

**ICANN**

**Moderator: Maryam Bakoshi  
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10:00 am CT**

Coordinator: The recordings have started. You may begin.

Maryam Bakoshi: Thank you very much, JR. Good morning, good afternoon, good evening. This is the NCSG Open Policy Call and CCWG Accountability discussion on Tuesday 29 November 2016 at 16:00 UTC.

On the call today we have Joan Kerr, Avri Doria, (Yulf Helsingis), Tapani Tarvainen, Sam Lanfranco, Klaus Stoll, Amr Elsadr, (Renata Robairo), (unintelligible), Robin Gross, (Anna Lu), (Amal Alsakar), Ed Morris, (Marissa Olga). And from staff we have 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 transcription purposes, this is Tapani Tarvainen speaking. And as Maryam briefly pointed out, this is a - we decided to combine two calls this week, our regular policy meeting call and CCWG call that Robin has been conducting because we were running out of slots on the

calendar. So let's try to move a bit fast. And, Robin, if you'd like to start, let's go with that, and hoping we don't use all our time. Robin, hello?

Robin Gross: Can you hear me? Hi this is Robin. Can you hear me?

Tapani Tarvainen: Yes.

Robin Gross: Okay, just took me a second there to turn on my microphone. Okay so we need to go over the CCWG Accountability Working Group and where we are now on Workstream 2, some of the important issues happening there. I think it's also worth pointing out that we've got or recently put out for public comment a draft on the updated supplementary procedures for the independent review process, the IRP. So folks should take a look at that.

It was just posted yesterday out for public comment. You know, these are the supplemental procedures that are in place since we reworked the IRP process in Workstream 1. So this isn't exactly part of Workstream 2, but I think it's a - it certainly is still part of the accountability work and important mechanism. So take a look at - I can give you a link here. Actually why don't I just post the link into the chat for where that document lives on the Web, and so folks want to take a look at that.

Okay, so let me just quickly go over some of the things in Workstream 2, and I'm hoping that other participants who are (rapators), subgroup (rapators), or active in the various subgroups will weigh in because I'm going to keep this pretty high level from my perspective, and so much of the details could be added in from the various subgroup (rapators), many of who are NCSG members.

So one of the issues, one of the most important issues that we're working on in Workstream 2 is increased transparency at ICANN. So there's a number of sub-issues underneath that, including the reform of the document information disclosure policy, the DIDP, trying to get more transparency with respect to board deliberations with respect to discussions with governments and lobbying at ICANN and improvement to ICANN's whistleblower policy.

Now the subgroup that's working on this transparency issue has produced a draft document, which I think came out the time of the India meeting, and it's open now for people to provide feedback on. And then there will be a revised draft in early December. So now is a good time to get engaged and take a look at the draft that's currently circulating. It's not comprehensive. I think some of the issues, particularly with respect to transparency of board deliberations, haven't been completely fleshed out yet in this draft, so we'll need some people to take a look at this draft and provide comments and feedback on that for the early December reworking of it.

And I don't have a link to it. I have a copy of the document but I actually can't find it anywhere on the Web. I just got it from the - (Michael) the (rapator), who sent it to me. So I'm not really sure how the best way to get it to you guys is. I can send it off to our mailing list. Maybe that's the easiest thing to do is to just put it on the mailing list and then people can look at it that way. Okay.

So that's on the transparency issue. And if anybody wants to break in, please, please do. Please interrupt and interject and add a little more flesh on to the bones here. Okay, so and then the other big issue that we're working on in Workstream 2 has to do with creating a framework of interpretation for ICANN's new commitment to respect human rights. As many of you know, Workstream 1, we said we wanted a bylaw that - protection in ICANN's bylaws that would provide respect for human rights at ICANN.

And so we're kind of left with somewhat of a placeholder, and now Workstream 2 is trying to fill out - provide a framework of interpretation of what does that actually mean. And we've had a number of NCSG members who've been very active on that. In that subgroup in particular, Niels, who's been (rapator) of that subgroup, and (Tatiana)'s been very active in there as well. If either one of those two is on this call, it would be great if they could give us a quick, quick update on where they are on that. I know it doesn't look like - okay. Okay. Unfortunately they don't seem to be on this call.

Is there anyone else who's in that working group, who's in the human rights working group, that wants to let us know where they are on that? It seems like in India that they had sort of worked out some kind of a compromise of a framework. They were - there had been some disagreement about how to approach this, but it seems like in India they were coming to a compromise. And I don't believe there's been a meeting since, or if there has, I'm not aware of it. I think there's a meeting actually later today from this subgroup.

Does anybody want to weigh in on the human rights subgroup? Okay, I don't see any hands or any interest in that. Okay. I'll move on to one of the next issues, the influence on ICANN's jurisdiction on operational policies and accountability mechanisms. And as we discussed before, this is a group that is focusing on jurisdictional questions with respect to ICANN. And there's a number who would like - a number of community members who would like to move ICANN outside of the U.S. and a number who want to make sure it stays in the U.S. And so there's a little bit of a tug of war going on in that subgroup, as far as I understand.

I think Milton's been pretty active in there. Is he on the call? It doesn't look like it, okay. Oh I see Avri's got her hand up. Avri, please go ahead.

Avri Doria: Yes. I've also -- this is Avri speaking -- I've also been active in that group. I don't think the tug is quite (unintelligible) doesn't want it to stay in the U.S. and those that want it to leave, but I do think the tug is between those who want to ask questions that could lead to issues that need to be resolved and those that are really looking to try and secure what we've got and just nail in, you know, some support mechanisms.

So one of the questions that's ongoing at the moment is sending out a questionnaire. And we just had the meeting this morning, two hours ago I think, where there was a questionnaire. And there the tussle is between those that only want to ask about issues, legal issues, especially the people they've had in the past because of the jurisdiction, and those that want a slightly broader questionnaire to try and find out not only those that have had court cases or had problems, but also -- including academics, lawyers and such -- who have looked at the laws that exist and how those laws might be relevant today, especially with the absence of NTIA.

And then there's a group that go even further and say, "We have to look not only at the effect on registrant and registrars but we have to look at the effect on larger DNS-using populations and what problems have they perhaps had with the U.S. regulatory structure." So we're still at an early point in terms of really trying to define questions that are being looked at. Thanks.

Robin Gross: Thank you, Avri, that's an important clarification. So it sounds like there's a lot more work to be done in this subgroup as well, and if anybody is interested in joining, it's still open. And some of these are not as far along as others and some more opportunity to get engaged and to guide the direction of the work.

Okay, so if there's nothing else on the jurisdiction issue, the other subgroup that I wanted to talk about today was the - on the CEP, reviewing the

cooperative engagement process. That's the first step to filing an independent review panel matter. And I believe we've got Ed on the call with us here, and he is leading that subgroup. So maybe Ed can give us a quick update on where that group's headed.

Ed Morris: Thanks, Robin. Yes we're at a crossing point right now in that we're trying to figure out what exactly we're supposed to be doing. I guess I see (Anna Lu) on the call. I want to thanks (Anna). She headed a little bit of a bylaws review for us, and (Farzi) took an initial look at constructing CEP rules. And in our last call, what we came down to were two basic issues.

One is the way the IRP's now designed it would start with a conciliation procedure. And we were concerned in the group, at least some of us were, that we would have a situation where you'd go through a CEP and then you'd go through another sort of alternate dispute resolution procedure as a kickoff for an IRP, which would almost create accountability paralysis. So I was charged to talk with (David McCauley). We don't think that's going to be a problem going forward, but we're going to be talking about it at the plenary tomorrow.

The other issue we're going to bring to the plenary is what exactly we want the CEP to do. In the old days, as Robin will remember from when we went into a CEP, it was sort of like a negotiation. You get the two parties and you talk about the issues. In the new bylaws, this revision from mediator, but it's pretty inexact where the only place it's mentioned is that if you don't want to have a mediator, if one of the two parties doesn't want to have a mediator, the CEP ends.

So during our call, we started talking about the concept of what we expected the CEP to be. And again, (Farzi) was wonderful with her knowledge of dispute resolution procedures for bringing up topics like is it a negotiation, it

is a conciliation, is it mediation. So we'll be going to the plenary tomorrow and asking the folks what do they want us to be, do they want the start of an IRP to be a CEP that pretty much is a mediation with a mediator, do they want to keep the sort of negotiations structure we've had in the past, a combination hybrid of the two, in which case if there's any ideas of how to structure it.

So right now we're going to go back to the plenary for guidance and hopefully move forward from there. Thanks, Robin.

Robin Gross: No, thank you, Ed. That's really helpful. Did anyone have any questions on the CEP before we move on, that subgroup? Okay, I don't see any hands or comments. Ed, while I've got you right here on the line, can you talk a little bit about the ombudsmen office subgroup? I think you've been active in that one.

Ed Morris: I know the ombudsmen was something to you work, Robin, and writing the recon was something we all had high hopes for. We should shed a tear for what's happened to date, despite the best efforts of some decent people. The group really is not moving forward at the moment. We're waiting for the external review, which is coming up, and we still have to talk about how to handle that.

What's gone on the list unfortunately, and sadly in my regard, has been some give and take between the former ombudsmen, the current ombudsmen in the group, a question has gone to ICANN Legal asking whether it's appropriate for the former ombudsmen and the current ombudsmen to perhaps be as involved in the review of their office as they are apparently.

There's been some hurt feelings, and rather than dealing with reforming the office, I think we're dealing a lot more with a lot of extraneous stuff. I can give one positive thing going forward. As you know, in Workstream 1, we

initially thought the ombudsmen review was going to be a Workstream 1 issue. So we formed a group. I was actually the (rapator) for the group and we never started the group. Because every time we were about to start, something would come up and we'd think about pushing it off.

So I talked to (Sebastian). We had 20 members in that group. We don't have anywhere near as many active members in the current group. So (Sebastian) and I will be writing a joint letter to the first group, trying to bring them into the second group when it gets restarted again or gets more active. Thanks, Robin.

Robin Gross: Thank you, Ed. And I think you touched upon a general issue in that we need a lot more participation in the working groups. There's so much happening right now at ICANN. We've got these, you know, nine or ten different subgroups on accountability, there's a bunch of subgroups for the new gTLD procedures, there's several subgroups for the RPMs, the rights protection mechanisms for new gTLD subgroup. You know, these are just a few of the various policy issues that ICANN is working on right now.

And boy everybody is really stretched to the max and it's really hard to find people to work in all of these subgroups effectively. So if there's anyone on this call who thinks they might want to, you know, get their toe wet, now is the time. Join one of these subgroups. There's a lot more to be done and there's still a lot of opportunity to guide things.

Okay, let's see now. Was there anyone who wanted to say anything more on the ombudsmen subgroup? I don't see any hands or hear any comments. Okay, so really the - I just wanted to mention a couple of the other subgroups that people can participate in. One is on SO and AC accountability, which means, you know, basically the accountability of the community members to



be accountable to each other, to ourselves. And (Farzi) is one of the (rapators) of that working group. So - I don't believe she's on this call today but you can get in touch with her for how you could be most effective in that particular working group. I think she'd really appreciate the help.

And there's also a working group on staff accountability, and another subgroup on guidelines for ICANN board standard of conduct with respect to the removal of board members and the indemnity provisions that would be provided in that case. So I don't want to go into too much detail about those. We don't have many of the active participants on this call and there hasn't been a whole lot of movement in that in those groups.

I see Avri's got her hand up. Okay, please, Avri, go ahead.

Avri Doria: Yes. Sorry, I put my hand down when you said you didn't want to hear much about it. I'm the co-(rapator) of the staff accountability group and it is very true that very little has been going on in the group. We've been having discussions with ICANN staff, trying to find out what documentation they have and what they can give us about what accountability mechanisms actually exist at the moment and what protections.

And we haven't been doing real great at getting ahold of the information. We did have some conversations in Hyderabad that hopefully will lead to dislodging some of the stuckness but, yes, we are behind. And I'm not sure how far we're going to be able to get on doing much about the staff accountability.

We've seen the creation of new, you know, of new positions for complaints, we've seen the -- which we did talk about in Hyderabad -- and we've seen the, you know, the work on whistle-blowing and transparency. And that may be as

far as we get, though we did have some very good conversations about trying to set up some softer methods for more communication between people responsible in the community for work and people responsible within the staff on how to avoid ever getting to a complaint position on that.

So something may develop in that area, and my (Jordan), my co-(rapator), and I will be writing up something on that based on the conversations we had in Hyderabad. Thanks.

Robin Gross: Thank you very much for the update on that working group. That's great. Does anyone have any questions on the staff accountability working group that Avri is a (rapator) for? Okay, I don't see any hands.

We've got our next CCWG plenary meeting tomorrow. Those meetings are taking place about once every two or three weeks now, and most - the vast majority of the work is being done in these various subgroups. So that's where we are on the CCWG accountability work right now. Does anybody have any sort of overall questions or comments? I realize this was sort of a quick and dirty, but we're trying to keep it pretty high level and keep it brief because I know this was only one of the issues on today's call.

Oh, I see Ed's got his hand up. Please, go ahead, Ed.

Ed Morris: Yes thanks, Robin. It might be interesting to folks if you could talk a little bit about the legal committee we're on, because I think we're finally underway, and particularly for those who are in the other groups to know what we can or can't do for them and how they should use us. Thanks.

Robin Gross: Yes that's a good idea. So the legal committee has also been reconstituted, and that was something that we had at the beginning of Workstream 1 but then

towards the end of Workstream 1, it got disbanded and the chairs sort of took over. But we've reconstituted this for Workstream 2, because some of the different subgroups are finding they have legal questions. They're wondering, you know, like take for example the first question that has come up has to do with the appropriateness of the ombudsmen consulting with the legal department and - or the ombudsmen working on some of these issues in conjunction with the legal department, you know.

And so we need to decide where to send, if there's a legal question that needs to be asked to one of the lawyers, whether it's independent counsel or ICANN's legal staff, you know, we can sort of direct some of these legal questions that come up to the appropriate legal department for answering. You know, we've got a lot of pressure for everything to go to ICANN's legal department but we did manage to reserve the right to say, "Now, some of these things there's going to be a conflict of interest, we need to make sure we still have access to our outside legal counsel, who doesn't have quite the conflict that the ICANN's in-house counsel or even their outside counsel has."

So we just had one meeting so far and, you know, if any of the subgroups have legal questions, you can send them to us and we can try to assign them to the appropriate legal team for analysis. Thanks.

Okay so there really isn't anything else that I wanted to talk about with respect to the CCWG accountability work. So not seeing any more hand or any more questions, I'm going to turn this call back over to Tapani. Thank you.

Tapani Tarvainen: Thank you, Robin. Very nice to have that fairly comprehensive summary in so short time. That's very - (unintelligible) amount of things to cover. So without further ado, let's go - our agenda, looking at the meeting on Thursday and its agenda items, okay I see (unintelligible) mechanism, that's number four,

which is the bylaws drafting team recommendation. Does somebody care to comment on this? We had some...

Stephanie Perrin: This is Stephanie jumping in. I'm sorry, I'm on the phone so I can't gesticulate or put my hand up. Not to cover this item but to beg you to please speak up a wee bit. The sound's not very good. Thank you. Bye.

Tapani Tarvainen: Thank you, Stephanie. I'll try to speak up. Let's see if I can even adjust my mic a bit louder. Is that better? Okay I see Amr you have your hand up, presumably speaking about the DT. Please go ahead.

Amr Elsadr: Thanks, Tapani. This is Amr. Yes, can you hear me?

Tapani Tarvainen: Yes we can hear you.

Stephanie Perrin: Yes that's great. Thanks.

Amr Elsadr: Okay fantastic. All right thank you, Stephanie. Thanks, Tapani. This is Amr. Okay this is a motion that was deferred twice on two consecutive council meetings. And it's in its sort of third form or third version right now. Originally this motion was deferred because the bylaws drafting team that was responsible for recommending implementation guidelines to the GNSO's new powers under the ICANN accountability reforms basically recommending changes to the GNSO operating procedures and, where necessary, to make recommendations to changes in the bylaws.

So the drafting team concluded its work a couple of months ago. It's been about seven weeks getting this done. And I should note, four NCSG members were involved in this drafting team of nine, Farzaneh, (Matt) and myself, as well as Ed Morris, who is representing the NomCom appointed of the Non-

Contracted Parties House, and (Yulf), who is also on this call. I'm glad you could make it (Yulf).

So basically in short, we got all the recommendations we wanted. When we got to situate or position the GNSO Council as the representative of the GNSO in taking actions regarding the empowered community, this was a significantly contentious issue on the drafting team with basically us on one side along with the contracted parties, the registries and the registrars.

And this position was very strongly opposed by the three constituencies in the Commercial Stakeholder Group, the IPC, the Business Constituency and the Internet Service Providers, who were not in favor of the GNSO Council assuming this role and who were very insistent on the GNSO Council's role being limited to only the policy development process. We had lots of debate and they were not concluded in any way. But it's safe to say that the majority of the drafting team was in favor of the position of the side that we were on, and we were fortunate in that. So we got this recommendation to go ahead but with a slightly skewed consensus level, which is strong support with significant opposition.

And as you folks know, the sort of the consensus-level designations in the GNSO working group guidelines, that's sort of the third level from the top, the highest consensus level before consensus of any group. The second one would be consensus. We have a supermajority of the group in favor of a recommendation with a minority that is tenth. And then you have a third, which is strong support with significant opposition, which is what we got on this recommendation.

Anyway, this motion and the nature of the contentious topic and disagreement is basically the reason why the motion was deferred a couple of time, first to -

for the council to have an opportunity to actually consult with their groups on the drafting team's final report, then the actual language of the motion changed twice.

I wasn't in Hyderabad but I tried to catch up as much as I could through the transcripts, and there was an amendment suggested to the motion by the Commercial Stakeholder Group, and it was a pretty awful amendment. And I think folks were very vocal against it and eventually the makers of the motion or the registrars and registries came back with a third draft motion, which was slightly better but still - was still I at least believed that it needed a great deal of work, and thankfully our council representatives in Hyderabad managed to defer this motion a second time, which is by the way as far as I know is unprecedented. We've never had motions deferred more than once. So that's just I guess proof of the level of disagreement we're facing on this issue.

So right now Farzi, (Matt), Ed and myself have been working basically over the past week to try to come up with a strategy to address this issue. We have worked on a draft amendment ourselves. We've shared this with the contracted parties as well as the Commercial Stakeholder Group, and (Yulf) being the NomCom appointee from the Non-Contracted Parties House. And we're trying to figure out a way forward.

I want to stress that the drafting team report recommendations that are being (unintelligible) are really, really great. We got everything we wanted. And maybe (Farzi) and Ed, who are both on this call, can elaborate more on this if they like. But we did get everything we wanted out of that. We got all the recommendations. While it's very important that we get the council to accept these recommendations and pack them on to the board, it's important that we get new GNSO operating procedures language that implements them.

And there will be a public comment period coming up as part of the standard procedures. You know, whenever GNSO operating procedures are amended, there's a mandatory 21-day public comment period that is put in place. The council is likely to recommend a 40-day public comment period. And it's very important that we get as much input on that and support for the drafting team's recommendations as possible because we expect the Commercial Stakeholder Group to mobilize strongly against them.

There will be a second public comment period when the board is considering changes to the bylaws based on these recommendations as well. So I think we have to be vigilant during both those periods. Another worthy just issue to flag here is that the GNSO Council is recommending that ICANN Legal look over the recommended changes and make sure that they do not in any way conflict with the bylaws - well obviously not the bylaws that we're changing but just basic bylaws that sort of point out what it is the GNSO Council is supposed to do.

And this has been the heart of the debates on the drafting team, where the Commercial Stakeholder Group basically say that the GNSO Council assuming this role is unconstitutional and conflicts with the bylaws. And we've had this argument going back and forth why we believe that is not true and why they believe it is. So they've basically asked for ICANN Legal to look over this and sort of come back with a ruling on it.

And at that point they will - ICANN Legal will either rule in favor of the changes that we are recommending or against. If against, then the GNSO Council will have to likely reconvene the drafting team to take another look at this. But I think that's very, very unlikely, and the indications we've seen so far from ICANN Legal is that that is probably not going to happen.

So apart from that I just think we need to work on a strategy moving forward between now and Thursday on an amended motion. We're trying to work that out. I could circulate perhaps to the discuss list afterwards. I'll also post a copy here in the chat of what we have so far and just we're trying to make - we've been trying to sort of set it up in a way that where the motion would be very factually correct and not advocate one position over the other, hopefully to sort of get the different councilors, whether from the Commercial Stakeholder Group or other, to vote in favor of the motion.

I think it's important that the GNSO tries to show support to these recommendations. But I think it unlikely that we're going to win the Commercial Stakeholder Group over. And I think I'll leave it at that now and answer any questions if there any. And I certainly would invite (Farzi) and Ed to add to whatever I said. Thanks.

Tapani Tarvainen: Thank you, Amr. Ed already raised his hand. Ed, please go ahead.

Ed Morris: Thanks, Tapani. And thanks, Amr, for that comprehensive overview. I think it might interest people to know how important this seems to be to our colleagues in the CSG. While we were in council attempting to overcome the initial motion by our friends in the CSG, which by the way they posted or sent out on the list, while all the councilors were at our council dinner, we got back to our hotel room to discover this thing that they hadn't talked about.

But while we were in council debating this and talking about this and in our sessions, the chairman of our drafting team, Steve DeIBianco, was going before the board and in meetings with the board leadership to see if - the board leadership and telling them that, "Hey there was no consensus here, so you guys don't have to take this report all that seriously." At least that was the impression he was giving. And I think in many ways that's wrong.



One of the things we have been considering was to put a concurring report in this motion. We're not doing that at this point, but I actually -- and Amr knows this -- I'm getting a response back from one of our DT members from the CPH who's in agreement that we should try to do some sort of concurrent report with the five majority drafting team members and put it in as one of the first public comments. So at least it's my hope that this goes forward so we at least have something to offset the minority report, which was thrown in along with a regular report.

And I also want to concur with Amr, when they open up to public comment, the CSG has fought really hard to have a long public comment period and I don't know when the last time they have done that. That's usually what we do. Our expectation is that all of their members -- not just the CSG itself, not just the IPCBC and the ICPC, but the individual members are likely to weigh in on the structural issue -- so don't be surprised if we have to come before everyone here in the NCSG and say, "Look, alert the members and what those members who aren't all that active," we need lots of people to weigh in and make sure that these powers are in the counsel itself and not some combination of constituencies which will put us at a disadvantage.

I guess the other thing I just like to throw out there I'd have to Amr's statement that it's really important we get this plan. It's a great plan that we have negotiated out. So I'd suggest that we do need to come up with a position on this call, "What happens if the improvements that Amr particularly is suggesting the improvements of the motion are rejected by the chair, are rejected in some way and we're stuck with the motion we have now which we all agree isn't all that good?"

Do we go ahead in a Sepsis motion if all else fails or do we vote it down with the risk of losing our recommendation? I have an opinion. I'm not going to express it. But I'd like to hear from some others on that.

Tapani Tarvainen: Thank you Ed. Anybody wants to comment?

Stephanie Perrin: Oh, this is Stephanie.

Tapani Tarvainen: Okay, go ahead Stephanie.

Stephanie Perrin: I think this is -- and thank you Amr for an excellent summary of this very difficult issue. I mean, frankly, nobody has called (Dell Bianco) on the crew publicly in my view enough that you don't go to a counsel dinner and sneak this thing out the way they did. It's really is outrageous conduct. I see it as part of a much more comprehensive strategy on reducing the role of the GNSO and therefore, us, and so I think it's important that we that we definitely hit it, but also we need to sort of stop playing "Whack-a-Mole" and dealing that these issues in a desperate manner.

We have to have a strategy for combatting what is quite clear is a concerted effort on the part of at least the commercial stakeholders and possibly aided and embedded by other parties to diminish not just our role, but also the role of the contracted parties. As James Bladel said when I asked him point blank on this in Hyderabad during his kind of election stump how does he feel about restructuring of the GNSO -- because basically I see this as removing items from the (unintelligible) to the GNSO and part of the whole problem -- he said, "We're the contracted parties. We're the ones that actually have to spend money to implement what ICANN comes up with; therefore, I'm not in favor of giving away any of our votes," basically.

I'm boiling that down. You can check the transcripts if you want. What he really said. So I think it's really important that we come up with -- and I'm not offering to write it because quite frankly I'm not in many of the sort of "Whack-a-Mole" components of this - how this larger strategy is being thought out -- those who are on all the CCWG discussion know that -- but I wonder if anybody has pointed out to our friends there that in increasing the amount of accreditation issues such as PPSAI, for instance, and the load on accuracy and compliance issues, that the contracted parties face they are not only increasing the load in the regulatory load on the contracted parties, but they're trying to diminish their effective voice at ICANN.

Obviously, we're in there because we more often find common ground with the contracted parties than we do with the business constituency -- our teammates there -- but, you know, I see this as something that we should develop a strategy on. Thanks.

Tapani Tarvainen: Thank you Stephanie. I see Amr you have your hand up again or still -- do you want to pick this up?

Amr Elsadr: Yes, thanks Tapani. This is Amr again. Yes, I think Stephanie is correct that this is happening within a broader context of commercial stakeholder group constituencies wanting to generally restructure the GNSO and one can only guess why they wanted to do this, but my assumption is that they are not -- they are not incredibly happy with the level of influence that they hold on the GNSO counsel and this and influence on the counsel is a tricky thing.

You need to not only understand the distribution of counselors amongst the stakeholder groups and the non-appointees, but also the different voting thresholds used for different types of motions and votes. So generally, this is my personal impression and they are working on different funds to try to

restructure the GNSO and maybe do away with – to how structure altogether. That's all great - that's all the stuff that I believe very few in the GNSO agree with -- so I'm not as concerned, but I do believe that Stephanie is correct. We need to sort of think about a long-term strategy on how to deal with this, yes, because it's going to coming back at us.

But before I go I also wanted to address a very important question and ask them right before he handed the mic back to Tapani. He was asking what should counselors do on Thursday during the vote if the amendments that we are suggesting are not accepted as friendly and we end up voting on this awful motion that we have before us now? Personally -- and this is my answer as votee and I noted -- the drafting team recommendations are fantastic.

We want those. That's really the bottom-line. So I would vote in favor of a motion that I do not like as long as I get the recommendations I want implemented. So, I would do that, but I wouldn't be too happy about it. And what I would suggest at that point if that does end up being the case is that counselors are allowed to attach statements to their votes whether they're voting, "Yes", "No", or "Abstain".

When counselors do abstain, then they're actually asked to submit a statements to why they're abstaining. But in this case I would still recommend that we vote, "Yes". I would submit a statement attached to my vote and explain why I believe the – although I agree that the motion should pass because the drafting team recommendation needs to be accepted and implemented, I still don't like the language of the motion.

I'm still hopeful that we're not going to get there. That there is, it's - obviously, a possibility that we will have to deal with a motion that we don't like, but I am hopeful that we may be able to amend the motion. And what I'm

personally aiming at and I'm hoping is doable is that we present amendments that are just extremely difficult to reject as friendly. So like I said earlier, like the motion to be as factually correct as possible, to be extremely neutral, and not advocate one view over the other and - but in doing so get the counsel to accept the majority recommendations which we support.

So if that happens that will be great, if it isn't and if the other scenario that Ed pointed out which is entirely possible, if that plays out then I would still recommend we proceed as I just advised. Thank you.

Tapani Tarvainen: (Eric)?

(Eric): Yes, thanks Tapani. I agree with Amr in all accounts. We need to get this out. It's - we're not going to get a better report from this because quite frankly and (Marilla)'s on the call, one of the reasons we had such great success on the drafting team within Helsinki she pulled off some magic and created a situation and working with (Olaf) as well where we actually wound up with four members of a drafting team that consisted of nine overall.

We had a majority. That doesn't happen very often. So I wanted to pay my respects to (Marilla) for her great work in getting us that numerical advantage on this team. But also hearing Stephanie's dulcet tones, I do want to report a success from India that's related to the wider issue that both Stephanie and Amr have talked about. Back in Los Angeles a little over a year - a little under a year ago, something called the NCPH GNSO Futures group was set up and I was supposed to attend and their report was issued, so to speak, in Hyderabad at a meeting that somehow got shifted so it was directly opposed to the Milton NCUC outreach so I think they were hoping none of us would show up and the report would pass.

The report, by the way, two of the five recommendations that approaches that they said we're possibilities would have eliminated the NCSG as an active non-advisory member, a decisional participant in the GNSO so it wasn't all that good, but I want to report that Stephanie was there, Tapani, myself, we took on the CSG and the GNSO Futures group no longer exists -- so I think that is a major victory of us that we out a Hyderabad.

But as Amr said, this will keep coming up again and again and again and I guess we're just going to have to battle them again and again and again.  
Thanks.

Tapani Tarvainen: Thank you (Eric). Any other comments under DT motion? I guess we'll (unintelligible) in agreement about that. Okay, let's move on in the council agenda. The next one is counsel – GNSO counsel in response to the (unintelligible) and policy measures related to the (unintelligible) community from Hyderabad. I see Amr you have your hand up. Please go ahead.

Amr Elsadr: Hey Tapani. I actually I had my hand up (unintelligible). Yes, (unintelligible)...

Tapani Tarvainen: Okay, it's Amr.

Amr Elsadr: Yes, I actually had my hand up hoping to catch you before we move on just regarding the item for the first counsel vote on the bylaws drafting team again. Since we do have the (Olaf) here, I don't know if he would like to share his view or opinion on this or not, but, I'm not, I mean, he doesn't have to, but I'm just wondering. Thanks.

Tapani Tarvainen: So? (Unintelligible)?

Amr Elsadr: (Unintelligible). Sorry, to put you on the spot (Olaf).

(Olaf): No problem. Can you hear me?

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

(Olaf): Yes, good. Yes, I mean, I've been following this very closely and I think so – I don't really have anything to add to this discussion. I do think it's an extremely important one and we do need to solve and make sure we get the right wording in there that we want. I think we actually thought get it through (unintelligible) package in a suitable way. I don't think that's really going to be a major problem. The major problem is going to be that soft, yes, the most are going to wake up their heads in other holes again very soon. Thanks.

Tapani Tarvainen: Okay, thank you (Olaf). You have the knack of being brief. Any other comments on this? Okay, so let's move on. Is the (unintelligible)? Any comments there? Okay. Seems like it's an easy shoe-in for us. Okay, let's move to the next one without further ado then which is the approval related to the ICANN board concerning implementation issues with parts of the (unintelligible) to reduce the transfer policy. Okay, if there's any (unintelligible) on this? Comments anyone? Okay, Amr, please go ahead.

Amr Elsadr: All right, this is Amr. Actually since Ed, since Ed raised his hand he and (Kathy) have been following this more closely than I have, so I'll give him the floor. Thanks.

Tapani Tarvainen: Okay, thank you. Ed, please?

Ed Morris: Yes, thanks Amr. Yes, no, this is a big one. I - as I understand it, we may just be sending the letter without a motion. I haven't looked at the list today so I

don't know if that's been resolved, but (Jane Dell) suggested that we get the letter out. Here's the danger. Under this policy when you're about – when you're going to transfer a domain name and you're behind a proxy, for example, that shield isn't listed – is lifted, rather, during the transfer -- so for about a 60-day period, you will not have any protection whatsoever. I think we all imagine the problems that this would cause -- so we're trying to get this rectified.

The suggestion is to move it to another working group to delay implementation and quite frankly I'm not sure how that's going to go since this policy is supposed to come into effect on December 1 itself. So there is some questions I don't have an answer to, but if it does come to a vote I would strongly suggest we support this – the letter that (Dashi) came up with in this motion. Thanks.

Tapani Tarvainen: Thank you Ed. I see Amr you have your hand up. You want to add up – please?

Amr Elsadr: Yes, thanks, Tapani and thank you Ed. This is Amr again. Ed is absolutely spot on and I think we need to support this and I just also wanted to flag that's there is an ongoing discussion on the counsel list of not voting on this as a motion, but just getting counselors to agree the counsel goes and the letter to the ICANN board and basically Ed has – as Ed has correctly said this – the IRCP policy should beckon in terms of implementation very soon.

And the problem with the privacy proxy services during transfer the recommendation in the letter is to delay the implementation of that bid until another implementation review team on the privacy proxy service like PDP begins its work and that it would be the appropriate team to work out how that's as Ed has implemented and that's the jest of the letter really and



hopefully this - we won't have to vote on this and it'll just go through. So far, I believe, the registries and registrars and non-commercial stakeholder group have expressed a point for this as well as recently the business constituency (unintelligible).

Tapani Tarvainen: It looks like we've lost Amr really. Oh, Amr, are you still with us?

Stephanie Perrin: Can I just in here Tapani? It's Stephanie Perrin for the record.

Tapani Tarvainen: Okay, please go ahead.

Stephanie Perrin: Pardon me and I apologize for my cough if I start coughing. I think that - I mean, I hate to take up counsel time grandstanding, but this is one of the most underhanded and duplicitous things that I've seen actually in terms of protection for an individual. We don't understand exactly what kind of pressure might be placed on proxy service providers in order to be forced to transfer a call -- or rather not a call, but a client; and I also don't understand who possibly would have access to that information during the 60-day period. I gather the whole world.

What I'm not clear on is whether it's available for bulk access, for inclusion in all of the various products that are marketed -- you know, the secondary products, "Who was?", that kind of stuff -- so I'd like some clarification of that just so that I understand this little interlude as far as it goes. But I also would like to point out that one of the key reasons that there has not been more data protection law enforcement is that privacy proxy services are seem to be a viable low-cost alternative to a full set of rights.

In other words, there has been a workaround for a number of years. The accreditation of proxy service providers now puts, of course, our regulatory

framework around that, but to allow this kind of thing to happen makes a joke of that workaround and individuals need to be informed of their rights and they need to be informed when this happens, and they need to have this locked up. So in other words, the full force of data protection law ought to kick in here and nobody's talking about it. Oh, thanks. Just wanted to raise that point.

Tapani Tarvainen: Thank you Stephanie. Any other comments on this? Okay, seeing no hands (unintelligible) the policy seem to not press and be useful to have in here for this, but not, you know, not appears, but anyway let's move on then. Next is the adoption of proposed implementation plan recommendation relating to the GNSO review of 2014. Anybody care to address this? Ed, please go ahead.

Ed Morris: Yes, briefly. I'd encourage folks to take a look at the report that's linked there. All this is basically is telling us what they are doing to implement the GNSO review that a few of us have on counsel. No red flags here. Sorry to (unintelligible) support this. Thanks Tapani.

Tapani Tarvainen: That's convenient to have such accuracy every now and then, but no red flags and hopefully (unintelligible). Amr, have you spoke (unintelligible)? Go ahead.

Amr Elsadr: Hi, Ed, why, no, this is Amr. No, I have not spotted any red flags. I agree with Ed completely and actually wanted to add that I think there are some recommendations coming out of the GNSO Review Working group that are – that have improved on the original recommendations in terms of seeing clarifications on some certain vague – some recommendations that seem vague to, you know, at least and I think the working group has had a healthy approach of seeking clarification on those. So, totally in favor of voting in favor – in voting, “Yes,” for this. Thank you.

Tapani Tarvainen: Okay, thank you Amr. So it seems really we have one easy case the first day. Seeing no other hands on this, perfect -- so let's look at the next one. GNSO counselor is supposed to propose (unintelligible) forthcoming registration directory services review. The formal of the who is review. Somehow (unintelligible) process, but Stephanie might have something to say about this. Stephanie? No?

Stephanie Perrin: Thanks. Stephanie for the record. This is – I'm sorry, I didn't quite hear all of that. This is the implementation review report on, WHOIS?

Tapani Tarvainen: Yes.

Stephanie Perrin: Yes.

Tapani Tarvainen: The counsel (unintelligible) forthcoming with registration directory services review. A counselor responds to that.

Stephanie Perrin: Yes. There was a proposal that brought out in Hyderabad that this had a limited scope and (Susan Caragucci) expressed some surprise because after all she was one of the co-chairs of the - who is review team and she hadn't heard about this proposal for limited scope, so I believe the – this was the discussion was deferred and we hadn't had time to really look at it.

I have been without the internet for a while, so I haven't done my usual homework for the council meeting. It's quite difficult when you don't have access to the internet to get the documents. So, I'm really not sure where we are in terms of this. The sentiment was that given the immense amount of work that we're doing on the RDS at the moment that to start a parallel review of things that are also being covered in the RDES would be an unnecessary duplication.

When the whole idea of the review came up in counsel a while ago I said, “Well, why the hell are we doing this if we’ve got an RDES that basically goes over everything? It doesn’t make sense,” but, of course, because the reviews are part of the article and commitments they were bound and determined they had to do it anyway. So I guess the minimal scope idea was a workaround.

The problem is we’re still going to have to staff this because if we don’t somebody else is going to staff it and we’ll wound up with something we hate coming out the other end. So I would like to put up my hand as being one who wants to staff this and it’ll become increasingly important if we have a very small team if we decide on that option because there’s over 120 on the RDES working group at the moment, and we are floundering around after a full year of work so, you know, I don’t think probably the minimal scope minimal team will win and we need to make sure that whoever is in there is well able to fight whatever happens.

I’m not suggesting I’m the best person, but I’m certainly up to my neck in who is at the moment -- so this is not a learning curve opportunity, I think.  
Thanks.

Tapani Tarvainen: Thank you Stephanie. I note that this early discussion, right, and so hopefully (unintelligible). Amr, you have your hand up. Want to - Amr, please go ahead.

Amr Elsadr: Thanks Tapani. This is Amr. Yes, the first thing I was going to say was that I was going to point out that there is a discussion item, but – so thank you for doing that. I just wanted to sort of confirm a lot of what Stephanie said. There was concern about overlap between this work and a great appeal of the other work that is going on registration directory services and then so it was agreed

to sort to have this as a limited scope review so it and the current proposal that we are discussing it is very clearly stated that this review will not overlap with any other ongoing -- the WHOIS work -- that the focus is meant to be mainly on three issues -- the first one on whether the recommendations of the last was review the - were implemented, the second one be just the second question would be the effectiveness of that implementation, the third question -- the review -- would need to answer as to whether there are -- there is further implementation that has not been funded that needs to be done -- so this is a pretty tightly sculptured view and I'm personally comfortable with this.

I think it's the best scenario we could have and let's remember that this review is mandated by the by-law so it has to go - move forward despite all the other panel work on the WHOIS that is going on. I think the one issue that one of our members, Wendy Seltzer, had identified and this is that there is a bullet describing who the board should select to join this review team and then it's sort of was very narrow and limiting in who they should select particularly concerning - I mean, part of singling out those who were involved in the previous review -- so this might not be a good idea.

It probably isn't. There are -- there's been a lot of WHOIS work done between the last review and this one and it may be helpful to widen the pool of candidates a little to also include people who've been involved and who has worked during the between the two reviews -- so just wanted to flag that last point. Thank you.

Tapani Tarvainen: Thank you Amr. Any other comments, question on this issue? Shall we move on?

Stephanie Perrin: Just Stephanie back again. I just want to...

Tapani Tarvainen: Okay, go...

Stephanie Perrin: ...that one of my concerns about this is and I've not actually done the research on the recommendations of the last WHOIS review team. You'd think I'd know them by heart, but I don't. But I don't see how we don't bring up the issue of the really remarkable failure of the WHOIS conflicts with law procedure which as we know is still kind of (unintelligible) to counsel.

(Marika) is working on the scope of a new implementation team that will have a broader scope than the last one that I sat on that was a joke, but if that was, obviously, a recommendation of the first WHOIS, you know, the one that came out in 2006 and it's not working yet after how many years, 10 -- so I think that's going to have to come up with that somehow. If it isn't there's no way we can go near it, then I'm vastly relieved. But if it -- I don't see how we dodged that one. Thanks.

Tapani Tarvainen: Thank you Stephanie. Since we last Maryam was the host of this meeting for some reason let's hope it doesn't cause us any problems. Any other comments on this? I'm not sure we move on. Okay, Maryam is back. So, let's move on and let's look at the next item which is the counselor's plus the questions from the CCWG co-chairs concerning web stream to somehow, she think that really something to say about this. Robin? You still there?

Robin Gross: I am still here, but actually I'm not aware of it so I'd like to hear about it myself.

Tapani Tarvainen: Oh, okay. Anybody aware of this? Have any comment to say or should we just focus on something we have to study before Thursday (unintelligible)? Okay, well it sounds like nobody knows what's going on here.

Stephanie: Can you repeat the item please, Tapani? I'm afraid there's a lot of static on the line and I didn't hear what you were saying.

Tapani Tarvainen: Okay. The counsel discussion on GNSO counsel response to questions from the CCWG accountability pictures concerning work stream to. And (unintelligible) the working group (unintelligible) leaders seeking input by early December on the resources and documents used by (unintelligible) accountability with respect to the GNSO community taking into account particular specific working (unintelligible) of each (unintelligible) and the (unintelligible) leadership is working possible response from the currency limits requested (unintelligible) for the group constitutes and I'm not sure if we actually have a (unintelligible) plan to this, but I see Ed you have your hand up?

Ed Morris: Yes, Tapani. Just a question to you. Did anybody from counsel or counsel staff reach out to you for input on this? Thanks.

Tapani Tarvainen: Actually, I suspect somebody did and I'm not sure if I have (unintelligible) on that and they have (unintelligible) the bill here. (Farzi), you have your hand up? You want to add here?

(Farzi): Hi. Are we talking about, I'm sorry, are we talking about the WS-2 request from - for the accountability of (unintelligible) and the AC's and the questions? If - (unintelligible) on the screen. I just heard that, so that got it wrong. Okay.

Tapani Tarvainen: Okay, if you could just...

(Farzi): Okay, yes. So - okay yes, these are the questions that we actually came up with the WS-2 working group and (unintelligible) accountability and we left it

to the each (unintelligible) how to deal with it and which community. It means if they want to go to, for example, for GNSO if they want to go to the stakeholder group and constituencies or if they want just to counsel to decide how they want to proceed to answer these questions and so I don't know how the counsel is going to deal with this or if it's going to be a like if there are going to send the questions just straight to the constituencies and stakeholders.

I do think that I do think that they might actually (unintelligible) to us unlike the stakeholder groups and the constituencies and so yes, the question we have a -oh, so Amr I don't know if they think they have assured it with the community. So I think (unintelligible) with the comment I'm sorry I'm not very familiar on the date of the recent stake, but I do remember that we were discussing the questions and whether we should respond or not or whether we should wait for the counsel to decide.

Tapani Tarvainen: Okay, thank you (Farzi). So since she actually kind of both sides of the fence here when, you know, these questions are whether they come. Any idea how we should respond?

(Farzi): Yes, Tapani. The questions are quite there about transparency mechanisms and what sort of mechanisms we have to hold like representative accountable, the elections, and so also one of the question is would your designated community do you think they go outside the bylaws or not and so I mainly (unintelligible) due to mechanisms and to (unintelligible) are mainly predicted in the bylaws, but also the questions actually they do not limit you to provide them with tests.

They also say that there might be like (unintelligible) policies. Also, they ask whether they - whether they - do you have, like for example, field mechanisms and all these things. I think it's quite like there are like



straightforward answers on this. You want to like unwritten policies or also it's asked about reviews and how many times you reviewed your bylaws and, you know, how many times, but whether you have reviewed it and what sorts of things you wanted to add to it.

So this is actually - these questions are to because one of the tasks of this working group is to come up with a work plan to enhance the accountability of (unintelligible). In order to come with plan, we came up with these questions to understand whether the communities already have and have done -- and, yes, so I think they're straightforward questions that can be answered based on the bylaws and just a brief discussion with the community. Thank you.

Tapani Tarvainen: Okay, thank you (Farzi). And (unintelligible) to me. Any comments from anybody else on this? Amr, please go...

Amr Elsadr: Thanks Tapani. This is Amr and thank you (Farzi). I thought that was really great and I appreciate. I'm still a bit confused on something. I think I may have missed it. And apologies if I missed it on the list, but how - have these questions actually been forwarded to the NCSG already and we're saying that we're discussing whether or not to answer them? I think it may be a good idea to actually get this done, but my apologies again that it seems I actually have missed this. Thank you.

Tapani Tarvainen: Yes. If they have forwarded it to us, I have missed it as well. (Farzi).

(Farzi): So Amr, in order to answer your question, I have to go through the pile of emails and I don't know - I think so because I'm involved with the process, I'm - I kind of need that they might be coming. But I had the impression that the

GNSO Council is going to decide whether go to the stakeholders and constituencies or not.

And when I saw them and I think (I already) forward it, then I was kind of like a little bit surprise that we got them already. So what I'm (going to) do is I'm just going to go through their emails and see if they have actually reached out to such stakeholder - to stakeholder groups and constituencies and if they have decided already that we have to answer these.

Tapani Tarvainen: Thank you (Farzi). So we hope you will come up with - let us know if we should have received that many questions or not. Any other comments on this topic? Yes. The action on that is unclear here. And it's possible that I have missed the message but I don't remember seeing them.

So from now I guess we can't - I'll see if I can dig in tomorrow when we (unintelligible) but I haven't - really don't remember that. But it may be what it is it's possible (it hasn't) - (so it's) been lost. But we hope that (Farzi) can find it (quickly), something on here. Anybody else on this topic? Okay. Let's move on then.

Have one more item on the Council agenda. Discussion item. Selection of GNSO representative to Security, Stability and Resiliency Review Team. Just discussion at this point I understand. Ed, you have the floor.

Ed Morris: Yes. Thanks Tapani. At the last meeting, James Bladel asked Susan Kawaguchi and myself to try to come up with a master appointment strategy. And all I can tell you is we're working on it as I speak.

So hopefully we will have something - a strategy for appointing people so we don't have to reinvent this every time we have an appointment because we

have a lot more appointments than we used to. And so James recognized this, asked Susan and I to come up with a strategy.

What I can tell you something I'm really happy about is although we're still working on portions of the recommendation, one of the things Susan and I both feel very strongly about is making sure that the appointments are as transparent as possible.

We recently had an appointment for the GAC liaison, which (Carlos) was fortunate enough to get and be appointed. But we have no idea how many applicants there were. We have no idea what the two Vice Chairs and the Chair of the GNSO Council looked at, what criteria they used.

So Susan and I are both going to be (drafting) transparency and openness in appointments processes. And we're still talking to each other about how to actually do this. But again, I fully expect that we'll have something for the Council on Thursday.

And I'm sorry it's taken us so long to get this done. But with the travel from India, we both have just been able to start working on it this week. Thanks.

Tapani Tarvainen: Thank you Ed. I see (Farzi) you have your hand up. Please go ahead.

(Farzi): Yes. I thank you. I just went through the - I saw an email from James, which was forwarded by our (speech) to the NCSG policy list where James requests the community. So this is what he actually said. Please see the (loyal) request from the Work Stream 2 seeking feedback on how SO and AC maintain (internal) accountability.

And then he says that if there are no objections, I will work with (Heather), (Donna) and staff to draft a response. But please feel free to share this request with your SG or constituency leadership and relay their feedback as well.

So this is what has been sent. James sent this email to the Council members on 18. So and then Rafik forwarded it to NCSG. So I think if you want - if you want to relay feedback and discuss it, I think we should just answer the questions and give something to the Council. Thank you.

Tapani Tarvainen: Okay. Thank you (Farzi). Any other questions or comments here? Okay. No hands up. That was last. Okay. There's one more item we have left in the agenda and for Item 58. Do we have something we want to discuss here about that but I think we will be - need to push to Thursday on this. Anybody? Any comments?

Stephanie Perrin: It's Stephanie again. I just wanted to make everyone aware that we are proceeding a pace with plans to bring data commissioners to Copenhagen. (Peter Kempian) from Council of Europe is organizing. This is a full-fledged project of the Council of Europe.

So he's got lots of support. While we were in Hyderabad, we met with a few of the Board members. They were enthusiastic, notably Markus and Lousewies. And there is support from ICANN now. We're working with (Jon Jaques Fahel) to get this thing planned to arrange a meeting of the high level folks with the certain Board members for lunch and having a meeting with the GAC.

So this would be probably a first for ICANN. And (Peter)'s doing the heavy lifting trying to get these guys there. He's had assurances of support from very high-level folks in the data protection community. If we get even two or three

of these guys that have said they will come, it'll be a first and we should be able to push some activity on some of the privacy fronts that we're working on.

So just wanted people to be aware of that. I will of course be promoting as soon as we get a timetable. There was discussion in Hyderabad also of having kind of an academic NGO meeting on the side of this to bring civil society folks and academics in the Internet governance/privacy area to come as well because Copenhagen obviously is easier to get to than places like Hyderabad for most of the people working in this area. Thanks. Happy to answer any questions.

Tapani Tarvainen: Thank you Stephanie. Are there any questions? No. Any other comments on this topic? Okay. I think we have then covered the Council meeting agenda. Let's look at the public comments (standing) or at least a few that we do want to have some interesting in that are pretty urgent.

Okay. Ed, do you have your hand up with the public comments or still on the Council agenda?

((Crosstalk))

Tapani Tarvainen: ...you have the floor.

Ed Morris: Sorry Tapani. On the Council agenda under any other business if we have time. In Hyderabad at the Council Center, Avri came to the microphone and raised what I consider to be a very important issue.

And that is the gradual entrance of the GNSO Council in our discussion into non-transparent opaqueness behind closed doors. This is something I hadn't

thought about until Avri brought it up. It just sort of became part of the landscape.

What we do in Council is the night before a Council meeting we all get together, the door is pretty much locked. Tapani, you were there. So we do allow the constituency leadership and stakeholder group leadership to be part of this discussion. So it's not just Council members.

But there's beer and there's wine. And frankly what's been happening is we do most of our policy discussion behind closed doors. It's not recorded. There's no transcript. And outsiders pretty much are not allowed in although I have noted one or two exceptions to that policy.

And, you know, I started to realize this myself when Sarah Clayton was a temp alt for (Marilia) this meeting. I remember telling Sarah, "Now you got to be ready for this meeting because this is where we do all of our work."

And then I started to think when Amr, when we're trying to talk to Amr and bring him up to date on what we did in India and some of the stuff that you don't get from the transcripts, I kept talking about (things).

I (carefully) realized he didn't have the benefit of knowing the real meaty policy discussion. Stephanie was amazing on the DT issue. Tapani, you intervened in that.

That was where we did our best work as Councilors and as representatives of the community. In Helsinki that's where (Marilia) did her magic to construct the DT charter where we had an advantage.

So a lot of the policy we're doing now nobody outside of the Council knows about and no one can really evaluate the job we're doing. So Avri brought this up and suggested it might be a slippery slope to just - but we need to vote before closing the doors. I look to the GNSO operating procedures. I think she has a case there.

And so I'd like to bring this - we did bring this up at the end of the meeting in Hyderabad. And folks thought - did talk about it. We were going to bring it up on the -- what was it called - the development session on the last day. But that session was canceled.

So we haven't spoken about it. I think it's an important issue. So I will bring it up if there is time remaining in any other business. If not, in the future we'll try to get it on the agenda itself or do what's necessary to come up with some sort of plan so we're not making policy private. That's just not what we should be doing. Thanks.

Tapani Tarvainen: Thank you Ed. Yes. I remember that discussion in Hyderabad. It was pretty interesting and I think James Bladel commented that we might want to reconsider this in the future or something (unintelligible). Amr, you have your hand up. Please.

Amr Elsadr: Yes. Thanks. Thanks Tapani and thank you very much for that Ed and Avri. This is really a serious issue. And I just wanted to give folks a bit of history on how that session sort of changed to be and what its initial purpose was.

This is a - this is a thing that the GNSO Council started back when Jonathan Robinson was the Chair. And the objective of having informal session with Councilors and the constituency and stakeholder group leadership was not to discuss policy in any way but rather to just make sure that there are no

surprises that come up during the public GNSO meeting at the ICANN meeting.

So the purpose was never for the Councilors and stakeholder group and constituency chairs to start discussing their policy issues and working out agreements there.

It was more just to, you know, make sure okay we have the public Council meeting in a couple days. If anyone has any problems, please just flag them now. That way each one of us can take these back to our stakeholder groups and constituencies and, you know, and that way there won't be any unpleasant surprises on the morning of the public meeting.

So that was the limit of the purpose of those at the time. And usually if there were any discussions and then (some folks just) make fun of this actually, it would just be about Jonathan Robinson going on about process and (probably) this and process that.

So there were never any real substantive policy issues discussed there. And if for any reason the current custom now is deviating from that, then yes, I think this is a problem and as Ed and Avri suggested, we do need to address it. So thank you both.

Tapani Tarvainen: Thank you Amr. That was enlightening. And it's very definitely good to bring this up (on the first day or) some future meeting. Anything else on this or any other business? Okay. Let's move on to the public comments then.

The first one discussed an extended deadline (on Thursday). It's proposed amendment to triple X registry agreement. I see Ed, you have your hand up already. Please go ahead and explain.



Ed Morris: Yes. Thanks Tapani. Yes. I'm the reason we got the - I'm the cause of the - I actually requested it. And we have an extra seven days to respond to this. And I now on list Stefania Milan has offered to help out in this. So I'm willing to work with Stefania and anyone else who'd like to get this comment in in the next few days.

Here's the basic issue. We have had a history here in the NCSG of lashing out or complaining about ICANN staff subverting the bottom up process in their renegotiation of some of the - of some of the registration agreements.

For example, .pro, .cat, .travel; we actually wrote a reconsideration motion with the Business Constituency, which one of the trade publications called the Odd Couple reconsideration. Things like that don't happen.

Our problem basically is this. In negotiating these agreements, ICANN legal is requiring those parties who are renegotiating the control over the domain names to agree to implement the new gTLD RPMs as part of the agreement.

Now the problem with the new gTLD RPMs is A, they were never designed for this purpose; and B, they were not developed through the bottom up multi-stakeholder process.

So they deny that they require this. They seem to believe or want us to believe that all these structures out there are running to us - are running to ICANN saying we want these new RPMs. When you talk to folks privately, that's not the case.

With the .triple X one there was an incentive for them to do as we believe ICANN is requiring them to do. Dot triple X was paying \$2 per registrant per

year to ICANN. As part of this new agreement, they're only going to be paying 25 cents per registrant per year, which is more the industry norm.

So our feeling and belief is that ICANN itself is saying hey, come on over here, implement - put on the new gTLD RPMs, which was not developed by the community. We're going to be looking at it the RPM group but we're not there yet.

And if you do that, we're going to cut you X, Y or Z deal. We can't prove it. But the idea that ICANN and ICANN legal can get around our processes, develop their own policy through contract is one that's really, really dangerous in subversion of the multi-stakeholder model.

So I hope that we will be able to get a public comment in on this issue. Thanks Tapani. And I want - I should thank ICANN for giving us the extra seven days.

Tapani Tarvainen: (Good). Thank you Ed. That is very interesting. And I do hope we get the added comment and the time's really short. Anybody willing to work on that would be most welcome I'm sure. Does anybody else want to comment on this at this point? Okay. Let's look at the next public comment.

This is a bit (unintelligible). (Face) the assessment of the community's effort associated the new gTLD program. Do we have any interest, questions on this one? I see no hand. So I presume we will not be commenting on this.

And the next item I think even less likely proposal for (last recruits) on labor generation tools. We don't have any (law) members. And I don't see anybody else having interest either.

Next is the (best). PTI. It's the (operation) to plan and budget. Ed, you want to comment on the budget or something else?

Ed Morris: Yes.

Tapani Tarvainen: Go ahead.

Ed Morris: I've actually (started work) on the public comment here if folks want to look it up. I've also talked to (Milton). And I believe he will take a look at it before we put it up for the (PC) and anybody else who'd like to work on this, I would very much appreciate the help.

What's important is this is really the first PTI budget we're going to be looked at in incentive community. And what we really need to look for here is to make sure that we still have separability that the budget isn't being constructed to bind PTI to ICANN forever.

So with that in mind, it's a little bit more important than a typical budget review. So I (volunteered) and going forward regardless of other stuff going on with my participation here. We'll make sure we get that done by what, the December 10th Tapani or 5th? In any event, we'll get it in in time and we'll throw it out to the list.

And again, anybody that would like to help in this, please step up. I could use your help. It's fairly (voluminous). Thank you.

Tapani Tarvainen: Thank you Ed. And (this will be) the new type of a budget (thing) so it would be useful to comment - look into it. Anybody else want to comment on this point? No.

Next one we'd like to propose implementation of a GNSO Thick Whois consensus policy requiring consistent labeling and display of RDDS output for all gTLDs. Any comments on that? Stephanie, are you still on? Okay. I see...

Stephanie Perrin: Yes I am if you're talking about Stephanie. I can barely understand you because of the static. What item is this now?

Tapani Tarvainen: The public comment - (it was) proposed implementation of GNSO Thick Whois consensus policy, which is due December 12.

Stephanie Perrin: On - I beg your pardon. What was that again? Something?

Tapani Tarvainen: The implementation of Thick Whois consensus policy requiring consistent labeling and display of RDDS output.

Stephanie Perrin: Okay. I don't think I can comment on that. Sorry to take up so much time.

Tapani Tarvainen: Oh. Okay. Amr, you have you hand up. You want to comment?

Amr Elsadr: Yes. Thanks Tapani. This is Amr. Yes. There are two open public comment periods on Thick Whois right now. And just to explain to - explain some of the context.

This is a consensus policy meaning that it was developed through the GNSO, the Board adopted it and it became ICANN consensus policy. And right now Global Domain Division, which is the division of ICANN that works on implementation of policies with contracted parties is working on that implementation.

And as part of the implementation, they are posting their implementation plan out for public comment. So consistent labeling and display was one of the sub-topics of Thick Whois.

And the other public comment period is on the transition policy for .com, .net and .jobs, which are the three major legacy gTLDs that are still in the thin format and would require a transition to thick meaning that all registration director services previously known as Whois would - which were formerly stored and managed by the registrars will now be transferred to the registries.

And so in general as far as an implementation plan is concerned, I don't see any problems with the consistent labeling and display. This is one of the recommendations of the Thick Whois PDP Working Group has adopted and I don't see anything with - I don't see any problem with the implementation of it.

The transition policy for .com, .net, which is very significant because it involves millions of domain name registrations and a lot of Whois data traveling across borders, that's the only thing that (I dispute) on that. I probably need to take a second look and sort of figure out how they manage the - there's some - any conflicts between privacy law and the transition.

I recall in the past that they had been discussing trying to get - trying to get (unintelligible) just the (unintelligible) sign off on transferring their data. I'm not sure if that's the way they actually went or not. I'm not sure how it worked out.

It was sort of a series of recommendations on that at some point. So I think it would be important for us to go back and take a quick look and make sure that we're not missing out on something important. Thanks.

Tapani Tarvainen: Thank you Amr. Here's another (unintelligible) another Thick Whois up for public comment immediately following it proposed limitation transition policy with .com, .net and .jobs. And thank you Amr for being up to date on this, not that I ever could be. Anybody else want to comment on this or to the next one as well if you like.

Stephanie Perrin: Can I comment here?

((Crosstalk))

Stephanie Perrin: Hello.

Tapani Tarvainen: Yes. Go ahead Stephanie.

Stephanie Perrin: I have been asked...

Tapani Tarvainen: Yes. Go ahead Stephanie.

Stephanie Perrin: ...for a data map of what is exactly happening to the data with this Thick Whois migration. Some of the European registrars think that their data protection obligations will disappear and belong to VeriSign.

And I hate to tell them that I don't think that is the case. All it does is imply a data transfer to VeriSign and they're still accountable for that. And the sense transferring the data to the United States was at the heart of the (shrens) decision.

And access to VeriSign registry data from law enforcement is still kind of an open question that I haven't seen the details of. I don't think that this actually solves anything.

Having the applicants or the registrants sign off on this transfer with a consent that's precisely the point that I dissented on in the EWG report. You can't do this because they're unaware of the implications for their constitutional rights. Thanks.

Tapani Tarvainen: Thank you Stephanie. I see that Amr commenting on the chat that ICANN legal had performed a legal review of Thick Whois against privacy data protection (most) in the EU and some concerns.

Well, that's what's so nice that I can even to have this (unintelligible). Anybody else on the Thick Whois comments, either of them? No. Okay. Let's look at the next one.

Continuous data driven analyzes the root server system stability draft report. Has anybody looked at this? Okay to comment otherwise. Just to be - it's the deadline is December 22. So there's still time.

Then we have updated supplementary procedures for independent preview process IRP. Anybody interested in this one? No. Okay. Well it's this last one that currently I think is something we do want to comment on I'm pretty sure.

Proposed ICANN community anti-harassment policy. Certainly be a discussion about this on the list. I seem to think we're having to discuss this sometime or somewhere certainly. Does anybody want the floor? Or if you want to go back, if I'm going too fast, please feel free to jump back. Okay. Ed, you have the floor.

Ed Morris: Yes. Thanks Tapani.

Tapani Tarvainen: (Yes).

Ed Morris: I believe that for the IRP review we're going to really need to form a team. This is fairly extensive. It's fairly complicated. And it's very important for us. So my suggestion would be that as Chair or (Marilia) if we can put a call on the list for members and try to get organized for this one or either rep into what (Robin)'s doing because this is literally going to be the linchpin of the - all of our accountability procedures.

And we really need to make sure that the rules are designed in a way that our members and ourselves as a part of the community access them and make it work. So my suggestion is we form a team to do this because it's too big for any one or two person to do. At least that's my idea. Thanks.

Tapani Tarvainen: Thank you. That seems that's good. Anybody like to volunteer to put together a team or lead one? Okay. (Renata), you have your hand up. Please go ahead.

(Renata Robairo): Hi. (Renata) here. A question and an observation. A question about how does this work for instance. There are several organizations which have also for public comment harassment policies. And the whole process is public and the conclusions are free for research. So how does this work? Can we do sort of a liaison with the organizations for this?

And a comment. I agree that the (unintelligible) a reasonable amount of time and it's a very broad issue. And I think sounds like a good idea. If we have a (pin) holder for this, I can work with it or with the - this leader of the group or I can try and also volunteer for this. Thank you.



Tapani Tarvainen: I will understand you are talking about the anti-harassment policy where say propose a team for the IRP. But otherwise no problem (actually with a) team for their purposes would be a very good idea. Do we have volunteers for either team (as we convene just) members? Okay.

Anyway for the IRP is there any other comments other than that we need a team to set it up at this point? No? As for the anti-harassment policy, anybody want to talk about it? Then again, we have already proposed this to the team. Okay.

I'll put to the list actually a request that anybody want to form a team here would be welcome to do that. Any other comments? That was the last item on our - on the open public comments at this point and the last item on our agenda as well besides any other business, so, (with one to) AOB. Any other comments on this - any other public comments? No.

Okay. Let's go back to our agenda. Still remaining is there any other business in our meeting here. Okay. One item (up at once) that we have. There will be one Council session on December 15. And I expect we'll need another policy call before that. It would be (in this facility) then.

And I will probably suggest a little different time to get traffic in say something like 2100 hours if it doesn't conflict with anything we know of. Anything else we want to discuss now? Everybody wants to go to sleep or go (back) to where you want to depending wherever you live.

I see - okay. Going (through it) I see (Renata)'s question here, a question on liaison with other organizations for public comment purposes. Are you suggesting a general process that we should do that or specifically for some

public comment now like the harassment policy? (Renata), would you like to speak? Are you specifically...

(Renata Robairo): Yes.

Tapani Tarvainen: Okay. Go ahead.

(Renata Robairo): Sorry. (Renata) here just to clarify yes. I was wondering if this was ever done before like to bring in - there are organizational members. So to bring in for so APC view and other views on this public comment.

Has this ever been done before and could it be interesting now and could it be also something that we could put in the list? I would think that organizational members would also like to contribute. Thank you.

Tapani Tarvainen: Not aware of that having been done before. Although my memory may not reach all that far back. Does any of the old timers here remember anything like that? Ed, please.

Ed Morris: Yes. (Thanks). Yes. I'm not an old timer but when I first joined I went through the history of this group. And (since) we get a lot of the Facebook postings that (Robin) did way back when, I'm not sure if (Robin)'s still here.

But I do recall that when we're battling over whether we should even exist and in the form we should exist within ICANN. I actually believe it was (Robin) herself basically put together a campaign of a lot of our institutional members.

And (Renata), I think that's a great idea to involve their members more but also to give us more influence over policy at ICANN. I know for example

when the drafting team report public comment open, we're going to need more than just a few of us writing comments.

So I think that's a great idea. And I hope our leadership both for the constituency and stakeholder group level start thinking about how to involve our institutional members in that way. Thank you.

Tapani Tarvainen: Thank you Ed. (Robin), would you like to reminisce about the things past?  
No. Okay. Thank you then. Any other (on this) we want to discuss about this or anything else? Okay.

If not, let's close this meeting then. Thank you everybody. And have a - for Councilors have a good meeting on Thursday. Yes (Robin). You got (your fun) for the ten minutes we have remaining. I hope you haven't actually prepared something for this. Okay. You can stop the recording. Done.

Woman: Thank you very much Tapani. (Recordings), thank you very much.

END