

---

BRENDA BREWER: Good morning, good afternoon, and good evening. Welcome to the NCSG Monthly Policy Call on the 19th of January, 2021 at 11:30 UTC. This meeting is recorded. Kindly state your name when speaking for the record and have your phones and microphones on mute when not speaking. Attendance will be taken via Zoom. Raphael has sent his regards. With that, I will turn the call over to Tomslin. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Brenda. Morning, afternoon, evening everyone. And welcome to our January NCSG Policy Call in preparation for the Council meeting on the 21st of January. Our first item on the agenda is the updates from the GNSO Council, which as we've noticed in the past meeting, it's beginning to be one of our key documents and tools we use, the GNSO Council.

I'd like to point out a few things that are in the zero to nine months radar, that might be of interest to members for their planning and knowledge. And I'll try not to cover the ones that Tatiana will definitely cover in the agenda item number three.

So one of those is the fact that Council plans to engage with GDS to restart the Privacy and Proxy Services Accreditation Issues IRT, which was paused, I believe, pending the completion of EPDP Phase 2 work. On a potential standardized access for non-public gTLD registration data.

---

*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.*

---

The other one is the Council also plans to engage with GDS to start the Translation and Transliteration of gTLD Registration Data as well. I'm sure this will be also of interest to some members. And just making sure that members are aware that this is planned in the short term. So if anyone is planning to participate in those, they can start working out how to do that.

And then, the last one I would like to bring to members' attention is that the Council also is considering launching a Transfer PDP, including items from EPDP recommendation 27.

So those are the ones I thought might be of interest. And wonder if anyone has any questions or comments there. I see Rafik's hand. Please, Rafik, go ahead.

RAFIK DAMMAK:

Thanks, Tomslin. So about the engagement with GDS, I think that was proposed a while ago for the last ICANN meeting. So what's the plan this time? We will have the GDS staff attending some GNSO Council meetings or something? So just more clarity about the engagement with them.

TOMSLIN SAMME-NLAR:

I guess I'm assuming that's a question, Rafik.

RAFIK DAMMAK:

It was just clarification because it's, I think, in a previous action item. But just wondering what's the plan this time?

TOMSLIN SAMME-NLAR: I don't believe ... And Tatiana, you might correct me if leadership has discussed this. But this hasn't been discussed yet with the Council members. But it's in the plan, like I said. But maybe Tatiana could comment.

TATIANA TROPINA: We discussed this briefly. But yeah. I'm not aware of any concrete plans. So I think that this is still under discussion.

TOMSLIN SAMME-NLAR: Thanks, Tatiana. Are there any other questions? I see no hands. So I'll move to ... Stephanie's hand just came up. Stephanie, please. Stephanie, if you're speaking, I think you're still in mute.

STEPHANIE PERRIN: Hi. Can you hear me now?

TOMSLIN SAMME-NLAR: Yes. I can.

STEPHANIE PERRIN: I apologize. For some reason, I'm awfully clumsy with the new place these controls have gone now, both the unmute and the sticking my hand up. So I don't know whether anybody noticed but it changed in the latest update and it's just not very handy.

---

---

Anyway, I'm just wondering. Do we have anybody on all of these PDPs? Because Amr was covering the IRT, the PPSAI one. And now that it's reactivated, he's, of course, no longer with us. And I don't know who's on the transliteration one. I'm just wondering if we could shout out if we're covering things. That's quite a long list of things going on. Transfer policy, too. I'm not on that one, although I'm aware of the issue having come up.

TOMSLIN SAMME-NLAR: I believe they are still currently paused and they're in the plan to be activated within zero to nine months. But I don't know when, exactly, they'll be activated. So I don't believe there is anyone actively on them at the moment. But yeah. It's a good question. I think we should definitely encourage some people to join them, once they get activated, that is.

STEPHANIE PERRIN: Yeah. Thanks. It'd just be good if people started thinking about volunteering because those of us who are on the other ones are, I think, going to be busy. We're not going to get that 2A group finished by May according to my calculations. So we'll be busy. Just saying. Thanks.

TOMSLIN SAMME-NLAR: Thanks, Stephanie. Anyone else with a comment or question? If not, we'll move on to agenda item number three, then. That's you, Tatiana. Thank you.

---

TATIANA TROPINA:

Thank you very much. Hi, everyone. Just give me a moment. I'm going to share my screen. So here goes. I hope you all can see it. So what I'm going to do, as usual ... I believe that this is now my duty as the GNSO Vice-Chair, not only as a councilor, to cover the GNSO Council meeting agendas for our membership. So what's on the table? What's mundane and where the guns are out? I would encourage you to all listen to the Council meeting because there are some very interesting things that are going to be going on, on the 21st of January.

So the first agenda item is as usual—administrative matters, roll call, updates to the statements of interest. Item number two on the agenda is related to a review of the projects and actions list. This is something, what Tomslin did just right now for all of us but it is going to be for the entire Council. What's on the radar? What has been done? What are the due dates? And so on and so forth.

The item number three ... And I'm rushing through this a bit because I can't imagine that you have questions about the items number one and two. And the third item is the consent agenda. The standing selection committee has made a number of appointments recently. And we are going to confirm these appointments at the GNSO Council within our consent agenda.

It's quite pleasing to see at least two names of our NCSG members to be appointed for positions. The first one is the GNSO Non-Registry Liaison to the Customer Standing Committee. The Standing Selection Committee has appointed Milton Mueller. For those of you who will note, following the previous appointments, in this position we had James Gannon, also NCSG member, who was this liaison but he left for

---

the PTI Board. So Milton Mueller is going to be confirmed as a new liaison.

The second appointment is going to be the GNSO-appointed mentor to the ICANN Fellowship Program. And here, we have our very own Farrell Folly, whom the standard selection committee has chosen among many applicants. Congratulations, Farrell, for this position, from us.

The third one, I believe that the name is still not there. But it's been already shared that the GNSO representative to the Community Representatives Group that will nominate the Independent Review Process (IRP) Standing Panel. I think that Heather Forrest is going to be confirmed because she was the only applicant. So this is it. And this was a very important appointment. And of course, I can't imagine whoever is going to question the skills, and expertise, and experience of Heather Forrest. She is the former GNSO Council Chair and GNSO Chair and she had taken part in so many working groups and accountability and so on, pertaining to ICANN issues.

So this is the consent. I do not believe that there will be any issues related to it. So we're going to vote on it and vote for it, I believe. And I'll pause here to ask if any of you have any questions about the agenda item number three.

Seeing no hands up, I am moving to agenda item number four. And those of you who attended the previous NCSG Policy Call and attended the GNSO Meeting, for you, it might look like déjà vu because here we are again and the guns are out. We are going to vote again on the

---

motion that is going to affirm the intent of the EPDP Phase 1, Recommendation 7.

And just a short recap, for those of you who forgot about this issue during wonderful Christmas holidays and New Year holidays, rest assured many of us haven't. I haven't. So the Recommendation 7 is now in the implementation phase. And there was a disagreement in the IRT, Implementation Review Team, about the intent of this recommendation because while Contracted Party House and us said that the EPDP had the mandate to modify the thick WHOIS transition policy, however, the IPC and Business Constituency argue that it hasn't. And this issue got the IRT absolutely stuck. And this issue went up further to the Board. And we have been in this circling hell of negotiations.

Last meeting, we were trying to vote on the motion as proposed by Pam Little who is the Vice-Chair of the GNSO from Contracted Party House. And the motion said that the thick WHOIS was indeed modified and the EPDP team had the mandate to do so. So the motion was deferred because the IPC and BC were still against it. They were trying to propose very last-minute amendments, apparently not friendly amendments. But some of the groups didn't even have time to actually go through those amendments.

Very unfortunately, we are back at square one, where we were, because the IPC and BC proposed the new amendments just yesterday around 4:00 PM European Time. Of course, this provides a bit more time for various groups to look at them. And I did look at them. However, I believe that these are not friendly amendments and the intent of those amendments is somehow to revive the thick WHOIS,

---

which is not the case for the EPDP. And I believe that the strategy here, for us, would be to vote against those amendments and then to vote for the motion as it is proposed by Pam Little.

And I will pause here. And I anticipate that there will be questions or comments. And Rafik, you are the first in the queue.

RAFIK DAMMAK:

Thanks, Tatiana, for the briefing and update. So with regard to the amendments, I think it's clear. And I hope that our representative to the Council to vote against those amendments and to only support the original motion, as submitted by Pam. So the team spent quite too long time to discuss the same arguments and those changes. And what was just some meetings yesterday, I don't think ... It's really against all the good will that was put for a long time to try to accommodate all the parties.

So I can only weigh in and ask to vote against the amendments, if they are considered as not friendly by Pam, who submitted the motion, and to support the original motion. Thanks.

TATIANA TROPINA:

Thank you very much, Rafik. I fully agree with you. These amendments are absolutely showstoppers. And they're not friendly at all. And they basically change the intent of the original motion. So of course, we can only urge our representative of our group to vote against them and then vote for original motion. Anybody else wants to chime in? Any other



---

comments? Seeing none so far. So just to wrap this up, I honestly ... Yes, Stephanie. Please go ahead.

STEPHANIE PERRIN:

Thanks. I just think you and Rafik are being remarkably polite. This is really beyond an unfriendly amendment. It's a profound waste of our time, and it shows bad faith, and it's faintly reminiscent of what's going on in the White House as we speak. What do we have to do here to get this to stop, I guess is my question.

TATIANA TROPINA:

Well, I'm much less militant here because at some point, I believe it wasn't in bad faith—at least wasn't in bad faith of the Council, who's trying to welcome this. But of course, they do represent their respective constituencies. And here, it is hard to judge for me whether it's bad faith or not. I think that the notion behind this point, so many times, were like as long as you have hope to reach consensus—some sort of consensus—and as long as you see a bit of willingness to reach this consensus from the other side. Yeah. Last minute, I agree with you. Of course, compared to ... It is better than the last time, when it came at the very last moment, like two days or one day prior to the meeting.

So yes. I do not believe that consensus can be reached anymore. And I believe that hope dies last. But in this case, hope is long dead and there is no need to try and beat this dead horse. We just have to close this issue and move on because we've got the IRT stuck right now over this. And this conflict is basically spilling out everywhere. So I hope that the

---

GNSO Council will be able to act upon this. And I hope that we are going to have our share in this acting upon this.

Any other questions or comments? Yeah. So to wrap it up, I personally agree that this has been going on for way too long than it should. But I understand why it was going on for so long.

I'm moving to the next agenda item. And this is the Council vote on the motion to confirm the final report and recommendations from the Review of All Rights Protection Mechanisms (RPMs) in All gTLDs PDP Working Group. We did have a Council Webinar on this, where the report was presented to us. For those of you who are not aware of this process, if we are talking about long processes, this is probably one of those which broke all the records at ICANN. They had several requests to extend the time for this working group. And now, we finally have the report from them.

Looking at this report, and looking at the work group work, I'm thinking that the GNSO Council can vote against this report or our stakeholder group if there are any procedural issues or administrative issues in terms of how working group handled this work and this report. I cannot think, really, of any that would make us vote against this.

But I would like to ask any of you if you have any issues with this report. But not in terms of content, please, because we are not really allowed to argue about content right now when we vote but about procedures. And I know that, at some point, this working group was meant to liaise with the EPDP. I know that they didn't. But I really don't know if this will make us vote against this report.

---

I don't see anybody's hand but I wanted to ask Rafik. Rafik, do you know about any bodies buried here? Anything that we have to know about voting on this report, in terms of procedures? Because I would say that we probably vote for it, unless somebody raises any concern.

RAFIK DAMMAK:

Thanks, Tatiana. That's a hard question. I didn't really read the report so I cannot talk about the substance. But I think in terms of managing this PDP, the Council pushed the working group to deliver after several extensions and also working with the co-chairs. So from that standpoint, I don't see any reason to vote against. It's late for us to make any point. And even I don't think ... I'm not sure. I think we should, just in case, check the report if there is any minority statement regarding ... Usually, it's more about some content or if there is a concern about consensus designation. But I'm not aware of any specific issue, to be honest. Sorry.

TATIANA TROPINA:

Thank you, Rafik. Basically, no. I didn't expect you to be aware of the content because I know that it's really a lot. And also, I was just wondering if you, as the former Vice-Chair, know about anything that I should be aware of. But I don't think there is anything. So yeah. Thank you for sharing.

Yeah, Stephanie. I know. But Kathy could have raised them, also, on the policy committee before the vote and I haven't seen anything. So I do not think that there is anything that actually warrants us to vote against this. And even if we do, I think that we'd better make a good case out of it because I do not believe that any other stakeholder group or

---

constituency will vote against this. So it's better to be good point if we do so there will be no bad faith in this regard.

So I didn't see anything in the minority position that could have raised our concerns, in terms of procedures. Any other questions about this agenda item? Right. I see no hands. Yeah, yeah, yeah. Stephanie, if you can think about anything in this regard, just clarify with Kathy and let us know. And if you want to make any remark on the record, I think that this would be great.

Now, we're moving to the item number six. And this is, for now, not contentious. So we'll have a Council briefing about New gTLDs Subsequent Procedures PDP Final Report, which has just been submitted, I believe, yesterday or literally not that long ago. So we will just have a bit of an overview, what is going on there, what's in the report from the GNSO Council liaison. And we will have Council discussion also about next steps with regard to this. Again, very monstrous work and very big report. I can't really predict how this will go. But I'm just participating in discussion.

Bruna, yes. Please go ahead.

BRUNA MARTINS DOS SANTOS: Hello, everyone. And thanks, Tatiana, for the floor. Just a quick reminder that I believe that both the SubPro and the RPMs are good situations to remind everyone that if you are participating on a PDP and you rather disagree with the point and wanted to check that out with the constituency, the PC is a good place for doing that. So you can probably write to Tomslin or myself as well, asking to raise a question

---

about a certain point around a PDP. Because as Stephanie was telling everybody, this helps orient the councilors' vote later on. So just a quick reminder on that. Thank you.

TATIANA TROPINA:

Thank you very much, Bruna. Indeed, if you are participating in any policy development process or working group, if you want to speak on behalf of NCSG, please coordinate with us a bit so we will not be getting questions about our positions, which sometimes happens. Anybody else on the agenda item number six. Bruna, is it an old hand or a new hand? Okay. Sorry. It was an old one. So I don't see any hands here.

Let me go to the agenda item number seven. This would be an update from the Standing Committee on Budget and Operations for 10 minutes. I do not have anything to tell you here, not only because I'm not following this committee closely but also because they have their meeting on the 20th of January and today is the 19th. So I do not have anything to share with you right now. So if you want to have this update, I would invite you to join or listen after the GNSO Council meeting. Do we have anyone on the call who is the member of the Standing Committee and who can raise any flags?

TOMSLIN SAMME-NLAR:

I am.

TATIANA TROPINA:

Yes, Tomslin.

TOMSLIN SAMME-NLAR: I haven't seen any flags, yet, to raise. Really, we have been going through the document. And right now, we currently are making [public] comments to the proposed response. And I think it's on the 20th that we'll have substantial things to discuss on those comments. Maybe there will be more update on that then.

TATIANA TROPINA: Thank you, Tomslin. Thank you. So yeah. Nothing so far. So if you're interested in this issue, please do listen to the Council call. I don't see any hands yet.

So I will move to the last agenda item, which is quite a packed one. So we have the any other business agenda item, which is allocated 20 minutes and we have quite a few items to discuss there. The first one is the GNSO Standing Committee for Continuous Improvement. This is something that has been proposed among the councilors.

Right now, with regard to this revival of the Standing Committee for Continuous Improvement, we are in a consultation. The Council is in the consultation with the constituency chairs and stakeholder group chairs. And currently, we are collecting the feedback. And based on this feedback and on the discussion in the Council, there will be a discussion about expanding upon the high-level outline of what this committee is supposed to do and developing a more detailed draft proposal.

It is hard for me to give an update on this agenda item because personally, I'm not a big fan of launching this committee. I'm more for

---

the small Council teams working on particular issues. But I believe that there is a hunger to get this a bit more institutionalized and provide a framework for more continuation and maybe more sustainable work on this. And I believe that I'm in a minority here, which is fine. I'm fine with this. Yeah. So we are in a discussion about this. Any comments and any questions about this so far? Yes, Rafik. Please go ahead.

RAFIK DAMMAK: Sorry. Just to be sure. So we're talking about the Standing Committee for Continuous Improvement proposal, right?

TATIANA TROPINA: Yeah. Exactly. And nothing is decided yet, Rafik.

RAFIK DAMMAK: Yeah. I saw the draft—the comment. But I want to know more what are your concerns about this? Myself, I'm not in favor or not because it's just kind of an old structure we had that was disbanded when we had the GNSO Review Working Party. And now it's coming back as a new form. But just I want to hear more about your concern.

TATIANA TROPINA: Rafik, I will tell you. It's not like I really have a big concern about this. Personally, I do prefer small groups because right now, we are trying to create the structures where those who are working in the small groups have an ownership of the topic. For me, committee means that there

---

would be some structure where this ownership might get lost in a way because it will be dealing with various issues popping up.

On the other hand, what can speak against my disliking of this structure is that perhaps this structure will allow for more interaction with stakeholder groups and constituencies on a particular issue. And also with ICANN Org, if there are any issues related to GNSO Council work. So perhaps, it would be good to have the structure instead of small working groups.

I'm ready to be convinced against my, not concerns but dislike. I'm just following the discussion because, as I said, nothing has been decided until it is decided. Yeah. Tomslin, you were first in the queue and then Rafik again. Tomslin, please go ahead.

TOMSLIN SAMME-NLAR:

Thanks, Tatiana. I just wanted to comment that I believe I've also seen a proposal for pushing this more into the stakeholder groups and constituencies and less on the Council. And I had a question there, to the stakeholder groups really, about what they think about that idea of the Council doing less with this work on continuous improvement and the stakeholder groups and the constituencies doing more. So it was really a question to the members.

TATIANA TROPINA:

Thank you, Tomslin. We will take Rafik's intervention and then perhaps open it to further discussion. Rafik, you go ahead.



---

RAFIK DAMMAK:

Thanks, Tatiana. Yeah. The list of the topics that can be covered by this structure is quite long. And maybe this group can be an issue. But also, I think the argument is how you can really be sure how you can cover that and you can plan it.

But I wanted to address another point because you mentioned about the coordination between the Council and stakeholder groups and constituencies. It's not that it's a concern. But about the new approach lately, with the new Council, is how the Council should work with the stakeholder groups and the constituencies, including, in particular, their leadership. I think it's fine, if that was raised before as a point.

But my issue here is at the end of the day, the Council is structured in the way that we have representatives from the different groups there. And they are supposed to be the liaison and channel the communication, etc. I'm just worried that this trend or approach, in addition that the Council has started a while ago to delegate more tasks like committees, it will weaken more the Council and also the participation of our representative because we are creating a new space or new channels, where the work or most of the discussion has done. And in the long run, the Council will be just a rubber stamp.

I understand that one of the arguments was the Council should not take everything or expand its workload. But things can start like this, with all the good intentions, but can go wrong, on the wrong [grounds]. So just wanted to raise this. It's just a feeling.

---

TATIANA TROPINA:

Rafik, for once, I absolutely agree with you. I'm very much against building further bridges. I think that Council exists because it exists. And when there is the discussion about coordination and liaising with the stakeholder groups and constituencies, come on. We do have representatives of those stakeholder groups and constituencies on the Council.

By the way, that was one of the reasons why I am objecting to this committee, because it also institutionalizes this engagement. I do prefer councilors work in the small groups and liaising their positions with their respective stakeholder groups and constituencies. And this is it. I am very much against institutionalizing and creating new mechanisms that might, at the end, weaken the Council or open it for much broader discussions on the Council level and the content of our policy work.

Stephanie, you are the next in the queue. Please go ahead.

STEPHANIE PERRIN:

Yes. I typed my thoughts in the chat but I really do think this is something we've got to keep an eye on. It is turning Council into a rubber stamp, as far as I can see. And it is very hard to cover all these, particularly the small groups. So I heartily, heartily agree with this concern that Rafik is raising.

I'm not sure on the issue that you raised regarding that standing committee. That might be one way to get a wrap-up. It is the small groups that have got me the most concerned. But it's as if the Council is exploding into little bits and we can't keep it all together. So it's

---

probably something we should have a standing item on our own little policy committee to keep an eye on how it's going. Thanks.

TATIANA TROPINA: Thank you, Stephanie. And yeah. Indeed, we have various concerns here. Yeah. I understand why working in small working groups can be hard for many. And it is, of course, hard to cover them all, with some people being rather ubiquitous sometimes.

Tomslin, you have your hand up. Is it an old hand or a new hand?

TOMSLIN SAMME-NLAR: Sorry, Tatiana. That's an old hand.

TATIANA TROPINA: So yeah. Anybody else has any intervention? It is hard for me to sum up what has been said because I do think that our opinions vary. So nothing is going to be decided at the next meeting, I believe, although they will accept objections to expanding upon the high-level outline and developing in more detail draft proposal. I am not going to object.

So if anybody is going to object to expanding it to more beefed-up proposal, let us know now. However, I believe that my disliking doesn't warrant objection, especially if we hear that small groups can also be problematic. So perhaps, institutionalization of this should be considered as an option.

---

To wrap this up, from my side, I would also say that some of the stakeholder groups and constituencies' chairs are also raising the issue about the Council and stakeholder groups and constituencies—not even engagement but liaising. But I believe the Rafik, Heather would be probably in agreement with you, from what I saw from her comments about this issue. So I would just suggest that we see how it goes. And if this committee can be of help, why not. Anybody else wants to say anything on the agenda item?

Rafik is saying on the chat that one comment to oppose is the one from Jeff, objecting to unanimity for decision-making. Okay. Yeah. I agree with you, Rafik.

And with this, I'm going agenda item number 8.2 in any other business, the GNSO Council feedback on the Operational Design Phase concept paper. Objections to draft Council feedback, if input is available. I have not seen much input so far, except from Jeff, again. And he's very much unhappy about the disappearance of the Design Feedback Group. And I'm actually going to object to his comment here.

But for now, it is the discussion. And as the comments are due on the 22nd of January, I don't see any real indication that the Council is going to agree on anything, especially if Jeff is going to be raising those points. I suggest that he will just comment himself on his own behalf here. Any questions about agenda item 8.2?

All right. 8.3, GNSO Council additional budget requests. We will see. 8.4, update on the ICANN meeting strategy. I was following these updates but I'm not sure which would be the latest one so I will see at the

---

Council. Update on the IGO Work Track kickoff. I believe that we have some people we sent to this work track. It just started. A small team proposed input to the ICANN Board regarding SSAD consultation. I wasn't participating in that one. So again, this is just an update. And GNSO liaison between the IDN Policy Track and the EPDP. We've got Dennis Tan confirmed invited for this. He is very knowledgeable. So I don't see this as a contentious item. Any questions about this bunch of smaller any other business agenda items before I will wrap up this one?

Oh yeah. Okay, Juan Manuel. So it hasn't started yet. Still is deciding about days for meeting. So you had no first meeting. It kicked off as a work track but there has been no meeting scheduled. Probably, that's what I meant.

Right. Any other update? Okay. I see none. And with this, thank you very much for listening and for your questions and comments. And I will give it back to Tomslin. Thank you.

TOMSLIN SAMME-NLAR:

Thank you, Tatiana. Thanks very much for that detailed cover of what we will be discussing in the GNSO Meeting. We'll move on to agenda item number four, which is policy updates. The updates from the working groups, we only have to working groups active. And we've really covered that already in agenda item number three, which was the RPMs and the SubPro. And they've both submitted their final reports to the Council. So I don't believe there is any particular update, unless there is someone in those groups that would like to say something. I see no hands up.

---

So I'll move on to the current public comments. We do have two active public comments at the moment, the Draft FFY22 to 26 Operating and Financial Plan and Draft FY22 Operating Plan and Budget. And I think that is going on well. The team is working on that.

The priority two policy recommendations, too. We will be submitting this, this week. So if anyone is still planning to review the comments that Milton submitted, please do so before we submit the comments. Thanks.

Those are the only two active ones that are open at the moment. Does anyone have a comment? What's the deadline for reviewing this comment? I will say 20th—and that's tomorrow, I think—so that the PC can finalize the final comment to submit. So tomorrow is the last day. Thanks, Bruna.

Stephanie, I see your hand up. Please go ahead.

STEPHANIE PERRIN:

Yes. Hi. I started to type in the chat. Milton has asked me to comment on that and was quite grump when I suggested that it required a bit of research that I wanted to do before I made a comment, particularly the last point on 20. So I'm still working on that. I do hope to have it in. Please let me know before you send it in because I think the one on 20 does require some tedious annotation. And I'm working on it. Thanks.

---

TOMSLIN SAMME-NLAR: Thanks, Stephanie. Yeah. It would be good if you could give us a day to review as PC. So that would be really helpful. But yeah. Looking forward to it.

STEPHANIE PERRIN: Thanks.

TOMSLIN SAMME-NLAR: Does anyone else like to make a comment on this item? All right. We'll move on to agenda item number five then, seeing no hands. And I believe that that's any other business and admin matters. But I do know that Bruna has some AOB items to talk about. Bruna, your hand first. Then, Kathy, I see your hand is second. So Bruna first.

BRUNA MARTINS DOS SANTOS: Thank you very much, Tomslin. So just a few things. First of all, I have drafted a letter to the ICANN Board and ICANN CEO about the SSAD. There has been an ICANN Org comment on some recommendations on an European Data Protection Board general comment. So we just wanted to send this letter asking for some clarifications with regards to a correlation between the SSAD and content moderation, and some other questions regarding data transfers, and also SSAD implementation.

So this is just a reminder for everybody to actually take a look on this. This has been on the list for eight days now. And I would really appreciate if the PC and everybody else could edit the comment and also take a look on the tone of the letter. I don't want this to be taken in

---

the wrong way, neither by the Board or the CEO. I just really wanted for this to be a request for clarification on these purposes. So that is one. And I'm posting the link to the letter again.

A second point I had is RightsCon. So we have a deadline for RightsCon session submissions until the 26th of January. We already have some volunteers willing to work on a session proposal. And we wanted to work on something related to content moderation and infrastructure intermediaries. So if anyone else wants to help on this, please take a look on the list. I'm sure Pedro has shared the link there. Or just ask either Pedro or myself for this link.

And last but not least, we have until the 22nd for submission of a plenary session for ICANN 70. Sam has suggested on a thread that we propose something on a differentiation between technical internet governance and internet governance. I just wanted to remind you all that this discussion is also going on the list. And if anyone else has any additional suggestions of topics for a plenary session for ICANN 70, I'll be happy to work on a submission on that.

And I guess that's all from my side, Tomslin. Please, everyone. If you're willing to help either with the RightsCon or this plenary session submission, just let me know.

Oh! And just one last point. We have until the 31st to submit ABR requests. And I haven't heard anything from anyone, in terms of suggestions. So I will also send a remind to the list with the deadlines and everything I just spoke about, just so everybody isn't all lost on this. So thank you very much, Tomslin.



TOMSLIN SAMME-NLAR: Thanks, Bruna. I understand Kathy is going to speak on item number four. So let's go to you, Kathy.

KATHY KLEIMAN: Hi, everybody. I see Stephanie's hand is raised. Is she speaking to something that Bruna's saying? I'm going to be changing the subject. Thanks. And Bruna, the letter was great—the one that's floating around. I thought it was an excellent letter.

Okay. It looks like Stephanie's hand is down so I can definitely ... Tomslin, do you want me to—

TOMSLIN SAMME-NLAR: Yes, please. She said it was an old hand. Sorry.

KATHY KLEIMAN: Great! Okay. Terrific. Sorry to be joining late, everybody. I wanted to speak to some policy updates. Can you tell me if anyone spoke to what's happening in the Subsequent Procedures New gTLD Working Group or the Rights Protection Mechanism Working Group? If not, I can provide updates from both.

TOMSLIN SAMME-NLAR: No. There wasn't anyone. We just had what we have been given in Council.

KATHY KLEIMAN:

Okay. I wanted to let our councilors in particular know but also everyone. You have a new report from Cheryl Langdon-Orr and Jeff Neuman, who are the co-chairs of the Subsequent Procedures New gTLD PDP Working Group. There are a lot of minority reports coming. And it was a huge working group. It covered a lot of things—all the rules for the new gTLDs except for the rights protection mechanisms, which I'll talk about in a second.

But for the NCSG, I think it's very, very important that you know that often, what hurts us most is highlighted in the minority reports. We are very rarely the majority in the ICANN world. So when you really want to see, after a four-year fight, what surfaced, what was really bothering people, what they really feel—after they're exhausted and really done with the fight, what they still have enough energy to write about—look at the minority reports. I just finished two of them and I'm exhausted, which is why I wasn't up ultra-early. So I'd like to know if our councilors, at some point, would like to know about these brand-new, newly-minted minority reports that happened in Subsequent Procedures.

As most people on this call know, I was a co-chair of the four-year-running Rights Protection Mechanism PDP Working Group. So I did not write any minority reports. But there is a fascinating one and I was kind of surprised no one asked any questions, when the co-chairs were there, about the minority report that was written. Primary author was Rebecca Tushnet of Harvard Law School, and she's a First Amendment scholar, and very much in-line with a lot of the things we're concerned about. So big minority report there that I'm also happy to provide some

---

---

background on—pros and cons on that. Since I'm working group chair, I'm much more neutral.

But just wanted to let you know that the tea leaves of what we're concerned about often lie in these minority reports. So I can go into more detail now or we can hold a special session, and look at the text, and talk about what's in these substantial concerns to these long policy development processes and, at the end of the day, what's still really bothering people that we might care deeply about. Thanks.

TOMSLIN SAMME-NLAR: Thanks, Kathy. I believe for the RPM one, the Council is meant to vote for the report on Thursday. And I'm not sure if our time is really up. The invite said one hour, 30 minutes. I don't know if it's just one hour. Brenda, was it just one hour or one hour-thirty?

BRENDA BREWER: It's an hour and a half—90 minutes.

TOMSLIN SAMME-NLAR: All right. Thanks.

BRENDA BREWER: You're welcome.

---

TOMSLIN SAMME-NLAR: All right. Then, I'll go ahead with what I was saying. I was going to say that it might be helpful to know more about the minority concerns on the RPM one, since the Council is meant to vote on it on Thursday, now. And we can organize a session for the SubPro one another time.

KATHY KLEIMAN: Okay. Well, can someone tell me what kind of powers you have under the PDP 3.0 to take into account minority reports? I was on Council but it was so many years ago that the operating rules are very, very different.

And I promise you I'm not writing any more emails. We wrote everything. Sorry, Bruna. I'm not writing anything. I'm so tired. And I have to go back to school and teach. But these are working groups that we really worked hard on. So can anyone answer? What are your powers if you are concerned about a policy issue on Council?

TATIANA TROPINA: Sorry for chiming in. Kathy, the Council, as usual, will not be able to argue about content. But we have the issue if anything is procedural. And if somebody knows more, correct me. But I believe that we're not going to argue about the content.

KATHY KLEIMAN: Okay. That's too bad because all of this is content. So the issue for the minority report of the Rights Protection Mechanism Working Group—so the balance of trademark owners versus the rest of us—is that the definition of wordmark was changed, contrary to consensus policy,

---

although it's not really consensus. So these are rules for new gTLDs. It's not consensus policy because they don't involve .com, .net, and they only involved .org by contract because .org extended its contract to include them.

But the question is, what is a wordmark? And it's a trademark term. And what the GNSO Council of years ago decided was that it's only a text mark. The only thing you can put into the Trademark Clearinghouse is a mark where the letters themselves are protected, not the design. And somehow, that got changed by Staff and Legal over time. And they said, "Ah! You can put a design in and we'll extract the words."

That massively increases the rights of trademark owners, far beyond their legal rights. Which was one of the boundaries we were given from the original GNSO Council, is that rights in the new gTLDs for trademark owners, for other IP owners, would not exceed their rights in the real world. And this definition is a massive expansion of those rights in the real world, that you can extract letters from an intricate design which would not otherwise be protected in the real world. Your design would be protected along with your words and letters but not the words and letters themselves.

And of course, we can't protect designs in domain names. They are characters. They are letters and numbers. And so, by definition, you have to extract them which is why the original Council said, "No. You can't do that." And the new rules say you can. And of course, in a group that is dominated by intellectual property owners, that was a hard rule to reverse. So you see a minority statement on it. I think, Tatiana, that's it in a nutshell.

TOMSLIN SAMME-NLAR: Thank you, Kathy. I guess like Tatiana said, unfortunately, we can't go into the content. But we discussed earlier if there was any procedure that we can use to argue against the report as we couldn't find anything specific not to vote for it.

KATHY KLEIMAN: Can I suggest something?

TOMSLIN SAMME-NLAR: Please do.

KATHY KLEIMAN: When the Council meets with the co-chairs—which I know you've already done with RPMs, you will be doing in Subsequent Procedures—one of the things you can do is shed light on these things. And really, for better or for worse, make them take you through the minority reports and explain what's going on. They will try to tell you that all issues have been solved because that's their job, as co-chairs, that the issues have been resolved.

But again, to write a minority report takes a huge amount of effort. So for it to be done means that there are still unresolved—probably, likely ... It indicates the water isn't as smooth on top as you might think. So if you can ask them to walk you through, particularly ones that NCSG members have signed, it will start the airing of processes. And that could lead to changes down the road.

---

As Avri notes, the Board could get involved. But I also think you probably have more powers in this than you think. Your job may not just be to look at procedural problems but also substantive problems. If a working group is dominated by one group, then there may be issues of fair and balanced policies. And I think that's under your jurisdiction.

So anyway, just urging that you really explore these things. So thank you. And I am happy to set up something to talk about minority reports in SubPro.

TOMSLIN SAMME-NLAR: Thank you, Kathy. I'll go to the queue now. I'm sorry. I didn't see the order in which the hands came up. But I'll go with Bruna first.

BRUNA MARTINS DOS SANTOS: Thank you, Tomslin. Just about the minority reports and the general explanation to the list. Kathy, I can understand you are tired and you're probably the only one working on this matter, especially at SubPro. But I do think that we need something on the record, on the list, with regards to the minority report and the situation of this working group.

I know we have a lot of other people on the working group. But I'm pretty sure we have very few of them actually following. And since you are one of the authors of one of the minority reports on SubPro, that's why I was suggesting that maybe an email is something that can help not only guide membership about this matter but also open a discussion on it and also guide our councilors who will be voting on this in the upcoming future.

---

So I don't know how, maybe, we can work with this. But I would really wish to see any kind of register on the list with regards to this. So that's the rationale behind my suggestion—just that.

TOMSLIN SAMME-NLAR: Thanks, Bruna. Rafik?

RAFIK DAMMAK: Thanks, Tomslin. So I understand about that there is maybe some concern and there are minority reports. But I think now it's something you will find all the time in any working group final report. You will find a minority report because somehow, now, it's a custom to allow any group or working group members to express their concerns, while the original idea was just people submit their minority statement or report regarding the recommendation, where it doesn't have enough level of consensus, like strong support with significant opposition and so on.

So what I can advise our councilors, to go through the executive summary and read. Check the recommendation consensus level. That's an indication. That's supposed to be the indication about the support— if you have full consensus, you have consensus and so on for this recommendation. And of course, they should go through the minority report to have an idea about the arguments against some of the recommendations.

But other than that, I don't see what the GNSO Council do with ... When you have a list of recommendations, have full consensus or consensus, it's really hard to vote against in a substantial matter. I can only say, if



---

there was really a concern about the procedure—an issue like the consensus designation or if they think that the co-chair didn't listen to the working group members' concerns. So there already the GNSO Operating Procedures. I forget the number of the provision but there is ability to raise a concern and escalate, in particular for the consensus designation.

Doing it now and asking the NCSG representative to do so, I think it's not the right way. We complained about the BC, and IPC, and other groups doing the same for the EPDP. I don't think it will be appropriate for the NCSG to do a similar thing for SubPro or RPM. Unless, I think, we missed something that cannot be missed, I don't see really anything that can be done at GNSO Council.

However, again, our councilors at least should read the executive summary, the consensus level designation and minority report to have their own position, in addition to the webinars that were organized lately, like for RPM and the one scheduled for SubPro.

TOMSLIN SAMME-NLAR: Thank you, Rafik, for the comment. Is there anyone who would like to speak on this? Sorry. A quick question. Okay, Stephanie. Please go ahead before I ask the question.

STEPHANIE PERRIN: Yeah. Stephanie for the record. I take Rafik's point that we do not want to be acting in what I earlier described as bad faith by refusing to accept something that has been thoroughly debated and discussed. My

question is whether this particular issue that Kathy's highlighting has been thoroughly debated and discussed. Because it does seem to be the nature of NCSG work that we are really swimming upstream all the time. We didn't have that many members on this particular committee. And it went over how many years? Four?

So as someone who was on the RPMs group, fighting this lonely fight, pointing out that the Europeans had passed a directive—rather a regulation, the GDPR—I have a great deal of sympathy here for Kathy's issue. And if you're chairing, you have to be neutral. So now, we have a legal scholar pointing out the we have a fundamental First Amendment Issue.

And it does kind of behoove us to, I think, raise it, without raising it the way our comrades are raising their issue over Rec 7. But it's the same thing. I don't know how many times I've pointed out that the thick WHOIS was illegal and Staff just kept ignoring it and acting as if this was a matter within the remit of ICANN to decide. And it strikes me, from Kathy's summary, that this is exactly what has happened with the expansion of the trademarking of words.

So I may be misunderstanding that. I'm no trademark expert. But it's a concern. And it's the nature of our business, I guess. I wish someone would come up with a brilliant way to raise it without doing it in bad faith at the Council Meeting. And I'm happy to speak to it but I don't want to reflect badly on us. Thank you.

---

TOMSLIN SAMME-NLAR: Thank you, Stephanie. So in the Council, as in this call, do we think we need another session with Kathy or this conversation we've had is enough? And I see Kathy's hand now. Kathy, please go ahead.

KATHY KLEIMAN: Yeah. I responded to Stephanie in the chat. She's exactly right. In dealing with the Rights Protection Mechanism Working Group, the scholars and active attorneys who raised the questions were raising fundamental free speech, freedom of expression kind of right-to-word issues. And that's really our bailiwick. We've been working on right-to-words for 20 years in NCSG NCUC.

In terms of the Subsequent Procedures one, that is absolutely an issue. The Board raised some really key questions, in a letter written in September to the working group, about what the new Bylaws—the 2016 Bylaws, the Bylaws that we signed as part of our independence but also accountability—and that there were real questions there. And it came so late in the working group, there really wasn't time to address them.

And that is what the minority report is dedicated to, is that there's some real issues here that could create some real problems for ICANN—legal and Bylaw issues that are as yet unresolved. I don't know if that's procedural enough for our Council members. But huge, huge issues. Really important ones, going forward.

So again, thanks for taking the time to listen to some of this. And absolutely happy, especially on SubPro where there's more time, but also on Rights Protection Mechanism Working Group. If you could read

---

that minority report and raise whatever questions you think are appropriate. These are important discussions to have. Minority reports don't just have to be second and third bites of the apple. Sometimes, they're raising really critical missing discussions. Thanks.

TOMSLIN SAMME-NLAR: Thank you, Kathy. I see no other hands up. And I guess we'll have a session on the SubPro one with Kathy. We'll try to organize that with PC and Kathy to catch up on that, and the rest of membership. See if we can have a special session with Kathy on the SubPro one, since we have a bit more time on that. And for the RPM one, I guess the councilors will just have to read the minority report and we'll go from there. Thank you.

I don't know if anyone else has an AOB item to bring up. I think that's all I have. I don't see any other hand. I suppose, with no hands up, that brings us to the end of the call today, then, with some few minutes left, given back to our lives. Thank you, everyone, for coming today and for the comments and discussion on the issues we've discussed today. And see you again next month. Thank you.

BRENDA BREWER: Thank you, all.

**[END OF TRANSCRIPTION]**