

ICANN

**Moderator: Chantelle Doerksen
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Coordinator: The recordings have started.

Chantelle Doerksen: Good morning, good afternoon and good evening. Welcome to the GNSO's Discussion Group call on September 16, 2016. On the call today we have Joan Kerr, Joao Carlos Caribe, Tony Holmes Rafik Dammak, Mark McFadden, Klaus Stoll, Steve DeBianco, Greg Shatan, Greg McKnight – excuse me – Glenn McKnight, Marilyn Cade, Carlos Gutierrez, Matthew Shears and Lori Schulman.

We have apologies from Osvaldo Novoa, Susan Payne, and Julf Helsingius. From staff we have Maryam Bakoshi and myself, Chantelle Doerksen.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you ever so much and over to you, Tony.

Tony Holmes: Thank you very much, Chantelle. And welcome, everybody, to this call. I think most people are aware that since we met in Helsinki there hasn't been any progress with this work at all. And it certainly is getting urgent. Currently

we don't have a co-chair from the Non-Commercial side of the house, but I have approached Tapani to assist with that so hopefully we can resolve that as we lost Rudi after the Helsinki meeting.

But we do need to move it forward. And I think that the call today should be a first step along the path. There are things happening elsewhere in ICANN that impacts on some of the associated issues that we want to look at. But I think it's worthwhile at this stage understanding what the difference is with this group and some of those other groups as well. So this group was obviously set up when we had the meeting last year in January, the house meeting.

And if we look at what the GNSO Operating Procedures Working Group is doing, well they're looking at possibly some of the issues that will impact our work, our work will impact their work, whichever way you wish to look at it. But they're looking at the current working practices and they're looking to improve them around the current structure.

There's also the working group dealing with the GNSO review, but as we are all aware, with the last GNSO review, structural considerations were ruled out from the start so there isn't really an overlap – a total overlap with any of those group whatsoever. So it's worth looking at what we intended to do and we won't intend to do.

So just recapping on what we went over in Helsinki, the aim of this group is purely to identify a range of shared issues that directly impacts our house and they are all around the issues of how we relate to the GNSO and possibly what we can do to improve the working and the representation that we have there.

It doesn't, and will not, attempt to promote any agreed house or even at this stage stakeholder group approach to that. That would be a matter for each

stakeholder group itself. But we can work together to identify the range of options, then one of the things that this group should facilitate is a broader discussion.

At the moment, I don't see that broader discussion coming out of the work that's going on on the GNSO Operating Procedures or from the GNSO review. Certainly the latter will just look at that report and work from there.

So if we can work together to identify these things then I think the further work should be done in another group, certainly not within this group. And it was never the intent that this group should be used for that.

So the initial work that we did before Helsinki was trying to identify what we really need to relate to as we work through this. And the things that came out of that was quite clearly that we needed to understand where as a community we go post-IANA transition. And I think that's a big question mark for everybody. It doesn't matter whether you're GNSO-based or in any other SO or AC. That is a question that people are really looking to understand now.

The other issue that we really struggled with is this issue of the ever-increasing workload. And I think from what I can see that really seems as though it's increasingly almost daily. So there is a real problem there. And I think that that should be one of the major drivers for our work without any doubt whatsoever.

The other driver out of these bullets is certainly the third one as well which is ensuring capture from any one group cannot occur on any issue. And if you relate that back to the first point with where we're going after the IANA transition, then helping to achieve that balance is something that we shouldn't lose sight of at all.

We discussed I think both at the meeting in January and also in Helsinki that there is an issue that has cropped up and it's down here. And I've copied these words from the slides that we actually used in Helsinki. It says, facilitate in representation by Internet intermediaries.

Well maybe a better way of putting that is to say that I think one of the things we recognize is that there's pressure from you, by the established stakeholders, to formally join the GNSO policy discussions. So there is a demand out there, a pent up demand, that as part of our work we should look to see how we can facilitate that in one way or the other.

I'll just mention, if anyone wants to interrupt me as I step through these things, we will have a discussion at the end, but if you want to interrupt please just go ahead and do so.

So one of the major things we talked about so far is structural reform. And certainly out of the responses we had within this group in the initial phase there was support to look at structural reform. And that's really as far as we've got. We haven't actually identified in what way we would like things to change or what even the options are. So that's the focus of the work that we intend to take forward.

And during that phase, there was some people who clearly stated, and it didn't just come from one or two sources, that the current structure is broken and really we just can't tweak it anymore to get things in the best manner. It needs to have a real fresh look at the whole thing.

And then there's the question of what that really means. And one of the points that came out of the earlier work also was to say should Council just

concentrate on gTLD policy? And I think more and more as we've seen working groups formed and look at some of the bigger broader issues within ICANN, then having the GNSO in there on exactly the same level as other people is causing some problems, because of the rules we have within the GNSO Council as much as anything else.

So everyone within the GNSO really needs to be represented within those discussions. But is it right that we do that through Council? And I think there are some big questions there as well particularly, and once again if you look back the issue of workload as well.

So that's something that we should ponder going forward. And how we engage. And certainly having such a broad, broad set of stakeholders within the GNSO represented in exactly the same manner, with exactly the same level of voice as all of the other SOs and ACs, whether they represent a broad community, and I'm not questioning the importance of those communities, but whether they represent such a broad community is something that we really need to look at as we go forward.

So out of those initial discussions there were some open issues that came out of that. And the very first one is what is the appropriate role of the GNSO and GNSO Council, stakeholder groups and constituencies in the post-transition environment? And I don't think that there's any work that's addressing that in a broad spectrum at the moment.

Certainly there's work in the GNSO group itself that basically is dealing with some of these issues. And I'm glad to see that some people on this call have experience of that. But no one is looking at it in such a broad manner as we should within this group.

And it really throws up straightaway the issue of getting a fair and balanced representation in everything that happens that impacts us as stakeholders. And the last point on that of course is that we do need to allow for future growth as well.

So what came out of the session we had in Helsinki was a change of approach from what was originally put forward. The original thinking was, well, we can get a number of issues out on the table and we can go away within our various stakeholder groups and work on those things and then come back together. And there seemed to be unanimous support that we shouldn't do that, that we need to work as one team within this group and certainly I've been convinced that that's the way to go as we move this forward as well.

And the very first thing we need to do is to identify a range of options that can assist in resolving some of the points that have been made previously in this presentation. Once we have a lot of the options identified then the second part of that with any method of working needs to provide the rationale for those proposals.

And I only seeing that being as far as not quantifying them in anything other than a range of pros and cons of each of those. And when we do that certainly we need to look at the broad impact right across ICANN of any decisions that we really make.

So I think it comes down to two sets of core issues and then we can have the main discussion around this. And the first one has to be this role of GNSO Council because if we're going to look at a broad range of options are we just going to say well, everything has to be done through Council? Or should we look at other options? There seem to be thinking that came out of the original input to this group that suggested we should look at other options as well.

But we do require the identification of those options before we can move forward in any way whatsoever. And then of course there's the how would you do that. The hows that surround all of those discussions as well.

So I would see the first set of core issues has to focus around that core question. And if we can identify the options from that then I think we can move forward with the second phase of this and I think that quite clearly leads us down a path where we start discussing the whole issue of whether we should look at structural reform.

Now the outcome of that could be that we do nothing. We just stay as we are. We could look at ways of tweaking the existing bicameral two-house approach. And we can look at other options as well. And the following bullets that are listed here – I just think are things that we would need to take account of when we do that form of evaluation.

And again, as I mentioned previously, it can't just be looking internally at GNSO. Think from this work there is likely to be some impact beyond the GNSO. And the only way I think we'll ever get any traction to review this and to change things is to come up with a set of options.

Certainly when the GNSO review took place, the last GNSO review, there was absolutely no appetite to tackle this question at all. And many of us on this call can remember that when we accepted the current bicameral model it was on the basis, well, just try it for a couple of years and then we'll have a fresh look at it. That has never happened.

And I think we're all aware of some of the difficulties that approach has actually laid on the table. It always amazes me that whenever we get into

votes within GNSO Council the only person who really has a clue as to how it's going, if the votes are fairly tight, is Glen because the actual voting procedures and process is quite complex.

And you have to know and really understand the bylaws to make an on the spot assessment as to how those votes have gone. That may not be the best way of doing things. I think it's a rather complex way of working that we've got into. I think most people who've defined the laws around this structure have done a really excellent job in actually making the whole thing work. But it is rather complex, and it is rather restrictive in some ways as well.

I don't think that it easily lends itself to growing ICANN certainly in terms of new constituencies, new people involved and the growth of ICANN, the whole range of issues that we're now tackling. It isn't an easy thing to come into. So all of those things I think are the stimulus for us to provide some work moving forward.

So what I would like to discuss on this call is how we can progress those two sets of core issues, and the work that we can do not only up to Hyderabad but past that as well. So the intention is to work on those – or the intention that I would like to put forward is to work on those two sets of core issues and we can do that through having a wiki, through having conference calls, through the period between now and Hyderabad.

And when we get to Hyderabad to have a face to face meeting looking at where we've actually got to and the intent of that should be to provide a report for submission to ICANN. I think it should go to the Board but it certainly needs to be focused towards the organizational effectiveness committee as well and to try and get that report on the table by 2016 – the end of 2016.

That's really ambitious. And I appreciate that. But I think if we're going to do this work and we are going to progress it in a manner where some of the additional work can build on that, then whatever happens it has to be done before the Copenhagen meeting in March. And by the time we get to that Copenhagen meeting I would then like to see the issues that come out of this work being worked on within the various stakeholder groups to take that forward.

I'm not sure, as a – as one group, we could actually get much further with the work other than saying these are the things we're all going to look at; these are the options we need to assess. Because, once again, we get to the same problem, that we often get to within the GNSO, that being able to get any agreement and any consensus the actual thrust of that and the waiting of what comes out is really watered down by the desire to achieve consensus.

So maybe breaking that phase down into the various stakeholder groups would enable us to get a good assessment on the table that we can then look to come together probably with a broad ICANN group and work through those issues after.

So I don't think the task is too onerous. It's challenging in terms of time. But I'm going to open up for questions there. And I think we could look to getting towards some agreement on this call to work towards those two sets of core issues, and actually start making progress, then I think we will cover a lot of ground that isn't currently being covered either within the Operating Procedures Working Group or within the GNSO review but on an area that's absolutely vital for all of us working within the GNSO.

So I'm going to stop there and pause and I can see there's a couple of hands raised so if we can start working down that list and if anyone else wants to join in either raise a hand on the Adobe or please just let me know.

Steve, can I turn over to you to start with? Thank you.

Steve DelBianco: Thank you, Tony. Appreciate the presentation and how you're getting us back on track for a long-term, large-scope project. I did put into the chat earlier that there are at least two other currently-underway projects that touch upon many of the same issues you've brought up. One is the Work Stream 2 project on SO and AC accountability to the entities the SO and AC is supposed to represent. And in the new bylaws that Work Stream 2 project is specifically to look at avoiding capture of an SO or AC as well as how it is accountable to the underlying individuals.

So there is a thread we can work on there. And that's called the SO/AC Accountability project. And I put the link in there. It would benefit to have participation from you on that group as well. Avri has been active in that group. Mathew Shears occasionally. But we need more help.

The second is more on point, Tony. It's the project started in the beginning of September in GNSO Council to ask the question how does the GNSO respond to the new opportunities to make decisions and nominations under the IANA transition and accountability bylaws? And there are dozens of places where GNSO will be asked to nominate say a liaison to the Customer Standing Committee, or where GNSO will be asked what say you should the empowered community honor this petition to block ICANN's budget or spill the board?

There are another category where the GNSO will have the opportunity to do a document request or initiate an investigation. These are all new powers as part of the transition. I'm the chair of that drafting team; Matthew Shears has been active and helpful on it. But we haven't had too much other involvement. There are nine on the drafting team including contract and non-contract parties. And we're at a bit of an impasse.

We took a look at the question of who makes the decision when something is presented to the GNSO. And I talked to you earlier about nominations, decisions and investigations. But the who comes down to well is it the Council or is it the GNSO? And Steve Metalitz has been heroic at trying to say that don't assume the Council always does the speaking for GNSO. The Council is primarily focused on managing the policy work of the GNSO.

And so Steve, for the first two calls, made a valiant attempt to say that we can go directly to the chairs of the GNSO constituencies and stakeholder groups and they can suggest how to react to an empowered community question. You don't have to go through Council. That received no other support from members on the drafting team so that was at least temporarily set aside.

And our work has to be done in about two weeks. So as chair I moved us to the suggestion that okay, assume that Council speaks for the GNSO, the question is how do you vote? What is the voting rule on Council if it's asked to approve a nominee to an IANA functions review or whether to block the bylaws in the empowered community?

As you all know that the bylaws of ICANN have always held that a majority of each house is required to reach a non-policy decision. And most of the members of this drafting team, including the Non-Commercial Stakeholder

Group and the contract party house, they want to keep that as a default, keep it simple. And it truly is the simplest path forward.

But again, Steve Metalitz, said wait a minute, this is a great opportunity, and I've helped him in this, to consider other voting schemes. For instance, why be a majority of each house when that was set up specifically to handle policy matters? Why can't it be a majority or super majority of Council without regard to what those you're in?

I brought up the question of why would Nominating Committee have a vote if GNSO is asked whether to spill the Board. The Nominating Committee does not represent any GNSO constituencies or stakeholder groups. I made the statement that they were given a voting role to break ties in the two house structure and there are some who disagree with that, but nonetheless, nobody can disagree, the Nominating Committee reps do not represent the GNSO.

We also looked at if you were going to – if you were going to allow voting by all councilors and get to a majority, we showed situations where you could have a 2/3 majority of Council in favor of empowered community decision, but it would fail for lack of getting a majority of each house. So that certainly has some people intrigued and it might be a way in to the issues that you've talked about on the previous slides.

So Tony, I just last night, sent you a recap of where we are in that discussion. I believe I also sent one to you, Greg, so that you guys could stay informed. Steve Metalitz and I have our hands full and I don't think we're going to be able to get it done but we will give you a report that shows there are creative ways to allow voting by the councilors themselves as opposed to assuming everything must be the majority of each house.

Thanks, Tony.

Tony Holmes: Thank you, Steve. Just a couple of comments on that. I believe we do have representation on the Accountability group, but happy to join in with that. And I think there is a close association with that work. So you're absolutely correct there, and that will happen.

In terms of the issues that you went through, and thank you so much for going through those. Yes, they clearly are a similar set of issues. But the difference I see with the work you're doing is that everything you do is based on the current structure. And the big question I have, and watching that work and also listening to the very valid points you made, Steve, is to ask the question would a different structure help resolve some of those really difficult issues that we have now in terms of making the whole thing work?

Are there other options out there which we would say if only we did it that way, then some of the real problem space that we have and some of the parts that we can't take forward tackle it a different way we may get a different answer. And for me that's the part that I really don't know whether the answer is yes or no to. But I do think it's worth exploring. And I think it's coming at it from that angle that I saw the work of this group adding benefit to what's happening there, not replicating any of those issues.

You may want to come back on that later. Klaus, can I move to you? Thanks.

Klaus Stoll: Thank you very much, Tony, for your representation. I want to be short. I think we were presented a timetable which is extremely ambitious and I think in order for us to actually get some result and to be as outcome-orientated as possible we should agree on a set of very, very practical questions, which we then should take to our constituencies, discuss these (unintelligible) in a

discussion group and then in Hyderabad reconvene and basically say, okay, these are the contributions to the questions. Which answers can we actually give and what answers can't we give? And so that's a practical suggestion.

The other practical suggestion is I think the – it is important that we – that we find out how other groups, which are currently not represented in the GNSO, actually look at the GNSO and what questions they have and how they see actually in the GNSO. And I think that will give us some very clear pointers where things are going, where things should be going. Thank you very much.

Tony Holmes: Okay thank you, Klaus. Marilyn. Are you on mute, Marilyn? I can't hear you. Okay, it seems we may have lost Marilyn for a moment so let's step down the list. Denise, over to you, please.

Denise Michel: Hey, Tony. Thanks so much for leading this effort. Unfortunately, I think it falls into the top right quadrant of highly critical but not urgent and there's an enormous amount of work, as you know, ahead of us at ICANN. I'm wondering if we could identify some key work products, research support, that ICANN staff could help with to provide a foundation or, you know, some useful work that will help us be better positioned to perhaps come to some agreement on at least work items in Hyderabad. And I'm happy to work with you to sort of flesh that out. Thanks.

Tony Holmes: Thank you. I think that's an excellent proposal. And we certainly should try to pull out all the stops to make that happen. I very much take the point that Klaus started with, it's an extremely ambitious timetable. The reason for setting that timetable, well, one, I like to have something to shoot at but also really it was the work of the other groups and how far that would be embedded in the processes.

And I don't know whether that's too strong an issue or not whether if what comes out of the work that Steve referred to and what comes out of the Work Stream 2 capabilities will really put the Board in a position where they won't have an appetite to look at some of the broader issues. And that was my fear. But Klaus's point is really right; it is extremely ambitious to think we can do anything that quickly. Not that we shouldn't try.

And your point, Denise, about getting some highly critical points that we can get staff help on I think is a really key one and I'd be really pleased to work with you over the next period trying to identify what that is and set them in place. So thank you for that.

Marilyn, are you back with us now?

Marilyn Cade: I'm hoping I am. Can you hear me?

Tony Holmes: Yes, I certainly can. Thank you.

Marilyn Cade: Okay thank you. Well I'm probably going to take a slightly different approach than both Klaus and Denise did but for a different reason. As Tony knows, Mark McFadden as well, we were involved in helping to design the constituencies and the development of Council. And Council was given a narrow remit on purpose. Over time, Council has strayed not areas that, I believe, belong in the hands of the constituency.

There's no secret. I've been to the microphone many, many times. I think Steve Metalitz and I are probably very aligned on that. Whatever we focus on I'd like us to include the consideration that governance of ICANN is different from gTLD policy. And they're both extremely important but governance of

ICANN, to me, cannot only be thought about in a room or a space where we are voting specifically on gTLD policy.

That's going to be complicated but, you know, while there's work going on right now about challenging an ICANN budget, I would say that budget, review, larger issues including review of the Board itself, those issues, 360 review of the leadership, those issues are all governance issues and require us to work, I think, at the constituency leadership level with other parts of ICANN.

So to me, we've seen a little bit of that happening informally as we put together collaboration with the other SOs where it's the constituencies are engaging with the SOs or the ALAC or the GAC. And I'd just like to keep that concept alive and not have it completely kicked down the road, or we're going to find ourselves locked into an expansion of the Council automatically. And frankly we elect people through the Council to represent interests related to gTLDs. We do not elect them to Council to govern ICANN.

Tony Holmes: Okay. Thank you, Marilyn, very much. And I think it comes back to what I've just put on the Adobe, this issue of the core issues, what was on the screen is the first set of core issues. It clearly is that dimension there that I think needs to be addressed. And if you do have a strong feeling that that's the way things should be done, and certainly I'm in the same camp as you on that, I think we elect our councilors with a set view of the work that they're going to do in mind. They're not going to be the experts on everything.

And they're not always going to be the best people to carry the message on everything either into any further discussions as good as they are. So I think it is that core set of issues that would look to address that. Thank you for that.
Greg.

Greg Shatan: Thanks. Greg Shatan for the record. And couple of points. First, I agree broadly with the comments regarding the Council and councilors and will take it even further and that which is that the remit and scope of the Council is set in the bylaws and including the revised ICANN bylaws. The policy management function, manage the development of policy and it's not developed in the Council. So there's a critical function in terms of starting and finishing policy development processes and the like and initiating various types of actions.

But, you know, that's what it's for. You know, it is not the ExComm of the GNSO for all purposes. And frankly, you know, I don't think it should be. There's too much concentration of power if it becomes both the executive and the legislative so to speak and speaks for all things. So, you know, it's really I think frankly, out of scope, you know, for the things that are being discussed – be added to the Council's overall thing.

And while the chair of the Council may also serve as the chair of the GNSO that doesn't empower the Council as a whole to go beyond its remit. So that's an issue. And I'm, you know, concerned about the group that Steve DeBianco is discussing and where it's going. Putting aside the issue of balance of discussion, of voting or the like, you know, it begs the question of whether it's the right body at all. I know that Steve Metalitz has been advancing and I agree with him but it's not the right body.

However, all that said, we do have a group that is working on that that Steve and Steve and representatives of other groups are moving into – are in and supposed working on a very fast track. And of course it seems like their end product will get voted on by the GNSO Council. Whether that's right or not so of course the GNSO Council voting itself out of power on a particular sector

seems rather unlikely and at the same time also quite a good demonstration of why it shouldn't have this role assigned to itself.

So I guess I see what Avri is saying. I would say I'm against the aggregation of power of all types into a single focus. They say power corrupts and absolute power corrupts absolutely. I'm not saying that anybody here has a whole lot of power but it is a caution against the aggregation of power.

But we do have a group working on that and we need to think about what this group here can do and we shouldn't duplicate the efforts of others or even do what I just did, which is chat about the efforts of others much. So the – I'd like to see what we can do uniquely. We can coordinate with these other groups. But I think mostly either staying out of their way or looking at things, you know, beyond what they're looking at.

And this is a GNSO futures group which I think to some extent is intended to be a really kind of a future-ism type of – to make us futurists and to try to think outside the box or break the box in some ways – fundamental ways. And maybe not what's going on on the current horizon but what's over the horizon. So setting ourselves a very short term plan to submit something may be kind of the opposite of what I would suggest, not that I want to go through a five-year slog of imagining the future.

But I think we need to set ourselves some specific goals and a work plan, a timeline, for those and be really crisp about what we're doing and stay out of the way of other groups while at the same time trying to be revolutionary in our thinking or at least as – in one way of thinking about them.

Tony Holmes: Okay. Thank you very much, Greg. There's certainly some really interesting comments going in on the chat. And I think from what's been said there's

arguments being put for one side and from what's going on in the chat there's some comments in there certainly Avri's input where there's another view of this.

Which is one of the reasons I think the focus of this group shouldn't be to resolve those issues. But I think if you look at the future of the GNSO – and you referred to trying to think outside the box, Greg, I see no harm in trying to look at that full range of options and then we can work, I think, separately to some degree to do our evaluation of those options. I don't know whether you have the ability to speak, Avri, there's quite a lot that you've said here. I don't know whether you wanted the floor to try and do that. Is that possible?

Avri Doria: It's possible.

Tony Holmes: Okay, go ahead, Avri.

Avri Doria: This is Avri. I was happy typing. I'm very much in favor of this group of people talking about how we could work more closely together. I think there's lots of things within the current context, such as our inability to even figure out how we're going to elect vice chairs and how we're going to put candidates together for chairs and how we're going to do any of the other things that we need to do together. Figuring out how to tie our shoes before we start to run and say that we should establish yet another piece of bureaucracy at ICANN.

I believe that the Council is the right one to be making the decisions that they are. Yes, the primary focus is the policy. But it's also the coordination of the stakeholder groups. And I very much believe in that model and think that deviating from that model especially at this time, but really in general, just creates confusion. And I would actually say greater confusion since we're all

running around quite confused now, not even able to do the basic things we need to do.

We have not learned how to cooperate with each other on even the most basic level where we can function, you know, as a house, as a what have you, and to say that now we want to restructure the way the GNSO works seems to me to be really the wrong thing to be trying to do. So I'm very much in favor of the current focus point in the Council as the place to take care of GNSO-wide decision making with the input and vote of the – of the stakeholder groups and its constituent constituencies.

But I will basically not favor, and not be part of a consensus that says we want to go away with forming some other sort of constituency Council or what have you. You know, we don't even have the same understandings of how stakeholder groups and constituencies work once we go the level – go below the level. And so trying to go beyond that.

And then trying to actually include the fact that we talk about this is pretty much solely from the house aspect and not from the whole GNSO aspect where the whole structure and organization of registrars, registries and perhaps new kinds of service providers in the future, just – it just – that doesn't seem to me to be the thing we should be working on; we should really be figuring out how to tie our shoes. Thanks.

Tony Holmes: Okay thanks, Avri. I think it was worth certainly giving you the floor with what was going on in the chat room. The only response I have to that is I think your way, way further down the path than I am because you mentioned that you wouldn't be able to support an approach that adopted a different method. But I don't even see that as the focus for this group, which is why I wanted to draw it back to just identifying the options that you could have.

And maybe through those options you may find that where we have struggled to do some of the basic things and obviously the vice chair elections and things are prime examples of those, some of those things that we struggle with if we look to maybe doing things a different way we may not even have to do. And I don't think we're any of us at the stage where we should start saying this is the right way to do something or this is the wrong way.

It really is having that much broader approach that I'd sincerely hoped was going to come out of the work on GNSO review. It didn't even get looked at. And it's really just – the first step is identifying what the options are. We may get to the stage then where they are broadened out for discussion. And you're certainly right, Avri, it can't just be at a house level at that stage, it needs to go broader.

They could be all thrown out within the first round of discussions. But if we don't get those options out we don't understand if there are different ways or better ways of doing things. Nothing ever changes. And there's a lot of people in there, and to some degree I'm one of those, who are frustrated with the current situation. So I think it's drawing it back and just doing that first phase of work that I saw as the focus for this particular group.

Steve, I wonder if I could also go back to you because you started off very well. And you raised a number of issues that are being dealt with within the group that you're working in. But I just want to check with you that this broader discussion I think looking at different options and different ways of doing things outside of the current working methods and the current structures that we have, I don't believe you are tackling that to any degree, is that correct?

Steve DelBianco: So I think we specifically are. Within the context of how does GNSO use the powers under the new bylaws we explored right away something alternative to having a Council vote with a majority of each house. And as I said earlier, and that's certainly broader than just assuming that Council alone does it. Now I realize it was only with regard to the empowered community.

But if we were successful at coming up with a way to deal with the subset of issues related to the empowered community, if that worked well that would pave the way for a broader change to how GNSO makes decisions and how GNSO reaches conclusions, with the kind of voting thresholds are there. I think that it – you have to start small, Tony, sometimes if you want to make a big change. But even starting small we are running into a significant problem getting any consensus of the drafting team to look at anything other than a majority of each house.

And so I don't feel as if we're going to get there but I do want to say that if you start with a small issue – let's say a nomination. It's about time to do a nomination from the GNSO to be on a review team. And under the new bylaws why would that have to be a majority of each house? Frankly, we could make it be a simple majority of Council.

So that, who knows, the Registrars would all align with the Non-Commercial Stakeholder Group and muster together a majority even if the BC and the Registries didn't like that person. So we may have to do experiments like that to begin to reveal that not everything in GNSO has to be done with a majority of each house because houses were set up primarily for policy. And secondarily maybe we explore, like we have been trying to do, that it isn't necessarily Council that has to speak for the GNSO.

We have stakeholder groups and constituencies that each have chairs and they can express their opinions directly. And that also brings up the point I mentioned earlier, Tony, that there's no logical reason for a voting Nominating Committee member to be part of a decision making body in GNSO. They are not accountable to the GNSO. They didn't – they weren't selected by the GNSO and they're not accountable to the GNSO in any way.

Tony Holmes: So if we work through these two sets of core issues, Steve, that are on there, the first one is up there now, and if I just move on to the second one, I don't believe that those in their entirety will still get addressed within that work. And that is the point. I think you're starting from this is where we are today position and trying to make things work from that position as opposed to taking a fresh look and saying well what if it – if it was a different structure what if it worked this way? What if we try to do that?

I think there are different perspectives of maybe some of the same problems but they certainly aren't starting in the same place. Would you agree with that?

Steve DelBianco: But, Tony, not necessarily Tony, because the proposal that Steve Metalitz and I worked so hard on yesterday was a proposal that says you do not use a majority of each house and you NomComm persons vote. We put that strawman proposal out there and showed in a spreadsheet how 50% and 2/3 majorities of the voting councilors could be achieved. But not concern ourselves with the majority of each house.

So that is not a structural reform of Council. And it doesn't change the way Council votes on policy and PDP. But it does change the way GNSO makes decisions on the non-policy matters related to the new bylaws. And so I hate to use the word structural because we'd never – it's not in our mandate of this

group – my group that I’m speaking of. It’s not a structural change, it’s a new voting method for a new forms of decisions that need to be made.

That’s as far as we can go with our charter. And yet, we are encountering significant resistance to small incremental change like that. If we could overcome the resistance and come up with an experimental way of doing something as simple as majority votes for nominations, it would show that we don’t have to use the house structure for everything that we do.

So I...

Tony Holmes: Right.

Steve DelBianco: Go ahead, Tony.

Tony Holmes: I was going to say, I think the problem is that with that you start from the premise that people – and certainly there are some and maybe for very good reasons that they like the house structure. They're going to start from that perspective. We like this arrangement and that’s the one we’re going to support. That’s why I think if you do it from a fresh perspective of looking at different options, not starting from this is where we are now, then you can start to tease out some of the other issues.

I think some of the – some of the problems that you have within that group is that when you're trying to find a way forward on some of these issues you actually haven’t placed a structure that some people really like, really are happy with it, think it works, and they're going to look to protect that from day one.

If you take a fresh...

((Crosstalk))

Steve DelBianco: Yes, I have to agree with you. You're exactly correct. The resistance and adherence to the status quo is exactly what we're encountering so you're absolutely...

((Crosstalk))

Tony Holmes: Right. So I would like to only get as far as trying to look at what the options are, not particularly saying this is where we are but just look at all the options including the existing one. And then I think the follow on work can take place built on that. But you have to start somewhere. And if people are allowed to go down the path of well we really like the way it is now and we've got no intention of changing, then nothing is ever going to move.

If you put a whole range of issues out there you can discuss or a range of options and you look at it from a perspective of what do you really think is the best, they may still think that that's the rest model. But at least you have something to put some balance in the argument and weigh that against other approaches. And I think that's where this group should really be doing.

And I would suggest that by tackling the core issues that have come out of here and trying to identify options both with this first set and the second set then I think you do get that broad basis to do an assessment and it's not necessarily starting from where we are today. We can have those debates after. And I'm sure as soon as we have those debates some people will immediately revert back to say well, we don't want to change anything because this is the best one anyway against all these other options, this is still the best. I think that's the slightly different place to have the argument.

Greg, over to you.

Greg Shatan: Thanks. Greg Shatan again. I think that you probably said quite a bit of what I would have said, but I think that – well first it's important in a group such as this and also in a group such as the one Steve is discussing, ideally, for people to step beyond self-interest as much as possible. I think particularly in a group like this, which is intended to try to engage in some disruptive thinking. At least that's how I see it to be.

So I for one am willing to look beyond the enlightened self-interest or the semi-unenlightened self-interest of my group and I hope others can do so and I think one of the things we lost by not having a really worthwhile independent review was a review that was free of self-interest although frankly looking at the review that took place I'm not sure if it was free of self-interest but not so much from within the GNSO rather self-interest of ICANN the corporation perhaps.

But putting that aside, a real outside look at this, you know, could result in things maybe none of us would like or maybe – but for any of us to look at this and say this is – I get a lot out of this particular structure but yet I'm willing to, you know, consider why that may not be the most appropriate structure is a difficult thing to do. And I'm not saying that's necessarily true of people in this group, not sure about the other group, I'm not participating in it. But I just think it is kind of a – it can make it more difficult to throw the cards up in the air and see where they land.

So I just encourage – I don't know there's some form of, you know, Chatham House rules or spit-balling that we can get to at some point, you know, if we're going to be more radical – potentially radical in thinking. But that's,

you know, often the place to go. And I think that, you know, I see groups get stuck a lot because everyone is playing their cards, you know, close to the vest and making sure to kind of play, you know, the cards for their house. I don't mean, you know, for whomever they are, they are playing them for.

So in some ways that's impossible to avoid but it's almost – you know, one of the things you do in law school is you – if you have a moot court you're arguing both sides of a – you're arguing one side of a particular case and then you switch and argue the other side. It might almost be – it might be an interesting exercise to try something like that. I'm just spit-balling that but that's a just a thought. Thanks.

Tony Holmes: Okay. Thanks, Greg. Some really interesting comments going on in the chat as well. Avri, I noted the point you made that you really don't like the house structure. And I think that's an interesting comment. But you do recognize the role of Council. And I think some of this comes down to the fact that if you asked probably just those of us on this call what was the role of Council you're going to get some pretty diverse views. And that's part of the problems that we face.

Also from Matthew saying that we could look at some of the core challenges and identify those. I actually thought those core challenges may come out when we started evaluating a number of scenarios because certainly that would be the time when you have to look at what are the core challenges when you do that work. So I'd certainly support that aspect as well.

We're coming to the top of the hour, but what I would like to ask for your indulgence with this, if we could maybe with the help of ICANN start a wiki around these core issues, see where we are. I think it would lead to a much broader discussion. There's been some good discussion on the chat. But I

think would tease that out and we could have that across email with putting some ideas on the wiki.

And I'll certainly also take up Denise's invitation to work with her to identify some issues where we can get some support from staff to help give us the basis to further our work. And then maybe on the back of that if we could look to have a call within – I would say well we need to get this underway so three to four weeks and see where we are and actually take that forward, at least get one more call in before we actually have a face to face before we get to the ICANN meeting in Hyderabad.

Because when we get there we really need to have some substance out of this work to actually start discussing and not just keep going around the houses. So what I would ask if that's a reasonable way forward, and if anybody wants to certainly approach me, and I hope a co-chair from the noncommercial side, I hope we can fix that soon, with any further ideas or direction that would be really welcome.

But is that a reasonable proposal to move this along? Do I take silence as being okay just try it?

Denise Michel: I think it's a great idea, Tony. Thanks.

Avri Doria: I put my hand up. I'm not really sure what we're empowering Denise's group to do. I guess I've missed that so since that's – to be an integral main component of your proposal I'd like to understand that empowerment better please. Thank you.

Tony Holmes: Sure. Good...

((Crosstalk))

Denise Michel: Actually it's not – if I may – it's not my group, I just volunteered to work with Tony to identify some of the issues we've discussed and they're identified on the slides and what issues would benefit from staff pulling together, you know, basic fact thing, things that would help us understand more clearly what the current state is.

Tony Holmes: Yes, thanks, Denise. And from my point of view, Avri, I would struggle to answer your question at the moment. I'd certainly try and answer it by email before we set the horses running. That's probably the best we can do. I think we need to sit down and think about that what we're actually asking for and certainly share that with everyone on the list so that would be my intention there.

Okay so is there – I can see Mathew is suggesting – is there a subgroup or a small group that could get together? Well help is always welcome, and I would really appreciate that. If we do that, I do think with the way this group's been formed it has to be a small group that reflects the makeup of both sides of our house so that's absolutely essential.

So let's explore that a little bit. I mean, certainly I will be working with Denise to try and tease out some issues where we can get ICANN help but are there other people that would maybe get together as a small group to see how we can take this forward? And we could – I would actually be quite happy to put some ideas down on email, share with that smaller group and then see if we can get some traction across that. Are there other people that would consider joining that?

Whilst you think about that, Rafik, I see your hand is raised. Go ahead, Rafik.

Rafik Dammak: Okay thanks. Yes, I was more going to ask for something else before we end this call. But regarding this, I'm not sure why we kind of maybe to have few volunteers to work on the issue. I think we are quite small group anyway and you are suggesting kind of somewhat ambitious timeline and so on. Maybe time to more the mailing list and try to steer the discussion there.

And to be honest, after several meetings, including in Helsinki, and so on, it's not clear what we're trying to achieve. So if we move on the discussion to the mailing list and having more follow up there I guess people can reach more common understanding more sooner than just count on those calls. But my hand was also for another point so I would wait to any other business to make it.

Tony Holmes: Okay. Thanks, Rafik. Certainly in my response back on that is that it's never easy to have what you think is a small group and just move things on the mailing list, it just doesn't happen. I would really appreciate having a small group that we can work with and then put the outcome of our combined thoughts on a mailing list. Maybe a couple of people or three – three maybe from each side would be absolutely idea.

And trying to do it another way doesn't get anywhere. And I hope by now that people are clear of what we're trying to do because we've been through this a number of times and certainly out of that initial work what's come out are these two sets of core issues and we are looking at not looking at providing the best way forward, we are looking at identifying options as the first stage.

So I hope that's quite clear. I mean, that's the focus of this to look at a broad range of options, identify what they are and not consider to get there we need

to change all this from where we start now. It really is a more blue sky approach. So I hope that part of it is clear.

And certainly in terms of trying to move this along, the one thing we all agree on, and I certainly agree with you all the way, Rafik, is the time scales for this are challenging. We probably won't make them. But let's get as far as we can. And I can only see that having a small group would actually help make that work. So I would still prefer to go down that path.

Certainly I would ask if people could maybe indicate on the mailing list if they'd be willing to join a small group. I think that would be really helpful and that would take us forward. So we are going to have to end this call very shortly. So we're on AOB. Rafik, can I return to you for your other issue? Thank you.

Rafik Dammak: Yes, thanks. My understanding is that we will have a meeting in Hyderabad. And I was asking if it's possible maybe to change the date from the Day 1, you know, Thursday to another one, it's more kind of – I will be flying to Hyderabad at that time and just want to ask if it's possible to move on. But, yes. Not that critical anyway.

Tony Holmes: Okay. That's certainly noted, Rafik. And, Chantelle is on the call so I'll ask her to have a look at that the availability is. I must admit organizing meetings within this Hyderabad meeting has proved really, really challenging. And I think the problem is that we've all got overlapping meetings now. But certainly we'll have a look and see if there's any scope to do that for sure.

Okay so we need to end the call. We'll certainly look at how we can take this forward and I'll send a note to the mailing list. But maybe we could go down the path of using Google docs or something like that to get things off and that

we can all contribute on. And I would really welcome your thoughts on this and how to move it forward. So let's at least kick something off and get something posted and then we can all have a look at it and see where it's going.

But the intention, once again, I have to stress, is not to provide the answers at this stage, it's to work together to look at the broad set of options that possibly can be considered further but not within this group. The evaluation should be done in a different manner and we can decide what that manner is later.

So are there any other comments on this in closing the meeting? If not I'd thank everybody for your participation, look forward to trying to make some real progress and please watch the mailing list. So with that, Chantelle, could I ask you to end the call? Thank you.

Chantelle Doerksen: Thank you, Tony. Operator, you may now stop the recording. Please remember to disconnect all remaining lines. And enjoy the rest of your day.

Tony Holmes: Thank you very much, everyone. Good-bye.

END