

## **Policy & Implementation Working Group Meeting TRANSCRIPTION Wednesday 01 April 2015 at 1800 UTC**

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 01 April 2015 at 1800 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-policy-implementation-01apr15-en.mp3>

On page:<http://gnso.icann.org/calendar#apr> (transcripts and recordings are found on the calendar page)

### Attendees:

Cheryl Langdon-Orr – At-Large  
Amr Elsadr – NCUC  
Anne Aikman-Scalese – IPC  
Alan Greenberg-ALAC  
Greg Shatan – IPC  
Chuck Gomes – RySG  
Olevie Kouami – NPOC  
J Scott Evans – BC  
Avri Doria - NCSG

### Apologies:

Carlos Raul Gutierrez – GAC  
Michael Graham – IPC  
Tom Barrett - RrSG

### ICANN staff:

Marika Konings  
Mary Wong  
Karen Lentz  
Steve Chan  
Berry Cobb  
Terri Agnew

Coordinator:       The recording has started. You may proceed.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the Policy and Implementation Working Group call on 1 April 2015. On the call today we have J. Scott Evans, Cheryl Langdon-Orr, Olevie Kouami, Avri Doria, Anne Aikman-Scalese, Greg Shatan, Chuck Gomes and Alan Greenberg.

I show apologies from Carlos Raul Gutierrez, Michael Graham and Tom Barrett. From staff we have Marika Konings, Mary Wong, Karen Lentz, Berry Cobb, Steve Chan and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you, Chuck.

Chuck Gomes: Thank you very much. Is everyone else hearing the buzzing in the background?

Terri Agnew: Hi, Chuck it's...

J. Scott Evans: Yes.

Anne Aikman-Scalese: Yes, a lot of buzzing.

Chuck Gomes: Okay, please mute your phones if you're not talking. And hopefully it's not me so that's a lot better. Okay. Thank you very much. Welcome to everyone. And this is Chuck Gomes. And this is - I don't know what number of meeting we have, we don't count them like they do on the CWG teams.

But we've had a lot of meetings behind us, a lot of you have - most of you have participated in most of those meetings and I appreciate that. I thank everyone for just jumping on board last week and without a chair you guys got some good work done and I appreciate that very much so thanks for

doing that and thanks again to Mary for taking the lead there, I appreciate that very much.

All right well we, today, are going to jump right in picking up where we left off last week at - Row Number 415. And before we get there I just want to communicate one thing with regard to Row 4(a), Principle D1(b) and the change that the Registry Stakeholder Group suggested from community the GNSO there's been some good discussion on the list. There was some support for the compromise I suggested. I think I wrote it while I was on the plane between Istanbul and Los Angeles. And then Amr suggested an edit to that which also seems fine.

So we're going to - staff has gone ahead and made that edit, as you can see, in Adobe there. But if someone still objects - this is not something I'm going to fight hard for. I don't think it's that significant. But if someone doesn't agree with the edits that have been made then speak up and we will deal with that.  
Greg.

Greg Shatan: Thanks, Chuck. Trying to understand the (unintelligible) language would leave us contributing to the GNSO challenge process, I'm not sure the contributing is a - seems like an ambiguous or - a word that doesn't have a particular meaning.

So it seems that the way this is worded that the GNSO would retain the right to challenge but that other stakeholders and - should be - will have the right to contribute which I'm not sure what that means. Does that mean that they can't initiate a challenge but they can agree to one, that they can request the challenge but that the final say on the challenge rests with the GNSO?

I'm not advocating a particular position yet. I'm more trying to understand what the - what the mechanism we are recommending would now be.

Chuck Gomes: So in the GNSO, Greg, the - anybody can participate in the GNSO processes. So did you have a suggestion for a different word rather than "contributing"?

Greg Shatan: Well as I look at it now it says that the - first it says the GNSO maintains the right to challenge whether updates need further review for policy implementation.

Chuck Gomes: Correct, because that's - the GNSO is the developer of policy...

Greg Shatan: Right.

Chuck Gomes: ...with regard to gTLDs so that's...

((Crosstalk))

Greg Shatan: So that's, you know, the original suggestion was to, you know, not - was to reject the change by some. So I guess contributing will be the right to kind of speak up in a sense. But the arbiter remains the GNSO.

Chuck Gomes: Right, which is the case, right, in the - in the GNSO policy process or...

Greg Shatan: Right, yeah no I agree it's - I just want to be clear and to the extent that anybody thinks that this is now giving the right to another stakeholder group or AC or man on the street to say start a, you know, start a, you know, start the challenge or whatever you want to call it that that's not giving it that right.

And I guess one other question is whether it should be impacted stakeholders or the community. Then we get into the issue of who is an impacted stakeholder. Is - is the IPC an impacted stakeholder sometimes, all the time, none of the time? So, you know, that impacted language has a tendency to sound like it's ring fencing things with the idea of putting people outside. So I'm a little concerned about that language.

Chuck Gomes: So, Greg, would you rather we go back to the original language.

Greg Shatan: Well I think that if we took out impacted - and I see that's what Amr is suggesting in the chat - that that would be - I think that would strike the right balance.

Chuck Gomes: Anybody have a problem with taking out the word "impacted"? Okay. Let's take that word out. Thanks, Greg. Alan.

Alan Greenberg: Thank you. I'm still - I'm not sure if I'm confused or disagree or what. Perhaps first a question. Who is the challenge being made to?

Chuck Gomes: Well it's the implementation process that's going on, right? If a change is suggested the - by the implementation team, whoever that is, then that's what would be challenged, right?

Alan Greenberg: So essentially we're saying the implementation review team, or someone, notices that something is being implemented and it is not - and in their mind it is counter to policy and that would then have to be fed into the GNSO and the GNSO could challenge.

Chuck Gomes: Right.

Alan Greenberg: Okay. And I guess I have a word to contribute with the - problem with the word "contribute" because that implies there is a GNSO challenge process.

Chuck Gomes: Okay, do you have a specific suggestion instead of contribute?

((Crosstalk))

Alan Greenberg: Contribute or...

Chuck Gomes: ...too much time on this because...

((Crosstalk))

Alan Greenberg: No, no I understand.

Chuck Gomes: ...we need to move ahead.

Alan Greenberg: No, no but I think it is important. If it was contribute or request a GNSO challenge...

((Crosstalk))

Alan Greenberg: What I'm trying to get around is if the GAC or the ALAC sees a problem we need to be able to bring it up to someone's attention even if the GNSO proper has not.

Chuck Gomes: Agreed.

Alan Greenberg: Because the last thing we want is we'll wait until the board - it goes to the board and then complains.

Chuck Gomes: Exactly.

Alan Greenberg: So there's got to be words there that imply that the issue can be raised by someone else. Now, yes, we may always have a friend on the GNSO and tap them on the shoulder and say, "Psst, can you please raise that?" But that's not always an effective way of doing things.

Chuck Gomes: So are you suggesting say contribute or request?

Alan Greenberg: Or request or bring to the attention of. In other words, force the issue that the GNSO has to look at it and say is there a problem or not?

Chuck Gomes: Okay.

Alan Greenberg: They may not agree...

((Crosstalk))

Alan Greenberg: They may not agree but that's fine. But we've got to be able to get input into that process.

Chuck Gomes: Okay thanks.

Alan Greenberg: Which I think was the intent of the original word community there.

Chuck Gomes: Anybody have a problem with that edit? Okay. Mary.

Mary Wong: Thanks, Chuck. Thanks, Alan. It's a small point but to the extent we make that change and it might better reflect what we're all trying to do here, I think maybe we should also then change the idea of given the opportunity because it might sound a bit patronizing as if the GNSO giving other groups the opportunity to come talk to them.

Chuck Gomes: That's a good point. Good point. Can you fix that? You're the writer today so I'll let you fix that. Amr, please.

Amr Elsadr: Thanks. This is Amr. Was someone going to go?

Chuck Gomes: Your turn, Amr.

Amr Elsadr: All right thanks. Well, yeah, I don't disagree with Chuck - I mean, sorry, with Alan at all. I think his point is very valid. I just did want to point out since this is - this principle is specifically addressing challenging implementation or perhaps providing - that could be in the form of providing guidance to implementation of a policy that was already developed.

The way this principle we're suggesting it be worded allowing all stakeholders to contribute to the challenge process, I think that's very consistent with some of the other recommendations that we've made in the initial report where anyone can perhaps request that the GNSO begin some sort of process to address a question then the GNSO decides what to do about that.

For example, if it's an ongoing implementation of the policy that has been developed there is the implementation review team and this could be referred to that. If this is something that has already implemented then the GNSO could, for example, opt to launch a GNSO guidance process to address whatever the issue may be. It could choose to work, choose not to.

But I'm personally comfortable with the direction we're headed and the way it's worded now. And I feel that it's not terribly ambiguous in terms of what steps the GNSO could or would take under this - in the situation where a challenge is brought forward by any stakeholder whether inside or outside GNSO. Thanks.

Chuck Gomes: Thanks, Amr. Appreciate that. J. Scott.

J. Scott Evans: Yeah, this is J. Scott. I was just writing a private note to Mary. I think we should change - and she's done it - stakeholders have the right to bring specific issues - and then I would insert, "to the GNSO Council and to contribute," and then pick up that "to contribute in the GNSO challenge process," or whatever.

Chuck Gomes: That sounds fine to me. But anybody have any comments on that?

Alan Greenberg: Yeah, it's Alan. The intent is correct but in fact only GNSO members - GNSO Council members have speaking rights at the GNSO Council. So I'm not sure how we bring an issue to the Council. Maybe that just means sending an email to the chair in which case I'm happy.



Chuck Gomes: Yeah, I think that can be - I don't think that that's a serious problem.

Alan Greenberg: Okay.

Chuck Gomes: Okay. We can do that...

((Crosstalk))

Chuck Gomes: I do want to move on past this one because if we spend this much time on every one of the comments we're going to be in Dublin when we do our report and I don't think any of us wants to do that. I do want us to take the time we need but let's try and do it as efficiently as possible on that. So J. Scott is that...

((Crosstalk))

Chuck Gomes: ...old hand?

Alan Greenberg: Chuck, then I suggest the Registry Stakeholder Group doesn't propose controversial changes.

Chuck Gomes: That's a good suggestion. That's a done deal. You know, I was kind of - as you know a little bit of an awkward situation. I tried not to be too aggressive because I wanted the people to feel free to make their comments. I pushed back in cases where I thought maybe I could lend some understanding or something like that. But anyway it is what it is. And so but those comments are there.

And I was pleased that we got some people in the Registries who really took some time and focused on it.

Alan Greenberg: Yeah, that was tongue in cheek just for the record.

Chuck Gomes: Yeah, thanks, Alan. I appreciate that. Okay, are those old hands that I see up there or? So for - okay and J. Scott, did you want to say something else?  
Okay, thanks. All right let's jump over - Mary, you okay on the changes there?

Mary Wong: I believe so. Thanks, Chuck.

Chuck Gomes: Thank you, Mary. Okay let's go to 415 - oh let's see, wait a second. Let me look at the - I got to look, oh Anne's on good, and Greg's on. Greg, we thought maybe you had a conflict. This is great. We've got the IPC here. And so that I'd like to do - if either one of you can - is let you talk to 415 and then we'll discuss it. Now if you're not comfortable doing that that's okay, just let me know.

Greg, go ahead.

Greg Shatan: I just need to read it and remind myself if Anne has read it more recently or is ready to speak off the cuff I will cede to her. And I'll cede to her in any event.

Anne Aikman-Scalese: Yes, this is Anne. Thank you very much, Chuck and Greg. This is a very specific comment that came in when we sent out the survey. And my understanding about the comment was that someone who had been a very active participant in working groups said that - in PDPs - said that performance targets per se, and standards per se may not always be appropriate but that timeline for implementation of policy advice are always appropriate but that targets and standards may or may not be appropriate depending on the subject matter. And so I think this is - really goes to the flexibility of what is recommended in a PDP depending on subject matter.

Chuck Gomes: And so there's actually a specific change recommended there at the end of the first paragraph, is that correct?

Anne Aikman-Scalese: Yes.

Chuck Gomes: And everybody can see that I presume. So the IPC suggests modifying the language to read, "Performance, timelines as well as other targets and standards as appropriate." That seems okay to me. Is there anybody who doesn't think that change is okay?

Okay we got an agree there. I should scroll down so I can see them if there's any others in there. Okay, thanks Amr. All right, I think that change is okay. Do you want to continue, Anne?

Anne Aikman-Scalese: Thanks, Chuck. I am not sure what you mean by continue. I we moving on to the next issue?

Chuck Gomes: It goes on - is the rest of it all related to that same point? I thought - there is two more - there are two more paragraphs in the comments on 415.

Anne Aikman-Scalese: Oh, okay. It's not clear why a working group recommendation would project the need - ah - okay so the point here from - in a discussion on the IPC list was that it almost looks as though it's drafted so that a working group can punt forward to the IRT any policy issue it feels it can't deal with at the time.

So the - there was a request for a clarification that if there is a policy issue it's got to be dealt with by, you know, in the PDP by the working group and it shouldn't be punted forward. Now I don't actually recall whether there was a suggested change in language, and I'm trying to scroll down or something here.

Chuck Gomes: While you're thinking about that let me let Greg jump in.

Greg Shatan: Thanks. In my personal opinion I think differs from this comment, although consensus is such that that happens from time to time. I don't think it's a sign of a punt to say that a working group may conclude that additional policy work

may be needed during implementation. It's more a fact of life of - and you can't necessarily anticipate everything that's going to come up.

I think there is a concern that sometimes there may be working groups that believe policy at such a high level that there is a lot of policy left to be made before you get to implementation. But by and large I think that's the exception, not the rule and most working groups are pretty thorough and hitting whatever they feel they can hit in terms of setting up the policy.

But it's just a, in a sense, inevitable that there will be times when you'll come up, you know, midstream in implementation and realize that you have a policy issue. So I don't feel that this, you know, necessarily signifies some sort of weakness in the system of working groups.

You know, obviously we should encourage working groups to resolve policy issues they can identify. But that - if there were never any policy issues during implementation, we wouldn't even have this working group.

Chuck Gomes: Thanks, Greg. Anne before I go to Alan, do you want to say anything else on that?

Anne Aikman-Scalèse: Yes, thank you. Well, the IPC's comments were approved by consensus prior to being submitted. I think it's accurate to what Greg says, you know, policy issues arise during implementation but what we're talking about here, if I can interpret the comments that came in while this survey was being filled out, and we were very careful to pursue, you know, comments from folks who had not participated in this working group so we could have a bit more objective comment.

The idea is that a working group any PDP should not say here is a policy issue that we can't figure it out but we think it's a policy issue and in the future additional policy work is going to be required, but that's undesirable from the standpoint of that community being able to move forward.

If it change in factual circumstances or an issue arises during implementation that creates an issue that has policy implications, that's fine. And then we use one of the three processes. But if there is a policy issue that arises during the PDP the working group should address it, unless, you know, I guess if they need more facts than they have to resort to experts or whatever.

But if it's identified in advance it should be - and again I'm just restating I think what was commented by another party, and we did develop a consensus on it, that a working group should address that policy issue.

Chuck Gomes: Thanks. Thanks, Anne. So if you can think of any tweaks we can make to this, I'm going to give you time to think about that because I'm going to Alan, Karen and Amr, and then we'll try and come to some sort of resolution on this. Okay, Alan.

Alan Greenberg: Thank you. I believe that the wording in the document right now is the correct one. And I will give specific examples. Anne is right that if we identify a specific policy issue we should do our best to address it. But that's not what this is talking about in my mind.

What we're talking about here is to know that there are policy implications but we don't understand enough about it to address it right now. I'll give you two examples, one is the current new gTLD process where the group deliberately said we will not - we're not going to flush some of these things out because it needs a lot more discussion and it's not until you go to the implementation that you start understanding what some of the issues are.

And another example is on the upcoming, forthcoming, whatever, PDP on directory services. That implementation is likely to include a major software design process. Inevitably when you embark on that kind of process you will start asking questions that were not thought about before because once you're doing the software design you're going to have to look at things at a

level of detail which were not thought through and not able to be thought through until you go through that process.

And there will inevitably will be design things now. Some of us suggested that for the directory services we may in fact want to have to PDP's, one the work you do before the software design, and one the work you do after the software design. But this is another way of addressing that same issue and probably a more elegant way of addressing the same issue.

So I think they're going to be many times when you can foresee there will be policy work required that you don't understand the details enough to actually come up with the answers. So I think it's worded correctly as it is. Thank you.

Chuck Gomes: Thanks, Alan. Karen, your turn.

Karen Lentz: Thanks, Chuck. So I've changed my view a little bit after listening to everybody talk. I mean, my initial thought when I read this and look at the principle was to be confused as to what was in mind they are because it does seem to encourage leaving things unfinished.

But if the intent is to go to, you know, things that the GNSO for the working group are aware of and identifying them I can envision a circumstance such as Alan is talking about where something like that could be identified. I think it would also be helpful to, you know, to the extent that it's possible, perhaps give some guidance from the GNSO and how they see those policy issues being resolved.

So if, for example, one, you know, a couple of recommendations are tied to one another and one of them may have some open questions, you know, are we meant to not move forward on any piece or, you know, a little bit of that kind of dependencies if such exist.

And then the second is just sort of an organizational point. This principle falls under the principles that apply primarily to implementation. And I can, you know, see an argument for putting it here or above. But it is direction to, you know, focus on things that occur in the PDP in developing the recommendations. So it may make sense to move that up. Thanks.

Chuck Gomes: Thanks, Karen. So are you okay then with the way the principle is worded?

Karen Lentz: Yes I am. I think it - we could maybe clarify a bit as to, you know, if there is a distinction between, you know, policy work that we just aren't doing or policy work that we foresee but, you know, can't do at this stage.

Chuck Gomes: Thanks.

((Crosstalk))

Chuck Gomes: Amr.

Amr Elsadr: Thanks, Chuck. This is Amr. Yeah, I definitely agree with both Alan and Karen on everything they've just said. I think there have been previous examples that support this and would probably - which is why I would say that I am also comfortable with the language as is.

For one thing, it's not just about identifying policy questions that may come up in a PDP working group. Some of these questions may already have been identified, some of them may actually be questions - a PDP working group has been chartered to answer but has failed to answer.

And something like this has already happened, for example, in the thick Whois PDP where the PDP working group provided a recommendation with instructions on how to proceed depending on how the question is answered during implementation review.

And this is a very specific situation that I'm just providing an example for. And it may not apply to other examples. But in another scenario a policy issue may be identified that a PDP working group is not chartered to answer and may not - and the scope of the PDP may not allow that PDP working group to address this. It may be a huge issue, it may be something that the PDP working group can't work on, may not have the capacity or the time to work on.

And in situations like this a PDP working group can very much, within its recommendations, provide a recommendation that the new issues report be published addressing this whole other policy situation. And that may need to go - that may need to progress as implementation of the original PDP's recommendations are happening.

So I think there are several scenarios where policy issues may need to be addressed during implementation. There are different ways that could be done. And I think that the way the principle is worded right now would allow for these processes to move forward. Thanks.

Chuck Gomes: Thanks, Amr. I appreciate that. Now let me come back to Anne or Greg and get your best thinking. Did you come up with maybe a way that we can tweak it to improve it or do you think it's safe that we can just explain why we think it's okay?

Anne Aikman-Scalese: Yes it's Anne, Chuck. I agree with the way that Karen characterized the work. And I think, you know, on behalf of the IPC, even though this was not, you know, my comment in particular the IPC comments I think are very consistent with what Karen described. I'm sorry I don't have, you know, a language change. I could propose one afterward or perhaps staff could propose one consistent with Karen's characterization of the work.

Chuck Gomes: Why don't we do that? Why don't we just - this is Chuck - go ahead and afterwards when you have time to give it some thought. If you have a



suggested change - I'm not hearing anything that at all problematic with what the IPC changes. I think we are all in agreement with what they're saying.

So, Anne, why don't you do that after the fact, or anybody else, Karen, if you want to work with her you can do that too. Because I don't hear anything that would be problematic in tweaking it a little bit. And then we can just agree on the list if we're okay with it.

Or if you decide after trying it that maybe we just leave it alone, that's okay too. And let's jump to Alan and then we'll get to Greg .

Alan Greenberg: Thank you very much. I think the fact that the IPC homed in on this is important though. The logic behind why those words were there, and, you know, at the time we did talk about it a fair amount, it's not intuitively obvious from reading the principle.

So I think it needs a footnote or a rationale incorporated into it or something to say we are not just copping out and thing you can defer work to later. You know, the fact that it was questioned. As we see in the IPC comment indicates that we are - our text was lacking something. So even if the principle is correct I think we need to defend it somehow and I don't much care which mechanism we use. Thank you.

Chuck Gomes: Good points, Alan. Appreciate that. Greg.

Greg Shatan: Thanks, it's Greg. I got a fresh line so if I sound like it was buzzing before and don't sound it now that's good; if I'm still buzzing then that's not good. In any case...

Anne Aikman-Scalese: Still buzzing. I'm sorry, you're still buzzing but go ahead.

Greg Shatan: Let me see what happens if I pick up my speakerphone.

Anne Aikman-Scalese: Much better.

Greg Shatan: Okay well. In any case - and now of course my phone starts ringing. In any case, a couple possible suggested language changes. One might be to say additional policy work may become apparent during implementation. Another one that I thought of was additional policy work may be identified and be needed during implementation.

Neither of those are breathless, deathless pros but I think it kind of gets at the temporality issue that the idea is that it's not policy work, we know that's happening now but we're just kind of sick and tired of doing policy work for the moment but rather it's that later on policy work not specifically identified or identifiable during the working group phase will become apparent and identifiable during the implementation phase.

Chuck Gomes: So let's take Anne and, Karen, if you want to help her that's good because of your comment. Why don't you work on that afterwards and submit a little redline of the section and put it to the list and that way everybody can see it and be comfortable with it. It's been a great discussion. And this is an example where it's really appreciated - I really appreciate the fact that the IPC took the time - and others did it too, I'm not just singling it out but we're talking about their comment now.

The fact that they put thought into this is very much appreciated. And, Alan, I think you're right, obviously there's something that left an impression that we didn't intend to leave I think so that's good. Thank you very much on this.

There's one more item on this sub paragraph B on Page 16. Anne, do you want to talk about that one?

Anne Aikman-Scalese: Sure. Thanks, Chuck. This is Anne. This has to do with sub paragraph B under Number 1, implementation standards. And they are the principles that apply primarily to implementation. And I think essentially this is

a request for a clarification as to the meaning of the first phrase, changes to GNSO implementation guidance.

I think the question arose - well how would such changes to guidance arise or how and why would those come up? And I don't know if the answer to that is IRT or board action or - but it was more that the question was being raised about how changes to implementation guidance would arise procedurally. Thank you.

Chuck Gomes: So first of all I think that we're talking about implementation guidance that was provided in the PDP report, right? So it seems to me that that could happen through an IRT. It could happen through other - if there's no other IRT, which is a possibility, although we're recommending it - in fact requiring it with an exception process, whoever the implementation team could possibly deviate from that. So I guess we could state that in here. Greg, is that a new hand? Okay, thanks.

And by the way...

Anne Aikman-Scalese: I wonder if I could cut this short possibly, Chuck.

((Crosstalk))

Anne Aikman-Scalese: It just strikes me that maybe it would be fixed by adding the word "proposed." Perhaps the concern is that if in fact - through the PDP implementation guidance has been provided that any change to that implementation guidance is only a proposed change. And that may be the concern. And, Greg...

Chuck Gomes: That's a good suggestion. I think we might need to go a little bit further. And I obviously can't speak for the IPC. But I think I understand what they're getting at. So what if we were to say make the change you said, propose changes to

implementation guidance, and then maybe put a parenthetical, for example, from the IRT or from an implementation team if there's no IRT.

((Crosstalk))

Anne Aikman-Scalese: Right.

Chuck Gomes: Something like that?

Anne Aikman-Scalese: This is Anne. Yes, I think that would address the question. I'm not sure, Greg, do you feel that that addresses our constituency's question what Chuck has just suggested?

Greg Shatan: Yes.

Anne Aikman-Scalese: Great, thank you.

Chuck Gomes: I like short responses like that. That's good.

((Crosstalk))

Anne Aikman-Scalese: Can we move on?

Chuck Gomes: So okay excellent. Now I'm going to ask a question here, in our call next week Greg and/or Anne, as far as you know will you be able to participate on that call?

And the reason I'm asking is if not, if there's nobody going to be from IPC, it might make sense for us to skip ahead to other IPC comments. If you think you're going to be involved then we don't have to jump the gun on that.

Anne Aikman-Scalese: This is Anne. I do expect to be able to participate next week.

Chuck Gomes: Okay.

((Crosstalk))

Greg Shatan: And this is Greg. Buzz, buzz. I expect to participate as well.

Chuck Gomes: Thanks. Okay. Appreciate the buzz in this case. Okay anything else on 415? So we can I think then go to 418 which is an ALAC comment. And we have I think a couple people on here from ALAC, don't we? Cheryl, and Alan and did I miss anybody in my quick glance? So let's go to 418 then. And would one of you like to talk about this one for us?

And I understand if you're like me you kind of have to get up to speed on the fly here because you've been so busy. Alan, you're up.

Alan Greenberg: Thank you. And I raise the issue with some trepidation because I know there is strong disagreement from a number of people within the GNSO. In the past when we've had issues which divide people heavily either because of the work they do and who they work for or because simply different philosophies, we - there tend to be two results.

One is a deadlock and the VI discussions or perhaps the poster child, the best examples of that. And it's not clear that if the board had taken the proper action and remanded it back to the GNSO it would have worked a lot better a second time. I know some people claim that, you know, it was the board tinkering with things day by day that caused the problem but I'm not 100% convinced.

The other issue is when there are issues where the public interest, and from my perspective I'm looking very much at user interests, are at odds with those of contracted parties, the contracted parties are in a position to contribute heavily to the - to a PDP working group and the user perspective is often not given quite the same level of support and ultimately contracted

parties, if working together, the registries and registrars, have the effective ability to veto, if it ever got to Council level.

But before that at the working group level we are told we must come to agreement. And that agreement sometimes results in a very watered down recommendation. If something is decided right now by the board, and everyone agrees that the board shouldn't be making arbitrary policy decisions, the board has a fiduciary requirement to honor the bylaws and consider public interest issues and a number of other such issues as paramount regardless if people are going to suffer financially from it.

And the GNSO has no such mandate. And that's of great concern. So it's not only with the new processes but with the basic process but when you go to an accelerated process, a faster process, which has less time put into it and perhaps less people put into it the problem just gets - is exacerbated.

And really the question is how do we address this? You know, we're putting all these processes in so the board will never be in a position to make a chance to have to make a policy decision but how do we make sure the policy decisions that are coming out of the GNSO in fact are honoring those aspects of our bylaws? Thank you.

Chuck Gomes: Thank you, Alan. And I put myself in the queue because I wanted to participate more as a participant rather than the chair at the moment. But with regard to VI, and this is a side point, it's not super relevant, but even the registries weren't united on what the right choice was on this so just to point that out.

So the kind of situation we get - and I think we're going to have - and I'll get more general now and not just talk about VI, but I think we would be naïve to think that we're always going to be able to develop a policy that has broad support. It's just not going to always happen.

Now does the board need to make a decision? My own personal view is that to the extent that they can let market forces work they should do that and not force a policy from the top down. There may be cases though where that doesn't work and they have to make a decision. So I understand that and I'll stop there and go to Avri.

Avri Doria: Thanks. Avri speaking. I agree to the extent with what you just said, Chuck, to the extent that the board should not make a decision. I agree with that. I'm not sure how to deal with the - that market forces are what needs to prevail because the global public interest may indeed not be identical to the result of market forces.

And I think that the mechanism that we kind of have to rely on though is the one that exists now that the board and the GNSO need to work it out, that it needs to go and it needs to go back and forth or indeed as sometimes we're seeing indications of we have times when the board and GNSO put together a, you know, a joint working or there's even more group in it to try and resolve a process like we're doing now with the EWG PDP process where there's disagreements and there's a fair amount of work begin done between the board and some representatives from inside the GNSO to try and arrive at a solution.

Now this isn't a global - I mean, we're talking process in this group, not, you know, a point of global public interest although, you know, that whole PDP effort is really one that gets involved in global public interest.

So I don't know that we need to reserve or even make things special for resolving that other than that that interaction between the board and the GNSO should continue until such time as there is a resolution. Thanks.

Chuck Gomes: Good point, Avri. Thanks. Alan.

Alan Greenberg: Yeah, thank you. With regard to VI, that wasn't one that I was referring to as contracted parties versus the - versus other people. That was one where I said there are major philosophical differences. And, you know, the veto in Council I was referring to doesn't address that one. But it does say when people are going into something with major philosophical differences and a decision has to, you know, you're almost to the point where a decision must be made.

You know, in the VI case the board, I believe, made the wrong decision in that they made an irreversible one which, you know, personally I think that was wrong. But be that as it may, what Avri is describing of, you know, going back and forth will work - would work perhaps for cataclysmal decisions, that is it's obvious to the board that we have not finished the process and we're passing on a recommendation but it's not a good recommendation, a sound recommendation.

But for things that are less onerous the board gets a recommendation from the GNSO and they honor it. They don't look at the details of it and say was the best bargain hammered out or was there, you know, implied pressure that resulted in something which was not purely in the public interest. So on the major decisions the back and forth will work. On the lesser ones it just doesn't - it doesn't - is not going to play out that way.

Chuck Gomes: Thanks...

((Crosstalk))

Alan Greenberg: I still think there is an issue.

Chuck Gomes: Yeah, and, Alan, I'm going to come back to you after I go to Avri, okay? And the question I'm going to ask you is okay is this a statement that the ALAC is making or do you think some kind of change in the principles is needed to



address the statement? So, again, you have a chance to think about that while Avri is in the queue again.

Avri Doria: Okay, thanks. This is Avri again. A couple things. One, one of the things that I thought Alan was going to make - call me on, was the - because that's - we started talking on the emergency, on the things that had to happen quickly. And indeed the board does have the ability to make those temporary interim decisions in those emergency cases.

Now getting to the case of - getting to Alan's other point, the global public interest is because of mission and what have you is, as Alan says, paramount. Now in terms of informing - first of all, you know, I have problems with the board isn't going to pay specific enough attention to do this. We pay them the big bucks so that they will pay attention. So to build something into the process that assumes they're not going to do their job is problematic to me.

But beyond that putting, you know, holding their, you know, hands to the fire on this is indeed the role of the advisory committees that, you know, whether it's a security issue, a user issue, a, you know, a public policy issue that governments think is within their purview, that is their job to - and, you know, the board will be - need to interact with them as well. May bring, you know, the GNSO and the appropriate AC into the consultations.

So I believe that the mechanisms are there. I understand Alan saying there's an issue and perhaps we really should describe that there is sort of a normative set of guidelines. I guess that's contradictory. But there's basically a normative set of behaviors that are expected for the board, the ACs and the GNSO in these situations.

And I think all those materials are there, it's just we forget to use them. And perhaps, you know, we do need to add something to talk about, you know, it isn't GNSO throws it over to the wall to the board, the board throws it back

over the wall to the GNSO saying no, fix it, etcetera. And that keeps on ad infinitum.

But perhaps we should suggest that if there isn't a resolution in one or two round trips that, you know, a sit down is required, you know, virtual sit down of course and something to basically deal with the issue.

But I don't know that we need to create new mechanisms, I think we just have to give, you know, the AC and the SOs the roles - give them the opportunity to fulfill the roles that they've already got within the resolution of this process.

Again, understanding that, yes, this could take a while and the board may be forced to put in an interim solution because something needs to be done now. That precision already also exists as far as I understand. So I think the piece parts are there but I think Alan is right in the respect of saying yeah but that doesn't happen even though I'm saying everything is there to make the happen it doesn't happen so perhaps a guideline within all this that is an indication of how that can happen. Thanks.

Chuck Gomes: That's very good, Avri. Chuck speaking again. I wonder if you have come across another possible recommendation. I don't think it's a principle although I suppose it could be worded as a principle. But I wonder if, you know, maybe this has uncovered the ALAC comment and this discussion we had and maybe it would be appropriate first to add a new recommendation along the lines that you just suggested. So let me come right back to you, Avri, and get your reaction on that.

Avri Doria: That may be a way to handle it to basically say hey folks, you've got the tools, use them. But put more politic like could be a good idea.

Chuck Gomes: Yeah. So is - are you or is anyone else willing maybe even to work with Avri to formulate a possible new recommendation that would get this point across? I think it would need to involve Alan or Cheryl or somebody from the

ALAC too to see if we address their issue. And let me come back to Alan now, is this - does this show some responsiveness to the concern? Does it start to meet the concern that you're expressing here in this comment, Alan?

Alan Greenberg: I guess in a different universe it would. I'm not convinced that it's practically implementable. There's only so much time people want to put into these kind of things. There's only so many feathers you want to ruffle. And, you know, let's be honest, I'm thinking back to a particular experience that some of you are aware of a number of years ago where we did have a PDP where the two sides were squared off with each other and spent a year plus staring at each other and saying, you know, you're not listening to us on both sides.

And it ended up with a very, very weak set of recommendation, from my perspective certainly, weak from a user's perspective. And the ALAC did consider telling the board to reject the GNSO recommendations. But knowing that the GNSO in general had absolutely no stomach to look at it again and we would have died - it would have died with no change instead of a weak change. So we just gave up, walked away from it.

Chuck Gomes: So Alan, my question to you then is...

((Crosstalk))

Alan Greenberg: So I think - let me - just one moment. I think the problem has to be addressed at the core of how we make consensus decisions not how do we fix them after we make the wrong ones. And if we went through that whole process today it would be different. The philosophies of everyone is different than it was five years ago or six years ago. There's no question about that. But it's equally not quite clear that we have now reached perfection. I'll shut up now.

Chuck Gomes: I'll come back to you. Let me let Avri go ahead and jump in.

Avri Doria: Thanks. This is Avri again. So I guess - I can't - I don't believe that we could be pessimistic about actually all doing the jobs that got. I think that in adding the guideline that, you know, you got to find a way to bring this together and to talk about it is that. But remembering that we only discover what the global public interest is when we reach the full - the full consensus, you know, ICANN consensus, not full consensus, excuse me, when we reach the ICANN consensus after we've undergone all the steps that the policy process gives us.

And this particular bit of AC, you know, of - should say reject this unless. That is kind of their job just like it's the GNSO's to take everything in and try and bring it together. And I tend to believe that if we went through this kind of routine even once we would start to be educated more.

And so I guess I'm looking for recommendations that make us better at doing the job we've got as opposed to recommendation that - now, you know, maybe there's a way to redesign the GNSO so that users are better represented, although if you talk to the CSG and the NCSG they believe they also do bring to the table, you know, a certain user perspective or certain kind of user perspective. And...

Chuck Gomes: Okay.

Alan Greenberg: Have we lost Avri?

((Crosstalk))

Avri Doria: ...groups over time to make sure we don't get into these (bonds). Oh, I'm still here. I was babbling on.

Alan Greenberg: Oh no there was...

Avri Doria: I'll stop.

Alan Greenberg: ...we lost you for...

((Crosstalk))

Avri Doria: But anyhow I think we should be optimistic about our ability to approve.

Chuck Gomes: I like the - I like being optimistic myself so if you and if Karen wants to help - would draft something, and I suggest you run it by Alan and Cheryl since they're from the ALAC, as a possible recommendation or if you think of another way we could incorporate something - I don't think it's a bad idea to make the kind of suggestions or guidelines that you're talking about, Avri. So are you willing to take a crack at that and send it back to the list? Avri?

((Crosstalk))

Avri Doria: That'll teach me to open my mouth but sure.

Chuck Gomes: That's true. I know. I don't see it as a long thing but if you're willing to do that - and if you're not, if you decide that, you know...

Avri Doria: No, I am willing.

Chuck Gomes: Okay.

((Crosstalk))

Avri Doria: ...I remember to actually get it done in the middle of everything else.

Chuck Gomes: I know. I know it well. Okay, Alan.

Alan Greenberg: Yeah, thank you. Just in response to something Avri said, regarding the CSG and NCSG, make no mistake about it, I wasn't describing the ALAC, you

know, the champions of the users versus the world. What did come out of the PDP I'm talking about was only because of the strong support from the Business Constituency in particular and the presence of NCSG, or NCUC at that point perhaps, you know, so at least it wasn't disavowed.

But it's hard trumping money, to be quite candid. And, you know, in this particular case, registries did not have a particular stake in them in this overall thing either way, you know? They thought that yes something should be done but it wasn't of great importance to registries. And to be quite blunt, registries were not going to speak out against their customers unless they had a strong rationale for doing so.

So I think it's something that's built into the system and I do strongly support a principle which says we must address it and must be prepared to confront it. Because right now it's unspoken, unsaid, and it's politically incorrect to mention it.

Chuck Gomes: So, Alan, that brings me to back to what I wanted to ask you all along is so is this is statement that the ALAC wanted to make the point but didn't have a particular action in mind, or do you think that the ALAC was looking for some particular change in this case?

Alan Greenberg: I think this is something we wanted to bring to the table which hadn't been talked about until then, and since clearly we're not really desirous of saying "Let's kill this whole thing because there's a negative aspect to it." You know, but I don't think we had envisioned what the fix was, but perhaps a new principle which raises the issue, doesn't pretend it doesn't exist, is the way to approach it at this point.

Chuck Gomes: So is it a principle or is it maybe a recommendation, or could it be both?

Alan Greenberg: I think it's probably both.

Chuck Gomes: So would you give that some thought and see if you can come back to one for the list?

Alan Greenberg: I can try. I don't have any - I'm not working on anything else these days, so.

Chuck Gomes: I know. Me neither.

Alan Greenberg: Just like Avri and you.

Chuck Gomes: Yes, so - and a lot of other people.

Alan Greenberg: And Greg.

Chuck Gomes: On this call there are a bunch of us that are doing a bunch of things right now that are coming to a head at the same time.

Alan Greenberg: I think it's something that needs to be addressed and not pretended it's not a problem, because...

Chuck Gomes: Okay, well look for something from you and anybody that wants to work with you, and then also Avri will run by any idea she have because they may sync up or they may not in that regard. And did you want to say something else, Alan?

Alan Greenberg: No that's it.

Chuck Gomes: Okay. Thank you. Now I suspect it's going to be kind of similar when we go to 419, okay, but that again is a comment from you, Alan. And I think actually -- and this is one I think I - but this may really be connected to what we just talked about. It may not, but I'll let you make that call on 419. And I'm aware that you submitted some comments and then there were some ALAC submitted comments. And I know in some cases, there was some overlap.

Alan Greenberg: They really overlapped. They were restating the same things.

Chuck Gomes: So it's probably okay on 419 that we say "Refer to responses on 418," is that correct?

Alan Greenberg: Sorry, you just lost me now.

Chuck Gomes: So in terms of the working group response to 419, can we simply make reference to the response on 418, the one we just did?

Alan Greenberg: Ah, okay. Sorry, I'm now looking at it. They're the same one. They were the two different - I think Marika can verify, but I think those are the two different wordings from the two different documents that was the same issue.

Chuck Gomes: That's what I thought, but I wanted you to confirm that. Okay?

Alan Greenberg: Cheryl says she's on the call. Does that mean Cheryl wanted to speak?

Chuck Gomes: I'm not sure. You're welcome to, Cheryl. Okay. All right.

Cheryl Langdon-Orr: Sorry it took me a moment - no it took a moment for my microphone to connect, that's all.

Chuck Gomes: Oh okay. Go ahead.

Cheryl Langdon-Orr: Can you hear me?

Chuck Gomes: Yes.

Cheryl Langdon-Orr: Yes, no it just took a moment for my microphone to call because it's the microphone through the tablet, not the normal microphone I'm using. I just wanted to come in behind the plan for that provisions one and I also wanted



to just note that I have been interacting with the chat and if I'm putting up a green tick it's because I'm strongly behind the person that's talking.

But I definitely think that where it says "By Alan Greenberg," it is an extraordinarily rare thing if his opinions were not reflecting that of the ALAC and being articulated in the ALAC view. Just thought you were kind of bifurcated a little bit more than I thought you should have done, Chuck, that's all. Thanks.

Chuck Gomes: Oh sorry about that.

Alan Greenberg: Sorry, I see the problem now. I did - there was an ALAC statement, and then Alan Greenberg submitted a questionnaire a day after it theoretically closed because Marika wanted to close down the thing. And I said I would submit it and have it ratified by the ALAC. So it is an ALAC statement, not an Alan Greenberg statement. Cheryl, thank you for pointing that out to me, I hadn't caught that.

Chuck Gomes: Yes and I remember that scenario. That's why I thought there was probably duplication here, so. So okay. All right, my apologies if I came across irritable on that. I didn't realize it, so I appreciate you pointing that out. And again, I thought a very healthy discussion went on.

So I think that wraps up section four, which has to do with the principles from the survey, and brings us to section five. And this is where we get into the recommended new processes. And 5-1 then, the registry stakeholder group made the comment that you see there that comfortable with the timeframes proposed but wonder if the - they're consistent with the latest comment period proposals. And I think I raised this once in the working group in an e-mail or something.

But if - I meant the - should we try and sync up what we have in our report, when we convert it to a final report, with the new comment period guidelines

that have been implemented. So that's basically the question. And if so, if people think we should, then I think we just need to go through, not on this call, but - and do that. Because when we were talking about these processes, the way they were written were written according to the old comment period guidelines. Any thoughts on that? Alan?

Alan Greenberg: Yes I think unless there is some overriding constraint which says we need more time or less time, we should be honoring the standards. So we should not do, you know, comment periods should not be lower than the current 40 days or 42, or whatever it is, unless there's some really overpowering reason why that's necessary.

Chuck Gomes: Thanks. Marika?

Marika Konings: Yes this is Marika. If I recall well, I think we're talking about minimum periods. So if I recall well, I think it's a minimum of 30 days, whereas in the current public comment periods, it's a 40-day minimum. So basically there's no - it wouldn't - there wouldn't be a conflict unless the GNSO would insist that it would need to be 30 days.

And in that case, there is an exception process that is available as part of the current public comment period where approval would need to be sought from two ICANN global leaders to, you know, have a shorter public comment period. And in certain cases, there may be very good reasons for it such as certain time constraints or events that require that you do it quicker.

But at least the way we currently interpret it or at least so far has been the experience, we usually run them as, you know, the minimum requirement as set by the public comment period, and there has been no reason to, you know, go below that to meet the minimum requirements that the GNSO has set. So I don't see any issue, at least from that perspective.

Chuck Gomes: So could you take a -- I don't think this is rush need -- but could you take a quick look at the process and see if there are any language tweaks that need to be made so that at least we're not inconsistent with the current standard?

Marika Konings: Yes I can do so. This is Marika.

Chuck Gomes: Thank you. Alan, is that a new hand?

Alan Greenberg: No that's an old hand I didn't lower.

Chuck Gomes: Okay thanks. All right let's go onto 5.2 and that's from Carlos who, as we - so Carlos unfortunately is not with us. I - Carlos and I had some exchanges and some others joined in on the exchanges on the list after I listened to the recording last week and looked at this. Is there anyone who thinks they can communicate Carlos's concerns here better than I? I don't fully, as you can tell by some of my comments, get this.

I did clarify that -- I don't know if the one of the cases where he's talking about mechanisms -- when he was talking about mechanisms, he was talking about the three new processes. I did get clarification on that. So notice that he says under this - I'm not clear why the GIP and the GGP would only be triggered by ACs and the board. Consequently it's not clear to me to whom are the recommendations of the GIP binding. Now I answered that one on the list. The GIP isn't - I don't think the GIP is binding on anyone, as I recall. But, Marika, let me let you jump in.

Marika Konings: Yes this is Marika. And I think your e-mail conversation with Carlos already indicated that I think some of the elements he may have misunderstood, because you're correct, the GIP is not binding and, you know, the GIP and the GGP are triggered by the GNSO. Although they can be requested by others, they don't trigger those.

So I think this may just be a question of, you know, clarifying, and I think we can do that probably even in the response to, you know, confirm or, you know, deny some of the assumptions that he's making in his comments. That would hopefully, you know, help that straight. And again, you know, we can maybe Carlos to review the notes and the working group response and see if in the next meeting he wants to come back to those or whether he accepts the feedback that is provided.

Chuck Gomes: That sounds good. Thanks, Marika, and thanks for the agree there, Amr. The - so - and I think, Mary, in the working group response it's probably good to put in there one thing was noted is that the GIP is not binding on any party. Now we know that the GGP is binding on the board, but it's not something that changes contractual requirements for contracted parties.

So I don't know that we need to say there but the - I don't get part of what he's saying, though, and this is why I was kind of trying to throw it off on somebody else, when he's saying -- and I'll come to you in just a second, Alan; I'll finish my thought here -- we should take into consideration the difference it would create in the process if it was directly triggered by a contracted party or by an indirectly affected party as opposed to the ACs and the board.

Well first of all, contracted parties I don't think can trigger one of these things by themselves. I don't think that's a response I made in the e-mail exchanges, but the party can't really trigger one of these things. That has to be the GNSO Council, right? So, and I see a hand up. So, Alan, go ahead and jump in.

Alan Greenberg: Yes just for clarity, recommendations are recommendations. GNSO recommendations are not binding on anyone. The board can, with sufficient voting threshold, approve them or reject them, but nothing the GNSO does is binding in its own right. That's why we call them recommendations.

Chuck Gomes: That's a good point. Yes that's a very good point, and it might be good to put that in our working group response. But it is true that in the case of consensus policy -- and of course we're always assuming that the board approves them so you're - if they're approved the board, they are binding on contracted parties. That's the EPDP and the PDP. In the case of a GIP, it was specifically said in the descriptions that they're binding on the board. Obviously you're right, the board can ignore, you know, obviously can disagree.

Alan Greenberg: It says they're binding on the board?

Chuck Gomes: I think that's correct. Marika, can you help me out there?

Marika Konings: This is Marika. The way it's basically written it's binding on the board unless they rejected with a similar threshold, as it is done with the PDP. So basically I think that's how the - I mean it does somewhere like binding, but I think we explain what binding means as indeed, you know, they're principle - you need to follow those unless, you know, with, you know, supermajority they actually overturn them because they're not deemed in the interest of ICANN of the community.

Alan Greenberg: Yes I don't - I'm not sure that's the correct word to use, binding, but we can refine that in the next pass.

Marika Konings: Yes and I think -- this is Marika -- the thing in the report we did try to define it because it's really to make the distinction that indeed with, you know, the input that it just, you know, we can just put it next to them, but if it's provided through a GDP, the board can't just say, "Oh yes, thank you very much" and they'll do anything with it. They are required in that sense - maybe it's better to say they're binding in the sense that they're required to act.

So whether it's to adopt or to reject, they are required to act on those recommendations, while in the GIP they can just say thank you, they can say

nothing, they can just, you know, ignore, there's no requirement whatsoever to do anything. So I think maybe that's better said. That's the main difference.

Alan Greenberg: Yes. And if I may interject, I think - my recollection is when we designed it, we did that quite deliberately. It wasn't that we were afraid to stare down the board. This was a different level of input.

Chuck Gomes: Thanks, Alan. I think you're right on that. Now I think - Mary, I think in our working group response or if, I don't think there's necessarily an action needed, so I think in the working group response column that the things that Carlos says at the end there are really answered by adding a statement there that a contracted party cannot trigger one of these processes. And I think that clarifies his concern there, but I'd like the rest of you to look at that and make sure.

And the GNSO as a whole has to do it. Contracted parties are part of the GNSO, but they can't trigger it by themselves. They can request initiation, and I'm not sure - I don't know if that's what he's getting at or what, but the GNSO as a whole has to make a decision according to its rules to do that.  
Anne?

Anne Aikman-Scalese: Yes thank you, Chuck. I think you may mean to say a - any one stakeholder group cannot trigger, because what you said was a contracted party. You don't mean an individual contracted...

Chuck Gomes: I actually did mean that, because he says that. But you're right, any one stakeholder group can't either, but I picked on that, on contracted parties, because that's what he says in the comments there in, what is it, the next to last sentence.

Anne Aikman-Scalese: And I guess that, you know, I'm curious about the word trigger because, you know, we were talking earlier about for example ALAC being able to go to the GNSO and say "Hey we urge you to proceed with GIP,

GGP, EPDP, whatever" and that could be considered a trigger. Are we looking for the word initiate, that only the GNSO can initiate?

Chuck Gomes: I think it's hard for us to tell. Again unfortunately Carlos is not on the call, but like was said earlier, I think he can look at the response that we have and if he has further concerns, he can let us know. Is that okay?

Anne Aikman-Scalese: Well I just want us as a working group to be precise in our use of terms, and I don't think the term trigger is a consistent - I would use initiate instead of trigger in the notes.

Chuck Gomes: And it looks like Mary's capturing that in the - in our response.

Okay let's try to get through 5-3 with our at least one of our IPC reps still on. I think Greg had to go to a CWG call.

Anne Aikman-Scalese: Great. Thank you, Chuck, it's Anne. I'll try to work through these quickly. The first point is that I think IPC members felt that it should be stated upfront in the proposed additional new GNSO processes either, you know, paragraph one or two, that, you know, we as a working group recognize that these - some of these processes anyway require amendment to the bylaws.

Because some of the initial comments we got just from folks reading the report was "Well wait, you know, there's no authority to do that." And we responded, "Well yes, I guess if you look in the annexes, you know, amendments are required as bylaws." And so the feeling was it should be stated right upfront here in final report in the first or second paragraph that the - these required bylaws amendments.

Chuck Gomes: So, Mary, could you maybe take a look at this and see where we - where would be an appropriate place to put that upfront? Because we do - Anne's right, we do deal with it in the annexes and all of you will recall we talked about possible amendments to the bylaws and so forth, so. But they're points

well taken. It would be good to have it in the body of the report. So can we make that a Mary action item?

Mary Wong: You sure can, Chuck.

Chuck Gomes: Thanks, appreciate that. Is that okay then on that part, Anne?

Anne Aikman-Scalese: Sure absolutely. And then the second point was it was not as clear to IPC members as we in the working group believe that it had been clarified that GGP applies to non-consensus policy and EPDP applies to consensus policy. They felt that that should just be very much more expressly stated.

Chuck Gomes: In the - so that is something that - those are statements that could be added with each of those processes. Do you agree with that? So that if - again, if we put this on Mary's shoulders to maybe add a sentence or whatever's needed in each of those processes to make that clear, do you think that would suffice?

Anne Aikman-Scalese: Makes sense to me.

Chuck Gomes: Okay. Alan, go ahead.

Alan Greenberg: I don't think that statement was correct. A GGP cannot result in consensus policy.

Anne Aikman-Scalese: Right. In other words that's non-consensus policy.

Alan Greenberg: But the other one may apply to consensus policy or other policies. It's not exclusively consensus policy.

Chuck Gomes: Oh I see what you're saying. Yes that's a good clarification.



Anne Aikman-Scalese: Right, and I think I would agree with that. This is Anne again. I just think that needs to be very, you know, expressly stated for folks to actually understand what we're really recommending.

Alan Greenberg: I will point out that at the accountability CCWG, I had a conversation with Becky Burr who believes that all GNSO policy is consensus policy. I believe she's incorrect. But there are some people who believe that any policy coming out of the GNSO is a consensus policy.

Chuck Gomes: Well if you're defining consensus policy as that which is that registries and registrars are required to implement, you are correct, Alan.

Alan Greenberg: I believe I am correct.

Chuck Gomes: No you are correct. I'm going to be emphatic.

Alan Greenberg: As I said, we had an extensive conversation.

Chuck Gomes: That's a place where the contracted parties and you are going to agree.

Alan Greenberg: Well she was speaking as a contracted party.

Chuck Gomes: Yes? Okay. I'll have a chat with Becky sometime on that. I'm not sure what the context is.

Alan Greenberg: The context is changing the bylaws, and there's one particular part of changing in the core mission or whatever that she uses the term consensus policy and a pointer to spec one of the gTLD agreement where I believe she mean policy. The - annex A is quite clear that there is some policy is consensus policy but not all policy, and we need to get the bylaws right.

Chuck Gomes: And semantically we can say that something is a consensus policy but it may not be something that can be imposed on registers.

Alan Greenberg: A policy established by consensus is not a capital C, capital P, consensus policy.

Chuck Gomes: I'm with you all the way. Well said.

Alan Greenberg: (Unintelligible) we need to go back and make sure that when we do the bylaw revision, a plan proposal in the CCWG report, we need to make sure we get that right.

Chuck Gomes: Yes I agree. All right. The third point then, Anne?

Anne Aikman-Scalese: Sure. The third point was IPC wanted to bring up the fact that early GAC consultation is desirable in connection with three new procedures just as it is desirable in relation to, you know, full PDP. But I do not have specific suggestions as to how that would best be accomplished, but, you know, the feeling was that the - our working group should at least recognize that. It may be a longer topic than the next three minutes, but I'm not sure what to propose in that regard.

Chuck Gomes: Yes. Is this something though that we - I mean is this something we can acknowledge that we agree with that because that's - because it's a pilot test, it's kind of hard to deal with it directly, is it not?

Anne Aikman-Scalese: I don't know.

Chuck Gomes: Any thoughts? Alan, go ahead.

Alan Greenberg: Yes, I - we're in a different world now than we were a year or two ago and now GAC members and the GAC chair says we need to figure out ways to work together, as opposed to saying it is impossible to work together, which was the party line for a very long time.

It should be a principle, but at the same time I wonder if we're a bit condescending to be saying that now as if no one else believes it. And I think this is more a political judgment than a technical one, and I'm not quite sure what the way to proceed is.

Chuck Gomes: Okay. Thanks, Alan. Amr? And then I'll go to Marika.

Amr Elsadr: Thanks, Chuck. This Amr. I happen to be one of the councilors working with the GAC on this project. My personal feeling is that there - although there is a process that is being designed to help the GAC engage with the GNSO at early stages in policy development as opposed to providing GAC capital A advice to the ICANN board after the policies have been developed, I don't feel that this process will in any way conflict with anything we are doing here.

I think what we're doing - actually I think everything we're doing here would further enable what we're trying to do, the GAC, along with any other part of the ICANN community. I don't think - I also don't think that we're actually making any changes that may conflict with what we're doing. All we're doing is designing internal GAC processes that would allow them to sort of keep up to speed with what we're doing on a live basis as opposed to taking a look at something once it's all done.

And then trying to see and trying to engage how they may be able to work intersessionally also as opposed to just relying on their face-to-face meetings during ICANN public meetings. So if we're specifically designing GNSO processes and the principles by which these processes will be utilized, I don't really see that there is a need to involve the pilot with the quick look mechanism that we're proposing for the GAC. I may be missing something, but I don't believe that I am, and I'm not sure how it's necessarily relevant. Thanks.

Chuck Gomes: Thanks, Amr. Marika?

Marika Konings: Yes this is Marika. I think echoing what Amr just said, I think indeed what we're doing here doesn't, you know, conflict or go against what the consultation group is looking at. And just to point out as well that the consultation group still has quite a long way to go. There's some initial recommendations that are going to be tested as a pilot now, but they still need to look at all the other crates of the PDP as well.

So it may be premature here to, you know, align the two too much together, although I think just making reference of the importance of, you know, early GAC engagement consultation may not be an issue. And just to point out as well that I think for all of the processes, I think it does have like similar to what the PDP has this kind of requirement that the group needs to reach out to an early stage to all SOs and ACs for their input.

So I think in that sense it is already covered, because that obviously also includes the GAC. So, you know, one way of looking at this is well is by (unintelligible) the GAC, you know, should we be doing the same for other groups. So again, you know, for me the big issue if we want to refer to the fact that, you know, the importance of GAC early engagement also in these kinds of processes, but I think it's basically already covered by the way the processes are worded, speak about, you know, the importance of early engagement with other groups to obtain their input and have that considered.

Chuck Gomes: Thanks, Marika. Anne?

Anne Aikman-Scalese: Yes thanks, Chuck. I want to suggest that I go back to my constituency with respect to this and come back with something at the top of the conversation next week. I note in the chat that J. Scott has said that he agrees with the comment, and I know there was some pretty, you know, strong discussion about it, so I would like to propose that I come back no later than, you know, next week before our call with something more concrete. I apologize I don't have something at this time.

But the issue is not whether what we're doing conflicts with that process.

That's not at all the issue. I mean I certainly agree with Amr and Marika that there's nothing about what we're doing that conflicts, but that isn't the substance of the suggested, you know, principle, if you will, is not whether or not it conflicts with anything that's going on right now. But I propose to come back.

Chuck Gomes: Yes, Anne, and I - that's what I got. I didn't think they were saying that. In fact I was wondering is it something as simple as just adding a sentence on these processes that, depending on the results of the GAC GNSO work that's going on, the early involvement of the GAC should be kept in mind with regard to these processes. So anyway, you can take that however you would like and then we'll look forward to you coming back.

Okay, we're a little bit over. Sorry about that, but thanks for going 90 minutes. We are going to keep going 90 minutes until at least we get through - get our objective ready for developing a final report. And I hope all of you are able to do that.

And so, is there anything else we need to address before I adjourn? Okay. Thank you very much. It was great interaction. I continue to be nothing but complimentary to this team, the whole team. So thank you. Thank you very much.

Anne Aikman-Scalese: Thanks, Chuck. Thanks, everyone.

Chuck Gomes: Have a good rest of the week.

Mary Wong: Thank you, Chuck. Thank you, everybody. Bye.

Anne Aikman-Scalese: Thanks, Mary.

Terri Agnew: We can stop the recording. Once again (unintelligible). Have a wonderful rest of your day.

END