
ICANN Transcription

Council Committee for Overseeing and Implementing Continuous Improvement

Wednesday, 10 May 2023 at 12:00 UTC

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JULIE BISLAND:

Okay, good morning, good afternoon, good evening, everyone. Welcome to the Council Committee for Overseeing and Implementing Continuous Improvement Call, taking place on Wednesday, the 10th of May, 2023. For today's call we have apologies from Antonia Chu.

Statements of interest must be kept up to date. Does anyone have any updates to share at this time? Please raise your hand or speak up now. Susan, go ahead.

SUSAN PAYNE:

I haven't actually done it yet. I've been having a bit of trouble updating. But I think I'm meant to update it to say that I'm on the SubPro IRT. So once I've worked out how to do it, I will update it.

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.

JULIE BISLAND: Okay, wonderful. And we can send you some information on that too if you need help. Okay, all documentation and information can be found on the wiki space. Recordings will be posted shortly after the end of the call. Please remember to state your name before speaking for the recording. And as a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thank you. And over to Manju Chen. Please begin, Manju.

MANJU CHEN: Thank you, Julie. Hi, everyone. So it's been a while since we had our last meeting. And during our break, there's still another group of people working very hard to try to resolve a task that we have some to do, which is the SOI Task Force. SOI is short for Statement of Interest. I guess, well, should I do the welcome? That was the welcome. I was welcoming everybody since the last meeting. And you can see on the screen, we have a proposed agenda. So I kind of just jumped to the second item already. I was talking about the Statement of Interest Task Force.

And I'm not sure if you guys have seen the report that staff has sent to us. It was sent on 27th of April, and it was a recommendation report from the SOI Statement of Interest Task Force. And so in the report, they have listed their recommendations, but there was one outstanding item that they couldn't reach full consensus. And as you can see from the screen, we have this GNSO framework for continuous improvement, which is basically the framework of how us, the CCOICI, should work under. And it says that where full consensus is not achieved, the report and the recommendations to the GNSO

committee and or GNSO council should clearly outline the efforts that were undertaken to try and achieve full consensus and the reasons of why this was not achieved.

And if you have read the report, which I hope you did, it actually clearly stated the methods they've tried. The task force have tried to reach full consensus, and also clearly stated the reasons of why they didn't achieve the full consensus. And so the report is now on our hands, the CCOICI's hands.

And I'm really hoping we maybe, since we're a different group of people, although we still represent, well, you guys, I don't know, because I'm supposed to be neutral. The group, so we come from different stakeholder groups, which kind of are composed of the task force too, but I'm hoping still as different group of people and with some new, well, not really new, but for some information, the staff have very helpfully gathered, and we have discussed, I hope with this information we're going to present later that we can come into this outstanding item, which I guess you all know is this exemption language that kind of provides those who are not able to reveal who they're representing exactly due to their professional or ethical obligations, this exemption language, we hope we can kind of reach a consensus of how to deal with this language.

So we propose, me and staff, we propose we take a step back to look at how this exemption language really came from and what was the deliberations and what changed from the original exemption language to the exemption language proposed by the SOI task force and what are other safeguards that's currently in place. And the staff, Marika and others have very helpfully prepared a slide deck to kind of explain, walk through this again,

kind of the history of this exemption language. And I hope we can kind of come to this issue from a different angle after the presentation. And I think I'll stop here and I'll move to Marika who's going to walk us through the history. Thank you.

MARIKA KONINGS:

Yes, thank you, Manju. Just switching screen here to, as Manju mentioned, a couple of slides that we've prepared to provide a bit more context around specifically the exemption language and the history behind it. So, first of all, maybe the background on where the SOI actually came from. This was something that was created as a result of the 2004 GNSO review. And really with the intent of allowing interested participants to declare their interests, because everyone knows there's no issue in having an interest in GNSO policy outcomes, as long as people are open and transparent about those interests.

The task force was basically asked as well whether that original objective that was outlined as part of, I think, the board starting the review was still valid. And they concluded, yes, it was still valid, it was still important to allow for that declaration of interest.

But there were a number of issues that the task force felt needed addressing. And I think those may sound familiar, because I think some of that is collected from the assignment form and some of the conversations that preceded the work of the task force.

But one of the aspects was information may not always be sufficient to be able to really assess what the interests or objectives of participants are. Community members participate in

a number of different fora, so it's not always clear in what role they're actually participating in specific efforts.

Not everyone is consistent in updating their statements of interest, and particularly when, for example, they're not being active in a group or have moved on to other activities. We've seen that some statement of interest may be out of date or no longer relevant.

It does not reflect either if or how a potential outcome may affect a member or their employer or client. Again, the SOI in the current form is very general. It's kind of one size fits all initiatives. And there's no requirement for consultants or lawyers to disclose their clients or at the minimum provide a general description of clients and their interests.

Again, these were the issues that the task force specifically identified as something they wanted to look into and consider. So then taking a little step back on the exemption language, as Manju said, the task force reached agreement on all the recommendations in the recommendations report apart from this specific issue, which is an integral part of the SOI.

As you will have hopefully seen, to address some of the points you saw on the previous slide, proposing having a general SOI and an activity-specific SOI, so it allows for a more focused input and sharing of interest in relation to the specific activities someone is participating in.

But as I said, the one item that the group could not reach agreement on despite significant efforts in conversation was around a potential exemption from declaring who is paying

someone or asking someone to participate on their behalf in that specific effort.

So again, taking a step back, this is what the current SOI asks. So I think it's important for everyone to realize or be aware that that exemption already exists in the current SOI. It's not something that was proposed by the task force. What the task force originally focused on was how this language could be modified or enhanced to address some of the concerns.

So as you can see here on the screen, it's pretty straightforward. It basically asks the question of, do you believe you're participating in the GNSO policy process as a representative of any individual or entity, whether paid or unpaid? And if the answer to that question is yes, you're either asked to provide the name of the represented individual or entity, but if professional or ethical obligations prevent you from disclosing this information, you're allowed to include here the word private.

And I've added the emphasis because, again, that last part is really what the focus has been on and as well the issue that we'll be talking about here. So in the initial report, there was modified language of that, again, that specific section, which you also see here in brackets and in bold and underlined, where the task force tried to kind of be more specific about when that exemption would be invoked.

So first of all, they focused on making sure that someone would actually provide details on the ethical obligations that would prevent such disclosure, as well as a requirement to provide a high-level description of the entity that someone would be

representing without necessarily disclosing the name, but a very high level basically saying I represent a registry client or I'm representing a non-GNSO related entity.

So that is the language that went out for public comments. And I think as some or most of you are maybe aware, we did get input specifically to this issue in response, where there were a number of commenters basically expressing the view that there should not be the ability to have an exemption. Either someone discloses who they're being paid by or who they are representing and whether that requires asking for consent, that should be possible. And if consent is not provided, then someone should not be able to basically participate because there needs to be transparency and accountability around that.

So in response to those comments, the conversation focused on this specific item in the task force. And I think, as you will hopefully have seen from the statements that were included in the recommendations report, two camps on this issue, some that believe that there should not be the ability to have an exemption, everyone should disclose if they're being paid by someone else to represent them, that should be stated where others believe that there should be such an exemption possible because there may be circumstances in which consent cannot be obtained. And it would then effectively prevent people from participating in GNSO policy processes.

What you do see on the screen, and again, it's highlighted in yellow because the language in the end was not agreed or did not have the full consensus of the group, is an enhanced version of what was in the initial report. So what you see, for example,

highlighted in the first part, because there was also, I think, some discussion around what does it mean to be a representative? It can be very broadly interpreted. And if there may be certain issues that a client is interested in, does it already mean that you're representing someone? Or is it very specific if someone is specifically appointing you or paying you to take on that role?

So this language really aimed to kind of put more specificity around what it means to be a representative. So, again, there hopefully wouldn't be any confusion around those filling this out, and especially thinking of lawyers or consultants where they may think that their whole client list would need to be presented because that, again, this is not the intent, at least what I understood from what people are looking for. It's really if someone is appointing you to fulfill a role as a representative in a certain policy activity.

And then in the second part as well, you also see some enhancements that were made there to really be specific on what ethical obligations are preventing disclosure. So, again, references would need to be provided and as well a bit more details in relation to the description. So instead of just saying I represent a registry client, the expectation would be to say I represent a registry client who is also actively participating in the Registry Stakeholder Group.

So, again, because I think one of the concerns that was expressed that if there are people that are not able to disclose this information, what if they're also participating in other parts of the GNSO community and could that result in kind of over representation to a certain degree. So, again, providing as much

detail as possible might avoid those situations from happening, or at least provide some transparency around the objectives and reasons why someone is actively involved in an initiative.

Again, this language was not agreed or did not achieve full consensus, but it shows a bit that the group did try to work towards addressing some of the comments and some of the concerns that were raised in response to the public comment period. And as I said, I think it's important that everyone reviews, if you have not done so yet, the annex to the report that includes a number of statements from the different stakeholder groups and constituencies in relation to their specific views on this topic.

We also wanted to mention that there are other existing safeguards already. If we are kind of assuming that part of the objective of disclosure is to avoid that entities have multiple representatives actively engaged in a policy process without being able to know that they're maybe representing the same party.

So there are some other mechanisms in place that are already available, either to council or to the group itself, to kind of further assess what the interests are or why someone is participating. So, first of all, the council can impose additional participant requirements as part of a charter, including a statement of participation and that sometimes outlines certain commitments that a participant makes in the process.

Some of you may recall as well, for example, the cross-community working group on auction proceeds. Their participants were asked to make, I think it was called a declaration of intent with regards to whether or not they were planning to apply for auction proceeds.

Again, it was felt that that information might help provide some insight into why someone was participating or might be advocating for certain positions.

So depending on the topic, the council does have the ability to require additional information from participants if that is deemed warranted. The chair also has the ability and as well the obligation to assess whether the working group has sufficiently broad representation, but also whether there is a risk of over-representation to the point of capture. Again, it may not be obvious if someone hides behind, "I cannot share this information." But again, if there's a real sense that 10 people that said they could not disclose are all advocating for exactly the same point, that is also may be advocated for in another group, a chair may raise his or her hand and talk to the charter organization to say, hey, I have a concern here because my sense is that there is something going on.

The representation model, I think it's something we've mentioned, or you've seen it kind of in practice as well. We've seen a shift or a movement to a representational model in a number of working group efforts, where obviously those that are participating are there appointed by their groups and they're representing their respective groups. So there may be less of an issue there with regards to someone being there representing someone else, because it's very clear who someone is representing as they're being appointed to that initiative.

And of course, there's also in the operating procedures, it is already foreseen that if someone has doubts or questions or believes that the statements of interest is not accurate, there is

something that can be raised and flagged and escalated accordingly so that it can be discussed and reviewed. So, again, these are a couple of existing safeguards that are already in place.

So then the question is, what are we trying to solve for? And from a staff side, we thought it might be interesting to actually go back and look at two working groups that kind of, I think, ran before we really moved to the representational model to kind of see in the context of the current exemption, how often is that used? So I think people have a bit of an idea of kind of the landscape that we're looking at or the potential problem that some believe needs to be addressed.

So we actually went through all the SOIs for SubPro and the RPM PDP, which you can see is two pretty large groups, 192 and 159 members. And in the membership of those, we only found in each of those, kind of two, where it was very clear that someone basically says, yes, I'm here representing someone. And yes, that's private. I'm not able to disclose.

Where you see here the maybes, we believe that some of those might not have either correctly understood what was being asked or maybe did not fill it in correctly, because these are basically examples where someone identified their employer, but then said that they were also representing someone, which kind of, again, didn't seem to really match with disclosing who the employer is. And again, not talking about, for example, law firms or consultancies, but I think it was a registry and another was a registrar, where then they also filled in the private clause.

I think there was one also where someone said, no, I'm not representing anyone, but did then note private. So, again, there seemed to be kind of a mismatch. And I think there was one as well where it was actually someone was working for a government entity, I think Ministry of ICT, and also identified the country, but then also listed that they were representing someone else and that that was private. So, again, it also seemed that that might not align with the reality there. But again, there were, in each of those cases, I think, two where it was clearly a yes and private in response to that.

So that is, I think, what we kind of wanted to share, kind of setting the scene. And we kind of, as Manju said, we hope this is helpful of kind of taking a step back, understanding what the current environment is, because, again, without any changes to the SOI procedures, the exemption already exists. There is already an ability for people to declare that, yes, they're representing someone and that information is private and they're not able to share that.

So this is really about what enhancements, if any, can be made to that. That's where the conversation started, which then, of course, evolved to as well a discussion around, is such an exemption even necessary or desirable? And again, to provide some illustration, we've also looked at, so how has it been used in the past? That may also allow for a conversation around what is it that we're trying to solve here? What is the real problem that people see in practice? Not theoretically, but what is it that's happening in practice that we need to solve for? And how can we do that best?

So we're hoping that that might help for reframing a bit of this conversation and seeing if there's a path forward that the group can identify to address this specific issue. So I'll pause there and give it back to Manju.

MANJU CHEN: Thank you, Marika. And Juan just told me that he's in the waiting room of this meeting. I don't know if we have a waiting room.

JULIE BISLAND: We do. I just joined him.

MANJU CHEN: Thank you so much. And welcome, Juan. You missed the presentation, but I think it's okay. We can catch up with the discussion later. And I see Desiree. Okay, so I think Marika has the answer for your question in the chat.

MARIKA KONINGS: Yeah, thanks, Manju. I'm so sorry I had the chat on another screen. So Desiree, what you see on the screen now is what's in the current SOI. So basically question 10 will ask, do you believe you are participating in the GNSO policy process as a representative of any individual or entity, whether paid or unpaid? And if someone says yes, they have the ability to say private if professional ethical obligations prevent them from disclosing this information. So this is what is present in the current SOI. I hope that addresses your question.

MANJU CHEN: Yes, thank you, Desiree. And thank you, Marika. And so after the presentation—guys, I hope you find it helpful. I personally, when I heard all of this, I found it super helpful because for me personally, I kind of entered this group and also the task force late. And I didn't know the background and the context. And after I learned all this, I felt very refreshed and I feel like I see the possibilities of people coming together to solve this problem. And I hope you feel the same. And but now currently I'm not seeing any comments or hands. And I'm not sure if anyone has any. Oh, thank you very much, Marie. And I'll go to Sebastien afterwards.

MARIE PATTULLO: Thanks, Manju. First up, apologies if what I'm going to say has been said before. Mark had to step down, my other BC colleague. So you've got me. Sorry about that. Really appreciate the background, Marika. I read the report, of course, but it's really helpful to have all of that background.

And I was fascinated in particular by the slide with the figures, because I can't help thinking that we're looking for a solution that doesn't actually have a problem. And what I mean by that is an absolutely worst-case scenario—so thank you for putting up that slide again—we really think we had two people that could somehow subvert 192 people. And it's a theoretical. Has this ever happened? Do we actually think that big bad party A, registry, BC, whatever it is, is planting so many people in all of these different places that we're subverting the process? I'm finding that really

difficult to believe. And certainly in my years in ICANN, I can't think of any evidence.

And I am really worried because I know there are a lot of very genuine reasons why service provider—that might be a lawyer, that might be a consultant—who has a confidentiality agreement with their client and or works under professional obligations, would feel that this meant they could no longer participate in the process. So I'm looking at cost benefit here because who are we going to lose? Balanced against, what's the actual problem? Two people and a couple of maybes. I hope that made sense. And again, my apologies if this is old territory. But as I said, I'm new. Thank you.

MANJU CHEN:

Thank you, Marie. I don't think that's old territory. I think we are all coming here with an open mind and with fresh eyes looking for new solutions. So thank you very much. And then we're having Sebastien.

SEBASTIEN DUCOS:

Yeah, I wanted to make a comment on the same slide and roughly in the same direction. I need to be a bit careful because I'm definitely not a pro at this topic. I've heard much about it. I've heard much from my side of the room who was all up in arms thinking that it was absolutely disgraceful.

But, yeah, I can't help seeing that we're talking about up to 3% of an issue. And it's still—ethically, I think I have problems with it. I understand where it comes from. But I think that in this

community, I have ethical problems with it. But it's certainly not the size of a problem that I was led to believe.

So if there is any clarity, because I think that once we present this to council, if it's the way to go, they might want to more clearly—and sorry if I missed it—understand where those numbers come from, because if they are indeed what the numbers are and what we can expect in the future, I'm like really failing to see a problem.

MANJU CHEN:

Thank you, Sebastien. And I'm really glad that these things are helping people to see clearer pictures. And thank you very much, Marika. So I guess there's a question of how these numbers come from. I know Marika already raised her hand, but probably it was before this. So I just answer it very quick. So it was Marika and Julie, one of the Julies—I don't know if it's two Julies or one of the Julies. They clicked on every SOI listed in the work group of both SubPro and RPM and they checked if the exemptions were invoked. So it's totally manual. So I hope we can have a round of applause for the for the hard work. I hope their fingers are still intact. And I'll go to Thomas next and then Marika.

THOMAS RICKERT:

Thanks very much. Hi, everybody. I hope that the sound quality is okay-ish at least, because I'm now in a train station. Well, the figures might look very small, but that has been a very big working group affecting a lot of people. You know, let's just imagine you had a smaller working group with maybe 20 people on it, then one or two individuals might actually make a difference.

And also, I think we're here to come up with something that would be a future proof solution. I think that excluding people or something would not work. But we should probably consider giving the chair of a working group the discretion to exclude those individuals from a consensus call if it is not clear whose interests they represent, because a consensus call shall be a fair reflection of the entire community. And if you don't know where to put those representatives, you can't make that fair assessment. So that might be a way out. Thank you.

MANJU CHEN:

Thank you, Thomas. The sound was okay, but then probably it's my English. I couldn't understand very well. Were you saying that—like there was a proposal put forward by the NCSG, which is if there are ethical obligations that prevent the participant from disclosing the full thing, then they could probably disclose it to the chair? Those kind of suggestions, or did I totally misunderstand?

THOMAS RICKERT:

Let me get back in to briefly clarify. So it's not like just disclosing to the chair, because if someone can't disclose because professional secrecy rules might prevent us from doing that, they can't. However, I think that those individuals should then not be considered as eligible participants in a consensus call conducted by the chair of the giving working group.

MANJU CHEN:

Okay, thank you, Thomas. And I'll go to Marika.

MARIKA KONINGS: Yeah, thanks, Manju. Thomas, I think that's a very interesting idea, and actually something that already has happened or is already in place, for example, for the representative model PDP. So the charter there specifically calls out who participates in the consensus call. And I think I need to double check, but for example, the IDN PDP, which I think is a hybrid between open and representative, I think when there's a consensus call, it's the members that participate in that consensus call, not the participants, even though they participate in the conversation.

So again, there is, I think, already a mechanism for doing so, because obviously in a representative model, you know who someone is representing. So there's never that question. But again, I think that the concept may already be applied, but maybe it's something that the group wants to further explore.

What I actually raised my hand on is specifically on these numbers. And the one thing that came up in the task force conversations as well, and also in conversations with individual community members, is that I think there was a sense or a worry or concern that the kind of tightened exemption language, there would be an expectation that someone would have to declare their client list. And I think it's clear that that is not what this is about, or the objective is. And that's also why kind of the language was further enhanced by really making clear what is meant with a representative when someone is really specifically being paid and only paid to be there as a representative for a certain company or entity or organization versus I have a technology practice and many of my clients are interested in this topic. So I'm here kind of,

and I'll brief them, but you know, you're not there as part of your assignment to purely represent them. There's a difference.

And I'm wondering as well if it would be maybe an interesting experiment, especially since the number is very low, and I think of the number two, [inaudible] the same person who kind of invoked the private response to kind of go back with a new exemption language and say, look, if we would have put this new SOI language in front of you, would you still have felt the need to say private, or with this enhanced description of what a representative means, would you have felt that indeed, you actually don't fall under that definition, because there may be a broader set of clients or entities that are interested in this topic, but you're not directly being contracted or paid to represent them in the issue?

So it may be worth kind of asking that question. And in that case maybe your numbers would actually go further down, and you would get as well that information around kind of the types of clients someone might be representing that have an interest, but they're not necessarily kind of just representing that one entity or client for that specific effort. So I just wanted to suggest.

MANJU CHEN:

Yes, thank you, Marika. And reading Thomas's comments in the chat, I think, yes, it's a very good middle ground. And it's actually what will happen if we have this exemption language in the final recommendation report in place, because for now, the working group, because of GNSO PDP 3.0, we use majorly the representation model, which is each stakeholder groups and constituencies and ACs, they appoint their representatives.

And then for IDNs, for example, they do this open model, which is representatives, participants and observers. So observers, as you all know, they don't talk, they just observe. Participants, they participate in all the deliberations, but they don't participate in the end when there is a consensus judgment by the chair. So it's actually what will happen if we have this exemption language, the new one, of course, in place. And I'm reading, sorry, trying to read chat. Sorry. Marie, would you like to talk about your comments? Because I'm really having trouble to read and talk at the same time.

MARIE PATTULLO:

Yes, sorry about that, Manju. And of course, I realize that it's probably really stupidly early in the morning for you. So thank you for chairing this anyway. I'm still trying to get my head around it, because I can't help but feel that we're spending a lot of time to solve a problem that doesn't exist. But that might just be in my head.

I see where you're coming from, Thomas. I get the idea of what you're saying. But if we are going to suggest that rather than saying, "Are you representing somebody?" "Yes." "Who?" "Not telling you." We're moving to, "Are you representing someone?" "Yes." "What sort of exemption are you claiming?" "My client is a registry." "My client has brand protection concerns," whatever these high-level comments are that we're considering, then to me, that already shows where that person is coming from, if you like.

So the extra step of then, if they can participate in the consensus call, then blocking them from doing so because they don't actually

name the actual company or client, I don't think it solves anything. I don't think it takes us any further forward.

But again with a caveat, I wasn't in any of these meetings before and I wasn't in the SOI team. I still keep reading all of this and listening to you all thinking, what are we trying to solve? And I can't understand what we're trying to solve. Thank you. Sorry, Manju.

MANJU CHEN:

No, thank you. Thank you, Marie. And I see Marika has her hand up.

MARIKA KONINGS:

Yeah, thanks, Manju. One thing I forgot to mention during the presentation, and it's probably worth emphasizing as well, that this is a self-policing system. Regardless of whether someone puts, yes, I'm representing someone or no, I'm not representing anyone, there is no verification or validation of those claims. As explained, if someone has doubts about whether someone has filled out their SOI accurately, there is a process for kind of challenging that and escalating that. But it is built on kind of a trust and truth system where people share honestly or respond honestly to those questions. I just want to make sure that everyone is also aware that there are no changes with regards to kind of enforcement or checking of whether someone is really saying the truth about whether or not they're representing someone and kind of the description they would provide.

MANJU CHEN: Thank you, Marika and Thomas.

THOMAS RICKERT: Thanks very much. Marie, I hear your point and I sympathize with that. Yet, as co-chair of the CCWG a couple of years back, one of our main topics was to avoid capture of any shape or form of the policy process in ICANN.

And I think that if you drill down to the level of just asking people what type of entity they are representing, that helps you as a chair to understand where the arguments are coming from. But I think what we want to prevent as a worst-case scenario is that, let's say, there are several individuals as representatives in a working group representing one company that could then basically help shape policy recommendations quite powerfully. And that's something that I think we don't want, and that would probably be a risk of getting capture in the policy process.

And that, if I may add, I think, drove me to come up with the suggestion that, yes, they can participate. They can only [inaudible]. I think we should have more information, more transparency about where the individuals come from.

MANJU CHEN: Thank you, Thomas. I'm not sure if it was my computer or my Internet that kind of there was this lag of your voice, but I think we all captured your point of like, if there are individuals representing their own companies, they should not be involved, or they should not be participating in the consensus call.

I wanted to stress again that in the current working group format, it's like, it's representation model, so there's really very slim chances of a lot of individuals representing the same company and participating in the consensus call. Because, like I said, in the current working group models, only participants that are representatives of the stakeholder groups or constituencies or advisory committees are able to participate in the consensus call. And when they participate, they are representing the stakeholder groups, constituencies, or the advisory committees, not any companies they're from.

So that's why I was trying to say that it is a really good middle ground, and it is what's going to happen if we put the exemption language into force, and that's what's going to happen with the exemption language and the current GNSO PDP 3.1 working group model.

So, yes, I hope that that makes sense to everyone, and I know we probably all have to go back to our own stakeholder groups or constituencies to discuss how we're seeing this now with the new—I hope it's new to you—information. And are there any other comments on this topic? Marika?

MARIKA KONINGS:

Yeah, thanks, Manju, and maybe already to get everyone thinking a little bit more about Thomas's proposal, if there is kind of support or attraction for that idea. As noted, it is something that already happens, I think, in practice, at least with groups that are representational. You know, obviously, the Council is not limited or restricted to that model. In theory, there could be kind of open

working groups like we had in SubPro and in RPMs in the past, where there could be an issue or there could be a concern of capture.

So I think that the question is, indeed, following along with Thomas's proposal, is that something that kind of should be called out as an option that the Council has as part of the charter or should be thinking about that? Is it something that should be kind of written in in some kind of more directive form?

So, again, just thinking about what that could look like if the group believes that that might be a potential path forward, where the language along the lines, as I think you see currently on the screen, would, on the one hand, already make more specific in which circumstances someone would be expected to say yes. And the kind of information they would be needing to provide if a client is not willing to provide consent.

And then in combination with that, if a chair believes that through the SOI there is not sufficient information provided to really understand or appreciate where someone is coming from, or if there is a sense that a person may also be kind of representing the same entity that is already participating there, the chair could potentially exclude someone from participating in a consensus call if they're already entitled to participate in the first place.

And obviously that might need some further thinking, especially with regards to the step of escalating that. But that may be something, again, for people to kind of think about and think what that could look like and practice, whether it is something that needs to be prescribed here. Or whether that's more something

that the Council could decide to write into the Charter for efforts where it believes there is a potential issue.

As I said, in the current direction or models that we typically use, which is not representative only or representative and open, those participants that are not representing an SG or C are already automatically excluded from the consensus call activity. So, again, just I think some food for thought, but definitely an interesting path for everyone to consider as a way forward.

MANJU CHEN:

Thank you, Marika. So I hope all of you, I know we all have to go back to our stakeholder group or constituencies to share the new discussions with those new information, how we strengthen the current exemption language. And we're hoping that with the added clarifications, it really helps for people to actually decide not to [fill in part of it] because they now know what representing means and they know what kind of examples they should be writing yes and stuff.

And also, we know the numbers, how in the past actually that has not really been invoked that much. And with the new idea of if there are people invoking the exemptions, maybe they should not be allowed to participate in the consensus call. And noted that actually in current working group models, most of the working groups already don't allow people who are not representatives to participate in consensus calls.

So three points, I guess, for you to bring back to your group. And I see a comment from Desiree.

DESIREE MILOSHEVIC: Yes, I think that's the third point of you can bring back to your group and we can see if that's something we should explore further. And hopefully that's the new solution we find to kind of resolve this used to be a stalemate, probably now it's not. Hopefully it won't be in the future. And I think we can wrap up this topic now and go to the next agenda item.

Next steps. I hope you bring back the discussions to your group and we come back to the next meeting ready for a fruitful discussion to find a mutually agreed solution. So that's probably the next step. If I'm wrong, please correct me Marika. Okay, I'm right. Yay.

So the third item, Marika has also sent out this WS2 HR impact templates to our mailing list, the CCOICI mailing list. So that mail contains four templates that's modified to kind of insert a very small part of questions that kind of checked whether there are human rights impacts in the policy development process.

And it's what we agreed previously that we should actually insert this very small part lightweight mechanism to check before we start every policy development process to see if there are human rights impacts. And with the help of Ephraim, the chair of Cross-Community Working Party on ICANN and Human Rights, with the help of Ephraim, staff have revised the template and added a very simple checklist. And if you check, it's really simple. It's a template.

So in the future, whenever the council is chartering a working group, they can decide whether they have to have that paragraph, apparently, because they're in charge of chartering the working group. So that's what was noted in the email. We don't see it as mandatory, but we think it's something good to have. And please check the email and check the templates and see if there's any feedback from you or your stakeholder groups or constituencies. And Marika has something to say.

MARIKA KONINGS:

Yeah, thanks. So this is basically an action item that staff has to kind of take back to council, but we wanted to give the group that kind of as a basis for the recommendation, a first opportunity to review this. As we noted in the email as well, all these documents are templates. So it doesn't restrict council, for example, in the charter or someone provides a request for an issue report to provide either further information or answer further questions that they believe are helpful to illustrate the issue. Because as we discussed, this is kind of an effort to, throughout the process, be able to kind of raise flags if there's a sense that there is a potential concern, so further attention can be paid to the topic. So that's a bit the idea behind this.

As said, I'm really grateful to Ephraim for providing guidance on this. And I think if you've looked at the documents, I think it very much aligns with the questions that were also in the Workshop 2 CCOICI recommendations report that, again, were also based on his input on how to ask some very basic and simple questions that may help that kind of flagging of potential issues at an early stage in the process.

So I think the question for the group is partly as well how much more time do you need? And we originally had asked you to have your input by the 5th of May. I don't think I saw any responses. I don't know if that means that people have looked at it and they're fine with it, or whether they just haven't looked at it. So it would be helpful to know if you would like some more time to review this and check in with your respective groups or whether you think this is ready to go to Council, where obviously you have another opportunity to look at this and also provide input at that level.

MANJU CHEN:

Yes. So if anybody needs more time, or do you think we're okay we just send it to the Council? Me personally, I am very guilty of only reading it today. But I thought it was good. I did [inaudible] to the NCSG mailing list. But I haven't seen any feedback. So any of you, do you think you need more time to review the templates, or do you think it's okay, we can just send it to the Council and we can see it again next week, the week after next week in the Council meeting? When is the deadline for Council papers? You mean the document submission deadline? Yes, I have no idea. Marika will know.

MARIKA KONINGS:

Yeah, I want to say Monday, but I'm hoping that Julie Bisland can confirm.

JULIE BISLAND:

I'm so sorry, I wasn't paying attention. I was reading something else. Say that again.

MARIKA KONINGS: No worries. I think the other Julie already confirmed, the document and motion deadline. I think it's Monday 15th of May.

MANJU CHEN: Okay, so it's Monday 15th of May. Should we have until, I guess, Monday, so we can send in the documents? So if we're not seeing any further comments before Monday, we will take our liberty to send the document to the Council for discussion during the Council meeting on 25th of May. Okay, great. I'm seeing agreement of the suggestion.

And yes, I think now we have reached to the final item on the agenda, which is confirming the time and date for the next meeting. Can we see the agenda? Yes, next meeting should be Thursday, because I know we usually have a meeting on Wednesday, and I'm hoping it's okay to have the next one on Thursday, because I have a commitment on Wednesday. If the time is okay for everybody, should we have our next meeting on 25th of May on Thursday at 12:00 UTC?

I'm not seeing people disagreeing or shaking their heads. Cool. Thank you. Thank you very much. So the next meeting will be the 25th of May on Thursday. And I hope you, like I said, bring back the discussions to your group. I hope next time we can have another discussion which moves further to a solution that we all have consensus on. And we can send the report with full consensus to the GNSO Council. And I see we're now at the time.

And so thank you, everybody. Thank you very much. I'll see you on 25th of May on Thursday for our next meeting. Thank you. Bye.

[END OF TRANSCRIPTION]