
BRENDA BREWER: Good morning, good afternoon, and good evening. Welcome to the NCSG Monthly Policy call on 22 August 2022 at 11:30 UTC.

Today's call is recorded. Please state your name before speaking, and have your phones and microphones on mute when not speaking. Attendance is taken from Zoom participation. I'd like to turn the meeting over now to Tomslin. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Brenda. Thanks, everyone, who've come today. As usual, we'll get the chance to take a look at the Council agenda for the upcoming Council meeting later this week and look at some of the things that will be discussed and use that opportunity to update ourselves of what has been discussed between the last time we had our last meeting last month to this point, and any other items that will be discussed that councilors might need help with making decisions or interventions in the meeting on Thursday from the group. So we'll go straight to the agenda.

All right. So there is one Consent Agenda item. Brenda, if you could please scroll up. Yes. Thank you. But this is the usual item which is the Customer Standing Committee confirming their new slate at the General Meeting. I think, if I'm not mistaken, for the non-commercial person—Brenda, if you could just scroll up a little bit, please? Sorry, scroll down. My bad. Yes, a bit lower. Yes. Just a bit. Non-registry. I just wanted to remind everyone that we have a non-registry person in the name of Milton, who is continuing his term in 2023. Otherwise, Council

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hasn't had any issue with this list that was sent by PTI. So it's my expectation that it will be confirmed, but if anyone has any comments or questions—I see Kathy's hand up. Kathy, please go ahead.

KATHY KLEIMAN: Hi, Tomslin. Can you hear me?

TOMSLIN SAMME-NLAR: Yes, please.

KATHY KLEIMAN: Great. I just wanted to mention in addition to Milton—first, hi, everybody. Good morning if it's morning. It's early here. Holly Raiche is also very good. She's with ALAC. She has been with ALAC for many years. But she's also a professor, she's an academic. She hails from Australia and teaches in Australian Law School communications law, and really also thinks very heavily about the public interest. So I just wanted to let you know that's a good team with Milton and Holly on there. Thank you so much for sharing this.

TOMSLIN SAMME-NLAR: Thanks, Kathy. If there are no other questions, we will move to the next agenda item which is a key one for us because the last time we met, we had this call, this was meant to be voted. We, in this meeting, unanimously agreed that we should request for the vote to be deferred because of some items that we didn't like in the proposal. One, I think chief of those was the team composition of the GGP. We went back. I

think we didn't even have to put that formal request. Even though I have made mention of this on the corridors, but the BC guys put their request on the list that they hadn't had a chance to look at it. We didn't have to. So it was deferred. So the expectation is that we will be voting for this now.

With regards to the issue we had a problem with, we have now agreed on this current version, now goes back to the traditional model of using what is in the PDP manual as the structure of the team. It will be a representative model with observers. It should be one member. The other thing just to mention was there was a general concern within Council, the majority had concerns about the size of the team, considering the fact that this team also requires—it has to go look for experts to help them do the work. So that the majority of the Council thought that there was therefore no reason to make this team too big if more people have to be asked to join the team who are experts. A balance was struck in that discussion where it was said, "All right, we will take it back to the representative model, but we'll slim down the team a little bit with the knowledge that the team still needs to call on experts in the community." The team obviously will develop that criteria of who the experts are.

So it's one per stakeholder group. Yes, that's correct. I'll just confirm again. Yes, so it's one per stakeholder group. Subject matter experts will be called on by the group. The group will have one chair, as usual, and may have a vice chair. So that's the current proposal that is on the table now for a vote on Thursday. So I'll pause there to see if anyone has comments and questions. With this one, please, I'm happy for other councilors to jump in and answer any questions that are asked. Yeah.

I'm happy for councilors to also answer questions. Thanks. Kathy, I see your hand up.

KATHY KLEIMAN: Thanks, Tomslin. I have some questions. So it's about Applicant Support, right?

TOMSLIN SAMME-NLAR: That is correct.

KATHY KLEIMAN: How we are going to provide support for people, companies, organizations, from regions, and also groups that may practice from across the world that needs support and applying. For what it's worth, I'm not sure how many experts there are on this. We didn't get it right the first round. So I'm not sure who we're talking about as experts here, who's being brought in. But can I just double check? Every stakeholder group gets one representative on this?

TOMSLIN SAMME-NLAR: That's correct. That's correct.

KATHY KLEIMAN: And this is going to be run by ICANN staff as an IRT, as an implementation?

TOMSLIN SAMME-NLAR: I think it's going to be run by the Council.

KATHY KLEIMAN: The Council. Okay, that makes sense. Any idea what the timeline is on this?

TOMSLIN SAMME-NLAR: Timelines, I'm not so sure. What I can say is the Council only focused on two things. One is the scope of the GGP, and two, the group composition. I can't tell you that I remember having discussed timeline anywhere. I think the expectation is that the team, once this is agreed, then the timeline and the rest will follow.

KATHY KLEIMAN: Would it be worth a discussion in this group, maybe now, about assuming you adopt this, which it looks like you will, who could be our representative? This is huge for us. This is a really big deal and a really big issue. And with other new gTLD issues coming down the pike, we're going to need people working in parallel. We need multiple people working on these issues. But this is really important. So thank you so much for highlighting it. I wonder who could be our representative on this and how we create a team around them to help, because this is really all about us. Thanks.

TOMSLIN SAMME-NLAR: Thanks. I think with this one, we will follow the Policy Committee process to reach out to the community, and then hopefully we get many

willing volunteers. But we'll try to do as much inreach as possible, like you said, since we really need someone who understands this issue to jump on that group, right?

The other thing I want to mention in addition, like you said, we don't know whether there are experts on this. Therefore, that should be an area which our group should have eyes on, especially the person jumping on that team, because that group is going to define who to call on for the topics they're discussing. So that becomes key therefore that we make sure that community experts, people who understand diversity, people who understand the challenges of communities that are disadvantaged, or those sorts of things become key criteria for some of the experts. I understand there'll be more than a couple of experts. The reason I'm highlighting this is because this will be a bit different from the traditional PDP group where it's just a team that spends his whole time thinking about them. They think about themselves as doing all the work. But here it's clearly designed that they should be looking for experts. So we need to keep that in mind.

KATHY KLEIMAN:

In this one, I might flip it. I know we're looking for experts, but experts can be ignored by groups. Say we listen to them and we try really hard. In this case, I might think about for NCSG to put on somebody, maybe who hasn't been part of PDPs before but is exactly what you were saying, a community expert or an expert on disadvantaged communities. If NCSG can find somebody who's willing to put the time into this, even if they don't have the background in the first round of new applications, we can provide. There are lots of us who can provide

that background for them. But what you said, an expert in disadvantaged communities should actually be our member on this group. Because that voice, that concern needs to be part of every moment of this group's evaluation, not just listening to the experts but everything they think about, every policy, because that's why it's been created. So I think you've really nailed it, but I would put that person on this group, and then we should form a group of procedural experts around them. Thanks, Tomslin.

TOMSLIN SAMME-NLAR:

Thanks. Manju has suggested that we dive a bit deeper into this at ICANN75. Especially, she mentioned that we get the opportunity for some additional background to be brought into this during that meeting, and then we talk a bit into it. So if there are any more suggestions on how NCSG can plan and strategize on this, please note it down so that we can talk a bit more about it during the policy meeting at ICANN75.

I'll pause to see if there are any more comments or questions. Welcome, Stephanie. All right. I don't see any more hands. We could go to the next item.

Council Commitments document. I'm not a very big fan of this one, but it's here. I think there's not much to talk about this. The only additional information that I'm aware of is how this document will be used. I think Sebastien will discuss this during the meeting. And the proposal is we already know it's not going to be a binding document. Therefore, trying to think of ways where the Council, in partnership with the SGs and Cs,

will use this document during the election procedures so that the potential councilors read through it and have a sense of what they expected today. I know that, Stephanie, you had some concerns with this document. But yeah, that's the only new information I have or know about the document. So, opening up for questions. Stephanie, please go ahead.

STEPHANIE PERRIN:

Apologies for being late. My first question is, is it too late to kill it? I never did understand the rationale for this. And when it comes to the IPC cooking up things like civility documents, the old Greek sparing gifts thing leaps to mind, you know. What the heck is this for? Did we have an episode that prompted this? It's not like we had at Council, a situation like, I believe his name is—well, let's leave his name out—but there was a very unruly and uncivil person on a group that they had to discipline because he was threatening the chairs. I don't think that's enough to start a civility document because, frankly, you wouldn't be able to reach somebody like that with this document, so what's the point? I just don't get it and I'm deeply suspicious, because we have a number of members who sometimes speak in tones that are a little rude and we all have to put up with it because they're good and thought-provoking members, but I would hate to think that there's a gun coming to be aimed our way. That's about it.

TOMSLIN SAMME-NLAR:

Thanks, Stephanie. I'm not sure about whether it's late or not. It's still under discussion, so it's definitely not late. It's not yet under consent or

avoid or anything like that. Please, if you could put those concerns to the list, that will be helpful to determine how the discussion is driven on Thursday and the vote or consent adoption thereafter. I think the challenge right now is that no one has said anything literally, neither good nor bad about this document on the list or anywhere else. Yeah. So if you could, that will be awesome. Is that a new hand, Stephanie, or an old one?

STEPHANIE PERRIN:

Sorry, no. Just an old hand. I'll take it down. But yes, I will do this. Somebody better defend me if they come for me for being uncivil, okay? That's the deal.

TOMSLIN SAMME-NLAR:

Dissent is not being uncivil. I'll pause for any other comments or questions before we proceed. Michael, I was just typing. This concern you raised, is this related to the GGP? I wasn't sure. Yes? Okay. Yes, it is a concern, I agree. There was an even bigger concern. I don't know if you followed this at all, but there was a bigger concern. The Council was proposing that this group be composed of only councilors, and that was why we rejected or requested or wanted to request for a deferral in the last meeting so that we could discuss it further. A couple of back and forth negotiations happened in the background between that time, and it was the Registry Stakeholder Group that was pushing for councilors-only membership of this group, and so we rejected that idea. They finally agreed that we should use the community rather than the Council. Then there was the concern of the size. The only middle ground

that could be gotten there was one instead of two per stakeholder group. So that's where it is. I don't think I have anything more to add. But it's one per group, and that's what the proposal is. So I hope that answers your question. I don't know whether there is a possibility of making it any further by us not voting for it, against it as NCSG. I don't know whether it will get the numbers to push back. But that's where the document—that's where it is at.

All right. If no other comments, we can go to item number six. Well, item number six is really about the Council discussing about planning its joint meetings at ICANN75. So there's really not much. It's just the usual topics that ALAC and the GAC are asking to get updates on. I don't know if anyone has some comments or questions on this. Please ask. But that's really it. Stephanie?

STEPHANIE PERRIN:

I realized this is probably not the time to raise a fresh topic. But if everybody read that register article that was out about how boring ICANN's last meeting was and how irrelevant it is these days, I think it met a threshold of criticism of ICANN that has surpassed its prior thresholds of criticism. So I'm just wondering what our international rep is, mainly used to have Nigel Hickson in Geneva trying to fend off the incursion of the ITU. We haven't heard much about any of that stuff lately, and I'm wondering just how we're positioned. How much support is there for ICANN? Are we going to have to bend over backwards to placate the GAC in order to maintain government support for it? Those sorts of questions. It's a very broad question, but I'm sure you understand what I'm aiming at. Thanks.

TOMSLIN SAMME-NLAR: I think I do. But when you said introducing your topic, are you referring to like a plenary topic or a topic between the GAC and the Council?

STEPHANIE PERRIN: Yeah, not a plenary topic. I realized it's way too late for that. At least I assume it is. I'm talking about basically topics for discussion at Council or even our topics for discussion with any meetings we have with the Board. That would be probably the best place, an NCSG Board discussion. But if the Council could ask itself, that it might be good prep for the strategic planning session in December, we should start asking ourselves this: are we relevant anymore, and if not, why not? Let's not blame it on the time it takes to kill really difficult, contentious topics, because I think that's a red herring. I think that trying to deal with the time problem that we're having on these major PDPs is another excuse to streamline and stop vigorous debate, you know.

TOMSLIN SAMME-NLAR: So, considering that we have—yeah, we do have an agenda, it's final. We could suggest it in the next Council meeting and possibly we'll have a chat about it, or even in the informal—is it called informal Council meeting, the second one that we get? The next meeting will be in September, so we get two chances to discuss things since that's at ICANN75. So we could certainly suggest it. You could add it to the draft Council agenda, the Google Doc, actually.

STEPHANIE PERRIN: Okay. I just like to express the concern that those of us who are operating remote will not be in on the informal Council session, if past experiences anything to go by. They didn't provide Zoom support the last time. A couple of us who are—well, Milton always tells me I'm paranoid when I bring up these topics, but he might be interested in this topic, given that he might be a target. Just kidding.

TOMSLIN SAMME-NLAR: Yeah. Let's put it in the main agenda very quickly and it's to stay there.

STEPHANIE PERRIN: Okay. Will do.

TOMSLIN SAMME-NLAR: Thanks. Because I don't think there any topics on that there yet. So if that goes in first, it'll definitely be put even in the AOB. Kathy, you're next.

KATHY KLEIMAN: Stephanie, I may be misunderstanding what you're saying. But the larger question of kind of the ongoing existence of ICANN and threats to ICANN. I could be wrong, and you're absolutely right to keep watching for it. I wonder if the pandemic did not prove our value in some ways. My sense in the U.S.—and you know I've been working on a book in ICANN policy for a little while—but my sense is we actually proved our worth in an amazing way. I mean, the infrastructure kept everyone online in a way we could never have anticipated. It's interesting to hear

the old-timers talk about things happening during the pandemic and use of the Internet they never anticipated. So we've got a success story there.

We did hear in the last session that the threats that policy people see, at least the ICANN policy people and some of the other registries who are on the panel, from national policies and regional policies seem to be content-related, where the effect would hurt the infrastructure. They seem to be closely monitoring and the concern doesn't seem to be takeover of the Internet infrastructure from what I'm reading between the lines. But that solutions to content for taking down content, monitoring content that some people, some countries don't like could be very, very harmful to the infrastructure, and we know this in the United States with the [inaudible] and HIPAA—and I'm happy to explain those acronyms to people—legislation that was proposed a few years ago that we were able to block because it really would have hurt the infrastructure, and that wasn't the intent of the people who are drafting it. But you're absolutely right. We should monitor this. But I wonder if we're kind of in a golden period just for a little moment on that.

One thing I am worried about looking at the list that you posted, Tomslin, is accuracy. WHOIS accuracy always, always, always—and Stephanie knows this better than anybody—always has the ability to kind of eat the rest of the WHOIS issues and become ever so much more important than privacy and other things, which isn't right, obviously. Accuracy is a key, and some people choose to put in inaccurate information so that they can A) have a domain name, and B) not give away their home address or their home telephone number to a government, particularly if they are saying something that people don't

like. So if someone could keep a close view on what it is that the GNSO Council is reporting to the GAC on accuracy, I would really appreciate it. Let's make sure that doesn't become some kind of real overconcern, if it's not appropriate. Thanks.

TOMSLIN SAMME-NLAR: Thanks, Kathy. Accuracy. I can't recall if we have anyone on that working group on accuracy. I think the scoping of accuracy, okay, Manju. Because I only hear not so good things about that working group from the project managers. I'm not sure, Manju, if you could comment about it for the benefit of Kathy.

MANJU CHEN: Can you hear me?

TOMSLIN SAMME-NLAR: Yes, I can.

MANJU CHEN: For the accuracy, this is not yet a working group. We are a scoping team. I mean, we all know what scoping team should be about. We are supposed to be scoping the issue for the future PDP, if there's going to be a PDP to work on this issue. To be honest, I don't have enough experience to comment on how different scoping team and working groups are. I personally thought it was like a working group while it was supposed to be a scoping team. But nonetheless, we were supposed to be first seeing.

We are given four assignments from the Council. First is to check what accuracy requirements are existing now in ICANN contracts, and how registrars and registries are practicing their accuracy requirements. Then we are supposed to see if there are problems with the current practice. We are supposed to finish our first two tests last year or this year very early, but we haven't finished it until now because, first of all, we couldn't agree on a definition of accuracy. I think we are so apart, they're very divided. So for example, the contracted parties and NCSG believe that accuracy is what was written in the contracts, which is one reachable, you can contact the person, the registrant. Second, [approachable]. So like the e-mail itself or the number itself fits the format, but of course the [inaudible] caucus, they kind of wanted to add intentional fake names and stuff, which is ICANN never remember what they really wanted. Apparently, IP infringed names, for example, if someone used Mickey Mouse to register their registration names, that could be considered as inaccuracy. So we haven't had this. We couldn't agree on the definition. That's why we have been having trouble with the first assignment, which is what is currently the accuracy is about.

But I think we're reaching to an end. We are having our last meeting before ICANN75 this week on Thursday, which is weird, because we also have Council meeting on Thursday, and I think the time kind of conflicts. But we're just going to submit our assignments to Council I think before or later than ICANN75, which will encompass first what we observed as the current practice of accuracy requirement as per contract. Second, what do we suggest the methods to check if current practice of accuracy enforcement are off to sender or as required by the contract. I think that's the two topics we've finished. And we have to collect information

to check if the current practice is okay. We are only suggesting how to check it now and we will have the information later once the check is done, and then we will work on our later assignments. I hope I was clear. I was kind of caught off guard. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Manju. Thank you for the update. I'll pause to see if there are any more comments about that. Okay. Then we can go to the next item.

PDP Improvements Tracker. I think we went through this one extensively in our July meeting. But there is new information about this. Not that anything has changed from what we discussed in the last meeting about the fact that this is simply a tracker tracking all the suggestions and proposals about improvements in GNSO. What has come in addition to what we discussed last time is that there will be a survey to be sent to councilors and SG and C leadership to give the feedback about, one, I think primarily the classification of the various items that were in the document I shared in July, whether this classifications of easy to do, simple, complex, are actually okay, if they are correct. And then secondly, I think it's about how to get the community this information out to the community on time and better as Council is tracking this. I think there's a draft of that survey that has been shared with councilors to have a look before this discussion comes up on Thursday. So that's just all that has come up on this. Nothing much has changed, just a discussion before. It's agreed by the Council that we can go ahead with this.

I'll pause there. I don't think Stephanie's comment—I think that's related to the previous topic on accuracy, if I'm not mistaken. But I'll pause to see if anyone has a comment on the Improvements Tracker. Kathy, please go ahead.

KATHY KLEIMAN:

Sorry to have so many opinions at this meeting, Tomslin. I haven't read this. I haven't had the chance to read it. But as a former PDP co-chair, I do have one request for councilors when you do read it. Please make sure somebody takes into account emergencies, things like pandemics. We can't anticipate what's going to happen but we can anticipate that everybody in a PDP just about as a volunteer, and they're doing it on top of everything else. I was really, really disappointed in my PDP, the Rights Protection Mechanisms. When we had the pandemic broke out, people were scrambling to get home, figure out childcare, all sorts of things. We had people who did not want to extend. We were in the middle of a comment period, and it was clear we needed to extend it and people who just felt we needed to stay on track. Then when we actually put out a question—I put out the question—that says, "Do people need more time?" and we heard from everybody, IPC, NCSG, everybody needed more time because it was a crazy period. So if you could make sure that there's some provision in there for understanding when the world changes, when regions have crisis, when the world has a crisis, and that ICANN work may not be the first thing on people's minds, that would be good. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Kathy. Sorry, just taking notes. All right. Thanks. We will put that feedback here. Sorry, Stephanie, I was just reading your chat. You don't want to voice this, what you put in chat, do you? I just noticed it's a long one. So I thought you might want to save if you wanted to say something about it.

STEPHANIE PERRIN: I was just adding to what Manju discussed in terms of the problems with the scoping team. I can read what I've put for the benefit of those who are only on the phone and can't see it. I'll do it quickly. I'm sorry to drag us back to this other topic because it is kind of relevant to some of our structural problems because this scoping team is an example of a scoping team that is trying to be a PDP by setting new terms in the scope, which it really isn't authorized to do. First, I said I've complained at length that both the group before, we cannot even get the definition straight. Mike Palage was trying to push us to finish by December 5 of last year, which is almost a year ago, chaps, despite the estimate when Berry Cobb pointing out politely that it could not be done. I mean, Berry had a big tracker. We had a lot of basic work to do and we've spent our time bickering about stuff that should be argued about in PDPs. You have to keep dragging them back to the task.

Then I said I'm sure that I have been a pain in the neck on this group by constantly pointing out data protection facts, also, important for us, the issue of contract negotiations between ICANN and the contracted parties, brackets, a debate which we are not part of, but which sets the terms of their accuracy checks. In other words, they don't have to do accuracy beyond what is in their contracts, and this is definitely because

it's a cost item, it's on the private determination side of the picket fence. If ICANN decides in a policy group that the registrars have to, for instance, do a retinal scan in order to validate identity, which, believe it or not, is one of the topics that has come up in this thing, then they have to negotiate with the registrars to do that because, of course, that's a massive cost, not to mention security risk, which also implies cost.

Anyway, this sets the term of their accuracy checks. It arose at the last meeting, possibly because one member keeps pointing out the 2013 RAA requirements. I did say that in order to change the requirements, it has to be part of the revised contract. So if you can see here, the actual meat of what we're fighting about in the scoping team revolves as much about these private contract negotiations as it does about any potential PDP that we haven't set yet. And there's an additional complex item that has arisen.

If ICANN intervenes in the name of security through GDD to demand greater accuracy checks and all this comes up and surrounding the proposal to do a survey of contracted parties to see what kind of checks they're actually doing, which has been the subject to much discussion over the last few weeks, ICANN has to be performing the role of data controller. Because they cannot intervene themselves and demand data collection and verification and big fights over the use of the word audit, but I'll use it in the loosest terms here. They can't do that unless they're data controller. It brings up the whole problem of who the hell is ICANN? I did point out at the last meeting that if ICANN wanted to be a security controller, in other words, demanding greater accuracy checks, then they would have to be a data controller. That's really throwing the

cat among the pigeons because ICANN does not want to be a data controller. They want to download this onto the contracted parties. So all of that, of course, would have to be set up in the equally private agreements between ICANN as limited data controller and the contracted parties as data controllers.

I hope I haven't lost people, but that's the kind of sort of backroom embroilment that we've been getting into all because, of course, this kind of stuff hasn't been properly dealt with in other PDPs and it's just kind of got thrown to the scoping team. And there are private sector developers of SSAD type arrangements that want this thing to speed along so they can get a contract to massage all the data. Thanks. Sorry for the digression but—

TOMSLIN SAMME-NLAR: Thanks. I just had a question there to better understand what you're saying. So if I understand, it's those issues that are delaying the group from coming into an agreement on scope, or is it that there is an agreement but not taking into consideration the concerns you've raised? I wasn't very clear about that.

STEPHANIE PERRIN: I think weasel word is the expression of the day. I mean, to my mind, you cannot skirt fundamental issues like this forever. Let me give you an example. The only thing we had in terms of a data policy was in the RAA prior to this attempt to meet GDPR and the EPDP. Of course, the only thing we've ever had on accuracy was what was in the RAA and what I

would call overzealous activity on the part of ICANN to force registrars to do accuracy checks.

I have a massive slide deck presented by Margie one time at an ICANN meeting. It was before they had taken privacy seriously. But it detailed all of the various accuracy checks that they had made the registrars do, and some of us may recall, they did this accuracy check and shutdown. If your address didn't work, they kicked you out. I was a victim of this, having moved during this period, and oddly enough, neglected to change my registration on my domain's address.

So they have to address fundamental things and where they're happening. One of the biggest opaque things has been the controllership role that ICANN chooses to take on. We did get a legal document in the EPDP eventually that more or less stated, "We're not responsible for this, this, this, this, and this." But the determination of ICANN's role, particularly in the light of the new role that it sees in the ICANN ecosystem, has to be discussed before you try and do a scoping exercise on the collection, use disclosure verification of data potentially by a third party, potentially contracted by ICANN.

I hope I'm not making things even more abstruse here than they started with, but we're missing first principles. A scoping team that's been given a narrow remit to pick off accuracy in the SSAD can't deal with these fundamental first principles. On the other hand, every time they come up with weasel words in the scoping team, if they haven't addressed the first principles, you have to fling it at them so that they realize they can't force something like that. This is a technique that I find has been used systematically at ICANN. Well, we're not going to address this

issue. We're just going to sneak it into the requirements. Those much more familiar, e.g., Kathy, with the PICs will know that they don't take on the responsibility of Public Interest Commitments. They don't define public interest—and God help us if they do—but that they just sort of wink, wink, nudge, nudge, put them into the contracts with the registries so that they voluntarily impose these "Public Interest Commitments". So, same kind of thing is going on here.

I hope that makes it clear. Sorry for the late digression, but this sucker isn't going away anytime soon and it's going to start surfacing, as you can see. I think it's important that we understand these fundamental principles that haven't been addressed because ICANN is littered with documents that don't address fundamental principles, just sort of tuck in requirements around the edges.

TOMSLIN SAMME-NLAR: Certainly. I think when the report is about to come, we'll probably get a bit more understanding of what the issues are from you, Manju. But thanks. Thanks for spelling that out. Wanting to see if anyone else has any questions. We probably had gone back to item number six, yeah, six or seven, before we move forward to item number eight. Let's move ahead then to eight. I think that's the last substantial item. Stephanie, is that a hand?

STEPHANIE PERRIN: That's the new hand. Again, sorry to talk so much, but it occurred to me the other day, I think I was ruminating after one of these wretched scoping team meetings, because that's about all I'm on these days other

than Council stuff. I have been skipping the small team meetings. I'm ashamed but there's only so much time I can give the small team on EPDP stuff.

A few years ago, we dropped the reply comments. I do wonder if dropping reply comments—in other words, you do a public comment period, their public comments are posted, and we used to have a certain limited time to respond to the other people's public comments. I thought it was a mistake at the time. And I am beginning to wonder if one of the problems in the PDP process is that if people don't get a chance to reply to the continued arguments of their conflict in the working group, well, then they have to make it time and time again during the PDP. Now, instead of having reply comments, we've got opportunities to make statements that are attached to the document. Now, that's what the public comment period used to be for. So you'd have public comments, and then you'd have replies. I would like to think that that might be a more economical way of dealing with this continued fractious debate. It's not going to stop. If you lose, you know you're just going on to the next group to make your argument again. We do it. Why wouldn't anybody else? I don't try and fault people for continuing their argument. I do try and fault them if they continue to ignore facts such as data protection realities. But I think maybe we as a Council might want to consider whether dropping reply comments was a good idea. Thanks.

TOMSLIN SAMME-NLAR: Thanks, Stephanie. I take that's a suggestion for PDP Improvements Tracker.

STEPHANIE PERRIN: Yes.

TOMSLIN SAMME-NLAR: All right. Maybe I'll speak to you outside the meeting to see if we could articulate it and send it through for consideration to the tracker.

STEPHANIE PERRIN: At the very least, I think we should review the decision, Tomslin, and just see, have we done any study? Was it a successful move? We do these things, and then we just ignore them without evaluating their efficacy.

TOMSLIN SAMME-NLAR: I think the issue that has come up with evaluation is that every time one of these comes up and people said, "We don't have time. We have too many things we're working on." But yes, I agree with you. It's worth having a look at it.

So we'll move to item number eight, which is pretty much a report being explained to us at the Council. A little background with this one, I'm not close to it, but I think after RPM Phase 1, the Council requested for a Policy Status report before they could proceed to a Phase 2 of this. There was actually one published earlier this year. If I'm not mistaken, we responded to it during the comment period. So the GDS will be presenting a revised version to the Council. I haven't read it so I can't tell what's on the revised version. Kathy, please go ahead.

KATHY KLEIMAN:

Thanks, Tomlin. Thanks for raising this. To our councilors, NCSG did submit extensive comments on this and really said that some of the UDRP, as it had been presented in an ICANN Org paper, some of the history had been misunderstood and that we really needed to get the history right and fair and its protections for both registrants and trademark owners. This is really for people who don't know what's happening. We are now setting the stage for the next major PDP on trademarks and domain names and free speech and fair use. So, the first one, which we call Phase 1, was for new Rights Protection Mechanisms. That was Uniform Rapid Suspension and the Trademark Clearinghouse and Trademark Notices, all that stuff we reviewed in the first round. But now we are coming back to the great foundation of the Rights Protection Mechanisms at ICANN, our first Consensus Policy 1999. This is the Uniform Dispute Resolution Policy, which has never been reviewed in 20 years. Never been reviewed. So in order to review the foundation of Rights Protection Mechanism, the papers and the presentation that ICANN makes for the new working group, whenever it's created, has to be right. There were lots and lots of requests, not just from us but from others, for changes.

So to our councilors, please question ICANN staff on this, how they are incorporating misunderstandings of history. It's fair. They weren't there 20 years ago, very few of us were. But they need to get this right. What the intentions were, what the balances were. I don't remember all the details, but we spent 20 pages with a long comment, and others did, too. So how are they incorporating all of the suggestions, including

factual changes that people really thought needed to be made? Thank you.

TOMSLIN SAMME-NLAR: Thank you, Kathy. I'm sure that councilors have noted that. I'll make a note to read it before we pass this. I remember we did respond to the comment.

KATHY KLEIMAN: We did. To Stephanie's question, it was during COVID. It was not that long ago, because we didn't finish the first Rights Protection Mechanism Working Group until end of 2020. So this is fairly recently, Stephanie.

To Tomslin, let me just share that the summary didn't have all the details in it. A summary report that's created the comments is just that it's a summary. But there's a lot of underlying stuff, not just in our comments but in others, that talked about how important the balance is of the UDRP and understanding how hard it was to get that balance 20 years ago, because NCSG didn't exist but Non-Commercial Users Constituency did. We spent hundreds, maybe thousands of hours fighting on it to make it more balanced. So it wouldn't hurt free speech and free expression. Thank you.

TOMSLIN SAMME-NLAR: Thanks.

KATHY KLEIMAN:

So it might be a good idea to review our comments, in addition to the summary. And if you need me to help dig them out, I'll be happy to help dig them out from the comment process.

TOMSLIN SAMME-NLAR:

Noted. Thank you. All right. Pausing to see if there are any more comments on this, or questions. All right. We'll move on to the Any Other Business item then.

So, item number nine, we have three sub items under that. Brenda, please, if you can scroll down. Thank you very much. An update on— there was an action item on the Policy Status report for Expired Domain Deletion Policy and Expired Restriction Recovery Policy. When this was discussed in the last Council meeting, there was some sort of agreement from councilors under the contracted parties that they do not know of any substantial issues with these two policies and might not require us to request for a formal Policy Status report. However, there was a suggestion that we do check with the contracted parties if they can send something to formally say they have no issues with it and ask for data. So we're looking for data points. The Council was looking for data points to evaluate how these two policies have been functioning to determine if we need to request for a full Policy Status report. The only reason is because previously when this came up on top of the action decision, it was considered not an agenda item so it was put at the bottom, but then it came up again recently. So the Council has asked for some data points from Compliance as well to use that to determine how to go about this. So on this, just an update on those data requests will be provided to Council.

The second sub item under this is the GNSO liaison to the GAC. We agreed with Manju. From the last meeting, we agreed that we would like this role to be readvertised because we were not happy with how the person in the role was playing it out. There was a proposal sent to the Council mailing list by Manju for the role to be advertised. Unfortunately, we tried to reach out to the contracted parties, but that didn't get any verbal or written support. There was support but only in the back channels. They didn't support it on the list.

There were two aspects. The term limits that was raised by Manju and the fact that the position needs to be advertised again so that other community members could apply for it. Only the term limits gained traction on the list. I have asked the question on the threshold as required for action to be taken regarding that clause in the job description that says if the Council is not happy with the liaison, then it will not be renewed. But I think leadership was monitoring to see whether there was significant support, but unfortunately, there wasn't. So this will be brought up again in the meeting, those two points, to determine support for either of them under term limit. I think there's a proposal for four years with annual review of the liaison position. Thanks, Manju, for raising a hand because I was going to ask you to elaborate more on this. Over to you.

MANJU CHEN:

Thank you, Tomslin. How do I say this? I'm not complaining. Just to clarify it first. I asked the NCSG councilors to support the proposal in the mailing list, but no one did. So I think that was actually one kind of chance or opportunity for like Russ, because in his reply, he framed that

as one supporting the change, which is me and one against the change, which is Paul. He frames it like it was one against one. But actually, if you think of it, I raised this as NCSG. So it's actually six against one. But the fact that nobody from NCSG spoke up in the mailing list to support this proposal make it easy for him to do it that way and shut down our proposal. So I hope our councilors to be more supportive because I think that's what we want. And if others stay silent, like Paul and like Philippe had said, it's easy to be framed as it could be they don't care. They don't like it or they like it, but they just don't care enough to voice their opinions. So that's one point.

Another point is while I agree with the four-year term limits. I think another strategy we can use is actually—so the councilors, we have four-year term limit, but they get reelected every two years. While Jeff has been here for two years, it's a great opportunity to reopen the position. And of course, we'd like to see what we don't like [inaudible] we will say we'd like to see if he could be reelected. And it's just a gesture to still open the position, right? I think it will be better requirements. It's two-year terms but they can be reelected ones. So, it's still four-year term limits, but we do it two and two. That was my comment. Thank you very much.

TOMSLIN SAMME-NLAR:

Thank you so much, Manju. I take your point. I'll just comment that in fact from the way leadership was looking at it was not that it was your proposal. It was said that it's an NCSG-only proposal, so only NCSG was putting forward the request to put this out for reelection. What they were looking for is whether another stakeholder group would support

it. Unfortunately, none other did. But it was definitely—sorry, I don't know if you lost me there for a second.

STEPHANIE PERRIN: Yes.

TOMSLIN SAMME-NLAR: Okay. It was seen as an NCSG proposal. But I still agree with you, Manju. But it would still have been helpful for NCSG councilors to add the voice on to it. I know Stephanie's hand is up. Stephanie, please go ahead.

STEPHANIE PERRIN: Thanks. I think we have a conflict of interest problem here because the Registrars are now headed by a former GAC member, Ashley. I can see where it might be rather awkward for the Registries to jump in. Furthermore, we've got this burnout problem that time after time we refuse to address. We're lucky if we can get enough members to staff our own functions, let alone find one to staff a thankless role like GAC liaison. However, since the GAC has frequently been the enemy of free speech and privacy protection and human rights implementation, solely because governments tend to send their law enforcement people and justice officials—rather, industry officials—to these meetings, we need to be rather on to this one, in my humble opinion, at the very least, if we fail in this attempt to get the position reviewed. I mean, the very idea that a non-elected volunteer role should be staffed for four years, even our ALAC rep on Council doesn't get four years in there. Of course, we have virtually no say on the ALAC and ccNSO liaisons, but they don't

send them in for four years, thank goodness. I know we're short of people willing to take active roles.

But here's a really good role for a learner who wants to get their feet wet, and that is to shadow the GAC liaison and the NomCom appointees. We've also had problems with NomCom appointees. Paul McGrady is trying to be helpful. But he's been definitely advancing an IPC agenda, in my humble opinion. This always happens with the liaison—not the ccNSO liaison, obviously. I suppose that's not obvious. But the ccNSO liaison does not have a record of being a pain in the neck. But the other ones could be, especially the voting members. The new role of this GAC liaison is becoming so much more powerful than it used to be that I think we have to at least track it so that if we fail in limiting the term, that we can at least put up a vociferous review at the end of the year. Thanks.

TOMSLIN SAMME-NLAR:

Thank you, Stephanie. We do have the review, which is in the proposal. I think they wanted the review at the end of the term. So the annual review is there in the proposal. Manju has made a good point of proposing that in Council, two year terms, and then it's put out again for reelection. Obviously, the other aspect to this is that the time between now—we have about four weeks, right, to ICANN75 where we're supposed to actually get a new liaison into that role, so we should have put the EOI out already. So which means it's likely that we are going to succeed in actually getting the role advertised in time for ICANN75. However, if we can work on the text of that new modified job description and say, "Yes, we agree that we don't have time to go out

and get someone new, but we should include the text that this role is two years renewable, reviewed every year and two years renewable for a maximum of four years.” That text I think should be the priority. We ensure that it’s in there.

I don’t know, Manju, what do you think and the rest. All right. I see Manju says, “Sounds like a good one.” Stephanie is putting her hand up to go look for ... I’m kidding. “Getting skilled members enrolled in NCSG.” All right. I don’t know if there are any other comments on this, but I think we have a plan on that. I think that we will propose that text and we can work offline to get the text in a position where we’ll propose it.

Closed generics facilitated dialogue. Proposed approach for identifying GNSO members. I don’t know if we’ve had this update on what the final approach is. This has changed over time, but the current proposal is that GNSO will have six members, if I’m not mistaken. So that there will be one per stakeholder group, then the Council chair, and the SubPro leadership representative as well on there to provide information as the group talks about this. That’s the proposal of the composition of the group, which has been put forward to both the Council and the GAC.

The GAC has tentatively accepted that proposal saying as long as it allows them two to provide six. Because initially, it was meant to be four each group. They might put forward six, but I understand that they might have issues getting additional people. They might still have only four despite saying they want their freedom to also put the same number as GNSO is proposing on this. Of course, ALAC had requested for a single member with an alternate, which was granted by the small

team during the discussions on this. That's the proposal and that is the approach that will be discussed on this item on Thursday.

The other thing is I don't believe it's possible at this point that this group will meet at ICANN75 because they will require every member to be there in person. It's everyone who is currently on the funded list, and GNSO, the stakeholder groups, have not even yet appointed their members to the team. So it's looking very unlikely that they will meet for the first time in ICANN75. This is possibly post ICANN75 meeting that will start.

I think I've talked enough on that. Please, if you have any comments—I wouldn't know. Just to answer Kathy's question, we do not know the four. No, we don't. Open for any comments or suggestion. I think we are almost at the top of the hour. But one minute left for any comments on this.

All right. If there are no more comments, I'd like to request the Policy Committee members to please—I've made a request on the list to any additional topics you want to see at ICANN75. I'm sorry, Andrea, that I haven't given you those topics yet, but I'll be sending them this week. Committee members, if you could please confirm with me on any topic you want to see at ICANN75 Policy Meeting, please let me know by the end of tomorrow, please. Thanks. Kathy, I see your hand up. You wrap up.

KATHY KLEIMAN:

First of all, thank you for a great meeting, Tomslin. You're absolutely right, issues that we should discuss in Kuala Lumpur. That's definitely

first thing. I want to mention something else. This is completely any other business. But I saw a question go through, question number five. I think it had to do with new gTLDs. I think we only had two weeks to comment in the middle of the summer. I just want to ask, please don't do that. Please don't let Council do—it's impossible to turn things around in the summer in two weeks, especially this one. I'll provide some comments in Kuala Lumpur about this. But this one didn't have context, didn't have history or background. But yet, it's a really, really important question.

So I urge our councilors, the more obscure the question, the more we need time to respond, the more the world needs time to respond. Not less. I may have misunderstood this but I think something went through in the dead of summer in two weeks. Let's not do that. But back to what you said, planning for Kuala Lumpur is absolutely critical. Thank you and thank you for this meeting.

TOMSLIN SAMME-NLAR: Just to add, if councilors have missed such a thing, please let us know because I'm pretty sure I don't understand the seasons in the northern hemisphere. So please let us know as well if it's a difficult time to respond so that we can push back as early as possible. Thanks.

KATHY KLEIMAN: Thank you.

TOMSLIN SAMME-NLAR: Thank you all for coming today for the meeting and hope to see you on Thursday. If not, see you in KL. Bye.

BRENDA BREWER: Thank you all for joining today's meeting. The meeting is adjourned.

[END OF TRANSCRIPTION]