

**ICANN**

**Moderator: Brenda Brewer  
May 19, 2015  
2:30 pm CT**

Coordinator: Recordings are now started. You may begin.

Marika Konings: Thank you very much. Hello everyone. This is the DT-M meeting of Tuesday, May 19. On the call we have Avri Doria, Chuck Gomes, (Ann Meridia) and Staffan Jonson, and myself, Marika Konings, and Brenda Brewer's also on. With that, I'll hand it over to Chuck.

Chuck Gomes: Hi everyone. Thanks for joining. I know several of us have been in quite a few meetings already today, and it's only a little after 12:30 in the afternoon for me. So they start at 5:00 for me, probably earlier for some of you. I don't know. Anyway, welcome. Thanks for joining us. And my apologies again for missing the last call in my time zone confusion. But let's get started on this.

There are three items in the punch list, the Sidley punch list, that relate to Design Team M, and they are connected to the work of Design Team C. So the first thing on our agenda, as you can see, is to walk through the input from Design Team C.

Staffan, are you comfortable with going through that? Or do you want staff to do it, or me to do it? I mean I would just have to report what I see in the punch list, so I might not be the best person to do it. Is that something you could do?

Staffan Jonson: Sure, I can do that one. So I'll just walk you through what is already on the screen, that's from my mail sent last - I think it's last week. And by some reason, I specifically mentioned Number 21, which isn't really accurate to do. I'm not sure why I did that. But so let's please ignore that comment specifically.

But so I can report back from discussions within DT-C and especially the Points 11 to 16, and then I think we are 21 through 23, which were to be commented on. So let's go ahead.

So when designing a customer standing committee, the Action Point 11, and 11 to 16, we had quite a long discussion about not to over-regulate the CSC, and to hope that many things would solve within themselves within the CSC, without having to regulate too firmly.

That is maybe the overall approach to Point 11 through 16. And if you disagree about that, please let me know, raised hand, et cetera. If I don't see a raised hand, I'll just walk us through this one.

So according to the 11, composition, who will select the TLD representative, that is not the CSC or TLD or gTLD registry. And this point, we actually agreed that people - first and firmly people must apply to be considered eligible for the CSC, and they must have the support from the relevant registry.

So there is double concern about the nominees being selected for the TLD representative within the group.

Chuck Gomes: Staffan, this is Chuck. Just a quick question for you there. And relevant registry, does that mean the registry they're associated with?

Staffan Jonson: Yes, exactly. That's the point.

Chuck Gomes: Thanks.

Staffan Jonson: We had a minor change, editorial change, there mentioning the ccNSO Council and GNSO Council, rather than the ccNSO as a whole, and that is just an operational aspect of it. So do we have any comments on this, on 11? Otherwise, is it an acceptable way to do this?

Chuck Gomes: What you're doing is fine. And go ahead and manage the queue yourself.

Staffan Jonson: Okay, thank you. I see no one in the queue. I see no raised hands. So if I see no comments, I'll just continue through to 12. And the question here from Sidley was, what's the balance or the percentage of the membership to the CSC, and approved by ccNSO and GNSO?

And the more general answer to this is that full membership of the CSC is to be approved by the ccNSO Council and GNSO Council in accordance with their own rules and procedures. So let the two sort it out internally and then they'll nominate. So this is not specifically mentioning a percentage, but it's saying actually 50/50.

And then I can't really see what is mentioned at the approval process demand or expect some kind of consultation between the Councils. And that is what I

mean when I say we expect things to sort out as well during the process as well. So are there any comments on 12?

Okay, so I see no hands here either, so I'll just continue to 13. If ccTLD or gTLD representative is recalled, can meeting continue before replacement is named? And here the group had the conclusion that we should fill the vacancy within one month of the recall of the member, and believe that is sufficient. So I'm not sure if you have any comments on this. Chuck, please go ahead.

Chuck Gomes: Thanks, Staffan. Just a quick question. So they can provide a temporary replacement while they go ahead and come up with a full replacement. So that's not a requirement, I guess, but that's probably more important if it takes more than a month to actually decide on a replacement, which it might in either body probably. Am I understanding that correctly? Are you on mute, Staffan?

Staffan Jonson: Sorry, yes I am. Yes, exactly. So we had the consideration about it, and considered a month as a reasonable amount of time. But after a month, there'd need to be some replacement, so I guess the answer is yes.

Chuck Gomes: Okay, thanks. Go ahead.

Staffan Jonson: Thank you. 13. If a ccTLD or gTLD representative is recalled, can meetings continue before - oh, sorry. That's - I just mentioned that one. So in 14, there was also a discussion on to determine how CSC will decide and who will be liaison to IFR.

And again, quite a light-touch approach. The CSC as a whole will decide who will serve as the liaison to the IFR. And preference should be given to the liaison being a registry representative, and also - and hopefully it could also

provide someone with the technical expertise to participate in this function.

Any comments, considerations or thoughts? Chuck, please go ahead.

Chuck Gomes: Yeah, thanks. Just sounds like a good recommendation to me. But just a thought, and I don't know that we need to do anything about this. But it seems like it would be a good idea when the ccNSO and GNSO select representatives, that they try and ensure they are people with technical expertise.

Otherwise, the CSC could end up with no technical expertise, and the objective there in Item (15) might be hard to fulfill. Just a thought. I don't know that anything needs to be done with that.

But maybe it wouldn't hurt to in Number 13 - what is it? Number 13, Number 11? What is it? Number 11, I guess, to mention that technical expertise might be a good thing to look for. And I don't know if that's (unintelligible) or not. But anyway, that's just a comment.

Staffan Jonson: Okay. Thank you. Yeah, it is really important actually to have also technical expertise participating, and that was also the reason behind elaborate discussions on liaisons is to include technical expertise as well. Okay, so I'll make a note of that. Avri, please go ahead.

Avri Doria: Yeah, hi. Avri speaking. It's not in this punch list, but it will be, so it's probably like a 14A. Given what we talked about today in terms of the separation cross-community working group that also has a CSC liaison, the recommendation is it not be the same liaison that was a liaison to the IFR. So you might want to just anticipate a 14A, and in that one you might want to indicate that it's someone that has skills not only technical, but at RFP.

Staffan Jonson: Okay, that's a good one. Sorry, I'm writing this one. That's a good one, so I'll make a note of that as well and take it back. Okay. If there are no other comments on 14, I'll just push on.

In 15, so a proposal for immediate action procedure is noted at ICANN to be agreed upon by CSC and PTI. Will this happen prior to transition? Sidley asked.

And our conclusion was that it is expected that the CSC and the PTI will agree to remedial actions, procedures, post-transition or after transition, once the two entities are formed, and that the agreement should be between the CSC and the PTI, not the CSC and the PTI Board, is also made a point here.

So this is a transition issue with a bit of faith given into that this will work. I'm not sure how we could design that further, or if we even should try to design this further than this being done. Chuck, please.

Chuck Gomes: Thanks. Just on the last part of the second paragraph or second sentence there, it might be helpful to say PTI staff. And but I would still put the qualifier there, because I think the qualifier not the CSC and PTI board's a good qualifier.

And the more I think about it, the more I wonder if it should be done with the director of PTI or designee, because when you say just PTI staff in general, it could be one staff member. And hopefully it would never happen without consulting with the leadership of PTI, but I don't know. I throw that out and you can deal with that however you like. But just a couple thoughts there.

Staffan Jonson: Okay, thank you. So I'm taking notes and pushing it back, hopefully having agreement on this since - okay, so I see no other comments and I'll just push forward.

16, about the (unintelligible) resolution process mentioned, that the CSC can escalate to ccNSO and GNSO, which may then decide to take further action using their agreed consultation and escalation processes. What would these processed be?

And the idea here is that the ccNSO and GNSO will be responsible for developing their own internal procedures, and that will also be done post-transition once the organizations are founded.

And I'm trying to see - remember what I wrote in the comments as well. So this is not either an urgent issue, but rather post-transition, so we just have to have faith in the organizations per se, expecting them to do the right things here. But do you have any comments about this? Chuck, please go ahead.

Chuck Gomes: Sorry to comment so much, but this is Chuck. Did the design team talk at all with the leadership of the ccNSO and GNSO on this one?

Staffan Jonson: Not to my knowledge, at least. But we sure will have to do that, yeah.

Chuck Gomes: Yeah, exactly. And you know where I'm going next. I think that would be good, sooner rather than later, for someone maybe just - I'm sure Jonathan's already aware of this. I don't know if Byron is. But it'd probably be good to just at least set the stage or lay the groundwork for that.

Obviously once this is approved, there'll be some implementation things that will need to happen before transition occurs, so that the ccNSO and GNSO start working on those processes.

But it seems to me it would be good before the proposal is actually finalized to actually have - be able to note that conversations have happened with the leadership of the two SOs regarding this, and that development of the processes would be anticipated between approval and transition. Something like that.

Staffan Jonson: Yeah, I do agree. So we're having a meeting with Byron tomorrow or within something like 24 hours. And then I'll mention it for him, at least. But I'll also have to send it mail or something, (unintelligible) maybe, to Jonathan about this. I do agree about this.

Chuck Gomes: Sounds good.

Staffan Jonson: Good. So what else? I see no more hands, so I'll just push through and that will make it 17 through 20, and go to...

Chuck Gomes: Probably (unintelligible) 21?

Staffan Jonson: Yeah, exactly. So let's go to 21. And in 21 we start about escalation mechanisms, and so the question is quite relevant. Who does the ccNSO and the GNSO escalate unresolved issues to? Will there be an IRP process?

And this is dependent on other processes, as we mentioned a bit today even, just a couple minutes ago. And these are also expected processes to take (unintelligible) transition and post-transition. So we're sending it into the future.



((Crosstalk))

Chuck Gomes: I was debating whether I should have you go through 22 and 23. I'm thinking that it might be better if we stop now, you giving up this, and coming back to you on 22 and 23 when we get to those. And maybe as a drafting team or design team right now, talk about the questions, and let's brainstorm some ideas in how we as a design team would answer this question -- first of all, the question who are the SOs going to escalate the issues to; and then secondly, will there be an IRP process.

Maybe we start with the second question. Will there be an IRP process? In the case of the GNSO, I know that the registry stakeholder group has communicated its position that individual registry operators that are impacted by a delegation or redelegation decision or something, should be able to individually use the IRP process.

I guess the question for us, what do the rest of you think with regard to the question, should the ccNSO or GNSO be able to use - or the registry stakeholder group - I suppose we could throw that in there. I don't know. I'm not advocating that. I'm just throwing things out for discussion.

Should they be able to file an IRP? Thoughts on that? And let me just open it up for discussion, and you can think about that for a little bit. Any thoughts on that?

Staffan Jonson: Sorry, not right now. Let me think about it for a while.

Chuck Gomes: That's fine. That's fine. I mean these are the kinds of things that we need to think about, and it might - as everyone's thinking - and I'll speak for the

GNSO. I won't try to speak for the ccNSO, nor am I really eligible to speak for the GNSO, but I will share my thoughts anyway.

The GNSO - I don't know. And, Avri, I'd appreciate you jumping in on this, too. I'm not sure it would be very easy for the GNSO - or practical maybe is a better word, for the GNSO itself to file an IRP, whether that would even work. Do you have thoughts on that? Go ahead, Avri.

Avri Doria: Hi, yeah. This is Avri speaking. And it takes me a little time because my phone and my computer are on opposite ends of the room, given the unavailability of plugs. I don't, but it could happen.

And but the way, for example, we're writing the escalation from the CSC having said, enough. We can't solve this with the escalation mechanisms we've got. We need help. They go to the two NSOs.

At that point I would think that those two groups review what the possible options are. And one of the options is to escalate something, to do an IRP. I think that they'll be able to.

The other thing that is their ultimate power is to call for a IANA function review. I mean that's the ultimate power that the NSOs together have, is basically to say, okay, things are really messed up. We've tried everything we can think of. You know, the IRP is really only good if there's a decision. You know, just like the (unintelligible) is only good if there's a decision.

If it's the point that things are messed up and, you know, the GNSO has tried dealing with the various people within ICANN, you know, supposedly adding more weight to what the CSC did, can't get anywhere, their power is to call for an IFR.

Chuck Gomes: So that's very helpful, Avri. This is Chuck. I mean in fact I think you've even helped us start to get some answers for the first question as well. And so if I'm understanding what you said, there would be - there are two possible IRP processes that could follow -- and IRP filed by an SO, or an IRP applied for by the impacted registry operator. And that wouldn't be - and I suppose the GNSO or the ccNSO could suggest that.

Now we obviously have the unique situation with the ccNSO where out the door they're apparently not going to have - use the IRP, until they develop some procedures on that. Did I express that accurately, Staffan?

Staffan Jonson: I think so, yes.

Chuck Gomes: Okay. So it looks like the answer to the second question is there would be IRP processes, one of them that could be exercised by individual registries -- in the case of the GNSO we'll say, for now, okay? I think we can leave the other one alone until the ccNSO deals with that, unless you suggest a different approach, Staffan or somebody else, too.

And then the second one would be an IRP filed by the GNSO or the ccNSO. Now I raise the issue of the registry stakeholder group filing one, but it seems to me that's problematic because you have obviously competitors in the registry stakeholder group. And we function pretty well together, since we're all competitors.

But the reality of the matter is it might not work very well to have a bunch of competitors filing an IRP for one of the members that is competing with the rest of them. I mean are my concerns there overblown? Or do you think I'm right on that? Avri?

Avri Doria: Yeah. I think in many cases if it's a single registry issue, I think you're right. If it's one of those systemic issues that many in the registry stakeholder group or in the ccNSO or both are feeling, then it might make sense. It really depends on the situation, on whether it's an individual issue or a systemic issue.

Chuck Gomes: Well said. Staffan, go ahead.

Staffan Jonson: Yeah, I do agree about that, that there is also a risk that the IRP could be misused or for other reasons that we don't want to have it used for. So I can't really say how big a risk that is, though, but there is a possibility at least to have the IRP misused, yeah.

Chuck Gomes: Now, Staffan, a question for you with your ccNSO hat on. Do you think it makes sense, in terms of what we as a design team put here, to just restrict our recommendations to the GNSO at this time, pending work by the ccTLDs with regard to use of an IRP? Is that the approach you think - does that sound like a reasonable approach for us to take, so that we don't step on the ccNSO's toes?

Staffan Jonson: Yeah, but then we have to express it. So yeah, maybe that's a good way forward. I'm trying to grasp what might be the counter argument, though. I can't figure it out right now.

Chuck Gomes: Okay. And I'm confident that Marika can put some pretty good words to it. She does a great job at that. Sorry to pick on you, Marika. So any other comments on that?

So let's see. If we go - so with regard to the second question then, we're recommending that there could be possibly three avenues of IRP usage. One

of them would be for individual gTLD registries, we'll say for right now. One of them could be for the SOs -- the ccNSO or the GNSO -- to use the IRP process.

A third one would be the registry stakeholder group in cases - I like the way you said it, Avri. We may be able to tweak it even more, although I'm not sure how right now. And that is that in cases of systemic issues, not just regarding an individual registry, the registry stakeholder group could use it.

Am I on the right track? Did that make sense? And does anybody not support that answer to the second question? Or want to add to it? Okay, go ahead. Somebody want to say something?

Staffan Jonson: No, I'm fine. Thanks.

Chuck Gomes: Okay, so let's go back to the first question. Who does the ccNSO/GNSO escalate unresolved issues? And Avri started to answer this question in her response as well. Certainly it's the IFR, right? Or the IFRT, whichever way we want to word it, that they would escalate to.

Or they could decide not to escalate to, right? They may decide that it's not something that should be escalated. But if they do, is there anywhere else they would escalate it besides the IFRT?

Avri Doria: This is Avri.

Chuck Gomes: Go ahead.

Avri Doria: This is where I don't know, is whether they might just take on a direct dialogue with, you know, the IANA function operator, and the SO basically

saying hey, you know, our group has been having problems. We want to understand what's going on.

So there's a whole due diligence that post-CSC not handling something or not being able to handle something, and they put it on the GNSO's desk, the GNSO should be able to explore the full aspect, or the registry stakeholder group. Or the registry stakeholder group can ask the GNSO for even more weight to basically explore just negotiations or, you know, some sort of intervention, without needing to actually go to a next step, you know?

Sometimes you can find yourself where the relationship - let's say the relationship between the CSC and IANA has somehow soured for whatever reason, or they've gotten off-step with each other, which is the kind of thing that happens in group dynamic that, you know, they're just not communicating for whatever reason.

And so the CSC has taken the issue to the SO, the NSOs. At that point, before jumping to one of the formal methods, the NSOs can explore informal methods. And I think you want to leave that open, you know, because there is certain power in, you know, the ccNSO and the GNSO getting together and going to, you know, IANA and saying, hey folks, we've got to talk.

Chuck Gomes: So would it make sense for a first step, when the ccNSO or GNSO or both -- and I'll come back to that issue in a minute -- an issue is escalated to them, would it make sense for a first step for them, the SOs, to request the explanation of the problem, or maybe there's a better way to say that, from the IFO and from the - and presumably they already would have received it from the aggrieved party or parties.

But if they needed more information, to request that, so that in their decision-making, they have information directly from the two parties. Does that make sense? Go ahead.

Avri Doria: This is Avri.

Staffan Jonson: Yes, Staffan here. Yeah, I'd like to start with agreeing with Avri that - and I think it's already written actually, if I recall, (unintelligible) direct initiatives, informal ones, are of course the best way to handle this. And it's only when all other solutions are spent that we should look at the (unintelligible), so to say, the more formal processes. I think it's a good idea.

Chuck Gomes: Thank you.

Staffan Jonson: And, yeah, I hope that answers.

Chuck Gomes: No, did you have another thing to say? Go ahead.

Staffan Jonson: No, no. I'm fine.

Chuck Gomes: Okay. Avri, go ahead.

Avri Doria: Yeah, and as I was saying, it's hard to tell because we're being very speculative about what the kind of issues can be. You know, the NSOs may have mechanisms for using one of their recommendation mechanisms. Or they could even get involved in trying to, you know, kind of arbitrate between the two.

More than just fact-finding, it's - because for example, with fact-finding you may find one group explains it one way. The other group explains it the other

way. Those don't match. And therefore, you know, you've got to sit down with both groups. And that's something that an NSO could decide to help with.

And, you know, we see in the GNSO we're creating new mechanisms all the time for making recommendations, you know? So that could be something. I really don't know. I'm just speculating that when something's escalated to them and it's put on their table, they should be able to try just about anything before going to a formal procedure.

Chuck Gomes: So how could we word that in a way? The fact-finding part's pretty clear, I think. In terms of kind of facilitating a solution, it's almost fair to say mitigation. I don't know if people would be bothered - or mediation maybe is the term I was looking for. That may scare some people off, because mediation often has a very formal legal sense. But how could we word that in a reasonable way here? Any suggestions?

Staffan Jonson: Staffan here. I think actually I'll try to look it up. But if I recall correctly, it is on the DT-C already within the footnotes, saying something like this process or this expected continuation of disagreement does not exclude the possibility for direct contact or something. So it is mentioned somewhere in the footnotes already. I'll see if I can find it, though.

Chuck Gomes: Good, and you can just - you can send that to our DT-M list.

Staffan Jonson: Yeah.

Chuck Gomes: And then we can use it as appropriate. So the next step then, I would assume, after those efforts, which I think has been said that that's not - we're not putting it in a box. They can do whatever they need to try and avoid further



escalation. But if they can't, then they go - they escalate it to the IFR. Is that correct?

Avri Doria: I think that's the last step, yeah.

Chuck Gomes: Yeah, okay. So now it seems to me, and we'll decide this in just a moment, but it seems to me we have the answers to those two questions. Let me throw it back to Marika and as you if you think you have what you need to draft some responses to those two questions.

Marika Konings: This is Marika. I've been taking notes on the side, so after the call I can send it to the list to see if anyone has, you know, any comments or concerns about that. And if not, I can then use it as a basis to, you know, fill out the boxes, if people are happy with that.

Chuck Gomes: Okay, good. Thanks, Marika. So the next question I have on 21 relates to the ccNSO and GNSO. I'm thinking -- and I don't know if I'm right or not -- that in some cases you would just need one of the SOs or the other, not both. And there may also be cases, where maybe it's more of a systemic issue, where it may involve both. Am I on a valid track there?

Avri Doria: I think so.

Staffan Jonson: Yes, I get you. Right. You're probably right, especially in delegation and really all application of individual ccTLDs nowadays. So yes. And I also understand that the following question - I'm not sure about the answer to that.

Chuck Gomes: So in other words, we need to, in our draft recommendation, also make a note that the involvement of the ccNSO could be for an individual SO, or for the

SOs combined, depending on the issues at hand, okay? Anything else on 21?

Okay.

Avri Doria: One thing to remember is that it's only working together that they can send it to an IFR.

Chuck Gomes: Oh, you mean the ccNSO and GNSO?

Avri Doria: Right.

Staffan Jonson: Yeah.

Avri Doria: The way, at the moment, it's being set up is that is a joint decision. Not a joint decision, but both of them doing super-majority, so yeah. That's a combined decision.

Chuck Gomes: Let's think about that for a little bit, okay? And that may be the right way to go, and I understand why.

Marika Konings: Yeah, because, Chuck, that was also the clarification I was looking for, because I really didn't understand exactly your question. So are you either saying that not both SOs are needed to escalate? Or you're saying, you know, both SOs are needed, but it may only be an issue that is relevant or of interest to one of the SOs?

Staffan Jonson: I would say the second one.

Chuck Gomes: Yeah, this is Chuck. So it may be that in the first step that we talked about, in terms of trying to get resolution before escalating, that that could be done by an individual SO as applicable. But then when if that doesn't work, is that the

point where you bring both of them in, because there's a possibility of an escalation to the IFR? Marika?

Marika Konings: Well this is Marika. Because I think I'm still on that first question, where I understand at least from Avri and Staffan that it would require both the GNSO and ccNSO to go through this formal process, even though in certain cases it may just be, you know, a specific ccNSO issue, but where the GNSO agrees that that is an issue that needs to be further escalated.

Because it might function as well on an individual basis, I guess their invoking the IRP doesn't need a joint decision. But anything else, you know, beyond that sort of formal processes, I think, at least as I understand it, would currently be in the kind of, you know, joint effort between the two, even though it may not be an issue that is relevant or directly impacting both SOs.

Avri Doria: Yes. This is Avri. There's sort of an assumption that if things are that broken that one NSO should be able to convince the other one that this is really serious and we need to invoke the IFR, such that they convince the other side that we really need this and nothing else is possible.

And that also leaves the option for the non-involved NSO to actually get involved in almost a neutral but understanding, you know, informal mediation role, you know? The GNSO is fed up and they're not able to solve it, so they go to the ccNSO and say, listen. We need an IFR. You know, we need to consider it.

And the ccNSO says, well, you know, let us take a look at it with new eyes and see whether we can't suggest something. And then if they can't, they say yep, you're right. This is a mess. We need an IFR. And that was a very (unintelligible) way to say it, and not a nice way for Marika to write it. But...

Staffan Jonson: I do agree, Avri. I think that's a good approach so yes.

Chuck Gomes: So am I seeing this as kind of a three-phase activity here? The first one could be raised to the specific - unless it's a systemic issue, could be raised to a specific SO, either the ccNSO or the GNSO. And that SO could, you know, do the fact finding and the mitigation - trying to mitigate without taking it further and so forth.

They could also decide to recommend an IRP either by the SO or in the case of the registries, the registry stakeholder group, or - you know, either one of those.

And then the third phase is where the two SOs definitely have to work together as they consider a - you know, escalation to the IFR. Is that an accurate picture of what we're talking about? Should that be modified in some way? Does that describe it?

Staffan Jonson: Staffan here. It describes it. I'm not sure how much we should write it down though as mandatory because too much regulation might also be a problem.

Chuck Gomes: Let me ask you a question, Staffan, this is Chuck. Where do you see regulation coming in? I see this as a...

Staffan Jonson: Sorry, it is not regulation to the more formal extent. It's just how detailed instructions should be written, that's what I'm asking.

Chuck Gomes: And I'm not suggesting we try to design that in detail but rather - it seems to me that the ccNSO and GNSO are going to need some guidance to kick off

their work and talking about three phases like that, it doesn't mean that they couldn't change them.

They could decide that - this could be our suggestion as a starting point with the understanding that they could tweak it, change it, whatever. But this would be their role - their general role with - let them work the specifics. Did that - is that consistent with what you were trying - the point you were making there?

Staffan Jonson: Yes. Yes, it is.

Chuck Gomes: Okay. So are we done with 21 for now? Any questions? Anything else? Okay. Let's go to 22 and I'll turn it back to Staffan to talk about the design team C work that came out.

Staffan Jonson: So let's see. Yes, this is also relating back to what will - Question 15, yes, and relates to the SLA/SLEs. So it says additional detail on how (unintelligible) performance issue or systematic problem will be defined is (unintelligible).

And this - and it was mentioned that the remedial action procedures should contain a threshold of what is regarded persistent or systematic problems. And this text has - for example, if reports (unintelligible) SLA has not been at - for six continuous months this would be considered a persistent performance issue.

However, it should be recognized that the cc will have the discretion to determine whether this is a trivial or serious matter and agree a course of action appropriate to the circumstance. So they're - okay, so the discretion started with how much leeway, how much discretion should the CSE have to act.

And we've been around this before by someone - some mentioning that the cc should have very limited powers. But here we - in this formulation at least the CSE's allotted some kind of power to decide whether this is a trivial or serious matter if it's systematic or not.

So I'm not sure how to approach this one.

Chuck Gomes: Well, let me - this is Chuck. Let me throw out one idea.

Staffan Jonson: Yes, yes.

Chuck Gomes: One of the things we could do is just go with design team C's recommendation that the CSE be given the discretion to work this and if they find it helpful to develop some principles based standards or whatever for this then they certainly would have the freedom to do that. I mean that's one approach - one way we could approach this.

I mean does that work for the people on this call? Or do you think we need more? I think if we start to develop the principles we're going to have difficulty.

Staffan Jonson: I'm happy with the proposal (unintelligible).

Chuck Gomes: Avri, what do you think?

Avri Doria: Yes.

Chuck Gomes: Marika, do you want to throw anything in there?

Marika Konings: No, I'm good.

Chuck Gomes: And Marilia, we haven't given you much chance to talk but feel free to jump in if you have any thoughts or concerns, we appreciate that.

Marilia Hirano: That's - yes, I'm listening and I agree with what you - with your proposal right now.

Chuck Gomes: Thanks. Okay. So I don't think we need to do anything else, is that sufficient (Marika) from your point of view as the one who's going to help us write all this up?

Marika Konings: Yes, I think so.

Chuck Gomes: Okay, good. Well, then let's go to 23 and I'll, again, turn it back to Staffan to talk about a design team C work.

Staffan Jonson: Yes, so I found my comments in the (unintelligible) last week. Maybe this one needs some discussion during the next meeting Monday and I think I was a bit unsecure about - to see what the CSE answer actually indicate.

I should know by now but it appears that this question relates to A and C and as such is outside the (unintelligible) of the CSE. And if that is the case we need to ensure it covers within this group.

Chuck Gomes: Okay.

Staffan Jonson: So it relates to customer complaints Phase 2, additional detail on customer mediations process and ability to initiate an IRP so that's (unintelligible) demand at least.

Chuck Gomes: Thanks, Staffan. Now - this is Chuck speaking again. I don't know how much we need to do with the ability to initiate an IRP. We've - that will come out I assume out of the accountability work. The standing to initiate one is I think what we've already covered but in the case of mediation, when we first put that in there we knew that some work would have to be done there.

Now I don't see the design team M's role to do the detailed work there but as this situation where we can ask staff to help us. And I'm not - I don't necessarily think this needs to be done before the final recommendations are made.

But we could - we could recommend that if this process - in particular Phase 2 of the process is approved that work needs to be commenced to gather information in terms of mediation services and decide what the options are.

Now I think - Marika, I don't know if you know the answer to this or not but does - it seems to me - and I haven't looked at the registry agreements in a while but it seems to me in some of the agreements that ICANN has with its contracted parties that there is mediation - possible mediation in some cases and if there's - if there are - if there's detail in the contracts already on that we might be able to use that. Do you know?

Marika Konings: Yes, this is Marika. I'm not familiar with those provisions but, you know, if they exist indeed sounds like it could be a usual starting point or at least it means that probably there is already something in place or something has been considered that, you know, led those - led to those provisions being included.

Chuck Gomes: Could you give a request to the general council's office to see what experience there exists with regard to mediation services that we might be able to use and give some recommendations on this?



Marika Konings: Yes, I can do so.

Chuck Gomes: Okay. And then I think our - it seems to me that our draft recommendation here would be - well, including what I just suggested to then explore the options for mediation services and in between approval of the - of this particular part of the recommendation and transition that they - mediation services and how those would be used would need to be - the implementation of that would need to be developed. Is that a reasonable approach for our response here?

Staffan Jonson: It is to me, Staffan, yes.

Chuck Gomes: Avri, any thoughts on that?

Avri Doria: No.

Chuck Gomes: Does that sound okay for now? I mean we could later - okay.

Marika Konings: Yes.

Chuck Gomes: Okay. Well, I think we made it through the three items pretty well. Does anybody think of anything else on any of the three items that we should talk about before we look at the flowcharts that Marika did? Okay.

So let's go to the next agenda item then, which is the walk through of the escalation flowcharts. And Marika, let me turn it over to you. I don't know that you need to walk through them. Has anybody not seen these? They're up there now if you haven't.

And this is the one for the customer service complaint resolution process. And I think I had just one suggestion on this one in the - if you scroll to the right - up to the top - the top right there, let me shrink mine a little bit here.

So the - when you get a - when it goes to Phase 2 up in the top right, the diamond and the home plate there if I can use some baseball descriptions. The - we might want to put some comment above those that those are for direct customers only, which is the way the process works.

Staffan Jonson: Sorry, are you on the second page Phase 2, right?

Chuck Gomes: Yes, I'm in the first diagram, okay, the one shown - well, I guess we could - so go to the top of your screen in Adobe. Make sure it's the top of the screen.

Staffan Jonson: Okay, now I see.

Chuck Gomes: Yes, so - I should have said that, okay. So it's the customer service complaint resolution process for naming related functions, okay. And I didn't have any problems with the flowchart; maybe somebody else has some comments there.

But the - notice if you go the - in the IANA functions program manager phase there, if the issue's not resolved it goes up to the decision to escalate to Phase 2.

And then if you go to the ombudsman, if the ombudsman was involved, the dotted line goes to the same place. And then there's a decision there to escalate to Phase 2 but I think the escalation can only happen by direct customers. Marika, please jump in.

Marika Konings: Yes, this is Marika and I think that note is made on Page 2 but it wouldn't be too difficult to basically replicate that same kind of asterisks in the triangle box that says decision to escalate to Phase 2 that there's a kind of a footnote that says, you know, there's part of the process is only accessible for direct customers.

Similarly I think as is done on Page 2 with - where the complainant that has the little asterisk that says, Phase 2 is reserved for direct customers. But then I agree to make that maybe, you know, even further clear and it would be good to add that here. And if I can maybe at the same time...

Chuck Gomes: Yes, go ahead.

Marika Konings: Add a question as well because, you know, one of the things that you'll see here marked with a question mark, again, coming out of that box, decision to escalate to Phase 2 is not specifically called out in the process as written but the assumption or my assumption was at least now if the complainant decides not to escalate to Phase 2, that's basically the end of the issue.

I mean the issue has, of course, been communicated to the CSEs so they receive notification and it's something they may have on their pile as they, you know, have their meetings and look at issues.

But at least my understanding was the way it's currently written that if the complainant itself doesn't decide to go to a Phase 2 that's basically the end of that process. Is that a correct understanding or is there anything else that should be foreseen?

Chuck Gomes: This is Chuck. I think that's correct. There's - with one qualification there. I think whether it's escalated to Phase 2 or not - and Phase 2 is the problem

resolution process, which is on the next page, the individual registry operator in the case of the gTLDs right now could initiate an IRP whether or not that goes to Phase 2.

And so I'm not sure how we would show that because I think they could decide, I think - or we can talk about this to initiate an IRP, whether or not it goes to Phase 2 or not.

Now in Phase 2 if that hasn't happened the IRP could come in there as well. Or is it just done before then? Let me throw that out because that's a little bit complicated I know but it seems like a couple scenarios that could happen. Marika, go ahead.

Marika Konings: Yes, this is Marika and maybe that's just a question of another kind of footnote that we add here which I think is also in our current process basically says, of course, none of this precludes - you know, the complainant from pursuing other legal options that they may have available, which they would include indeed an IRP or going to court or, you know, whatever the other options outside of this, you know, escalation process are.

So maybe that's a way of, you know, in the process end box it could have a little (unintelligible), this doesn't preclude indeed the complainant from taking additional other steps that they may - other remedies that they may have available.

And I think, you know, maybe just using the footnote as we have it I think as well and the current proposal may do the trick to convey that.

Chuck Gomes: Yes, and I think you're right that it'd be good to put a note here to that effect. Now I have another question. Who makes the decision to escalate to Phase 2? That's an important detail on this chart.

Marika Konings: This is Marika. I think - and that's - you know, maybe we should have called it out as a question mark as well because I think as it's currently written it basically says that complainant or the IANA functions operated. So basically has the kind of - you know, they could both escalate.

But in writing - you know, the flowchart up, I had a hard time admitting, you know, how to fit it in the box. Because it seems to be that if the complainant feels the issue hasn't been resolved they would be the ones escalating them. I'm not sure or clear whether that was indeed - that we really intended that it would also be if the complainant decides they don't want to escalate that then the IANA functions operator would still have the ability to escalate the issue or what the value would be of that. So it's a really good question.

Chuck Gomes: Yes, maybe - go ahead, Staffan, please.

Staffan Jonson: Yes, reasonably both parties must have the ability to escalate - thinking about it, because what happens if we say they're not allowed to escalate? It makes strange situation. Thanks.

Chuck Gomes: So another question then in that regard, Chuck speaking, should the ombudsman have that option as well? And I don't have a particular answer to that. I just thought of it.

Staffan Jonson: Well, I guess the ombudsman role is to stand in to someone that may be not have the ability or the strength to do it by themselves. So - but I guess they

need to be in on it so they can feel like, I guess, general prosecuted just doing things from their own powers.

But I guess they need - at least the complainants support in this. Just a general thought at least.

Chuck Gomes: Okay. Marika, did you have a thought on that?

Marika Konings: Yes, well, more of a question because my question is indeed if it's the IANA functions operator that could also escalate how do we capture that in the flow chart?

Because would that be a decision then of the IANA functions program manager where, you know - and at that stage so basically the kind of box would be shared between the complainant and the IANA functions program manager?

Or would we need a separate line, you know, for the IANA functions operator which, you know, the program manager would basically escalate to and then the IFO would decide as an entity to escalate. So how would that in practice look on the flowchart? I'm not 100% clear on that.

Chuck Gomes: Yes, and it's a good question. I'm not sure it's - I don't see a real easy way to show it. Maybe it's just another situation where we put an asterisk comment, a footnote comment or something with the diamond there, the decision box to indicate that the decision could be made by anyone of these three parties if they so desire. But I - maybe somebody else has an idea of how...

Staffan Jonson: Yes, I do agree. This is Staffan here. That's my spontaneous thought as well that there needs to be a footnote or asterisk mentioning who is outstanding, that's my only way to solve it within this picture.

Chuck Gomes: Thanks, Staffan. Now Marika, of course, if you get really creative and are able to figure out a way to show it without overcomplicating this you're welcome to. I don't know what it would be.

So anything else on this flowchart? We've got about 20 more minutes on our call and - this one okay for now? Marika, do you need any more feedback on this?

Marika Konings: No, I think from my side we're good. I don't know if at some point but I guess it's probably too early to do that now, you know, based on our answers to the - the punch list as well subsequent DTC as well as CWG agreement that we may want to ask some further details on, you know, some of this, for example, the - you know, for who the IRP would be available or could be initiated or some of those elements.

That may be something as well that - I don't know if we want to expand on and similar the role of the ccNSO and GNSO. But - and maybe too early to do that now until we really have, you know, that agreement around those aspects that I think we've been discussing on today's call.

Chuck Gomes: Okay. Marilia?

Marilia Hirano: I just - I have a question because I see that on Phase 2 it's only for direct customers to use that phase. But the decision to escalate to Phase 2 being on the complainant (unintelligible), what happens if they're not a direct customer and the issue is not resolved?

Chuck Gomes: That's a good question.

Marilia Hirano: I wasn't...

Chuck Gomes: Well...

Marilia Hirano: Because otherwise the decision being here is that...

Chuck Gomes: Maybe it's not only for direct customers. Should we say that it's only for direct customers in this process or the ombudsman or the IANA functions operator?

Avri Doria: And the indirect customer always - this is Avri. The indirect customer always has the ombudsman as the vehicle.

Chuck Gomes: Right. So would that be a way to - great question, Marilia. Thank you. So maybe we shouldn't say here on this chart that it's up for direct customers only. It's for direct customers, the IFO, or the ombudsman. Go ahead, Marika.

Marika Konings: Yes, this is Marika. On Marilia's question I think one of the things that we did discuss in earlier conversations, I think specifically to that point as well, was the assumption with the CSE having, you know, liaisons from non-direct customers communities that will be an alternative path for them to potentially pursue if they really believe that indeed the issue wasn't addressed and wasn't resolved, not going through all these steps, not by involving the ombudsman.

That it still would be a mechanism then to engage or reach out to the CSE to flag the issue because I think there was concern that if by opening up that Phase 2 process to non-direct customers there's a potential of maybe flooding



that with issues that are maybe not specific to, you know, the IANA operations and are not being able to be redirected, which may be the case in Phase 1, at least that's what I recall from I think our earlier conversations when a similar point was raised.

Chuck Gomes: Thanks, Marika. Marilia, did you have something else?

Marilia Hirano: No, not at this time. I just have literal - for the decision box but I think you guys already addressed that, the decision box to escalate to Phase 2 being on the complainant (unintelligible) if other people can escalate it I don't know how we would put this decision box in which swim lane.

I know you want to put an asterisks with the IANA functions program manager and IANA functions operation manager to be able to escalate but when it comes to the flowchart I think - as you mentioned, Marika's going to have to get creative to show in the right place. Because I don't - it gets confusing if it's on the complainant swim lane.

Chuck Gomes: Yes, I think we all agree on that. And there may be no creative way to show it without making this very confusing. So it may just be that comment below that clarifies that.

Marilia Hirano: Unless there's - you could - I want - one thing we do in the IANA process is we have sub processes embedded in the process so to put into a box, you know, Phase 2 escalation sub process and then have another - a separate flowchart that would have the steps to escalating that would avoid having a convoluted flowchart.

Chuck Gomes: That's an idea. And then - this may be similar to what you're saying, I'm not sure, but we could have a blow up of the decision box down below that gives

more information in terms of who's making the decision too. But I'll let Marika reflect on that. Staffan, go ahead.

Staffan Jonson: Thank you, yes. Marika made a very concise summary of earlier discussions in this area. As you mentioned, Marika, this was already (unintelligible) an idea of protecting the CSE from being overburdened by too many complainants.

However, when we've been discussing this to and from several times also in the CSE - DTC, we notice that the complainants - individual complainants have also the standing to make reservation.

And maybe the only difference between complainants of the CSE is the ability to have that - complainants from individual complainants might be ignored whereas complaints from CSE cannot be ignored.

So actually there is very little difference but trying to illustrate this in the chart may be - if we move the diamond to the lower row the customer standing committee would let the more correct picture of describing the process, just an idea. So let...

Chuck Gomes: Staffan, let me ask you a question in that. Sorry for interrupting, coming in too soon.

Staffan Jonson: Yes.

Chuck Gomes: Are you suggesting then that the CSE would make that decision? I don't think you are but is that...

Staffan Jonson: No, no, no. Just that it was originally perceived that the CSE would be the vehicle for the important complaints if I may that crude in my expression. But - and still giving possibility for all to file a complaints.

But just to make the picture maybe more - I'm not sure if it helps but that's - if we would move the diamond to the bottom row would that better describe the process? I don't know really but that's just...

Chuck Gomes: Or maybe even below the bottom row.

Staffan Jonson: Yes, maybe even that, and as you said, below the footnotes. Yes, maybe you're right, even below the CSE.

Chuck Gomes: That's not a bad idea because where it's at now does make it look like it's just the complainants, yes, that's a good suggestion. Okay, we're running out of time quickly. Anything else on this flowchart?

Marika Konings: Yes, this is Marika. Could I just get a quick clarification on what you would like to see underneath the CSE?

Chuck Gomes: Sure, yes.

Staffan Jonson: The diamond.

Chuck Gomes: It wouldn't be in any of the rows. It would be down below the box.

Marika Konings: Okay, and then just without a line...

Chuck Gomes: Then you could have an error going over to Phase 2 down below so it doesn't show - it's not specifically a part of the complainant row or any other row for that matter.

Marika Konings: Right, but I'm still going to add a footnote on who can make that decision.

Chuck Gomes: Yes.

Marika Konings: Correct?

Staffan Jonson: Yes, please.

Marika Konings: Okay, yes, I'll try to.

Chuck Gomes: Now, if you - Marika, if you thought it was feasible - and I'm not saying this needs to be done, but if you want to - obviously you have more room down below to make the decision box a bigger box. So if you want to do it that way and include more text in there that's totally up to you.

Marika Konings: I'll see what I can fit.

Chuck Gomes: Yes, that's right. And then that's all I can ask. Now by the way, is the plan - is your thinking, Marika, that these flowcharts would go in the - let's see, which - in the appendix that talks about all the processes, not in the individual - they - not in the individual - the three individual - I mean annex, not appendix. Is that what your thinking is where these would go?

Marika Konings: This is Marika. I think that's really up for the group to decide. I recall I think the original request that came from (Olivier) as he would like to see it more in the flowchart represented.

So I think it's really up to you decide where you think that fits best and maybe that's indeed after the annexes that first explain the processes that you then have, you know, the flowchart that brings at least, you know, those two together or that it comes before that and then, you know, the description.

I don't have any specific view on what makes more sense in that regard or whether it's really a standalone document that can be provided as kind of background materials or explanatory materials that are linked in a certain way or form.

Chuck Gomes: And it could - yes, well, that's probably not too hard a decision to make. I thought I had a - I forget which annexes apply. I had that somewhere. Anyway, it's Annex K, Annex J, and Annex I are the - I guess I did them in reverse order.

But that apply to this and then the escalation - now would it make sense or is it too much information in the bulk of the proposal to include it in the main part of the proposal under Section 3A2C which is escalation mechanisms? Let's - we can decide that. I think it - by the way, I think it is good to be in the proposal, the final proposal document definitely. We just have to decide where.

Let's go - and if people have ideas on that you can share them online. Let's skip over to the IANA problem resolution process and - which is down one, right? And my only suggestion that I had because they're on different pages is maybe in that - the box there escalate to IANA problem resolution process. This is the problem resolution process so that box didn't make sense to me.

Escalate to Phase - what should we say there instead of escalate to problem resolution process? Am I missing something here? Whoa, I'm - can't believe what I'm doing to my screen. I wasn't watching. Better close a whole bunch of windows. In fact I...

Marika Konings: Yes, and this is Marika. I think probably the - it's my oversight, I think the title is wrong because basically the - on Page 2 that should be the Phase 2 of the customer complaint resolution process, which then does escalate to the IANA problem resolution process. So the title just needs to be updated.

Chuck Gomes: Yes, right, right.

Marika Konings: And one question I have then as well because I think we probably need to change the first row as well to say, you know, complainant/IFO/ombudsman.

Chuck Gomes: Yes, that's right. Good catch. And it might be helpful to show in that pentagon there, the - just maybe underneath some text that says see next page or something like that.

Marika Konings: You mean in the other - what was it again? The baseball?

Chuck Gomes: Yes, right, the baseball home plate, that's a pentagon, right?

Marika Konings: All right.

Chuck Gomes: It's just not a regular pentagon if you know what that term means. Okay, a little bit of my math background coming up there. Okay. Anything else on that first page of this? And we'll jump to the last page. And I didn't really have anything on that page. Anybody else?

Marilia Hirano: It's Marilia here. On the CSE swim lane for the flowchart, I think instead of having the arrows as satisfactory it's unsatisfactory. We would need a decision box there which the diamond shape box for flowcharts.

Chuck Gomes: Yes, I see what you're talking about. Yes, that's a good point. Did you follow that Marika, on the last diagram?

Marika Konings: Yes, I think so.

Chuck Gomes: Yes, good catch. Yes, okay. All right. Now we don't have the emergency process here but it is pretty well spelled out already. It doesn't seem like an extra - a flowchart is needed on that. Is everybody in agreement with that? Which is I assume what Marika concluded as well.

Marika Konings: Yes, this is Marika. And it actually already has its own flowchart so that is already in the annex. And as they're not, you know, linked - I didn't indeed see a need to kind of recreate the wheel here. I just think it's - we already actually recreated that other one as this original flowchart wasn't available anymore.

Chuck Gomes: Okay, good. Anything else on the flowcharts? Nice job, Marika. This is going to be appreciated. In fact, I think the registry comments relate to the need to be able to picture the flow and where the responsibilities are and everything. And I think this will go a long ways to answer those comments.

All right, let me go back up to the agenda and I think we need to talk about any other business. But let's talk about whether we need another meeting. Is it reasonable - and tell me if it's not, if - now depends - I know this is late in the day for Marika, probably Staffan too.

So Marika, is it reasonable to send your notes out fairly early in your day tomorrow?

Marika Konings: I'm planning to send out the notes now immediately after the call. I'm already copying and pasting them in an email so that should go out within the next five minutes.

Chuck Gomes: Okay, that's helpful information. So I should have realized that because that's - you're always good at that.

So the - is it possible for everybody - for all of us - all five of us I guess including Marika and she won't have to really do this, is to review the notes by end of the - no later than end of the day - of your day tomorrow and provide any feedback to Marika so that she can insert into the punch list the - for Items 21, 22, 23 our recommendations for distribution hopefully.

So we can give her the feedback and then, Marika, if on Thursday you can turn around the - at least the portion of the punch list for 21, 22, 23. And again, if by the end of the day Thursday we can provide any feedback we have. And then we should be able - depending - assuming there's no big issues, we should be able to complete our work on this by Friday and provide it to the full CWG.

Now please challenge me if you see some problems with that plan or if you don't think we can do that. But does - any problems with that? And then I don't think we would need another call.

Now if between now and Friday - in other words, maybe by Thursday, if we decide if somebody thinks we need a call to discuss something communicate



that on our DTM list and we'll schedule one. I suspect that it wouldn't need to be real - you know, as long as this one.

It may just be a 30 minute call but communicate that on the list by the end of the day Thursday if you think we need a call. And we'll do a quick doodle poll and try and schedule on Monday or - let's see, Monday - excuse me, Friday or possibly Monday. Monday's a holiday here but I could probably do a call if I needed to, that way we'd have it done before Tuesday.

Staffan Jonson: Staffan here, it sounds like a good idea, a good plan.

Chuck Gomes: That works?

Staffan Jonson: Yes, sounds like a good plan.

Chuck Gomes: All right, well, I think our time's up and I think we finished. Thanks a lot, you've been a great group to work with.

Marika Konings: Thanks, Chuck.

Chuck Gomes: All right.

Staffan Jonson: Thank you very much.

Woman: Thank you.

Chuck Gomes: Bye all.

END