie Hedlund, Berry Cobb, Mary Wong, Caitlin Tubergen, Emily Barabas, Terri Agnew, and myself, Nathalie Peregrine.

May I please remind everyone to please state your names before speaking as this call is being recorded. We're in a Zoom webinar room, so councilors are panelists and can activate their microphones and participate in the chat once they've set their chat to everyone for all to be able to read the exchanges.

A warm welcome to attendees on the call who are silent observers, meaning they do not have access to their microphones nor to typing in the chat. As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thank you. Philippe, it's over to you.

PHILIPPE FOUQUART: Thank you, Nathalie. Good morning, afternoon, evening, everyone. I hope you're well, wherever you are, and welcome to our September call. We have a fairly comprehensive agenda in terms of discussion items especially. We'll go through the final report of EPDP phase 2A, we'll have an update on the framework, the PSR, the policy stratus report on the UDRP, and we'll discuss the next steps for us on Work Stream 2 implementation.

So indeed, a warm welcome to our guests for today, and with this, I think we can start with our usual updates on statements of interest, if any. Seeing no hands, any change to the agenda that you'd like to see, including consent? Okay, thank you. Moving on, we'll just, as usual, note the minutes of the previous Council meetings, July and August respectively posted in August and September.

As usual, we'll go through our project list, and Berry will help us with this. Berry, would you like to do that?

BERRY COBB: Thank you, Philippe. I don't have a whole lot to go through other than what I had included in the e-mail when this was sent out last week, but I will touch on a few highlights for what's going on now and what'll be happening as we get closer to the annual general meeting at ICANN 72.

Starting off from a project highlights perspective, the EPDP on the IGO specific curative rights protections, as you know, they launched their public comment report on the 14th and it's scheduled to close on the 24th of October.

This was one week late from our plan. As it seems right now, we'll be able to absorb that extra week and still hopefully deliver a final report by the end of the year. That group is scheduled to reconvene after the public comment period. I believe the first meeting will be on the 2nd of November.

In terms of the EPDP phase 2A, obviously, that's an item on our agenda and the Council will consider it further at the October

meeting. EPDP phase two in relation to the SSAD ODP. You'll recall that Janis Karlins sent an update note to the Council or Philippe, you forwarded it to the Council list with an update on progress, but there was also a message that the conclusion of it won't occur at the end of September. And if you haven't signed up already, there's a webinar on the status of the SSAD ODP later this evening or early tomorrow morning for those in the Asia Pacific area.

The WHOIS procedure for privacy laws. You'll recall that a letter was sent from Theresa Swinehart from the GDS team basically providing an update. The first step of a series of steps that the Council approved if they're required, this first step was for ICANN Org to collaborate with contracted parties and determine whether that procedure can be amended to make it fit for purpose based on impacts from implementation of GDPR and changes to the registration data directory services.

In essence, they've put that work on hold until the conclusion of the data protection agreements, which is one part of everything going on in the EPDP phase one implementation. So as a part of that, I'll be updating the project list to show that this is on hold for now and updating the portfolio tool to show a dependency back to that IRT phase one work.

Regarding RPMs phase two on our agenda, we have a presentation from our GDS colleauges about the contents of a PSR, policy status report, and eventually the Council to determine next steps on when and how a scoping team would be formed.

Regarding the SCBO, some of you have seen a notice that there is a launch of the public comment for the fiscal year 23 operating plan and budget for the PTI IANA. The SCBO will be reconvening next Wednesday to review through those materials, and I believe that the public comment closes on the 25th of October. So the SCBO will be preparing comments like we always do on behalf of the GNSO Council. So that group is obviously spinning up.

In terms of what's going to be happening between now and the annual general meeting, I think the two things that are probably worth mentioning is that the EPDP on IDNs you'll notice is part of the consent agenda about a change in the chair for that group, but it's also anticipated that they'll be submitting their project plan for the October meeting for when we can anticipate delivery of their final report.

That's also part of the consent agenda, is the designation of the chair for the RDS accuracy scoping team, and I believe that that effort will start its first meeting in the first or second week of October. You'll probably see some notifications going out shortly after the Council call.

The final two things that I'll say here, looking at the Action Decision Radar, again, many of these things are on our agenda now or will be part of our agenda next month. You'll see the next version of this for October. There's a boatload of line items dealing with operations that is indicative of the amount of work that goes around annual general meeting and those will float up to the top to the zero- to one-month range marker.

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Finally, what I'm going to just mention—and we can maybe talk a little bit more of this in October or certainly in some of the discussions after the new Council is sat, but two of these work products, the Action Decision Radar and the Council action items list, both of these tools will be reset to coincide with the 2021-2022 Council—because these things start to get a little bit long and some of the metrics that we pull out of them, so we'll just reset them so that we can track them for each council year that goes from one to the next.

So that's all I have. Happy to answer any questions. Thank you.

PHILIPPE FOUQUART: Thank you, Berry. Any questions? Pam.

PAM LITTLE: Thank you, Philippe. Thank you, Berry, for that. I just have a question regarding the item appears on the ADR, the EPDP on specific curative rights protections for IGOs.

So the action is for Council to receive the initial report. I understand it has been posted for public comment but it hasn't been sent to the Council, I believe. I haven't seen it. I might have missed it.

So my question is, is an action on the part of the Council expected of the Council regarding the initial report? Is Council expected to weigh in on the scope issue, whether the proposed or draft recommendations are within the parameters or those limits set in the charter?

Given that the public comment period will end before the next Council meeting, if there is any action expected from the Council, then perhaps we—I just have a question how we deal with that if there is something that Council needs to do or expected to do. Thank you.

PHILIPPE FOUQUART: Thanks, Pam. Berry, anything we missed or anything we will have to do on this initial report?

BERRY COBB: No. And Pam, that's a fair point. I think staff will take the action item just to provide the link to the public comment to the Council so that it can be distributed to your respective teams.

The only reason it's on the Action Decision Radar—and maybe we need to update the name to the IABR, because this is really just informational. This is a key milestone for this particular group. There is no anticipated action from the Council at this particular time. And in terms of your question about responding to scope, I don't believe at this time it's an action for the Council to consider—again, I think from previous conversations, it really wasn't necessarily a scope issue but more about whether the draft recommendations—which contained several options to those recommendations for review in the public comment—is really—the question is, are they consistent with the first four recommendations that the previous working group had created and the Council had adopted and sent to the ICANN Board for consideration.

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So for sure, I think the representatives from the SGs and Cs should take a look at that amongst themselves and consider that as part of their public comments. But at this time, I don't believe there's any action for the GNSO Council.

PHILIPPE FOUQUART: Thanks, Berry, and thanks for the clarification. And just an observation. Bearing in mind that this project list is shared by councilors, a number of us do use this as a snapshot of the ongoing activities under the GNSO for what relates to the PDP. I think it's good, even if it's just informational, that we had that on that list. And as you're saying, we're not expected to take any action on this. Thanks for this, Berry. Any other question for Berry?

Okay, seeing no hands, thanks, Berry. I think we can move on with our agenda to our consent agenda. We have four items. We generally don't read them, but just as a reminder, you have them on the screen. But nonetheless, we need to approve the chair of the accuracy scoping team, approve the updated role description for the liaison to the GAC, a confirmation of the chair of the EPDP on IDNs, and the approval of the CSC slate for 2021.

Kurt, I see your hand.

KURT PRITZ: Thanks very much, Philippe. I want to point out that for the item on approving Donna Austin as the chair of the EPDP, I have a personal relationship with her which is terrific, and that I am going to vote for the items in the consent agenda as directed by the

RySG and not my personal capacity. I just want to make that clear. Thanks very much.

PHILIPPE FOUQUART: Thank you, Kurt. And we'll duly record that in the minutes. Thanks. Anything else on consent? So Nathalie, I think you can take us through the voice vote, and that's going to be a simple majority, I think.

NATHALIE PEREGRINE: Correct, Philippe. Thank you ever so much. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing no one, would all those in favor of the motion please say aye?

UNIDENTIFIED PARTICIPANTS: Aye.

NATHALIE PEREGRINE: Thank you. Tomslin Samme-Nlar for Tatiana Tropina, please say aye.

TOMSLIN SAMME-NLAR: Aye.

NATHALIE PEREGRINE: Thank you very much. No abstention, no objection, the motion passes, Philippe.

PHILIPPE FOUQUART: Thank you, Nathalie. Thank you, everyone. So with this, we can swiftly move to our item four, and that's our discussion on the EPDP phase 2A final report and the associated motion. And for this, I welcome Keith who's with us, so we'll go through the conclusions of the final report. But maybe just a preliminary note on this, and to be fully transparent, we discussed within leadership the best possible way to approach our vote and for example, whether we should plan for this at this meeting, possibly deferring that if that proves necessary.

But we considered it'd be best to have the proposed motion early and give us some time to digest the final report, and we'll do just that. We'll go through the elements at this meeting and have our vote in October without deferral. So that's something we did for phase two, I think, so it's probably opportune to do just the same here.

So in terms of considerations for the discussion time, the idea is exactly to say whether at this point, your respective SGs and Cs consider that you have enough information of the vote that will be taken in October, and if not, then we certainly have some latitude and time between now and then for any meeting or additional webinar that can be held over the next few weeks.

And so that's the first point, and the second is on the motion itself. You would certainly have read it already, but since that's what we'll be voting on, any comments on the text is certainly welcome, needless to say.

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So with this, I think we'll go pretty quickly through the slides that we have on the screen which summarizes the conclusions of the final report. So I think we can move on to the next slide, please, Terri.

So we'll go through the background that you're all very familiar with. And by the way, I'm doing this in my capacity as the liaison for this. And Keith, feel free to chime in as you see fit. We'll go through the background—you're very familiar with that—and the two goals that were given to the PDP. And we'll discuss the next steps.

So in terms of background, you're already certainly familiar with that. The first was on the differentiation between legal and natural person data, and whether any change to the phase one recommendation was warranted, and what guidance could be provided.

And the second item of the charter was the feasibility of unique contacts to have a uniform anonymized e-mail address, and if feasible, but not a requirement, what guidance would be provided.

So there are essentially four questions, and the next few slides will go through the conclusions of the final report on this. Next slide, please. So the initial report was published in mid-July, and there was—as usual—public consultation for this.

Following the review of public comments and an extensive mediation period that was held over the summer to facilitate mutual understanding of various viewpoints, the EPDP team eventually delivered the final report on the 3rd of September, and

by the 10th, the minority statements were included in the final report.

There are four recommendations and responses to the questions I alluded to earlier, and a proposal to us as to the next steps in terms of monitoring the regularity developments. Next slide, please.

For this final report, it's noteworthy that the chair thought it was important to stress that whilst the final report and the associated recommendations have the consensus support of the team, those recommendations must be considered in light of the associated minority statements that are included in the final report.

I guess it's fair to say that it's generally a rule to consider the overall report, including the minority statement, yet it's not the rule that the statement of the chair insists on this. And the reason for this is, as the statement alludes to, there was significant frustration, I guess it's fair to say, on both approaches that would have ... one side would have probably expected more policy constrained recommendations whilst the other would consider that the findings, the conclusions of the final report would go too far. My words, but you see what I mean here. So it's telling that Keith insisted on this in his statement.

With this in mind, we'll go through quickly the recommendations of the final report. On the legal versus natural—and as I said, question to the team was whether any updates were necessary to the phase one recommendations on this, which is reproduced here, that the registrars and registry operators are permitted but not obligated to differentiate. Next slide, please.

And on this question, the response from the team is that they could not reach consensus on recommending changes to the phase one recommendation, corresponding recommendation 17.1, and the proposal to Council is that the team recommends that indeed, we monitor the developments of the various regulatory evolutions, which would include NIS2 but not be restricted to it.

That would normally be done through the legislative regulatory reports that ICANN Org produces, but that's something that Council should consider moving forward. Next slide, please.

Recommendation 1, which is the response beyond the proposal to Council to that question, is that the team recommends that a field or several fields be created to facilitate differentiation between legal and natural person registration data. That would proceed through work through a standards development organization once staff has evaluated how that can proceed. So there would be an interplay between this policy and technical work in the background.

That new field or fields may be used—may be used—by contracted parties that differentiate between legal and natural person registration data. So it's a may. And the SSAD, consistently with the phase two recommendations, must support the field. Next slide, please.

So we come on to the second part of the legal versus natural question and the guidance that can be provided to registrars and registries to differentiate. Next slide, please.

Recommendation 2 of the final report recommends that contracted parties who choose to differentiate should follow guidance that's provided in the final report.

Number 3 also recommends that, consistent with GDPR, the developed guidance concerning differentiation be considered for future work that could be initiated following the monitoring that I was referring to earlier. So that's for Recommendation 3.

Moving on, and we now get to the second question, the feasibility of unique contacts. Next slide, please. On this, the team recognized that whilst it may be feasible to have registrant-based e-mail contact or registration-based e-mail contact, there were, within the team, participants that identified risks and expressed concerns that prevented the team to make a recommendation to require and make a registration-based or registrant-based e-mail address publicly available.

The team did note that on the other hand, other participants identified the benefits of having those e-mail contacts for contactibility purposes, and registration-based e-mail contact for correlation purposes as well. So there were benefits in having that differentiation, but also some concerns over making a strong recommendation on this. Next slide, please.

And finally, the fourth question that was addressed by the team, and if feasible but not a requirement—which is the case here— what guidance could be provided to contracted parties who may want to implement uniform anonymized e-mail addresses? Next slide, please.

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So the team recommended that the contracted parties who would choose to publish an intended to be pseudonymized registry-based and registration-based e-mail address in RDDS, they should have a look at the—consider the legal guidance that was developed by the subteam that focused on this particular issue. And you'll find the detail and the findings of the subteam in the final report.

And in addition to that, the team provided a number of issues to contracted parties to consider and assess the risks and benefits that are associated with publishing this in RDDS. So the guidance is provided in the final report. Thank you. Moving on.

Next steps now. Next slide, please. So, what we're going to do now is, as I said, we circulated the draft motion a couple of weeks ago. I'm sure you had a look at it. The question for you essentially is to consider whether either through the reports, the presentations that you had and the feedback that you received from your reps to the EPDP team, whether you consider that you have sufficient information or whether you need more time to discuss and more feedback on the findings.

So that's perfectly feasible between now and the next meeting, and that's a question that we need to answer during our discussion. And as I haven't mentioned before, the recommendations that are put before you would require for approval a GNSO supermajority in our vote.

So with this, I'll stop here. apologies for stumbling a bit. I see Keith, you have your hand up. Welcome back, Keith. So feel free to add anything you see fit.

KEITH DRAZEK: Yes. Thank you very much, Philippe. Thanks for going through that and giving the overview. Thank you also for your time and service as the GNSO Council's liaison to our EPDP 2A working group. And I do want to just take a brief moment to thank all of the members of the working group, and of course, importantly, our ICANN staff colleauges who supported the work of the group over the last nine months. It was a challenging working group. There was quite a bit of difference of opinion, really from the outset in terms of the work, but I feel like, the recommendations that you have and the final report recommendations are the compromise that we were able to reach.

As Philippe noted in the introduction and the reference in my chair statement to the minority statements, it is important that I think everybody read those carefully and understand the differences of opinion and the different positioning of the various groups on the key questions.

But at the end of the day, we worked through as a working group all of the so-called "can't live with" items, and I believe, reached the most that could be achieved. And I had originally thought the best that could be achieved, but during the discussions in the late stages of our work, groups had asked for me to say the most that could be achieved under the circumstances.

With the quite divergent views over the course of nine months, the recommendations that you now have as a Council are the most that could be achieved by the group, but it does represent the compromise, and I believe there's consensus around that, even

though there are still differences of opinion as to whether the working group and the recommendations went far enough or went too far, that this is essentially the compromise that we could achieve. And so I feel good about it. And I'm happy to answer any questions, but this is now in the hands of Council. And again, Philippe, thanks to you, thanks to Brian Beckham as the vice chair, members of the working group, and staff support, for bringing this to a conclusion. I'll stop there. Thanks, Philippe.

PHILIPPE FOUQUART: Thank you, Keith. And yes, I'd like to echo your thanks to staff and all the participants, the members of the team. They went through an extensive period of time. I know all EPDP members went through that, but it was all the more true for the summer you had with the mediation that was put in place that was extremely useful.

And as you said, and speaking as a liaison, I'm also confident that this is the best possible result that could be achieved within that period of time, noting that there was no PCR necessary. For that reason as well, but it's also—and I'll finish with that in considering the final report, people bear in mind what you insisted on in your statement, Keith. Both the content and the various positions that were expressed. And this is really telling of the difficulty of the task, I think. And I'll also thank the participants for their constructive spirit.

So with this, I'll open up the floor for questions or comments on this, on the way forward from the final report. John.

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JOHN MCELWAINE: Thanks, Philippe, and thanks to you and to Keith for your leadership on this. It's really just a question, going to the first sort of next steps, as to how much homework I need to do. I'm kind of curious to get maybe your perspective as liaison or Keith's perspective. And this is going back to an issue that the IPC raised in its minority statement.

So as I understand it, Recommendation 17 item three in the phase one final report was that the EPDP team in phase two was to determine and resolve the legal versus natural issue. But what we see in this phase 2A report is essentially—and I'm just kind of paraphrasing here, feel free to correct me because I am getting up to speed, but essentially an optional approach that will be developed at a later period of time pursuant to a GDPR code of conduct.

I just want to understand better how that recommendation—I think it's two—meets the requirement that the EPDP team resolve the legal versus natural issue in phase two. Thanks.

PHILIPPE FOUQUART: Thanks, John. Keith, could you help us with this?

KEITH DRAZEK: Yes, Philippe. Thank you. I'd be happy to. And John, thanks for the question. Good to hear your voice. So yeah, the term "resolved" was the topic of quite some extensive discussion within the 2A working group. And there was a difference of opinion within that group, within our group, of what resolved means and the definition of resolved in that context.

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Some within the group thought that resolving it meant resolving it in a particular way, and other parts of the group felt that resolving was to have the conversation and to go through the discussion and the dialogue and to try to identify where consensus existed. And what we found through that conversation is that there was not even consensus on the meaning of the term "resolved." And as such, I think the recommendation in this particular case is for optional, and that's where the group was able to at least within the context of the report reach the consensus that we did. Recognizing of course, as we said at the outset, in the minority statements, that there's quite a difference of opinion on this particular point, and that difference of opinion remains. I hope that's helpful.

PHILIPPE FOUQUART: Thanks, Keith. It is, yes. I'm sorry, that's going to be telling, but it's my first time using my mobile phone, I'm extremely scary with hanging up the call. So my apologies if I'm stumbling. So with this, next is Kurt.

KURT PRITZ: Thanks, Philippe, and thanks for your service as liaison to the group and to Keith as chair and to everybody who served on this. I have some personal experience with it, and I know how hard everyone works preparing for the calls and the amount of work that went into this. It's stunning.

But that's not what I'm here to talk about. So as sort of a point of order, the RySG as a prerequisite to the Council vote on this set of

recommendations requests that the Council first examine the RySG request that's in our minority statement that relates to Recommendation 1 which seeks GNSO council determination of whether the proposal contained in Recommendation 1, the creation of a mandatory data element, is out of scope with the GNSO instructions to the EPDP phase 2A team.

And there's more detail about that in the RySG minority statement, but briefly, during the EPDP phase 2A discussion, the RySG raised concerns whether that Recommendation 1 was in scope with the instructions of the GNSO Council, and I'll explain more about that in a minute, but rather than preempting the discussion and taking that question to the Council for a response, Keith, the chair, determined that the creation of the data element relates to the guidance question within the scope of the EPDP and went on to say that if the Council feels like what we're producing is out of scope, they will communicate that.

First of all, I want to say I think that was a good call on Keith's part with regards to timing not to pause the work of the EPDP, but get it to a conclusion and then let the Council make this determination. But as a result, as stated in the RySG minority statement, we believe this is the time for the Council to consider that scope issue as a preliminary matter to considering the phase 2A recommendations.

Just a brief explanation as to why we believe this recommendation is out of scope. As Philippe just stated in his presentation, the Council instructed the EPDP team to answer two narrow questions. The fist was whether any updates are required to the phase one recommendation 17 on this topic that registries and

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registrars are permitted to differentiate between registrations but not obligated to do so, and firstly, I'll say that the report answers this question on page five, says, no, there's no change from that, there wasn't consensus to change that. And besides that, the mandatory creation of a new data element has no nexus with the phase one recommendation of this permissive but not mandatory differentiation, so is not justified as a response to the first part of our task to the GNSO. It's a wholly separate sort of technical implementation matter.

And the second question is what guidance, if any, can be provided to registrars or registries who differentiate between legal and natural persons. And again, I'd say that—not me, this is from the group—mandatory creation of a data element is not related to providing guidance for parties who wish to differentiate. The existence of the data element does nothing to really assist the parties in the processing of performing differentiation. It merely captures an outcome of that process. In other words, it's sort of an implementation detail, or at best, implementation guidance that focuses on an outcome.

So similarly, we think merely by including the new data element under guidance, the guidance question doesn't work either. We cannot simply bootstrap these items into scope on this matter. So we request that the Council make this determination first, whether this Recommendation 1 should be redacted from the report as out of scope, and then go on to vote on the entire report. Thanks very much, and I can answer any questions anyone has.

PHILIPPE FOUQUART: Thanks, Kurt. And I will certainly rely on the next interventions to further clarify your request as they see fit. So we'll come on to Mary now.

MARY PATTULLO: Thank you, Philippe. Kurt, I am not going to be able to answer your question, so please don't think that's why my hand is raised. That's not something, you'll understand, that I can respond to without speaking to my colleagues in the BC.

What I did want to say was to join in the host of thanks to everybody who's been involved in this extraordinary work for the last very long time. And looking at the schedule that we have at the moment whereby discuss today, we consider for the month and then we vote at our next Council, my question, Philippe, is I hope that as has been the case in former votes, that we will be voting per recommendation, as in separately on each recommendation, and not as in a block.

That's purely a procedural question, please, not about the substance. Thank you.

PHILIPPE FOUQUART: Thank you, Marie. In fact, procedurally, I'm not sure that that's totally unrelated to Kurt's question. The draft motion was circulated. Indeed, we had in the past considered different votes on subparts of final reports, and that's certainly something that we need to discuss. The usual side effect of this is the temptation of cherry picking the recommendations and thereby fragmenting the overall consistency of the final report. But that's a discussion that

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we need to have. Any views on this—and I think I heard yours, Marie—for separating out the various recommendations would be welcome. But that could be an option.

Any other comments? Maxim.

MAXIM ALZOBA: I have a question. If the motion was passed without consideration of the question of was the Recommendation 1 in scope at all, what do we expect from the author of the motion? A correction, or not? Thanks.

PHILIPPE FOUQUART: Well, I suppose there are several ways to address that. If there is no consensus within the group as to whether that's within or out of scope, one option might be—and that's not what I'm going to be [saying, it's not binding—to separate out Recommendation 1 and let the Council decide. I don't know if that's the best option, but that's certainly one way to decide and draw a line under that. I would certainly prefer that Council would collectively provide guidance on this, but that's one option, Maxim. So to your question, yes, it might lead to a change in the way the motion is phrased at the moment. Thanks, Maxim. Any other questions or comments? Keith.

KEITH DRAZEK: Thanks, Philippe. I'll just make a note here that—it appears that the conversation today on this may be wrapping, so I just want to make a concluding remark. I think on this question, this set of

recommendations, this document, final report, is, I think, a delicate balance. And as I noted earlier, the maximum that we could achieve as a group in terms of compromise. And I think that that is an important factor as the Council considers next steps, procedurally and moving forward.

The scope question was raised during the conversations of the group. At the time, I did not see a reason or rationale to stop the conversation or to stop the work. I felt that it was sufficiently connected to the scope questions that had been presented and that the group in good faith came together and reached compromise and consensus on the question, while acknowledging that those who wished it went further and those who wished that it hadn't gone that far, but it was the compromise of the group.

And I would just caution everybody that there is a delicate balance here, that the recommendation related to a standardized data element, I believe, is actually a step forward. It may not have gone far enough, it was not certainly a leap forward, but I think it was a step forward for this group and for the community, and that it opens that door for further work down the road as needed. So I think that for those reasons, I would encourage folks to be cognizant of the delicate balance that we struck and to be very careful about starting to split up the recommendations or to take that step. So I'll stop there. Phil, thank you so much, and thanks, everybody. I'm happy to answer any further questions now or later, but I'll stop right there. Thank you.

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PHILIPPE FOUQUART: Thanks, Keith. And to your observation—and as a rule, even leaving this final report aside—I'm equally lukewarm on the principle of separating out the various recommendations, unless there's a reason of substance for doing that. I can only second what you just said in the result being a delicate balance. The team worked hard on trying to achieve that sort of happy medium. Not sure happy is the right word, but it's a give and take, and [by separating out] the recommendations, there's an element of risk of increasing the frustration for some at least. So indeed, those are wise words, Keith.

Maxim, you're next, and then Kurt.

MAXIM ALZOBA: In the past, we had the process where we had to separate some recommendations from other. In SubPro, if I'm not mistaken. And the second thing, GNSO Council asked questions. If the answers are out of scope, they're not relevant, and thus shouldn't go into policy, because in the process, it's GNSO Council which decides what to do, not the working group. Thanks.

PHILIPPE FOUQUART: Is it me, or have we lost Maxim?

MAXIM ALZOBA: No, I finished.

PHILIPPE FOUQUART: Maxim, you're back.

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MAXIM ALZOBA: Did you hear anything?

PHILIPPE FOUQUART: No, we did hear what you said about SubPro and the fact that we did indeed at some point use [inaudible] of singling out some recommendations to make sure that we had a way out of something that could not achieve consensus globally. So we got your point about having done that in the past. But I think at least for me, you dropped off for a few second, so please proceed.

MAXIM ALZOBA: I will repeat this part. When the Council asked the working group the particular question and the answer was out of scope potentially, it means that the answer was not relevant. And for consensus policy, it's not the way to go, because it's the Council which decides what to do, not the working group. Thanks.

PHILIPPE FOUQUART: Thank you, Maxim. Kurt.

KURT PRITZ: I want to agree with Keith's statement on the delicate balance and the fact that the recommendations are interrelated, and that would support voting for the report as a whole. But I want to also point out that the out of scope issue was raised during the August 5th meeting, and after Keith as the court made a ruling that it was in scope but stated it's really for the GNSO Council to make a final

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determination whether it's in or out of scope, those stating it was out of scope—the RySG—stood down and then in good faith, discussed the issue of the mandatory element, arrived at compromises and developed a final recommendation on that, with the understanding that the Council would consider that.

So I think, first, that the Council should follow up on that and discuss and make a determination about whether that recommendation is within scope. But then second, whatever that determination is, we can consider—we should consider the report as a whole.

PHILIPPE FOUQUART: Thanks, Kurt. Point taken. And indeed, if there was an action point given to Council during the discussions and if that somewhat affected the results, then we need to discuss—even if down the road, we approach the final report as a whole. Thank you. Marie, you're next.

MARIE PATTULLO: Thank you, Philippe. This discussion is fascinating, and it's really making my brain hurt, so please forgive me. We the Council gave a charter to the working group as part normal practice. The working group went away and did its work—very hard work—as per normal practice and then has produced its final report, which we are now about to vote on next month.

So this is the part where my brain is—I'm sorry, Kurt, you know I'm really trying to understand. This is not me being difficult, I'm genuinely trying to understand it. Are we now suggesting that as

Council, we somehow are, I don't know, rejecting the work of the working group because we now want to question the entire basis for the working group [inaudible] what was and what is not in scope?

I'm confused by this. Marika, I know you're here. You probably know the answer. I'm sorry that I've phrased this so badly, but to me, the work has been completed—for want of a better term. Everybody's put in their minority statements if they chose to. I'm really having difficulty in understanding how after the deliverance of the final report, we can consider whether or not it's in scope. I hope that makes sense. Thank you.

PHILIPPE FOUQUART: Thank you, Marie. I think you are. The question is how much review from Council was expected, and I think there was at least some perception that there was indeed some review of scope at some point, at least an understanding that there could be. But that is very much to the group to decide how much review of that question we want to do. Maxim, you're next.

MAXIM ALZOBA: As I understand, the decision of the chair of the working group that it's time for the Council to answer the question if it's in scope or not, was the information delivered to Council at all, maybe by liaison or by the chair, it's important because if it wasn't formally delivered, then we shouldn't say it's too late to question. No, it's not late, because if the work delivered is not what was asked for, it just doesn't fit. So the question is, was the information on if the

Council decide that it's in scope, out of scope, delivered since that time by the chair or liaison? Thanks.

PHILIPPE FOUQUART: Thank you, Maxim. Anything else on this, any other comments? We'll need to take that issue offline of how we can approach this, the question of scope on Rec 1 between now and October, and how we can—or whether we have to frame the motion in such a way that we can arbitrate on that question, if necessary. Anything else on this?

Carlton, you have a question in the chat. Do you want to take the floor?

CARLTON SAMUELS: Thank you, Philippe. I've been listening to the conversation. It's fascinating to me. I'm trying to figure out what the question is for Council to consider. Just lay out the question simply so that I can see where we go with this. I just need to be clear what is going on there.

PHILIPPE FOUQUART: Sure. Thanks, Carlton. Maybe we could go back to Rec 1 with the slides just to make sure that we have it in mind. So during the work on the data field, there was a question—and I think Keith summarized it well in the chat as well—as to whether defining working on a data field that would be standardized by the relevant standards development organization and then whether having a

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"must" there and a "may" for contracted parties to differentiate on that basis, whether that was actually in scope of the charter.

And as Keith indicated in the chat—Keith, correct me if I'm wrong—you indicated during the discussion that you would consider that it was within scope, but if then if it were out of scope, then the Council would so decide. So hopefully, Carlton, that helps.

CARLTON SAMUELS: Thank you, Philippe. Yes. I think I get it now, there are two aspects to it.

PHILIPPE FOUQUART: Thank you. Keith, anything to add on this to make it even clearer for Council?

KEITH DRAZEK: Thanks, Philippe. No, I think that's accurate. I'll note that Maxim has put in the chat the transcript portion related to this, so hopefully that'll help. But I think the question is, was this issue sufficiently within scope for the group to consider and to develop this recommendation, or was it out of scope?

My assessment, and as noted in the remark here in transcript, in coordination with the staff, was that it was sufficiently in scope and that essentially, if the Council felt that it were out of scope or we had strayed over the line, that the Council would make that determination.

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I should note I don't believe that—I mean, there was not a formal request from anybody within the working group to the chair or to the liaison, Philippe himself, to take this to Council midstream. So we continued working under very challenging timelines, and were able to reach a compromise position and consensus on the language. So I think that's where we are. I think the language speaks for itself there. I see Pam has her hand up so I'll stick around in case she's got a question for me, but I think that's essentially what we're talking about here.

PHILIPPE FOUQUART: Thanks, Keith. Pam.

PAM LITTLE: Thank you, Keith and Philippe. I was trying to type in the chat, but obviously too early for my fingers in the morning. I would just ask to consider how the Council is going to look at Recommendation 1, look at the charter, look at the specific instruction to EPDP 2A, and determine whether Recommendation 1 is within or out of scope, how we actually do that.

I'm also mindful of the time constraint. Between now and the October meeting, if our goal is to be able to vote a motion at the October meeting, we need to resolve this scope question or issue. So we may not have time to agree on the mechanism or methodology in deciding this question or determining this question, so maybe that's something we need to work offline. Obviously, the leadership would also do some work or some thinking and come back to the Council.

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We do need to decide how we actually—or to think about how we decide this question, because they would be, I suspect, different interpretations, different views on whether it is within scope or not, because it's really probably not a science. It could be an interpretation as well. Thanks.

PHILIPPE FOUQUART: Thanks, Pam. And yes, indeed, we'll use the next couple of weeks to try and figure out a way to address that first, and we'll go back to Council on the way forward to make sure that, as I said, we take an enlightened vote on this. But we need to address that first.

So with this, I think we're slightly behind schedule, so I'd like to close our discussion on item four and move on with the next item, and that's a discussion, an update from GDS on the framework for the PSR, the policy status report. As you would recall, we approved the RPM phase one report in January. At our July meeting, reviewed the next steps for UDRP and the need to review the charter before launching phase two. So we agreed on having a policy status report.

So that's the follow-up and a proposal for a framework for this PSR. It was shared on the list on September 13th, I think, maybe 14th for some of us. I hope you had a chance to have a look at it. So I'll turn to Antonietta to help us go through this proposal and open up the floor for comments. I'll just point to the message that Nathalie shared with some of the questions for staff. Not sure we all had the opportunity to go through all of them, but I just wanted to note that. With this, Antonietta, would you like to take us through that proposal?

ANTONIETTA MANGIACOTTI: Thank you, and hello, everyone. I'm here from the GDS side to present on the proposed outline for the UDRP status report. Next slide, please. Here we have the agenda, which is going to start off by providing a brief overview of the UDRP, as many of you are probably familiar with the procedure, and then jump into the proposed structure for the report, take a look at what data we have readily available to support the assessment of the UDRP, and then conclude with the estimated timeline for the completion of this work. Next slide, please, and one more.

So just a general overview, UDRP is the oldest ICANN consensus policy, it was created to provide a quick, efficient and more cost effective way to facilitate trademark protection at the second level and to help dealing with disputes involving abusive registrations of domain names. Two primary documents are required for its operation, the policy itself and then the rules for the UDRP. To date, six providers have been approved by ICANN to conduct proceedings under the UDRP, and those providers are listed below. Next slide, please. And one more. Thank you.

So in terms of the outline for this report and the way we're proposing to organize the work to support with assessment of the UDRP, which is also based on and has a similar structure to the framework for the transfer policy status report in the sense that we're looking at the overarching goals of the policy, and so for the UDRP, we'd be looking at what those are and organizing it that way and looking at the goals that were identified in also the 2011 issue report, which is to provide a cost and time efficient mechanism for resolving domain name disputes, procedural

fairness for users of the procedure, and also effectiveness in addressing abusive registrations of domain names.

And of course, the report would also present readily available and general data on the UDRP, general background on UDRP processes and procedures, and any substantive or procedural issues, potential fixes as they were identified in previous exercises around the UDRP.

In the introduction section of the report, [inaudible] reminder that this work is anchored in the consensus policy implementation framework which calls for support and review of policies when there is sufficient data and time to highlight the impact of the policy.

The first section would also suggest touching on the impact of the temporary specification on the UDRP policy and how the filing process has been facilitated post-GDPR and in light of temporary specification. And we would also here present a summary of findings as relevant to each UDRP goal. And just to note that the data, both qualitative and quantitative, represents the most readily available [inaudible] measures to help with the assessment of the UDRP in terms of these goals. Next slide, please.

To support the assessment of UDRP in terms of its overarching goal, time and cost efficiency, here we propose including and looking at the number of UDRP cases filed each year to determine any trends there in filings, as well as what the fees are and the case duration for the UDRP as compared to traditional litigation.

So to highlight what those differences are or to attempt to show that the UDRP provides a quicker and most cost effective alternative to court options. And again, we would include as well any issues that have been raised relevant to this call as were identified also in the 2011 issue report. Next slide, please.

In terms of fairness and supporting the assessment, in terms of [judicial] fairness for users of the procedures, we propose here to look at some of the practices and processes that have raised some concern when it comes to the fundamental fairness of the system, such as forum shopping, given that the UDRP gives complainants full discretion as to the choice of their provider. So we should look at some of the factors in the influence the complainant selection of provider, filing fees perhaps, providers' reputation, complainant win percentages, looking at what those are for each provider as well as any other issues that have been raised.

For selection of panelists, UDRP cases [inaudible] to look at what the process is in appointing panelists to UDRP cases, what concerns have been raised with regards to this process, and any available and relevant data on panelists.

For re verse domain name hijacking, we would cover what this practice is, some of the factors that have been cited by UDRP panelists when they make a determination, any issues or concerns that have been raised with regards to reverse domain name hijacking as well as any data available on filings to determine any trends there. Next slide, please.

In terms of the overarching goal of addressing abusive registrations of domain names, here we propose to take a look at decisions that are rendered by UDRP providers in favor of complainants versus respondents to see what those differences are and any other issues that have been raised.

Here, we would also propose to include data from compliance related to complaints, registrar noncompliance with the UDRP as well as any inquiries that are received by the global support center concerning the UDRP [inaudible] inquiries related to cybersquatting, trademark infringing, registrations and any other UDRP-related issues as relevant to this [call.]

And then here, we also would suggest maybe including a subsection on the importance of educating domain name registrants to help address cybersquatting. We thought maybe highlighting the .cl project as an example. The project was launched by the country code top-level domain for Chile, and as part of the use of their initiative, they linked users of the UDRP with law schools in an effort to try to help educate registrants on the procedure and how to defend their rights. Next slide, please.

In terms of the data we have available to support this work, which was previously collected to inform other projects and review efforts such as the CCT review, the domain name marketplace index project, and those include number of UDRP complaints filed and the breakdown of decisions that were issues by each provider, the administrative and panelist fees—those are up on each provider website and published there. The UDRP case length could be calculated using data from the forum website as they publish case start and end date while other providers usually

just go with the year. So unless you individually go into each case, then you'd be able to get those numbers for other providers as well, as well as any data on reverse domain name hijacking filings. Those would be readily available for WIPO and are present on the website listed there, DNDisputes.com. And also, UDRP-related complaints and inquiries that are received by ICANN. Those would be available as well. Next slide, please.

So before we take a look at the proposed timeline, just some things to keep in mind when it comes to the timeline and completion of this work. We would have to take into account of course the input that was received on the outline that is being proposed and presented here. The data that we've collected previously is for the time period of 2013 to 2020. As you know, the UDRP has been around for over 20 years, so if case data prior to 2013 is desired, it would be beneficial to work with providers to get that historical data given that the data collection process for [inaudible] is entirely manual and very labor intensive, and also takes quite a bit of time.

Also, something else to keep in mind, the data that we've collected, we'd also want to run it by the providers to ensure accuracy of the numbers that we'd include in the report and that would be published. So the process and timing for each provider to confirm that data may vary.

And as we also have previously collected data from the compliance website and have received reports from GSC, those are for the 2013-2015 time period, so that data would need to be updated. The compliance data is published on the ICANN website.

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As for the GSC reports, those are provided to us upon request based on the categories of inquiries that we're looking for and those take about a month or so to get together and provide it to us. Next slide, please.

Here we have a very initial timeline, a bit ambitious. [inaudible] to kind of begin the data collection and updating process for the report the week of October 4th, and while we're working on that, also provide an update to the Council in terms of progress, aiming to provide a draft report on the week of October 18th, allow some time there for input, feedback, and then submit a final report the week of November 8th. Again, there are time and data considerations and things that may be out of our control which may delay or extend this timeline, but this is what we're proposing as something we can start working out of. And I think this is the last slide, so just opening up for questions, discussion and any input you have on the proposed outline here. Thank you.

PHILIPPE FOUQUART: Thank you, Antonietta. Any questions, comments on the framework, on the approach, bearing in mind that that is meant to be an input to the review of the RPMs charter? John, and then Flip.

JOHN MCELWAINE: Thanks, Philippe. I do have a number of comments, but I could spend an hour going through all my comments. Obviously, I'm pretty close to this, having served as the liaison for the last one. Is

there a way that we can provide feedback for like revisions to be considered offline rather than take up time on this call?

PHILIPPE FOUQUART: Thanks, John. The answer has to be yes. If you take an hour and if we go through Marie's inputs, then I don't think we're going to be finished by 11:00 my time. So yes, if you could provide those to the list, I think that would be really useful, and we'd just make sure that—and if need be, we can have a dedicated call or something to make sure that we have the soundtrack with the comments. But if that's agreeable to you, at least provide those to the Council list and we'll make sure that they are taken onboard via the next steps. How does that sound?

JOHN MCELWAINE: Okay, thanks. Yeah, that's great.

PHILIPPE FOUQUART: Thanks, John. Flip, you're next.

FLIP PETILLION: Thank you, Philippe. Actually, I had the same question, and in addition to that, Philippe, I was wondering whether Antonietta's slides or staff initiative—and what's the relationship with the draft report that is already there? Does it match with that report? Does it contain all information that was discussed in the group? That's what I would like to ask. Thank you.

ANTONIETTA MANGIACOTTI: Thank you, and just to clarify, you mean the draft report that we currently have on the UDRP as compared to [inaudible] outline?

PHILIPPE FOUQUART: I think that's what Flip is referring to, yes.

FLIP PETILLION: Yes. Correct.

ANTONIETTA MANGIACOTTI: Okay. So we had, a while back, initiated working on a report, started off more as an internal report on the UDRP as a result of concerns and questions that we were receiving around ICANN's oversight of the UDRP program as well as we were also discussing data processing terms with providers and things like that. So we had kind of initiated looking at how we have the process set up to operate and what types of complaints we were receiving, what kind of data is available. So that's kind of how the report began, the work for the report started off. And the outline that we have is based on what we currently have put together right now.

PHILIPPE FOUQUART: Thank you. A follow-up, Flip?

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FLIP PETILLION: Yes. Thank you. What report is Antonietta actually talking about? She referred to an internal report. I would be happy to have a look at it.

ANTONIETTA MANGIACOTTI: So we had begun just internally compiling some preliminary data and information on the UDRP. This was just an internal draft that we could use internally. So for the purposes of the status report, it kind of helps to provide a foundation that we can build off of since we have already, again, compiled a lot of data for this internal work as well as to support other projects and reviews, but the report is outdated and it hasn't been worked on in a while, so that's why I mentioned that we would need to go back and revise and update as needed for this effort.

FLIP PETILLION: Thank you. What I would suggest is that you share it, that it's in—let's say the public, that it's shared with the community. Thank you.

PHILIPPE FOUQUART: Thank you, Flip. I think we can take that offline, whether that's in a state that can be shared. What I understand is that that bunch of data served as an input to the framework that you put forward here and the part that's not outdated and based on the collection that you referred to earlier will find their way to the report that we're talking about here. That seems to be—that's at least what I understood from what you just presented, Antonietta.

So I'm sorry, Flip, mindful of the time, we'll go to Marie next and you'll have the last word on this, Marie.

MARIE PATTULLO: Thanks, Philippe. You'll be happy to hear I am not going to repeat everything I wrote in my e-mail to you all earlier. But I'm really happy that we can engage in this offline. As the gentleman before me said, this is very important. But I would like to really reiterate, make clear one thing, Philippe, that my e-mail and the points raised in there are based on the fact that what we're trying to do here is to draft a good charter of phase two. I don't think any of us would claim that phase one was a good charter. In particular, those of us who were involved in the working group.

If we're going to get phase two to have a proper charter, we need to base it on facts, data, expertise and practical experience and knowledge. And with all the will in the world, staff are doing a fantastic job, they have much more to do than they possibly can do in any one day. But I simply don't think they are the best placed to do this PSR, for the reasons I enunciated at length last time and also in the mail.

But please don't think this is in any way something against staff, because it's quite the contrary. It's just that if we're going to be practical and get a good charter which is the job of Council, we really need the experts involved. And after that, I refer you to my e-mail. Thank you.

PHILIPPE FOUQUART: Thank you, Marie, and indeed, as I said earlier, whichever way we approach this, the idea is indeed to use that as an input for the charter for phase two and the fact that the experience was such that that phase should be data-driven. And that's the purpose of all this. So, thanks for this. We'll take that offline and provide the inputs that you sent to the list to staff as well as those that John was referring to earlier.

Thanks, Antonietta, for the presentation and the framework, and we'll very quickly get back to you with the comments that were received at Council and those that will come very shortly. Thanks again.

So with this, let's move on to item six, and that's our discussion on the next steps that we may take at Council level on Work Stream 2 implementation. And for this, we have Mary with us. Hi Mary.

MARY WONG: I'm here, Philippe. Hi everybody. And I'm sorry to pile on to the many presentations that you've had, knowing that it's late for some and early for others. So I promise I'll try to make this really brief and allow time in our limited time together for questions and your discussion. Next slide, please.

These slides are provided for your reference and they have been, I think, updated on the Wiki page for you. So I just want to focus on what seems from my understanding to be the topics of interest to you as the GNSO Council. The ICANN Org will be providing an update to the full community ahead of ICANN 72 about the overall implementation status of all the Work Stream 2 recommendations.

And as you all well know and as you can see from the slide, there's quite a lot of them, about 100 or so. Some are directed at ICANN Org, some at the Board, some at the community. But if we just focus on the ones that are directed at the community—and I've tried to put some markers here on the top part of the slide—there are certain complexities associated with community implementation that I think are important to bear in mind.

One is that even from the categories of recommendations directed at the community, there are some that are directed at the SO/AC level and some that reach into, say, the RALO or for your purposes, the GNSO stakeholder group and constituency levels.

So there is a distinction, even when we say recommendations directed at the community, it's important to always know which particular set of recommendation we're talking about. So to give you an example, the human rights framework or the framework of interpretation for human rights, which is category three out of the eight categories of recommendations here, you see that it starts off as a recommendation directed at the community, but essentially, it is done at the SO and AC level.

And obviously, as the main policymaking body for gTLDs, this is something that would be relevant to the GNSO and the GNSO Council. In contrast, for a number of the other recommendations, like I said, you will be looking at the stakeholder group and constituency level rather than overall as the GNSO, as the GNSO Council.

And I do want to thank the members of the GNSO Council who started an exercise a while ago. We have a link to it in the slide

deck later on where the Council looked at all of the recommendations directed at the community and essentially identified which are the ones that you thought for the Council to consider implementing and which are the ones that are for the GNSO stakeholder groups and constituencies. So essentially what I was saying earlier.

I will say that since that exercise—and if you've been following the updates from ICANN Org—we have made quite significant progress in implementation planning. In fact, implementation is in progress and has been complete for a few that were directed at ICANN Org and it's beginning for many of the ones directed at the community.

So thank you to the Council for starting that priority exercise, because we have used what you've prepared to help the GNSO stakeholder group and constituencies as they begin their review of the recommendations as well. Next slide, please.

Another complexity point is that of the recommendations directed at the community, there are some that seem to require or might benefit from cross-community coordination. And these tend to be the ones that have some dependencies.

One example that I'll give is the topic of diversity. There's seven or eight sub-recommendations in this topic, but the first sub-recommendation is that the community must agree on the required elements of diversity, and based on that agreement, implementation of the other sub-recommendations can follow.

So I bring that up because that's a very obvious example where cross-community coordination might be required. And you may know through conversations with your stakeholder groups that in this respect, to try to facilitate the cross-community coordination, ICANN Org made a suggestion to the SO/AC chairs that the community consider setting up an ad hoc group of representatives to work on that coordination for those specific recommendations even as the rest of the community groups work on those other recommendations that do not require that level of coordination.

So this is something that is still out there. We are hoping that by the 4th of October, which is in about two weeks' time, the SO/AC chairs, including Philippe on behalf of the GNSO, can get back to us to see if this is a way that the community would like to proceed.

So I'm going to skip over the next slide because that is really just a companion to the earlier one to indicate that there are two tracks of work on the community recommendations. Like I said, some recommendations that require cross-community coordination, some that don't and therefore are left for individual groups to implement.

And in that regard—coming back to the last slide, to the next steps, and to the GNSO Council's own priority level assessment that I mentioned earlier, you may remember that of all the community-directed recommendations, the GNSO Council identified the three that I have on this slide as being relevant to the Council and assigned priority levels for them.

So next steps for you would be to review an inventory that our team has prepared that we will send to you to see if it adequately

captures what you had identified a year and a half ago and as an aid for you to begin planning out when and how you want to proceed with implementation of these three specific recommendations.

For example, whether the priority level that you assigned previously is still something that you agree with in light of the fact that some timer has passed and obviously, there's a lot of work on your plate as well.

Like I said, that's separate and different from the work that some of you might be also doing within your stakeholder groups or constituencies. They too have been asked to perform an initial inventory review. What we've done is we've prepared customized spreadsheets for every single SO, AC, SG, C and RALO, and that's the parallel exercise that each group is performing for the recommendations pertinent to that group.

And like I said, ICANN Org will provide the community with a fuller update of all the recommendations and where implementation is for all of them prior to ICANN 72.

Philippe, I hope that wasn't too quick of a gallop through an update, but I'll hand it back to you at this point.

PHILIPPE FOUQUART: Thanks, Mary, very much for this. Any questions for Mary on the next steps, notably, and the inventory that will be shared with us for our review and in addition to being prepared through the SGs and Cs to the same for their own action points relative to Work Stream 2? Any comments?

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MARY WONG: Philippe, I see questions from Kurt and Jeff in the chat that I'm happy to address quickly, because I actually did not put that in as part of my update because I had hoped that that would come up in questions, because it's a really important point.

And building from what I said earlier, that obviously, we know this is on top of work that's already ongoing, including policy work, at the same time, Work Stream 2 is important work that we also need to get through, especially as it comes out of the community's work on the IANA stewardship transition.

So what I will say is that from the Org perspective, we've been very clear that it really is for the community to decide on the pace and the timeline of implementation. So from the GNSO Council's perspective, if these three recommendations that you identified that I have on these slides, are ones that you wish to proceed to implement, then the priority levels will determine when and how much you want to do at a certain point in time.

From Org's perspective, it is probably going to be a multi-year effort. Similarly with the stakeholder groups and constituencies. We've asked them to look at the charters and the governance documents—again, this is on top of policy work. Some of the recommendations that reach down into the SG and C level are not actually mandatory. For example, many of the recommendations on SO/AC accountability are framed as good practices.

Nevertheless, the groups have to look at them, decide if they wish to implement them. Potentially, their existing charters might

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already cover those recommendations, and hence that initial inventory exercise. But again, the pace, the timeline, the level of priority is determined by each community group. And that's right, Jeff, it is something I believe Berry actually does have on one of your tools or monitoring systems.

PHILIPPE FOUQUART: Thanks, Mary. Any other questions? And I think that was also one of the things that were meant to go under our framework for continuous improvement. So maybe moving forward, that may be something that we could consider. Thanks again, Mary. So ready to go through the inventory that staff will provide us with on this.

So with this, I think we can move on to our final agenda. We have two items with limited time for this. So maybe we'll have to go back to the list, but let's see how that goes.

On the first item, that's the update on the SSAD ODP. You would have noted the report which was shared with the list earlier this month on the 10th of September. I think there was a reference to the webinar that will be held in a few hours from now on the SSAD ODP. And mostly, the update was about the delay of the delivery of the Operational Design Assessment, i.e. the output of the ODP. So that was pretty much all for this month, but that's an important piece of information that I just wanted to reiterate. So, any comments or questions on this?

Seeing none, we'll move on to the next item. That was phrased as the criteria for evaluating candidates for the SubPro ODP role.

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And again, mindful of time, if it's too short, we'll take that to the list because I think your input would be valuable.

And I will just refer to the e-mail that I sent earlier today on the list. As you would know, the EOI has now closed for SubPro ODP, and the SSC will soon begin its election process. The EOI provides the list of skills and things that are expected for the role, and the standing selection committee is expected to evaluate the candidates according to the criteria of that EOI.

But as usual—and I think that's a discussion we had already—may also take into account other relevant information available about the candidates to make their decision.

So it'd be useful for us, I think, to have, in light of the fact that we're still learning on these ODP phases, to have a discussion if you think that's warranted, on two aspects that I articulated in the e-mail.

One, how the SSC approached the question of the material interest. And typically, community members are expected to disclose the material interests that they would have for the sake of transparency, but on the other hand, disclosed interests wouldn't disqualify individuals from serving in volunteer roles.

So with this, and as I put in the e mail, extending this to the current process, the SSC will then not consider those interests that candidates may have, or declare, as disqualifying in making their decision for the role. And would like to first pinpoint this, as I said, and confirm that that's also your understanding of how the SSC would approach this.

So that's the first thing, and the second is about whether that ODP liaison role is compatible with other volunteer roles that candidates may have and whether Council have specific requirements if candidates would have commitments already with other roles, whether Council would consider that some of those roles might be incompatible with the ODP liaison. Appreciating the specific nature of the ODP, albeit limited nature of the role, that's something that we'd like you to weigh in if you think that's appropriate.

So with this, we have a few minutes left so I'll just open the floor for comments, if any, on those two items. Kurt.

KURT PRITZ: Thanks very much, Philippe. I don't grasp this fully, but just at a really high-level, I think it's inappropriate for the Council to be providing any direction or suggestions to the standing committee now after the EOI was posted with the criteria in it, that it seems to change the criteria after the fact.

I don't understand the details so maybe there's good reasons for doing this, but on a theoretical level, it seems like there's no way to avoid a perception that adding criteria after the candidates are known tilts the playing field in one way, even if it's not.

And on a practical level, I think the standing committee is going to pick the best person for the job anyway, so they're going to take into account the criteria to which the applicants responded and they're going to talk about other stuff and they're going to pick the best person.

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So on whole, I think it's better just to let the process go rather than interrupt it which could, again, give rise to perceptions of give rise to "let's let the candidates reapply and see if anybody else wants to apply." So my opinion is that the Council not provide further direction and let the process go. Thank you.

PHILIPPE FOUQUART: Thanks, Kurt. Point well taken. As to this, changing the criteria, hopefully—well, that's not the intent. Clearly, the purpose of asking the question is essentially to be transparent, because the question could have been asked by candidates themselves as to whether that will—I'm thinking about the second question, for example, whether that role was compatible with other responsibilities, and wouldn't feel like responding directly, say, hence reaching out to Council. That's mostly being transparent. But point well taken. The idea is certainly not to change the role once the applications have been made. Any other comment on this? Pam?

PAM LITTLE: Thank you, Philippe. Yeah, I agree with you, Philippe. I think the two points you made in your e-mail to the Council, the first point is different to the last. The first point is actually trying to actually, to me, relax the rule rather than tighten the rule. We're basically saying even if you declare you have a material interest, the candidate should also be considered based on merit. So I don't see that as interference with the SSC. We're really trying to, as Kurt said, allow the best candidate to be considered despite their declared material interests.

The second aspect of your e-mail, Philippe, was a different subject.4 I feel that was totally perfectly within Council's limit, to consider whether there might be incompatibility within the two roles. So they're separate, they're not the same instruction to the SSC. Thank you.

PHILIPPE FOUQUART: Thanks, Pam. And again, especially on the second—as you said, the first one is to provide some flexibility and eventually do what actually, Kurt, you said, i.e. come up the best candidate. But second was really almost candid, if you see what I mean. The idea was to just go back to Council for a question that we didn't feel like answering ourselves. So there we are. Any other inputs on this?

Okay, seeing no hands, I then understand that at least on question two, there's no identified, as of principle, incompatibilities. So with this—and it's now 11:00 sharp my time—I just want to thank you again for taking part in this. I hope you're all well, wherever you are. We'll come back to you very quickly on how we will approach our vote on the phase 2A final report. Until then, have a good rest of your day, good SSAD ODP webinar if you can attend. It's a bit late for some, but speak to you soon anyway. All the best. Bye now.

NATHALIE PEREGRINE: Thank you, everyone. Thank you for joining the GNSO Council meeting. This concludes today's call. Have an excellent rest of your days and evenings. Take care, everyone.

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[END OF TRANSCRIPT]