

**ICANN
Transcription
Discussion George's appeal under section 3.7 of the GNSO WG guidelines
Thursday, 18 January 2018 at 17:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<https://icann.box.com/shared/static/dnyfxkdw59lh13dhjo8t5gkmi5x3jcz6.mp3>

AC recording: <https://participate.icann.org/p6r60reeppr/>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page <http://gnso.icann.org/en/group-activities/calendar>

Coordinator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the discussion of George Kirikos appeal under Section 3.7 of the GNSO Working Group Guidelines taking place on Thursday the 11th of January 2018.

On the call today we have George Kirikos, Petter Rindforth, Paul Keating, Phil Corwin and Paul Tattersfield. I have no listed apologies for today's meeting. From staff we have Herb Waye, Mary Wong, Steve Chan and myself, Terri Agnew.

I would like to remind all to please state your name before speaking for recording purpose and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I'll turn it back over to our cochairs, Petter Rindforth and Phil Corwin. Please begin.

Petter Rindforth: Well thanks. Petter here. Thanks for this - arranging this meeting and we wanted to give George the first possibility to make his statements and then we will come back and start the discussion and make our comments on that.

George Kirikos: I notice Phil Corwin has - this is George Kirikos speaking. I notice Phil has his hand up so I guess he can go ahead.

Phil Corwin: Who's moderating this call, George?

George Kirikos: I'm not sure.

Phil Corwin: Can staff moderate it? I don't wish to be in a situation where you're calling on speakers; you're the appellant. Can you take that task on, Mary or Terri, when hands are raised?

Mary Wong: I've just raised my hand, Phil, and everyone. This is Mary. Yes, we'd be happy to run the order if you guys wish and so as George noted, Phil, you did have your hand up, was it to make that point or was it to make a different point?

Phil Corwin: No, the point I want to make is that one hour and 15 minutes before this call starts the individual making the appeal forwarded a 12-page document which I understand he's going to give an oral presentation on. I want to note for the record that I was at a meeting when this document arrived. I just arrived at my office 10 minutes ago. I have not been able to read much less think about the entire document. I notice the document has multiple references to me personally.

And therefore I want to reserve an agreed upon period of time after this call takes place to fully consider this document and respond in writing if I wish to. I don't think it's reasonable to forward a document of this length just over an hour before a call starts and expect this discussion to be the end of response to that document. So I hope we can have agreement on that, an agreed upon

period of time in which the cochairs can respond to this full document rather than, you know, I thought we were going to have a call where an oral presentation would be made. We respond orally. And whatever happened would move on, but given the introduction of this document at a very late hour I think we need the cochairs require additional time to consider this written input before taking any final response to this call.

Mary Wong: Thank you very much, Phil. This is Mary from staff again. So I understand that we're talking about an initial process point before we actually go into the call. And so what I will do is ask George if that is acceptable to him as the person who put in the document and acknowledging that the document only came in a couple of hours ago. We can perhaps as a closing agreement at the end of this call, agree on what that response time can be to allow Phil and Petter to review George's document given that George, I understand that you will be making an oral presentation based on that document today.

George, is that all right?

George Kirikos: George Kirikos here. Oh can I jump in or? Yes, George Kirikos here. I think the way the meeting was set up was that it didn't dictate how the meeting was to be accepted and given that I'm supposed to make statements that are on the record I thought it was important to have those statements - those planned statements in writing. And 12 pages, if you actually go through it, is fairly short; people can read it in about 12 minutes, I mean, a minute per page. So if you'd like to delay the meeting for 12 minutes while people go through it, I'd be happy to wait...

Phil Corwin: No, I'm not agreeable to that. It's a 12-page document, it arrived at my inbox one hour and 16 minutes before the call was initiated. I want additional time after the agreement that there will be additional time for the cochairs after this call ends to review this document and respond in writing if they wish to.

George Kirikos: Well George Kirikos here. We should state our name for the transcript. Well the Section 3.7 appeal mechanisms didn't really dictate how it should happen

so perhaps a direction from Heather might be appropriate. But this is basically...

((Crosstalk))

Phil Corwin: Are you - really? We can't get agreement on this on this call?

George Kirikos: If you look at the past correspondence before we got to this call, you're very hard-nosed, one might say, with regards to even attending the meeting. Like all your obligation...

((Crosstalk))

Phil Corwin: I don't agree with that characterization.

((Crosstalk))

Phil Corwin: ...any evidence that I had a hard-nosed...

((Crosstalk))

Phil Corwin: ...whatever that means about participating in this meeting.

George Kirikos: So a reasonable amount of time to respond as long as, you know, both sides have time to respond to whatever you plan to submit because, you know, it's supposed to be a discussion and it's the question of does somebody want the final word by saying, you know, the discussion doesn't end today but goes on and on and on. So where does the closure take place? That's I guess the issue. I notice Paul Keating and Petter have their hands up so maybe they might want to chime in.

Mary Wong: Let me jump in here for a second. This is Mary from staff again. And just to note that we are still talking about a process point. We haven't actually

embarked on the discussion under Section 3.7. So as noted, Petter, who is the co chair of this group, has his hand up and then Paul who is joining the call in support of George's appeal, will go after that. So can we hear from Petter?

Phil Corwin: Sure.

Petter Rindforth: Thanks. Petter here. And I just wanted to a little bit echo what Mary also said. I think the best way actually is to use the time we have and to start the presentations and then all parties will have the possibility to mutually make their statements during this call. And then if it's possible to also any further documentation that we need to further consider and read that we can have specific time period after this call to make further comments on that. But I would suggest that we actually start the presentation and discussion on the topic as such. Thanks.

Mary Wong: Thank you very much, Petter. This is Mary again from staff. And just to note that under Section 3.7 we are at that first stage which calls for a discussion between the appellant and the cochairs so we're not actually talking about any kind of adversarial hearing or anything like that, but we appreciate that George has sent in a document and the request from the cochairs is that time be given after this discussion today orally for them to consider George's submission. Paul Keating, do you want to go ahead with your comment?

Paul Keating: Yes, this is Paul Keating for the record. The question I had was exactly that. I understood this is kind of a meet and confer, see if things can't get resolved and if they're not resolved well then it gets pushed up the ladder to a more formal proceeding. Is that understanding correct? Hello?

George Kirikos: We can hear you.

Paul Keating: Hello? Okay. So is that understanding correct?

Petter Rindforth: Paul, Petter here. Yes, that's how I understand it.

Paul Keating: Yes, so I mean, from my standpoint we're trying to do meet and confer, okay? So, Phil, while I appreciate you might have gotten the document, you know, arrived an hour and whatever minutes beforehand, it's nothing - it hasn't already - I haven't seen already discussed in substance going back and forth. But what I would propose is that if we get to the end of this discussion and we haven't resolved the problem, then let's - then make a proposal how much time you need and what you're suggesting the process would be in order to have you and/or Petter respond further in writing.

You know, one point that George did make is there has to be an end to the meet and confer process; it can't just go, you know, continuous set of - stream of consciousness with emails. So I would agree with Petter, we move forward, we see where we are at the end. If you feel that you haven't been able to express yourself or meet whatever comments George is going to make, then make a proposal for what additional time you might need and how we might be able to conclude this.

Mary Wong: Thank you very much, Paul. And I'll note that in the proposal for how to run this call, first of all the procedures in the GNSO Guidelines do not specify a particular way or format of doing this initial discussion between an appellant and a working group chair or chairs. And that secondly, therefore, the proposal that was sent around a couple days ago was that while we could try an attempt to reach resolution on this call, there could also be the ability for all parties to take back what was discussed from today and to respond subsequently.

So both Petter and Paul Keating are proposing that we proceed at this point to the discussion which as proposed would have George start off and then Phil and Petter to speak after him. Do we have agreement that we can proceed that way? Or, Phil, you've got your hand up, is that...

((Crosstalk))

Phil Corwin: Well yes, my hand - well I forgot to put it down. But let me say this: I don't think my request is unreasonable. A lengthy document which is relevant to this call arrived at my inbox 76 minutes before the call. I had no opportunity to review it other than to scan it for a few minutes before this call started.

So I would like to propose - now we may not use it, but that the cochairs have leave after this call concludes until close of business - I'd propose next Wednesday because it's already Thursday, the weekend is coming and if we want to provide a written response in any way to what's in the document we need some time to coordinate early next week, that we have until next Wednesday, close of business, to respond to writing if we wish to, to anything in this document, which I note that George has already shared with the full working group and I have no idea where else he will share it, maybe to his Twitter feed.

And that I don't think it's unreasonable given the late introduction of this document to agree that the cochairs should have some reasonable amount of time to review it in detail and if they wish to respond in writing after this call starts. And once we either respond or fail to respond, and note that we're not going to provide a written response, then depending on whether there's resolution or not the person filing the appeal can take it to the next stage which is contact with the Council Chair.

So that's my specific proposal that the cochairs that we begin that discussion with the understanding that the cochairs have until close of business next Wednesday, which is January 17, to respond in writing to anything they wish to respond to in this written submission and we will notify all participants on this call by the 17th, by either providing them with a written response or notifying that we won't have one. I just want to reserve my rights here.

Mary Wong: Thank you, Phil. And I note that in the Adobe chat Petter supports that timeline. He says it seems reasonable and workable. And so again, that may be something to agree on either at this stage before we proceed or to reserve some time at the end of this call to do so. I will also note from the staff side that as part of that agreement all parties may want to consider whether or not, assuming that there is a time available for the chairs to respond, whether there should be additional documents or whether we can agree on a freeze on documents until there has been a response and perhaps a response to follow that.

At this point I think we're still trying to get clarity as to how to proceed with this call. And I see that Paul Keating, followed by George Kirikos, has raised their hands so Paul, please go ahead.

Paul Keating: Hi. It's Paul Keating for the record. Phil, I understand your concerns but from my standpoint this is a meet and confer conversation; this is an attempt by everyone on this call to see if we can't resolve the underlying problem, not protect our individual positions going forward in an appeal. If the appeal goes forward then the appeal will go forward with its own procedure. It has nothing to do with this call. This is an attempt at settlement, okay?

And so I would - rather than - and here's my problem with your proposal, okay? I want you to be able to say what you need to say to defend what you think is the - you believe is the correct way so that we can try to resolve this. But if we go with your proposal then as Mary suggested, what date - then what deadline is there for George to have some sort of follow up? And then do we have another meet and confer? You know, this kind of - it just goes on and on and on and the meet and confer now takes up 10 days instead of today.

So I mean, I would - I don't have a problem if at the end of this call you think that there's something that you haven't addressed and you want some time to address it, I'm happy to give you that time. Okay? With the provisional that

George then has time to respond to that. So but I don't want to set the field alight right now by saying, yes, that's a great idea, we're going to go ahead and - with your suggestion because in a way it doesn't encourage resolution, it just kicks the can down the road.

So I think that Petter had it right on - hit the nail on the head first, let's try to resolve this on the phone call here, and if we can't then we can resolve it. And if we can't I have no problem giving you some additional time hopefully to try and resolve this because it's easier to resolve it and get the working group moving again, then to go through the whole appeal process and have the working group stayed and delayed until that process is over.

So for me my goal is get this thing resolved as soon as possible, as quickly as possible. And I don't - I object to designing into the system things that will or could cause it to become derailed. This is - particularly at this early stage. Okay so I'm - I think - I don't want to say it a third time so that's all I have to say.

Mary Wong: Thank you, Paul. And I'll note that we're 20 minutes into the call so hopefully after George and then Petter we can have some agreement as to whether or not we want to proceed with the call today with George and then Petter and Phil having that initial presentation and discussion. Let's go to George.

George Kirikos: Yes, George Kirikos here. I just wanted to note that this document contains, you know, only a few items that are new. Most of the issues covered here are just a formal way of documenting what has already been discussed on the mailing list or in past calls, some of the history of the policy development - or the guidelines development are included. But to the extent that anything is new, you know, a lot of it has already been covered.

And it's, you know, and the other point I wanted to make is let's suppose I didn't even prepare a document, I could have read the entire document on my end, made the oral presentation and just spoke this all into the record in

particular 12 minutes because, you know, a minute per page. What would your response have been in, you know, in that scenario? Would you have said, you know, I need more time to respond to your oral arguments?

The fact that I'm prepared and I gave people the courtesy of being able to follow along what I'm planning to say isn't a reason to seek further delay, it should be, you know, people should be saying, "thank you, George, for letting us follow along with what you're going to say. So I feel like I'm being penalized for being very well prepared for this call. You know, this issue arose in December - late - or mid-December and it's now January 11, you know, and I - we could have had the call back in December but there was the lag for that reason.

And now it seems, you know, we have more lag because, well, from my perspective it seems as though the cochairs might not be wanting to settle this thing today and they want to prepare for the next step...

((Crosstalk))

Phil Corwin: No, George, don't...

((Crosstalk))

George Kirikos: I didn't interrupt you.

Phil Corwin: ...don't ascribe motives to us that you have no evidence...

George Kirikos: I didn't interrupt you. Let me have my say. The next step would be that this escalates to Heather and the GNSO and you guys already sent them a document that I didn't have an opportunity to respond to. So to say that, you know, you need more time, you know, you've already sent out a document to the GNSO Council you know, where was the fairness in that? To say that I as a courtesy prepared exactly what I want to say in a document that you could

read along with me and I could have read this orally into the record, show that you had ample time to prepare as well.

You know, like you're going to say something after I speak, you know, if this call actually goes on, and I assume you prepared something. Like did you just come into this meeting unprepared? Like I assume everybody came here prepared to discuss things. And so why am I being penalized for, you know, the transparency of actually setting out exactly what I'm going to say in written form, you know, makes the transcript a lot easier, it's all in front of us, all the hyperlinks are available in the document as well. So, you know, I see it as being penalized for being diligent. Thanks.

Mary Wong: This is Mary from staff. Before I go to Petter may I suggest that we focus on the purpose of the call today which is a discussion between George, Petter and Phil, so that the request that Petter and Phil sent to the Council probably should not figure into this. And, George, we understand that you are prepared for the call.

So what I would like to suggest at this point, noting that we're 25 minutes in, is that we go ahead with your oral presentation which we understand is based on the document that you sent, but understanding also that Phil and perhaps Petter have not had an opportunity to look at the document. But let's go ahead with your presentation and have that discussion with Phil and Petter and reserve a few minutes at the end of this call to come back to this to see if there are additional points in your presentation and the document that may need time for consideration and to be addressed.

Paul and George? Thanks, Paul Keating. I know that you had your hand up...

((Crosstalk))

Paul Keating: I didn't take down my hand. But I agree. I agree with you. Yes. Yes. Yes.

Mary Wong: Thank you. And I see that Paul Tattersfield in chat has said that instead of using process to try to determine the outcome, we should try and see if what George has to say is reasonable. I would like to suggest that we really reach agreement as to whether or not we should proceed as suggested. So have George make his presentation, have Petter and Phil respond or make their remarks and see how far we get with a few minutes at the end to come back to this. Can we hear George and then Phil on this and make a decision?

George Kirikos: Yes, George Kirikos here. Yes, I just want to say again that if I had presented this entirely orally without the benefit of the document, then there would have been no excuse whatsoever for delay, is that what they're saying because it just makes no sense to me that they're saying they want to see all my arguments in advance and then reserve the right to reply later, you know, that's almost the same as saying, you know, let's cancel this meeting and have the meeting next week having reviewed my full arguments because they didn't come to this meeting prepared. Like that's how it seems to me.

Mary Wong: George, my understanding based on what Phil said is that it's not about preparation or about delay, it is about the fact that he has not had a chance to review your document fully. So if we go back to the purpose of the call today, which is a discussion, one of the points that had been noted before this call was that after this call all parties are - will have an opportunity to review what was discussed and we can then talk about next steps whether that should be responses and in what timeframe.

So, George, I see that you've raised your hand again, but let me go to Phil who raised his hand as you were speaking and then come back to you.

Phil Corwin: Yes, well, yes, I'm sorry if I seem to be being difficult. And I realize we're halfway into this call. But frankly, there's no attempt to penalize anyone by my request, there's no attempt to try to use process to determine the outcome of this meeting. I thought my request was completely reasonable. In a 12-page document relevant to this meeting was forwarded 76 minutes before the start

of the meeting. I have had no opportunity to really review and consider it in detail.

I note that I'm named in several places in the document. And all I've requested is that rather than having the end of this call be the conclusion of this stage of the process that the cochaIRS be given some reasonable amount of time to fully consider the detailed written arguments presented by George and if we - next week if we agree, you know, and say okay, George, we agree, you've convinced us, then I assume the appeal would be withdrawn, though I see that one of his asks seems to be that we be replaced as chairs. I don't know that I'm going to agree to that. Or if we disagree, and he says, well I'm not withdrawing my appeal, now I want to speak to the head of the chartering organization.

So the penalty so-called of a few days delay to give the cochaIRS time to fully consider an extensive written document that arrived at a very late hour is not an unreasonable request. But if the group is not amenable to that request then I would - I think the better course might be to postpone this meeting and give the cochaIRS an opportunity to fully review this document before we have the call.

Mary Wong: Thanks, Phil. And Mary again from staff. Just to note before going to George, that while Section 3.7 calls for a discussion between the chairs and the appellant, there's nothing in it, as I said earlier, to prescribe how and when that takes place. So one of the things that you all on the call may want to consider is having possibly more than one call if you think that that would be helpful to resolution.

So I note that there's a couple of options for us here. And, George, I did see your hand. One option is to proceed as planned and have George give an oral presentation understanding it's based on his document and to have that discussion with Phil and Petter as originally suggested. Or from what I'm hearing from Phil, to see if we can say - let's say, George, you say that your

document is your submission, is your presentation that you were intending to make for today, and then reconvene in a few days. In other words, reschedule this call to allow Phil and Petter the opportunity to consider your presentation and submission.

Those seem to be the two choices before us. And while folks consider that, let's go to George.

George Kirikos: Yes, George Kirikos here. Yes, as I was saying, this is my oral presentation. And as a courtesy I provided it in written form so that everybody could follow along because, you know, the transcript, if you've ever read some of the transcripts they're sometimes very horrible. And so this would have taken, you know, about 12 minutes to go through, a minute per page, just reading it out. And this is superior to simply reading it out because people could follow along with it.

And we should just do the same process we would have followed had I simply read this into the record. And, you know, Mary had in the invitation to this call said, you know, you're going to have certain time at the beginning of the call to do this, and so I did it and prepared accordingly. And so you know, we should just, you know, proceed and go from where it takes us. You know, if they're going to need, you know, another week to respond to this it's kind of saying then that if they prepare something I'm going to need another week to respond to it regardless of whether they present it only orally or in writing.

You know, you would think that presenting it in writing while I'm presenting it orally is superior to having presented it orally because let's suppose I simply presented it orally, then you'd say okay, well we need time to go back to the transcript and see exactly what you said. Here you can follow exactly what I'm saying as we go along. So this seems to militate in favor of a shorter time response. But I don't know where we're at because nobody has their hand up, but I guess the options are I just start the presentation and then, you know, we either run out the clock at one o'clock Toronto time and then see

whether we want to have another call or decide that now. I guess Paul Keating has his hand up.

Mary Wong: Thank you, George. And Mary from staff again. In view of the time left, we have 26 minutes, one of the suggestions that staff was going to make, for everyone's consideration is to proceed with your presentation, allow Petter and Phil to make their remarks and then have this group reconvene after a few days when Petter and Phil have had more time to consider your document. So perhaps I could suggest that for people to think about. And Paul Keating, you had your hand up, do you want to make a comment?

Paul Keating: Yes, I'd like to - this is Paul Keating for the record. You know, I - this is an attempt to resolve an outstanding issue. And it doesn't bode well that 40 minutes into this we're going back and forth and back and forth with not just a little bit of incrimination in people's voices. So at the end of the day, at the end of the prescribed period, it's up to each individual side, as I understand it, to say okay, I agree with this resolution or I don't and I'm moving forward.

So, yes I don't see the need to, as Paul pointed out, to put in a bunch of process at this point. If we all feel at the end of this period of time that we need more time in order to try and get to a resolution then I'm all in favor of taking the additional time. I'm not going to stop anybody from asking for it. And I'll support it, it's reasonable and 5, 10 days, a week and a half.

But I don't want to build that into the process now because it just gives people an escape hatch to get out of a situation and to defer it and that's never a good thing. I've had my share of settlement conferences, I've acted in my share of mediations and arbitrations, and to allow a built in process for a continuance just means that no one's going to get anything done. I'd rather keep people's feet to the fire and with the understanding that everybody around this table is reasonable and wants a resolution of this, one way or the other.

And move forward that way, and if there's enough positive feeling at the end of the conversations to continue and reschedule the call then let's continue and reschedule the call. I have no problem with that. And I do want to get moving.

Mary Wong: Thanks for that, Paul. And thanks for the reminder that in the time remaining we don't actually know how the conversation will go so it's possible that we will reach some form of agreement as to how to proceed or indeed how to resolve the situation.

So not seeing any other hands up, may I propose that we let George - Phil, I'm sorry, your hand just went up. Go ahead.

Phil Corwin: Yes, again, Mary, I'm actually amazed at what seemed to be a very simple and reasonable request with no design to delay anything untowardly or continue this process unreasonably is - being so controversial. All I've asked for is for some assurance from the other participants that given the late arrival of an extensive written document that the cochairs be given some leave after the call ends to further consider it before it is viewed at this stage of the process being concluded.

If we cannot get that simple agreement, that simple courtesy to the cochairs to have a reasonable period of time to fully consider a written document delivered very late prior to this call, I would suggest that we reschedule the call because I am not willing to participate in any substance of this call unless we can get agreement up front that the cochairs be given the courtesy of a few days after the call to fully consider the written document that was submitted 76 minutes before its start. So and if we can't get that agreement I think we should have the call next week.

Mary Wong: Thank you, Phil. So I note that there's a comment from Paul Tattersfield in the chat about his comment and observation on dynamics in working group meetings. And in the meantime, I see that George has his hand up but I also

note for the record that, Phil, what I hear you say is that unless there is agreement that there will be that time for you and Petter to reflect on George's document, you would prefer not to carry on with the call.

George, go ahead.

George Kirikos: Yes, George Kirikos here. As I said from the beginning, this is my oral presentation. Imagine I had not even submitted the PDF, all I would have done was simply read this into the record. And so they would have had no notice of what I was going to say whatsoever. Here they actually have a written record superior to the transcript of exactly what I'm going to say. So I don't see how they feel that they're worse off me having presented this, you know, this document of what I'm going to say so they can follow along exactly.

You know, I actually feel I'm being penalized and we've killed 40 minutes of the clock in an attempt to penalize me. Perhaps, you know, their goal here is to run out the clock so that we're forced to have a meeting next week. But, you know, this highlights the process concerns how the cochairs have tried to manipulate the process to their advantage throughout this PDP, which I talk about in the document if anybody gets a chance to read it. And so, you know, I should not be penalized for being well prepared. Thank you.

Mary Wong: Thank you, George. And may I just remind folks that we're not actually talking about the content or the substance of the reason why we're here yet; we're just trying to see if we are able to agree on whether or not to proceed with the call as planned. Let's go to Paul Keating and then Phil and see if we have any kind of resolution after that. Thank you. Paul.

Paul Keating: Yes, I guess I would say, Phil, if you don't want to participate in the call then don't participate. Okay? But I think that the call should go forward. The whole purpose is a meet and confer and it was scheduled. And George has a point,

I mean, he could have read the damn document - excuse my language - the darn document into the record.

So, you know, and in terms of resolution, the cochairs have full right of resolving this thing by making the appeal moot, by resolving the underlying conflict any time prior to a decision by the powers that are going to actually formally hear this appeal. So I just consider your - what are clearly now demands to be very troubling, Phil, I mean, you're insisting on all of this process, process, process now but now, you know, this whole problem arises out of the fact that there was no process followed, in my opinion, okay, regarding this poll. You know, it's just a decision. Bang, we're going to do it.

So you know, if you don't want to participate, Phil, at this point in time, don't participate. But I really encourage Mary to get this thing moving. We've been talking about this on and on and on. I'm - as I said, I'm happy to allow subsequent responses within the calendar - agreed upon period of time. You are always able to try and resolve this matter at any time prior to the final resolution of George's appeal, should it get that far. This is not a long motion here, this is a meet and confer conversation. You don't want to participate, Phil, I'm sorry to hear that. But it sounds like Petter does.

And I'd like to get to that. For one, I'd like to try and get this thing resolved substantively rather than sitting here talking about process. Thank you.

Mary Wong: And before turning to Phil. This is Mary again. I note that Petter has made a comment in the chat about - oh I'm sorry, Petter, you meant Paul supporting the time needed for you and Phil to respond to George. We have not had a return comment from George on this point. So, Phil, if I misunderstood what you said please let me know. If not, please go ahead and for you and George to - if we can get a clear understanding of whether or not what Paul has just said is something that's acceptable to both of you. Thank you.

Phil Corwin: Yes. Phil for the record. I want to say a couple of things. Number one, now accusations are being made against the chairs in the chat. Mr. Tattersfield has said, "This is exactly what happens time and time again in the working group when everyone wants to raise an issue, the cochairs don't agree with we waste an inordinate amount of time on discussing process rather than dealing with the issue."

I frankly don't know what he's talking about. Mr. Tattersfield recently forwarded a new policy proposal, which is now one of the six that we're attempting to take a poll on with the working group. We gave him time to develop it, we gave him time to explain it, we're including it in the planned consensus call even though it's not a proposal that I personally agree with but there's no attempt to prevent the full working group from considering his idea.

We just had Mr. Kirikos say that this is an example of how the cochairs try to manipulate the process to their advantage. Again, I'm actually - I'm just shocked that the request for a simple courtesy to give the cochairs some additional time after the conclusion of a planned one-hour call to consider a 12-page document to fully consider it, which might even be to the - Mr. Kirikos's advantage, we might read it and say, we're wrong, you're right, we'll have a non-anonymous poll.

But the fact that it's objectionable for us to have some modest amount of time after the call to fully consider a document that arrived at the 11th hour with no agreement as to, you know, when this stage of the process ends, I'm - I thought frankly about 40 minutes ago when I made that request it would be the subject of no or almost no discussion and people would say sure, take a couple of days to fully consider it and then let us know what you think and if you agree, fine, if you don't agree then we'll take the appeal to the next stage to the chair of the chartering organization. But the fact that we can't even get agreement on extending us a reasonable accommodation to fully consider a 12-page document that arrived without any advance notice, I'm dumbfounded.

Mary Wong: Thank you, Phil.

((Crosstalk))

Phil Corwin: And last thing, I don't understand what penalty Mr. Kirikos is talking about. I don't understand how he would be penalized if Petter and I had a few additional days to fully consider his written submission before indicating to him and the others who support his appeal whether we agree or disagree with his arguments, other than the passage of a few days, it does not affect any of his rights. The only outcome would be say we considered your document, and we agree and we're going to go forward with the poll in a non-anonymous manner, or we're going to say we disagree and then he has full authority under 3.7 to take it to the next stage to deal with the chair of the chartering organization.

So I don't - he keeps referring to a penalty, other than the courtesy of a few days to the cochairs to fully consider his 12-page submission, I don't understand what penalty there is.

Mary Wong: George, did you want to comment or respond?

George Kirikos: Yes, I've got my hand - George Kirikos here, I have my hand up. As I said, this process started in December, people have had ample time to prepare. I came prepared, I assume everybody else had ample opportunity to prepare. I didn't need to send this PDF, I could have simply read it orally into the record, which was what I planned to do at the start of this call. But then Phil intervened and said I haven't had a chance to read this. You know, he wouldn't have had a chance to know what I was going to say anyway if I just simply presented it orally. If he had not intervened, I would have read this into the record, would have taken about 10, 12 minutes, I timed myself.

And instead, we're now left with, you know, no time for actual discussion so, you know, do we just say, for example, that we had this call, forget about the last 47 minutes that have happened, and pretend that I actually read this orally into the record. You know, if somebody actually starts reading this they would know it would take about 10-12 minutes because people can read, you know, can speak about a minute per page.

And so, you know, if then they wanted to terminate the call to consider that oral argument and need, you know, more time I guess they have that prerogative because you know, the guidelines don't necessarily say how a Section 3.7 appeal has happened. But it seems like we're going around in circles. You know, what I propose is to read this into the record, you know, shall I do that or shall I just say, you know, we pretend you read it into the record and just end the call there like it doesn't make sense to me what's going on here.

I noticed Mr. Wayne, the ombudsperson has a comment. You can raise your hand, if you're not using the Adobe chat or I'll just defer and let you speak or Mary can direct him to speak. Oh he doesn't have audio.

Mary Wong: This is Mary from staff. And I understand from my colleagues that if everyone on this call wishes to stay on beyond the scheduled hour it is possible to do so, so that's something for you to consider. Paul Tattersfield is suggesting that perhaps the only way forward from here is to have a new call and start over next week having had folks consider George's document in full.

So again, and Herb, I would appreciate if you can type your comment into the chat since you don't have audio. And while you do that, I hope that I'm summarizing it correctly by saying that we still have two choices for today. One is to go ahead and have George make his presentation, have the discussion with Phil and Petter providing whatever remarks they feel they're able to today, but on the understanding - and this was the proposal that was sent to George and Paul Tattersfield and Paul Keating a day or so ago that if

resolution is not reached today that there will be a few days following during which the cochairs will, if they choose, respond and this was proposed before George's document was sent today.

The idea being that if resolution is not reached today, that all parties will have the chance to consider all of the remarks that were made today, review the recording and so forth. The other choice is to pause and to reconvene with us starting all over again, perhaps next week. So those are the two choices. And I'll read into the record what Herb, our ombudsman, has typed his comment into the chat as.

It is, quote, "If Mr. Kirikos is willing to have his document accepted as his submission, then a written reply from the cochairs by early next week seems reasonable. Then if another call is desired, it can be set up to discuss." Close quote.

So I'll offer those two choices for how to proceed and a further consideration of the observation from our ombudsman. I see hands from Paul Keating and George. Paul, please go ahead.

Paul Keating: Yes, I have a third option, Mary, which is George is free to consider this the meet and confer discussion and proceed however he wishes to proceed. That is a third option and that gives Phil, as you said, there's ample time to review this document, to review the transcript of this call and then they can respond accordingly as to whether or not they want to resolve this and make a proposal to resolve it prior to George moving forward with his appeal. That is the third option.

((Crosstalk))

Petter Rindforth: Sorry, Paul. Petter here. Can you...

((Crosstalk))

Paul Keating: ...the reason - one second, Petter, I'm sorry to cut you off. The reason I'm making this suggestion is I fear very much that we all go through this process of having more documents, and we get to the next call and we have the same kind of discussion for an hour about procedure and process and not get to the substance of the issue which is to try and resolve a dispute, not create new ones. So at this point in time I think that the third option remains viable, which is that this - George can treat this as his meet and confer conference call, he made an attempt and he can move forward. Thank you.

Mary Wong: Thank you, Paul, for clarifying and making that third option for consideration. George, you had a comment in the chat that follows on Herb's observation but you also have your hand up so please go ahead.

George Kirikos: George Kirikos here. I see Mr. Wayne made a suggestion that this document be accepted as my submission and then allow a reply by the cochairs early next week, and then schedule another call if need be. I'm going to - and I guess Paul made a good point as to - Paul Keating made a good point as to possibly considering this to be, you know, the call and then simply escalate it to Heather. But I don't think that would show good faith on my part. You know, I sincerely want to have this situation resolved amicably because you know, there are very important issues at stake and I don't want to delay the work of the - of the working group because, you know, we've been at this for a while.

But my suggestion is that we actually schedule a call today for next week, have it agreed to, if everybody can make it at that time, maybe we can put a checkmark if everybody can make it next week at our normal call - normal time, i.e. right now. And, you know, give them, you know, the weekend to respond, you know, they've had a month or almost a month as I've had to prepare so I assume they came prepared as I did.

And would have had the chance to respond orally but now they'll have a few more days. If they prepare something by Monday and we have a call scheduled for Thursday, we'll be on equal footing because I'll be able to see what they have to say as well and can prepare accordingly. And then we just proceed on Thursday if that time is available to everybody as, you know, the discussion. So, you know, imagine that I read this into the record and then whatever they have to say by Monday would be what they would have read into the record in response. And then that would maybe make more sense. Thanks.

Mary Wong: Thank you, George. So I think that suggestion is for Petter and Phil to respond to. And if I understand you correctly, it basically means that we'll conclude the call today on the understanding that your document was and is essentially your submission and presentation for today and that Petter and Phil would have until Monday to prepare their remarks and response in a similar manner as if all this had taken place without written document today. And if need be, we would then schedule a follow up call and that call is being proposed for next Thursday at the same time.

I see that Petter, you have your hand up so please make your comment and if you can, maybe you can let us know what you think about this latest suggestion and the same goes for Phil as well. Petter.

Petter Rindforth: Thanks. And the - what you said the last sentence was exactly what I was going to say. And this is my pure personal comments on that, I think it's good to have the possibility to actually have a discussion on the topic. And as we discussed initially also to give Phil and me a - some days at least to study the documentation and to come up with our reply to that. And then if it's suitable for each of you today to check to have another meeting when we can discuss the topics and thereby hopefully settle this on this part or proceed to the next step.

But in short, I would like to have a meeting where we can actually discuss things because as I see it, well, there are some misunderstandings and I still hope we can solve this. Thanks.

Mary Wong: Thank you, Petter. And just to add to that that what staff can do is to schedule a call for next Thursday in any case on the understanding that if there is resolution before that point then if course what we can do is cancel the call. It's a lot easier to schedule it now and have it on everyone's calendars in case we need it.

So, Phil, I'm going to go to you. Go ahead.

Phil Corwin: Yes, I'm amenable to that. I think it'd be useful to have an oral discussion of this because if the cochairs continue in that role we're going to have to work with all members of the working group toward a final report so an oral discussion is probably advisable. I would just ask - I had originally proposed that the cochairs have until next Wednesday COB to respond in writing to George's written submission. I think he's proposed Monday. I think Monday is a little early given that I have a busy schedule the next day and a half, I don't know about Petter's, but we have a weekend intervening so if we can get agreement that the cochairs have until Tuesday COB to provide any written response which is still two days before a call next Thursday, I think we have an agreement.

Mary Wong: Thank you, Phil. Thank you, everyone. I'll note that Paul Keating had typed in the chat something that I was going to follow up with which is what would be a document cutoff for the call next Thursday? And I think what we seem to have reached agreement on is that there will be the opportunity for Phil and Petter to respond to what George sent today, that deadline will be Tuesday. Will there be a further deadline suggested as Wednesday by Paul Keating for a reply by George? What would be the extent of the responses that you are all comfortable with? And what should the final deadline be?

Phil, is that an old hand or a new hand?

Phil Corwin: Well it's old, Mary, but just let me say I'm amenable to if George wants to respond in writing to - if we have a written response to give him Wednesday, I mean, you know, in the end he's you know, if we don't agree to withdraw the proposal for an anonymous poll to help guide the cochairs in designating the current levels of support, for the various policy proposals then he can go immediately and seek, you know, to have the chair of the chartering organization resolve the dispute. So it's really - we're either going to agree to disagree. It's not going to be an extended process at this level.

Mary Wong: Thank you, Phil. And I note that there's a question from Paul Tattersfield in the chat about whether this matter would be considered resolved if the cochairs decide to withdraw the suggestion for an anonymous poll. So let me just add from the staff side that if we have a deadline for Phil and Petter to respond by Tuesday and Phil and Petter, please suggest what time that should be, and then a further 24 hours from that point for George to respond. George, I note your comment in the chat that that seems to give them more time than you may have for your response. That's not for staff to comment on but I'm just putting that on the record.

Ultimately, if we do this call on Thursday at noon Eastern time, which is the timeframe I think George and Herb and Phil are in, then we do need a final cutoff time so that even if folks want to have further counter-rebuttals and responses, that that would not be something that can be sent beyond that agreed cutoff time.

And I'll note also that Monday is a holiday in the US. I don't know if that makes a difference for Phil or anyone else. Just a few observations for consideration, as I mentioned, we can stay on the call for a few minutes longer if folks are willing to work this out. We have George and then followed by Paul Keating. George.

George Kirikos: George Kirikos here. Yes, the point I was trying to make in the chat box is that it's seven days from now until next Thursday and the more time that Phil and Petter have to respond the less time I have to respond. So, you know, they want to give themselves, you know, Friday, Saturday, Sunday, Monday, that's four days; and they want to close of - actually they want Tuesday so that's Friday, Saturday, Sunday, Monday, Tuesday, that's five and a half days because it's, you know, noonish now. And I'm expected instead of having five and a half days to respond I'm expected to respond within 24 hours.

And then that would be the end of things, you know, that doesn't seem to be balanced, you know, you have five and a half days; you have one day. So it seems, you know, Monday would be more reasonable for them and Wednesday response would still, you know, leave me with only two days to respond. You know, if we're going to keep, you know, extending this out, you know, you could wait two weeks and give them, you know, until Wednesday of next week and then I could have until, you know, Monday of the following week. You know, this is getting crazy in terms of delays. So I don't know why Monday would not be acceptable to them because it's now, you know, the middle of Thursday. Thank you.

Mary Wong: Mary from staff here. If I may interject and hopefully make a suggestion that you can consider, in the interest of moving this forward, and bearing in mind something that I believe it may have been George who said it earlier, that the document that we're speaking of, George's submission of today and Phil and Petter's documents/response that those would be considered the presentations and submissions for today's call.

And the next step then logically is if the response doesn't resolve matters that we have the next call may we suggest that instead of going back and forth and extending further deadlines, that perhaps we agree that Phil and Petter's document, when they send it, that that's plus George's initial submission for today form the basis for the Thursday call. In other words, that the only other document that we would expect before next Thursday is Phil and Petter's

document and we can have a discussion next Thursday about George's initial submission and Phil and Petter's response.

And then decide on whether any additional calls or next steps are necessary as between all the parties. Would that be acceptable?

((Crosstalk))

Mary Wong: I see that - yes, and I see that Petter is agreeing with this suggestion. And that Paul, you had your hand up before I made the suggestion. But I felt that it might be timely to make the suggestion to try and help things move forward. But you've been patient, so please go ahead, Paul.

Paul Keating: Thank you. Paul Keating for the record. Listen, that's a fine idea. I think Tuesday I think just for simplicity I suggest that the deadlines be set on PST and adjusted backward, so you said, you know, six o'clock PST on Tuesday, Pacific Standard Time for the cochairs' document that is nine o'clock at night their time. I'm sure that's enough time, if you even back it up a little bit, you know, three o'clock deadline so it's six o'clock normal business hours for the cochairs. That gives George a little bit more time.

The - whether or not George provides a response I think that George typically, as an appellant, should have the last say, because he gets to reply to the response to the extent it has new material in there. And I think that if George is going to submit something I think it's good to set a deadline for him as well so we don't duplicate the same process. So if George has something in writing he wants to put in then he can put that in writing but there should be a deadline as well.

And as I've said repeatedly during this call, the parties at any time can continue this call as long as they want in order to try and resolve the dispute. Okay, that's the underlying purpose here. So no one - I don't mean to presuppose the end of good faith conversations to resolve the dispute, but I

think a 3:00 pm PST cutoff time for the cochairs on Tuesday followed by a - because George, I think you're on the East Coast, where are you, George? I don't know. I think he's in Canada but I don't exactly know if he's mid - what time zone he's in. but give George until the close of business on Wednesday to provide any written reply he wants and then we're off to the races on Thursday for a phone call.

Mary Wong: Thank you, Paul. So I'll note that Phil and Petter are comfortable or seem comfortable with the suggestion that we actually just close off documents as of Tuesday with their response. Phil noting that the documents are not being prepared for a third party, it really is about agreeing or disagreeing amongst the parties.

Paul has noted that on top of that, perhaps the one additional step would be to have a Wednesday cutoff date for any further response from George. So these are now the two options under discussion. And George, may we hear from you as to your views on either of those?

George Kirikos: Yes, George Kirikos here. Yes, I don't think it's fair to only allow me one day to respond to documents that, you know, they had, you know, much longer time to respond to. And, you know, the document that they see is simply what would have been the oral transcript of my presentation. You know, I would have presented and this would have been, you know, perfectly reflected what would have been in the call had, you know, I been allowed to read it into the record from the start before, you know, we were interrupted at the very start.

So, you know, the way I see it is that I would have read this into the record at the call and Phil and Petter would have just hung up, that's how I interpret this call. And so, you know, if they want to proceed with, you know, they want to have a written response and read that into the record formally, but it seems, you know, we're trying to negotiate, you know, how we proceed when, you know, I could have simply read this into the record, and it would

have taken a lot less than an hour and 10 minutes that we're now into this call. And so, you know, I'm very upset from that point of view.

So what I propose is that they have until, you know, Tuesday at noon, you know, or one o'clock Eastern time and then that I have no written response to before our Thursday call but I reserve the right to have written response after the Thursday call responding to their document. Does that sound reasonable? So that, you know, we can get on with the, you know, preliminaries and get into the oral discussion on Thursday because we can spend endlessly, you know, sending written responses back and forth but at some point, you know, we're expected to actually discuss this.

Mary Wong: Thank you, George. And I think all the suggestions - the recent ones - have been geared towards trying to get us there to have that discussion. So thank you for your suggestion. May we ask - well I'm going to ask whether Paul - Phil and Petter, is that fine with you? In other words that we are talking about Tuesday 1800 UTC for your response to George's submission of today. There will be no other documents between then and the call next Thursday at the same time as this one.

But on the understanding that there will be the ability and the right for - and I'm going to re-characterize this a little bit, George, for everyone and particularly George, to have further written documentation depending obviously on what is discussed, what the response is but that this agreement today to have the document cutoff for next week as next Tuesday does not preclude a right of response.

I see George's hand up but I heard someone on the phone and I see Paul has his hand up. And I'll note that I did ask Phil and Petter what they thought of the suggestion so hopefully they will provide us a response while we go to George and Paul Keating.

George Kirikos: Yes, George Kirikos here. I just wanted to say that Mary's description is a fair representation of what I proposed. That's all.

Mary Wong: Thank you, George. Paul Keating.

Paul Keating: Thanks, Mary. I just took my hand down.

Mary Wong: Oh thanks for that, Paul, I'm sorry I didn't see that. We have Petter next.

Petter Rindforth: Yes, Petter here. First of all the initial time for Phil and I to make a written response comment I'm fine with that. But again, when you talk about more early midday US time, it's already evening here in Sweden, so I'll leave it to Phil if he think it's - this is enough time also for him - for us to work on this.

And then well basically I think it's a good way to give both parties so to speak the possibility to have their written opinion and we have already got one side's written opinion and now it's for Phil and me to respond to that. Then we have our call next week to discuss it. So my immediate personal reaction is that let's wait until the result of the call next week to see if there is any need for further written comments on calls. It's also I think it's good to have something written, I know that it basically we - I hope that we also - when we have our available meeting can make some solutions and hopefully we can end it successfully by that meeting next week.

So from my initial point of view, I leave it open right now if it will be necessary to further extend after our meeting next week to make written comments and back and forth. Thanks.

Mary Wong: Thank you, Petter. And if I may, what I'm hearing is that you're certainly not precluding the possibility of there being further documentary exchanges following the call next Thursday. So that is in line with I think what George and I said previously. I note Paul Tattersfield's suggestion in the chat to have the call in two weeks' time. I don't know if there's any support for that. Folks

can indicate that either through speaking or in the chat. At the moment we're considering a call next Thursday with only one more document expected before that by next Tuesday, 1800 UTC from Phil and Petter.

And the understanding is that the Thursday call will be based on just the two documents, one from George, the other is expected from Phil and Petter. And that further documentary submissions and exchanges are understood to be perhaps necessary depending on how that call goes.

So George, you also had a comment in the chat about the letter that Phil and Petter sent to the Council. The staff's suggestion right now is perhaps we could take that as a discussion item for next Thursday in the interest of agreeing on how to approach next Thursday. I see that Phil is saying that he would like to get it done next week as is does Petter.

So George, you have your hand up, over to you.

George Kirikos: Yes, George Kirikos here. Yes, I was ready today and I assumed that everybody else would be ready too, so I'll be ready next week as well. But I did want to point out that they've already sent a letter to the GNSO Council from, you know, and December, what was it, 22nd or 21st, I can't remember the exact date.

But to the extent that a delay, you know, buys them time to see that that letter is acted upon, I don't want to be prejudiced by delay so what I propose is that they either withdraw that letter to - that they sent to the GNSO Council so that it's not acted upon, or in the alternative forward my letter - sorry, my presentation to the GNSO Council list as a response. And that at least ensures that both sides have been heard because it's important that they don't present a one-sided picture to the GNSO Council of what's been happening in our PDP. Thank you.

Mary Wong: Thank you, George. And I don't know that this will help, I cannot speak authoritatively on behalf of Heather or the Council, but my understanding as staff support for the GNSO is that the Council leadership is not likely to take any action or do anything until you, Petter and Phil have had the opportunity to have your discussion. So if that's helpful then I hope that's informative.

George Kirikos: George Kirikos here, just to interrupt. Phil in the chat room is saying that they're not seeking any action from Council. But in fact the letter says that they're seeking guidance and they appreciated the Council's prompt guidance on our request so they've made a request to Council so, you know, I'd like to hear from them whether they want to withdraw that letter at this time or at least, you know, allow my document which was representing my oral statement so it's not ideally suited for the Council but at least the other side of the picture will be there so that they don't act. Thank you.

Mary Wong: Thank you, George. And I'll see if Phil and Petter want to speak to that. Again, the staff understanding is that in the guidance that's being sought by the - of the Council the Council leadership does not have any immediate plans for acting on it until there has been the discussion between and amongst the three of you. I think that Paul Keating had his hand up but he's put it down again.

I see also that we have exceeded the initial call time by 18 minutes. There is a question of Phil and Petter as to whether they will agree to withdraw the letter from the Council. Before we have a response from Phil and Petter, can we assume for support purposes that we have agreement on the limit of the documentary responses with a discussion on the call next Thursday? And if we do, then in I guess whatever time we have remaining Phil and Petter, there has been that question to you from George and now Paul Keating about your letter to Council. Paul, you have your hand up, did you wish to speak? Oh, I see you put it down again. But now it's back up.

((Crosstalk))

Paul Keating: Sorry, Mary. I wanted to make sure that Phil and Petter had a chance to respond to the question. And then I'll - so I'll reserve anything assuming we have time after that, I'll reserve for that. Thank you.

Mary Wong: No problem, Paul. Thank you. And I've noted that question of Phil and Petter, I'm not sure if this is something that Phil and Petter will not need to confer between the two of them, instead of taking a decision right now.

Paul Keating: Oh, come on.

Mary Wong: If perhaps George and Paul, I could suggest that we ask Phil and Petter to respond to that request by email, will that work? Or Petter, do you have a comment or another suggestion?

Petter Rindforth: Yes, we can respond to that. But my initial comment is that I see no negative in asking for advice from the GNSO Council. And if we withdraw that, I hope that - that Paul and George will not use that against us stating that Phil and I had definitely not asked for further advice on how to deal with this procedure. So but we can have a look at it and reply but this is my initial personal comments. Thanks.

Mary Wong: Thank you, Petter. Does anyone else have any comments on this particular question? Phil, please go ahead.

Paul Keating: Mary, this is Paul. Oh, sorry. Go ahead, Phil.

Phil Corwin: Yes, Phil here. You know, we sent a letter in December asking for guidance. We've received none from Council. I'm assuming at this point that Council will act through the chair through this 3.7 appeal process. And we're not doing anything further with Council but the request to withdraw it, I don't see anything wrong in having sent that letter and I think trying to withdraw it now and ask the Council to forget that it was sent, I don't see the point of that. I

have no objection to George's document being forwarded to Council as well as whatever written response cochairs may provide next week. Council should have a full you know, written record of all sides in this situation.

But I think frankly to ask us to withdraw it I don't understand the point of that and I'm not willing to withdraw something that I signed and sent a month ago. It would be like saying we did something wrong or we asked for guidance when we shouldn't have. So that's my response.

Mary Wong: Thank you, Phil. So would it be helpful to all if we took up what you've just said, Phil, and sent all the relevant documents to the Council following on your and Petter's request? That means that George's submission today and your responses from Tuesday and any further documents that may come out after next Thursday's discussion so that the Council has a complete documentary record of course including also the recordings and transcripts from this discussion and the discussion next week.

Would that be amenable to George, Phil and Petter? So all documents that are submitted and exchanged the recordings and the transcripts. I have Paul and then I have George.

Paul Keating: Yes, this is Paul Keating for the record. Thank you, Mary. I'm not so interested in having it withdrawn and I certainly don't think that there would be any prejudice for doing so, Petter. I certainly wouldn't raise that as an argument. But I think rather than bury these nice people in more documents from George and records, etcetera, I think rather than withdrawing it a simple note to the chair asking that no action be taken until the meet and confer process is completed is more than reasonable.

That way no one has to go out their way to do any work that they don't need to do. And if this matter is resolved then they don't have to chip in at all. So that's my suggestion. I see that as an extremely reasonable position, you're just simply asking that they not take any action on your letter until this meet

and confer process is resolved. And that's the end of it. No one's withdrawing anything and no one can take any mal-inference from such a request. Thank you. I asked - actually I ask Phil to either agree or disagree to do so.

Phil Corwin: Well, yes, Paul, Phil here. Look, I can assure you the cochairs are not seeking any action at this time from Council. We sent that letter, we have not received any guidance. There's been some subsequent discussion since with the Council Chair. And my assumption, I can't speak for Petter, is that whatever Council does will come if this appeal continues in the form of action taken by the Council Chair at the next stage of this 3.7 appeal process. So if you want assurance that we're not seeking - if there's some suspicion that we're seeking some intervention by Council to resolve this issue beyond the conversation we're now planning to have next Thursday, the cochairs are not seeking that.

Paul Keating: I didn't ask that, Phil. Sorry this is Paul Keating for the record. That wasn't my question. My question was whether you would both send a joint letter to Council asking that no further action be taken on the letter until the conclusion of the meet and confer process. That what I've asked. I don't want to take a risk that they're going to do something or not. I would like you - both of you - to undertake that affirmative act. And if you're not expecting a response I don't see any objection to issuing such a letter.

Mary Wong: Thank you for that suggestion, Paul. I see in Adobe that George is agreeing with your suggestion, so the request now is for Petter and Phil rather than withdraw the request to the Council but while this process - this discussion is ongoing to request that the Council take no action at this point. George, you have your hand up.

George Kirikos: George Kirikos here. Yes, I just wanted to respond because Phil is saying that they're not asking for Council to do anything you know, that begs the question why did they send the letter in the first place if they didn't want to - the Council to do something. But if you actually read the letter - and I posted

the link earlier in the chat - they are asking the Council to do something namely to give them you know, recommendations so that they can have the authority to do what they want.

And they wrote basically a one-sided letter, as I pointed out on the public mailing list, and, you know, they should either say as Paul Keating suggested, that no action should be taken so that whatever process that happens in the GNSO Council comes to a halt or in the alternative you know, have my document forwarded to at least counterbalance what their document that's been sitting there since December 21 might, you know, cause something to work to their advantage in the meantime, while they, you know, while the delays happen in this venue. Thanks.

Mary Wong: Thank you, George. And I will note that it's probably going to be good for us to try and end this call within the next few minutes because we have been spending 90 minutes on trying to agree on a path forward. It seems like we have agreed on a path forward for purposes of the 3.7 discussion so the remaining issue now is the question from Paul to Phil and Petter about clarifying with the Council that they should not be taking any - well they should not be making decisions on the request that was sent to them until this process of discussion with George plays out. Phil, did you have a comment?

Phil Corwin: Yes, I hope this will resolve this point. While I'm not inclined to sign any new letters, my understanding is that no action is expected from Council other than - on this matter other than the participation of the Council Chair or her designated representative at the next stage if it goes to that stage. I would ask that staff touch base with the Council Chair and confirm that and report back to the people on this call. And I think that should satisfy any concerns.

I don't know where they come from. The chairs are not seeking, do not expect any action in the form of guidance much less a more active intervention by Council while this initial discussion between the appellant and

cochairs is a pending matter. So if cochairs can confirm that I hope that would satisfy everyone's concerns.

Mary Wong: Thank you, Phil. And certainly staff is happy to take that action item to seek that clarification from Heather and the Council leadership. George.

George Kirikos: George Kirikos here. Yes, if you just listen to what Phil said, you know, they don't expect any action, you know, try to be very, you know, we're trying to pin you down so that you can't, you know, kind of have any wiggle room, you know, as to, you know, being a beneficiary if the GNSO Council acts. So either the GNSO Council is going to act or they're not going to act. And we have the power to tell them to not act. But you don't seem to want to actually say that and you'd be happy for them to act because all they've heard is your side of the story.

And so, you know, it's only fair that they, you know, after I guess three weeks or two and a half weeks can at least hear from the other side before they actually act. That's my concern and it, you know, if we actually read what Phil said or listen to what Phil said carefully, you know, there's a lot of wiggle room to, you know, to be a beneficiary if Council decides to act having only heard one side of the story. Thanks.

Mary Wong: This is Mary from staff. And two points. One is that as mentioned, staff can take on that action item. We can seek clarification from the chair of the GNSO and the two vice chairs that the Council does not intend to provide guidance or take any decision until they have received a report on the conclusion of the discussion phase between George, Phil and Petter.

I know I'm rephrasing folks a little bit, but I wonder if that will be helpful because then while you're having your discussion and that next Thursday possibly with additional calls and documents, you could decide and agree on how to approach the Council, whether additional documents should be sent, whether a request should be sent from all three of you, etcetera, so without

foreclosing that option what staff is suggesting is to seek clarification from Heather and the chairs that the Council will not be providing opinion or guidance or taking decisions in that interim period.

I notice, Paul, that you had said that if - that you'd like to hear from Herb. I'll note that Herb, even though he's the ICANN ombudsman, this is not a case that has been filed with Herb. He is on the call as an observer. But, Herb, if you have any comments please feel free to put them in the chat because I understand that you don't have audio.

I'll note that you did put a comment in the chat to say that, yes staff - well it does sound like staff can report to the group and that should satisfy that Council will not be interfering with this process. That is what I had planned to suggest, Herb, thank you.

Petter, thank you for agreeing with the proposal. And, Phil, you have a comment about your exchange with George. But I see that you also have your hand up. But, Paul Keating, I'm going to ask if your comment is about this proposal from staff to seek clarification from the GNSO chairs as I indicated?

Paul Keating: Yes it is, Mary. This is Paul Keating for the record. I would appreciate that you do that anyway and, Phil, I'd just say, I'm extremely disappointed at the approach you've taken because it's a simple process. If you're not asking for any relief and you don't expect any relief, I don't see why you don't do everybody a favor and just issue a two line letter that is without prejudice to just simply ask the GNSO Council to refrain from undertaking any efforts until this process is finished. I just don't understand that. Thank you.

Mary Wong: So this is Mary from staff. And appreciating that everyone has put in more than 90 minutes of their time today, and the fact that Phil has to leave this call, what I'm going to suggest is that once more I think we have an understanding on how to proceed with the specific discussion that is to take

place between George, Phil and Petter. We will have a call next week and we may expect a document from Phil and Petter by the Tuesday before that call.

On the question of Phil and Petter's request to the GNSO Council, staff will go ahead and seek clarification from the GNSO Council leadership and report back to this group. So on that note, again, this call has been recorded. There will be transcripts and a recording as well as a transcript of the Adobe Connect chat that we can post to the working group wiki space. I think the understanding from all was that this is something that will be documented so unless anyone has any concerns about that, we can treat the transcripts and recordings as we do with all other working group calls that have taken place to date.

So not seeing any other hands, thank you all again for your time. Thank you, Herb, for coming on the call as an observer. And we'll follow up with an email to everyone on the call just summarizing the next steps and I'll have the secretariat schedule the call for next Thursday. Thank you all very much.

Petter Rindforth: Thanks.

Terri Agnew: Thank you. Once again, the meeting has been adjourned. Operator, if you could please stop all recordings?

END