ICANN Transcription

GNSO New gTLD Subsequent Procedures PDP Working Group

Thursday, 17 December 2020 at 20:00 UTC

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JULIE BISLAND:	Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures Working Group call on Thursday, the 17th of December, 2020.
	In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. And I would like to remind everyone to please state your name before speaking for the transcription and please keep your phones and microphones on mute when not speaking to avoid background noise. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.
	With this, I will turn it over to Jeff Neuman. You can begin, Jeff.

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JEFF NEUMAN:	Thank you very much. Welcome, everyone. We have a busy agenda, so let's just ask for any statements of interest first, if anyone has got any updates.

And I'm not seeing any. Okay, good. So welcome to most likely our—well, it is—last meeting of the year. So welcome, everyone. Hopefully, you'll have some time to enjoy after this week and this meeting or if you're taking a holiday. Hopefully, a calendar year 2021 will be a lot better than 2020.

But before we do the well-wishing, let's get into some items on here. The main things to discuss today are the updates to the workplan, which were discussed with the GNSO Council earlier today. Then we'll get into some mechanics of the consensus call and the designations and minority report views, etc. Then we will talk about a couple outstanding issues. Thankfully, there are not many, which is good. You will have seen a redline. The last redline was, I believe—Emily, correct me if I'm wrong because I've seen so many now—24 hours ago or more. But I think that's what it was.

Okay. Anything else that anybody wants to add before we get started?

Thanks, Jim. I've been avoiding that link for a while. Okay. I should actually look to see if there's anyone—no. Okay.

So, if we can post the workplan up there that I sent around in an e-mail—this was the same one that was discussed with the council … Oh, it sounds like someone's mic is open [inaudible]. All right. So while the workplan is going up, as you know, the GNSO

Council met probably … was it nine hours ago or something like that? It was early in the morning for a lot of us, and, for others, afternoon and evening. Towards the end of the meeting, under Any Other Business, the topic of SubPro was brought up, including the fact that we are not delivering the complete final report by the 23rd of December, which is what we had approved in our change request, and also just what the remaining steps were.

For the most part, I think most of the councilors were fairly relaxed about the "just a couple weeks" edition, but there was at least one or two councilors that were not happy about the fact that we're essentially extending it out a little bit and we're very clear that no more extensions should be granted—so understanding those concerns but feeling like this extension is warranted to make sure that these last final steps are all done without rushing.

The revised schedule. Again, I don't know. I was trying to give some time for someone to put it up on the screen. Steve? Emily? If not, I can just go back—there we go. Cool. So what you see there is our original workplan that was approved by the council. When I say "original," I mean the one that was approved in February of 2020. Then, last week, we announced a new workplan to the group. We got some concerns that this might have been not enough time for some. With the goal of delivering the complete final report prior to the GNSO Council meeting and being able to discuss it in the January council meeting and potential voting on it in the February meeting, this modified workplan, which the council seems okay with, is what we're now going to go with. So the last column there you see is the one that we are going with.

So what that means is, today, we're freezing all of the content by the end of this call. All the content will be frozen. You may see, if we agree to anything language-wise, shortly after the call or first thing in the morning, European time. Then what will happen between now and the 22nd will be cleanup. So we're going to make sure that the citations are all still correct, that the numbering is correct, that typos removed or fixed—basic cleanup and things that need to just be done to make it look like a good final report. So nothing more than that will happen with the cleanup.

So you essentially have all of the content now that is in the final report, but on the 22nd, you'll get an official e-mail from the group on that this is the final, final version that we're taking a consensus call on. We'll get into the composition of the consensus call in a couple minutes. Instead of ending the consensus call on Tuesday, the 5th, we're extending that until Friday the 8th. So that gives some more time for the working group to issue on the list—again, we'll talk about this—their support or non-support for the items in the final report. So that's a Friday.

Then, on Monday, the 11th—late on Monday because Cheryl and I have a very long meeting planned to discuss all of the things that have come in and discuss our designations—we'll issue that on Monday the 11th. On Tuesday, the 12th, we plan on holding a working group call. So we'll send out calendar invites shortly after this meeting.

Sorry, can we just go back to that? I think it just disappeared off the screen. There we go. On the 13th, we'll ask that all or any challenges to the consensus call designations come in. Then, on the 18th of January, we'll require that all minority reports are in.

Then, after they all come in, we'll deliver the report to the council, and the council meets on January 21st. So, to give a heads up to the council, we may submit the final report and the consensus call designations on the 11th to make the document deadline with a note that any minority reports will come in on the 18th, and we'll forward them as soon as they come in.

Any questions on the dates?

Okay. I'm not seeing any questions. Not seeing any comments.

CHERYL LANGDON-ORR: You got Anne's hand up.

JEFF NEUMAN: Oh, sorry. I didn't see that. Anne, go ahead.

ANNE AIKMAN-SCALESE: Thanks, Jeff. I really appreciate the additional days with respect to the views or reports. Just one question in relation to challenges to consensus call designations because, when and if there is a challenge—I'm not saying that there would be; this is just basically a procedural question—those are brought to the Co-Chairs. If the Co-Chairs disagree, there's also an appeal process to the GNSO liaison, which I think is in Footnote 5 of 3.7. Is there some sort of due date for that process that's in the working group deadlines?

JEFF NEUMAN: Thanks, Anne. There are no timelines that are within the … There's an appeal process that could be exercised as well. So, unfortunately, there's no kind of timing in that. It's not like we could say, "Well, this has to be done by X date or Y date." The reality is that, if it first goes to the liaison, there's no time requirement there, and there's no requirement for an appeal, either. So we're going to act as if there's no appeals. If there is an appeal, then we'll have to take that as it comes. But I don't think that would affect any of the minority views or reports or anything like that. So, if anything, that would only have an impact on the council consideration.

ANNE AIKMAN-SCALESE: Thank you.

JEFF NEUMAN: All right. And, as Cheryl says, there are seven days, if someone wants to file a challenge to the liaison. So there is that. Thanks, Cheryl.

Okay. Let's go to the—I'm sorry. Let me just make sure there's no other comments in there. Nope. Okay. Let's go to the consensus call. The leadership team—again, the leadership team is Cheryl and I, but also those that were either the Chairs or the leaders of the work tracks were invited, if they wanted to, to just provide council to Cheryl and I and Annebeth and Martin and Robin and have certainly been on a number of the calls and have certainly been a big help—had some discussions on this.

So what we foresee at this point is that there are three topics, in our minds at least, where could see some—I want to say

"divergence," but not divergence, necessarily, in the sense of how it's defined in the guidelines—differences of opinions, and those three areas are closed generics. The second area would be mechanisms of last resort/auctions, which also includes the private resolution. Then the third are would be potentially the communities, including the CPE. So we see those three areas as potentially having some differences of opinion, but we're hoping that the rest of the report would be fairly … We'd hope that we'd know the outcome there or we'd hope that we know the outcome for the rest of the report.

So our goal is to basically be asking for the consensus call basically in four parts—one part on the closed generics topic, one part on the communities/CPE topic, one part on the mechanisms of last resort/auctions/private resolution, and then the fourth part on essentially the rest.

So what you'll be asked to do as members of the working group—this needs to be done on the list as individual members—is to respond to the consensus call with your either support or non-support for each of those four areas. If there is non-support, we're going to ask that you are very specific as to what you do not support within that topic. If there's an area within that topic that you don't specify as something you do not support, the assumption will be that you will support it.

In other words, the recommendations on ... Well, closed generics is pretty much just one thing, but if you look at the communities and you look at the mechanisms of last resort, there is a lot of implementation guidance and recommendations. So, if you, let's say, do not support the notion of, let's say, changing the threshold

to a percentage for whatever reason, and you indicate that, but you don't indicate any other areas that you do not support, we're going to assume that everything else—all the other recommendations and implementation guidance in the community topic—are supported. So I hope that makes sense.

And, Kathy, no. At this point, we have not included the section on … I think it's in—someone correct me if I'm wrong—the global public interest section. So that, at this point, is not one that we were planning on separating out. We'll see how this discussion goes today. But, at this point, we did not think that there was a significant enough group that has expressed issues here we would separate it out. But, again, that's why we're having a discussion today.

I'll stop because I see Paul McGrady's hand and also Kathy. So go ahead, Paul. Let's not get into any specific subject matter. Let's just try to stick to the, in general, topics for the consensus call. Thanks. Paul, go ahead.

PAUL MCGRADY: Thanks, Jeff. So I won't make my joke of, "I would like to reopen the question of, should these be in rounds? Just kidding."

So, when we see this, just so that we understand it, you're going to have these three clumps of things, and then everything else. Presumably, on the "everything else," somebody could say, "I do not support part of everything else." Then they would just have to list that, and then whatever they don't list would be supported.

So, if we are looking at one of these subtopics, this won't be recommendation-by-recommendation. Is that what we're taking? That there'll be clumps, and then the leadership team will pick out, from the reaction to those clumps, which recommendations have enough to get through and which ones don't?

So, for example, say … I'm trying to think of a hypothetical, like your community thing. Say I'm for the thing becoming a percentage instead of a hard score but I'm against something else. I can't think of anything. You guys would take my "not for that something else," and, if enough "not fors" added up, that one thing you guys would excise those things for which we have consensus, but if everybody or nearly everybody said the percentage thing was okay, that would survive? Is that how it's going to work, rather than "I'm for Recommendation 1. I'm for Recommendation 2. I'm against Recommendation 3"? Thanks.

JEFF NEUMAN: Thanks. Good question, Paul. So sort of, yes. It's not that … You used the term "survive." I mean, everything is going to survive. It's just whether it gets full consensus, rough consensus, strong support, or one of the other designations that's in the working group guidelines. So, other than that part, yes. For example, if there was only one person that didn't like that, in the "everything else," one little recommendation, then that would go from being a full consensus to a rough consensus. And only that little part. So, yeah, we would separate out in that way. But just to make sure that everyone is on the same page, everything in the report "survives." It's just what designation it's given.

PAUL MCGRADY: Can I do a follow-up quickly before you move on?

JEFF NEUMAN: Kathy, is that okay?

KATHY KLEIMAN: Oh, all right. Sure.

PAUL MCGRADY: Thanks, Kathy. So just for clarification, when you say everything will survive, that just means it will exist somewhere in the report, but it could get a consensus level of no consensus and it would not survive in the sense of it won't be something that we're recommending to the council to vote for. Is that right?

JEFF NEUMAN: The council is going to get the full report. They will get everything and all of the designations. It's up to the council as to whether they would like to consider any of the recommendations that do not have either consensus or full consensus . So I can't judge what they will or won't do. I don't want to put myself in that position. Hopefully, that makes sense. So they'll know what the support and non-support is, and then the council can act according to its procedures as to whether or not or how to pass that on to the Board.

PAUL MCGRADY:	Gotcha. I just want to make sure that we're not in a situation where everything is a foregone conclusion and the consensus call doesn't matter. You know what I mean? But, if a chunk of people don't support something or whatever, then it could be listed as no-consensus. I guess what you're saying is that the GNSO Council could breathe new life into it and support it anyway. If that's the case, then that's an issue with council, not with us., and so be it. Thanks.
JEFF NEUMAN:	I'm not 100% sure exactly what council do with non-consensus-based recommendations. I mean, I know they can still forward it to the Board if they wanted to, I believe. Then I think different thresholds and things may apply to what the Board has to do with it. But, yeah, I think, once it leaves our hands with those designations, it's out of our control.
KATHY KLEIMAN:	Hey, Jeff. Is this a good time for me?
JEFF NEUMAN:	Yes, please. Sorry, Kathy.
KATHY KLEIMAN:	Great. Hi, everybody. To what Paul opened with, Paul, I do think applications should be processed in rounds. We can have this dance again. No, just kidding.

Jeff, I'm not sure I understand this pre-screening of minority views, but I do want to flag that, for days/weeks/months/years, we've been talking about very different views on private/public interests commitments (now registry voluntary commitments). So what does it take to flag that as something that's likely to have minority views—whatever happens today—so that we can add that cleanly? But we've heard from members of this working group. We've heard from members of this group who are in the Non-Commercial Stakeholder Group, who are in the GAC. We're heard, outside, from academics and major digital rights groups on this. And we've been hearing a lot for a long time. So how is it not included, and how do we include it? Because it's coming. Thanks.

JEFF NEUMAN: Sorry, Kathy. I'm not sure I understand. I might be missing something. You said something about its screening of … Sorry.

KATHY KLEIMAN: I missed a few meetings, and I [apologize].

CHERYL LANGDON-ORR: Kathy, you're going to help me, too, because we're not pre-screening anything.

KATHY KLEIMAN: Okay.

CHERYL LANGDON-ORR: So help us understand.

KATHY KLEIMAN: Great. Thank you. And thanks for the invitation. So what I understood from Jeff is that are three areas where minority reports are expected—closed generics, community, and … I forget the last one. But I didn't hear private/public interest commitments. So I think we've got at least four areas where minority statements are likely to be coming in, depending on what happened today. If we come away with kumbaya, I'm really happy about that. But, if we don't, it doesn't seem to be designated a fourth area of minority statements.

JEFF NEUMAN: Sorry, Kathy. I think maybe I was—

CHERYL LANGDON-ORR: I see where it's gone wrong.

JEFF NEUMAN: So, essentially, what we wanted to do … On the last call, we discussed that we didn't want to send the entire report and just ask for one consensus call on everything all at once when we knew that there were areas where there were potentially … I think I meant differing opinions rather than a minority view. We don't know. Cheryl and I don't know what topics are going to achieve full consensus, rough consensus, strong support, or whatever. We don't know. Based on our discussions over these past few years,

we believe that those three areas that we singled out are, of all the ones, the most likely ones where more than one person has expressed a difference of opinion.

That has nothing to do with whether one can file a minority report or not. That's not meant to limit what someone can, for the rest of it, say[.] "I don't like that. I don't like the fact that you're changing it from a hard score to a percentage, and therefore I'm not going to support that, and I'm going to tell you why in my documented minority review. Or maybe I have other people that are willing to join that."

So, in essence, when we break these out, we're not intending to say that these are the only areas that can have differing views. We're just using our crystal ball to try to make it a little bit more manageable.

KATHY KLEIMAN: Great. Thanks, Jeff. Thanks, Cheryl. Maybe one more for your crystal ball. But thanks so much. Bye-bye.

JEFF NEUMAN: Thanks. Right. Look, let's see how the discussion goes on public interest commitments. So there may be one additional one.

Okay. Let me see. Is there anyone else in the queue?

Alan, go ahead.

CHERYL LANGDON-ORR: Alan.

JEFF NEUMAN: Yeah.

ALAN GREENBERG: Thank you very much. I tend to agree with Kathy, by the way, in that I think PICs/RVCs should be broken out as a fourth item because, certainly, I know you're going to get some minority reports on it, and there may be more than I'm estimating right now. But that's your call.

In terms of the question, Jeff, that you answered, there have been a number of things in the chat. I'll quote Maxim, who said, "No consensus. Not part of the policy." Several other people agreed with him. I beg to differ.

There have been very few times that I'm aware of that PPs have made recommendations that do not have consensus. In virtually most cases, the only recommendations that show up in PDP reports as recommendations have consensus. There was one PDP several years ago that is the IOC/Red Cross one that came out with recommendations that did not have consensus. In fact, the GNSO Council at the time decided to pass on them. The only ones they approved and passed on the Board were the recommendations with consensus. The GNSO Council recently, in approving the EPDP report, changed their position. They said, if we believe that the PDP followed due process and they included something as a recommendation which had no consensus or, in one case, even was listed as divergent, according to the GNSO

rules, the Chair of the PDP chose to include that recommendation in the report, and the GNSO Council approved that recommendation. We'll see what the Board does with it, but we now have the potential for a consensus policy to not have had consensus of the working group that created it.

So careful what you do. If you include a recommendation that doesn't have consensus, there is a good chance the GNSO, in its current wisdom, will approve it, no matter how little consensus it may have had. Just noting.

JEFF NEUMAN: Thanks, Alan. Look, our role is to provide a report. Then it says clearly, "The Chair is responsible for designating each position as having one of the following designations." And we're going to do that.

So, we've put together this report after a lot of time and effort, and we're going to have everything in there. We will specifically say what has full consensus, what has consensus, what has strong support but significant opposition, and what has divergence (also referred to as no consensus). That is what we are going to do. We're going to put it all into the report and it'll be up to the council to decide what to do with all of those. We've worked for five years, very hard, on it. Again, whether it becomes part of the "policy" that's approved by the council or ultimately approved by the Board, that's not within this working group's discretion. So therefore we're not going to withhold things from the report.

ALAN GREENBERG: Jeff, may I have a follow-up?

JEFF NEUMAN: Yeah, yeah. Sure. Let me just finish on the last point real quick, and that is that—and I think someone made it in the chat—these are not consensus policies with a capital C or capital P in the sense that they will be incorporated into any existing contracts or anything like that. So the council and, ultimately, the Board will have to think about that aspect and whether they want to include it or not in the New gTLD Program with whatever designation it has. Again, that's beyond our control. That's not something I can predict, nor do I choose to. So we're going to keep everything that we worked hard in this report on. If something has got no support, we'll indicate that. But it was still work that this group did.

Let me go to Alan and then—

CHERYL LANGDON-ORR: Jeff? Cheryl here. Before you do, Jeff, while we're going to those other speakers, how about we get staff to put up the level of consensus? They had it up earlier—the section that shows the different nomenclature. Perfect. Thank you. Just as a change of [backdrop].

JEFF NEUMAN: Thanks, Cheryl. Alan, go ahead.

ALAN GREENBERG: Thank you. Jeff, you're quoting what you're supposed to do as Chairs correctly, but the environment around us has changed, and it's really important. Up until relatively recently, if a group did not have convergence—I'm not using the official words; I'm saying "convergence"—if they didn't come to a real recommendation, then the work would be mentioned in the report, but it would say the group could not come to consensus, could not make a recommendation.

The EPDP took a different position … Well, the IOC, Red Cross, and the EPDP included recommendations which did not have consensus. They called them the term "recommendations," but in the first case, the GNSO chose to ignore them, to not pass them on. This time, we now we have a situation where—and the GNSO would likely do this again—where [the GNSO] will take a recommendation without consensus because you called it a recommendation and pass it on as a potential consensus policy, which the Board could, if it chose, take.

That's just an environment that you have to be aware of—that your actions will be treated differently than they would have been last year. I don't think that's something you can completely ignore. Thank you. And after that, I'll be quiet.

JEFF NEUMAN: Okay. Thanks, Alan. I'm just looking at the chat. I agree with the notion that we don't know what the council will do. So we're going to err on the side of doing what the working group guidelines tell us to do, which is giving every position designations.

Kathy, your hand is up. I'm not sure if that's new or …

Okay, great. Any other questions on the consensus call? Then we'll get into … I know Anne has brought up some things on this section, 3.6, so I just want to make sure we're all clear on that. So, before I ask about Section 3.6, anything on the consensus call itself?

Donna, go ahead.

DONNA AUSTIN: Thanks, Jeff. Sorry for being a little bit dimwitted on this. I'm just a little bit unclear of the mechanics. So an e-mail will go out to everybody that is a member of the working group, and we will have a Doodle poll thing to fill out or we will have something to fill out, and then that goes back to … Is that made public on the list— what are responses are—or does it go straight to you and Cheryl for consideration? I'm just trying to understand the mechanics of how we do this.

JEFF NEUMAN: I believe the guidelines require—even if they don't, this is what we're doing—that everything is on the list. So you're not supposed to respond to Cheryl or I or ICANN staff alone. It needs to be on the list in order to be counted. So, if you send it to Cheryl or I, that's not going to count unless you send it to the list.

And we're not planning on doing any kind of Doodle poll or anything like that. So it'll be an e-mail with essentially four—well, maybe five, depending on the PICs—topics/parts. It will say, "Do

you support or do you not support the recommendations and implementation guidance in Topic (whatever)," or, in the case of the "everything else," in all of the other topics. "If not, please indicate …" So it'll be just an e-mail that goes out.

And, yes, those that respond are responding as individual working group members. Unless you specifically state in your response to the full list that it is being done on behalf of a particular employer, a particular group, a committee—whatever it is—unless you actually state that explicitly, the assumption will be that you are only doing this in your individual capacity, not in your capacity as an IPC member or a registry member or an ALAC member. You are doing this in your own individual capacity. This is different than the way the EPDP was done. This is an open group. So that's important to realize.

We got some e-mails and questions about wanting more time and other things because people wanted to back to their groups and get their groups' thoughts. I would say, as one of the Co-Chairs—Cheryl and I did discuss this—that actually going back to your groups is not a proper way to do this. The reason why we're saying it, although it might be controversial or sound controversial, is because only you as a member have been involved in the hundreds if not thousands of hours' worth of discussions and e-mails and compromises and all of the ins and outs and what we had to do to get here. So only you truly understand whether these recommendations represent the multi-stakeholder view and obviously not the perfect solution. It's never the perfect solution for anyone. But only you understand or you personally believe that you either support it or not.

The reality is, if you went back to any group and said, "Do you support this?" most of them might say, "No because we didn't get everything we wanted. We wanted this, this, and this." They weren't part of the discussions. They weren't part of the compromises. They weren't part of the e-mails and everything else. So that's why, as controversial as that may sound, we do not want you to go back to your groups, or we would prefer that you not go back to the groups unless you are very clear with these groups that these are all positions that are the result of all this work.

DONNA AUSTIN: Jeff, just one quick follow-up. I understand that, and that's very helpful. So I understand that we might have four issues that we think there will be divergence on, and there's an assumption that all the rest are pretty good to go. But what if, out of those ones that we think are good to go, there are two or three that we don't support? Do we call them out individually?

JEFF NEUMAN: Yes.

DONNA AUSTIN: Okay.

JEFF NEUMAN: Yes, with specificity.

DONNA AUSTIN: Okay.

JEFF NEUMAN: So you would say, "I don't like Recommendation 14.2," and then state the reason why. Then, obviously, if one person says that, then we can't say it's got full consensus. And if enough people say that, then Cheryl and I will have to think about whether that becomes a strong support with significant opposition or one of the other categories.

DONNA AUSTIN: Okay.

JEFF NEUMAN: And on the other topics—I know you used the word "divergence," and I accidentally did, too—those four topics are ones where we think there may be differing opinions. We don't know if there will be still strong support but significant opposition or even consensus or divergence. We just know that there's likely to be a difference of opinions.

DONNA AUSTIN: Thanks, Jeff.

JEFF NEUMAN: Sure. Let me go to Christopher.

EN

CHRISTOPHER WILKINSON: Hi. Good evening. Jeff, just to say that I shall enter a report on geographical names so that you shall now have six topics. Thanks.

JEFF NEUMAN: Sorry, Christopher. Can you repeat that? I missed that. You went out for me. The sixth one is what?

CHRISTOPHER WILKINSON: Geographical names.

JEFF NEUMAN: Okay. Let me ask to see. Is there anyone else in the group that believes that geographic names should be separated out?

Again, Christopher, if it's not separated out, you can still express your non-support.

CHERYL LANGDON-ORR: Jeff?

JEFF NEUMAN: Yeah, go ahead.

CHERYL LANGDON-ORR: That is exactly what Christopher indicated that he will be doing— that he will be lodging a minority view on geographic names. And that's fine. But all of the leads of the geo track … We discussed it

because Jeff actually proposed that the geo names should be a carve out, and they all, in the leadership team meeting, said they would prefer that not to be the case. So we're respecting their wishes and their leadership experience, and we're not pulling it as a carveout. [There's] absolutely reason, as with any of the topics, that individual minority views can't be lodged. Thanks.

JEFF NEUMAN: Yeah. Thanks, Cheryl. That's correct. That is the preference of those leads that are still participating. So thank you, Cheryl.

CHRISTOPHER WILKINSON: Yeah, thank you very much. But I very much appreciate the extension of the delays because, at this time of year, it's very difficult indeed to extract oneself from obligations to make time for this kind of work. Thank you.

JEFF NEUMAN: Okay. Thanks, Christopher. Jim, go ahead.

JIM PRENDERGAST: Thanks, Jim. Interesting chat going on about the consultation.

One question for you, though. The consensus designation of a consensus call is limited to members of the working group. Will you and Cheryl be assessing who weighs in and on what? I hate to bring you back to that frightening spreadsheet of attendance and participation, but will all members of the working group be

treated the same, or will you be taking into account active participation along the way? Thanks.

JEFF NEUMAN: It's a good question. I don't have a complete answer for that. Every member is entitled to express their support or non-support, and there's no prohibition on that. But Cheryl and I do have then right to look at the individuals, look at their participation, and look at their backgrounds, meaning in terms of, if we get … We're not going to a quantity analysis.

CHERYL LANGDON-ORR: It's not going to be quantitative.

JEFF NEUMAN: Right.

CHERYL LANGDON-ORR: Yeah. It won't be quantitative, but, Jim, excellent question. You've worked with me for a little while. I think you probably know which way I will be going in discussion with Jeff, and that is, yes, it should be indeed looked at. And we are planning on a day of meeting on all of this. We might take a break, but we're not going to rush it, and we are going to do the necessary analysis.

JEFF NEUMAN: Right. So the important thing there really is that … And there's no quorum requirement. So that's the other thing. We have,

technically, I think, 200 members of this working group. If all we get are 20 people weighing—20 individuals—then that's what we use to determine our level of support and so on. But, then again, we won't do a quantity thing where, if 15 of those 20 are all from the registries, that doesn't necessarily mean that that will outweigh anything else. So there's lots of things Cheryl and I will have to look at when we get these indications of support or non-support in. When we put out our results, we will have to provide a full justification for why we are doing what we're doing.

And just to clear up the chat, we—Cheryl and I—cannot tell you not to consult with your groups. If you do that, it is your choice. Obviously, you can do what you want. You're an individual member. We can't control what you do. We are hoping, though, that you will take your role as a member separate and apart from your role as being part of those groups, and, when you express your support or non-support, it will be done with an understanding of all of the discussions that took place and all of the history of this group and why we've come out the way we've come out. Otherwise, like I said before, if everyone just went back to their groups and just voted the way their groups wanted them to, then there was probably never a reason to have a working group to begin with.

So we're asking that you take that into consideration, but obviously we can't require anything. We're just asking.

CHERYL LANGDON-ORR: Cheryl jumping again, Jeff. Sorry about this. It's me being vociferous for once. But I'm also typing. I'm doing by proper job.

Most importantly, because you do not have to consult—it's fine if you do, but you do not have to consult—this will not be seen as a basis, in our opinion, for any other extension to the process. Just getting ahead of the curve there, people. Saying the group hasn't met yet is … There you go. The group hasn't met yet.

JEFF NEUMAN: Right. Yeah, thanks, Cheryl. That's important too, and that's one of the reasons why we're saying what we're saying.

Elaine is saying … Yeah, we will let everyone know exactly how we came to what we came to and factors we considered. It's hard in advance to list everything out until we actually see what we get back. I hope you can appreciate that. Then, when you see the results and we talk about them on the call on the 12th of January, you will hopefully at least understand why Cheryl and I did what we did. Whether you agree with that or not, we'll see. But at least hopefully you'll understand what we did.

Christopher, your hand is up, but I have a feeling that might be an old hand up.

Yeah. Okay. Anne, and then I do want to get into a couple of the substantive items. So, Anne, go ahead.

ANNE AIKMAN-SCALESE: Thanks, Jeff and Cheryl. I guess I'm a little curious. When you have, let's say, 10 or 15 individual opinions and you're spending the day going over those and maybe you have 10 or 15 individual opinions not supporting something or not supporting a consensus

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designation, but they all say different things or they cite different reasons for their lack of support, it seems like there's a potential weakness—that those could simply be discounted as individual opinions for different reasons and therefore don't really form the basis for any kind of minority view. So how do you—

CHERYL LANGDON-ORR: Hi, Anne. If I may, it's Cheryl here. Perhaps it's me being rather pragmatic, but what you've described I've been proposing goes into the category of divergence, also referred to as no consensus.

JEFF NEUMAN: Well, just the one caveat is that, if all 15 are from the IPC, and then every group is supporting it, we don't know. So understood.

CHERYL LANGDON-ORR: And then we will note exactly that, Jeff.

JEFF NEUMAN: Right. So we're not going—

CHERYL LANGDON-ORR: We're going to be so embellished here that there will be no doubt in anybody's mind what we've based things on.

JEFF NEUMAN: Right. And just to make it clear, we are not documenting, in the report, the reasons why someone may support or not support the

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recommendations. We are only indicating the levels of support or non-support. It is up to every individual member of the working group to decide for themselves whether they would like to file a minority report, whether they join with others or not. That is their prerogative. They can append whatever they want to the report. It is not for Cheryl or I to try to paraphrase why people agree or don't agree with a particular recommendation or recommendations or implementation guidance. That's not our role. We're only documenting the levels of designation.

Paul, go ahead.

PAUL MCGRADY: Thanks. Now you've confused you. Before you were saying, "Don't consult with the groups you belong to. We can't stop you, but keep in mind, you're an individual." But then you just said, "Well, if everybody is against something that's from the IPC, well, we're going to discount that." So are we individuals or are we not? That just seems inconsistent to me. So maybe I didn't understand what you were saying before about your desire for us not to consult with our friends in our groups because there's a disconnect there. Thanks.

JEFF NEUMAN: Thank you. What we're saying is, if you want to talk to other IPC members that are members of this working group, that's totally fine. Whatever. Again, we can't stop you from doing any of that. But when Cheryl and I … Because this is not a quantitative vote, Cheryl and I have the right to consider who is expressing support

and non-support and what their backgrounds are. Part of what their backgrounds are could be that they are all intellectual property (IPC) members and have all made these arguments before—all these other things that Cheryl and I can consider.

What we cannot consider is the number of people that vote or that indicate. That is not allowed. But what we can consider if every other factor. That factor will consider backgrounds. The more diverse the disagreement is or the non-support is, the more likely it is not to achieve consensus—obviously not full consensus. But, if there's a diverse group of people that are against the recommendation, then that can't really have consensus, can it? But if the people that are not in support are not from diverse backgrounds—I'm not meaning their personal … where they … Hopefully, I'm saying this right. I'm not trying to step on any toes here. But diversity of viewpoints is going to be key in our determination of consensus, but diversity of viewpoints is not the number of people.

And Maxim is saying that sounds weird and not so objective. Maxim, that's something you may need to take up with the GNSO and the working group guidelines, but that's what the guidelines tells us to do. It very specifically says that it is not a vote. *phone rings* Oops. Sorry. Cheryl, you're calling me on a separate number.

All right. Donna and then Greg.

DONNA AUSTIN: Thanks, Jeff. I understand what you're saying, but I don't agree with what you're saying. I think it contradicts the original statement that we are all individual members of this working group. So what if we're likeminded and there is divergence? I don't understand how that discounts or quantifies in some way that … I'm just not getting it, where either … Because it seems to me that you and Cheryl make a subjective assessment that, if there is divergence on a specific point from people that happen to be members of the IPC, then, in some way, that will discount the divergence because it's only one element of the community. But, if it's twelve individual members of this working group, then that signifies that there's divergence, regardless of whether they happen to come from one part of the community.

So I'm not agreeing with your assumptions. We're either individual members of this working or we are not. So what you're explaining to me isn't gelling.

JEFF NEUMAN: Thanks, Donna. I guess what I'm saying is, yes, you're all individuals, but you all have your backgrounds. So what we need to be careful in doing is not to allow coalitions of groups to be able to, through a consensus call, be able to … We can't allow this to become a vote. That is what we can't allow it to do.

So, on Maxim's point about sounding suggestive and your point, yes, this is semi-subjective. That's what's in the guidelines because it's not a pure vote. And because it's not a pure vote, then there   is some subjectivity. And that's what's in the guidelines.

Greg, go ahead.

CHERYL LANGDON-ORR: Greg's hand is up.

JEFF NEUMAN: Yeah.

GREG SHATAN: Thanks. This is also not quite gelling for me, either. I have a sense, I think, of what you're trying to get at, but clearly there is an element of weight here because we are trying to determine whether there are things like small minorities or significant numbers or mosts or alls or nothing that is significantly greater than any other, which would be divergence. So there's definitely a weighting going on here. There's not the same exact nose counting of a vote where you can win with 50.1%, which would be divergence in our system. So there is some element of judgement here as to whether a weight has been gained. And that is certainly part of this. So we can't ignore the idea of numbers, even if the numbers can be fuzzy, and that we're going to say that something wins by one vote. But there is clearly a sense of weight here.

The issue of messing around with the weighting of individual positions by determining whether or not those are people who might be saying the same thing for the same reasons as opposed to saying the same thing for either different reasons or because they're part of a different group but maybe in fact it is the same reason [is] it's hard to have a system where, if likeminded people

agree, you're going to discount their agreement if they happen to be likeminded about other things. So there's a slippery slope here.

I think what you're trying to avoid—or at least one of then things you my be trying to avoid—is capture or gaming or a situation where a group plays a numbers game. What if, just to take an example of a group that would never do this, SSAC hid 20 members on this group that never actually attended anything but they've signed up from day one, and all of a sudden they show up and, as a block, decide to support or oppose some recommendation-that sort of gaming or capture or the situation that Phil Corwin will remember—I know he's not on the call, but he'll remember it anyway—where it seemed like one group waited everybody else out and then, when there were enough of them left standing, basically commandeered the consensus?

So I can understand we don't want to end up with something that is skewed, but at the same time, I think we really want to avoid some heavy massaging that actually gets away from the will of the people, so to speak, if we are considering the selves as people. So I think there's just danger here from trying to use group-iness in certain ways.

At the same time, obviously we're looking for a judgement, especially if something seems not quite right. So I don't necessarily envy your position but do want to have my say about it. Thank you.

JEFF NEUMAN:	Thanks, Greg. I think you said that right. You said some key things there which are extremely important, and that is we want to make sure that the process isn't gamed. We want to make sure that there's not overrepresentation of certain views and that it's one group ganging on others.
	What I'm going to ask—I know people want to discuss this for hours, and Cheryl and I have already discussed this for hours—that you wait until after we do that and you focus now on the substance and you focus now on what your response will be. Then, once Cheryl and I give our designations, you can have us for as long as want and question us as to why we did what we did. All we can say is that we do need to move on to some substance. So I'm going to ask that—Alan, I know you have your hand raised, but with permission, I would like to actually go on to the PICs discussion.
ALAN GREENBERG:	Jeff, I was actually going to support you, but I won't say it now if you'd like.
JEFF NEUMAN:	That's okay. Thanks. [You've said enough] All right. Thank you, Alan.
ALAN GREENBERG:	But I was going to support you with some qualifications, but let's go on anyway.

JEFF NEUMAN:	You should have stopped on "I was going to support you." I'm kidding.

Okay. So, on the PICs, what we've come out with, based on all of the discussions, is the language that you should have seen. I think this was in a couple drafts ago, not yesterday's draft but the draft before that. It seemed like, from our discussions, there was support for keeping the PICs and the RVCs—the recommendations and the implementation guidance that we had. The question for us, which is really going to be mostly for a letter, which we do to the Board—I want to put that as AOB because I forgot to say something about that … That's where the rationale and why we believe it's enforceable is really what the subject of that letter will be.

But this is still our recommendations, and this was still supported by working group members and still supported by a good portion of the comments that we got in. So, when Cheryl and I discussed this, we did not see any basis to change any of the recommendations or implementation guidance that we had but merely to put some explanatory language into the rationale section.

Now, Kathy has sent around a view of PICs that has not been one that, at least to date, has been, to my knowledge, supported by working group members. So I would like to have a discussion on that and also remind everyone that we've been through four public comment periods, and a lot of work has gone into this. So please think about all of that. So that's one of the reasons, again, we

decided not to change any of the recommendations or implementation guidance but just put in some language that will hopefully address some of the comments, but a more detailed response is most likely necessary.

Can we go to—I see Kathy has said something in 9.12. Sorry, Kathy. I got to scroll up.

KATHY KLEIMAN: Great. Thanks.

JEFF NEUMAN: Is that it? Yeah, 9.12. While we're getting that up, Greg, your hand is up. Can I let Kathy—okay. Kathy, why don't you go ahead?

KATHY KLEIMAN: Terrific. Thanks. I'm going to try to be concise as possible. And thanks, everyone, for reading the e-mails that were going through.

Just that this is not new. We were waiting. We had a wonderful meeting with our Board liaisons and heard what was troubling them in mid-November. This was followed. I posted the three guardrails on November 23rd , the night before Mitch Stoltz published an editorial about them in CircleID. They were supported quickly by our Swiss GAC member, Jorge Cancio, who asked that we add a fourth guardrails about human rights.

I want to let you know we agree on a lot of things. We agree that we should be using PICs to settle GAC issues—early warnings and GAC advice. I note that, of the dozens and dozens

(culminating in 100 or 200) GAC warnings that I reviewed directly in Round 1, they didn't have to do with content. They had to do with eligibility. So GAC early warnings and GAC advice don't seem to get into the content issues that some people are concerned about—that some of us are concerned about.

We also agree that you should be able to settle community objection or a legal rights objection. I may be the only who one who did this in Round 1, where we settled a closed generic community objection that had been filed by a major trade association. And we closed it with the agreement to open it [for] significant changes to the New gTLD application, which we then reviewed and ICANN approved.

There's even room for community applications. The anti-harassment policies that Jeff is so rightly concerned about, first, are not in the existing private PICs. We created a section for them in Specification 12, and I believe there are community attorneys here who worked with those. But those community requirements for community applicants existed and were provided before we had these private PICs.

So that leaves us really concerned with a dumping ground—what Becky Burr called the kitchen sink in a conference in 2019—where a few registries put some really bad stuff in—really appalling stuff. We're just trying to put in a few guardrails—really, really broad guardrails—that say you don't put in content restrictions into private PICS. These would be additions to our recommendations so that we don't leave it only for process. So our RVCs will not address the contents of the websites or apps that use domain names. They will be consistent with ICANN's human rights core

value. No .whitesupremacy where the private PIC says, "Black Lives Matters websites are thrown out." They will not allow arbitrary discretion to suspend a domain name, and they will not be used to create new policies that did not come through the ICANN processes. It seems pretty straightforward. I put it in. Specification 12—I would ask people to talk about it—is community specifications. Anyway—community registration policies. So a special place just for the very things that Jeff was so rightly concerned about.

So these guardrails, again, were talked about for a very long time and are consistent with our Board liaisons concerns and consistent with ICANN's requirements since 2016 when they signed the new bylaws. So thanks. I think it's actually pretty small, pretty quick, and puts us in the right place. Thanks much.

JEFF NEUMAN: Thanks, Kathy. I see a note from Susan that says, "Spec 12 is still part of the contract." And, indeed, because they aren't PICs, enforcement is only by ICANN. So I guess that's a question.

And Susan is also saying, ".gay was signed after the bylaws went effect in 2019." .gay I just looked up. It's not a community TLD, so there is no Spec 12.

So I'm going to ask Cheryl. Cheryl, can you moderate this discussion? Because I certainly have my own thoughts—

CHERYL LANGDON-ORR: I certainly can. I think it's much safer if I manage the traffic flow. Next in line we have Alan. Over to you, Alan.

ALAN GREENBERG: My hand was up—

CHERYL LANGDON-ORR: You might be double-muted, Alan.

ALAN GREENBERG: Yeah, I know. It takes a while for my shaky hand to point to the right place. I had my hand up before we started on Kathy's discussion of guardrails. So I can go back into the queue or I can say what I was going to say now. You're call.

CHERYL LANGDON-ORR: Say what you were going to say.

ALAN GREENBERG: Okay. I also posted some messages to the list this week, and Jeff responded, basically saying he didn't think that we should worry about any of them. I wanted to make it clear why I was coming up with something that we had not discussed in great detail, and that is a recommendation that, should our judgement be wrong and these PICs not be enforceable, the Board must take action, including, potentially, a bylaw change. The reason I did that is a question that we asked and an answer that we got from our Board liaisons. I think it was Avri who said that a bylaw change is not out

of the question, but the Board is not going to initiate it. If we believed it was necessary, or even if it might be necessary, we need a recommendation to say that. Otherwise, they're not likely to act on their own. That is why I was advocating that we should put that in—because, otherwise, we may end up having made an honest mistake—that these PICs are not enforceable—and we end up in a situation that I don't think any of us or most of us are not advocating.

Moreover, in reviewing the document, as [I] was requested by this group, it also became evident that the only remedy to address PICs is the DRP—and RVCs, for that matter. That means you must show material harm. Now, I do not believe that a contract is unenforceable unless someone can show material harm. There are no third-party beneficiaries in our contracts. The contracts should be enforceable, period. So, if a consumer protection organization says, "Our consumers are being harmed," they couldn't file a DRP because they haven't been harmed themselves. If we don't have contracts that ICANN can enforce— perhaps the decision judged by an external party on whether something is a violation or not to get around the content rules if necessary—contracts need to be enforceable. Otherwise, we have a sham. Thank you.

CHERYL LANGDON-ORR: Thanks, Alan. I just want to note, from Maxim in chat, that PICs are part of an ICANN registry contract and is enforceable. And Susan continues on with, "The contract is enforceable by ICANN outside of the PICDRP," but I think that's not your concern, Alan.

ALAN GREENBERG: Cheryl—

CHERYL LANGDON-ORR: But I think what we did here … Go ahead.

CHERYL LANGDON-ORR: If I believe that was true, I wouldn't be worried. But ICANN has said (and the contracts say) a DRP is the only way to address these issues. Thank you.

CHERYL LANGDON-ORR: Okay. Thanks, Alan. What I was going to say—perhaps some of our speakers in the queue might not respond as well to that—is we certainly have heard a number of times now of the importance of contract enforceability. Luckily, Avri is on the call, so she will be listening. If she wishes to jump in and say anything, she's more than welcome to put up her hand. But I'm quite sure she's not humming loudly and has fingers in her ears at this point in time.

George, it looks like your next, followed by Paul, Greg, and then back to Jeff. Over to you, George.

GEORGE SADOWSKY: Thank you. I was on the Board from 2012 to 2015 when these came up for the first time. I remember the way in which we understood that there was something missing that we had to do to take into account GAC objections to some of the strings that were

being proposed. Out of this, [there was] essentially a more ad hoc discussion then other discussions at ICANN. It was a controversial discussion, and we finally put in the PICs.

As has been pointed out, this didn't go through the policy development process. It was an administrative patch to a system that would not be complete without something like it. There were a lot of PICs requested that time. They become part of contracts, but they were essentially poured into contracts. Or, let me say— that's too pejorative—that the way in which they were inserted into contracts and judged as a part of the contract that both parties would like was somewhat more amateur and less thorough than it would have been had this been, say, for example, the standard ICANN registry contract. This led to some unfortunate PICs being inserted.

Now, in the future, in this round, what I see is the possibility that there are going to be a lot of PIC requests. There's no reason to indicate that there won't be. And a lot of them are going to tax very strongly the ICANN contracting department. They're not going to do quite as thorough a job as they wish they had time to do. So, while we may not throw the kitchen sink in, we may throw in some other parts of the kitchen that are somewhat smaller. And there's not much we're going to be able to do about it, if we have a large number of request and not enough staff to do it.

Then there's also the issue of enforceability, where I think there's evidence in one case where ICANN said that they could not enforce something that had been put into the PICs. I can't cite it, but I remember reading it. If there's an enforceability question, then doesn't make sense to put a funnel in to the PICs that are

allowed to be asked for, to be requested, to lower the number and also to make sure that they coincide with ICANN core values?

So I think that the five lines that Kathy mentioned—RVCs will not address the contents, etc., etc.—is a perfectly reasonably thing to put in, and it's not one which lowers the degrees of freedom that any registry following the rules would be subjected to. Thank you.

CHERYL LANGDON-ORR: Thanks, George. So I take from that your support for the guardrails that were proposed. Am I correct in that?

GEORGE SADOWSKY: You guessed correctly.

CHERYL LANGDON-ORR: Thank you. Just wanted to be clear. Next is Paul.

PAUL MCGRADY: Thanks. I said a lot of this on the list, so I won't belabor it. Look, we have seven minutes left in this PDP. Despite how something that was introduced just before Thanksgiving a couple weeks ago is put forward as having been around for a long time, it's not a long time. It's not a long time, with two weeks left before the end of the PDP. And it doesn't matter what the obviously coordinated media blitz around it is. It doesn't give us more time to discuss these. There's a lot of bad ideas in here. The worst idea is that no policies can come into being because of PICs unless they're ICANN policy.

So the Bulldog Youth Baseball League applies for .bulldog, and the Bulldog Rescue Association is considering that. People will think it's them, so they want to make sure that only youth baseball is talked about under the .bulldog. Everybody agrees. That Bulldog Youth Baseball group, who's now the registry operator, develops a registration policy to make sure that everybody that gets one of those knows that it's for youth baseball and not for rescue. But under Kathy's last-minute formulations here, that would be a policy that was not developed through an ICANN process and therefore would be out.

That, respectfully … I think the scientific word for it is "really, really unhelpful." These aren't guardrails. These really are cliffs. And even if they were good ideas, now we have six minutes left in this PDP. We just don't have time for last-minute insertions like this.

CHERYL LANGDON-ORR: [inaudible]—

PAUL MCGRADY: I'm sorry, Cheryl. I had 18 seconds left, but I will yield it back.
Thank you.

CHERYL LANGDON-ORR: No, I was going to say—thank you, Paul. We are very short in time. I wanted to ask staff, are we in a position to extend by ten minutes?

JULIE HEDLUND: Cheryl, certainly if working group members agree, you can extend. I don't think we have a conflict that were aware of.

CHERYL LANGDON-ORR: Thank you very much. So, Paul, if you want to pop your hand back up again, assuming that the rest of the queue isn't too long, that will be fine. I was just trying to get us some more time. I also, admittedly … Yes, I hear what you're saying and see what you're saying in chat. We're not going to solve this in ten more minutes, but we are going to air it a little bit more.

So let's now go … George, I'm assuming that's an old hand, not a rebuttal. And I'm going to Greg.

GREG SHATAN: Thanks. I do not support these guardrails, certainly not as drafted. I am also extremely troubled by the process or lack of process coming in. I think these are not "too little, too late," but too big and too late. I don't think these are small. These are significant, and there's a lot of both nuance and non-nuance issues that are being raised here, essentially, taking on certain interpretations potentially of the bylaws and also might be good or bad and really just trying to jam it in here. But frankly, I think, if we had six months or a year, I'm not sure that we'd come to a result, but I think we'd come to a different result because we'd have the chance to fully work this out. This is basically un-worked out.

I'm not sure, Paul, that I would characterize a blog post as a media blitz, but that's kind to Mitch.

But, in any case, I don't think the fact that there is some indication of some interest in this is something that can come up at this time. So I do not think this is motherhood and apple pie. Everyone likes to think that their ideas are simple and everyone agrees with them. It's not the case. That's why we have working groups and why we have a PDP process. Sorry to be redundant. That's why we have a PDP.

So, if we want to run this through a PDP, we can do so, but I think, to try to come up with major rules about the PICs that are dependent in many ways on how one looks at the bylaws and issues of enforceability, we could consider perhaps a larger guardrail, which is that no PICs should violate the ICANN bylaws. But then again, ICANN shouldn't be signing agreements that violate their bylaws. And if they do sign them, there's at least some idea that it does not obviously violate their bylaws. Obviously, people can challenge that in the usual proceedings for such things. But this is not the time. This is not the way. This is not the list of things to move forward with. Thanks.

CHERYL LANGDON-ORR: Thanks, Greg. I just wanted to note a plea from Susan in the chat that we should be avoiding vernacular. She took some of the words out of my mouth. I was certainly going to ask us to not only avoid vernacular but also ensure we don't stray into what could be considered as slightly insulting to each other. You've worked so brilliantly well for so long—

GREG SHATAN: Did I vernancular something? I didn't think I—

CHERYL LANGDON-ORR: No, no, no. It's in the chat. Not you. There's things going on in the chat.

GREG SHATAN: Oh, thank God!

CHERYL LANGDON-ORR: It's not all about you, Greg. It's okay.

GREG SHATAN: Oh, very little of it is about me. Thank God.

CHERYL LANGDON-ORR: Okay. Let's go to Jeff.

JEFF NEUMAN: Sorry. My computer is going really slow. Thanks, Cheryl. And thanks for moderating it.

                      The one point I want to make, regardless of how I feel about this issue, is that this is not new to this group, that these ideas were discussed back in Constituency Comment 1 or 2. They were also comments received from the Non-Commercial Stakeholder Group, and this—I forgot. Forgive me. I was trying to pull it up, but my computer is too slow. There was a group. Kathy, you might

remember the name of this coalition that submitted comments. I think it was called the Public Interest Community or something like that. So these topics were thoroughly discussed. Maybe some of you might not have been around for that, but these were certainly discussed before the preliminary or initial report and after the initial report. These were discussed before the draft final report and after the draft final report. So, while this particular proposal, written the way that Kathy wrote is … That formation is new. None of the ideas are new. I think that it would be a disservice to change anything at this point based on these.

And the other point is that the Board—maybe Avri can correct me—didn't say that it violated the bylaws. The Board didn't express a view definitely that there were issues. It had asked us the question of if we had considered it. So the only language change that's being recommended is in the rationale to provide an explanation of why members of the working group believe that it should be enforceable. So there are no changes recommended to the recommendations.

What I'm hearing here, of course, is that there still could be differences of views. So we will certainly put this out as a separate, on-its-own topic because we're hearing different views on the call right now and it is late.

I see Kathy's hand is up.

CHERYL LANGDON-ORR: Hey, who's moderating. Mister, just a second.

JEFF NEUMAN:	Sorry. I see Kathy is up, but Cheryl is the moderator. So I'll turn it back to Cheryl.

CHERYL LANGDON-ORR:	Thank you very much, Jeff. We discussed this. Okay, Kathy. Right of reply to some extent, but do watch the time. We want to fit Anne as well as probably agree on having this one as a carveout. Go ahead.

KATHY KLEIMAN:	Absolutely. And thank you both, Cheryl and Jeff, our Co-Chairs, for this conversation. And for everyone else. By the way, I apologize for the vernacular. My father passed away about six months ago, and I keep saying some of his favorite phrases, and "motherhood and apple pie" is his phrase for just things that are core to our beliefs.

Nothing could be more core than ICANN's mission and its scope and its limits, and that ICANN shall not operate outside its mission, which does not include content, and also the human rights core value that some members of this working group and across the community worked so hard to put into the bylaws as well. So this is just pulling out—we agree on so much—again, what are endorsing and embracing; the voluntary commitments for settling GAC issues and objections. It's just removing the dumping ground, removing the kitchen sink—and I didn't create those phrases; Becky Burr created some of them—and that you can't put in anything you want. So it's just bounding it with our very own bylaws—something core to our beliefs. So it seems like a minor

change and a basic one and a fair one to give people—that, when you put in these PICs, do it to settle these disputes, and do it consistent with what ICANN is allowed to do and what ICANN is allowed to enforce. Thanks so much. Back to you, Cheryl.

CHERYL LANGDON-ORR: Thanks very much, Kathy. Anne, over to you.

ANNE AIKMAN-SCALESE: Thanks very much. I don't think I can contribute anything more to this discussion than what's already been on the list and in chat. I did have a question because I thought there was an agenda item for today that said something like a response to the Board. I was reminded of it when Jeff brought up what the Board members say and what do they not say, and I thought a saw a meeting agenda item today that said, "Response to the Board."

JEFF NEUMAN: Yes. Thanks. Cheryl, can i—

CHERYL LANGDON-ORR: Thanks, Anne. We'll close this one off—yeah. Let's close this one off first, Jeff, and then you can have it all back and you'll feel better when you've got your hand on the steering wheel, I understand. So just hold the horses on that one, Anne, for a moment.

I'll tell you what I think I heard, and that is that, whilst there is not significant support, nor is there a lack of interest in the matter of

PICs and their enforceability and whether or not guardrails should or should not be applied, it does seem to be worthy of further discussion. It's not a discussion that we are going to manage in our timeframe. So I think Jeff will agree with me that we will pull out PICs and RVCs as a separate and carved-out area so it will make it easier for people to specifically respond to. So, unless there is huge objection by great, big red crosses going up in the Zoom room, that is what will happen.

Jeff, take control. You'll feel better.

JEFF NEUMAN: Yeah. Thanks, Cheryl. I agree with your assessment. So thank you for covering that.

On the topic, yeah … And I just wanted to do a brief mention. I'll send around an e-mail because I know some people had to drop off early, too. So, after the consensus call designations, what I think we should do is, as a working group, for anyone that wants to participate—it'll be optional; you don't have to—to organize a more detailed response to the questions that the Board raised. It's not going to be an official part of the working group report. It's not going to have any sort of official working group status. But, for those that are interested in preparing a response separate and apart from the working group report, I would like to invite those, again, after the New Year, after the consensus designations, and once we have that behind us, to, on a voluntary basis, work on crafting a response.

So, again, it's not an official working group activity unless, of course, everyone in the working group stays on and wants it to be, but I thought it would probably be beneficial to actually draft some of the responses in some more detail to explain why we came out the way we did. So that's just an idea I'm throwing out there. I would love a view on it, and I will send out an e-mail to that effect as well.

So, other than that, let me just look at the chat and see if there's any questions. Yeah, Cheryl, this will go out to the list.

CHERYL LANGON-ORR: Paul's hand is up.

JEFF NEUMAN: Okay, good. Thanks, Paul. Go ahead.

PAUL MCGRADY: Thanks, Jeff. We have two minutes left, and I'm afraid that some of us might not be on that January call. So I just wanted a chance to take two or three seconds to just say thank you to you and Cheryl. And I know lots of people on this working group also would love to either put in chat or say it verbally. This has been a wild and long ride, but you guys have been fabulous and patient. So thank you very much for your hard work.

JEFF NEUMAN: Thanks, Paul.

CHERYL LANGDON-ORR: We're still hanging on for the last few seconds. It's all right. The bell hasn't rung yet.

JEFF NEUMAN: Yeah. Thanks, Paul. Let me just remind everyone that the call in January on the consensus call designations is an official working group call. So there is a call on January 12th to discuss the working group designations. So save your thank yous. You may want to take them back after that.

CHERYL LANGDON-ORR: Hey, they might want to hang, draw, and quarter us by then, Jeff. That's all right. So work on your insults as well as your thanks, people.

JEFF NEUMAN: Right. So, as Julie said, the next meeting is the 12th of January, 20:00, for 90 minutes. It's planned for 90 minutes, but I'm going to just make a statement that, if it takes longer, I'd like us to have the ability to go longer. So, as long as people have questions, then Cheryl and I should be available to answer them. So I certainly will prepare to be on until people run out of questions. And hopefully Cheryl will and others as well. But the part that was discretionary was after that, working on a response to the Board.

So thank you, everyone. Have a wonderful new year. Look out from e-mails from us and the consensus call. Thank you very much for everything.

CHERYL LANGDON-ORR: And the document is about to be frozen very, very soon. A milestone. Well done, people.

JEFF NEUMAN: Yes. And January 12th is a Tuesday, so it is a different day than our normal call, but that's only because Cheryl and I need all day Monday to figure out the designations. So it is a Tuesday.

CHERYL LANGDON-ORR: [Yeah.]

JEFF NEUMAN: All right. Thanks, everyone.

CHERYL LANGDON-ORR: We might still be doing it by that time. We might have run the full 24 hours, Jeff. You never know.

JEFF NEUMAN: Maybe. All right. Thanks, everyone. We can—

CHERYL LANGDON-ORR: Hey, Greg. I've played enough D&D. I can find multi-side dice. So don't you worry about it.

JEFF NEUMAN: So thank you, everyone. We can end the recording.

[END OF TRANSCRIPTION]