Policy & Implementation Working Group Meeting
TRANSCRIPTION
Wednesday 13 August at 1900 UTC

Note: The following is the output of transcribing from an audio recording of the Policy & Implementation Drafting Team meeting on Wednesday 13 August 2014 at 1900 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-20140813-en.mp3

On page: http://gnso.icann.org/calendar#aug

Attendees:
Cheryl Langdon-Orr – At-Large
Olevie Kouami – NPOC
Chuck Gomes – RySG
Greg Shatan-IPC
Jonathan Frost-RySG
J Scott Evans – BC
Klaus Stoll-NPOC
Avri Doria-NCSG
Amr Elsadr-NCUC
Alan Greenberg-ALAC
Michael Graham – IPC
Anne Aikman Scalese – IPC
Wolf-Ulrich Knoben – ISPCP
Stephanie Perrin – NCUC
Tom Barrett – RrSG

Apologies:
None

ICANN staff:
Marika Konings
Mary Wong
Amy Bivins
Steve Chan
Terri Agnew

Coordinator: Your recordings have begun. If anybody has any objections, they may

                 disconnect at this time.

Thank you.

Terri Agnew: Thank you.

Good morning, good afternoon, and good evening. This is the Policy and Implementation Working Group call on the 13th of August, 2014.

On the call today we have Cheryl Langdon-Orr, Michael Graham, Amr Elsdar, Alan Greenburg, Klaus Stoll, Chuck Gomes, Anne Aikman-Scalese, J. Scott Evans, Greg Shatan, Jonathan Frost, and Wolf-Ulrich Knoben.

Olevie Kouami will be joining shortly.

We have no apologies for today's conference.

From staff we have Mary Wong, Marika Konings, Amy Bivins, Steve Chan, and myself Terri Agnew.

I would also 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, and thanks everyone for joining our call today. Hopefully, all of you have seen the agenda, and we did make a kind of last minute change to it, so - and that is on the Adobe Connet.

Before I go any further, is there anybody who's not in Adobe Connect?

Wolf-Ulrich Knoben: Yes, Chuck. It's Wolf-Ulrich. I can't access.

Chuck Gomes: Okay. Thanks, Wolf-Ulrich. And please feel free to speak up when you want to get in a queue so that I can get you in the queue. That will be fine.

So are there any updates to Statements of Interest?

All right. Moving right along, let's go to Agenda Item 2.

Two weeks ago I believe is when we - at least two weeks ago, we had three volunteers to draft up a quick summary of the comments received from the ALAC from the ISCPC's and the - and from the registries, and then identify any issues that maybe we need to include in the work we've been doing either now or in the future.

And we've received two of those just today or late yesterday from Michael and from Olevie, so thank you very much for that.

And Cheryl, can you give us an update in terms of where you're at on the registry one?

Cheryl Langdon-Orr: Yes, I can. I hadn't planned on providing a written summary actually, but I see through my emails that those have come in over mine now, so if you want to write it, I can. But basically, I just highlighted in my notes nothing that we've overlooked, but a couple of things that we possibly could pay a little bit more attention to. So they are short enough in a list, so I can pop them into the chat.

Chuck Gomes: Okay.

And if you could do a - you don't have to necessarily put it in the chat right now, but...

Cheryl Langdon-Orr: All right, if you want it - I didn't do a summary because I figured you were all capable of reading it. What I did was pull out the things that were mentioned that I didn't think were addressed in our deliverables because I understood that to be the question.

Chuck Gomes: If you could just write those up, you don't have to write a summary in my opinion.

Cheryl Langdon-Orr: No. I'm not planning to, so...

Chuck Gomes: That would be fine.

                 And just...

Cheryl Langdon-Orr: Not a problem.

J. Scott Evans: Hello?

Chuck Gomes: It'd be great if you would do that.

                 Did somebody want to jump in?

J. Scott Evans: No. I mean it sounded like you - if you were continuing to speak, it got very silent. This is J. Scott, and I was just trying to see if you had dropped off or - sorry.

Chuck Gomes: Are you talking to - J. Scott, this is Chuck. Are you talking to me or to Cheryl?

J. Scott Evans: To you.

                 It - you just...

Chuck Gomes: Okay. Is it better now?

J. Scott Evans: I can hear you now.

Chuck Gomes: Okay, good. I don't know what happened. But anyway - so Cheryl, if you would just go ahead and just write up the things you've found, not a summary; that would be great.

And then what I will volunteer to do is draft up three statements once I get Cheryl's write-up in response to the three groups, just thanking them again and then letting them know what we've incorporated from their feedback, what we're going to look at further as we go forward and so forth, depending on the things that each of the three people did.

Thanks again to the three of you for doing that. That's very helpful.

And does anybody have any comments or questions on this before we move to Agenda Item 3?

Okay. Very good.

And I think that will actually help us on Agenda Item 4, which is I think one of the last things, and Deliverable 1 had to do with this activity, so that will be very helpful.

All right, going to Item 3, finalize the proposed PGP/PIP flowchart. We made pretty good progress on that last week, but there was some discussion that we probably didn't take far enough.

And so what we're going to do right now is let me start it off by bringing up the issue - if you look at the flowcharts, the three - the second, third, and fourth page, there are two for the Policy Guidance Process, the PGP, and one for the PIP, you'll notice in the first row that the next to last box talks about reviewing the proposal and adopting via a vote.

And in parentheses there is a super majority for all three cases, the - actually two cases. The PGP and the PIP. It just occurs twice because of the other - second iteration of the PGP.

I'd like us to talk a little bit more about that and get a feel, at least for those on the call -- and then we'll put this out to the people on the list that aren't on the call -- whether we're in agreement at this stage of the game, realizing that things can change as we do more work - that we're in agreement in this working group that it should be a super majority.

Understanding that super majority is specifically defined in the - for the GNSO Council. It's not literally a super majority of all of the Council members. It's defined in terms of the two houses.

So let's talk about that. And, I see two hands up. Great. Alan, you can go first.

Alan Greenburg: Thank you.

I think we should take the same tact that is taken with the PDP. That is the Council can approve it with a majority or a super majority, and there may be different conditions on the Board based on those. But, I don't think the Council should be prohibited from submitting something if it only has a majority. It just has to do that you know with full disclosure.

Chuck Gomes: Thank you, Alan.

Let's go to Anne.

Anne Aikman-Scalese: Yes, thanks Chuck. It's Anne.

I don't have a strong opinion, but what I wanted to suggest is that there's a matter that was referred to in the Webinar on name collision yesterday that it was referred to as a matter as to which the Program Committee - New gTLD

Program Committee on the Board would be going back to GNSO Council to seek some additional policy guidance, and that had to do with I think what happens with names that are released from the alternate passive delegation block list and have not been previously offered in sunrise.

And, there was a specific line item that said let's go back to GNSO Council to seek further policy input on this issue.

So the only thing I wanted to raise was could we look at just something like that and say, "Okay. So where would that fall here, and," you know, as a hypothetical, "how would it be treated?" And what do we think, you know, of how this would be applied if this process were used for that?

Chuck Gomes: Thanks for bringing that up, Anne. This is Chuck again. And I was on that call as well.

I guess my first reaction is to ask a question. Wouldn't that activity be more implementation-related or policy-related? And, we don't necessarily need to debate that. And let me give some background for the people that aren't aware of this particular issue with regard to names collision.

Staff had come out with a proposed approach, and the IPC and the BC, and the registries consulted with one another and actually came up with an approach that I think all three groups, and obviously that's not all of the GNSO, but the three groups thought would work and were supportive of, and communicated that to the new gTLD Program Committee.

But, it was communicated just shortly before they met in their last meetings and brought up this issue.

And so in response to that, I believe it was in response to that, they decided that - to come back to the GNSO and look at that, as well as any other issues I think.

So - but Anne raises a good point. Now, is this an example of a policy guidance recommendation or is it more implementation guidance than it is policy guidance in this regard? I guess I would lean towards it being more implementation, but we don't have to decide that ourselves.

The point is, is that Anne raises a good point; how does all that relate to this?

And before I open that up further, let me go to Marika who's had her hand up for awhile. And Marika, thanks for joining us on your holiday.

Marika Konings: Thanks very much, Chuck. Thanks for having me.

Yes, so this is Marika. I wanted to comment on another thing that - talking about the name collision. I just wanted to point out as well that in the actual resolution of the NGPC, it talks about provide information to and work with the GNSO to consider whether policy work on developing a long-term plan to manage the gTLD name collision issue should be undertaken.

And to me, that reads more like exploring, indeed, what is the current environment? And the long-term policy is - to me, that reads as PDP, because there currently is no policy in place. It's a framework that is being implemented, but there's not - not a gTLD policy on that area.

That's at least my interpretation at this point.

On the other point of...

Chuck Gomes: Before you go there, Marika, if I -- this is Chuck -- let me interrupt you a second. Sorry for that, but I think you're correct on that part of the motion, but I also believe there is - there are plans to go back and look at the proposal that the IPC, the BC, and the registries put in the letter to the new Program Committee. So I think they're two separate issues.

But, I totally agree with you that what you're referring to would be a PDP issue.

Go ahead now. Continue please.

Marika Konings: Yes. And I - and this is Marika again.

And on the other issue, and then maybe more towards Anne's point, I think that the situation with the (unintelligible) processing would be in place, the GNSO Council could at that stage decide whether - you know, what kind of outcome it intends to have. Is this an issue that is already clearly scoped? Well maybe then a PGP would be a place or a fast track PDP.

If not, (unintelligible) the PDP is the only route if you want to have your contractual obligations on contracted parties.

If it's just input you want to provide, well then you know the PIP would be your path.

So again, I think coming back to an earlier point we made, it's really about what is the desired outcomes that the GNSO Council would like to do through its work? And also, you know, what information is already available? What has been done in the past that may determine what the right track is?

Coming back to my initial point that I wanted to make is on the super majority/majority issue, I think that is maybe an area where we can you know indeed look at what is in the PDP, but also recognize that I think that there is some confusion over how - especially the majority voting may or could work? Whether that could have that kind of you know forcing nature or contractual obligations on contracted parties?

And I think views differ there, so that may be something where we need to have a closer look at how that will be worded.

But, if maybe something in that in a more detailed overview, as we said, you know staff will be working on taking this into account, you could basically flag that as an area that will need you know specific attention.

And if - you know, if we see that there may be different alternatives we could think of, that we would, you know, put those in so that the group can actually discuss which one would fit closest to you know what you've discussed and believe should be the appropriate approach there.

Chuck Gomes: Thank you very much, Marika.

This is Chuck. Let's go to Alan.

Alan Greenburg: Thank you.

Marika basically said what I was going to point out. It depends on what the - not only the desired outcomes, but the needed outcome is. If on the particular names collision issue, for instance, and I'm not up on that one - if to implement it - to put it into practice it requires a change in the contract, then clearly it's a super majority type thing, you know.

And I would say since it requires - if it requires a majority, then by definition it is a policy issue, you know, and that governs which process we would use.

I don't think we could say an - something that we're calling an implementation-related process can change contracts, so - but I don't know in this particular - that particular case whether it in fact is implementation?

And, implementation in my mind is something that ICANN can do on its own. It doesn't require the contracted parties to alter what they're doing to put it into place.

So if - you know, my rough guess is this probably is a policy issue, not implementation, because it would be directing registries how to do something, and that I'm guessing would require a contractual change.

Thank you.

Chuck Gomes: Thanks, Alan.

J. Scott, you're up.

J. Scott Evans: Yes. I think this is where we fall into the very conundrum that we're supposed to resolve is because you know I would take the position that the contract states that registries will offer the RPMs or a list of the Specification 7 and that requires a sunrise.

And that while they're allowed to reserve names, there's nothing that says that they don't have to offer these - you know, it doesn't seem to me it's changing the contract. What it's trying to say is it's - there's different interpretations as to how this should be applied. What's the answer, or what do you think the answer should be?

And I think that that's difficult because - and I think that's where we fall into this conundrum is the parties that don't want to do it are going to claim that it's policy and requires a PDP because by the time you get to a PDP, at least for the first round, that issue is no longer an issue because we're in the second round.

So - and that's some of the frustration I think people have with the inefficiencies that are built into the model that I thought one of the things

we're trying to - I'm not sure I have a good answer, but I'm saying that I see this as the very conundrum that we're here to resolve. You know, what if the GNSO Council said, "We looked at this."

Let's say that this process is in place. The methodologies and processes we've laid out. And they say, "We pronounce that this is merely a contract clarification. It's not requiring any new obligations on - the parties are already having to do this. We're just stating this."

Do you think that that would not be challenged? And they went through a PIP? I don't know. So I mean I think trying to work this through hypothetically is important because it shows that maybe we haven't answered the very questions we were put here to answer.

That's it.

Chuck Gomes: Thanks, J. Scott. Some very good observations.

Greg, you're up.

Gregory Shatan: My concerns - this is Greg Shatan. My concerns are very much aligned with J. Scott's, and he probably said it better than I could've by a long shot. But another angle to look at this is that the releasing of names that have been, you know, held back due to name collision is an issue that is present and it needs to be resolved in a timely fashion.

To say that - if - you know, one approach. If we say that this is - you know, has to be a PDP, because it somehow is - concerns new obligations, which I don't necessarily agree with, would the answer be that until that is resolved, that the name collision resolution can't go forward?

I think there would be people who would be spinning on their heads almost immediately if that were the position.

On the other hand, if we take the position that because it involves a new obligation, which again I don't necessarily disagree with - don't necessarily agree with, that the release of those names without going through a sunrise to go forward, you're going to get different people spinning on their heads.

In either case, have we managed to actually resolve anything or define a path by which that resolution can take place in a timely fashion? And you know, I think the NGPC kind of punting it back to the GNSO Council is - you know, regardless of the timing by which they got the proposal, is a true punt. And you know, it's just going to throw this back at the Council.

And we - you know currently, the Council has no good way of dealing with this really, and I don't think that everything that we have on this chart really provides any good way, especially if we say that it has to be a PDP; although again, I think I agree with J. Scott that this is already in the contract and it's a matter of clarification.

But in any case, I think we're kind of - have given the old problem maybe some new names, but we haven't actually solved the old problem.

Thank you.

Chuck Gomes: Thank you very much, Greg. This is Chuck again.

Amr?

Amr Elsdar: Thanks, Chuck. This is Amr.

I'm a bit - not confused, but I guess this is a bit of a challenge to try to define what a PGP will be and what are the circumstances or set of circumstances that would lead to its use as an alternative to a PDP?

But a few things I would like to weigh in on regarding - the way its framed right now, it seems to me that it's just a fancy way of asking a working group to reconvene to clarify/give input on/advice on existing policy recommendations that they themselves had made to the Council. The Council had voted in favor of, and then the ICANN Board in favor of those.

I guess this is a - pretty much a standard practice to ask a working group to reconvene and give this input or advice on these policy recommendations that do exist.

However, my understanding of this working group's charter is that what the question we're being asked to answer is what are the set of criteria that would allow a policy guidance process to be an alternative to a policy development process in developing gTLD policy that is not consensus policy?

So I don't see the box here in the flowchart that is really addressing that question. And to be honest, I don't have an answer for it.

But what I might suggest at this point is maybe we should get back to the charter drafting team and ask for some clarification ourselves on what they meant by what they're asking for in terms of a policy guidance process.

The one scenario I could think of where a PGP might be used for this set of - a query into this set of criteria is if it were talking about a policy that's let say 50-years old, so let's say we're in the year 2050 and the GNSO or the ICANN Board wants clarification on policy recommendations that have been made back in the year 2010 and the working group cannot reconvene because they're not around anymore.

That would make sense to me, but I'm not sure that's what we're trying to do here. But I think we should seek a little more clarification. Thanks.

Chuck Gomes: Thanks, Amr.

Now this is Chuck. I don't think that the charter directed us to come up with a policy guidance process. It asked us to consider alternative approaches, and I hope I'm wording that correctly. Marika will keep me straight I think on that.

So I don't see a need to go back and ask for clarification.

Considering a policy guidance process and a - or a PIP is just part of the task of looking at possible alternatives for dealing with issues that have a little bit different requirements.

So - and I welcome other discussion on that. But I don't see any need to go back and ask for charter clarification on that. I think that's covered.

Let me jump over to - oh, Marika, your hand went down. Did I express that correctly in your opinion?

Marika Konings: Yes. This is Marika.

Exactly. And I actually was writing to you and to Amr on the chat. It may be helpful for you to review the Excel chart that we used as a way of reviewing previous efforts in which the Council used ad hoc processes to form certain positions or provide input, or provide guidance.

I think the whole idea as well behind this effort, and indeed the question of having a policy guidance process, is to actually have something formal in place.

You know on the one hand, so all parties involved know, you know, what the different steps are and you know there can't be any questions like, "Oh, well, we didn't know that this was going to happen," or "This is not what we had agreed to." But also at the end of it, there's a clear expectation of what happens with the outcome.

And I think that was a major flaw we identified in looking at all those different efforts that have been - taken place before is that, you know, the Council you know would come up with you know a beautiful position. You know, unanimously adopted. But then it would go to the Board, there was no obligation or requirement on the Board to actually even do anything with it or even respond.

So I think this two-fold idea of having something in place whereby everyone knows what's expected and what happens? What are the different requirements for it to become a Council position? But also, having attached to that, if the Council indeed goes through all the effort and follows that formal process, they are tied - attached to it at the end of the process when it gets to the Board.

But, I think you worded that very well, Chuck.

Chuck Gomes: No, thank you very much, Marika.

This is Chuck again.

Alan, your turn.

Alan Greenburg: Thank you.

A couple of things. First of all on reconvening or whatever the charter drafting group. To a large extent they are us. And to have us reconvene with different hats on but largely the same people I think is somewhat surreal, so I don't think we need to really refer to that other group when they (unintelligible) at this meeting to a large extent.

And I think that is to some extent mute. A charter group does the best job it does without having done any investigation. As we go along, we may well find

the charter's completely wrong, in which case we should recommend to the GNSO to alter the charter, not do something because the original group didn't have the wisdom to say it should be done.

So I - you know, I think really it's not a matter of what the - are we following the charter? It's if the charter is missing something important, then we need to change the charter.

Otherwise, we're not doing our job in response to be looking at the real subject matter.

Chuck Gomes: Thank you, Alan. This is Chuck.

And there are provisions for going back to the Council and requesting a change in the charter.

Alan Greenburg: Indeed. Yes.

On the substance of the thing we were discussing, maybe I'm living in a dream world, but it's a lot clearer to me than it seems to be to a lot of other people. First of all, I think we need to be clear on words. Reconvening a group, okay, I think if I heard Amr correctly saying it's something we do regularly. I don't think we've ever done it. We are now talking about doing it in one particular instance.

And we use the term reconvene when it's a policy which has not yet been adopted by the Board, i.e., it's still very fresh relatively.

So anyway, I've made the statement, and I know I'm starting to sound like a broken record, of we need to be able to reconstitute a PDP group to make some tweaks. To alter something that they recommended or add something that they didn't get around to, or something like that. And I still believe that's

something that we need to explicitly define because I think it's going to address a large number of the kinds of issues we're looking at.

But that being said, the thing that we have now has policy guidance really is something that most parties agree is policy. It's not of enough import or has such a tight timeline that we cannot think of doing a whole PDP over it. But, we need a way of getting an answer from the GNSO.

So I think that these things are a lot cleaner cut than other people seem to be thinking. Now maybe I'm missing some point.

Anyway...

Chuck Gomes: Thank you, Alan. This is Chuck.

Let's go to Anne.

Anne Aikman-Scalese: Yes, thank you Chuck. It's Anne.

I had two comments. I think earlier Alan said, "Well, if it involves a contractual obligation on the part of the registry, then it's policy," and I just wanted to note - and this is just sort of a minor comment, but I don't think that's necessarily actually true, because I think there are certain things that are decided you know in the contractual relationship that have not necessarily been the subject of policy development.

And so, I don't know - I don't think that there's always a correlation between - I mean, there's consensus policy, yes, but I think there are some things that registries are contracted to do that haven't necessarily been you know gone through a policy process per se.

You know, I'd probably bring up my example again of the reserved names and that kind of stuff.

But the broader comment that I wanted to make was - I remember we were on a call a couple weeks ago where we all agreed that we were developing processes where we were very hopeful about these processes because it really wouldn't matter whether the question that was raised was implementation or policy because we just have a process that could be invoked when a need arose because of changing circumstances, or whatever, that - you know, that - and so now it's just as J. Scott said; we're actually hit in the face with something that takes us back to that core chicken and egg question; was policy already made on this?

Are we really creating a process that can be invoked regardless of whether something is policy or implementation, as we had hoped to do? Or, are we really saying, "Hey, you know, this process - there's a threshold question in this process that isn't answered by these great mechanisms that we've now charted," and that somehow we have to get back to that threshold question, you know, does the GNSO take up on its own an initiative to vote on whether it should be responding to - in a consulting manner, to the combined proposal of the IPC, BC, and registry operators?

We talked about these processes being able to be invoked not just by a question from the Board as well. So I haven't answered that question other than to say we might still have to have work in the area of developing a threshold decision making process that goes before this PGP or PIP.

Thank you.

Chuck Gomes: Thank you, Anne.

Chuck again.

Alan, did you want to respond to that or something new? Either way if you like.

Alan Greenburg: Yes, please.

On Anne's first point, I was foolishly using shorthand. When I said it's a contract issue, I meant a contract issue within the picket fence. There certainly are a multitude of contract issues which are not within the purview of the GNSO to absolutely set policy; although, we can certainly make recommendations, and we have done that in the past.

Anne had a throw-away comment. If I understood correctly she said you know reserved names are one of those things. I - or - it's not clear to me whether reserved names are implementation or policy. We clearly included them in the new gTLD policy. We just had an IGO/INGO Red Cross PDP on essentially reserved names.

And on the other hand, over the years we have changed reserved names lists and contracts simply as a matter of course by doing it without the GNSO being involved.

So it's not 100% clear to me which side those fall on.

And I point out that we have a regular process that goes on in the background all the time of (ARSEP)s, of registries requesting exceptions to policy, and those changes get made. And on a registry-by-registry basis, the policy is changed without the GNSO getting involved.

So we're living in an interesting world I guess.

Chuck Gomes: Thank you, Alan.

This is Chuck. Note, I put myself in the queue just so I can respond to a few things that have been said before others jump in.

Jonathan, go ahead please.

Jonathan Frost: Thank you, Chuck, this is Jonathan.

I wanted to emphasize or stress that the policy implementation distinction in my opinion is not that related to whether something violates the (unintelligible). (Unintelligible) things, as Anne just pointed out, are the (RA) but are not - they're not policy. And you could have things that are in the (RA) that are policy.

And if you wanted to, unless it's a consensus policy, you could create a policy that's inconsistent with the (RA). It would be unwise because if it's like ICANN in breach of contract with the registries would be opening to liability, but I mean you could do it.

And, you could have implementation that was inconsistent with the (RA). So basically, all four categories - I mean, they just - they cross all lines. There's really no correlation between (unintelligible) and the contract and being policy or being a new implementation.

Chuck Gomes: Did we lose you or were you finished, Jonathan? This is Chuck.

Jonathan Frost: Oh, thank you. I'm finished. Thank you.

Chuck Gomes: Okay, thank you very much.

This is Chuck again.

Okay, I'm going to bring us back in a minute to the question I started all this with, and it's been great discussions.

But first, I want to comment on the illustration or example, or whatever you want to call it, that Anne brought up of the name collision issue.

And I'm not going to spend very much time on this because obviously we're not going to have our work even close to being done to impact that, so - but I think it is very helpful that we have a live demonstration, or a couple of them actually, in the community right now that show the importance of our work.

And I hope everybody appreciates that in that we're working on some stuff that is really critical going forward and we have the opportunity to make some significant contributions in improving things going forward. So I wanted to point that out.

Now with regard to the example or illustration, or whatever term you want to use, of the name collision issues, I'd like to point out for those that aren't familiar with it that the registries, the IPC, the BC that kind of worked together on this issue weren't debating whether there was a policy that needed to be implemented. They were debating how to implement it.

Staff came up with an approach that in the opinion of registries would've been very onerous and not cost-effective at all in terms of the way it was implemented.

It wasn't because the registries didn't feel they had an obligation, that there was policy that required them to implement it, but we thought there were better ways of doing that. And so, that's why I think that particular one is really trying to come up with a better implementation process that is better for everybody and still implements the policy which I don't think changes, nor does the contract change because of that.

Now again, I don't want to continue to debate that right now. That's not our task.

I had asked the question about whether there was agreement in this working group with regard to whether there should be a super majority decision in the

case of a PGP or a PIP? Alan made one - what I thought was a very constructive suggestion. And, I'd just like us to narrow in on that a little bit.

And before we send this out for some preliminary feedback from groups in the community, we need to make sure we're comfortable with what we send out. And so, that's where I'm going with this.

And now I'll turn it over to Anne again.

Anne Aikman-Scalese: Yes, thank you Chuck. It's Anne again.

I would like to focus specifically on I guess Slide 2 in that regard. Again, I may be taking us back into territory that seems uncomfortable, but this PGP process, for example, says the GNSO Council decides to invoke a PGP, and so this actually does relate to the voting issue, even though it's not the next to the last slide under that question that you pose.

But when we say GNSO Council decides to invoke a PGP, and again a couple of things out there in the community right now could come under this, what sort of vote are we talking about there?

Thank you.

Chuck Gomes: Well, notice that it - this is Chuck. Notice that it says the same as initiating a PDP. Now the PDP thresholds are really low for initiating a PDP. So right now we're suggesting that it would be just as low for initiating a PGP.

Does that answer your question?

Anne Aikman-Scalese: Okay.

Do - are we saying that that means, for example with respect to name collision, that the - not the policy part that's long-term, but the consultancy

part that's 90-days? Does our chart mean that - because I think when we send this out to the community, these types of questions are going to be asked.

And again, I'm not taking a position at all. I'm trying to be extremely neutral about the process here. But given that we're talking about designing a process where GNSO Council itself can invoke a policy guidance - a new policy guidance process without any request from the Board or anybody else in the community, it could apply for example in this situation, which you know there's a view that its implementation.

But this process could apply and somebody could say, "Okay, I put resolution before GNSO Council to apply a policy guidance process to the 90-day consultancy period with respect to the APD name."

And then how - what would happen with that? What kind of vote would that take?

Chuck Gomes: Well, it - are you saying for a PGP?

Anne Aikman-Scalese: Yes.

Chuck Gomes: So it would take I think, and Marika probably will set us straight on this. I don't have the threshold list in front of me, but I think it's something like 33% of each house, or something like that, is all that's needed to initiate a PDP, so that would be the same thing for a PGP.

Now that's just to initiate it.

Anne Aikman-Scalese: Right.

And so then my question would be is that what we as a working group actually intend? Or once again, (unintelligible)...

((Crosstalk))

((Foreign Language Spoken))

Chuck Gomes: Somebody needs to put their phone on mute please. Thank you.

                Go ahead, Anne. Sorry.

Anne Aikman-Scalese: Just to say whether or not this is what the working group intends.
                That anything running around out there that a PGP could be invoked by the
                GNSO at that level of voting, or are we in fact you know back to the question
                of what I will identify as this threshold question whether we have to identify
                elements that would be required to distinguish between implementation and
                policy?

                We were all very happy that we were going to develop processes that didn't
                require that determination, and yet you know as J. Scott said before, we've
                come face-to-face with something that GNSO Council could with 33% from
                each house vote to initiate a PGP under our chart with respect to that 90-day
                consultancy period and launch this process for that purpose.

Chuck Gomes: Okay.

Anne Aikman-Scalese: Right? Am I right?

Chuck Gomes: I don't know. Let me let - before I jump in on that, let me let Marika jump in.
                She's been - had her hand up for quite a while.

Marika Konings: Yes, this is Marika.

                Just a note. On that same topic, the GNSO Council could at any point in time
                initiate a PDP if it would want to. Chuck, know that the idea is that indeed

there's a low voting threshold either for the PDP as well as PGP, and the whole idea behind it is that it's easy to start talking about an issue and exploring it.

Where I think here comes in you know the higher voting threshold of why you need to make sure that everyone's on board is indeed the adoption of recommendations.

And on your specific example, how I would envision it, you know indeed the NGPC may have said you know go out and consult. There's 90-days. Start. You know, go and talk to your community. But if the Council would say, "Well, we're going to actually do a policy guidance process on this," I think that basically the feedback would be from the Council saying, "Well, staff has decided to initiate this process, so you may still want to continue with your 90-days consultation, but please be aware that we're doing this process in parallel and indeed should at the end of the day achieve super majority vote."

"There are certain requirements attached to that, you know from a Board perspective, so you may want to keep a close eye on that." And you know, maybe staff would say, "Well, (unintelligible) maybe we should wait and see what the outcome of your process is, as you're the specific community that we want to hear from."

Or indeed, the GNSO Council may say, "Well, as we have 90-days, let's see if we can set this up as part of, you know, defining the scope of the effort where we actually task a group with - you know, who will be looking at this with a 90-day timeline of trying to fit it in."

Although, you know, there's some minimum requirements that may make 90 days you know difficult, but still that may be part of the guidance that the GNSO Council would give.

So I think the whole idea is that this provides the Council in those cases that it would want to, and you know it has that ability already. It's not that it needed a PGP to you know provide a viewpoint or provide input. We've seen that there are many different processes that it has already done that through. It's more to just formalize it and have a way of doing it.

And again, the voting threshold is relatively low, mirroring what is the case of the PDP.

But of course, it doesn't mean at the end of the day that you know it necessarily leads to you know recommendations or consensus position. It's more to start it off, to have the conversation. That's the low threshold. But at the end of the process - and again, we need to review whether that's you know only stands as super majority? You know, it may be (sent) in a different way if it's only a majority vote. But, there is a different voting threshold at the end of the process.

It's just that starting the conversation is you know a low threshold, and I think that's also one of the main reasons why that has always been supported on the PDP side, to make sure that issues can be re-explored and discussed without unnecessarily high barriers.

Chuck Gomes: Thanks, Marika. This is Chuck. And Anne, I'm going to come back to your question, so bear with me a second here.

But as we're going through this, it makes me think that we need to call this PGP a - instead of a policy guidance process, a policy/implementation process. And the reason I'm saying that I guess is because of our real example that we have right now. The - with regard to the name collision, because I really think it's an implementation issue.

But, I don't know that the GNSO really needs to grapple over whether its policy or implementation. If it's an issue that doesn't obviously require a PDP,

and - but some work needs to be done even if it's just implementation work, then this could be invoked.

So for example, if this was already in place in this particular case, the GNSO Council could vote to initiate a PGP, meaning a policy or implementation guidance. It doesn't matter which one. And then, go ahead and go through the process however that ends up being developed.

So I think it would be good if we don't name this just a policy guidance process because it could also be implementation guidance.

And I'll stop there and people can comment on that, but I promise I'll come back to Anne's question.

Anne, could you rephrase your - you asked me a very direct question, but I need you to reword that for me so I can try to respond, if I can.

Anne Aikman-Scalese: Yes, thank you Chuck. I really - had to smile. Coming up with the acronym for the PIG process, but yes, the...

Chuck Gomes: Thank you.

Anne Aikman-Scalese: I completely agree with you about not necessarily calling this just a policy process if we truly intend as a group that it could be invoked not just by a letter from the Board or a new gTLD program committee, or somebody else, or the GAC, or whatever. But if it can be self-invoked, then you know that threshold vote is important in relation to the super majority vote, as Marika was saying before.

And presumably, that type of vote is where people would give speeches about whether they think its policy or implementation. And if you had just a policy process, then you know the Council would say, "Well, you know, this is

policy by voting," or they'd say, "This is implementation by voting," but that gets us back into the type of division that we're trying to eliminate.

So that's why I actually kind of you know favor what you said about making it not just the policy process but it could also be an implementation guidance process. But where I get caught up is the voting structure of the GNSO, and I don't - you know, it's not up to this group I guess to consider that issue. But, I think it's an issue that's in the background with respect to this.

You know, I'd have to solicit comments from J. Scott on that one.

Chuck Gomes: Thanks, Anne. And I'm going to - this is Chuck again.

Mary, and since Marika's supposed to be on vacation I'm going to ask you to do this, would you send around to this working group the voting thresholds that go with - that are applied for the Council so that everybody has - can look at those? We're not going to - we don't need to go through them on this call. That would take too much time.

But if you would do that, I think that would be very helpful, so that people have those. And that is a GNSO review type issue that is being done on a separate track right now.

But let me be quiet and go to Avri. She's had her hand up for quite a while.

Avri Doria: Hi. Thanks. This is Avri speaking.

So yes, on two things, and the main point I want to make I'll get to. I think the idea that is a policy/implementation issue is good. And to answer the question is - if there's any policy aspect to it at all, even though it has major implementation aspects, and this is sort of reference to Jonathan's question in the thing is it policy making body? And yet, you know one of the principles

we've had on all of this is that the implementation does bring up policy issues that need to be dealt with in a decisive way.

The thing I wanted to come to was on the threshold vote for starting one of these processes. And some of the discussion I've heard outside this list is that there's a concern that too many things may go in too often for re-decisioning. And that you know - and that's sort of the other side of the coin of every implementation issue may have a policy aspect that you know every policy issue may indeed have an implementation touch point that people might take advantage of too easily.

And so therefore, looking at the low threshold of a PDP might not be appropriate.

Now you certainly don't want to go as high as a super majority to initiate these discussions because that then becomes too high a threshold. So looking at the other thresholds and whether we use the standard majority threshold, which is a decent one for you know non-PDP decisions, and this is not a PDP decision because it's a (PIGP) decision - I tried to say it without laugher. Really I did.

Chuck Gomes: I'm sorry for...

Avri Doria: Right.

And so - and/or perhaps the other threshold we've got, I think if we could get away without defining more complexity to the thresholds - we also have the threshold that we rarely use of the approval of a non-scope PDP, and we can see that when we do the review.

So essentially, we have you know four different thresholds that we use in the Council, and hopefully, we can pick one of them. But, I just want to sort of put

a you know parking lot issue on the concern that starting one too easily might also be problematic.

Thanks.

Chuck Gomes: Thank you, Avri. This is Chuck.

I'm going to go to (Stephanie) next, and then Marika, and then Alan.

Go ahead, (Stephanie).

(Stephanie): Hi. Thanks.

This is a very naïve question, but I hear that example of the Red Cross. Is it - do we have to divide things only between policy and implementation? Is there such a thing as adjudication that is different?

I can tell by the silence that it's not only a naïve question, but probably a really dumb one.

Chuck Gomes: I don't know how to - this is Chuck. I'm not sure I have a quick answer for that. I think it's a good question. Maybe others can respond to that.

I think over the last several months, there's been I think pretty good agreement in this working group that there isn't always a clear line between policy and implementation, and so that may partly address your question. But, I don't think I can respond to it specifically.

Marika, let me let you jump in and see what you have here. And not only on this but what you had your hand raised for.

Marika Konings: Yes, this is Marika.

And (Stephanie), you know in answer to that question, my input was actually going to be in relation to you know calling it an implementation guidance process or whether we need to add implementation? And just you know that is something that we did flag at an earlier point where in this specific charter question specifically asked about you know what policy guidance or input questions - but of course, we have several other charter questions that are coming that more specifically deal with implementation as well as you know, guidance and implementation review teams.

So I think what we already flagged is that (unintelligible) probably we'll also want to have the conversation as to indeed if or when issues get flagged as part of implementation, either for the Council or through an implementation review team, what kind of process or framework should be used then?

And you know at that stage, the group may still say this is - indeed, this would also apply there. But maybe through these conversations, we may actually find that a more nuanced or a different kind of process would make more sense.

So I think you know I'm more than happy to add implementation at this stage to the title as well, but it may be something as well we want to keep a little bit open as we dive into the more implementation-focused charter questions that are coming next to see, indeed, whether this model would also fit those kind of conversations or whether something else, something additional, something less may be needed for those specific types of conversations, as I said, may be would be invoked through an implementation review team.

Maybe it would work a little bit different than you know the Council that initiates or how certain issues arrive, or how that is being presented.

So again, I think we'd probably have further conversation about that as well as part of further charter questions.

Chuck Gomes: Thank you very much, Marika. This is Chuck again.

And by the way, we - and we might just want to - to avoid some of the funny acronyms, just call it a guidance process, and it could be applied to either one. But we can get more specific on that later.

Let me go to Alan.

Alan Greenburg: Thank you.

Chuck Gomes: And we're coming at the top of the hour, so we're going to have to wrap it up and I'll make some sort of a concluding statement. Obviously, we're going to continue this discussion.

Alan Greenburg: Okay, I'll be quick.

I suggest a GNSO guidance policy, a GGP. Two letter acronyms I think are too short.

Two things. On (Stephanie)'s question, I'm not quite sure what she meant by adjudication? Early in this process, we had three phases that we were talking about. We had a policy design and implementation, and you know that sort of has disappeared as we went along.

In terms of the thresholds, I've been working with the GNSO now for nearly eight years, and I have continually heard the statement saying the voting threshold we have for approving a PDP is far too low. It needs to be raised.

But on review, we haven't had all that many PDPs. It doesn't get invoked continually to address approval of issues. So I'm not sure we really have a problem; although, as I said, I've continually heard the statement that the threshold needs to be raised because it's too low.

Thank you.

Chuck Gomes: Thank you, Alan. This is Chuck.

Avri, and - let me ask. (Stephanie), is that an old hand, or did you want to continue?

(Stephanie): Well, I don't really want to belabor this issue, and I do apologize because I missed a lot of the early meeting while you folks were sorting out the mandate, but I'm just a little worried about decision making, or as Avri said in the chat, or if adjudication is (unintelligible) surfacing how you're implementing a policy decision that has been made?

And if there's a decision that has to be made where you realize you don't have a policy, then you go back and you make a policy, right?

But then, there are decisions where it's really one side or the other. It's just an adjudication. And I wouldn't want to see that kind of thing get stuck on the horns of this dilemma. Is it policy? Is it implementation?

And maybe I'm not making that clear.

Chuck Gomes: This is Chuck, and I'll quickly go to Avri, but let me respond briefly just personally.

You may be on to something that - I definitely think we should keep this on our agenda in terms of talking about adjudication.

If I understand you correctly, what you're suggesting is we may need a process for making a decision whether there's any new policy involved. And if so, that affects the way we handle it.

But let's not debate that any further because we're out of time, but let's come - but let's promise to come back to that, okay?

And let me...

(Stephanie): Thanks.

Chuck Gomes: And correct me if I - either in the chat - and by the way, there's so much chat that I haven't been able to keep up with it all. So I apologize for that.

But if I got that wrong, please let me know in an email or something, (Stephanie), please.

Let me go to Avri and then we're going to have to wrap it up and we'll have to continue this in our next meeting.

Avri Doria: Okay, thanks. This is Avri speaking.

Actually, I had stuck my hand up to address (Stephanie)'s question, and I think that that adjudication, that active interpretation is indeed what the vote of the Council is when it decides yes, there's more policy work to be done on this; or no, this is just an implementation issue. And I don't think there's any single person or single adjudicator that can make it.

I think what we're defining is a process that actually makes (unintelligible) end process.

Thanks.

Chuck Gomes: Thank you, Avri. You broke up a little bit, but I think that the gist of what you were saying was clear.

The - so - all right. Well I'm going to come to this - I'm going to make this conclusion from our meeting today, and let me say I really...

Avri Doria: Sorry I broke up. I can write what I said if it didn't come through since the time is up.

Chuck Gomes: I think what broke up didn't distract from what you meant, but feel free to write it. AT least it seemed clear to me.

And thanks for that good comment.

The - I'm going to make this conclusion of today's call and see if J. Scott agrees with me as the co-Chair, as well as the other leaders if they'd like to chime in.

I don't think we're ready to send this out yet. Probably a fairly obvious conclusion. And we need to continue the discussion that's gone on today. Thanks Anne for that check of agreement.

And so we need to continue this. We didn't resolve anything today, but I think we raised issues that are fundamental to us coming to resolution in the future.

J. Scott, are you in agreement with me on that?

Mary Wong: Chuck, this is Mary. I think J. Scott had to drop off unfortunately.

Chuck Gomes: Oh, so he's that Number 15 that dropped off. Okay.

How about Michael and Olevie? Any disagreement with that conclusion?

Olevie Kouami: No, no comment (unintelligible).

Chuck Gomes: Thank you.

And Michael, are you in support of that? That we - my conclusion there?

And I see lots of agreement in the chat, so Michael if you want to comment. Go ahead, Michael. You want to say - oh, you're - okay, the checkmark's fine.

All right, because we're over time I apologize for that. But, I do compliment the great participation today not only in increased numbers, but in participation in our discussion.

We will pick up on this in our next meeting. And again, thanks. Let's again try and continue some of the discussion on the list. That will facilitate our meeting next week.

And with that, I will adjourn the call.

Woman: Thanks, Chuck. Bye-bye.

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

Man: (Unintelligible). Bye-bye.

Woman: Bye.

Terri Agnew: (Monet), if you could please stop the recording.

Once again, that does conclude today's teleconference. Thank you.

END