

ICANN

Moderator: Maryam Bakoshi

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6:45 am CT

Maryam Bakoshi: Good morning, good afternoon, good evening. This is the NCSG Open Policy meeting on the 31st of August, 2016. On the call today we have Ayden Ferdeline, David Cake, Julf Helsingius, Marilia Maciel, Ed Morris, Niels ten Oever, Rachel Pollock, Rafik Dammak, Remmy Nweke, Stefania Milan, Tapani Tarvainen, Avri Doria, Tatiana Tropina, Sam Lanfranco, Joy Liddicoat. And from staff we myself, Maryam Bakoshi.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much. Over to you, Tapani.

Tapani Tarvainen: Thank you, Maryam. So for the record this is Tapani Tarvainen speaking. And welcome, everybody and my apologies for the very late announcement of the time of this call.

Without further ado our agenda is mainly tomorrow's Council meeting preparation. And you see in the Adobe screen the agenda. So let's move on to that.

The first item, the substance there – okay there is opening remark on (unintelligible) focus areas, update on few things, topics I'm not sure if anybody has any information they'd like to add. And (unintelligible). And the consent agenda confirming date for the selection of the GAC GNSO liaison which seems clear enough. I'm not sure if anybody wants to comments on this, for example, they are actually selecting the liaison is a matter of interest to us, definitely. But tomorrow it will not be discussed, I understand only confirming the dates. So that does not seem to need more discussion at this point.

The fourth item we have tomorrow is the Council vote on the approval of the recommendation from the Standing Committee on Improvements. I think we'll move – leave that until later in the hope that Amr will join us because he's presenting the motion. We'll get back to that later when hopefully Amr is joining us.

Okay then let's move to the Item 5, adoption of implementation advisory group recommendations, operate procedure on Whois conflicts with national law. We would really like to have Stephanie Perrin on that and she's not with us there. Does anybody else feel up to talking about this? None of our councilors present have anything to say here?

Marilia Maciel: Hi, Tapani. This is Marilia speaking. And...

Tapani Tarvainen: Okay, please go ahead, Marilia.

((Crosstalk))

Marilia Maciel: Yes, do you want a summary on the topic of privacy, right?

Tapani Tarvainen: Yes.

((Crosstalk))

Tapani Tarvainen: Yes, go ahead.

Marilia Maciel: Okay. So the motion that we have tomorrow is a motion to approve a report that introduces some changes on the previous GNSO approved policy on the conflict between the RAA contract and national privacy laws. This policy was approved some years ago and in spite of having that policy in place, this policy has never been invoked by the registrars before, which is – was one reason to believe that there was some problem and that the policy could be sort of improved.

The mandate of this group that has just produced the report in front of us did not extend to the point of changing the policy that was in place, so actually that was very narrow mandate. And the report that they produced basically what it does is to verify what would be the additional triggers that could justify that registrars would not comply to the – the contract that they had with ICANN because that would put them in a difficult position to not respect national law.

And after some discussion in the group they have approved one additional trigger which is the possibility that a national authority responsibility for privacy and data protection provides a statement to the registrar saying that the registrar is not in compliance with national law. Other than that the previous policy only said that the registrar could act if there was a case being proposed against it either in court or in support under investigation by law enforcement.

So it lowers the threshold that registrars have in front of them to say that they cannot comply with a particular provisions of the Whois policy because that would put them in conflict with national law. So this is the report that we have in front of us which creates this additional trigger. I think that the main problem that we have, and I think that Stephanie put this very well in her dissenting opinion in the report is that maybe this is not enough of change; maybe this trigger is not so adequate.

First of all, because national authorities, they usually do not provide opinions like this. When you have like a data protection authority in the country it will only act if it's provoked by a third party saying that, you know, there is a problem with regard to the law. So it needs to be provoked. It will not provide an opinion. So that may not work as a trigger in all jurisdictions, and maybe work in some of them but not in all.

And one additional problem, and this is particularly with the process that has been envisioned by ICANN when the trigger is done, is that GAC member who is the country in which this national law is being questioned, it needs to be bought into the process and ICANN needs to (get) the opinion of the national GAC representative.

And another point that was raised as a – in Stephanie's dissenting opinion was that the GAC representative usually is not responsible for privacy and data protection on policy nationally. And usually even data protection authorities, they have an oversight power over the executive branch of the government.

So that sort of creates an imbalance if you may – on the national level because, you know, you will hear that governmental or the executive branch that maybe even himself having problems with not respecting privacy laws

nationally. So that does not respect this national balance and the power that data protection authority usually has even over the governments to oversee them.

So there are just problems. I don't know how we should position ourselves in the face of this. I'd like to hear others because the role of the GNSO Council is not to rediscuss or reopen issues that have been discussed in the working groups or in the taskforces or whatever, it's to vote for the report if the report followed the due process, if it was in agreement with what was enshrined in the charter that created the working group and so forth.

So we cannot reopen substantive issues in the GNSO Council meeting, however I feel that the points that were raised in the – Stephanie's dissenting opinion they are strong points. It seems to me that these attempts to correct the policy is insufficient because the policy itself that was approved by the GNSO before has problems. So it's sort of attempt of a quick fix that will not address the problem really and will be consulted again probably with the same issue in one year or two.

So I am tempted to vote against it as a message that we are not in full agreement with regards to this report. However, I would like to hear others, maybe Amr as well if he's online because he always makes a point very strongly that we should not reopen discussions, but maybe we have a ground for that. Thanks.

Tapani Tarvainen: Thank you, Marilia. Might just a minor tidbit of some interest perhaps that I was yesterday in the meeting of Finish Data Protection Board and the issue came briefly up from the discussion, maybe, yes coalition (unintelligible) new data protection regulation comes into force.

But I see that David has his hand up and so, David, please go ahead.

David Cake: Hello. Can people hear me?

Tapani Tarvainen: We can hear you loud and clear. Go ahead.

David Cake: Yes, yes, I just – I'm generally in agreement with everything Marilia has said. This is a – and with – in Stephanie's dissent, this is a basically a fairly terrible and somewhat ridiculous policy. The registrars have complained about it many, many times because it essentially says that they need to, you know, be – need to be in active violation; they can't sort of arrange their business in order to comply with European data protection law. They can only arrange it to non-comply, wait until they are told it's wrong and then apply the change. Which is sort of ridiculous.

ICANN has been extremely terrible on this in particular existing that it must be directly from a national authority and that the advice of the Article 29 Working Group, which coordinates all the national authorities, is not sufficient and other sort of ridiculous things.

But apart from it being – it is a terrible policy but it is the policy we have. There were reasons why this report was constrained from fixing the problem more generally because it's essentially an implementation report, not a new bit of policy work. I don't think there's any way we can sort of object to the report. I think we'll have to support it because the previous status quo was worse. But it's – clearly there's a lot of widespread dissatisfaction with this situation from us, from the registrars, probably the contracted parties generally.

I think though obviously the IPC argued for this position. I think we're going to vote for it but I think we will – there will probably be some debate and there will – or discussion as there was previously in Helsinki and I think we should strongly, you know, express our opinions about that's not so good in support of the registrars. If the registrars approach us to express some form of dissent I think we should agree with them, though I don't think they have yet. That's all really. Thanks.

Tapani Tarvainen: Thank you, Dave. I see that Stephanie Perrin has joined us. Okay I guess you notice that we are talking about the Whois report that's coming up tomorrow. Would you like to add your voice? Because you have been the most active I think, in trying to point out the – how ridiculous this thing actually is (unintelligible) Stephanie, you had a comment? No? You're still having connection troubles maybe.

Stephanie Perrin: Hello, can you hear me?

Tapani Tarvainen: Oh yes, please go ahead.

Stephanie Perrin: Okay, very good. Sorry. I have pondered this and I was actually thinking that perhaps we should be raising a motion to revisit these (new) policy because as you probably know if you're read any of the transcripts on this, I wound up doing a dissenting opinion as did Chris Wilkinson. And they're listed as appendices.

This was only a – and apologies if I'm repeating what Dave said – this was only a review of the trigger and the procedures, it's the conflicts with law procedures, which wasn't working. However, the whole policy is crazy if you ask me.

And it was drafted many years ago and it hasn't been revisited. Many years ago being, I believe, 2006. And we have different procedures now for drafting policies in general. You might say, well why don't we just leave it and roll it into the RDS group that we're working on? And that's likely logical, but I don't think we'll actually get to this conflict with law policy for probably another two or three years.

So raising the issue of a motion at Council to revisit this policy in general might be possible. So I don't know. I think we should have a discussion about it. In any case, there's no real point in slowing down this report because procedurally, even though it was ludicrous, we were put in place to review the procedure. We reviewed the procedure. If we want to look at the policy that's a whole other process.

So I don't know how people feel about that. Those of us who are on the RDS group are probably thinking, oh God, this is – life is difficult enough with just the RDS thing. On the other hand, this is a really crazy way for the registrars to manage their business. And I think we would get support from the data protection commissioners on this to revisit this.

So that's pretty well the only thought that I had. Yes, we pretty well have to vote it through. I don't see any point in stopping it. Although I'm open to discussion on that. The real question is should we revisit the policy?

Tapani Tarvainen: Okay, thank you Stephanie. I see that Marilia has her hand up. Marilia, please go ahead.

Marilia Maciel: Thank you, Stephanie. It's very important to hear your opinion because you were in the group. And I don't know if you were here when I was asking but

that was exactly my concern that the GNSO Council does not reopen substantive discussions that were held elsewhere.

But at the same time, the policy – what this report says is that the fact that the privacy of individuals may be being disrespected on the ground (unintelligible), you know, even if the registrar finds an opposition between national privacy laws and the contract he cannot trigger any process.

So what really matters is when a law authority comes to the registrar and threatens with litigation. In the end of the day it's all about preserving the system, preserving ICANN's contractual compliance, not about respecting the law or having the individual at the center of the thing of the policy. It's not about privacy, it's about contractual compliance and making sure that compliance extends and is respected as much as possible.

So I think that the focus is misguided. I agree with you that this falls on the substantive side, maybe, and that we cannot reopen discussions. I don't think that there is any way that we can block the approval of this report. However, when you look at the transcript from the future, and then history sees what happened and how the different councilors voted, I think that maybe it's important to have dissenting voices just to show that this was not a consensus, there was people that really opposed to the point saying, I don't want this to move forward.

So I think that it's important for the record; not that we can change the outcome. But I mean, each councilor should vote according to their mind. But personally I was thinking about, you know, voting against it only for the fact of recording that this is not consensus. There are dissenting views on that. And we supported that and we should come to discussion of the policy. I completely agree with you, we won't stop here, but at least it creates, you

know, a mark that we are not in full agreement with it like you have put in the document. And that was so important to include your dissenting opinion.

Thanks.

Tapani Tarvainen: Thank you, Marilia. Amr, you have your hand up. Please go ahead.

Amr Elsadr: Thanks, Tapani. And thanks, Stephanie, for making it to today's call. I have a couple of questions and then I have a comment but I'm not sure whether it's relevant or not. But my first question is just that I really want to be sure what it is we're voting to adopt.

If we do vote in favor of this motion if I'm not mistaken, that means that there will be an alternative trigger to the previous one which meant that the original trigger to sort of kick start this policy was that a contracted party, such as a registrar, would have to receive some sort of notice or basically a government agency would have to find it breaking the law and let them know that they're breaking their local laws and then they could sort of launch this process.

And with the report from the IAG suggesting that there's an alternative trigger be included as well, which is, I believe a letter from a law firm or something to that effect. So if we do not vote in favor of this does that mean that the alternative trigger will not be available to contracted parties? And is this something that we want to support or not? That's my first question.

Notwithstanding that the whole process sucks and I agree on that for sure. But I just want to be sure that I understand what it is we're voting to adopt here.

My second question is regarding the motion itself. And I note that it was submitted by James Bladel who's the Council chair and he's also a rep on the Council for the Registrar Stakeholder Group and in submitting the motion he also indicated that his submission of the motion did not – does not necessarily

mean that the registrars are supporting the motion or are going to vote in favor of adopting it.

And I also noted in the group's final report that the issue of the alternate trigger did not – or may not have received the majority – may not have received like majority support from the members of the group. And so I'm a bit confused if this group did not have – did not achieve a level of consensus that allows it to look forward to sort of recommendation and the submitter of the motion does not appear to be supporting the motion either, who exactly is going to support this and since this is not exactly a consensus policy I'm assuming it will require a simple majority on the Council to adopt.

But if we do vote against this, are we going to be the only ones that vote against it or will there also be other groups in the Council? I'm just hoping Stephanie could give us some sort of sense of what folks on the group, including registries and registrars, feel about this.

My last comment on this, and regarding privacy in general, a few days ago, last week I think, I sent an email to the Policy Committee list. It was an email that we received on the Implementation Review Team of thick Whois. And there was a recommendation coming out of that PDP for a legal study to be conducted by ICANN Legal staff on how much thick Whois may conflict with the – with privacy and data protection laws.

There were problems that came up but another part of the recommendation was that if changes occur in the – in sort of the setting for privacy and data protection, particularly in the EU, which is being used as a benchmark, that this should be brought up – the IRT and the GNSO Council should be informed.

And so I believe the Implementation Review Team is preparing something to that effect that particularly I think concerning the fact that safe harbor is on its way out and this may sort of create a reason why the GNSO Council or the GNSO in general may need to take a closer look at privacy and data protection laws and how they conflict with Whois policies.

And so I'm just mentioning this now just to support Stephanie's earlier suggestion on us possibly submitting a motion requiring some sort of legal review of Whois policies, where they stand and where they're headed. But, yes, my first two questions would be really grateful if Stephanie could shed some light on those. Thanks.

Tapani Tarvainen: Thank you, Amr. Stephanie, would you want to reply to Amr?

Stephanie Perrin: Thanks very much. I was actually a bit surprised in this implementation committee because basically the registrars, while saying this is completely nuts, and this (unintelligible) they kind of caved towards the end. I think everybody got tired of fighting.

This was Julie Hedlund chairing this thing and basically reminding us that all we could do was discuss whether a letter was a better idea. And so they kind of reached a consensus that this would be better than what we have now, even though it wouldn't likely work.

So I was scratching my head thinking we should go to the wall on this. But the consensus seemed to evaporate. So I really don't know. I did pop some queries in this regard on the Skype channel that we have with the registrars. And didn't get any response.

So it might be worthwhile just checking again - and I'll do that as soon as we get off the call – before the meeting tomorrow. But my sense is that they don't really want to – they just want to fly this through and get on with it. And they didn't have a plan. There are rumors that they have a plan for the RDS. I wish that would be true because we seem to be spinning in circles on the RDS group.

But I certainly agree with Marilia and Amr that it's a good idea to check with them again and see what they're up to. I would be worried about voting it down just in case we pick up some stray votes and it goes down and they weren't on (ties). Although I agree that if James is saying I'm putting it forward but I'm not necessarily supporting it, that's an odd thing for him to do. Plenty of people could have put it forward like say, for instance, the IP guys. They're the ones who want it.

Amr Elsadr: Thanks, Stephanie.

Tapani Tarvainen: Okay, thank you Stephanie. Anybody else want to talk on this? Okay, I would like to add just a possible thing that might have an impact on this, and therefore the future, that I did – was in the Finnish Data Protection Board meeting yesterday and that is a government body that can make – take positions in principle without having a concrete case, court case at hand yet.

But it's not exactly easy to do that. This issue was briefly mentioned, not discussed in substance, but how it might be able to bring – yes, to get them to make a pronouncement of the issue. But that's – don't say if that's going to happen or anything.

So okay Avri, you have want to speak. Please go ahead.

Avri Doria: Yes, thank you. Avri speaking. So I want to try and make sure – I'm being a little slow this morning. So the issue that some of us have is that while it needs to be fixed and it needs to be fixed much more completely than this – than the addition of this trigger does, that this trigger at least provides something but it's not adequate. And so the decision the Council members are making, and this is a question, that are – should we vote for something that's not good enough or should we insist on something better? Is that pretty much the issue? Or am I not understanding?

I certainly personally think that adding another trigger is a good thing as long as we don't assume that that has solved the problem. And I think the people that talked about there needing to be a deeper – in 2006 getting this far, you know, was an achievement and in those days, as I said in the chat, the Council had absolutely nothing to say about implementation.

So, you know, and since it's never really been tested it was – at that point it seemed like a good thing. At this point it seems like it's limited and it does need to be extended but it seemed to me that adding this trigger is a good thing even if it's not a sufficient thing. So I'm trying to understand. Thanks.

Tapani Tarvainen: Thank you, Avri. Does anybody else want to comment on this? Amr, you have the floor.

Amr Elsadr: Thanks, Tapani. And thank you, again, Stephanie and Avri. I just – to follow up with my question in the chat. I wasn't sure but my understanding was that the scope of this group, the implementation advisory group, was just to review the triggering mechanisms and not to entire policy. And Stephanie confirmed that in that chat. I was just wondering if anybody has any background on why that is. And it's my understanding that the GNSO consensus policies are

meant to be reviewed periodically and this is sort of like a standard thing in the GNSO. We're supposed to review GNSO recommendations over time.

And I was just wondering why there was so much emphasis on making sure that whatever comes out of the implementation advisory group had to match the original policy and was – and could not change it. And was just really looking at sort of creating this alternative trigger. I do appreciate this wasn't a PDP working group, but was there at least any discussion on a complete overhaul of this policy and like a sort of 360-degree sort of like review of it from start to finish? Or is this something that is not coming down the line. I'm just wondering if this conversation took place at all? Thank you.

Tapani Tarvainen: Thank you, Amr. I see Stephanie, you have your hand up. Please go ahead.

Stephanie Perrin: Stephanie Perrin for the record. Absolutely, you may be sure that Chris Wilkinson and I battered them to death on that. And we were constantly reminded by Julie Hedlund that the scope of our group, which had been set up, was only to review the triggers, the mechanisms. And it was to solve a total impasse where some of the registrars, notably one Michele Neylon, had basically said this is impossible, I have to break the law and expose my company to fines before ICANN will allow me to proceed.

And basically they were – this is blocking visibility to sell the new gTLDs because he wasn't in compliance with ICANN's contractual requirements and the 2013 RAA, which stipulate that they have to adhere to this policy. And he could not get the DPA to give him a ruling. And therefore he was in no-man's land basically.

So they only raised this working group to solve issues that had been raised at a very high level. And bear in mind that there are two conflicts with law. One is

with the requirement to put information into the Whois. The other is a requirement which they also have to seek a waiver for, on data retention. And they're two separate things.

So in answer to Marilia's question, the new trigger requires ICANN to seek advice from the national GAC member where the law is put into question. What's the weight of the member's opinion? That all depends on the authority with which the members speak. And as I've said before, Carlos isn't on the line so he can't bonk me over the head on this, I am convinced that quite a few of those GAC members are not doing proper consultation at home.

I've raised this a number of times; I've raised it on the EWG and the US member said, it's not my problem if countries don't coordinate at home. Because basically it's unlikely that a telecommunications person, at the level that they usually send to the GAC, has any authority to speak on behalf of an independent data protection authority.

So, you know, this was equally stupid as a workaround. However, that's what's going on here. Again, it's very like the letter that the ICANN sent to Jacob Kohnstamm, when he was complaining about the 2013 RAA and the Jacob at that point was the head of the Article 29 group that represents European data commissioners. And so they basically said we don't think he speaks for governments; we think the GAC does.

So basically go away, don't bother us. Which I've never seen such a letter to independent data protection authorities. It's just astounding. Anyway, I cannot tell you, you're bringing back flashbacks of how frustrated I was on this working group. But in answer to Amr's question, yes, this group was totally constituted to break that logjam, which I presume Michele had managed to trigger something at the Board level, and they set this up. Quite frankly, it was

already going when I joined and I haven't checked on exactly what Board direction authorized it.

But that was the – that was what got this thing going; I won't use the word "trigger." And there was – there was an absolute refusal to even contemplate the fact that the policy hadn't been reviewed since 2006 and desperately needed to be reviewed, that is.

I do agree with Avri, I mean, I think that way back in 2006 this was a victory, it was all anybody could guess. The problem is every other policy seems to get reviewed more often, with the notable exception of the rights protection mechanisms. And – but we would be putting the data – the registrars back on the hotplate if we didn't pass this workaround. So it's extremely frustrating but I'll be surprised if they don't say yes, please vote for it when we check.

Tapani Tarvainen: Okay, thank you Stephanie. I see your mic is still on and your hand is still up but it sounds like you stopped speaking. Anybody else want to comment on this? I think we have pretty much have a consensus that the policy basically sucks but this report still will pass anyway.

So if nobody else wants to comment on this let's move on, the agenda we're actually backwards to Item 4, which we – where we were decided to wait for Amr to join. So we have a Council vote on the approval of recommendations from the Standing Committee on GNSO Improvements. And Amr is presentation (unintelligible) in that in the session's meeting tomorrow so you can present it to us as well I hope. Amr, you have the floor.

Amr Elsadr: Thanks, Tapani. This is Amr. This is – these are recommendations concerning two projects coming out of the Standing Committee on Improvements. And these will likely – if the motion is adopted – will be the last recommendations

coming out of this committee as part of the motion also indicates that it will be disbanded and replaced by the GNSO Review Working Group, which is still in formation as it's still being formed.

Anyway these two projects, one of them is – was triggered as a result of the last GNSO Council chair elections in Dublin last year. And it's just seeking to amend the GNSO Operating Procedures by sort of spelling out the procedures for electing a chair and listing different scenarios in which a chair is not conclusively elected and sort of step approach of how to approach this and deal with it in an efficient manner so that GNSO Council business is not delayed. And so that's a – hopefully a swift resolution to a failed election can be achieved.

It's rather straightforward, I could go through the steps themselves if you like but I did – I do believe I sent those to the NCUC and NCSG list when they were open for public comments. But basically the recommendations are for vice chairs to sort of serve as interim chairs in the event that a chair is not conclusively elected and for a timeline to be established by which a chair does need to be elected.

And it also takes into consideration instances where vice chairs are term limited and will not continue being vice chairs, and sort of a stepwise approach that may end up in the GNSO Council – the NomComm appointee to the Council who is a nonvoting member, so this is the houseless NomComm appointee I'm referring to so this is sort of like the last case scenario where this NomComm appointee would be appointed as interim chair to – simply for the purpose of overseeing the elections and then possibly taking care of some Council business that needs to be addressed during that period.

It's a pretty solid proposal as far as I'm concerned. I don't know if there are any specific questions to it or folks who would actually like me to go over each scenario in detail or not. And if you do let me know. Personally I think it's a very thoroughly thought out process and hopefully it will give the GNSO Council direction on how to proceed if we do face what we did face in Dublin and it just makes things easier and more predictable in my opinion. And I would recommend – I would recommend adopting this motion.

The other part of the motion that I mentioned – oh, there was also the other project, sorry, I forgot about that. The other project the SCI was working on and is submitting these two projects together is the – is sort of like formalizing how motions are submitted to the GNSO Council.

And no significant changes were really made to the current practice except for that it was sort of pointed out that if there is not a seconder to a motion by the time the motion is meant to be discussed during a Council meeting then the motion would not be discussed at all. So it is not reconditioned that there has to be a seconder for the motion or else the motion will not be discussed during the Council meeting.

I was hoping when the SCI was working on this – and I do represent the NCUC on the SCI, not the NCSG, but I was hoping to include a deadline to making amendments to motions, friendly or otherwise. I was trying to go for something like a 48-hour deadline prior to the Council meeting. And my intent in this was so that, for example, the NCSG would have an opportunity to discuss any amendments that were put forward during policy calls like this one, which typically take place 48 hours or two days prior to the Council meeting.

But this idea was resisted and I think the sense both on the Council and on the committee was that they would like the process or the procedures for submitting motions to be as flexible and as easy as possible and not set constraints like (unintelligible) out deadline to amendments. So we basically have the same procedures for submitting motions, they've just been codified, or they will be codified in the operating procedures that this motion's adopted.

And then the second part of this motion is a follow up to a motion from last month's council meeting when the GNSO Review Working Group charter was adopted. The motion included that once the SCI completed its final two projects, which are the topic of this month's motion, that it would be disbanded and that its mandate would be picked up the GNSO Review Working Group, which is sort of an added duty to that group apart from implementing the recommendations of Westlake, the independent examiner, the recommendations that were adopted by the ICANN board, that is. So effectively if this motion is adopted, the SCI should be disbanded, and that was included in the resolved clauses of this motion.

I'm happy to take any questions. Thanks.

Tapani Tarvainen: Thank you, Amr. It sounds like for once we have a reasonably well done recommendation to go. Any questions for this case? It seems that Amr presented it so comprehensively that everybody's really clear about this thing. Okay.

So if there are no questions or comments on this let's move on. Item 6 on the council agenda tomorrow is discussion on ICANN board letter on new gTLD subsequent procedures. Would any of our councilors to take this on? No? This is something that you don't think concerns us at all? Okay. Avri, please go ahead.

Avri Doria: Okay. Not a councilor and therefore paused for any other council members a chance to comment before I did, but I am the co-chair of the PDP working group that is working on the new gTLD. And just to inform what we've done is we went to Paul McGrady, who is the liaison for this group in the GNSO Council and basically made the request that if the council is going to do any sort of substantive answer other than to tell the board we have a PDP and this is their schedule, et cetera, we would ask that they, you know, come to us with a question.

Just to let people know within the working group itself, I'd say there's a split. There's a large group of people - and NCSG has some people in the group but not many, and of course as chair in the group I'm in very much a neutral role but - as co-chair of the group with Jeff Neuman. The split is basically that we have a large body of people who say no, we do have to work through all of these issues before we rush on to another new gTLD round subsequent procedures but it will be at most probably a round and that we need to finish all of the reviews and that we need to finish both the review and the recommendations that we've planned to give the council.

There are other people that are saying no, no, we've got to get on with it. You know, there's some of the things, like for example for brands, there's absolutely no reason for us to not get going. Other people have said, hey if somebody's willing to do it under the old rules, why not? Let's let them have, you know, a - let them apply for names now. You know, why should they have to wait while you muck around with the rules when they're happy with them.

And then there's probably a small number of people that sort of said, you know, yes we should wait until all the reviews are done, but there are some

areas like developing economies and such where, you know, we didn't do such a good job so maybe we could do something for them in the meantime before we finish it all. But - so what we're saying come back to the group.

Now the last issue I wanted to mention is that some people are asking well can't you segment so that there'd be interim deliverables on some of these so that we don't have to wait for absolutely everything before moving forward? But our initial response on that, that's possible, we'd have to look at all of our schedules, but also that's something that would need to come back from the council to us as sort of a charter change because as of now we have charter with a single final deliverable that covers all the issues.

And so in a sense, you know, we ask that they consult the group before they do anything but we acknowledge that if there's going to be anything like interim pieces delivered, then we need to change the PDP charter. And at that point, you know, that's sort of new ground, we have split issues up into multiple PDPs, but I don't remember an instance -- and I could be very wrong because I don't pay close enough attention to everything on the, you know, the right side and everything else -- where we've done deliveries. But anyhow, we don't quite know how we would do it. So that's pretty much where from the perspective of a co-chair of the PDP working group I see it. Thanks.

Tapani Tarvainen: Thank you, Avri. Stephanie, you have your hand up. Please go ahead. I can't hear you, Stephanie.

Stephanie Perrin: Can you hear me now?

Tapani Tarvainen: Yes, now we can hear you. Please go ahead.

Stephanie Perrin: Okay great. Sorry. I thought we had a discussion on this and agreed that -- and maybe it was just a bunch of us, I don't know, possibly at the last meeting -- that this one there were so many things that needed to be examined in the context of the next round, policies that weren't working, that we should go slow and not try and segment and go forward because it was such a - so many issues. I won't say it's a mess.

But personally I'm deeply concerned about content regulation creeping into these new gTLDs and being left in the hands of the registry, the successful winners. So I'm not sure that we have adequate policy to rule on that, but it strikes me that that's a very dangerous issue from the perspective of civil society.

So my own gut feeling would be how on Earth could you segment this and take pieces that are safe and go ahead with them? It doesn't seem to me that there's much that is safe if the policy is not stable on how these things have been done. But I don't know enough about this, so I'd love some answers from those of you who are up to speed on this. Thank you.

Tapani Tarvainen: Thank you, Stephanie. I see that Marilia you have your hand up. Please go ahead.

Marilia Maciel: Thank you, Tapani. I gave just a few questions for Avri. First of them, do you feel with this board's letter, do you feel pressure to move forward more swiftly? Do the co-chairs feel that there's political pressure coming from the board to do that now that some actors are - the top down pressure?

And the other question is related to the communication with the consumer trust and consumer choice review. So far has the consumer trust provided elements in order to show that maybe the first round was not as successful as

we think and to give them good reason to wait a little bit more for the outcome of the discussion not only on behalf of developing regions that there's clearly not advantage in the first phase but we know that, you know, this is not a good argument for everyone. But has the CCT provided evidence that would reinforce this point that we should wait? Thanks.

Tapani Tarvainen: Thank you, Marilia. Good questions. Avri, you have some answers?

Avri Doria: Yes. On the first question, yes, we're definitely feeling pressure, and it's not just from the letter, it's from various, you know, people in the group have brought it up. Some have said, "Oh the chair said we should move more quickly. We do some interim deliverables, so let's do it." And both of us, both of the co-chairs have agreed that, no, that is not something we should be doing.

Between the co-chairs, while it's very amicable, I'd say there was a difference of opinion on how quickly we need to move through things, one of us seeing it faster than the other. But, you know, so we're feeling pressure but we're not changing what we're doing. What we have done is asked each of the four sub teams that we've got that are just starting to work on the specific issues now that the overarching issues community comment period has ended, so they're starting to work on those.

You know, we've asked them to look at all of their issues to make sure that they understand the priorities, the dependencies, and the actual schedules for those so that if we have to do stuff, we understand what we're talking about. We're not even at a point of having that mixed level down in the schedule, so it's difficult for us to talk about.

On the CCT, I assume we have people here that are members of that, we are closely linked and liaison with them, both by having a liaison that can vote, but in fact there are several people that are in both groups. I have not seen an indication yet, I assume that the CCT is, you know, not putting out interim decisions or recommendations at this point.

I think there's a lot of acceptance that things shouldn't move before the CCT review comes out, but at that point, which is probably before the PDP would be complete, especially since we're dependent on their review in part. So to that point, well maybe we don't need to wait for the PDP, it's enough to wait for the CCT review. This is something I caution against from a personal perspective because that again puts a rush on the policy development process. So. But that is one of the nuances in the thing.

Of course we have to wait for the reviews, but do we have to wait for a new PDP? Because one thing to consider is without the PDP, the old policy stands. There is the policy from 2007. It was approved. It was horribly implemented. That's an opinion; that is not the working group's position. And, you know, but let's just go, you know, it is the standing policy, and if the GNSO doesn't change the policy, it's a go.

So that's an extra element that comes in with it. If we just wait for the CCT, their report is middling to fair, then there will be push to say let's just stick with the policy we've got folks. The policy we have says it needs to be reviewed. It was reviewed, now let's move on. Thanks.

Tapani Tarvainen: Thank you, Avri. Any other comments? Anybody else wish to speak on this?
It seems not. Okay. Let's move on.

Next item, the council session tomorrow is next steps for the Cross-Community Working Group on Internet Governance. I see Stephanie you have your hand up. Please go ahead.

Stephanie Perrin: Actually just one item left on that letter issue on the (unintelligible).

Tapani Tarvainen: Okay we can return to it.

Stephanie Perrin: Yes, the - I noticed that the group that was struck by Fadi and company to examine public interest seems to have fizzled. I was supposed to be on the mailing list and I hadn't received anything. Public interest is a rather key item in the new gTLDs. It's referred to specifically in the January letter in the list of issues. And I'm just wondering if anybody has any news. I realize that's a bit of a non sequitur but I think it's relevant to that group. What's happening on that?

Tapani Tarvainen: Thank you, Stephanie. You asked if anybody has any news. Does anybody? Okay, Marilia, you have your hand up. Go ahead. Marilia, you have the floor if you... It seems that Marilia has lost connection or maybe that's an old hand. Okay. Amr, you have your hand up too, so go - you speak. Amr, you have the floor.

Amr Elsadr: Thanks, Tapani. Thank you. This is Amr. Yes I have a couple comments but they may not turn out to be terribly useful. My impression of the group that was Stephanie which was referring to that was supposed to be working on public interest issues, my impression is that it was originally set up and some folks from the business constituency and from At Large I think were really pushing for this.

My impression is that it was really just a group to try to increase the influence of the public interest on sort of content regulation and using gTLD policies to regulate content. So if that group is dying a slow and painful death, I'm terribly disturbed by that. So, I think that would be a good thing.

I also wanted to note that although I am a member of the new gTLD subsequent procedures PDP, I have not been active on that group at all. But I do recall early on in the first few calls that the issue of public interest was raised, and that is something within the scope of this PDP, and particularly concerning the public interest commitment specifications for example. And I think were - there was also a few other mentions of public interest in the previous applicant guidebook. So I think there's like a limited public interest objection. So public interest does pop up in a few places and it is within the scope of this PDP.

And I do recall a conversation that happened, although it was premature at the time, but I assume the PDP will deal with this at some point, but one of the suggestions was to sort of change the title of all these things to something besides public interest, something that may be more focused or more precise on what the specification for example and the registry agreement is meant to do, so call it something other than the public interest commitment.

In the applicant guidebook, for example, the limited public interest objection could be renamed, or maybe not. But I guess in that sense it was a lot more specific in what counted as a public interest, a limited public interest objection. So I'm personally I'm a bit optimistic on progress that may be made on that front but it will require diligence and it will require input I think from the NCSG in particular. I think there are quite a few of us, if not all of us -- not all of us, I would say.

I think we do have - we don't have consensus within the NCSG on how to deal with public interest issues, but there are quite a few of us I believe who are - who have a problem with how they're framed and how they are used. So generally I think this is still work to be done, and it was one of the reasons why I was a bit hesitant about another round proceeding before the PDP was completed, particularly since the public interest commitments and the registry agreement, if I'm not mistaken, were not developed and recommended using a GNSO PDP but it was more the GAC and the ICANN board which would have put this into the registry agreement.

Someone please correct me if I'm mistaken. But I do have a problem with that, but I'm - it is I guess the existing agreement that ICANN uses with its new gTLD registries and I'm guessing it will be included if another round proceeds without the PDP going through it. But I'm not sure if there's anything we can really do about that. Thank you.

Tapani Tarvainen: Thank you, Amr. Marilia, you want to speak? Marilia? Marilia, go ahead.

Marilia Maciel: Hello? Can you hear me?

Tapani Tarvainen: Yes we can hear you. Go ahead.

Marilia Maciel: Sorry, I disconnected on my connection for the audio. Just a quick comment on that. I think that the fact that the concept has been misappropriated, I mean ICANN discussion does not make the concept necessarily bad. It's an idea that is present in the new gTLD subsequent procedures and we will have to deal with that at some point. I don't think that's dropping it altogether to solve the problems that we have in other - in the place of having this expression in so many different ICANN documents right now.

And I think that the tendency looking outside ICANN is not that notion of public interest or public tools or Internet and public service are going to fizzle in the future, actually the reference is to public interest or alternative versions of the formulations has increased in different spaces. It has been mentioned in (unintelligible) last year. It is a topic that will be discussed in the next (unintelligible) when it comes to security, you know, keeping the core of the Internet neutral and so on. And this different space they tend to have an impact on one another.

So it is possible that because these notions are being strengthened elsewhere, that it is going to have a piggyback effect and maybe this going to be a hard one to (unintelligible) so I think that maybe it would be more useful to try to dispute what the topic means, what the concept means than to try to bury it altogether because that's not used in the tendencies and elsewhere. Thanks.

Tapani Tarvainen: Thank you, Marilia. I see that Dave you have your hand up. You have the floor.

David Cake: Yes. I mean I think my understanding is the - I mean this public interest process I have no idea whether it's continuing. It was certainly a Fadi initiative, and it was being led by (Nora), who has since left ICANN, and who knows whether it will restart at some point. I think this would be quite a good question to ask in our next board session actually, the future of how the board sees this process going forward.

Personally I don't agree that it's good to - for it to disappear, because in its absence I think in the absence of any real investigation or a process to look at what public interest means, I suspect will be lost - it will be - we've lost any chance to sort of challenge the current public interest commitment process and so on.

Though as Amr does point out, a number of other sort of options and we should certainly think about, but certainly the currently public interest commitment process is probably the worst sort of - one of the worst - well policy things that happened in the last round of new gTLDs. It was not PDP, it was all sort of whipped up with the GAC. It's sort of in practice has become this sort of way for people to - or with large registries who don't care much about things to sort of curry favor with the GAC by putting in policies that have actually been not made it through PDP but they know some GAC members might and other sort of nonsense is an absolute disaster, that it's true that we don't necessarily need that previous public interest process to continue in order to challenge that.

Nonetheless, it might still be useful if public interest continues to be sort of deliberately undefined term within the ICANN space. It will continually be abused I think by various number, you know, various groups that see advantage for that, particularly including the GAC or some people within the GAC.

It's also true that I know we don't have consensus within NCSG on this or within - I don't about NPOC, but certainly it's (unintelligible) within NCUC either. I don't suspect that it'll ever really be resolved but - and trying to even sort of put together the various sort of public interest stances within NCUC have proved to be - within NCSG in the past have proved to be relatively complicated. But I do think it's worth keeping an eye on where this process is going and whether particularly it should be something we think about within the new gTLD subsequent procedures. As I said, I think it's probably the worst - one of the worst bits of policy in the last round. Thanks.

Tapani Tarvainen: Thank you, Dave. Your mic is still on; there's an echo. But any other comments on this issue? Quite a lot of interest in it but I think we have covered most of this stuff enough for this call. It seems at least nobody has your hand so let's move on.

And the next item was the next steps for the Cross-Community Working Group on Internet Governance. I see Ed you have your hand up. Please go ahead.

Ed Morris: Tapani, my error. I thought we were going on to item eight. I'll take my hand down.

Tapani Tarvainen: Okay. We're still on item seven, but it seems nobody has interest in this working group. Okay, Marilia, you have the floor.

Marilia Maciel: Thank you, Tapani. Actually it's just a quick update that this (unintelligible) has conducted a selection process to define (unintelligible) substitution to be part of the CWG IG. We had the names of Farzaneh and (unintelligible) that have kindly put forward by both of them. After conducting a selection process for the members of the policy community, Farzaneh was the selected name.

We have conveyed this message to the chair and the co-chair of the CWG IG, so I assume that from the next meeting onwards, she will be our representative in this working group, not that it makes much difference in terms of the dynamics of the discussion, just to remind everyone that that group has a fixed membership. However, basically the discussions are very horizontal and everyone who is an observer to the group can actively participate. The only difference to be a member of not is if some issue to comes to vote, then only some members can vote.

But knowing the dynamics of the CWG IG in which it's more based on exchanging information and discussing the issues, I think that we would very rarely come to a vote on anything. However, just to keep everyone informed on that (unintelligible). Just before moving on, my only note of not concern but I'm finding very serious how the CWG IG has remained on the agenda of the GNSO for so long, not only the cross-community working group that we have, but it seems that some people particularly, aside from James, they have been very concerning trying to understand the value of this and if the GNSO should remain as one of the organizations supporting it.

So there is a constant review of the performance. More information has been requested. There have been moments in which Rafik and (Olivier) have come to the GNSO Council meetings to inform us the work of the CWG IG. So I'm - although I think that more information is always better and it's good to have the accountability and know what it going on, being one of the chartering organizations, but I'm failing to understand its particular interest on the CWG IG. I don't know if Rafik shares my opinion, but I'd like to hear from him as well what he thinks this comes from or if there is something that we should be concerned or even if he's finding it the same or not. Thanks.

Tapani Tarvainen: Thank you, Marilia. I'm sure we all want to hear what Rafik has to say. So, Rafik, you have the floor.

Rafik Dammak: Hi, can you hear me? Can you hear me or not?

Tapani Tarvainen: Yes we can. Go ahead.

Rafik Dammak: Thanks. To be honest, I don't understand why the council is still discussing about the Cross-Community Working Group on Internet Governance. We were asked in Marrakesh to do reports and to give updates at the council, and

we did so in the Helsinki meeting too. And so it's not clear. And I concur with Marilia. It seems there are some people within the council they have kind of interest but which one it's not clear.

If they don't want the GNSO to be - to keep as a chartering organization, they should say so. But I mean keeping this as an agenda item for many council calls, it's quite concerning and I'm not sure what they are asking us exactly. We discussed it in Marrakesh and Helsinki. We made it clear that we will be happy to report and to explain what we are doing.

And also I don't think the issue about using the principal of cross-community working group is right because we kind of used some of them already in our charter before and we had a way to kind of update the charter or to put it more accurately, to interpret the charter regarding the participant observer to make it more open.

So speaking as co-chair of that working group, to be honest I have no idea why we are still a topic of discussion. But I would ask our councilor maybe to push the GNSO chair to explain why he keeps discussing about this. And if they want to take action, they should let us know. I think that as a chartering organization they should be fair to the people involved on their end to be clear what's the issue so we may explain.

So for example we don't have real staff support. We just have if I may say so, we just some time assistance of one of the ICANN executives, so we don't have that support and so on. And it's - I don't see how we are taking that much time or making - putting more workload for the GNSO. So it would be good if our councilor can get clarification from the chair at least.

Tapani Tarvainen: Thank you, Rafik. I see Avri you have your hand up. Please go ahead.

Avri Doria: Thank you, chair. So first of all I want to start by saying I very much support the continuation of this group despite the things I'm about to say. I think part of the issue comes up still as the origin story of this group where no one is really certain, at least not within many of the council (unintelligible), of what the function of the group is. Is the group to advise ICANN on its actions with regard to Internet governance? Is it actions to participate in Internet governance activities? The whole discussion gets colored by the mission creep of ICANN and the Fadi hangover that comes in the origin story of this with this being, you know, yet another of the Fadi initiatives.

I think there may be some support amongst people -- I think I count myself among those -- that perhaps the charter does need looking at and reviewed. There is sort of a notion that says these ongoing groups ought to be reviewed periodically, whether it's annually or every couple years. But the charter of this group, being as old as it is, does not necessarily, I don't think, it's been awhile since I read it, have that notion of we do certain work and we get reviewed on a yearly basis in terms of what our goals, milestones, deliverables, et cetera are.

And so there may be that kind of interest that this does need -- and no one's got the time or bandwidth perhaps to do this now so it's why it lingers on our list -- that it does need a charter review just to make sure that, you know, it is what we want it to be. So I think that's one of the reasons why it keeps showing up, because those questions that a lot of people have, have not quite been answered. So, you know, I think as part of the asking why do we keep talking about this, there's also a indication that sort of says that if they have some work to do on reviewing the charter or reviewing the milestones or, you know, whatever, then we should make that a specific work item and do it.
Thanks.

Tapani Tarvainen: Thank you, Avri. Rafik, your hand seems to be still up. Is it an old hand?

Rafik Dammak: Well I want just to add something maybe to respond to Avri. I mean if there is an item or if they want to maybe amend the charter or to add something, I think the GNSO Council can take that and clear it with the chartering organization, including the ALAC and the SSAC. But we were kind of interrogated several times and it's not clear what they kind of - what is the expectation.

And there was kind of a question about the format of the kind of standing working group, I mean or there is expectation that we will finish at the - there is an end for the working group and so on. We can work on that, but at least we need more guidance from the GNSO here, the GNSO Council, and they should also maybe work with the other chartering organizations, because we are not getting those kind of concern from other - the other groups.

So I do think it just may be a small group, in particular maybe from the contracted party for some reason, and I don't think it is about the procedure. Just they are bringing up about the charter, the procedure and so on, but it's - for me it's not clear. I never got clarity about what are the concerns, because if we get them, we may try to respond as much as possible.

Tapani Tarvainen: Okay thank you, Rafik. I see Amr you have your hand up. Please go ahead.

Amr Elsadr: Thanks, Tapani. This is Amr. And thanks, Rafik and Avri. The answers there were helpful. I just wanted to point a couple things out. Firstly that the reason why we have - one of the reasons why we have questions right now of why this is back on the council agenda is partly due to failure of the - myself and

other NCSG councilors to report back to our stakeholder group following council meetings.

We always prep for council meetings before they take place during these monthly policy calls but we don't really follow up afterwards. And Marilia is already taking steps as the policy committee chair to rectify that. But I just want to point out that this discussion item was diverged from a previous council meeting.

So it's not that it was discussed before and it's coming up again, although it has come up several times and I recall Rafik, being the GNSO - the co-chair of this group appointed by the GNSO, was asked to answer some questions in Marrakesh. He was asked to join a subsequent council call, which he did. And I agree with him, it's still kind of vague why questions keep coming up.

From the description of the discussion item, it seems like the council just wants to go over some ways on how the GNSO Council will oversee the work of the CCWG, as well as go over reporting mechanisms back to the GNSO Council, which I believe is a charter requirement. I believe that the charter of this CCWG requires that they provide annual reports and they send reports to each of the chartering organizations.

And maybe they're just trying to figure out how to get this done. Maybe there's more to it. But I agree with Rafik and I think we should make inquiries on why this keeps coming up and why there seems to be a vague concern with this group. So I'll try to get that done, assuming that the discussion item is not deferred yet again. Thank you.

Tapani Tarvainen: Thank you Amr. Any other questions on this issue?

Okay it seems not. So let's move to the Item 8 on the council agenda that proposes cost control mechanism and request for GNSO Council consolidation of the budget for the cost community working group on ensuring ICANN accountability.

And Ed now it is your turn. Please go ahead.

Ed Morris: Thanks Tapani. And my apologies for being so enthusiastic about talking about the budget for jumping in earlier.

We had a Webinar last week that I attended along with Stephanie and it was great to see her there as we were showing the NCSG flag. But we talked about some of the specifics of the CCWG budget.

What I would like to do here is talk a bit about what we learned at the Webinar but also fill in some blanks with information I had from basically my work in the CCWG and on the budget for Council this year.

So big picture, \$37.1 million that is the anticipated and past expenditures on the transition, the whole enchilada. Most of this is coming from the reserve fund which right now is under 1/3 desired levels. We can anticipate ICANN crying poverty going forward.

We have already seen some of that. One thing to keep in mind. That is just the operational budget. There are other pots of money at ICANN. There is some ability to move money from one pot to the other. These are issues we should anticipate going forward as these concerns at ICANN is going to be expressing that we will have to respond to.

Back to the CCWG. An important thing to note that within budgeted amounts the CCWG itself controls where we spend it. So for example, there is the possibility if legal fees budgeted, the budgeted amount for legal fees is not enough we can switch money from travel or the reverse.

The tri-chairs of the CCWG will be meeting regularly with the board's finance committee to see how we are doing budget-wise. To recommend adjustments, to request more money or to be told we are spending too much money.

Let's talk about a few of the flash points that may be of concern to the NCSG. Travel. There are 20 traveler slots budgeted per meeting. Now that is only for members of the CCWG which in our case means only Robin.

There is no defined guarantee of budget for the ACRT expert which is Avri although I understand she has been financed for the next meeting in India. There is no guarantee that will be going forward.

None of the (unintelligible) are receiving any travel support. And we have lots of reports here as we have Farzi, Niels, Avri, Michael and myself. I may have forgotten one or two. We are serving this (unintelligible) and the subteams. We will not even get one night hotel at the face to face meeting before the regular meeting never mind travel support.

Some concerns I have. I believe others do as well. Staff support. In my view to date on WS2 we are being bled. They have budgeted for the entire WS2 project equivalent of \$808,000 for total staff support. That compares to \$1.7 million budgeted for staff support for transition implementation.

To date I am concerned not only of the quantity but also the quality of work the staff members are producing. My own little group the (unintelligible)

subgroup we got our report last week which was three weeks late and the quality was so bad it was a page and a paragraph that I have actually sent it back. I am trying to get it redone with a little bit more substance.

I have never had to do that before here in ICANN so I question whether we are budgeted enough for staff support. I posed that question to (Thomas Rickert). He said we are. I question it.

The big issue that will come up at the council meeting concerns the budgeted legal expenditures for the independent council. I know that Bill has been concerned about this. Stephanie may want to talk about it because she has raised this on the list as well.

They budgeted us at \$1.4 million total legal costs for Workstream 2. Now what is interesting is that is budgeted not just for Fiscal Year '17 but also if it bleeds over as expected in the Fiscal Year '18.

What I find very interesting about that is ICANN has no two year budget. I have no idea how that is working into the line items. I have sent an email to Xavier and still have not received the response.

Now let me tell you what that represents in terms of what we have spent in the past. It is about 13% of the total legal expenditures for Workstream 1. In Workstream 1 through March, ICANN spent \$1.7 million for their council (unintelligible).

Independent counsel that was hired by the CTWG \$2.8 million went to Sidley Austin and \$2.4 million went to (Adler Coven). That is through March. My understanding is there has been additional \$1.25 million spent on all three firms since then.

You have a grand total of about \$5.2 million there. Somehow the total costs have been – somehow there is \$8.1 million that has been spent on legal fees. I am not sure where they got that from because the itemized expenses don't add up. Again that is another question that I have sent to Xavier last week.

There is \$3.3 million total budgeted for transition legal costs in Fiscal Year 2017 as I said. For '17 and '18 the community is only being allowed to spend \$1.4 million.

Now some good news at least in my view is how we are going to control costs. They have reestablished the legal executive. Now that is a group of seven of us that includes Robin, myself, Greg Shatan of the IPC, Dave from (unintelligible), Athina Fragkouli from ccNSO, Sabine Meyer from GAC and it is chaired by one of the tri-shares from ALAC, Leon Sanchez.

Now we were the folks that hired the independent council. Initially we were supposed to coordinate and manage them throughout the process but somewhere along the line without notification to us we were pretty much disbanded.

We are being brought back to manage the expenses. I think that is a good move. We worked really, really well together and I think if we had stayed together we would not have spent as much money as we did.

Now here are my concerns. We are being instructed that if ICANN legal can't answer the question in-house we send the question there. If not there they want to consider Jones Day as a cost efficient alternative before we reach out to the independent council.

Now there is a reason we have independent council and that is largely because we don't trust ICANN legal and Jones Day. Knowing the people on the legal executive I am not sure what we are going to do. It would be highly surprised if we made extensive use of ICANN legal from past practice.

Another concern I have is that the legal council is not being budgeted to actually attend or follow any of the meetings. Now I understand that is quite expensive so perhaps we could have them send a paralegal along or some cost efficient manner to keep them informed as to what is going on.

Because I don't want to send them questions and they don't know the context in which the question has developed. That is not a good use of our resources because invariably we will be (unintelligible) more questions.

I am also concerned that being set up for Sidley Austin manages where the questions go. I have talked to a few members of the legal executives at our first meeting which we haven't had one yet since our rebirth. We want to actually determine where the questions go as we did initially.

And the reason for this is that Sidley has an interest in keeping the question for themselves. Although they have worked well with (Adler). Here is a plain fact in terms of cost control.

The lead attorney from Sidley and this is public record now. Billed it \$1250 an hour. The main partner from (Adler) billed it \$625 an hour. If we are going to try to reduce cost in my view we should use the lower cost law firm when at all possible. And I think we can do that better managing it ourselves.

So I think during the call what is going to come up is wherever the \$1.4 million is sufficient and I guess one way to look at this is since the money is there for Fiscal Year '17.

One approach we might want to consider is say that that is money just for Fiscal year '17. If we go on to Fiscal Year '18 we would expect a new (unintelligible) so that is just one idea out there. I would be interested hearing how others feel about this. Thanks much.

Tapani Tarvainen: That was a comprehensive presentation. The budget issue although it is a big issue anybody else want to follow up here? Stephanie anything to add? Anybody else?

Marilia Maciel: My only question you said that this was a potential way forward. Are there others on the table that we should be aware of? Are there other proposals?

Ed Morris: Nothing. The chairs are telling me both publicly and privately they do believe we have sufficient financial support. And that they have received indications that if we go down the road and it is not there that there is room to dip into the reserve fund again. Although the board finance committee really doesn't want to do it.

So I have got to trust the tri-chairs. These guys have been – they are not (unintelligible). If they think there is enough money there I guess I have to trust them.

At the same point I am concerned – one of the concerns we have always had about WS2 particularly post-transition is that there isn't the incentive for the board to support us to the extent we would like to have the support.

I am sensing that might be going on a little bit here. But again if the tri-chairs are happy I defer to them. But I do think, you know, I have mentioned this informally to (Thomas). What about legal costs? Could we do this? Could we say – given the fact that ICANN has no budgeting provision for a two year budget?

We have our five year budget, five year operating plan, we have a yearly budget. Could we just try to operate as if the \$1.4 million legal fees is just Fiscal Year '17? He didn't have any comment on that proposal which gives me a sign that maybe that would be something that would be acceptable.

Again I have sent questions to Xavier. When I get the response I will put it online. Thanks Marilia.

Tapani Tarvainen: Thank you Ed and Marilia. Anybody else? Any comments on the cost control and budget?

Marilia Maciel: For me just a concern coming back to the point that you mentioned before that the (unintelligible) are not going to be (unintelligible) attend the meeting. I think that just hampers their capacity to develop their work properly. Because they need to be onsite. They are going to be meeting (unintelligible) in a face to face meeting that we have from now on.

So is there any way that we can reverse that or ensure that some of these people who will not receive channels through other means either because they are in council or other structure. We will receive funding and we have their attendance guaranteed.

Ed Morris: Let's bring it up tomorrow. I would totally support that. (Unintelligible) are doing an enormous amount of work. I know (Michael) who has never been in

to an ICANN meeting – my inbox is full of his great work he is doing up here in Canada. He is one of ours.

And he has never been to an ICANN meeting and I think that is ridiculous for him to be doing this amount of work coordinating all the transparency along with (Chris Wilson) of (unintelligible) not to be able to attend the meeting.

We all need to get to know him. He needs to get to know us. And you really do need to be onsite to actually do this stuff. So I think that is a great idea and we should bring it up in the council meeting tomorrow.

And obviously as one of the chartering organizations they should give some deference to how we feel on this matter. Thanks Marilia.

Tapani Tarvainen: Thank you again Ed and Marilia. Anybody else want to comment on this? Okay let's move on. Is somebody speaking? No okay moving on.

ICANN 9 this planning scheduling for ICANN57 Hyderabad. I don't think we need to go into detail on the agenda or schedule at this point. But anything you think will come up tomorrow is what we (unintelligible) should bring up tomorrow.

Anybody have any comments if you want to? Okay Ed you have the floor.

Ed Morris: Yes I think this will be a good time to continue to do prep some of the user issues that particularly (unintelligible) in raising over time. We have a lot of Americans in council. They don't normally need to deal with visas.

They are (unintelligible) right now at having to deal with the process. So I think if this issue does come up we need to make the point this is something –

of course Amr is on council and he has to deal with this all the time. That we need to make the point that this is something some of the folks here in the community have to deal with every meeting.

We had conversations about a year ago about asking ICANN to secure a visa – a firm that gets visas for people that have trouble and difficulty getting them.

(Unintelligible) in particular said that a (unintelligible) once they did this a lot of the problems he had went away. Perhaps if the conversation turns in that direction I suspect it will. We can bring that idea up again.

Again make the point that hey guys, you have to deal with it this time. There are people who have to deal with this every meeting and let's get a bit more proactive on this. Thanks.

Tapani Tarvainen: Thank you Ed that is definitely a good point to make. So I hope some of you will bring that up tomorrow. Anything else? Okay apparently not. Ed (unintelligible) okay that was an old hand.

So you have nothing urgent now but schedule will wait for the discussion and note them of the visa problem. Okay Item (unintelligible) in the council agenda is any other business. And there is discussion of note from (Christy Spain) (unintelligible) protection work. Anybody would like to talk about that?

No? Okay David you have the floor.

David Cake: Just really briefly. I actually got the note from (Christy Spain) on IGO acronyms was pretty good. Basically saying yes she realizes that this has gone on a ridiculous length of time.

But a lot of that is because the board is unwilling to move forward in any way that disagrees with GNSO advice directly. I don't know that there will be a council response but I think the council is relatively united on the principle that we are really unwilling to see council.

IGO (unintelligible) just because some in the GAC still don't like it very much. I don't think we have a big issue with this. It is moving forward very slowly. We will see how it goes. That is all (unintelligible) thanks.

Tapani Tarvainen: Okay thank you Dave. Anybody else on this subject? No I see that Amr is pointing at missing something, the agenda (unintelligible) gTLD registrations.

Amr Elsadr: Hi Tapani this is Amr

Tapani Tarvainen: Okay Amr okay you explain this.

Amr Elsadr: Yes sorry about that. Sorry about jumping in the way I did. But this was just raised on the council two days about by (Philip). There was an open public commentary that closed earlier this week where the board was proposing certain measures to (unintelligible).

To sort of put up the protective mechanisms that would appeal to governments and gTLD operators on how true letter domain name registrations under gTLDs should be done.

And the NCSG submitted a public comment – submitted a comment during this public comment period really criticizing a lot of the policies. What the proposed policy is and (Philip) raised this on the council list and he also referenced the NCSG comment as well as a blog post (unintelligible) on the Internet governance project's Web site.

So this will be a discussion topic and the NCSG has pointed out and (unintelligible) principle author of the NCSG comment on this which pointed out a bunch of substantive issues on this and Phil I believe also raising issues regarding the process of how this is getting done.

And this is basically the ICANN board setting de facto gTLD policy without going through the proper processes. But oh I see (unintelligible) actually in the (unintelligible) she would like to talk about this and do a much better job than I can. I hope she would want to or not.

But anyway I just figured I would bring this up now and just (unintelligible) heads up that this will be discussed and we should be prepared for discussion. I am actually grateful that (Phil) brought this up. We probably should have done it ourselves. Thanks.

Tapani Tarvainen: Thank you Amr. If (unintelligible) this is Item 10.4 in any other business at least. There are two more items in any other business if we haven't covered yet.

Anybody wants to comment on this? The gTLD thing. Okay and 10.2 have confirmation of (unintelligible) duration of gTLD (unintelligible), PDP, IRTPC, PDP (unintelligible) working group. I guess this is not high interest (unintelligible).

If anybody wants to comment now is the time. No? And 10.3 timeline for GNSO chair elections heating up and ICANN57. Any comments on that one? Amr you have the floor again.

Amr Elsadr: Thanks Tapani. This is Amr. And this goes back to the motion on the Agenda Item 4 that we discussed earlier on this call and (unintelligible) recommendations on the Chair and Vice Chair election procedures.

If the motion is adopted tomorrow then the new language that will be included in the offering procedures also includes a detailed timeline and schedule. And the SGI was very cognizant of sort of trying to get these recommendations into the GNSO council.

So that they could adopt a motion to approve the recommendations and incorporate them in the operating procedures in time for that schedule to be implemented prior to this year's council chair elections.

So if the motion is adopted that should really address the issues under this agenda item. I probably should have mentioned this earlier as well it was something I think is really great and something that we worked on the SGI.

Is that when we were talking about the election schedule for council chair one of things we did was make sure that incoming councilors who were not yet on council would be eligible to run.

And we took this into consideration in the recommendations themselves to make sure for example, MCSG if we had incoming councilors who were not on council yet that they will – the MCSG will be very aware of the schedule ahead of time including the nomination period.

So to try to – and in our own election timetable to make sure if we have incoming councilors and they are willing or eager to step in for chair elections they would be able to do so. So just thought I would add that here. Thank you.

Tapani Tarvainen: Okay thank you Amr. Anybody else? Anything else about council agenda tomorrow? No? Okay. Let's look at the public comments we have pending at the moment. There are not many that seem important to us.

We have two that is actually expiring today, closing today. Release of (unintelligible) I don't think any of us have expressed an interest in those (unintelligible) raise your hand.

And another expiring today is proposed guidelines for the second string scenario to review process also I am not sure we have any interest in our group on that.

And then there is that independent review of trademark clearinghouse services draft report which has three days to go. Would anybody want to comment on that?

I see Amr saying that we should look into it. I think we should but I know the time is really short. So this is just a draft report but that is definitely something we should keep on our radar coming ahead.

If not (unintelligible) present (unintelligible) comment so we will just note it. Look at it and (unintelligible). Okay Marilia something about it today that is perfect.

Nobody wants to think about it at this point I see so. Let's leave it at that for now. Remaining open comment periods is gTLD market healthy index beta on the call for comments?

Okay Marilia that is a good (unintelligible) that you will (unintelligible) should have done that before this call I guess. Okay so and there is IANA naming function agreement I don't think there is anything very controversial on that one. Just a way to go on that one if we have something to comment.

And proposed new (unintelligible) registry agreement also unlikely to be of much concern to us. Does anybody want to speak on any of this public comment period anything more?

It seems not. Okay now I agenda we still have any other business and we have – Marilia you want to say something about this? Amr okay you have your hand up. Go ahead.

Amr Elsadr: Thanks Tapani. Just some urgent appointments (unintelligible) policy committee needs to make and we don't need to do this on this call for sure we can do it (unintelligible).

Tapani Tarvainen: Yes that is exactly what I was going to (unintelligible).

Amr Elsadr: Yes okay thanks. Well just to point out we have the civil society coordination group and I believe we are overdue on that appointment as (unintelligible) pointed out a few days ago.

And there is also the GNSO review working group we have noted it under the council agenda under (unintelligible) there appointing a council liaison to that group.

The NCSG also has to appoint a primary and alternate member to this group. This will be the first group that is sort of set up within the GNSO or chartered by the GNSO in a way similar to cross-committee working groups.

So it has got members who are appointed by the GNSO stakeholder groups and constituencies and its participants and it has got observers. This is uncommon for GNSO working group.

But since the GNSO working group does not (unintelligible) taking over the mandate of the SGI. Then it might make a little sense to do that. Because there are some rules on consensus levels to making changes in the GNSO operating procedures. And these are also indicated in the charter of the (unintelligible).

So we really need to make those appointments quickly. The GNSO review working group will probably begin or probably hold its first meeting very soon. We have a few NCSG members who I believe four of us signed up as participants.

But we still need to appoint (unintelligible) members, the primary member and alternate members of this group. And we are really late on this. We should have done this by August 19th.

So I would urge the policy committee members to move quickly on this. I have already pointed it out on that list multiple times. Thank you.

Tapani Tarvainen: Thank you Amr. We have a number of policy committee members here if you could comment. That certainly would bring up the list again. Do you think we have at least the policy committee chair and the vice chairs present so you might want to take this advice as well.

Anything else or anybody want to comment on this? Amr is definitely right that it should be (unintelligible) appointment. But any comments on this or any other business anybody would like to bring up? We have got about seven minutes to go if need be.

Okay it sounds like we have covered everything we had on our agenda. Nobody has anything to add. Amr is asking if the (unintelligible) list. I (unintelligible) so maybe we didn't.

Anything else? Oh I guess we should do that. Okay anything else on this before I close the meeting unless somebody wants to raise your hand.

Okay let's see there is some discussion in the chat about this appointments but nothing that we need to keep moving. Okay Bill great please go ahead.

Bill Drake: All right can I be heard?

Tapani Tarvainen: Yes.

Bill Drake: Is the sound working?

Tapani Tarvainen: Yes loud and clear.

Bill Drake: I take a second to ask if anybody had any questions about the nominating committee results that I announced yesterday? Or today (unintelligible) yesterday. If anybody has any questions about that I am here as your representative and would certainly address them if there were any. If not, fine.

Tapani Tarvainen: Thank you Bill. I see that Ed has his hand up. Are you going to ask something of Bill?

Ed Morris: Actually I just want to congratulate Bill. I know two of the folks you selected for the board. They are both exceptional individuals and you did an amazing job. And just want to thank you for your service Bill. Absolutely amazing. Thank you.

Bill Drake: Thanks Ed. But of course you don't know that it true but I will take it anyway. No I mean I think from the standpoint of the (unintelligible) society you will see that we did as good as we could have given the complexity of the mix. But I didn't know if anybody had any particular issues they wanted to raise.

I do think it would be good to – I think Rafik is doing this to reach out to (Khalid) who is after all a (unintelligible) member and now on the board and try and get him to come along and meet with you guys.

I will not be in Hyderabad but I think it would be a good opportunity to build bridges with the new reps. And my team also through (PIR) of course supported (unintelligible) so I mean I think again a friendly face there essentially that relationships could be leveraged and so on.

And most directly a relevance here I think having (unintelligible) to the GNSO council definitely makes for an interesting new mix. So I hope (unintelligible) and just thought I would stay on here if anyone wants anything. Thanks.

Tapani Tarvainen: Thank you Bill. It is useful I think at least give people an opportunity to ask questions. But it seems – does anybody have any questions to Bill or anything else we should discuss and we have three minutes we can still spare.

Okay it seems we just want to thank Bill for good results in the nom com.

Okay (Farsi) you have your hand up. Please go ahead. Are you having audio troubles? (Farsi) we can't hear you.

Okay it seems (Farsi) does not have working microphone or something. So let's see what she is typing.

So the question to Bill I guess. How many female applications did you receive? If this is something you can tell us Bill please go ahead.

Bill Drake: It was probably reported in the quarterly report card that I circulated to the list. I think that there was and I now I am just trying to make it up off the top of my head. I think that there were about 20 female candidates of which maybe half for the board I think.

So the number of women that were being considered for the board was really very low. And once out of how many Rachel? I don't have the numbers right in front of me but then you can check emails I sent previously. I think there were 80 or 90 candidates for the board of directors for the three slots.

And I am going to say 10 to a dozen maybe that had indicated a preference to be on the board. And, you know, it is a process of elimination where, you know, people go through them and say this is disqualified, that is a disqualifier.

We do multiple rounds of voting and arguing. And I certainly argued consistently for a year that it was a top priority that we ought to have a woman in the mix of three that at least one. In the mix of three that were ultimately appointed.

But it was just ultimately at the end of the day when you have got as I say, representatives of every silo in ICANN all with their respective priorities and red lines and boxes to be ticked and all that.

It just became, the geometry of agreement on lots of candidates that I would have thought were totally plausible turned out to be dauntingly complex. And this leads you then to the ones where broader agreement can be reached on and that is how it ends up playing.

So recognizing that this is and I didn't mean to get into a long thing on this. Recognizing that disaster to outcome is probably not the most positive (unintelligible) news come out of here nom com (unintelligible).

That in the next cycle we need to do more effective and comprehensive outreach to increase the number of qualified women candidates. Preferably ones who are not manifestly identified with particular arguments, battles or so on, long histories. Because those always get entrenched up by people who want to be oppositional.

So perhaps some new blood from outside the ICANN community would be our optimal play there. But we will have to figure out how this goes. But anyway yes let's try for next year certainly to get good applicants.

Tapani Tarvainen: Okay thank you Bill. We are already one minute over time but I will hand the last word to Rafik who has had his hand up for a while. Rafik please be brief.

Rafik Dammak: Thanks. I think if we want to really help the nom com and talking from my experience as representor for NCSG for one year. Nom com deals with a (unintelligible) candidates it gets.

So if you want really more diversity and to have which you would try to outreach as much possible of candidates that we think they should be on the board.

So it is really important to spread the message in many places and try to encourage people to run. It is not easy process and I mean some people don't want to go through such process. But the more you expand the pool the more you put – you help the nom com to match the diversity requirement.

So that is what I can say and I think for the process we start in coming month. So it is a good idea to think about who it should be on the board and try to convince them to submit an application.

Tapani Tarvainen: Okay thank you very much Rafik. And now we are three minutes over time but that is – so let's close this meeting. Thank you everybody. (Unintelligible) by the time being inconvenient for many.

And councilors have a good meeting tomorrow. And thank you everybody for being here. You can stop the recording.

Maryam Bakoshi: Thank you very much Brian you may now stop the recording. Thank you very much everyone for attending this meeting today. Thank you.

END