

**Transcript GNSO Council Teleconference  
14 January 2016 at 12:00 UTC**

Note: The following is the output of transcribing from an audio recording of the GNSO Council teleconference on 14 January 2016 at 12:00 UTC. 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:

<http://audio.icann.org/gnso/gnso-council-14jan16-en.mp3>

Adobe Chat Transcript

<http://gnso.icann.org/en/meetings/transcript-chat-council-14jan16-en.pdf>

on page: <http://gnso.icann.org/en/group-activities/calendar#jan>

**List of attendees:**

**NCA – Non Voting** – Carlos Raúl Gutierrez

**Contracted Parties House**

Registrar Stakeholder Group: James Bladel, Volker Greimann, Jennifer Standiford

gTLD Registries Stakeholder Group: Donna Austin, Keith Drazek, Rubens Kühl

Nominating Committee Appointee (NCA): Hsu Phen Valerie Tan

**Non-Contracted Parties House**

Commercial Stakeholder Group (CSG): Philip Corwin, Susan Kawaguchi, Wolf-Ulrich Knoben, Tony Harris, Paul McGrady, Heather Forrest

Non-Commercial Stakeholder Group (NCSG): Amr Elsadr- absent, apologies proxy Edward Morris, Stephanie Perrin, David Cake, Stefania Milan, Edward Morris, Marilia Maciel

Nominating Committee Appointee (NCA): Julf (Johan) Helsingius

**GNSO Council Liaisons/Observers:**

Olivier Crèpin LeBlond– ALAC Liaison

Patrick Myles - ccNSO Observer

Mason Cole – GNSO liaison to the GAC

**ICANN Staff**

David Olive - VP Policy Development

Marika Konings - Senior Policy Director

Rob Hoggarth - Senior Policy Director

Mary Wong – Senior Policy Director

Julie Hedlund – Policy Director

Steve Chan - Sr. Policy Manager

Berry Cobb – Policy consultant

Lars Hoffmann – Policy Analyst

Glen de Saint Géry - GNSO Secretariat

Nathalie Peregrine - Specialist, SO/AC Support (GNSO)

Josh Baulch - Manager, Meetings Technical Services

Glen DeSaintgery: ...recording for us and tell us when you're done.

Coordinator: Recordings are started.

Glen DeSaintgery: Thank you very much. I will call out the names and please answer to let (me) know that you're on the call because this will be important if we take roll call first. Keith Drazek.

Keith Drazek: Here.

Glen DeSaintgery: Donna Austin. Rubens Kuhl.

Rubens Kuhl: Here.

Glen DeSaintgery: James Bladel.

James Bladel: Here.

Glen DeSaintgery: Jennifer Standiford. I don't see Jennifer on the call yet. Volker Greimann. I don't see Volker either. Valerie Tan.

Valerie Tan: Here.

Glen DeSaintgery: And Phil Corwin.

Philip Corwin: Here.

Glen DeSaintgery: Susan Kawaguchi.

Susan Kawaguchi: Here.

Glen DeSaintgery: And Paul McGrady. Paul is on the call. I see him in the Adobe Connect room. Heather Forrest.

Paul McGrady: I'm here. Sorry.

Glen DeSaintgery: Heather Forrest.

Heather Forrest: Here Glen. Thank you.

Glen DeSaintgery: Thank you. Tony Harris.

Tony Harris: Here.

Glen DeSaintgery: Wolf-Ulrich Knoblen.

Wolf-Ulrich Knoben: Here. I'm here.

Glen DeSaintgery: Marilia Maciel.

Marilia Maciel: Here.

Glen DeSaintgery: Amr Elsadr is absent. And his proxy is going to Ed Morris. Ed, are you on the call?

Ed Morris: Yes I am Glen.

Glen DeSaintgery: Thank you. David Cake.

David Cake: Yes, (I'm here).

Glen DeSaintgery: Stefania Milan. I don't see her yet on the call. Stephanie Perrin. I see...

Stephanie Perrin: Here.

Glen DeSaintgery: ...Stephanie on the call. Thank you. Julf Helsingius

Julf Helsingius Here.

Glen DeSaintgery: Thank you. Carlos Gutierrez.

Carlos Gutierrez: (Good morning).

Glen DeSaintgery: Good morning Carlos. Olivier Crepin-Leblond.

Olivier Crepin-Leblond. I'm present. I'm here. But I'll only be on the phone.

Glen DeSaintgery: Thank you.

Olivier Crepin-Leblond: Not the Adobe Connect.

Glen DeSaintgery: Thank you Olivier. And for staff we have David Olive, Lars Hoffmann, Steve Chan. We have apologies from Marika Konings. And we have the Secretariat support, Glen DeSaintgery and Nathalie Peregrine. Have I left off anybody? In the meantime, Donna, have you perhaps joined?

Donna Austin: Yes Glen. I'm on the call. Thanks.

Glen DeSaintgery: Thank you very much. And Volker? And Stefania Milan, have you perhaps joined? So we - there still seem to be two that have not yet joined the call. But over to you. Thank you very much James.

James Bladel: Okay. Thank you Glen. And good morning, good afternoon everyone. And welcome from a very dark Las Vegas. It was great seeing some of you here this past week. So I certainly appreciated that. And I hope that all of you had some safe travels home for those of you who've already left.

So before we dive in let's I guess go through our normal administrative procedure. Does anyone have any statements - updates to their statements of interest or any declarations of change of their status as a Councilor? Okay. Seeing none, then we'll consider that closed and move on.

So we have one agenda item of substance today, which is, as we indicated, the review - the Council review of the Council GNSO response for the CCWG Accountability third draft proposal.

And there's been quite a healthy exchange on the mailing list. I think that's great. You know, going through this exercise with the sub-team, I think it's clear that we have a high degree of overlap and alignment on a very complex proposal and set of recommendations. And given our diversity on the GNSO, I find that very encouraging.

However, we still have to - we still have some work to do. We have to determine I think first and foremost of whether or not how we want to respond and what the format of that response should take.

I think that's been the subject of some discussion on the list as well as taking a closer look at the substance of our response and how it reflects the comments and positions

that have already been recorded by our various stakeholder groups and constituencies.

And I wanted to emphasize that last part there. I think there was some question over whether the Council itself would be examining and weighing in on the recommendations. And I think as many have pointed out this is - that has already been done as part of the work of our stakeholder groups. And it's our role mainly to, you know, to make sure that that is captured in any sort of GNSO joint position.

And then finally, I think importantly if we cannot reach a joint position, if there's divergent views amongst the GNSO, then we simply fall back to the stakeholder group and constituency comments and reference that in our response to the CCWG co-Chairs. I think that's a perfectly legitimate response as well.

As far as timing, I note that, you know, we'd like to get through this as much as possible. It is certainly likely or possible that we won't get through it all today. And then that leaves the question of well how much of this can we attack in our next meeting a week from today.

And I think that certainly the door is open for that. The question there is - I guess the risk is that it gets us a little further behind with regard to getting our feedback to the CCWG and then we start to collide with our regularly scheduled program and other Council business. But otherwise, I think we should consider that door open.

So those are just keying up the topics. And I see there's a queue forming here. And we'll go with Paul. Paul, go ahead.

Paul McGrady: Morning. Paul McGrady for the record. Thanks James. One, just a quick clarification point. So if there's agreement, we would just indicate the level of agreement without the comments or will we include constituency and stakeholder group comments in any event because they might provide information to the working group about how we collectively ended up in that position because different constituencies and stakeholder groups may have joined - might be - ultimate the outcome may be the same but for different reasons.

And since this is all - it's all a big recipe, you know, changing one thing might be fine for one constituency group but that might be the one thing that brought the other constituency into the position that everybody joined.

So I guess the question is why wouldn't we carry the comments forward even if we all seem to be in agreement on a position?

James Bladel: Thanks Paul. And that's a good point. And I think that was the - exactly the purpose behind or the intention behind capturing those comments is to identify those dependences or those prerequisites or those conditions for support so that the CCWG was clear that either the support was offered based on the inclusion of certain items or could be gained by adding some clarity or some definition or some specific details.

And I think there's a number of examples like that. And I think what we attempted to do in the sub-team was collect all of those qualifiers and put them together in a consolidated list and identify - specifically to your last point, identify if there were any incompatibilities that would be upset.

If the CCWG were to remove some qualifiers, they would lose support from some stakeholder groups and constituencies and perhaps even from the GSNO entirely.

So I think just to your broader point, yes, it's important that we capture those comments and those qualifiers when they're offered by the comments. Carlos.

Carlos Gutierrez: Yes. Thank you James. This is Carlos for the record. Paul, I've been following the discussion of how to classify the qualifiers. And I have just one suggestion. I think the whole community is waiting for the GNSO to come out and at least offer - the moment we have it, we should offer the summary if we have comments or not.

I think it's very important that we come as soon as possible with the ones that we have no comment at all. And the ones we have comments, just point that we have comments and put them in an annex or write them down. That I think at this time what the community needs is to - the feeling where the GNSO's heading towards.

I think it's very important the comments and it's very important to document from which side the comments come. At least we should give a small signal as soon as possible without getting into too much detail. That's my suggestion. Thank you very much.

James Bladel: Thanks Carlos. And just to reiterate something (Mary) put in the chat. The - whatever we end up sending to the CCWG Chairs will have an indication not only to refer to the comments but also view them in context of the posted comments. So thank you Carlos. Phil, go ahead.

Philip Corwin: Yes. Good morning all. Just two quick comments. First, I think to the maximum extent possible we should aim to provide - where we can provide consensus view particularly on ones where we're seeking change, we should do so.

Because while I realize we're going to, you know, reference back to the individual comments of the stakeholder groups and constituencies, where we have consensus it's going to be much more powerful to say that - to convey that consensus as a chartering organization. And the aim here is to give input with the maximum affect to get the changes we're seeking in the final supplemental document.

The second thing I'd say is that if it looks about an hour and a half from now like we're not going to finish the entire list, then I think we should go out of order and take up Recommendation 11 and not leave that for next week because that's the one where I think we're going to have the most disagreement with the current proposal and it's going to be important to try to reach consensus position on that one. Thank you.

James Bladel: Thanks Phil. And I agree with you that a couple of these are low hanging fruit and then a couple of them are probably going to provoke or prompt a longer discussion.

I don't know that I would say that Recommendation 11 is necessarily going to have trouble reaching consensus. I think there's very strong consensus that Recommendation 11 is not good in its current form. I think where the consensus may be challenging is on what do we do to fix it or what do we recommend the CCWG do to fix it. But I think your point is taken.

I note that Carlos and Phil still have hands raised and that those are old hands. I will move to Wolf-Ulrich please.

Wolf-Ulrich Knoblen: Thank you. Thanks James. Wolf-Ulrich speaking. I wonder from the discussion right that I'm not very much clear whether we go that way into comment or to provide our comment in a two-step approach here.

So it means at the end I understand from the charter from the CCWG that they are really clearly requesting for a decision to be taken by the SOs with regards to the recommendations. Decision means, okay, what is - what's convenient about that and how should the CCWG go along with that.

So that would mean what we're now discussing, for example, that there be maybe first step in just sending our findings about that and the different meanings from the different constituencies (whereas) constituencies with regard to some of these recommendations or how are we going to approach? That is my first question.

But my (firm) understanding is that according to the charter at the end there should be a kind of opinion, of approval or disapproval or whatever to those recommendations should be sent from the GNSO.

So the - my question - the other question is, which was raised several times on the list, is is there something going on on the CCWG side with regards to a change or a modification of several recommendations, which are not yet finalized? And what is the impact on that on our role? So are we going to wait for that at the end? Do we have time to wait for that? Or how we are going to deal with that question. Thanks.

James Bladel: Thank you Wolf-Ulrich. And I think to your first point, I believe it's - and I'm looking for members of the CCWG and staff to correct me on this point. I believe that the final set of recommendations will require a formal vote or decision or expression of support from all SOs and ACs.

So at some point in our future there is a, you know, there is a drop dead decision that's going to need to be made collectively as a GNSO. But I think you're correct. And I think some have mentioned on the list that it's - we're not there yet and perhaps



that lends more towards the side of a less formal report that just communicates our reaction as a community to the draft - the third draft as it stands today.

And to your second point, you know, I think that it is looking likely that there is going to be some sort of modification or amendment or changes to these recommendations and to this draft. I hear - I've heard the term supplemental draft. And I don't know if Keith or Ed may be able to shed some additional light here.

But I think that while that is probably a likely occurrence, the question before the Council is do we want to - sorry, do we want to put our feet back into that process or wait for that to happen and taking the risk that they have fully - the CCWG has fully understood the comments as they were submitted by the SGs and Cs. So I think that's another question as well. Keith.

Keith Drazek: Hey. Thanks James. Keith Drazek for the transcript. Yes. So just responding to Wolf-Ulrich's question about sort of process and timing and deadlines.

Coming out of the Dublin meeting, there was the hope and expectation that by this time the chartering organizations would be in a position to submit their final approval for the charter. So Wolf-Ulrich, you're reading is absolutely correct. Coming out of Dublin that was the intent and the hope.

But with the fairly substantial changes that took place in Dublin and following Dublin and moving some - going into Dublin, moving from a sole member model to a sole designator and, you know, a whole range of other things, it became clear that the third version was going to require, you know, a full public comment period. And, you know, over 90 comments were submitted.

So the expectation I think now for the chartering organizations is that, you know, we're providing feedback on the third version rather than at this time indicating approval.

So in that regard the stakeholder groups and constituencies of the GNSO have all submitted comments directly to the public comment forum and very appropriately.

And now the focus is, you know, for the GNSO as a whole, you know, for us to communicate to the CCWG where the deal killers are and where we see concerns.

And, you know, I think that the key focus - and I typed this in the chat earlier. I think our key focus today is to try to communicate as early as possible to the CCWG where we the GNSO as a chartering organization would not be able to reach consensus or would not be able to approve the report on any one of the 12 recommendations.

And in effect, you know, we have to ask ourselves as the GNSO what would we die over here? You know, what would we be willing to blow up the transition over if it came to that? And I think that's where we need to focus our energies.

So I don't want to go on too long on this but I think, yes, if there are things that we think can be improved, by all means let's highlight those. But let's focus our energy on the thing that we would be willing to really blow up the CCWG work over. And if that's Spec 11, then let's focus on Spec 11. If it's, you know, a handful of others, let's focus on those. Thanks James.

James Bladel: Yes. Thanks Keith. I think that's very well said. And I think it's been very helpful to just kind of cast it in sharper (leave). What are the things that we are actually seeing as showstoppers? Maybe that's one group.

And then another group would be those things that we feel needs some additional work, some additional improvement and then those items that we - where we have reached some sort of agreement on support. We should communicate those as well but focusing on the first batch.

And to your point I think there are two audiences for this feedback. The CCWG Chairs or co-Chairs need to understand where the GNSO is coming from.

But also we need to support the GNSO members who are participating in the CCWG so that the - that they are - they can refer back to the GNSO community response as shoring up their contributions to that work so that when they get into these debates on the CCWG that they have - that they have that support backing them up. Paul is up next. The floor is yours.

Paul McGrady: Thank you. Paul McGrady for the record. And thank you Keith for your comments. I would like to just make one slight distinction that in terms of the idea of blowing up the work.

I think we definitely - there's this idea that the CCWG work can be addressed in this format but the idea of blowing up the transition I'm less concerned about because the idea of whether or not the transition is a good idea has actually never been put to the community. It was a - it was handed down from above.

And so that - the issue of whether or not there will be a transition is not before us and has never been before this community at all, period. We're just talking about details related to accountability after the fact; so just for the record and for what it's worth. Thanks.

James Bladel: Thanks Paul. Okay. I note that comment. I just - I'm not sure where to insert it here into - you know...

Paul McGrady: Yes. James, I just wanted it to be clear that when - if - just because we oppose one or more particular recommendations of the working group on accountability doesn't mean that we're blowing up the transition. We don't have the ability to blow up the transition because the - an up or down vote on whether or not there should be a transition has never been put before us as a community and there doesn't seem to be any indication that it will be put before us.

So I just wanted to make sure that we're clear. Even if we disagree with a recommendation or two or five or all of them, that really won't have any effect on whether or not whoever is making the decision to proceed with the transition proceeds with it. The question of whether or not the GNSO community supports a transition has simply never been asked.

James Bladel: Okay. Thanks for clarifying Paul. Keith, is that a new hand?

Keith Drazek: Yes it is James. Thanks.

James Bladel: Okay. (Go ahead).

Keith Drazek: So yes, I just have to respond to Paul. Honestly, I think yes. This is not a referendum on the transition. But if the CCWG Accountability proposal is not approved, the transition doesn't happen. And it's critical that the GNSO be onboard with the accountability work for the transition to proceed.

So I think we all need to understand that yes, while this is not necessarily a direct referendum on a question that you may say has not been posed to the community or to the GNSO Council, you know, we only got the accountability process because of the transition. And they are very much intertwined and one is very much dependent on the other. Thanks.

James Bladel: Thanks Keith. And I think you and Paul make good points. But I think to Paul's point is that while we may not be able to derail the transition itself, we do have a hand on the brakes. And we can certainly keep that hand on the brakes until we're comfortable that that train can move forward. So good exchange. Ed, you're up next.

Ed Morris: Yes. Thanks James. I just want to point out that if we were to reject one recommendation, that doesn't necessarily stop the transition. We may think we're powerful here in the GNSO but we're just one of the chartering organizations.

The Chairs have let it be known at least to me that if they give five - if they get all but one of the chartering organizations approving the recommendation, they're going to go ahead without that party. So if we don't want to approve a certain recommendation, we should not let fear of stopping the transition prevent us from doing so.

James Bladel: Yes. Thanks Ed. I think that's an important point and that this is a consensus transition from all the SOs and ACs, not looking for unanimity and I don't think that's realistic to seek it.

Okay. So the queue is clear. And I think that these are very broad and over the horizon topics that are important and do have bearing on our work and do I think affect how we communicate our response to - back into this work because we understand how it's going to be taken onboard and what impact it will have on the overall - on the transition.

But I think that the question that we should be coming to some sort of resolution on, and we're already now just about halfway through the first hour, is do we want to do that closer to the lines of the ccNSO and I think some other groups.

Of course we're not obligated to follow that model but they have shown us that we can draft a statement or letter, a document outlining the showstoppers as Keith pointed out, capturing the comments as Paul recommended and communicating those back to the CCWG co-Chairs in a way that can help them move forward.

Or I think as others have noted, do we proceed with a more formal route. This is important work. And this is something that we want to record the - not just the - not just an up or down from the Council but more of a statement of strong support or whether support for a particular recommendation is shaky. You know, that would also be helpful to be communicated back to the CCWG.

All of those I think are legitimate. If I could weigh in personally here, my preference would be to send them something as soon as possible. I think the timing may dictate which of those options we choose.

And if it's not looking likely that we're going to be able to send a unified support in a formal manner, then I think that we should fall back to a less formal approach but capture as much as possible because I feel like that there's value in the substance but there's also value in the timeliness of our response. I think that's an old hand from Ed so I'll go with Heather next. Heather.

Heather Forrest: Thanks James very much. I share your concerns in relation to substance and picking up some of the points that have been articulated on the list. I personally am more concerned about picking up on Paul's point that we make it absolutely clear and I believe Wolf-Ulrich mentioned this as well that we have these sort of five baskets into which things are falling. Yes but, yes maybe, this sort of thing.

I'm not sure how clear that's going to come across. So I'm more concerned about the substance than the format of the approach whether it's formal or informal.

I think we need to worry about being as crystal clear as possible for the community at large because it's taken us some time as a group to understand and come to terms

with what our own words mean. And I'm afraid - I have fears that once this leaves us and goes out into the broader environment that there's a risk of being misunderstood. So thank you.

James Bladel: Yes. Thanks Heather. And I think you're absolutely right. Best to say nothing than send any kind of mixed signals or confusing messages back to the CCWG. And I think that, you know, to your point, there's been a number of conversations on the list of how we can arrive at that clarity.

So any other thoughts on - again, we just want to table the question here of do we want to fall back to a less formal approach. And I'd really like to hear from some of the folks who've been advocating for a formal approach.

This motion and the language in this motion was submitted as a placeholder or as a draft, you know, to be trotted out in the event that we need it. But it certainly didn't want to put a marker down that this is something that we wanted to do or presume the outcome of this discussion, so does anyone else have any strong opinions on moving forward with a formal motion or whether we should communicate in a less formal matter, similar along the lines of what we saw from the CCNSO? Paul is agreeing with Heather's points from her intervention. Anyone?

It is early here in Vegas but hopefully some folks who are in time zones have been awake for a while. Paul, just wondering, anyone who feels that we should proceed with a formal motion on the substance as opposed to a less formal response that looks more along the lines of a letter, similar to what we saw from the CCNSO that captures as Keith noted, that captures our deal breakers up front, for example, recommendation 11 and then moves down the list to those things that we feel are more conditional.

And noting Heather's concern that clarity -- so I think our priority, you know, to Heather's point is clarity on the substance of what we are communicating back to the CCWG's co-chairs and then my, you know, my thought about making sure that the timeliness is also important as well and then capturing those items that are show stoppers that we really just can't allow the proposal to proceed with those deal breakers in place. Ulrich, you're next.

Wolf-Ulrich Knoben: Yeah, thanks James, so early speaking. Well, you know, I mentioned that I am a fan of the more formal approach but while it is really the shortest content, I'm open for that. So my question here is really with regards to what they are doing tower to CCWG, so the CCWG is expecting something and we have some colleagues who are on the CCWG, like Keith and others. And so my question is to those people as well, how do you see it from an approach from the CCWG point of view if you just, the scope is just filled up with a less formal let me say comments from the community?

I wonder whether if we are doing the same as we did during the public comment period when we just go that way to not formally answering in that way. So, my question is, I'm not sure how we do that approach really in a less formal way as approaching to be accurate and to be precise as possible as I understand each constituency, each stakeholder, has their own opinion so the question is how do we combine that here? And so I don't have a real answer to that and that is my concern. So, if we could find a way to more formalize that so I would be more happy, but I have no solution at the time being. Thank you.

James Bladel: Thank you, Wolf-Ulrich, and there are some interesting responses from some folks who are participating in that work on the chat, so I would refer you to that while we go to Donna.

Donna Austin: Thanks, James, Donna Austin, I think in my mind some of the confusion for me is whether formal means we take a vote or whether we just take a sense of the group and I think in my mind I had envisioned that we would ask the sub-team to present the work that they had, you know, the table that they had developed, we would work our way through the various recommendations and what the GNSR response would be to that and we would come to an agreement or not as to whether we agreed with the language that that sub-team had come up with as it related to each recommendation, and there was question of whether we would vote on each of those responses to the CCWG recommendation and in my mind if we did take a formal vote, then we would rely on a motion to assist us with that.

I don't think it really matters whether it is a motion or a lesser because either way, it will be a communication of, you know, the GNSO's response to the current recommendation to the third proposal. So, in my mind, I think we should, it would be

useful for the sub-team to just run through how they came up with the table that they've developed and then I think, I've noticed on chats there are a few people calling for a discussion about those areas where we have divergence or also, you know, from a collective point of view which are the recommendations that are deal killers.

And then we might have a better sense of motion or a letter. Either way, it will be a communication. We can easily turn this motion with the whereas clauses and the table into a letter. I don't think that is difficult to do. And either way, it is a formal record of the GNSO's response to the current proposal.

And I am very careful to use the word GNSO counsel response, rather than GNSO counsel support for the recommendations in the third proposal because of we are not being, the GNSO at this point isn't being absolute approval of final proposal because there is not one. There is a draft which still has, you know, some elements of contention I suppose. So, that is my thinking.

I think, you know, we've had some good discussion about concerns people have but maybe it's time to work through the sub-team work and for us to understand where the areas of divergence are or where the deal killers area, work through those and then once we are through that quickly understand where the areas of agreement are and then we can decide whether we need a formal motion to kind of tick the box or whether we can just go with the communication. Either way, I think we will be making a decision and it doesn't matter whether it's a motion or whether it's a letter from the GNSO, it will be the GNSO's response to what the CCWG has requested. Thanks.

James Bladel: Okay thanks Donna and I think one of the important points of your comment there, if I can just, you know, summarize it, that the CCWG probably doesn't care whether this comes in a form of a letter or a motion, it's probably more for our own selves and our own processes and support of our own constituent organizations as to which route we take so, but I think you are correct that as long as our views, going back to Heather's point, as long as our views are clear and actionable, they probably don't care how they are delivered.

So, I see some other notes in the chat and then I just lost my connection to Adobe so, let's reconnect to that. Please bear with me, but it seems like we are now -- I think



we are coming in for a landing on the idea that while a formal motion is definitely with a vote, it is definitely in our future for the final report, that it is not likely to be a requisite for the CCWG in order to do their job. And it's not something that we may be ready for internally and it is certainly going to take a lot longer and time is of the essence so that we should probably proceed with a less formal vote, sorry, a less formal format of response.

So, if there are no objections to that, we will proceed on that and then I think as many have noted including Donna, it is time to, you know, dive into the substance or the recommendation and look at how the sub-team has, I want to say, has characterized each of these 12 recommendations. And I want to focus the discussions as we go through these, focus the discussions on the CCWG's assessment, not the recommendation itself. I think there is a danger here that when we start unpacking these that we can get into the debates that are currently, you know, going through the CCWG itself.

And I think that that is, that work is appropriately begun in the CCWG, let's make sure we are focused on is this reflective of the response, is this something that is aligned with the SGNC comments and is there something that we can go forward with comfortably. So, I think, let's focus on the language of the response and not the language of the recommendation and I hope that made sense.

And to Phil's point, if we could please, and if you will indulge me, could we start with recommendation number11? And I apologize for jumping out of order, but you know, we are all very, very astute folks here so hopefully that is not too much to ask if we can jump down to page 19 in the window, which is recommendation number11.

And there's a bit of a typo here in the chart. It says GNSO counsel support, or support level or response, but recommendation number11 is the odd duck here because it is clearly the recommendation where the GNSO has fairly aligned and fairly strongly stated across of the SGNC's that this is not acceptable in its current format.

And I think that we tried to capture that here. We tried to capture that the main sticking point was this proposal to raise the GAC voting threshold for the board to accept GAC advice or reject GAC advice, but I think that, you know, there was some

concern, I think, that (Keith) mentioned that we had thrown out a couple of babies with the bathwater here in our analysis of recommendation number11, so can we just maybe start the conversation here and table the questions. Does this agree or align with your reading of the comments on recommendation number11 that this is not something that your groups have indicated they can support? I've got an empty queue here but Mary?

Mary Wong: James, sorry this is Mary. I apologize. I think that what we have on the screen is actually not the latest document so if you will indulge us, we will use, be as quick as possible and actually upload the document that was circulated to the council yesterday and hopefully people will use those few seconds to gather their thoughts and maybe start the discussion. We apologize.

James Bladel: Thanks, Mary, no problem. I noticed that there was one big edit that is missing from here so no problem while you take a look at that. I hate to put anyone on the spot but I know that Ed performed the analysis of recommendation number11 and Keith had some specific concerns on the list. So, I don't know if either of you want to weigh in on this but -- or if you believe that we are on the right track and we are comfortable, we are on solid ground in saying that the GNSO is in fact opposed to this recommendation as is, and I think that is, you know, I think that message is received loud and clear from a lot of the comments. So, Ed, would you like to maybe shed some light here?

Ed Morris: Sure, thanks James, I think it is clear when you look at the responses of the SG's constituencies that were we to voting this today, it would not pass. The other thing justifies the classification is no support. However, in reading Keith's comments on the list, that there are for his groups certain conditions, the ITC seems to be somewhat similar.

If certain things were to happen, they could switch, and I think the comment which we just took down, which was what I submitted that we started with actually captures a little bit better than just telling the CCWG we don't support it, it captures a bit of some of the qualifications of some of the other groups. So I think we might want to consider that comment as well as what we came up with as a final solution. I'd like to see what Keith thinks about that.

But I do agree with the classifications, no support, because when you look at the groups, the public comments submissions clearly in the NCPH there is not a simple majority in favor and I think there is a question as to what the result would be if there were a vote in CPH. Thanks.

James Bladel: Thanks Ed, and I think in our -- a bit to your point, we actually made it a little worse here by putting up the latest version which takes a lot of that justification out that Keith was referencing. So, I don't know, Mary, if it's possible to put a red line up as opposed to this clean version. I know it's messier but there is a lot missing here. So, you know, while we take a look at that, Wolf-Ulrich, you are next in the queue.

Wolf-Ulrich Knoben: Yeah thanks, James, (unintelligible) speaking, so coming back while I sense in this message this morning also that I see it a little bit differently here, things about speaking from the point of the ISPCP view, you know from the comment we have sent to the public comment here is that we, if indeed not object it to this recommendation, that that is the main sentence we have, we did not object but we had concerns and then we had concerns because -- and we expressed those concerns to the public common period.

So, we see this recommendation in the context of the other recommendations, of the package as well, and on the circumstances so we are saying no objection to that, no definite objection. So that is my question how, then, we should deal with it here in our evaluation and from WGSO's point of view as a whole, and also my question how these levels are characterized. Can we say no support, does this mean unanimously no support or is it by a majority of the GNSO, it's not in support. It should be a little bit more expressed in that way. Thanks.

James Bladel: Thanks, Wolf-Ulrich and to your last point, I think that is when it was a clear preponderance or a common theme that underlined all the comments that were filed by the SG's and C's then it was indicated as a support or non-support, but I think this one was clear in that there was a broad -- while the reasoning or the qualifiers may have been varied from comment to comment the general sense from all filed comments was that recommendation number 11 was not acceptable. Ed, is that a new hand?

Ed Morris: (Unintelligible) hand, sorry James.

James Bladel: No problem, then next up, Phil if you don't mind, I think Mary has something she wanted to weigh in on before we go back to the queue. Mary?

Phil: First, for the record, since I'm here representing BC, I wanted to note that the BC was a bit out of step with the counsel here. We did support the recommendation but with some important qualifications including that the board difference, you know, the requirements for (unintelligible) was only when there was basically, you know, a GAC recommendation without any formal objection and that they had to provide a detailed rationale for the advice.

But more to the point of this, I am concerned that if we just say no support and refer to, you know, the individual comments, we are not accomplishing much because my understanding is that no other chartering organization has opposed this and if we, you know, just say we are opposed and check for the details, I think we will be isolated as a chartering organization and not achieve very much whereas if we give more detail on what the concerns are, we may get, you know, worthwhile changes in the final supplemental version, so again I think the main object of whatever we approve here and send to the CCWG should be to influence the final supplemental draft rather than achieving some (unintelligible) victory of saying we flat out oppose and not giving strong guidance as to what would make it somewhat more palatable because we have to recognize the reality that we seem to be isolated in opposing the entire recommendation.

James Bladel: Thanks, Phil, and I think that your comment supports some of the points Keith raised which is that if we are going to say that we don't support this, you know, we have to be a little bit more nuanced. Rather than slamming the door, we have to show them why and particularly note those elements, the detailed elements, that are causing that problem and I think (unintelligible).

((Crosstalk))

Philip Corwin: Yeah and just to continue, we should recognize that the current bylaws require the board to take GAC advisory very seriously and to enter into a negotiation process if they don't agree with it. The main difference here that the current bylaws would require nine members of the board to reject and two-thirds requires 11, so we are

talking about a difference of two votes and in exchange for that we got a definition of consensus advice that doesn't exist in the current bylaws. So, it is not all bad what is in here but we need to give guidance to the CCWG if we want to realistically influence the final product.

James Bladel: Thanks Phil, and I think that is a good point is that, you know, it's the practical implications of what this change would mean. Keith, you have the floor.

Keith Drazek: Okay, thanks James, yeah, I agree with Phil. I think as I noted in my email last night or early this morning that, you know, the registry stakeholder group views this recommendation number11 as a package deal, which you know, we certainly would love to see the two-thirds go away, but the securing of that board obligation threshold for GAC consensus advice, meaning the absence of formal objection was something that NTIA said they absolutely had to have and that frankly is I think in the interest of everybody in the GNSO is to ensure that the GAC, when it comes to the board obligation, has to, you know, continue its current operating practices which is consensus meaning the lack of any formal objection or absence of any formal objection.

That is a big deal and I want to make sure that getting that in this process is not something that we should lose and I think that that part of recommendation number11 is something that we would all support. So, I want to go back to, you know, as a possible way forward, I think Paul submitted on the list just a little while ago saying that there might be another category which has little to no support with strong opposition.

I think that may actually better capture what we are talking about here on recommendation number11 because, you know, as I said, I think the registry stakeholder group and its comments did not object outright and I think would consider the package deal that I've described, perhaps the BC and a couple of others as well, so I would like to go back to Paul's suggestion and see if there is support for that moving forward, which was again, what was it, little to no support with strong opposition. Thanks, James.

James Bladel: Okay, thanks Keith, and you were the last speaker in the queue. So, let's -- and I think Ed was asking, there has been a pretty healthy exchange going on in the chat

as well that I've been trying to keep tabs on. So I apologize if I'm kind of bouncing back and forth here.

But I think that, you know, you raised a good point and I just wanted to put out an observation, Keith, you know, without diving into the substance of recommendation number11, there is this interesting dynamic where one group says that we, let's say, recognize like -- and I'm not picking on the registries but just highlighting an example of the challenge of coming up with a unified GNSO position is that the registries could say we support this. But we have concerns about this one element, the two-thirds threshold, and another group could say we are supportive of this recommendation generally but because it includes the two-thirds threshold, we can't go forward with this in our support.

So, it's almost like you have arrived at different conclusions, because I know that the registrars felt that the two-thirds was a poison pill and it killed the rest of the package. So, I'm pointing out that, you know, we saw the same details, we had the same concerns and yet we arrived at two different places in our comments in our level of support.

And I think that is part of what is challenging here or what is complicating the ability not just to arrive at a consensus GNSO position but even arriving at a consistent framework within the different SG's and C's and their comments. So, while we are continuing to discuss which draft is displaying in the window, I think taking all this on board, here is what I am hearing and again we are probably looking more towards a narrative or a qualitative response here is that we need to respond as a counsel that recommendation number11 has provoked some significant opposition from several groups within the GNSO and that specifically that this is tied to concerns about the board vote for the rejection of GAC advice.

I think I would go back. I will go back to the comments that were formed not only by Keith but I think it's some previous drafts from the sub-team and take a look at what was originally in there before, because I think to Phil's point, that the BC and the registries were concerned with this recommendation but didn't express outright rejection whereas the other, maybe some of the other comments were a little more definitive in their rejection of this recommendation.

So, I would like to take that back and propose -- because we are already now looking like it's not, you know, we're not drafting the letter here on the fly so it is looking like this is going to happen between now and our next call. But that is kind of how I could see us painting a path forward here as a way to identify recommendation number 11 as being one of those that has broad-based opposition from the GNSO communities and for a variety of different reasons as it is written today and I think that is a key qualifier. Phil, go ahead.

Philip Corwin: Yeah and I'll try not to belabor the point but let's try to -- I don't want to see the baby thrown out with the bath water here, if there was strong opposition for a number of charter organizations and the transition occurred without anything new on GAC advice, just the current bylaws language, we would have a situation where the board is obligated under the current bylaws to give serious consideration to GAC advice and to enter into negotiations when they can't accept it to try to get to an acceptable solution and while there is no two-thirds vote, there is no definition of the type of advice they have to give that to, which would leave the GAC free at any time to move to a different definition of consensus or even to a majority voting method of working.

So, the you know, basically unanimous without formal objection definition of consensus advice is a positive here going forward into the post-transition world. The concern seems to be about the increase from nine votes to 11 votes to formally reject it but the board's practice is generally to act by unanimity, and not to take formal votes.

It's very rare to see -- the last formal vote I remember seeing on the board was to approve the new TLD program in Singapore. I haven't seen anything since then where the board has recorded a formal vote with members in opposition, so let's aim at getting this improved rather than, you know, just saying no and then, you know, not having any influence on the final product. Thanks.

James Bladel: Yeah thanks Phil, and I think it's important that we should try to preserve that win or that item that does enjoy support in recommendation number 11 that characterizes what's necessary for GAC to reach consensus advice and if we can capture that while noting the objection to the two-thirds threshold, I think that is sending a pretty clear message. Paul has the floor next, go ahead, Paul.

Paul McGrady: Thanks, Paul McGrady for the record, so it's not just the two-thirds voting threshold that is part of it and I think that there is a tendency to say well, this is only two more votes than what the current situation is and sort of down play that issue, the current situation is that the board does not have to take a mandatory vote on each piece of GAC advice that floats their way. They can decide not to adopt it, in which case there's this consultancy back and forth, but it doesn't trigger a mandatory vote.

It's the mandatory vote plus the higher threshold that is causing the consternation because, as written now, whatever the GAC says under their definition, whatever definition of consensus triggers that mandatory vote is the law unless the ICANN Board has the fortitude to push back at a 2/3-or-higher level.

And that would - and there's no limitation on what the GAC can advise about. Can they advise about changes to contracts that are already in place? Who knows? Can they advise about changes to policy that are already in place? Who knows?

So there's no limitation on what the GAC can advise about, and so therefore if - if - we bake in a mandatory vote and a high threshold to this, that is a significant sea change. It's not just that they - that we're requiring two more votes and it's a (DI-MIN-I-MOUS) change. It is a big deal, and that's why there's such pushback on this point.

So I don't want to downplay something that is an important change and it's not a small change. Thanks.

James Bladel: And thanks, Paul. And I think that a lot of the comments share those concerns as well. Tony Harris, you're up next. Whoops, I'm sorry. Ed.

Ed Morris: Thanks James. I - first of all, I do agree with your approach going forward to take another look at this. I think the original proposal that we had up at the beginning of the meeting does actually deal with many of the comments we're hearing from (Keith). I agree with Paul.

But the one response I want to have - what Phil said. One concern I have - if we go forward by raising this threshold to 2/3, even though I actually agree going from 9 to 11 is not a big deal. The perception on Capitol Hill is that we're increasing the power of government.



I'm concerned as to whether or not doing this would contradict Fadi's testimony in October of last year or would give those who want to appeal the transition in Washington another tool in which to do so. Thanks.

James Bladel: Thanks Ed. And I agree. It's a (width) of broader audience. And just - and not to your specific comment, but just maybe the last four or five statements as well as the chat in particular, it does feel like we are kind of straying now into the discussion of the substance of the recommendation, which I think is fine as long as we are, you know, driving toward that end goal of how do we frame our response.

Because I think that, you know, it's tempting - it's the siren song of talking about what, you know, what the recommendation means and what it could entail, and I think that that's important, but that's also, you know, probably a much longer conversation outside the scope of the exercise today.

So just want to make sure that we keep driving towards what do we want to put in our response. And I think that the last couple of statements from Ed and from Paul and from (Keith) start to crystallize that here - that there are important differences here at the GNSO, and where we are unified - it seems to be - strong unification on the 2/3 bit.

I think there's a couple of constituencies that note the importance of preserving the definition as it currently stands at GAC advise, and then I think Paul had an important intervention about capturing the limitations on - or defining the limitations on- what the GAC advise can and cannot encompass - the scope of GAC advise.

So, with all of that said, I think that we have between this transcript - and I'm kind of looking over in the direction of the poor beleaguered staff members who are trying to keep up with all of this.

I think we have enough here to start to hammer out a response to Recommendation 11, which I will put on my plate and say that this is something that I will take on for the next - between now and our formal call on the 21st.

Because this is the one recommendation I that think is - to (Keith)'s, when he teed up the conversation about an hour ago, we need to clearly communicate to the (CCWG) those show stoppers. And I think if there is a show stopper in this raft, here it is on Number 11.

Okay. So then, let's jump back here a little bit, and let's take a look at some of the other recommendations, and particularly some that I thought we had perhaps some divergence. And let me see if I can remember. I think it is Recommendation 5, in particular.

Now I'm hesitant to kind of throw us back into a quagmire here, but Recommendation 5 - I think it might be a good candidate for noting that the GNSO is possibly not going to be able to speak with one voice on Recommendation 5.

And it's not because, you know, the groups don't support it or support it or whatever. It's - my opinion - it's because - and I think this was part of the sub team's assessment as well - there's a lot of the qualifiers or dependencies that were offered in these stakeholder group and constituency comments appear to be colliding with each other, and were in some regards mutually exclusive.

For example, some groups wanted to require that the (CCWG) include certain elements regarding ICANN's mission into the Bylaws, and some groups wanted to see those specifically excluded. Obviously it can't be both, so it seemed as though we might be on a position here where the GNSO is not going to be much help to the (CCWG) on Recommendation Number 5.

So I'm wondering if the folks who participate on the (CCWG) could help us on this, or if indeed any of the folks who worked on this as part of the sub team want to weigh in.

I think it's an open floor here, but I wanted to draw the Council's attention to Item 5, and without, you know, you know everybody diving into the quicksand of the details here, does that appear to be - at least on the surface - an accurate reflection of what we're seeing from the comments associated with Recommendation Number 5 is that they're going in different directions from the various GNSO bodies.

Ed? Go ahead.

Ed Morris: Yes, thank you, and I do think that overall there is - as we say - general support for Recommendation 5. But if we look into the comments section above Stress Test 29 and 30, I know the IPC and a few others have concerns which are referenced there.

Speaking as a noncommercial, we don't share those concerns. In fact, we're diametrically opposed to the position expressed in the document. We don't believe that 29 and 30 treat contract enforcement as a threat to ICANN. That's not true.

So I think you are right. We're not going to be able to reach consensus on that comment. But I do think there is a general overall support for Recommendation 5.

James Bladel: Okay thanks Ed. And you know, I don't disagree with that. I think the concern is - is that some groups have offered comments onto why it needs to be changed, and others on why it needs to be you know frozen in place. And I feel like, you know, whichever way - I feel like we are sending a bit of a mixed message that goes back to one of Heather's earlier statements.

We want to be clear in our communications with (CCWG). And if we say we support, you know, in broad brush strokes we support Recommendation 5, but we're supporting it for different reasons, then somebody somewhere is going to be unhappy with the final result, depending on which way the wind blows on the (CCWG).

So that's just what I'm trying to avoid here is sending a mixed signal to the (CCWG). Heather, you want to weigh in on this?

Heather Forrest: Thanks James. Picking up on the confusion point, perhaps the best thing that we can do here is to not put this into a Yes or No basket, I would say. This is the part on which a significant divergence in - amongst the various (SGs and Cs). Please refer back to our comments.

And I would just pick up and say on the point that you made, James, you said that you don't think the GNSO can be very helpful here. But I disagree. I mean, I think the comments of the individual (SGs and Cs) - I understand the GNSO is a supporting

organization, but we are the entities that make up the GNSO, so I would hope that our comments as individual (SCs and Cs) wouldn't just be given some sort of (shuffled) status. Thanks.

James Bladel: Thanks, Heather. And certainly it wasn't what I was implying. It's just maybe more of a glib statement about we're not going to be able to solve this divergence for the (CCWG). They're going to have to continue to wrestle with this on their own as well.

Does anyone else have any thoughts here? I see Paul is agreeing with Heather, and (Donna) is noting that we should probably communicate to the (CCWG) that we are not a homogenous group and that we will have divergent opinions on a number of these recommendations. Or we will support them or express lack of support for different reasons.

I see Ed is agreeing. So I think that that can be captured, at least in a draft response for Recommendation 5. And if anyone has any other thoughts on that, please you know communicate them now; send them to the list. But I think that where we're going here is that we can acknowledge that we have - you know, we have some, I would say, some divergent views on this point.

Paul, go ahead.

Paul McGrady: Paul McGrady, for the record. Thanks. This is a great example of why we need to pass along the detailed comments that the team, you know, pulled out. Because, you know, for example we have one group that doesn't think that the contractual compliance issue is a big deal or a major concern. The IPC thinks that's a major concern.

So the (CCWG) needs to understand not just that there were - you know, not just that there was support one way and some support the other way, but really who - which group had which position, so that they're able to ascertain is this likely a big deal? Or a small deal for that particular constituency or stakeholder group. Because you know, something like this is a big deal to the IPC, and so that should factor in.

And if it's a big deal also to people who are opposed to the notion that ICANN should enforce its contracts, then the working group needs to know that as well. And so I

guess that this is just a commercial for I think what we've already agreed to, and I apologize for that, that the comments are very - you know, the details of the comments are important. Thanks.

James Bladel: Yes, thanks Paul. Understood and no apologies necessary. I appreciate your bringing us in for a landing on this. And we'll definitely capture those comments.

Ed? You have the floor.

Ed Morris: Yes. Just briefly a response to Paul. This, I believe, without going back to my PC - this would be a redline issue because of (NCSG). So it is an important issue if it touches upon free speech.

But when we do draft the response, I would request that we use a more neutral language than that in the current comments, because we don't believe those stress tests treat contract enforcement as a threat to ICANN. We believe something quite different. We support the stress tests. We support them as (a word that we cited). Obviously we're not bound; we haven't gone back to the PC, but this is a big issue for us as well.

James Bladel: Thank you, Ed. And so here's what I'm suggesting. I'm going to take a stab at drafting this using the neutral language that you suggest, but I hear now Paul and Ed as volunteering to sanity-check that draft on behalf of the concerns expressed by the IPC and the NCSG NCUC.

And so if you two gentlemen would be willing and able to step up and take a look at whatever we come up with as a response, and view it through those lens, and make sure that that's accurately reflected in a balanced and neutral capture of those two concerns, I will take a stab at putting those together. And then of course, you can just throw rocks at me when I get it wrong.

Okay. I think the queue is comprised of old hands so we will say that we have a place to go now on Recommendation 5, and I think that that was important because Recommendation 11 and then Recommendation 5 were special examples here of areas where the GNSO appeared to be fairly united against a recommendation or was sending sort of a mutually exclusive advice to the (CCWG) on how to proceed.

So I think we need to capture that. And hey, if it's divergent, it's divergent. We just need to make sure that that's clear. This is a very diverse - I think this goes back to (Donna)'s last comment. This is a very diverse organization, and we're not going to be aligned on everything 100% of the time.

So with those two, I'm less concerned about some of the others. I'm not saying they're not important. But I want to say "less concerned," because those were, I think, the ones that stuck out the most.

So if we could jump back now to Recommendation 1, which is on Page 2.  
Recommendation 1 - oh, I'm sorry. I'm going a little too fast here. Paul? No? Okay.  
Old hand.

Okay, Recommendation 1 is with regard to establishing an empowered community for enforcement. And one of the kind of the underlying themes here - we were able to on the sub team, we were able to discern that there was some support for this. However, there were significant concerns.

The good news here, in contrast to Recommendation 5, is that the concerns did not appear to be divergent. In fact, they appeared to be complementary to one another. So that one group would say, "We have a concern about this, which is this area." And another one would raise a concern that was not included.

And so presuming that these are not deal breakers being introduced into the comments for Recommendation 1, I wanted to draw your attention to the fact that I think that a consolidated or aggregated collection of those concerns that were expressed probably gives a healthy picture of the GNSO's views on Recommendation 1.

And just rolling through them really quickly here, a number of groups noted that this proposal doesn't work unless there are expanded transparency, including (wide) inspection and improvements to the document disclosure.

That this is the most disempowered community is the most important distinction between - one of the important distinction between - the sole member model and the

sole designator model, which was kind of unveiled at the Dublin meeting, so we need a better understanding of that.

And the registry - I think other groups have expressed as well that an empowered community contains a proposal for balance between the SOs and ACs.

So for example - but when you look at the remits of the SOs and ACs, for example, with generic names policy, the GNSO has a broader remit than let's say the, you know, the SSAC. So the question is, how do you reflect that imbalance in responsibilities when you're talking about a balanced enforcement community?

And then finally, I think the NCSG very correctly pointed out that there's a link here between this discussion of balancing the SOs and ACs versus the discussion of changing the role of the GAC in Recommendation 11 that we've already beaten to death.

So I think by capturing all of these and rolling them up into a consolidated comment with Recommendation 1, I think you start to see a picture here emerging from the GNSO that while a number of groups have different concerns, that patching them all together forms a nice quilt of concerns that I think support each other and reinforce some of the similar comments.

I just wanted to see if there's any other thoughts that folks have on Recommendation 1 and/or if you see, like, I'm way off track here. Phil? Phil, you're up. May be on mute.

Philip Corwin: Oh, sorry. I didn't unmute myself. Phil, for the record. On the second point, I'd like to propose a slight strengthening of the language which I don't think would be controversial.

Which where we say as a condition of support the GNSO requires expanded (transfers) including the same right of inspection as would be available to a member under California law. I think that was something in the BCs come up. I think that's probably something that wouldn't be objected to.

We want a very strong right of document inspection because to have effective accountability, you must have that degree of transparency to understand what's going on within the organization that they might prefer to keep hidden.

James Bladel: Yes, thanks, Phil, and I think I probably, you know, to a level of hell in ICANN circles for someone who tries to summarize, and I do remember that was part of the BC's comment, and I think I maybe dropped it here. So I will make sure to get that reinserted, because that is - that feedback to the next part here, which is that this is an important difference between the two models.

Philip Corwin: And just to elaborate by just saying a right of inspection - that doesn't emphasize how strong that right has to be. So that's why I would like some more strengthening detail in the language. Thank you.

James Bladel: Yes, agreed. It's more precise. It's a good idea. Okay. Anyone else on Recommendation 1? Okay. We'll move then to Recommendation 2.

This is similar in that there seemed to be broad-based support from all of the comments filed. However, there was a common theme that expressed concerns about the timing of all the steps that were necessary as far as engagement, escalation and enforcement process. And that a lot of this in practice was just - was unworkable. So - and it kind of referred back to Recommendation 1 as well about the bit of inspection.

So I think that here, you know, I don't see a lot of controversy in expressing this. This is an important component of the accountability recommendations, but I think they got it mostly right.

There is this other bit here about the component about maintaining headquarters in California. And I think this showed up as being supported in all the GNSO stakeholder group and constituency comments. So I think we were on the right track in characterizing this particular detail as having unanimous support amongst the GNSO.

But I'd be interested in seeing if anyone has any concerns about the use of the word "unanimous." I mean, usually, that's a dirty word in ICANN, and I just want to make



sure that everyone is comfortable with inserting that into our comments. Paul, go ahead.

Paul McGrady: Hi. So I was - I raised my hand before the question was put before about whether or not it's unanimous. And my hand was just that I wanted to point out that there is a distinction between "California headquarters" and "formation under California law."

And I just - you know, I'm not - frankly it's very difficult to understand what a sole designator is, since that's not something that is a very common form of corporate formation and enforcement.

But I have absolutely no idea what a sole designator would be under Swiss law, or under French law, or any other place that ICANN may want to reform itself.

And so when we think "California headquarters," do we mean that they have to - they could be a Swiss corporation whose headquarters are in California? Or are - or is "California headquarters" a euphemism for "formed under California law"?

James Bladel: That's a good question, Paul, and I think in this particular case it's stated to maintain its quarters in California, but I think it - to your point - it meant "remain organized under the laws of California."

Because I think it also - one of the comments reflected that this was not necessarily tying ICANN to California law for - as a governing law for its contracts with contracted parties, so if it later - if it wanted to put out, let's say, an EU version of the registry agreement, for example, that they could do so under EU law or something like that.

So I think - and I was just reading Ruben's chat as well. And I think that he doesn't see the registries weighing in on this topic at all, so perhaps, you know, it is correct to strike the word "unanimous," and just essentially say "broad support" for this.

But I think that we need to clarify whether we're saying that this is maintaining - and I'm kind of leaning, looking in the direction here of the folks who participate on the (CCGW). I think the context here is "remain organized under California law," and I think that's what they mean by having the - being headquartered in California.

But I think I can tweak this one to reflect that. I just need to know what to put into that placeholder. So okay. Yes, I think, I don't know, Paul. You know, I think that's what it was meaning. Trying to handcuff ICANN to the California context for its organization, where sole designators apparently are pretty thick on the ground.

Okay. So let's - if there are no other thoughts on that - I see there's still some conversation going on in the chat here, which will obviously be captured as part of the record as well, but I think the goal here is to tweak this one to possibly.

But just before we move on, there was no concern about the expressions of the time frames. I think that the various comments had different ideas, specifically, about what the time frames should be. What the different remedies would be.

But I think, generally speaking, the idea is we need more time. The escalation - the engagement escalation of enforcement time frame was just too rigid and needed some additional time and flexibility, and I think we can say that in generic terms.

Okay. Then scrolling down - and let's just take a quick time check here. We're still under - we've still got about a half an hour. We covered some really big ones, but we can scroll down quickly to Recommendation Number 3.

This is standard Bylaws; fundamental Bylaws. I think we had some qualifications here. I think that for the most part, the qualifications were again complementary of each other and not on a collision course.

Once again it refers back to inspection rights, which were raised in Recommendation Number 1, and we'll revisit Phil's point on clarifying if those are inspection rights equivalent to the member model as opposed to the sole designator model.

That - I'm just taking a quick look here about the - I think we're talking about the Articles of Incorporation Item 9. This is more about the community's role in approving or rejecting proposed changes to the Bylaws and whether or not ICANN's Articles of Incorporations would be raised to that same threshold for amendment, because they are - perhaps on the food chain, they're much higher up the pyramid than even the Bylaws themselves.

So I don't know if there's anyone that wants to weigh in on this. I think that we fairly well captured the concerns here, but I think we do need to expand out the inspection rights to align with what we've - the (unintelligible) would propose for Recommendation 1.

Recommendation Number 4 also has general support with a number of extensive comments. Again, we're going back to the bit about transparency inspection rights equivalent to a membership model, and enhancements to the document disclosure policy. There's a new - and the time frame for enforcement is also reiterated here, those concerns.

But the second bullet point - I want to draw your attention to the second bullet point about shielding community participants from liability resulting from removal of Board members. That's new. That doesn't appear anywhere else in these recommendations.

And I want to ensure that that is a concern that's either shared or, let's just say, there's no opposition from anyone to including that in our response, that actually employing these accountability mechanisms doesn't create liability for individual members or groups within ICANN if they were to, for example, bounce one of the Board members out of their seat.

There's a component here in the next bullet that any SO- or AC- sponsored member of the Board of Directors should not be removed without the approval of that SO/AC. And I think the concern here is that all the SOs and ACs would gang up on one person's director and remove them over the objections of that organization that appointed them.

And I think that that's something that's fairly well settled on the CCWG, although Ed or Keith or Phil can probably kick me under the table if that's incorrect.

There is another point here that talks about the - you know, that reinforces the idea that the document disclosure is within the scope of an IRP, which is an independent review.

And I think that's probably non-controversial and could be even referenced again under the recommendation that covers the independent review process. And I think it also falls under the heading of improving and enhancing and strengthening the transparency provided by the document disclosure policy.

Finally there was this last bullet point. And, you know, I wonder if someone from the sub-team can help me, because I'm struggling in my memory to remember the context of this one here. But this was recommendations for the community to enforce a co-decision. I really don't know where that's going. I'm going to have to go back to the comments, unless someone can shine some light here. The silence is deafening. I wonder if I got disconnected 20 minutes ago?

Paul McGrady: No, we're still here.

James Bladel: All right. Okay. Recommendation 5, we've already tortured ourselves with that one, so we can move on then to Recommendation Number 6. This is the commitment - ICANN's commitment to respecting internationally recognized human rights as part of its mission. I think there was general support.

There was some opposition here, and I'm going to go ahead and speak as a registrar here, and I don't know how much of that was opposition versus confusion about what we were specifically being asked to comment on.

I think generally the GNSO position is that we support this as a continued bit of work in Workstream 2. I think that there were a number of open questions that need to be resolved. And I think hence the general feeling that this needs to be moved into Workstream 2.

I think the registrars were off on their own on this one, and I don't mean to maybe get ahead of Volker or Jen if they want to weigh in on this. But I think that was coming from the mechanism by which we refer this Workstream 2, or whether that's something that is just put on the checklist for Workstream 2, or whether it needs an inclusion in the interim bylaws that this is a commitment that must be done by Workstream 2.

And I think we were just maybe a little softer on that commitment, and saying it really doesn't need to be in the bylaws. But I would propose that we go forward here with saying that we have, you know, support with this, with some opposition.

If anyone has any concerns - and yes, absolutely, Stephanie, we'd not leave folks out to dry on that, and there will be opportunities to comment on this. Looks like I've got a whole weekend of writing to do. Marilia?

Marilia Maciel: Thank you very much, James. This is Marilia Maciel speaking. Actually I'd like to take just a small step back from the discussion, because I think that this is maybe one of the points in the WG proposal that many of us were not very directly involved.

And the discussion is arising to us right now because for many years, part of the community has been pointing out that policies that were being discussed in ICANN were touching upon human rights, such as freedom of expression and privacy.

And work has been carried out by different parts of the community, not only NCSG, but a cross-community working party that has been created to discuss ICANN and human rights. Several reports have been advanced by the Council of Europe, by Article 19, showing exactly how the policies that fall under ICANN (unintelligible) are touching upon human rights, and presenting complications in which this interplay is actually being carried out.

So I think that this work has been very dependent on understanding that a business has a corporate responsibility to respect human rights, based upon international understanding of UN documents, and also on the articles of incorporation that guide the work that is developed in ICANN with commitment to respect international law, which of course encompasses more.

So this was the base that made this work progress in recent years inside the community. So what we're trying to do here when we are dealing with human rights inside the cross-community working group, is to put in writing and capture somehow a commitment that, as some of us understand it, already exists, and put that in wording.

I think that we had a very (unintelligible) discussion in (Work Party 4). And people raised concerns with regards to litigation that may generate. And that made us seek advice from lawyers with regards to the risks of litigation, and how they would increase the language that we were discussing.

And after some iterations, we arrived in the language that we are discussing right now. And the advice from the lawyers was that this kind of language does not increase the risk of litigation in any way. So that's the legal position that we have.

In spite of that, I think that the Board and maybe some other parts of the community have mentioned, they still have concerns with regards to legal actions. But these concerns were not based on any legal position that we can read so we can discuss.

So my point would be for us to ask the Board, and not only the Board, but different parts of our community, that if they have concrete legal positions or concerns, that they put this in clear terms so we can have a base for discussion.

My personal feeling is that the sort of concerns are being raised more based on a gut feeling, and maybe a lack of clear understanding of what the issues are. What does the interplay between ICANN, which is a technical organization dealing with DNS and IP, have to do with human rights? And since - I think that we go back to discuss and suggest hunger and other international problems that do not relate whatsoever with what we have been discussing in the cross-community working party on ICANN's human rights.

But I think that there is a need to go back to the many useful documents which have been produced in this regard. And my feeling is that we do not have, as different parts of the GNSO, a feeling of resistance that should be there; just the very need for a framework of (unintelligible) that would be developed (unintelligible).

So my feeling is that in general, generally speaking, there is no clear opposition in the GNSO, and maybe we should go on with the language that we have, and express in general terms our support for more clarification in Workstream 2. Thanks.

James Bladel: Okay, thanks, Marilia. And I appreciate your providing the broader context, and how this recommendation fits into not only just kind of the broader landscape, but also work that's already ongoing, and some materials that have already been produced.

I'm trying to synthesize what you just said in terms of how it would impact our recommendation here, where I think that the - specifically the CCWG is committing or reinforcing a commitment to continue this work. And I think that the GNSO response is that, for the most part, we support that commitment.

I don't think there's anything here that takes away from what you were recommending. I think that this is just continuing to reinforce the commitment to continue to work on the cross-community working - on human rights, and as part of ICANN Accountability Workstream 2. So I think all of that just kind of supports that the work needs to continue.

Ed had a note here in the chat. Is the last sentence of comments necessary? We'll be doing that for every recommendation. I think you mean that - yeah, probably that is extraneous, Ed. And I think we had a number of sort of closing statements for each of these comments that we probably needed to take out. So good catch there.

Okay, let's check here. We have 20 minutes. Moving to Recommendation 7, while there is a number of - this is regarding improvements and enhancements to the IRP, as noted above, that we would recommend, in conjunction with reforms of the DIDP, that this would be also subject to IRP if necessary.

But generally speaking, I think there was broad support on the GNSO for this approach to strengthening the IRP as a mechanism for keeping ICANN accountable. There were some changes proposed here. We tried to capture all of those.

Looks like we have two Number 5s, so let's call them six changes, which is regarding standing; elements of a claim, including failure to act; concerns about the loser pays model; community involvement in panelist selection; language or proceedings; and a warning process, so that they could indicate early on whether or not a filing for an IRP was frivolous, and get those out of the system so that the IRP isn't clogged with, you know, just a number of claims that are really kind of dead on arrival.

So I don't know if anyone has any more that they would like to add, but I would say please, in advance of the next draft that I'm going to be working through, please make sure that these items of this response align with your stakeholder group and constituency comments, so that there are no surprises when the response comes out, because it'll probably track these very closely. And that's probably good advice just generally.

Okay. Then moving to - I still see an empty queue, so if I'm going fast here just, you know, shout or raise your hand. Item Number 8, we have Recommendation 8, in general, support for improving ICANN's RFR, request for reconsideration, process.

Again there was general support, just like the independent review. However, there was also a list of qualifications. Our response will track these fairly closely, that there should be some independent party that would review and advise the Board on reconsiderations; that there would be a check to see the merit of the request was worthwhile -- and I think this goes back to the previous IRP about frivolous complaints; that all aspects would be transparently and fully communicated to all ICANN stakeholders in a timely manner.

I think that this is a consolidation of some concerns that there were either - some discussions were incompletely communicated, or they were withheld for long periods of time. And, in fact, some concerns about the request for reconsideration were just - some of them were just not responded to at all, that they would just kind of sit on them. And so enforcing some time frame was important.

And then the recommendation should also make sure that any interactions with the post-transition - I guess that's PTI, the post-transition - I'll have to go back and reference that last bullet point. I'm not sure what it's getting at. So any concerns? Recommendation 8? Phil, go ahead.

Philip Corwin: Yes, Phil here, and not a concern. I want to convey two things. One, I just came from NamesCon, and actually had quite a conversation with Chris LaHatte about this. And he's very - stressed his understanding of the importance of Ombudsman review under the proposal, and is ready to take it on. So that's a good thing.



But we have nothing here about the timeliness of response from the Board on requests for reconsideration. I bring that up solely because the BC and the NCSG filed a joint request for reconsideration in October. And not only did the Board miss the 30-day promised timeline for response, they're now past 90 days.

So I don't know that the need for a timely response to an RR is captured here, or whether that might be a point we'd want to add. But if you file a request for reconsideration and there's no response from the Board for months and months, it's not a very effective mechanism.

James Bladel: Thanks, Phil. I do believe it's captured in the third bullet point where we say that - I tried to roll that up into the sentence about communicated to all stakeholders in a timely manner. But I think you're correct, just that we probably need to hit that note a little stronger and reinforce what we mean by timely manner, with strict time frames that must be hit, and strict deadlines that must be adhered to by this process. I'll beef that up a little bit.

Philip Corwin: Okay, thanks.

James Bladel: Yeah, I can see it is in there, but it is kind of just - it is kind of squishy. We need to strengthen that. And Ed is agreeing with you in the chat, by the way.

So, okay. Moving then on to Recommendation Number 9 - actually, can we skip to Recommendation Number 10 real quickly here? We have enhancing the accountability of supporting organizations and advisory committees. I think that there was some support here, but there's some concern as well.

This is about the SOs and ACs. I think this is coming from other groups saying that the SOs and ACs must also be accountable. This isn't just accountability for the Board and staff and the GAC. And I think that there was some concerns expressed.

I think everyone agrees that this is a good approach, but there were some notes here that the SO and AC reviews are usually - it's the Board's discretion to control that process, and to approve or reject the outputs, so that process should be opened up a little bit more, and taken away from just a Board function, and moved to the broader community.

And then there's also this note about the double standard, where the GAC is not subject to any sort of internal review, similar to what the SOs and ACs - the other SOs and ACs are held to. And that goes back to Recommendation 1 and Recommendation 11 about maintaining balance of the community and the role of the GAC.

So if there were never - yeah, and I think that - to the folks weighing in in the chat, I think you are correct. This is actually coming from the Board. It's the Board saying that, you know, it's not just about the Board accountability. It's the SO/AC accountability as well.

I mean I think we captured it well here. I don't mean to belabor it. If you spot any concerns here, Phil, go ahead.

Philip Corwin: Sorry, that's an old hand. Taking it down.

James Bladel: Okay. Okay, no problem. And so generally I think that while this is an important issue, I think that the GNSO very non-controversially believes that yes, reviews are important. Accountability is important. But it should be a community-led effort. And by the way, you can't just take one SO or AC off the table completely and hold the others to a higher standard. So thanks for that one.

Recommendation 11, spent a lot of time there. Recommendation 12 is a commitment to further work in Workstream 2.

Here I just tried to collect a category that reflects all of the comments that were raised about Workstream 2, that it must be supported the same way that the Workstream 1 items were supported, in terms of staff support and independent counsel; that there should be come time constraints; targets for completion at the end of 2016; and that it should specifically include reviews of transparency mechanisms like the DIDP and the whistleblower policy.

So I don't know if anyone has any objections here. I think this is really just rolling up all of the comments on Recommendation 12 into a single phrase.

So that then brings us back to the only one I think that's left, is Recommendation 9. And I wanted to touch back on this one, because I think this another bit of a larger one. Recommendation 9 is that the affirmation of commitments information needs to be baked into the ICANN bylaws.

And I think generally speaking the GNSO comments supported this. And what I'm seeing - now Paul is noting that there's an omission in Recommendation 9, that - okay, I'll have to unpack that later. Sorry, Paul. It looks pretty complex here, so I'll take a look here and then I'll untangle that one.

But Recommendation 9 has - a number of groups had some thoughts on how ICANN would incorporate the AOC into - and including not just the AOC, but including, I believe it's reviews, into the bylaws. Two groups, NCUC and NCSG, had some outright objections to some elements. And then there was support from some groups. IPC and BC had some qualifications.

So there were some concerns about Whois. There were some concerns about competition, consumer trust. That review team, of course, just getting underway, so it's really hard to - we don't have a lot of history with that. And, you know, the BC had some thoughts here about two of the reviews as well.

You know, just taking a step back from this, and then also trying to keep one eye on Paul's points raised in the chat, it's starting to look like this might also track similarly towards Recommendation 5 in that there are a number of different views here.

The only concern I have, and the only hesitation I have in saying that this is a divergent recommendation, is that Recommendation 9 is sufficiently complex that I don't know that these are necessarily mutually exclusive conditions or qualifications. I'll have to take a closer look at that.

So I don't know if anyone wants to weigh in on this. I heard someone. Was that Keith trying to jump in? Or - no? Okay, sorry. Thought I heard Keith's voice. It could have been just maybe somebody in the hallway here. So I think - yeah, I noticed some folks are already getting ready to drop, and we are approaching the top of the hour.

But here's what I'd like to propose, is that with Recommendation 9, it's teetering on the edge of, you know, being divergent, similar to Recommendation 5.

But I think that, you know, before we throw this one out, we should probably put it under the microscope a little bit further, and see if we can uncover those common threads of qualified support, and make sure that whatever is valuable that can be salvaged here, in terms of feedback, is communicated back to the CCWG, because I think that the concern here is that if we find any of these qualifications that are on a collision course, then we're just going to have to essentially flag this one as divergent, and note that as well.

And I think, Ed - yeah. Exactly. Thanks for saying in one sentence what I tried to say in 12, Ed. You know, may not be able to say it, but it's worth a shot.

So, okay. And that, I believe, takes us to the end of our list. So let me just take a couple of minutes to here first say thank you. It's four o'clock in the morning here, or it was when we started.

So I definitely appreciate everyone's work on this, including all of the comments on the list, and all the folks who worked on the sub-team. And by the way, if you want to continue to help out on this effort, I'm not going to turn away any assistance. That's for sure.

Going forward, we did arrive at a couple, I think, of important decisions, is that we are not going to have a motion with votes in this first round. We are going to express ourselves more in the terms of a qualified letter, similar to what we saw coming out of the ccNSO. Perhaps ours will be a bit longer and a little more of meatier substance.

That letter will be circulated, obviously, for discussion, as soon as possible. And it will be posted for folks to arrive at some sort of - everybody will have a chance to review and edit the letter. I'll just say it like that. But I do want to get that out as quickly as possible to the CCWG co-chairs, because time is valuable, and it's ticking away.

The other point is to note that there will be likely some changes, some reports, some supplemental amendments, whatever they're going to call it, coming from the CCWG, end of this month, early next month. I'm not really sure of their updated timeline. And

that will probably indicate that some of the things that we've commented on have been addressed, and some of the them probably created some new concerns. We'll have to keep a close eye on that.

But there is a more formal vote in our future. So what I'm asking folks on this call, particularly those folks who have raised - who had, I think, some rightly placed reluctance to get into those issues on this call, is what do we need to put into place now, so that we're ready for that when it comes up?

Because it is coming down the tracks here, and it is something that we will be asked to do under the charter of the CCWG as one of the chartering organizations. And I think to Phil's point, we don't want to be left out in the cold here while the other SOs and ACs just charge on without us.

We're a diverse group. We're an important group. We're the largest group at ICANN. And I think that our voices need to be heard. So we need to do what's necessary, whatever administrative or housekeeping efforts need to happen in our SGs and (C)s, to make sure that we're ready for that vote when it comes. I think we need to lay the groundwork for that now.

So that's just my request and my plea to the different councilors, to please make sure you're having those conversations internally. So with that - and I say that coming from a stakeholder group that is also very much an exercise in cat-herding. So I'm not pointing fingers here. I'm owning that statement.

So with all of that said, I think we can proceed. We'll have a draft letter ready. I think we went through and accomplished a lot. I think we're much more on the same page now than we were two hours ago. And I thank everyone for their time and effort on this, and I will let you guys go two minutes early. So thank you very much for your help.

END