ANDREA GLANDON:	Good morning, good afternoon, and good evening. Welcome to the NCSG policy meeting being held on Monday, the 22nd of May, 2023 at 11:30 UTC. Attendance will be taken by the Zoom room. I would like to remind all participants to please state your name before speaking for recording purposes, and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. And with this, I will turn it over to our chair, Tomslin. You may begin.
TOMSLIN SAMME-NLAR:	Thank you, Andrea, and welcome everyone to our monthly policy meeting held in the wake of the Council meeting. So I think this week's Council meeting is on Thursday, but we do have another meeting just immediately after this one between the Council and the Board regarding some of the topics we'll be looking at today. And, yeah, I think our second item on our agenda is actually the review of the GNSO Council agenda, which I did share on the mailing list over the weekend. Some items on the agenda we have marked to also discuss, especially the NomCom rebalancing, which a couple of folks are going to help us discuss.
	But on the Council agenda, I'll quickly go through what the Council will be looking to discuss on that item. Then we will have our separate conversation as NCSG on that item as well, because I think there has been some additional information, basically, that I have heard since the last time I read the agenda regarding discussing the NomCom

rebalancing. And Judith is here today. I'll ask her to provide that additional information when we get to the topic on the NCSG policy call agenda.

But in the Council agenda, I'll quickly go through what the Council is discussing. It appears to be a bit different. So basically, as you know, it starts with administrative matters, which doesn't have anything particularly of concern.

There is no consent agenda for this month's meeting. So jump straight to agenda item number four, which the Council is seeking to respond to a letter the Council received from the Board to answer some questions regarding NomCom rebalancing. I believe NCSG also received this letter. And like I mentioned earlier, we'll discuss this a bit further on the item on our agenda.

But the question the Council will be looking at are questions related to what the definition of rebalancing is, of a balanced NomCom, to be specific, and whether the Council supports the view that the current composition is not balanced, and who should conduct that work, and all of that.

Now, the Council hasn't decided yet whether it will respond to these questions at all. And that's what this conversation is about, whether the Council should respond or shouldn't. Does the Council have an opinion on these things? It hasn't been discussed before, so this is the first time it will be discussed since the public comment was put up. So I'll pause there to see if there are any questions. That's in a nutshell what the Council will be discussing on that.

Thanks, Judith. I suppose the Council should certainly respond. All right, I see no other hands. I'll quickly move to the next agenda item so that we'll have enough time to look at our items.

Yes, the internationalized domain names. We do know that there is a public comment going on on this, the Phase 1 draft report, and what the IDN EPDP had decided to do, earlier, pre-Cancun, was to separate the topics between the top-level domain and the second-level domain. And so they made sure that all top-level domain questions, charter questions, were addressed within Phase 1, and they moved the second-level domain charter questions to Phase 2.

Obviously, with SubPro coming up, there are questions both from the Board and from the Council in general, to the EPDP leadership, whether the charter questions that are remaining will have any impact on SubPro. And, therefore, the IDN EPDP leadership has been requested to give an update to the Council, and to let the Council know of their updated timelines and work plan.

I think, during this update, the Council will really be keen, I'm sure, councilors will be keen to hear whether delays could impact SubPro or not. I guess that's the question they'd like to hear answered. But, yeah, Donna, who is the chair of that EPDP, will be giving an update to the Council surrounding that.

Pause there to see if there are any comments or questions on that. All right. Kathy, I see your hand's up.

KATHY KLEIMAN: Hi, everyone. I just wanted to give you some background from the SubPro working group, that when we were talking about all of the hundreds, maybe thousands of recommendations, maybe a thousand recommendations—we had a lot of recommendations—the internationalized domain names was not our area of expertise. It was not an area of expertise of virtually anyone in SubPro working group. So just in case you find out that something is delayed because of internationalized domain names, just two things—I know the Council will wring its hands and everybody will get very upset. Just two thoughts.

One is one of the main reasons for new gTLDs is internationalized domain names. And again, the expertise, there was virtually no expertise on this in the SubPro working group. So I'm really looking forward to what the IDN working group brings in. And if there have to be delays, there have to be delays. But we should really incorporate where they're going on this. I don't know if that makes sense, but I just wanted to say, I know everyone's getting very, very nervous about more delays in the new gTLD program, but IDNs are really critical and have not been considered yet.

TOMSLIN SAMME-NLAR: Thanks, Kathy. And yes, you are right. Having followed the work of the IDNs EPDP, the leadership has, leadership of the EPDP that is, are really working hard to make sure that they do it well and not to be the ones to delay anything else. So that was the main reason why they proposed to the Council to separate the reports into two phases so that they can

have the top level go first and then the second levels can come later. So, yeah, hopefully everything stays on track.

KATHY KLEIMAN: But in case it gets off track a little bit, I'm just saying, I don't think it's the end of the world. I think it's much more important to incorporate whatever we need for IDNs. Thanks.

TOMSLIN SAMME-NLAR: Thanks. All right, we'll move to the next item then.

ANDREA GLANDON: Tomslin, I'm sorry to interrupt, but I think you skipped five.

TOMSLIN SAMME-NLAR: Oh, I did. Thanks, Andrea. And that is a very critical one. All right, so give a bit of background on that one. I think there's not much of a background to give because we all have been following this one keenly since Cancun, so we do know that the Board approved some recommendations, didn't approve some, sent some back to the Council for the Council to look at. A small team was spun together. Interestingly, this small team had a very narrow, narrow mandate. And this is important because their job was not to respond in terms of, say, whether there is—well, how can I put this? They were not to go into the substance of those recommendations. Rather, the Council asked the small team to simply determine how best to address them, to give proposals. So the small team has come up with a draft, which that's

what the meeting with the Board immediately after our meeting is about later today, depending on where you are, much more later in my time.

So they bundled them into four buckets, those recommendations. So the first bucket was some of those recommendations just really needed clarifying information, sending further clarifying information to the Board so that the Board could make a decision. Then the second bucket was a determination that those issues can be resolved during implementation. They don't, the small team didn't think that any changes should be made to the recommendation. The IRT should, in fact, address them. And the third bucket, which related to those ones where the Board proposed that they needed by-law changes to enforce the contract, and the small team said, well, let's have further conversation with the Board about this discussion about by-law process, again, without recommending one, but simply wanting to sit with the Board and discuss further what they, how they want to go about that.

So, those have been bundled in those buckets, those recommendations with the Board [inaudible] have been bundled in those buckets by the small team. Due to the time, I think the small team's just finished that work late last week, and it was immediately shared. Still in draft, but was shared to be discussed with the Board today, but the intention is that draft will be discussed officially with the Council on Thursday under this item, and then the Council can approve it as the way forward with the Board. Then we'll be able to use it as an official Council output document, for lack of a better word. So, that's what this agenda item is about. Sorry for going on about it. Yeah, it's a bit of a complex one. And I see Kathy, your hand is up again for a comment.

KATHY KLEIMAN: Of course it is. Thank you for the tremendous update on that. That's really important. Let me ask a question, then let me make a statement, if I might. The question is, there was an extensive meeting of Council on SubPro issues two weeks ago, I think. And I know Becky Burr was on that call from the Board with the Council. Was that an update? I only came in at the very end of that meeting. Was that an update on what the small team was doing?

TOMSLIN SAMME-NLAR: Yes, that's correct. That was an update to the larger Council of what the small team was doing. Yeah.

KATHY KLEIMAN: Okay. That's good because it will be very dangerous if small teams start implementing what they're doing without going through Council for approval, or at least discussion. That could become a complete bypass. I mean, that would just, procedurally for the small team, to meet directly with the Board before going to Council for approval is just not a good thing. As you pointed out, that's not what small teams are for.

I wanted to flag again, as I think I flagged before, the changes to the bylaws that are being proposed are very dangerous. What they want, we in NomCommercial have been contesting something called public interest commitments for many, many years. Public interest commitments sound like they should be wonderful. They should be public interest. They are not. Very rarely are they. Public interest

commitments seem to be about giving some of the biggest companies in the world more of whatever they want. In fact, they are so not public interest that I made sure that SubPro renamed them to be RVCs, Registry Voluntary Commitments, things registries want to do, whether it's extra participation with law enforcement or lots and lots and lots of extra participation with intellectual property. These are not public interest. They are complete bypassing of the consensus policy because some of what they're putting into these commitments are actually things rejected by the consensus process.

Becky Burr said, for very, very good reason, at the end of the GNSO Council meeting, that the people who want bylaw changes should be careful because they might be rejected. I can tell you there will be a worldwide campaign if ICANN decides to try to do this, try to create a complete bypass to everything, the whole multi-stakeholder model, by allowing registries to write anything they want into their agreements. Just wanted to let you know, this is a horrible thing, at least from my perspective. I wanted to flag it because it ends everything. We can do away with multi-stakeholder process if they adopt these bylaws, if they take anything—anyway, I'll stop there. Thank you.

TOMSLIN SAMME-NLAR: I have a question for you and I have a comment. Before I ask the question, I'll make the comment. The small team argues that the current bylaws, as they are, allows for the recommendation to be implemented and so no changes should be made to it. However, the Board has said it has concerns about a risk of challenges related to ICANN's ability to enter into those and enforce them. I know you were

in the SubPro PDP working group and this is coming, the PICs recommendation, which came out—how did SubPro working group intend for this to be implemented? That's the question I have for you.

KATHY KLEIMAN: SubPro working group had the same division. Some people thought that registries should be allowed to put anything they want in their contracts. I think you can imagine who those people were. Some of us—and it wasn't just me—said, no, ICANN operate pursuant to bylaws that limit the scope of what we do. So, no, and we said—I can't tell you how many hours were wasted on this discussion. But it was raised, it was argued that the recommendations of the working group were outside the scope of ICANN and could not be implemented in full. It could be implemented slightly and we can go into the details and I'm happy to meet with our councilors on this. But that overall, this recommendation would allow things that were completely outside of ICANN bylaws and make ICANN enforce it.

You can imagine a public interest commitment that says I will only have [speech] against the Noncommercial Stakeholder Group. And if you put it in the contract and no one can argue it, then ICANN will be forced to enforce it. That's crazy. You can imagine all sorts of speech issues, all sorts of law enforcement issues, all sorts of intellectual property and much more. Content. You can put every kind of content rule you want into this. Makes no sense.

So, I was very, very pleased and quite surprised and shocked when staff in their review in the ODP, whatever that stands for, operational design

phase, also flagged that this recommendation would be outside of scope for ICANN bylaws. So it's not just me, it's now the lawyers for ICANN. It's not just me and others that were saying this. So, Tomslin, this has been a huge, huge deal from the beginning. And again, I think this completely undermines the multi-stakeholder process. Sorry to be so big picture on it. Thanks. Does that answer your question?

TOMSLIN SAMME-NLAR: It does. Thanks. I don't know if there are any other comments or questions on that before I move on. Milton.

MILTON MUELLER: Hi, everybody. So, Kathy, instead of apologizing for being big picture, thank you for giving me a reason to stay in this meeting. I would like to know—we're going into a meeting in Washington and you're talking about mobilizing people against this. I've been trying to get NCUC to actually have an issue-oriented meeting of some kind, and nothing seems to be happening. Is this something that we could try to make an issue of in D.C. and invite some of the many sort of civil society public interest groups that are in D.C., including yourself, to address it?

KATHY KLEIMAN: Wow. Well, first, Milton, good to see you. Thanks for being on this early Monday morning meeting for us. We could. There's not a lot of time to organize, and it is pretty esoteric stuff. I think you and I would have to lay it out. I mean, first question, do we have enough time to organize it? Second, would it be an introduction to the topic rather than a decision-

making point to get to recommendations, decisions, all these groups would have to be up to speed? Basically, how far do we have to go to hold the kind of meeting that you're envisioning? But I think the answer is a huge yes.

MILTON MUELLER: Well, I was thinking more informational than decisional in the sense that we would just be raising the warning flag that you raised at this meeting to a slightly wider group of people who we could attract into—it might be hard to get them interested in ICANN at this point anymore, but I think this is the kind of issue that could be taken to a wider audience.

KATHY KLEIMAN: Absolutely. My time is somewhat limited, and I'm also working with the North American School of Internet Governance here because it will be at American University, my school, but yes, absolutely. If it means working with you to reach these groups, the answer is yes.

TOMSLIN SAMME-NLAR: Okay. Good outcome. Benjamin, you're in here, so I hope you're taking notes. Let's move on.

BENJAMIN AKINMOYEJE: I'm taking notes. Thank you, Tomslin.

TOMSLIN SAMME-NLAR: Item seven, the closed generics process. And Kathy, thank you for being here, because this is still a black box to me. I have no idea what is going on behind that black box. All I know so far is that some draft recommendation or draft document is on its way. That's all I know, that it's on its way, and Council leadership has already put their feet forward and said they recommend that we use the EPDP vehicle to progress the work, but I have no idea what's in that box. I don't know whether you're allowed to give any more information than that, but I'll let you take the floor, Kathy.

KATHY KLEIMAN: Okay. Sorry to keep talking, but Tomslin, thank you for the question. So everybody, I'm on the small team on closed generics, which is, for people who don't know, it's a combination. Very, very unusual. In order to try to break a log jam, we have people not just from the GNSO, half of the members are from the GNSO, and half are from the GAC. It's very unusual. But this has to do with a wrench thrown in the works through a GAC advice in Beijing in 2013 that said that closed generics would have to serve a public interest. And the question is, what does that mean? And since after thousands of hours, no one could figure it out in the GNSO, bringing the GAC in was a way to break the bottle jam. What is your advice?

So Tomslin, the agreement was that the small team would work under Chatham House rules. I know that's very unlike ICANN general work. We like transparency, but in this case, it was felt that if we have to break this log jam, not attributing every sentence to everyone, people would

have to shift from very fixed positions, including me. And so one way to do that would be to create some form of Chatham House rules.

Believe it or not, we're at the very end. I know it seems like a really long way. You've given us a lot of time, and you, Council, have given us a lot of time, and we appreciate it. We are working out, I hope, the last nuts and bolts of the framework. We're meeting two times a week, which for governments is extraordinary. One time a week is huge for them. Now we're at two times a week. We are desperately trying to get something to you by the end of the month. Sorry to say that it's very much along the lines of the stuff that we put out before Cancun, but it's a rough process. It's hard for people to move from fixed positions, and it's hard to develop the details on this. We'll get it to you soon. Do you want to ask any follow-up on that? We're trying to get you something, something between no closed generics and anything goes. And that was our mandate, and we're working really hard.

TOMSLIN SAMME-NLAR: Thanks. All right. I don't know if there are any comments or questions on that. I don't see any hand up. I'll quickly move on to the EPDP phase two small team progress update. I don't know if Stephanie has joined us yet, but this is regarding the WHOIS Disclosure System, which is now called the Registration Data Request Service, which has been built—the Board had requested for that system to be built by Org.

And the small team that spearheaded this system is still working. After it was agreed that the system would be built and the request sent from the Board to the Org, the Council deliberated whether there is still work

for this small team to continue doing, and the answer was yes, that they would monitor that building of the system. They would report to the Council on what is the definition of success. I think that's one of the tasks that were given, to define what success looks like of the system.

In this item, the team lead for that small team will be giving the Council an update on how the team has been working to define the success criteria of the RDRS system. As simple as that. I'll stop there to see if there are any questions or comments on this.

I see none. I'll move on to item number nine, which is update from the DNS abuse small team. Now, Cancun, we did hear all about the report that came out of the small team. However, there were further questions, especially related to bulk registrations. There were some concerns. Others thought, yeah, the Contracted Party House or the registries and registrars responded saying they don't think that is a problem, they don't see it any different from other registrations.

The small team has looked through the responses and has or is now concluding that there is no policy related work on this issue. The small team will be presenting that report to the larger Council on what they've concluded based on the report they got from the parties who responded.

Remember, the mandate of the small team again was to determine whether there is anything for the Council to do on the topic of DNS abuse. So, yeah, that is the report that will be given, but on this issue of bulk registration, there is no policy issue to look at. I'll pause there

before I move to any other business section of the agenda, see if there are any questions or comments.

All right. Seeing none, I'll move on quickly. On 10.1, if you do not know already, the Council is actually meeting in DC an extra day before the meeting begins. So, the Council will be meeting officially from Sunday rather than on Monday. So, there's an extra day for the Council being called day zero. And they'll be talking everything SubPro during that day. So, we will be looking at the planning for that day on 10.1.

Marika will be presenting to the Council about accuracy. I'm not sure what she'll be presenting there. Kathy, is that an open meeting? I cannot remember. I think it is an open meeting. I don't think it's a closed meeting. I think observers are allowed, like any other Council meeting. It'll be a proper Council meeting.

We will also be discussing who should be the Council liaison to the IRT. There are currently two volunteers. We have Ann. I couldn't pronounce her second name for the life of me. But we have Ann and we also have Susan Payne. And I think the Council needs to decide who to appoint or if we choose to appoint both of them. Thanks, Andrea. I still do not know how to pronounce her second name. Thanks. Kathy, I see your hand up.

KATHY KLEIMAN: It's Ann Aikman-Scalese, who is on the SubPro working group and very active on it and is, of course, the new NomCom appointee. Interestingly, both Susan and Ann are IPC representatives, Intellectual Property

Constituency. First question, do we know how many IRTs, SubPro IRTs, implementation review teams there will be? Two or three?

TOMSLIN SAMME-NLAR: When you say teams, you mean streams within the IRT. Yeah. So there is no official number yet provided because I believe the IRT has met just once. So we do not know how many streams will be, but in Cancun, I had said no more than two is what we are ready to support if we go to multiple streams. Yes.

KATHY KLEIMAN: I'm confused about wording. I thought that the GNSO Council was meeting to decide actually that there would be multiple IRT teams, for lack of a better word, literally different groups meeting on different topics. I thought it was a decision for Council. The way you just phrased it, it's a decision for the IRT itself, which could be dangerous or could be good, depending on how that's structured. But I thought that we were talking about a GNSO Council recommendation to—I thought that the work of the small team—and maybe someone from the small team can explain, but I thought it was about separating out everything so that we could have two different groups, teams, I'll call them, meeting.

Within that, they may create different streams. Stream is a term created for SubPro for the first time in history, I think, for us, which means different groups meeting in parallel and then coming back together to work together. But streams and teams, you're right, are very different.

TOMSLIN SAMME-NLAR: Yes. No, not teams. Absolutely not teams. And that is not even within the charter mandate of the small team to discuss.

KATHY KLEIMAN: So there's one IRT?

TOMSLIN SAMME-NLAR: Yes, there is one IRT.

KATHY KLEIMAN: Okay, so even with that, now we have to look at the streams, follow that. Okay, so that you've moved it to IRT leadership instead of keeping it with GNSO, not you, but Council has moved it to IRT leadership, instead of keeping this issue with GNSO Council leadership. That's a change from Cancun. Let's watch that because the more streams, you're right, the more difficult it is for us to follow what's going on. We don't have enough people.

There is so much work going on in the SubPro, I would say two IRT representatives, because we need it. And if it comes down to who to support, I'm going to urge us to support Ann Aikman-Scalese, who does not have any clients in this area. She is retired. So to the best of my knowledge, unless she's taking on clients on the side, she is not working for anybody. That is not the case for other people that are being considered. So let's go for the most neutral person from the IPC we can find. And I'm really interested in this topic. Thanks.

TOMSLIN SAMME-NLAR: Thank you, Kathy. Manju, did you have a comment to make or intervention? Awesome. All right. I think that is all thoughts on the GNSO Council agenda. We'll get back to our meeting agenda. And our third item is the Statement of Interest Taskforce update. And I think Manju will lead that for us. Manju, over to you.

MANJU CHEN: Yes. Thank you, Tomslin. I'm wondering, can I share my screen?

ANDREA GLANDON: Yes. Give me just a moment, Manju.

MANJU CHEN: Thank you. So I thought I'd use the slides we've actually used during our CCOICI meeting to explain what was discussed during the meeting. To briefly explain why I am using the word CCOICI instead of—we used to call them a task force.

So this whole Statement of Interest thing was actually an item discussed in CCOICI, which is a Council committee on continuous improvement of implementation of something something. Well, you understand the gist. This committee will be reviewing constantly how do we improve how Council works so we work more efficiently, more transparently. Just overall, the quality of work will improve.

So this committee has looked at the issue of SOI because sometimes when there are specific working groups working on very sensitive or controversial issues, there are opinions that maybe the current SOIs we

use, the Statement of Interest forms we use are not enough. And so the CCOICI decided to kind of establish a task force to look at this issue because CCOICI was busy doing something else. So they commissioned this task force to look at the issue of SOI to see if we need to improve the SOI currently and if yes, what should be the improvements.

And then the task force was looking at the SOI and they thought, yes, it needs improvement. And what they proposed was actually, they think the current SOI is still good in the sense that it's for general purpose when there's no specific work that requires specific reveal of interest. This general one we're using now works perfectly. It's fine. It doesn't have to be changed.

But they're also proposing that when we're dealing with more controversial or complex or sensitive issues, it would be better if we have an activity specific SOI, which means that for this specific, either it's a working group, PDP working group, either it's a GGP working group, either it's a cross-community working group, when the activity itself is—they will require the participants to reveal more specific interest, we should have this activity specific SOI to make sure that everyone is revealing whatever they should be revealing.

And that was the discussion. And then there's this line in the activity specific SOI that says that, well, because they're asked to reveal a lot of stuff, right? And then so people will be like, well, maybe they're not comfortable enough to reveal so much because there are kind of ethical obligations when you're working in certain kind of contract relationship with someone else. There will be some clause that require you to kind of keep this dealing with whoever you're dealing with privately.

So it says, well, if you're under the ethical obligations, you are not able to disclose who you're working for, then please provide more specific description of who this client you're working for, but you cannot reveal the name. And it gives this example language for you to follow how you specify this information.

So actually, you can see it. This is actually the current SOI. So this clause was actually already in the current SOI. And the current one, that's what I was saying, it's general. If professional ethical obligations prevent you from disclosing this information, please enter private. So this is what we are using now. The still not improved one. And what the task force was suggesting to improve is actually this one.

In this activity specific SOI, there will be like, if professional ethical obligations prevent you from disclosing, please provide details on which obligations prevent you from disclosing, and then a high-level description of this entity that you're representing without disclosing its name. And it gives an example.

And that was before the public comments on the initial report of the task force. They put this out and they received a lot of public comments about, well, this is not specific enough. This is not enough. This doesn't provide details enough to make sure that everybody is revealing enough information that we can know who's working for who or whatever.

So after this public comment, they make the description even more detailed. As you can see, the yellow marks, the words marked in yellow are those ones that are modified, amended to make everything clearer.

So one of the problems people had with this one was that they think this represented individual or identity can be confusing because as a lawyer, you may represent more than one client. So they think this will make those who are filling out the survey or filling out the SOI confused. Of course, they wouldn't want to disclose everyone they're working with.

So that's why here, they explain what the term representative means. And then because people were saying that the exemption language was too vague, right? So here, they offer even more detailed descriptions of how you should disclose if you're not naming exactly who are you working for. So this, the yellow one, is actually now what we have. Well, not what we have, but what the task force delivered in the end without consensus, because there were people against it. So that's the contest. Maybe I should stop here and see if anybody has questions.

KATHY KLEIMAN: Can you read this language? It's very hard to parse it.

MANJU CHEN: Of course, if you would allow me to read this whole thing, I'll try to read it clearly. So the question would be, are you participating in the GNSO policy process as a representative of any individual or entity, whether paid or non-paid?

The term representative in this context means that you are acting on behalf of a third party, whether it is a legal or natural person. And the legal or natural person will be the represented party by whom you have

been appointed specifically for this activity or to a role that encompasses this activity to represent and/or advocate for the represented party's interests, views, and positions.

If the answer is yes, please provide the name of the represented individual or identity. And then there's a bracket. If professional ethical obligations prevent you from disclosing this information, you must provide details on which ethical obligations prevent you from disclosing and must provide a high-level description of the entity that you are representing without disclosing its name, as well as declare whether, to the best of your knowledge, that entity is actively participating or being represented in other GNSO, SG, C, SO, AC.

For example, I represent a registry client who also's actively participating in the RySG. Or I'm representing a governmental entity who is also actively participating in the GAC. Or I represent a large brand holder in the entertainment sector who, to the best of my knowledge, is not actively participating or being represented in other ICANN groups.

So, and then there's yes, provide name of represented individual or entity. So, if your answer is yes, and you can provide, then that's the option you're using. Or if there are professional ethical obligations that prevent you from disclosing, then there will be a field which you have to fill in specific details, which professional ethical obligations that are preventing you from disclosing the information. And then you will have to provide a high-level description of the entity that you are representing, as well as declare, to the best of your knowledge, whether that entity is actively participating or being represented in other GNSO, SG, C, SO or an AC.

So, this is, in the end, what the task force sent back to CCOICI. So, should I stop here and ask if anybody has any question? Kathy.

KATHY KLEIMAN: Yeah, thank you for reading it because it's a lot of text and I really appreciate that. As everyone here probably knows, we, NCSG, objected to this, objected to having exceptions to this. Manju, you probably know that this language completely undercuts the goal of what this was supposed to be.

Let me tell you why. First, ethics has no absolute explanation. As someone said in chat, whose ethics?So, every lawyer is going to put in that they have an ethical obligation, ethical bar for disclosing. This is not true and we've done the research and we put it in our comments and others did too, that in every other policymaking arena we know, it is actually an obligation, often a legal obligation, to disclose who you're working for. Whether you're lobbying, and my example is, of course, the United States, but if you're lobbying, you have to disclose that. If you're working for someone and going in front of Congress, you don't have a choice. You could sign every contract in the world that says you'll keep it quiet, but in that case you're violating federal law. Many states have similar requirements. If you're going to be involved in the policymaking process, you have to tell people who you're working for and you modify your contracts.

The other thing is that—so every lawyer is just not going to fill this out. And the other thing is most of our consultants will—this is drafted because there's some assumption that the bar prevents you from

disclosing your clients, the bar rules, rules of lawyers in many states, many countries, prevent you from disclosing your clients. That is not true. But even if it is, that would be an ethical obligation. But what about all the consultants that are out there who are not lawyers at all? They're going to take this ethical exception and they're going to say their contracts bar them.

So I don't think we're going to wind up with anything from this, I'm afraid. And I'm not sure why anyone thinks that—I wanted to ask you, why is it even relevant if there's another representative, the entity is represented somewhere else? First, how am I going to know if there's another lawyer working for Amazon? And why is that considered relevant? How does that actually help? Thanks, Manju. And I know everybody on our team was working really hard on this. So thank you. The criticism is not for our guys.

MANJU CHEN: Yes, of course, Kathy. Thank you very much. So first, I kind of wanted to point out that, so what I was trying to prove is this is actually a major improvement than when you just had to put "private," right? So it used to be much worse. And this is what we have. Well, if we are willing to kind of explore options to probably refine or make this language clearer, it's actually a major improvement already than when you already have to put in "private." It's not that in the past you have to reveal. In the past, you didn't even have to reveal and you just had to put in "private" and no explanation needed. This was already in the SOI. You can just be like, "Oh, I'm representing someone, but because of private reasons, I'm not disclosing." And this is actually asking for information for this person

who, while saying they're not revealing, they have to make more explanation of why they're doing this and what obligations and who they're representing. Well, not naming it, but describe the party or person they're representing.

And you were asking why we care whether there are other persons working in—I assume you're talking about they have to be specific about whether they know the represented party has other people actively participating in SGs or other constituencies, right? That's what you felt weird?

KATHY KLEIMAN: I guess if I'm a lawyer, how would I know—unless they're a member, of course, of another stakeholder group. So how would I know and why do you think that's helpful? Thanks.

MANJU CHEN: Oh, yeah, because I think at first, people wanted to make people reveal more, is because they feel like one company are sending more than other people to a working group or whatever process to try to—because they have more people in the working group, they will have more chances to manipulate or whatever influence the deliberations or decision making of that process. That's why they will want you to identify if you are the only one representing the company you are representing. That's the idea.

But I want to also say two things. One is that I actually came into this whole CCOICI and SOI thing late because I was not our representative to

the group. I was taking Stephanie's place. So I came into this late. So I wouldn't know the original deliberations, but this is what I gather information to understand enough to.

So I'm now the chair of the CCOICI, so I won't be able to kind of—well, I don't know if I will be able to, but I won't feel comfortable to be like advocating super strong on the NCSG positions in the committee, because we also have actually one NPOC representative and one NCUC representative. So I will hope the two of them will be doing that instead of me because I'll be chairing the discussions and I'm new to the chairing thing, and having a position, I don't want to mess this up. So that's my kind of disclaimer. And that was what I was trying to say.

And then I just wanted to show you that there are actually other existing safeguards already. For example, the Council, they can impose additional participant requirements as part of the charter, including statement of participation, which is kind of like what they did for the auction cross community working group. And also in the GNSO working group guidelines, it already specified that the chair, they can cooperate with the secretariat and ICANN staff to kind of assess whether the working group has sufficiently Board representation. And if not, they can raise it as an issue to the Council.

And also one important thing I wanted to raise is that actually after GNSO PDP 3.0, for most working group, we're using representation model. It means that if you are in that working group, you are appointed by your stakeholder groups or constituencies or ACs or SOs. And that means that you are representing the SGs, you're not representing any companies. And so the activity-specific SOI doesn't even apply to you.

So, in the current situation, when the working group are mostly representational model, actually, this additional language is an extra safeguard to guard if it's an open model, plus the representation, then those who are participating as participants, not the members, meaning that the participants, they're not accounted for in the consensus evaluating process. They are the one who are going to fill in this specific SOI.

And actually, so when the group was discussing, the staff kind of wanted to check before when there was this private clause, when you can just fill in private and not tell anything about who are you presenting. In the past working groups, how many people did choose private instead of anything else?

You can see from SubPro working group, there were almost 200 members and only two filled in private. And the four maybes, they're actually kind of confused in the sense that they put in private, and then they will say, oh, I actually represent government or something else. And then the RPM working group, out of the 159 members, only two invoked the private exemptions.

So I'm not saying this is not an issue, of course. Myself, morally, I don't like that people can choose to invoke the exemptions. But what I'm trying to convince you guys, in a sense, is that it's not like we invented this exemption. We actually improved the exemption to make it more useful in the way that it doesn't confuse those who wanted to fill in private.

And maybe it was because they were confused. So that's why they put in private. So now with the examples, they know how to evaluate whether they are indeed representing someone else. So they can fill in more correct information.

And also, we were talking about one of the middle ground, which is if those who have identified as I'm representing someone I cannot name outrightly, they won't be allowed in the consensus process. So they can participate in deliberations. But when the chair is making consensus call, their votes will not be accounted for. So that is the middle ground we are exploring. And I hope this maybe could be supported by NCSG in the sense that I personally thought it's a pretty nice middle ground.

So that was my presentation. And if I was not being clear, I, very sorry. I have been working the whole weekend and I'm extremely very tired now. So yeah, and I know we still have a lot of items. If you guys are okay, we can definitely do it on the mailing list where I can type better and I have Google Translate to help me make myself clearer. Thank you very much.

TOMSLIN SAMME-NLAR: Thank you, Manju. Thank you very much. And you were very clear on this to me. Kathy, I see your hand up.

KATHY KLEIMAN: Just a really quick comment. I wanted to thank Manju for all of her work on this. Manju, you're leading this whole discussion for the GNSO Council, I think. So thank you for what you're doing. I know that there's

really strong people on many sides of this issue. So I know you're trying to set a path through and I think it will make it better. And I like that middle ground that you were talking about. Sounds interesting. So I look forward to exploring that. But I just wanted to say thank you.

TOMSLIN SAMME-NLAR: Andrea, if you can, please put our agenda up again. Thank you. All right, we'll quickly move on to our next item, which is the suggested amendments to ICANN's bylaws. I had Stephanie and Caleb leading this one. I know Caleb is here, so I'll hand it over to you, Caleb. Thanks.

CALEB OGUNDELE: Thank you, Tomslin, for the opportunity to talk about this. Basically, Stephanie is leading this and she's the pen holder and I'm just supporting, and we are still at the point of putting quite a number of information up in the document that she's shared. But I would still like to just give you a little bit of highlight of what is being done and recommendations that we are trying to put forward. And I'm sorry also for coming a little late. I had to teach at the West African School on Internet Governance, so I was struggling between two Zoom on the same device.

So now let me give a quick background on how this NomCom rebalancing and what maybe NPOC and NCSG are trying to push forward. So NCUC, as we all know—I think some of the elders, senior colleagues here might maybe try to correct me and put me in line as well.

As we all know, NCUC is about one of the oldest that the current ICANN bylaw recognizes when it comes to NomCom issues. Now the bylaw recognizes that NCUC should have a representative to NomCom, but there hasn't been a lot of bylaw reviews after then. And now there's a call for a little bit of bylaw reviews here and there. And there are new constituencies that have come up since the last bylaw review that was had. And so NPOC is probably one of the youngest that also popped up on the radar.

So now that's a little background to the conversation of what we are asking for on rebalancing of the NomCom such that NCSG and maybe NPOC also can also have like representative at the level of NomCom given some of the changes that is being made right now that some of the non-voting delegates will become voting delegates as well.

So that now led us to another particular incident that there was a call for public comments and with a review implementation, NomCom 2 review implementation committee that came up at some point in time, the NomCom RIWG working group for balancing, that was done in like 2020.

And that scenario, we had the opportunity where there was a recommendation, recommendation 10, but we were unable to get as much votes to support. At that point, probably, we were outvoted. And this is one of the reasons why it's very important for NCSG to have more voting power, even when it comes to NomCom, even though we know that when we get to NomCom, basically we look at the organizational interest and not the NCSG interest as they usually say for those who go to NomCom.

So now what is the crux of the issue is that the NomCom RIWG had a recommendation 10 or so that says that unfortunately that they won't be able to make or push forward that NPOC and NCSG also have one additional seat, which became the fact that we have to go back to the drawing Board and then we have to make a case to the Board. And luckily for us, the Board chair is writing back to NCSG to now say, hey, we want you guys to come up with some recommendations and all of that.

And so one of the few things we discovered is that the GNSO has seven seats. Unfortunately, the Business Constituency has two of those seats, one for small business and big business. And we decided that, okay, in our own case, that we will try to answer some of those questions. And these are some of the answers that we have for some of those questions. I'd like to share my screen if you don't mind. Andrea, can I do that?

ANDREA GLANDON: Yes, just one moment, please. Okay, you're a co-host now.

CALEB OGUNDELE: So let me just give you a quick highlight of some of the conversations, because Stephanie did make the document open for anyone to be able to see. But I'm trying to change the settings if I can manage access. Okay, I think I should be able to share that with us now without having to sign in. One second.

Great. So now these are some of the things that we did come up with. Now, one of the things we try to highlight is that for those who go to NomCom, the mandate for them is not to try to say it's an NCSG thing, it's an NCUC thing. They have to look at the organizational goal for some of those issues.

But these are some of the questions that were asked in the letter that the Board shared, and we try to provide a bit of some context and some background to it. I'm pretty sure that when Stephanie approves of this document, she will probably share, since she's the pen holder and I'm just contributing on some other sections that she's allowed me to contribute to.

So we try to want to understand NomCom rebalancing as it comes in the context of the voting powers that we'll probably be having with the new structure that has been proposed. And one of the things that we did come up with is how we can look at candidates' qualitative background, how they can really represent the interest of the constituency from our own aspects.

Basically, the summary of the conversations that we are having here in this document, which I think will be shared later on, is how we can see to either we get an extra seat. If not, given that there is a call now for a bylaw review, if we cannot get the Business Constituency to give us an extra seat, we have to have some background talks with CPH to also see what they can do at their own part.

Also, other questions that we asked, basically, that we tried to provide answers to involve us trying to make a case, once again, that in all

things, that if there are going to be like a bylaw review, they should put consideration that we should either have one extra seat—I'm trying to look for that part where I did put that information, that we should have one extra seat that comes either to both NCSG and then redistributed to either NPOC or NCUC, as the case might be.

It's a kind of complicated case. I also know that Judith is on this call and she has a couple of ideas, which she's talked about in a couple of different email exchanges. If she does have anything to say, I think here's a good time to maybe have some input into the document.

However, Stephanie is leading this and I think she's going to have the final approval on some of the contributions that I make and any other person makes.

JUDITH HELLERSTEIN: Hi, Caleb. Thanks so much. There was actually two issues here. One, this is the letter that the interim Board chair has sent out to all the constituencies, and that's due at the end of June. It is very different from what they're asking us in the public comment that is due at the end of the week to comment on. This is a separate issue.

This issue has to do with—Originally, when the NomCom issued this report earlier on last year, they suggested that the GNSO do its own rebalancing. And then GNSO, originally, NomCom did not choose to go on to the committee for the NomCom review, and so their points were not given in.

The At-Large tried to put in their points that everyone should have a seat, and GNSO's role is to redistribute its seven seats. That was their recommendation, but then the GNSO rejected that, and there was a fierce battle.

At the Cancun meeting, when the Board met, they issued a notice saying that they were taking off recommendation 10, rebalancing, from the list. This letter is a result of that list, so that people could still give their contributions and their ideas to that.

Now, separately, what we do need to put in, if the NCSG is going to respond to the NomCom review comments, there's four issues to be raised. It's really three.

But the first issue is, one, do we agree with that definition of unaffiliated? Unaffiliated means, in this new concept, the idea is that, although all the eight directors that the NomCom puts in suggest are independent, three of them, the idea is, will not have direct ICANN experience, although they will be part of the internet ecosystem, so they'll have experience on different parts of the Internet, they'll have knowledge about that, but they won't have any direct ICANN experience.

That was put in because there's always the continual fight between what is an insider, what is an outsider. Every year, the Board says, we're looking for independent, but the Board does not rank or prioritize what they want in their list of 10 things that they're looking for, but they just say independent.

Now, there was an effort by the review team to say, well, we need three of them to have no real connection. The idea is that they can give more unbiased advice, as opposed to they may have an unconscious bias or conscious bias, and they will be able to give better advice to the Board.

Last year—I'm on the NomCom presently, and last year, we were able to appoint two directors who had no experience with the ICANN meetings, although they were active in internet issues. It's candidates like that. That's one of the things, do we agree with the definition?

Now, the definition is fairly flexible. They're saying in a particular year, in a particular time, if the candidates that the NomCom reviews, that if we're short on all three of the eight, that we don't find an appropriate one, it is not a thing that we have to go for a lower quality. It's just, this is the preference. We would love to have three total there.

Now, the other choice thing is there's a standing committee. Now, in the standing committee, what happens is the problem with the NomCom is that every year, we have to start afresh. We have to destroy all the materials. Any lessons learned cannot really be lessons learned. We put them as recommendations, but the new committee starts the wheel over again, so any problems we had, we have to throw out the window and restart the work.

So the idea is, let's have a standing committee so they can have historical continuity knowledge of mistakes that happened that we may want to make sure that are corrected from last year, such as recommendations of like, oh, we need to review the CVs more accurately when the NomCom reviews them because some falsehoods

are there, and we don't recognize them. We don't say, oh, a PhD cannot be had in two years, and therefore, oh, there must be some false information on the CV. All that experience gets thrown out, and so the idea of a standing committee is a great idea.

The last one was they're turning the non-voting states into voting states and voting rights. Now, as anyone who's been on NomCom knows, there's really no difference. It's that everyone participates in all the work equally, and everyone votes. Not votes, we do preference votes, like two preference votes, and then after that, we do a voting vote.

The rules don't change from the second preference to the voting. They don't. People are still where they are, so it doesn't really matter about voting rights, but anyway, now these are changed.

But because of a voting right, in the RSSAC, because of that change, RSSAC says, our rules, we need to have another bylaws change because our rules say that the RSSAC has to have Board approval. So we're getting rid of that because the RSSAC said in order to turn our slate into a voting slate, we have to get rid of this. So those are the four changes.

And I know I did this really quickly, but we were short on time. But we really need to decide this before because the NomCom public comments close at the end of the week, and so we have to really state, do we want to contribute? And I think we really do want to contribute to this thing so that we can actually have a point in saying, yes, we are contributing to the NomCom review process. And I'm happy to share what—myself and Yrjö Lansipuro are the pen holders in the At-Large discussion.

But I like what Caleb has done on the letter, but the letter is due at the end of June, so we still have some time on that, but we have no time on the NomCom review. So we really need to discuss it this week and get some ideas. I'm happy to take any questions. I know it went super fast.

TOMSLIN SAMME-NLAR: Thank you so much, Judith.

JUDITH HELLERSTEIN: I can send a slideshow if you want, a PowerPoint if you need.

TOMSLIN SAMME-NLAR: Thank you, Judith and Caleb. We have a three-minute time check, and I know there's some administrative matters that need to come up quickly. I know that Benjamin has something he wants to mention, so I'll quickly jump to that so that we can at least use the remaining minutes.

There's also the SubPro IRT. The reason I brought this up was because we need a representative and an alternate. We only have one volunteer so far, and I'll be speaking with the policy committee about this, but we need an alternate as well. We've already talked today about how much the work is, so we need people to volunteer for this, so please, if you can, volunteer for this. I'll go to AOB, Benjamin, and if you have anything else to give on AOB, I'm happy for you to come next.

BENJAMIN AKINMOYEJE: Thank you, Tomslin. Good afternoon, everybody. NCUC has been putting some heads together for a while now, trying to organize a side event beyond our typical membership meeting. Milton made a quick mention of it, so we'll make it public soon, as quickly as we find some traction towards the issues that we're going to be discussing. I think that has been the major challenge, what issues can we come together and discuss.

Just a heads-up that we're going to be having the event, and we want to try to make it big, bring civil society organizations together at D.C., and we hope that you will participate if you are coming to D.C. That is the idea for now.

Just in the same line of what Tomslin said, if NCUC members are here, we're also looking for a NomCom delegate. We have put out the call for a while, and we hope you apply as well. With that said, I'll keep quiet, and please look out for the event. When we put out the call, your suggestions and recommendations will be welcome. Thank you very much.

ANDREA GLANDON: Hi, Tomslin. Did you have anything else for today, or can we conclude the call?

TOMSLIN SAMME-NLAR: I was speaking on mute. Sorry. We can conclude the call, Andrea. I don't have anything else. I was wondering if you have anything else you wanted to quickly bring up.

Thank you all very much. See you online and during the Council meeting. Cheers.

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

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