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LEON GRUNDMANN: Hello and welcome to the fifth meeting of the Subsequent Procedures Implementation Review Team on the 5th of July 2023 at 17:00 UTC. My name is Leon Grundmann and together with Elisa Busetto, I am the Remote Participation Manager for this session. Please note that this session is being recorded and is governed by the ICANN expected standards of behavior. During this session, questions or comments submitted in chat will only be read aloud if put in the proper form as noted in the chat. We will read questions and comments aloud during the time set by the facilitator of this session. If you would like to ask a question or make your comment verbally, please raise your hand. When called upon, kindly unmute your microphone and take the floor. Please state your name for the record and speak clearly at a reasonable pace. Mute your microphone when you are done speaking. To ensure transparency of participation in ICANN's multi-stakeholder model, we ask that you sign in to Zoom sessions using your full name. For example, a first name and last name or surname. You may be removed from the session if you do not sign in using your full name. With that, I will hand the floor over to Lars.

LARS HOFFMANN: Thanks, Leon. I was googling what time it is in Sydney. Cheryl, it looks like it's the day, is it? It would be surprising.

CHERYL LANGDON-ORR: No, this is 3:00 AM in the morning.

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*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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LARS HOFFMANN:

I was going to say, it can't be, surely the light can't be up yet. Amazing that you make it anyway, I have to say that. But it's a rotating call. Next call will be much less convenient for me, I have to say. This is my favorite time. Anyway, welcome everyone. Hello.

Right. I'm going to go quickly through the agenda. This overview here. I hope there's no questions on that. Let me just make sure that I see any hands that may come up. I don't see any for now. So we're going to do a quick update. First question is always if there's any updates to anyone's SOI, that would be great to know. Doesn't seem to be the case.

We had this under Any Other Business first, but we decided to put this up front to make sure that we cover this. There's a couple of administrative things here as well. And then a couple of slides on the reporting that also came out of the DC meeting. So the slide deck is, I think, on the wiki already. I'm asking that slightly questionally, but if not, I'm sure Elisa and Leon will be able to post that and give a link in the chat as well. There's some links here to the shared drive, the assignment log. We created that as well to kind of give an overview for the IRT. You see it's very short yet. One suspects it might become a little bit longer over time. You can't really see this, I guess, on the screen. It's just a topic area. We send those [inaudible] questions, a link to the document, when it was submitted, and if there is a deadline as well. This is kind of record keeping and to help give everybody a place where you can find the various documents from. You don't have to scroll through the agendas, etc. I hope you'll find that useful. As always, if you have any concerns about access, there's [nextround\\_policyimplementation](#) email.

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If that doesn't work or for some reason you're being ignored, then obviously you can always at the same time reach out to myself or to my colleagues, Elisa and Michael especially. That'd be great. If there's any question at any time, please raise your hands.

We were asked to schedule in advance. We didn't quite manage to do everything in one go, but I think Elisa was able to send most of the invites this week for the rest of the year at least. Based on the feedback we had, we scheduled these as placeholder meetings once a week. You see the rotating times. Sure, I think this is the only time I'm going to get my favorite time, so it looks good for you, at least less bad for you, I think, than this call. I hope that's helpful, the wiki pages with the agenda, etc., etc. as well.

And then there was a call, I think Jeff maybe brought this up and I think others supported this as well for obvious reasons. The reporting issue, the board has asked us to provide updates prior to every ICANN meeting and that will be part of the [PRSP,] the policy research team that's led by Karen. Similar to the policy folks, we do an update before the meeting mostly on policy implementation stuff, so a SubPro will be rolled into that. It's the most efficient way. We did that the first time in Washington and we'll continue to do so for the foreseeable future.

And what we did though to provide real-time updates and reporting essentially, we're working with smart sheets and Elisa who is on the call here, is at least as smart as any sheet and put together quite a few metrics and formulas, I'm going to call that. Very obvious here, obviously, just the attendance, you see that here. And what I'm going to show now are just placeholders. The numbers are not right yet, but

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we're working on that as well. So this will be eventually, hopefully a dashboard that's going to be live, so it'll update automatically when we move things forward. And it'll hopefully be a smart sheet that we can get onto the website as well. Worst case scenario, we'll have to PDF it and share it that way. I really would like us not to do that. The user interface is nice with the smart sheet and it's less work for everybody.

But you see this here, this is just a snapshot. We took a screenshot on here. It's not quite finished yet. We'll have the star at the top, the red countdown, we'll have the days left until May 2025. There's going to be links to every relevant document, not just the Wiki and the mailing list, but other stuff as well. And we'll have the completion of the AGB as well, the kind of things that are done. You see here, this is it. As I said, the numbers are not right. We've obviously done some more work in the background as well. But just for your understanding how we are calculating this more or less, if you have comments on the methodology, I ask you to submit that on list, either directly to me or otherwise. I don't think this call is best suited, but I wanted to share this nonetheless. You kind of have to make this up a little bit. The percentages, but to do at least some reporting, we decided once we have something that we share with you for the first time, as we did with predictability, that's 50%. And then kind of we move through this for the topic area, first reading, comment, second reading, etc. That's 100%. Public comment still has to happen after that. But as far as the IRT is concerned, that's 100%.

And so this 0.8 is then an aggregate of all the various topics, depending on where we are. So if we have done some background work already, none of these topics are at zero. And so the percentage here, when we

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share this as it goes live, will be certainly higher than 0.8. I hope that makes sense. We can discuss this in more detail. And I'm also happy to schedule a specific call on the reporting when this is live to kind of walk you through that. But all that just to say that I think we're going to have a good overview and good capturing of the work that's being done. It'll be transparent for the community to understand where things stand on the various topics and also report out to the board and others on the progress of this group. I'm pausing for questions. I don't see any hands up.

So with that, on the agenda, substantive items today, the questions sent to the IRT. I don't think we have to spend a lot of time on that, but I just want to touch on that very briefly. And then the language that we shared, I think, on Monday this week with the group. On the question, so we sent this out on the mailing list. I'm obviously not going to read through this. We essentially noted that there's five kind of issues in the predictably framework in the final report and the annex E. And upon closer examination, we felt that there's an efficiency gain to be made to reduce that to three issues, two kinds of operational issues and one kind of a policy issue. Correct me if some of this is wrong. I have to admit, I haven't looked at the list yesterday or today. I haven't seen anything in my inbox, but I saw Jeff provided some input and noted that for the significant operational issue, there's kind of a slightly higher burden on the change and so then if we combine that, obviously the higher burden, the procedurally more complex step should apply to both of these categories if combined. That made obviously perfect sense. I think we have planned that in any case. Jeff, so I see your hand is up as well. If you want to speak to that, please go ahead.

JEFF NEUMAN: Yeah, thanks. I'm glad to hear that you accept that, but that wasn't what was put in the current draft that you sent out. So you combined two and three. So if you turn to that in the draft you guys sent out, it requires agreement, not the language that you currently have in there. I don't know if you could share that at the moment.

LARS HOFFMANN: Yeah, it's the next agenda item. [inaudible] Absolutely.

JEFF NEUMAN: Okay, I'll put my hand down until then. Thanks.

LARS HOFFMANN: Thank you. So combining these, the higher standard has to apply to both of them and on the policy issues, it looked a little bit like the ones that may have a policy implication, essentially, the report said in that case, they don't, then it's operational. [inaudible] with the policy and that's the fifth category, so we combine them as well with the note that policy issues, obviously a matter for the council to decide on how to proceed if and when that's confirmed. Susan please.

SUSAN PAYANE: Thanks Lars. So since it sounds as though you haven't seen the email, I just wanted to flag that I sent an email yesterday where Anne and I in our capacity as the council liaisons had discussed that combining of

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categories four and five. Not objecting to it, but in your explanation of your thinking, you had focused particularly on where there might be a policy implication, which rises to the level of actually requiring policy development and flag that in those cases only a PDP or an EPDP would apply. And so we simply just wanted to flag for the avoidance of doubt that it's conceivable there could be something which has a policy implication, but it doesn't rise to the level of requiring policy development and that the council does have other tools at its fingertips for those such as the GGP or the GIP processes. So again, it wasn't an objection to combining those two. I think we're supportive of that concept. We just wanted to make that point for the avoidance of doubt. Thanks.

LARS HOFFMANN:

Appreciate that, Susan. Absolutely. And I would suggest we have two comments on the text. We move swiftly over. I hope you can more or less see this on the screen. Otherwise you should have, sorry, if somebody from the team could maybe just also paste the link to the Google Drive into the chat, that'd be great. Jeff, please go ahead.

JEFF NEUMAN:

Yeah. So now that we're on that, can you go to 1.2.1.2, I think? There you go. So that's the paragraph where I think you combine two and three. So if you go, I don't know if you could flip back to the SubPro final report, but 1.2.1.2, it should say, if you scroll down a little bit, it should be all non-minor changes to ICANN Org's internal processes must be communicated. And it should say agreement in that paragraph. So the

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final report's there. If you go to the final report, and I guess, I don't know, it's in the appendix.

LARS HOFFMANN:

I shared that language, in fact, on the list as well in your response to email, Jeff, I believe. So if you go down, if you don't mind, if I can go down here and you see my own name appear because I'm double screening. I just want to make sure I find it straight away. So this is the ICANN Org and SPIRT collaboration item. And if you see here, it talks about how SPIRT and ICANN Org communicate about this. And it's here that once SPIRT and ICANN Org have agreed on the solution that would be implemented and logged in the change log. So we captured that in this section under the SPIRT collaboration, rather than the section up here that you pointed out. This is really just about the kind of issues that appear and then what implications are.

JEFF NEUMAN:

I guess then I would just say, because I guess that third paragraph then was confusing to me, which is all non-minor changes to ICANN Org's internal processes must be communicated to impacted prior to deployment and shall be reported. I mean, you do say in the sentence above for ICANN Org SPIRT collaboration C1.4, but to me, that's just a little confusing.

LARS HOFFMANN:

Okay. I hear what you're saying. Thanks.

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JEFF NEUMAN:

Sorry, I didn't see it below. Yeah. Okay. Thanks.

LARS HOFFMANN:

That's okay. It was maybe a longer document. So yeah, we obviously jumped the gun a little bit on that item. So I don't want to talk everything through it, but what we did here, first of all, obviously the numbering will change. We had some internal discussions about this, [inaudible] confused. It's going to be the first section of the applicant guidebook. [inaudible] So I hope that makes sense.

Roles and responsibilities. This is really obviously just with regard to this framework, not with regard to anything else for now. We listed those five entities, I'm going to say, categories maybe for this. We had discussed to potentially add the GAC here as well. We believe that there's a section on GAC consensus advice. And so that's where that should live. And if GAC advice comes up, then the process of GAC advice should be followed. And then if the board accepts that GAC advice, and that may have an operational or policy change that may follow from that, then obviously this framework comes into play. I see Jeff.

JEFF NEUMAN:

Yeah. Just to bring up a discussion I remember at the working group, and not that I necessarily think it needs to be a new category, but there were certainly discussions of impacts to third parties, like that were filing comments or that were filing objections. And like I said, I'm not sure that needs to be part of the framework yet or not. I just want to bring it up just because I know others certainly will. Again, not sure it needs a change yet, but just to bring that up, that things that change in

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the program could impact other third parties that are not listed here.  
Thanks.

LARS HOFFMANN:

But Jeff, can I just press you on that to better understand? So a third party, so a change could obviously come from anywhere. It could come from the US government, it could come from a natural disaster. And obviously an objector, whoever has standing here. But the moment that something comes up, the framework [inaudible] if a change has to be made. It doesn't matter what the origin for the need for that change is. Is that right? Am I missing something? So for that perspective, it doesn't matter for the purpose of this framework, where the motivation of the change comes from. Is that right?

JEFF NEUMAN:

Yeah, I think that's right. I think it's just the impact. That's why I was just still going through my head as to whether they need to be listed separately. It's just keeping in mind that once there is a change, there could be other parties that are impacted. But that may not, like I said, I'm not sure it requires any change here.

LARS HOFFMANN:

Okay. Justine's hand is up.

JUSTINE CHEW:

Just picking up on Jeff's point. I think I kind of agree with him, but I also don't know whether it needs to feature in here, but I'm looking at 1.2.2.

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And if you want me to hold off the comment until we get to 1.2.2, please let me know. So where you have the highlight, it says, if ICANN Org identifies an issue. Prima facie, it's fine. But as Jeff says, the issue could be brought up by third parties, including what it says in the SubPro report, where if the change warranted has a material effect on applicants or other community members. The issue that I have is the issue has to be raised through one of three entities, which is ICANN Org, Board or GNSO Council. Right. So when you say here, if ICANN Org identifies, how do you reconcile the fact that issues could be also going to GNSO Council and the board? So that's the bit that I'm not clear about. Thank you.

LARS HOFFMANN:

Thank you, Justine, for that. The question of, we discussed this internally as well. So I'm glad that you're bringing this up here. So anyone can obviously write to ICANN. The board is at liberty to raise any sort of concern it has with ICANN for obvious reasons. The SOACs can contact the board and can contact ICANN as well to make them aware of this. As the operator of the program—and the council obviously has the ability to develop policies and bring something to the board as well. None of this is changed in any way from this framework.

So I think what we want to avoid is kind of provide a avenue where anybody and everybody who's in any way related to the program can kind of invoke this framework to try to change something. So therefore the idea that anybody can request a change and then that has to be put through the framework does not seem what this framework intends to be doing. The framework is there to make sure that changes that

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happen are made in an efficient and effective way with the community being aware of what needs to change, why it needs to change, and how ICANN intends to change it or to collaborate with ICANN in changing it subject to the category.

So I'm not saying, Justine, that you're not right. I'm just trying to understand how those other parties need to be reflected in here in order to fix something. In other words, is the wording that we have now, does that prevent anybody from raising anything either to the board, to Org, or to the SOs and ACs the way that they can in any case? I don't think it does, but I'm obviously keen to hear what other people think. I've got Justine, then I've got Cheryl, and then I've got Jeff.

JUSTINE CHEW:

Thanks. So insofar as this particular document refers to just what ICANN Org is tasked with doing, it's fine. But, in terms of what we have in Annex E, it does refer to the ability for anyone to submit an issue through, as I said, the three entities that I've mentioned before. So where would that be reflected if not here? Because that information needs to be made public as well.

LARS HOFFMANN:

Justine, I believe that section you referred to, that that is to be done for the—they can bring it up to the SPIRT if they wanted to, is what I believe it was, the wording. But I'm going to take a quick look and I'm going to call on Cheryl first to kind of buy myself some time and look more professional.

JUSTINE CHEW: I think it's not going to the SPIRT directly. The SPIRT doesn't take up any issues unless it's referred to by GNSO council, the board, or ICANN.

LARS HOFFMANN: Correct.

JUSTINE CHEW: So there's a filter that goes, that applies to any issues that get sent to the IRT. What I'm saying is anybody, any third party can raise an issue with those three entities. And then it's up to the three entities to then decide whether it needs to go to the SPIRT or not.

LARS HOFFMANN: It would always go to org first. Org runs the program.

JUSTINE CHEW: No, it could go to the board or it could go to GNSO council. One of the three.

LARS HOFFMANN: Sure. I'm sorry. Yes, absolutely. Absolutely. I agree with that. Absolutely. Right. And then the board would issue something to the org and the council would do the same or obviously develop a policy independently. Is that right? Go ahead, Cheryl.

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CHERYL LANGDON-ORR: The points that are being made are important. And certainly, we need to make sure, as Justine said, that it is well understood how people, not just the identifiable bodies, can raise concerns. But for me, what would help in this paragraph is changing the language to be a little more general.

Once an issue is identified and it is agreed that it requires a change to the intent or wording of existing policy, so I would generalize that sentence so that it cannot be read or misread as being exclusively being sourced from ICANN org. Thank you.

LARS HOFFMANN: Jeff, please.

JEFF NEUMAN: Yeah, I mean, I think if you generalize it, that might work too. You know, if an issue is identified that in ICANN Org's view requires. So, you could make it general that way. But I think I see the point that Lars is trying to make in the sense that if ICANN is implementing something and it identifies that, oh, wait, that would require a change, really, that probably would come from ICANN Org. So, I understand kind of the back and forth here. But if you just generalize it like Cheryl was saying, so you say something like if an issue is identified that in ICANN Org's view requires a change, I think that would solve it.

LARS HOFFMANN: So, I don't think I have any issues with any—[inaudible]. I'm not going to make edits on the run, so we'll do this after, if that's okay with

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everybody. I see no concerns with the wording and the proposal. The only thing I will say is that obviously this is first of all about policy-related issues. So, by speaking about ICANN, I just want to make one final, I guess it depends on [inaudible] fact that we explicitly didn't want to call out any of the other groups, because their ability to raise issues, whatever they may be, with either the council or the board or Org for the matter, should not be regulated or impeded or affected by this framework. And so, here it is specifically for ICANN not because only ICANN can raise an issue with the council, but in case ICANN happens to detect an issue that may impact the policy, then per the framework, ICANN will go to the SPIRT and then SPIRT will do its work with the council to determine next steps. But I obviously hear what's been said, so we'll take that away.

Yeah, it's true what you say, Cheryl, absolutely. It's just that it was specifically done because this doesn't mean that nobody else can do that. It doesn't say only ICANN can identify issues, is that if ICANN does, but I hear what you say. Fair enough, Cheryl. [inaudible]. Very good.

I'm going to go just quickly up here. We have some comments from Jim and Justine on the minor issues. So, this is another item where we had some discussions internally on this. Jim, you [point out to] have examples in there. And there's examples, as Justine said, obviously in the annex of the final report.

The thinking that we had internally is that a list of examples is good. And if we wanted to reference them here and the group really wants to reference them here, I don't think the working group [opposed these. We aren't] in the business of arguing with that. But just as a clarification

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or as an explanation maybe, I think what we want to avoid when we come to this is a long discussion between the community and the Org or with however on the other side, SPIRT, the applicants, on whether it is or is not minor. To a degree, this will always be a judgment call. Internally, I know I'm just saying this—I know the call is recorded—[inaudible] anything unless it's in here. I understand that. But internally, we've discussed, whatever change we make, we have this process now. We will always try to involve the community as best as we can, whether it's minor or not. Obviously, when it's not minor, then there's another choice. But even on the minor ones as well. To a degree that makes sense.

I know that it's not necessarily reassurance to all. But to provide examples, we felt will make it more likely that eventually there's an argument that it's being brought even within the community. But this was folded in the category that's been examples here or not because obviously, it's unlikely to be exactly those examples.

The reason we didn't include them is that we have the turn of material impact on the applicants. Then the question is, obviously, I'm just looking at the lawyer hands going up. What does that then mean? We have not defined this here. Jeff and Anne and others who are on the small team or have followed the board discussion, I think [inaudible]. I think it's 18.2, the recommendations. Under terms and conditions, it talks about a refund if there was a material change to an applicant that is under pending. I think that's going to go into the direction of the council. Are they amending it potentially? I don't know. Or potentially providing some clarifying language that material impact is going to be defined in implementation.

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In any case, material impact because of 18.2 will have to be defined. Then if we define it here, we will also define it there for 18.2. I'm just going to pull this up for everybody's benefit since I have this open. I think it's 18.2. No, it's not because that's not the recommendation. I'm sorry, 18.4. Almost. This 18.4 is a pending recommendation.

So with this, we have substantive changes are made to the applicant if they have reasonable or likely to have material impact on the applicants. I think part of this recommendation [inaudible] we have to define this. Therefore, long story short, we use the same term here because we expect it to be defined rather than having an example list. Maybe a slightly too long story for this point, but I hope it's at least somewhat helpful. I'm looking for hands.

The same is true obviously then inversely for the non-minor issues to identify that obviously it does have a material impact. Then it is that. SPIRT has the option to collaborate with ICANN for the solution. According to the operating procedures, noting that that's still being worked on or will be worked on. And then section 1.4 details how SPIRT and ICANN Org collaborate, but still noting obviously that everything has to be logged. I see no more hands on this. I'm not sure whether we have... Jim is on the call. I see Jim, I think only on your phone, so I don't want to put you on the spot, but if you did hear what I talked about, it would just be just good to hear your thoughts. Justine as well and everybody else obviously always welcome, but it would be good to know. Justine, please.

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JUSTINE CHEW:

So Jim doesn't have anything to say, I assume. Because the comment was raised by Jim, so I don't know whether he wants to respond or not, but he may not be able to put up his hand if he's on the phone, but I'm happy to go ahead anyway. I don't have a problem with what you've explained. I didn't necessarily request for the examples from the Annex E to be put into this. I was just referencing a response to Jim's comment, and I would ask if you could please just to bookmark the term no material impact so that we know there's a definition that needs to go with it in due course. Thank you.

LARS HOFFMANN:

Very good point. Thank you, Justine. Absolutely. Oh, Jim is coming in again, probably via the computer potentially. Jim, I just saw you reconnect. I don't know if you wanted to talk. Not to put you on the spot. He fell out. No, there he is. Jim, please go ahead.

JIM GALVIN:

I did hear what you had to say. I guess what I was trying to get a sense of is looking at examples from the last round, things like the change in the fee for community priority evaluation, would that be considered minor or non-minor, or the insertion of the unilateral right to amend the contract that was inserted later, that minor or non-minor, just to get a sense of where that fault line is. I know it's not a bright line distinction, and it's on a case-by-case basis, but using our history as a guide to determine what categories are not minor and non-minor from what happened in the past round.

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LARS HOFFMANN:

Thanks, Jim. I mean, from your examples, I will say that one is money and the other one is procedural change that clearly—and I mean, I'm not the lawyer. I shouldn't be saying that maybe, but it seems that those clearly have a material impact on one or more applicants, but I hear what you're saying. Should we do this? Should we put a pin into those? Yeah, I'm overstepping slightly, but I would agree with that. Jim posted [inaudible] in the chat that [inaudible].

So, should we do this? We'll make a comment here that says, A, we want to make sure that once we talk about 18.2, that this also fits here, better than mine, a shorter definition, and once we have that, revisit whether we need to pull in some of the examples from the final report. It's just that if it was principles, I don't think that'd be an issue, but the specificity of this, I wonder whether it makes things more complicated, but maybe we can just revisit that debate once we have the, in a few months, maybe the definitions around this, if that works. Okay, we're going to get back to that, but I see no other concerns, so I think maybe that's the way forward.

Yeah, so this comment here by Susan goes to the issue that we discussed earlier. In our view, as I said, I don't know if this is right, if the board or the council addresses something to Org, [inaudible] the council can always address, the board will always move it to Org anyway, to kind of act on anything, potentially with the correspondence or communications around that, obviously, but we'll rephrase this as per our discussion earlier and then see where that lands us. And, Susan. Sorry, I'm just seeing Justine's comment here in the chat. Justine, sorry, because we're on the different topic now, I'm keen to just go quickly to you just to clarify. Just speak to that.

JUSTINE CHEW: Yeah, sorry, this is Justine. I didn't want to interrupt the flow. So, that's why I put something in the chat. So, the examples that Jim raised seem to me to be more non-minor than minor. So, I don't know whether that makes a difference or not. So, just a point to note.

LARS HOFFMANN: No, that's what I meant. So, never mind minor or non-minor. The question then would be whether it's material. If it's a material issue, then it would mean it's the non-minor operational change process kicks in. So, those sounded material, therefore there were non-minor, therefore SPIRT is involved and has to agree with ICANN Org.

JUSTINE CHEW: Correct. So, the important thing is to be able to ascertain whether something has a material impact or not. Then it would determine whether it's a minor operational change or a non-minor operational change.

LARS HOFFMANN: Yeah, correct. Thank you, Justine. That's helpful. Good. I wanted to talk about this with the group and Susan actually very helpfully—And I apologize, Susan, that I didn't see your message. I was also out of office yesterday, so I didn't see that on the list. I apologize. I will be better next time. But the issue about the council and different processes.

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So, when we discuss this internally and try to wrap our head around this, the program, if changes need to happen to the program, they're essentially, right, as per this framework, they're either operational, which means that we have a policy that's said something and based on that we have an operational process that's most likely has gone through this group at some point. If it has not, then at the very least there should be transparency around that how it links to the underlying policy that was developed by the council and approved by the board. So, if something changes that is essentially still in line with what the original recommendation said, the original board approved policy language says, then it appears that that's an operational change. The recommendation says paint the car and we decided to paint all cars green, ICANN Org did and the IRT agreed with that. And then for some reason we ran out of green paint halfway through the program, the policy still says paint the car, so we're just going to switch to red. It's a material issue, so we're going to talk with the SPIRT about it and implement it.

And so, if there is a concern around, obviously something that for environmental reason, we can no longer paint cars, so the policy is no longer good, it needs to be changed, then obviously that would [inaudible] by definition a change to the policy or a new policy, and that would go to the council.

So, I'm not trying to push back, I'm just trying to explain the thinking, and there's a question at the end of this, and I see your hand is up already, anticipating my question, I presume. So, the question then is, the council is there to deal with policy issues, which essentially require a change to existing or development of new policy.

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The GGP and guidance process and the, I think the input, just the other one, GNSO input, GIP maybe, input process, do not develop policy. So, while the council is using it at the moment for applicant support, there's no new consensus recommendations are going to come out of this. So, then under what circumstances would the council launch a GGP on something that is essentially an operational issue? That doesn't seem to be clear, and if it's not an operational issue and it's a policy issue, then obviously a GGP can't address that.

So, in fact, we had the GGP in here in the beginning, and we took it out for that kind of reasoning, thinking that through. I'm very interested to hear the thoughts. Anne's hand is up, and somebody else, which I can't see, but I'm going to go to Anne first.

ANNE AIKMAN-SCALESE: Yes, thank you Lars, it's Anne, and the reason that Susan and I wanted to clarify is, in particular, in relation to category four, there's a discussion about items that have policy implications, and those types of issues may not require policy development per se, they may require clarifications of existing policies without a change in the policy. And so, in terms of combining those categories, we wanted to make clear that it's not just two extremes, either operational or its policy development. There are potentially issues that simply have policy implications and require interpretations or input from GNSO Council or the GNSO, or further interpretation, and interpretation and clarification of existing policies, that's the specific language of the GNSO guidance process, and that it's not about developing new policy. So, we need to be very clear

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that there is this different category that is not strictly operational, and it's not strictly policy development, it's interpretation and clarification.

And so, that's really, honestly, I think, why category four exists. So, in merging the two, if that's what the IRT elects to do, we want to be clear that we are not saying there are only two categories. Thank you.

LARS HOFFMANN:

Well, I'm going to ask you right back, whoever else had their hand up, I can't see it anymore. So, I'm going to respond to Anne or engage in some conversation about this. But if anybody else wants to speak first, please have your hand up. Jeff now, and then Susan.

JEFF NEUMAN:

Yeah, thanks. I agree with Anne on this one. Plus, I don't think, and I don't mean this to sound negative in any way, but it's not really ICANN Org's job to define what the GNSO council can and can't use. So, I think it's just better from a political sense to basically not be so specific as to what processes—Org shouldn't be specific as to what processes it believes the GNSO council shouldn't use because that's up to the GNSO itself. Org can dispute that, but at the end of the day, the GNSO council is responsible for managing itself.

So, I would propose, instead of listing out any of this, you could just say, any of this, you could just say if the GNSO through any applicable process, whatever it is, but I agree with Anne.

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LARS HOFFMANN: Thanks Jeff. Susan, please.

SUSAN PAYNE: Yeah, thanks Lars. So, part of the reason why I put this in with a question mark was because I wasn't quite sure and particularly wasn't quite sure what the process would be if the GNSO council did think that it needed to do one of these other processes, but I've sort of been sitting here thinking about this while you were talking about your paint example, and I thought if we think about this, I mean, again, it's a ridiculous example, but if we think about this, if the GNSO's policy said you have to paint the cars green, and we've run out of green paint, but you're saying to us, but we've got lots of turquoise, is that within the scope of the policy?

LARS HOFFMANN: Yes.

SUSAN PAYNE: Then maybe we decide, oh, we need to interpret what green is, not we need to create new policy that allows for turquoise. Again, kind of stupid example, but so if that were the case, there'd be this GGP, and I'm not quite sure what happens in the meantime, but I guess that was what I was thinking, that whether this scenario is going to come up very often, I don't really know, but it seems at least conceivable that it could come up.

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LARS HOFFMANN:

So you're exactly right, Susan. [inaudible] but we talked about something exactly like that. So this is why, in our view, the council has to decide whether policy is required or not. In this case, policy will not be required. We just need to interpret this differently. And then depending on the urgency, and that the council is essentially then the SPIRT issue, the council would determine the SPIRT—SPIRT will—we want, if there's a GGP being launched—nobody prevents the council from launching the GGP. So if the council, however, what they need to do in order to tell the SPIRT how to engage with us on the issue, the council is free to do. We don't talk at all about the council internal processes in here.

So, then it's a timing issue. To your example. So in other words, if a GGP is required, because the policy is probably still all right, but we just want to make sure that everybody is on board, then we probably need an interim decision until then anyway, then the SPIRT will come with ICANN to work this through.

I want to add one other point. So in my view, again, we're going to hear what you're saying. We're going to go back and think this through. Absolutely. But in my view, the wording that it says at the moment does not in any way prevent the council from doing what they need to do. It doesn't change the ability to order additional guidance around any of the board approved recommendations. There's no concern about that.

I think the point here, though, is that with the wording as it is, it is clear to an applicant who doesn't really understand the ICANN world as well as everybody on this call, that there's essentially two different items that can happen. Either there's something that affects me materially,

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the policy [inaudible] and then the SPIRT is involved. [So by the way, I should probably get involved with the SPIRT as well.] Or the underlying policy, which is in these two reports, needs to change, which is far more unlikely and shouldn't happen for an ongoing round. And then the council is involved.

So for an applicant in my view, these are the only, in our view I should say, broad category of changes. And we think that by adding the GGP here, kind of listing all the tools at the disposal of the council, that doesn't add to clarity. It might add to confusion to somebody who's not overly involved. I'm going to leave it at that. And to go back to the queue of Justine and Anne, please.

JUSTINE CHEW:

Thanks, Lars. This is Justine. So I hear what you're saying. I also hear what Susan and Anne are saying. And I'd like to raise something else for consideration and maybe clarification. So if you look at the first sentence of that paragraph, it says, if ICANN Org identifies an issue, blah-blah which requires a change to the intent or wording of an existing policy. So that's one limb. Or the development of new policy. That's a second limb. So two limbs. And then it goes on to talk about whether GNSO council should determine whether or not policy development is required.

So that to me refers to the second limb, but somewhere along the line, the first limb disappears. So I don't know what the intent of that is.

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LARS HOFFMANN: Yeah, Justine. So policy, whether it's amending existing policy or creating a new one, you still need a PDP for either of these. That's why we just talk about policy development.

JUSTINE CHEW: No, we don't.

LARS HOFFMANN: Once it's board approved, then we [can't] do it any other way.

JUSTINE CHEW: Once it's board approved ...

LARS HOFFMANN: You can change it before the board approves it. Absolutely under section 16 of the PDP manual. But once it's board approved, the only way you can change your policy is with a new policy, with a new PDP.

JUSTINE CHEW: I am going to seek the counsel of my colleagues on GNSO.

LARS HOFFMANN: Absolutely. We have Anne and Jeff.

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ANNE AIKMAN-SCALESE: Yes, thanks Lars. Certainly we all agree that GNSO has its own powers and its own authority. I believe that with respect to making things clear for applicants as they read this section, it is in fact less clear if you refer only to policy development. The suggestion that I put in the chat is just that we would modify that phrase so that it says policy clarification or development is required. We need to be transparent about how that process, that there are options in that process.

LARS HOFFMANN: The time is running out. We're going to take this away and rethink this and bring it back, the text. Jeff, please, a final word.

JEFF NEUMAN: Yeah, I think the issue here is that the board is only approving the recommendations as policy, but the implementation guidance that was in that report that's resulting in the creation of the guidebook is equally as important to the community, and my fear is that what you're doing essentially with this is changing all of the implementation guidance that gets actually implemented into operational changes, and that is not necessarily, just because it's implementation guidance doesn't mean it's operational. And so I think that's the issue that we're having is, yes, if the board changes a recommendation that's been adopted, that certainly is a change and that may require PDP, but if there's changes that really go against the implementation guidance, which is also deemed important, then it shouldn't always be a PDP that's going to resolve that, but it still might be something else it wants to take up, and that could be through a number of different processes, so my

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recommendation is you kind of just not be specific as to what process the GNSO has to use and just say if a policy is impacted then the GNSO uses its processes, but I don't think we should be any more specific than that.

LARS HOFFMANN:

Thanks, Jeff. I know that you reverted back to policy at the end, but you talked about policy implementation guidance to make your point, obviously, so it's an interesting point about the guidance with his recommendation. I suspect we suggest we return to this next week, but it is true what Jeff said for everybody's benefit. The board has adopted the recommendation that received the consensus support and is not, quote-unquote, adopting the implementation guidance, which I don't believe it has received that consensus call, but I don't think that's the reason. I think it's recommendation versus guidance, probably the distinction there.

So we're going to go back, look at that language, take the input and circulate a new version as soon as it's ready. We went a minute over. I thank everyone. I thought for a first substantive call, this could have gone a lot worse. Jeff even said something nice to me in the chat. Jeff, people will start talking very soon, but with that, I end with the jesting and with the call. Have a lovely rest of your day and I'll talk to you soon. Bye for now.

**[END OF TRANSCRIPTION]**