
ICANN Transcription

GNSO Council Meeting

Thursday, 16 November 2023 at 21:00 UTC

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The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page
<http://gns0.icann.org/en/group-activities/calendar>

List of attendees:

Nominating Committee Appointee (NCA): – **Non-Voting** – Anne Aikman Scalese

Contracted Parties House

Registrar Stakeholder Group: Antonia Chu, Greg DiBiase, Theo Geurts

gTLD Registries Stakeholder Group: Nacho Amadoz, Kurt Pritz, Jennifer Chung

Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evans

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Lawrence Olawale-Roberts, Mark Datysgeld, Osvaldo Novoa, Thomas Rickert, Damon Ashcraft, Susan Payne

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Non-Commercial Stakeholder Group (NCSG): Stephanie Perrin, Bruna Martins dos Santos, Wisdom Donkor, Tomslin Samme-Nlar, Peter Akinremi, Manju Chen

Nominating Committee Appointee (NCA): Paul McGrady

GNSO Council Liaisons/Observers :

Justine Chew : ALAC Liaison

Jeff Neuman: GNSO liaison to the GAC (apologies sent)

Everton Rodrigues: ccNSO observer

Guests:

Donna Austin, Chair of EPDP on IDNs

Eleeza Agopian, Amanda Rose, Elena Plexida, Odeline MacDonald from ICANN staff

ICANN Staff:

David Olive - Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Mary Wong - Vice President, Strategic Policy Management

Steve Chan – Vice President, Policy Development Support & GNSO Relations

Julie Hedlund - Policy Development Support Director (GNSO)

Berry Cobb - Senior Program Manager, Policy Development Support

Ariel Liang - Policy Development Support Manager (GNSO)

Caitlin Tubergen - Policy Development Support Director (GNSO)

Terri Agnew - Policy Operations Specialist (GNSO)

Devan Reed - Secretariat Operations Coordinator

TERRI AGNEW: Good morning, good afternoon, and good evening, and welcome to the GNSO Council meeting on Thursday the 16th of November 2023. Would you please acknowledge your name when I call it? Antonia Chu?

ANTONIA CHU: Present. Thanks, Terri.

TERRI AGNEW: You are welcome. Nacho Amadoz.

NACHO AMADOZ: Here.

TERRI AGNEW: Jennifer Chung?

JENNIFER CHUNG: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Kurt Pritz?

KURT PRITZ: I'm here. Thanks.

TERRI AGNEW: You are welcome. Greg DiBiase?

GREG DIBIASE: Present.

TERRI AGNEW: Theo Geurts.

THEO GEURTS: I'm awake.

TERRI AGNEW: Desiree Miloshevic?

DESIREE MILOSHEVIC: Present.

TERRI AGNEW: Lawrence Olawale-Roberts?

LAWRENCE OLAWALE-ROBERTS: I'm present.

TERRI AGNEW: Mark Datysgeld?

MARK DATYSGELD: Present.

TERRI AGNEW: Damon Ashcraft? Damon, I see you're on. Could you check your mute please on Zoom?

DEVAN REED: I see Damon is definitely in the chat. Not hearing any audio.

TERRI AGNEW: All right. We'll circle back to him and work on his audio. Damon is present, though, I just want to let you know, working on his audio. Susan Payne?

SUSAN PAYNE: Present. Thanks.

TERRI AGNEW: You are welcome. Osvaldo Novoa.

OSVALDO NOVOA: Here. Thank you.

TERRI AGNEW: You are welcome. Thomas Rickert?

THOMAS RICKERT: Present.

TERRI AGNEW: Wisdom Donkor?

WISDOM DONKOR: Present.

TERRI AGNEW: Stephanie Perrin?

STEPHANIE PERRIN: Present.

TERRI AGNEW: Peter Akinremi?

PETER AKINREMI TAIWO: Present.

TERRI AGNEW: Tomslin Samme-Nlar?

TOMSLIN SAMME-NLAR: Awake as well.

TERRI AGNEW: Manju Chen?

MANJU CHEN: I'm also awake.

TERRI AGNEW: Bruna Martins dos Santos? I don't see where Bruna has joined, but we'll go ahead and follow up with her. Paul McGrady?

PAUL MCGRADY: Here.

TERRI AGNEW: Anne Aikman Scalese?

ANNE AIKMAN SCALESE: Present.

TERRI AGNEW: Jeffrey Neuman sends his apologies. Justine Chew?

JUSTINE CHEW: I'm awake and present. Thanks, Terri.

TERRI AGNEW: You are welcome. Everton Rodrigues.

EVERTON RODRIGUES: Present. Thank you.

TERRI AGNEW: You are welcome. We'll have the following guest joining us: Donna Austin, the chair of the EPDP on IDNs, Eleeza Agopian, Amanda Rose, Elena Plexida, and Odeline MacDonald from ICANN staff. From the policy team supporting the GNSO, we have David Olive, Steve Chan, Julie Hedlund, Caitlin Tubergen, Ariel Liang, Berry Cobb, Devan Reed, and myself, Terri Agnew. May I please remind everyone here to state your name before speaking as this call is being recorded. A reminder that we are in a Zoom webinar room. Councilors are panelists and can activate their microphones and participate in the chat once they have sent their chat to everyone for all to be able to read the exchanges. A warm welcome to attendees on the call who are silent observers, meaning they do not have access to their microphones nor the chat. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I'll turn it back over to the GNSO chair, Greg DiBiase. Please begin.

GREG DIBIASE: Thank you so much, Terri. Welcome everyone to the November 2023 GNSO Council meeting. I'd like to start off the meeting with asking if anyone has updates to their statements of interest. Justine, I think you said you might.

JUSTINE CHEW: Thanks, Greg. So since the end of ICANN 78, I have been re-seated back on the ALAC for another two-year term. Subsequently, last week I stepped down as the vice chair and participant of the IDNs EPDP and was subsequently appointed as ALAC vice chair. So there you go. Thank you.

GREG DIBIASE: Congratulations. Great. Anyone else with an update to their statement of interest? Okay. I don't have an update to a statement of interest, but I'd like to note that due to a change in his job role, Theo Geurts has had to step down as registrar stakeholder group Councilor. And in his place, we have elected Prudence Malinki, and she will be replacing Theo on the Council effective, I believe, tomorrow, November 17th. So I'd like to go ahead and thank Theo for his service and congratulate Prudence, and I know we'll give her a warm welcome to the Council. And I believe she's coming to some, but not all, of the SPS. So we'll take it. That's exciting. And we will miss you, Theo.

Moving on. Are there any changes that anyone would like to make to the proposed agenda? Okay, seeing nothing. I'll continue on to note that the minutes from last meeting have been posted. We encourage all Councilors to review these minutes. I think this is important for a number of reasons, but for the newcomers, I note that sometimes what people say is paraphrased, and we want to make sure that we're capturing everything that is said correctly for the record. So we've had a couple Councilors that have been really good at checking us. I think Justine, in particular, does a

great job of kind of checking our work there. So I just wanted to make a note of that. Any questions about last week's minutes?

Okay. I think we can move on to the opening remarks and review of the action project and action items list. I'm going to continue the, I guess, Seb tradition, maybe a predated Seb, of not going through these in detail on the call. However, I will note their existence, and going into the strategic planning session, I would strongly encourage all Councilors to take a really close look at what is in these documents, because part of the exercise will be prioritization and questions about how these documents work, how they can be improved for your understanding. And then let's have a conversation about anything, everything that is currently on there, what should be prioritized, what might not make sense to Councilors. So in addition, or I think this is probably included in your homework that everyone will receive for the strategic planning session, but I wanted to make a note now that let's try to pay extra attention to this going into the strategic planning session. Any questions on these documents?

Moving right along. Next we have our consent agenda. We have a single item on the consent agenda, and that is to confirm Tomslin Samme-NLAR as the GNSO representative—decisional participant to the empowered community, basically are representative as the GNSO member of the empowered community. So believe I sent a motion earlier this week that was seconded. I don't think we need to read the resolved clause, but because it's so short. Maybe I will. We hereby confirm Tomslin Samme-Nlar as GNSO Council vice chair, who will represent the GNSO so as a decisional participant on the empowered

community administration. The GNSO representative shall act solely as directed by the GNSO Council in accordance with ICANN bylaws and other related GNSO procedures. The GNSO Council requests the GNSO secretary to communicate this decision to the ICANN secretary, which will serve as required written certification from the GNSO chair designating the individual who shall represent the decisional participant on the EC administration.

So before we do the voice vote, I guess I also wanted to ask if anyone felt that we needed to move this item off the consent agenda. Seeing no one, I will ask staff to help us proceed with the consent.

TERRI AGNEW: Thank you. We'll go ahead and do a voice vote on the consent agenda. Here we go. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing none, would all those in favor the motion? Please say aye.

PARTICIPANTS: Aye.

TERRI AGNEW: Thank you. No abstentions, no objection. The motion passes back to you, Greg.

GREG DIBIASE: Wonderful. Congratulations, Tomslin. That's great. All right. That is the consent agenda and now we're moving on to our Council vote. And I will hand it over to Nacho, who has graciously agreed as vice chair to introduce this topic.

NACHO AMADOZ: Greg, you will be reading the motion and most of what we are going to consider is in the motion itself. But just to give an introduction to the topic and keep some context, what we are being asked to consider is a motion to approve amendments in fundamental bylaws, precisely 18 and 19. And these changes come from the resolution that was approved by the Board in September where they were convening the second IANA naming function review. They were on the limit because they had to do that within five years of the first one. And the first one was in September 2018. So they were there. And the amendments affect the bylaws after a review of the proposal was reviewed by the Board. Yeah, by the final report, recommending to amend the bylaws to remove a duplicate in Article 18. And then in a public comment period, some more changes were noted so that the language could be adjusted because there were ccNSO representatives being identified in two bullet points. So this is basically it. I don't think that this creates any problem or is something that we should discuss at length. But I guess that before we proceed to read the motion, we need to go to the Council discussion if there is any. It looks that there is none. So we should go ahead with the motion, right?

GREG DIBIASE: Great. And I think I just need to read the very short resolved clause. All right. Great. Resolved. The GNSO Council hereby confirms the fundamental bylaw amendments to Articles 18 and 19 of the ICANN bylaws relating to the IANA naming functions reviews and the IANA naming function separation process.

TERRI AGNEW: Thank you, Greg. With that, should I go ahead and roll into the voice vote?

GREG DIBIASE: That sounds great.

TERRI AGNEW: Perfect. We'll go ahead and conduct a voice vote on this motion to approve fundamental bylaws now. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing none, would all those in favor of the motion please say aye.

PARTICIPANTS: Aye.

TERRI AGNEW: Thank you. With no abstentions, no objection, the motion passes. Back to you, Greg.

GREG DIBIASE: Thank you so much. Great. That concludes the Council vote, and I think we can proceed with item five, which our vice chair Nacho will also introduce this topic and facilitate a discussion with Donna as chair of this working group.

NACHO AMADOZ: Thank you, Greg. I'm going to try to be even more brief than the previous one because this is something that we already are familiar with and Donna doesn't need any introduction. Just to say something about it is that we received the final report last week. And now we are going to be presented with slides about the contents of the final report, and the intention is for us to consider a vote on this in our next meeting, I think. So this serves us to get introduced to the final report and the topics. So with that, I think that I can be done and give way to Donna.

DONNA AUSTIN: Thanks very much for that introduction, Nacho, and hi everybody on Council. So here we go. So just a little bit of a background refresher, a little bit of an overview of our phase one report, but where I want to focus today is what we've identified as our [features] recommendations which is really those recommendations which we think are the most substantive and most important in the work that we've done. So that's what I'd like to focus the most on and hopefully if folks have got any questions, then please ask those as we go along. And then, if we have time, we'll just walk through what the key changes to the report were as a result of the public comment process that we had, whenever that was. And then as I said, if you've got questions, please ask them

as we go along rather than wait till the end, but there'll also be an opportunity at the end to ask questions as well. Okay, next, Ariel.

All right, so, pretty quickly, SubPro didn't touch on the topic of IDNs, certainly variants, and that's why the PDP on IDNs was established. And as the Council knows, we have split our work into two phases. And this is the phase one of the report which deals with top level only. We've started work on phase two which is second level. Next slide please, Ariel.

The deck will be available to folks, so please take the time to read it if there's anything you don't think I covered. So I guess that the composition of the team, so it was considered a hybrid representative model I think was the term that we used, so we had representation from a number of the ICANN groups and constituencies. We didn't have anyone from SSAC that's been part of the working group. But we have had representation from most other groups. We didn't have anyone from the BC, I think. We did initially but then they dropped out. But overall, our attendance has been pretty good and we've had really good continuity within the group. So we haven't had lots of swaps and changes. It's pretty much been the same team that's taken us right through to at least the end of the first of the phase one final report. We do have liaisons from the ICANN Board. Edmon Chung and Akinori originally and then when Akinori stepped off the Board we now have Alan Barrett and they are regular attendees at our calls. So we you know it's not a case of one attends. We generally have both in attendance. We also have good attendance from ICANN Org. So Sarmad and Pitinan providing expertise for IDNs. We also have folks from the SubPro group. They've been following along

since the start, Michael Karakash in particular. And obviously we're well supported by the policy team which has been Ariel, Steve and now Dan who replaced Emily.

So the mission was to determine the approach for a consistent definition of variant gTLDs with the utilization of the root zone LGR and develop policy that will allow for the introduction of variant gTLDs. So that second part for me has been the biggest challenge for us in looking at the charter questions, how do we develop an approach that's going to work for introducing variant gTLDs, not only at a policy level but also at a very practical level when it comes to the next round of new gTLDs. So the focus, apply SubPro high level recommendations to existing gTLDs and existing variant domain names, enable variant gTLD applications in the new gTLD program and address topics not discussed by SubPro. So next slide please Ariel.

So the real challenge for us was how do you strike a balance between encouraging and supporting the introduction of variant gTLDs and promoting the security and stability of the DNS due to the potential permutation of variants. Variants could be two, three, four or many of a single IDN. And this will come up later as it relates to our principles, but one of the things we tried to adhere to is conservatism, because variants haven't been introduced before at the top level in the root. So how do we strike that balance? We know that introducing IDNs has been a priority for the Board and community for quite some time. So some of the interesting conversations that we had were around that balance, trying to be conservative but also ensuring that there is a way to have IDN variants in the root.

So the difficult topics were about whether to impose the ceiling on the number of variants and the real challenge and one of the topics that took a very long time, and this is a small group that was initially led by Justine, was how to adapt the string similarity review to address the introduction of variant gTLDs. And that becomes an issue because of the permutation issue associated with variants.

Also part of our work we had to coordinate with ccNSO. The ccNSO is also doing a PDP on the introduction of variants. Obviously that relates to ccTLDs only, but the Board was keen to see that there were no recommendations that were inconsistent between our two. Lots of work, and I think we have achieved that. I know that there were some suggestions that the Board wasn't on the same page as that, but I think given we didn't have any comments from the Board during the public comment period, I think we have satisfied that requirement from the Board. Next slide please, Ariel.

Okay, that's just our project timeline, and we're on time for this part anyway. Next slide please Ariel. Okay, so a bit of a high level overview. So the majority of the phase one recommendations aim to have introduced gTLD variant labels at the top level and how they can be applied for evaluated and contracted through the new gTLD program. So, we had 69 final recommendations, which sounds like a lot and I guess it is a lot. I don't think I can remember all of them. And that includes implementation guidance for 11 of them.

The sequence of the recommendations, so we did have a charter that had a certain sequence to it, which had a logic in terms of, I

think one of the first questions we attacked was the ceiling value. But the sequence of the recommendations and the way that we portrayed it in the final report was something that we think roughly follows the new gTLD process. So that's how it's sequenced in the report. And six of the recommendations would only impact on existing IDN gTLDs delegated as a result of the 2012 round. So that's kind of an important distinguisher. We acknowledge that we have IDN gTLDs in the root, but thanks to the 2012 introduction and new gTLDs, but at that time, it wasn't possible to apply for variants. So what our policy recommendations cover in some circumstances is specifically addressing those IDN gTLD registry operators from 2012. But the bulk of them is actually into the future, so how will variants be dealt with in the next gTLD round and beyond. And in looking at the charter questions, there were eight of them that we decided that no recommendation was required. Next slide please, Ariel.

So these are some of our guiding principles so the root zone LGR is the sole source. So the root zone LGR, most of you are probably familiar with, is the work that's done by language communities to develop what the label generations rules will be for a certain script. And we agreed that that would be the sole source to determine valid top-level domains and their variant labels and the disposition values, the disposition values being whether they're to be blocked or whether they can be allocated, and that becomes important in our conversations as well.

So the same entity principle. This, I think, came out of SubPro, but we've strongly agreed with maintaining the same entity principle where it relates to IDNs and their variants and any flow on that

comes out of that. The integrity of the set. So the relationship between the primary label, which is basically the label that you apply for, and the label that determines what the variant label set would look like, based on what's in the root zone LGR. So it's the relationship. Well, I guess it is the relationship between a primary label and its allocatable and blocked variant labels shall not be infringed as long as the primary label exists. So basically the integrity of the set is an important concept. So it's just ensuring that throughout the process and the application process that there's this idea that there is a primary label and a set of labels that is also part of that. So it became an important principle for us to ensure that the integrity of the set has to be maintained throughout the process.

And the conservatism. So that goes back to one of the overarching challenges we had in understanding that this is the first time that variant gTLDs will be introduced into the root and some of the challenges we may not be able to foresee. So one of the ways to mitigate for that was try to be conservative in any of the policy recommendations that we came up with and try to maintain that balance between making sure that variants and IDNs are possible, but try to mitigate for any potential security and stability risks that we don't fully understand yet. So next slide, please, Ariel.

I won't go through the glossary terms, but the primary label is basically the label that's applied for and the variant label set is what's calculated from the root zone LGR. So the primary plus its allocatable variant, allocatable label and the blocked label. So essentially what a blocked label means is that it can't be applied

for in the new gTLD program. So essentially when you go through the root zone LGR process, some of the labels will come up allocatable and some will come up blocked. It's only the allocatable variant labels that can be applied for. Next slide, please, Ariel. And I feel like I'm really rushing. So if you need me to slow down, let me know.

Some of the featured recommendations that we'll go through, I won't go through this slide. We'll just go through them. Thanks, Ariel. Okay. So this was, even though it says final recommendation 8.1 and 8.2, this was really one of our first conversations we had about whether there should be a ceiling value in the number of variant labels that can be applied for. So our final recommendation is no ceiling value for delegated top-level variant labels from a variant label set is necessary as existing measures in the root zone LGR to reduce the number of allocated top-level variant labels as well as economic, operational and other factors may impact the decision to apply for variant labels will keep the number of delegated top-level variant labels conservative.

So when we had this conversation, what became evident pretty quickly is that the work that the language communities have done around the root zone LGR, there's been, I can't remember how many have been done so far, but there's only a small percentage of those that actually allow for allocatable variants. Most of the others are blocked. So if you think about that in the context of trying to be conservative, what that means is that there's only a few scripts where it's possible to have a variant label anyway. So Ariel's got up there that seven out of the 26 scripts have

allocatable variants. And only one of those, the Arabic script, doesn't have any qualifier on that already, or restriction is a better word. So many of the other scripts do have an imposed ceiling already. So given that, we didn't think that it was necessary to apply ceiling. Theo, I see your hand up, please go ahead.

THEO GEURTS:

Yeah, thanks Donna. And I'm looking at this and we get biweekly updates from the members of the registrars who are in this group, which is really, really great. But I do wonder though, I mean, this is highly, highly technical. Do you sort of reckon, and this is sort of a question you might not want to answer, but do you think you've got enough technical people within your group to sort of go through all this? I mean, if I look some of the policies that recently came out, just wonder like how many technical people were there. So I'm just wondering, can you answer the question? Do you have enough technical people to support you? Thanks.

DONNA AUSTIN:

Yeah, thanks, Theo. So it's a really good question and we are absolutely well supported from a technical perspective. So we have Sarmad and Pitinan, who are subject matter experts in IDNs and the various topics. We do have Michael Bauland from the Registrar Stakeholder Group. And I think Jerry Sen is also from the Registrars. We have Dennis Tan and Maxim and Jennifer Chung has recently joined the Registry Stakeholder Group representative. So from my perspective, I do think we have very good technical expertise and we also, particularly the registries and registrars have reliance on the CPH Tech Ops Group. So I

know that there is questions that go into that as well. And I'd also say that we have Edmon, who was originally the chair of this group, but when he was appointed to the ICANN Board, stepped down, but Edmon is the Board liaison and he's really knowledgeable in this space as well. So it's not just technical expertise. I really think that we have expertise on the IDN topic itself that goes back 10 or 20 years for some of them. So I personally think we're really well covered. And I would say that I'm not technical, but a lot of the discussion that we have had is really process related in terms of the new gTLD application process. So I understand what you're saying about technical, but it's also about the new gTLD process and how this will fit in with that. Theo?

THEO GEURTS:

Yeah, thank you very much for that answer. And I'm really at a comfort level here right now. Because usually when we are talking dealing with PDPs, IRTs, we have enough policy people, but technical people, the technologists, they usually are not there. And I'm really happy to hear that you have a lot of technologists there. Thank you.

DONNA AUSTIN:

We do. Thanks very much, Theo. And I noticed there's a question in there on .Quebec and I think the short answer is no, but I don't want to focus on that right now. I know that Council is having separate conversations and if we want a more detailed or thoughtful answer, I can come back to that at a later time.

So 8.2, so in order to encourage a positive and predictable registrant experience, ICANN Org must, during implementation, create a framework for developing non-binding guidelines for the management of gTLDs and their variant labels at the top level by registries and registrars. So what this is really getting to is we acknowledge that this will be the first time it's introduced. So there's not going to be a set standard of guidelines or practices that have already been developed. And we felt that there was value in having a recommendation that would ensure that it's not lost, that a framework for, that, let me leave the framework aside for the minute, but that at some point in time, a set of non-binding guidelines would be developed around the management of gTLDs. And what we're saying in this recommendation is that a framework for developing those non-binding guidelines should be done during the implementation of this PDP. Taiwo, can non-binding guidelines really protect the registrants? I don't know that that's a question that I can answer, but I would say that the absence of non-binding guidelines would make it even more challenging. Next slide, please, Ariel.

And please let me know how I'm going for time too. As a result of the public comment process that we went through, we did receive some comments that were concerned about the fact that we hadn't introduced a ceiling for the number of variants that could be applied for or delegated. And that was because it wasn't considered to be, if it's open, there's no conservatism in that. But as I explained, there were reasons why we did that. So what we did to try to address that concern is develop a recommendation that is basically another set of questions that an applicant applying for an IDN gTLD and a number of variant labels will need to justify

why they need those variant labels along with the primary. So, and these will be, I think we might have that in the next slide. So I'll just speak to this. So that's the intent of this recommendation and it's a new recommendation. It wasn't in the initial report. So the intent here is that the applicant will be expected to explain why they need the variants. So it's not just—One of the recommendations that we have is that you can apply for, and I think we'll come to that, is that you can apply for up to four and it's only one application fee. So that was another thing that we were trying to address with this recommendation as well. Anne, go ahead.

ANNE AIKMAN-SCALESE: Yes, thanks, Donna. I appreciate this very thorough report. Quickly, if the justification fails and someone else applies for the variant, then does that go into a string similarity, or how does it work where justification fails?

DONNA AUSTIN: I think, Ariel, it's the next slide about justification.-Okay. All right, so we have implementation guidance 3.6. So this is intended to kind of address some of that. And so that the answers to those additional questions will be evaluated individually. So there's a number of criteria that they have to respond to. And if any of those criteria fail, then there's a possibility that the evaluator could say that that variant doesn't proceed, but the rest of the application can proceed. So it's not going to knock out the full application. It's only going to impact that one variant label where the justification hasn't been, to the evaluator's perspective, good enough. So that

would be the way that that will be dealt with. In terms of your question about strings, I think, did you mention string similarity?

ANNE AIKMAN-SCALESE: Yes, I was wondering if theoretically a variant fails and then in a later application, as we move forward to more continuing applications, that variant is applied for by a third party, then does that potentially get dealt with by string similarity or how—I'm just not quite understanding what happens to a failed variant.

DONNA AUSTIN: Okay, so because of the same entity requirement, if the application is successful, so putting aside that they may lose one of the variants, the same entity principle means that no other third party can apply for a label that's part of that set. So what you're saying in theory, and my understanding of where we've got to with the recommendations, that can't happen.

ANNE AIKMAN-SCALESE: So what you're saying is it would just essentially not be available period at the end.

DONNA AUSTIN: Correct. And Kurt, I saw you had a question about whether it's scored or not. So hopefully this implementation guidance addresses that. And Desiree, yeah, the same party or same entity principle is really key here. So the implementation guidance is

really how do the evaluators look at 3.5. And I'm getting the rush on here, so we'll have to keep moving. Next slide, please, Ariel.

Implementation guidance 3.9, so this is new, I think this is new as well in the final report, but this is just to ensure that at some point in time, and we're saying within 15 months of delegation, and then every two years after that, that some research be undertaken by ICANN Org involving the community that reviews basically the application process and how it worked and to see whether that any additional components would be required in the application process in a process moving forward, if that makes sense. And just to be clear that it's not intended that whatever comes out of that research would impact anyone who's already been through the process. Next slide, please, Ariel.

Okay, so I kind of mentioned this, but a future applicant applying for a primary gTLD and up to four of that string's allocatable variant labels during an application round must incur the same base application fees as any other gTLD applicant who does not apply for variant labels in the round. So some people kind of, some of the comments we received is, is this a free ride? Is this conservative enough for the up to four? The team is pretty confident with this and again, it goes back to that balance between conservatism and enabling applications for IDNs and their variants. We did have a lot of discussions about whether four was conservative enough, whether one would be more appropriate because that's really conservative, but we think four is okay because some of the label generation rules that are in place for some like Chinese with traditional and I always get just confused, but they already have a ceiling, which I think is two or three labels

that can be applied for. So we thought four was fair. 3.2, if you apply for more than four, then there could be additional fees associated with that. That would be at ICANN's discretion. 3.13, so a future registry operator applying only for allocatable variant labels of its delegated primary gTLD must incur a discounted application fee. So that's basically looking to the future. So if in one round you apply for a primary and maybe one variant, and then later on you think you want two other variants to go with that, then if you apply in a future round, there'll be a discounted application fee. Next slide, please.

So 3.14, if a registry operator from 2012 applies for up to four allocatable variant labels of the existing gTLD in the immediate next application round then the base application fee will be waived for that application as a one-time exception. So our discussion was really around in 2012, these applicants couldn't apply for a variant, it wasn't available to them. They've managed the IDN-TLD for, I don't know, 12 or 16 years, however many years it takes. So our recommendation is to waive that, the base application fee for any variants. And that's a one-off. If they don't apply in the immediate next round, then that waiver doesn't apply, but we are recommending that there be a discounted base application fee. Sorry, and if a registry operator from 2012 round applies for more than four allocatable variant labels of its existing IDN-gTLD in the immediate next application round, there may be an additional application fee. So again, that up to four is the no fee, but anything after that, it could incur additional fees. And 3.1.4.4 in any application round subsequent to the immediate next application, that application must incur a discounted base application fee, so that 3.3, and may incur additional fees as set out in

recommendation 3.12. So that's all connected in that those recommendations deal with the application fees. Next slide, please, Ariel.

Okay, this is just an explanation of how those recommendations work. So Paul, for your headspace, maybe go back and have a look at the slide deck once this is available. Next slide, please. So the string similarity review, as I said, was the most challenging for the group just because of the permutation of variant labels and what needed to be considered in that string similarity review. What we have here is apply the hybrid model for a string similarity review. What we mean by hybrid is that when we started having these discussions, we had, I think, three options. And what we ended up with was a combination of options two and three. So, and this is feedback we did get back from ICANN Org, is that by taking this approach, it probably will make implementation more complicated, but we had no idea as to how complicated. But again, looking to the security and stability aspect of this, it's important that all these permutations be part of the mix. So that's why we ended up with a hybrid model, but it was, we were trying to make it the most conservative, but it is complex and complicated. So we're actually beyond allocated time. Ariel, how many slides do we have with the final recommendations? Okay, so I'm good to stop there. I will offer that if there are any folks on Council that would like a more in-depth walk through the recommendations, we'd be happy to do that as the leadership team. So I understand it's a lot. I understand it sounds really complicated, but it's really around the key phrases and the terminology that we use. So the glossary is also important when you walk yourself, when you're trying to take yourself through the

recommendations. But I think it's also important to note that all of these recommendations have full consensus support from the team. So I will stop there. Thanks, Nacho, and apologies for going over time.

NACHO AMADOZ:

Thank you, Donna, and sorry for rushing you. We saw also a lot of engagements, so we thought we might give it also a bit of a time, and we still have the Q&A section, even though we've gone through some of them. And there's a lot of comment in the chat room, but if anybody else wants to ask a question, I think we still have one, two minutes for doing that. Seeing none, thank you again, Donna, for this massive piece of work. The next steps, I guess, will be that we will vote on this in our next meeting, right? Paul was suggesting to do that today, but I guess that we will go back to the report in half a full month to look deeply into it. So, Donna, thank you very much, and back to you, Greg.

GREG DIBIASE:

Thank you, Nacho, and thank you, Donna, and just emphasizing that there will be a vote, so that means going back to your stakeholder groups to get consensus on how to vote. And then just, I guess, housekeeping, can we send those slides out to the Council to make sure that we didn't lose anything in the rush? I'm going to assume yes, but someone can correct me if I'm wrong. Great, oh, slides are on the list, great, and on the Council agenda page, we're covered.

So, great, moving on to the next topic. So, we have two topics that are related to the data accuracy scoping team that has been on hiatus since November of 2023 [sic]. So, if you'll recall, back in July 2021, a data accuracy scoping team was convened to consider the overall effectiveness of accuracy-related efforts. The work was halted after an update on progress was given, and the chair of that effort resigned. This work has been on hold, pending a couple items, among which is a data protection agreement between ICANN and the contracted parties. And as just kind of another reminder, one of the primary challenges kind of hampering this group's effectiveness was accessing sufficient data to determine what issues, if any, existed around accuracy.

So, we have two updates in that regard, an update on the data processing agreement, as well as an assessment of certain registration data accuracy scenarios. So, we're gonna start with an update on the data protection agreement. ICANN Org, with, I think, consultation with contracted parties, sent a update out on October 16th. In the update, they noted they're aiming to complete negotiations by the end of the year. One other thing that might be worth noting, this agreement is going to take the form of a data processing specification that will be added to the registry agreement and registrar agreement. And I think there have been some questions on that, but there are just a few remaining items, and both sides seem optimistic that negotiations can wrap up by the end of the year. So, we have staff here to answer any questions, or if anyone has comments about this update on the data protection agreement, or I suppose it'll be a data protection amendment, and then we can discuss the other aspects of

registration data accuracy scoping and come up with a plan. So, I'll stop there and go to Justine.

JUSTINE CHEW: Thanks, Greg. This is Justine. A question, would the draft DPA be put out for public comment?

GREG DIBIASE: That is a good question. Do we have a staff member knowledgeable to answer that question? We might have to get back to you on that. Sorry, I think there was staff assigned to discuss this. Caitlin, is that you maybe?

CAITLIN TUBERGEN: Thanks, Greg. I have a couple of colleagues on the call, but I'm not sure that we have an answer to that specific question, but we'll get back to you on that if we don't have an answer during today's meeting. Sorry about that.

GREG DIBIASE: Thank you. Theo.

THEO GEURTS: Yeah, thanks. And not to spice things up on my last day, but this entire accuracy thing, I never understood what we tried to achieve here. Secondly, if you want to talk about accuracy and if you have a concern about like is the accuracy of the registered data, why did the ICANN Org never reach out to their escrow providers and

other contracted party to see like, "Hey, can you check the data for us? Give us back the statistics on how bad or good the data is." I mean, most of these escrow providers can run most of the syntax checks that were similar to the WHOIS ARS program. So if ICANN Org really wanted to have the data, we could have gotten it like a couple of years ago. Thanks.

GREG DIBIASE:

Thanks, Theo. I think that question is addressed in the next topic that we have in which ICANN kind of looked at the scenario and could they access data in bulk and assess it? And I think their conclusion in this report that we're discussing next was they do not have a legitimate interest that is proportionate to do so, but I'm not trying to speak to the report, but I think they have addressed that in the report that is next on our agenda. Stephanie?

STEPHANIE PERRIN:

Yes, Stephanie Perrin for the record. And I'm back at the issue of whether or not there's going to be a public comment on the data protection agreement. And I don't mean this to sound harsh and it's not my last day, so I'll be around. Unlike Theo, he can stir the pot if he likes. But this whole issue of the data protection agreement that is set between ICANN and the registrars and registries, let me remind you that the only privacy policy we used to have was in the contract and that was out of reach of anybody who was interested in privacy policy for the benefit of the registrants. So how this particular division of responsibility is cut has very strong policy implications. I'm not saying that it isn't also a question of liability between the two parties, I understand that,

but I think it's really important if you haven't decided yet on whether it should go for public comment, it should go for public comment, there's no question. Because ICANN has options. We have waited many long years for ICANN to definitively opine on the controllership role it takes. I've always been of the view that they were controllers of the escrow data. I doubt that that's been adopted, but all I'm saying is we need to have a kick at this. Whether anybody changes anything as a result of comments, well, we're used to being ignored in our comments, but we definitely need the opportunity to put things on the public record in case this all goes sideways. Thanks very much.

GREG DIBIASE:

Thanks, Stephanie. And we'll add that note to Justine's original question about the public comment and get back to the list as soon as possible. Theo, I see your hand again.

THEO GEURTS:

Yeah, just one comment here though. I mean, if we look at the contractual, when it comes to contracts with the contracted party house, it is completely different with the contractual agreement that ICANN Org has with the escrow providers or UDP providers. So I don't think that what we've gotten so far from ICANN staff didn't include the contractual relationship that ICANN Org has directly with the escrow providers. And I think that has been overlooked. Thanks.

GREG DIBIASE:

Thanks, Theo. Any other questions specifically on this update as to the status of the data protection agreement? Okay. The next thing that is closely related is what was sent out to the list was an assessment of registration data accuracy scenarios by staff. So the background here is going back to the report that was submitted by the accuracy scoping team. That scoping team submitted, suggested that a potential path forward would be a registrar survey or a possible registrar audit to kind of be able to get this data to assess what the issues if any were around accuracy of registrant data.

In an attempt to help that move this work along, the Board asked ICANN Org to look for scenarios in which it can consult the European Data Protection Board concerning the legality of each proposal. So ICANN proposed four scenarios that it would determine whether it could produce useful material for the accuracy scoping team. So they considered analyzing publicly available registration data, in other words what's in the WHOIS but not redacted or behind privacy. Two, conducting a compliance audit regarding contractual requirements. Three, analyzing a full set of registration data provided by registrars similar to the WHOIS accuracy reporting system that used to be in effect. And four, voluntary registrar service survey.

So ICANN in this report kind of looked at all these scenarios and the takeaway is there was challenges for each of these approaches. First, the scenarios are not expected to provide data as it relates to identity verification of the registrant or the veracity of the contact information because that belongs to the data subject. They noticed that the costs associated with the full-scale

registrar audit may be prohibitive when taking into account what they could yield. They noted that ICANN does not have the authority to mandate the collection of public registration data necessary to conduct reviews outside of current auditing and contractual requirements and that ICANN may not be able to demonstrate that the purpose of some of the data processing outweighs the rights of the impacted data subject. So in other words, they've cited a number of challenges with the scenarios that were laid out.

In light of these obstacles, they identified two possible alternatives. ICANN contractual RRA audit program, ICANN proceeding with an audit, and engaging with ICANN's contracted parties on current developments with respect to European policymaking. I think the report noted that some ccTLDs have some different ways of verifying and seeing if there could be a conversation around those. Separately, it is worth noting that ICANN is conducting a study called Infernal, an inferential analysis of maliciously registered domains that is coming out September 2024. That's just another data point here. And then I think there's been some discussion around the member states' implementation of NIS2 of European regulators. So all that's to say that there are a number of things that could impact this work that are ongoing.

So I think the discussion before us today, given the current status update on the DPA, some of the information that was contained in the assessment of registration data accuracy scenarios, and things that are kind of coming down the pike, is it worth restarting this? Could we restart the data accuracy scoping group? If so,

what would be the right timing? Should that be aligned to start with the Informal report, for example? Could we move forward with some of the recommendations like the voluntary registrar survey, noting that the DPA is not yet in place? Or maybe something in the middle, maybe there's, for example, a small team could take a closer look at this report that ICANN gave back and make a recommendation? So this is a discussion period to kind of get people's thoughts on where we stand now and if restarting the scoping group makes sense, and if so, when. I'll start with Stephanie.

STEPHANIE PERRIN: Hi, Stephanie Perrin for the Record. As long as we're having an open discussion on this matter, has anybody thought about actually doing a risk assessment on the data rather than what amounts to a quality survey on the quality of the data? I mean, having had my domains taken down because I failed to report a new address, the actual risk of that failure to update my address in time was exceedingly low. There were umpteen other ways to reach me. I was not engaged in criminal activity, yada yada yada, you know. We spent an awful long time on that accuracy scoping group and it's not clear to me that we have a clear delineation of the risks that would cause us to go to all this work and potential liability because clearly ICANN seems to be quite worried about the potential liability for doing what amounts to a quality survey. Thanks.

GREG DIBIASE: I don't have a very specific answer to that. I know the effectiveness of current measures to assess accuracy were something the group considered, so possibly that's related, but certainly that's something we can note if and when we reconvene this work. Theo?

THEO GEURTS: Yes, I'm glad that Stephanie is not a criminal. That being said, going through the reports, I still don't know what we are trying to solve here and that is a big problem. Thanks.

GREG DIBIASE: Thanks, and I think that was part of the feedback we got from the scoping team, was without a sampling of data to assess, it's hard to effectively measure what accuracy concerns there may be. Theo?

THEO GEURTS: Yeah, one of the problems was of the charter team that it couldn't come up with a definition, and I think that is sort of key here when moving forward. I mean, if we don't have a definition on the entire accuracy, what it is, I mean, how can we even move forward if we don't have a definition? Thanks.

GREG DIBIASE: Understood. Not seeing other hands, I think one other proposal we had originally been kind of tracking, restarting this group with the conclusion of the DPA, kind of under the idea that if a registrar

survey is going to be effective, for example, there probably needs to be a DPA in place in order for registrars to be able to voluntarily provide data as a minimum. So that could be our fallback here. Maybe that's what I'll propose as a straw man if I don't see a lot of other comments here. Paul?

PAUL MCGRADY:

Thanks. Trying to figure out how to turn my camera on here. Yeah, I think that would, the completion of the DPA/S, I'm not sure what the proper acronym is anymore, would seem to me to be the first possible point to start the work again. However, I hear all the time from CSG colleagues that the NIS 2 implementation from their point of view is going to be a major event. I don't have an opinion on that. It seems to be a question of who you ask. But it would seem like if that really is going to be a major event, then we would push this work off until we know what the subtle law is. Because to me it seems nutty, is how busy the community is to start something, only to have it being overtaken by a law that we know is on its way, right? And all the various national implementation. So I would say DPA/S soonest. Maybe this, maybe we wait till after NIS 2 implementation and then we, hopefully at that point, everybody around the table can at least agree on what the law is at that point. But racing to reboot this when we have at least two gatekeeping issues, certainly one issue for sure, and maybe two gatekeeping issues, to call on volunteers to start this work again right now, it just seems out of time. It's not the right time. Thanks.

GREG DIBIASE: Thanks, Paul. Yeah, I guess I won't comment on the impact of NIS 2, but it seems relevant, I guess, as a bare minimum. Kurt?

KURT PRITZ: Thanks, Greg. This is Kurt. Similar to what Paul said, I think the last group got as far as it could, and so without some significant event that would enable it to go farther, then we should not launch. So maybe there are checks. So after the DPA is executed, is this a significant change or does this provide an additional ability for the group to progress? Or maybe it is NIS 2, or maybe it is ICANN's report that would say, oh, here's some additional information. Now this group can become effective because of the additional information. So maybe we put in checks along the way, a check after the DPA, a check with regard to NIS 2, a check after ICANN develops this additional information, or other events along the way. So anyway, not to preordain when the re-inauguration is, but rather measure what the change is and see if that'll make the group effective. Thanks.

GREG DIBIASE: Thank you, Kurt. That makes sense to me. Any other comments on next steps for this policy work, or this topic generally? I see Manju noting a +1 to Kurt. Justine, can you ask your question? Extended more time? Oh, like we extended for another six months. When does that six months expire? Is that your question, Justine?

JUSTINE CHEW: Yes, correct. Thanks, Greg.

GREG DIBIASE:

I do not have that off the top of my head. I think it's coming up, though. I think it's faster than we may realize. If anyone on staff knows... Oh, I think I'm hearing January or February 2024. Okay, so around the new year, January 2024. Great. And then I'll just also note that Paul agrees that Kurt's comments make sense as well. Any other conversation before moving on to our next topic?

Okay, let us move to item seven, ICANN Board action on the final report of the Cross-Community Working Group on new gTLD auction proceeds. So, Stephanie, I don't think we're voting on this. I think this was more of a brainstorm, and our last moratorium will extend till, I think, January, so we can discuss either when the DPA is executed as a decision point or when that next moratorium expires. Okay, action on the CCWG. I read it, now I'll go to the acronym CCWG AP. So, as I think everyone will recall, I'm gonna dive back into the background here because it is important. But if you remember, the ICANN Board accepted recommendations from the CCWG AP. Recommendation seven in particular noted that existing ICANN accountability mechanisms could not be used to appeal a decision from the ICANN grant applicants. However, the recommendation noted that there would need to be an amendment to the fundamental bylaws to eliminate this opportunity to use these remedies, like request for reconsideration or an IRP.

We had several letters, and then subsequently, after adopting this agreement, ICANN determined that a bylaw amendment was not necessary, and instead they could implement the recommendation that ICANN grant applicants would not be afforded these remedies

through terms and conditions with the grant applicants. We had an exchange of letters on this topic in which we replied to ICANN noting our concern about just applying these remedies for grant applicants through terms and conditions as opposed to amending the fundamental bylaws as considered in the original recommendations. At the last ICANN meeting, the ICANN Board went forward with a resolution that changed recommendation seven to note that a fundamental bylaw was not required, and it can be done through terms and conditions for grant applicants, but at the same time said that they would pursue a broader bylaw amendment that could address this issue of when the community recommended that in certain circumstances, remedies could be disapplied.

After some back and forth on list, several members had raised the idea of pursuing remedies such as a request for reconsideration or an IRP I at first incorrectly noted that we had a 15-day period to file an RFR and helpfully corrected me that was 30 days, however that is still a very tight time period at least from my perspective to coordinate action from Council as a whole, and I would also note that submitting an RFR can be done by individual constituency, it does not have to be from Council from a whole even though that maybe contains some advantages.

So the discussion today would be, is it actually feasible to proceed as Council as a whole? If not, what are the other options? And I think I have a volunteer from Damon of the IPC to kind of shed some light on what the IPC might be doing at a very high level in this situation. Tomslin then.

TOMSLIN SAMME-NLAR: Thanks Greg. I just have a personal question on this, clarity maybe. Does it make a difference when the—I'm looking at the last line of what's being projected right now. It says removing the requirement and dependency that a fundamental bylaws amendment is required prior to the launch of the ICANN grant cycle, though the amendment would nevertheless be pursued. So I'm wondering does it make any difference that the fact that the requirement is not necessary is only prior to the launch of the grant cycle but they are acknowledging that it's required nonetheless? That's my question.

GREG DIBIASE: So my understanding—and I welcome Councilors more knowledgeable to provide a better answer—is that the way this resolution was worded, that there's not a dependency, that the Board may be pursuing this other fundamental bylaw but that is not a dependency on them changing the terms and conditions for grant applicants. In other words, if the proposed new amendment failed for example their plan to disapply remedies through terms and conditions, could still proceed was my understanding. Does that answer your question Tomslin? I'm not sure I'm answering the right question.

TOMSLIN SAMME-NLAR: A bit, not quite but let me hear what Damon says.

DAMON ASHCRAFT: In any event, I mean the IPC intends to file a request for reconsideration. I don't have anything really more to share at this

time and I actually don't know a whole lot more. There's a lot of moving parts to it but I have been told by the IPC that I should convey to this group that the intent not the promise but the intent is to go forward with an RFR.

GREG DIBIASE: Thank you. Paul.

PAUL MCGRADY: Thanks Greg. To answer your question, Greg, do I think that the Council has time to whip something up in the short timeframe that we have? I don't think we do, but I would like for us to take a look at whatever the IPC files, and I don't even think we have to look at it before they file it. I think we can look at it after they file it, and if the Council as a whole is comfortable either giving it a plus one altogether or at least writing a note to the Board chair saying there's real important issues in what the IPC did, and we don't want your standard sort of blowing like, just because they tend to say no to request reconsiderations. We can ask them to really dig in. I think that would be sufficient because it's a way for the Council to alert the Board that we think there's a real issue here, but without the Council having to try to scramble to get a request for reconsideration on the deadlines, because the deadlines are no good.

When the smoke clears in a couple of years and we have time on our hands, it might be good to actually extend the deadlines for Council and like for the SOs and ACs, right, so that we actually have time to act on something like this, but that's not the facts that

are in front of us now. So, in other words, I'm grateful the IPC is considering this and that it's their intention to do it, and I would like for us to consider either plus one-ing it or at least saying this is important, please read. I think that would be a good outcome. Thanks.

GREG DIBIASE:

Thanks, Paul. And yeah, I think you raised another point I was trying to convey is that it's hard to have a vote on this without, like, a finished work product, right? Like, we have a vote on starting an RFR, right? It just seems like there'd be a lot of challenges. Thank you. Anne.

ANNE AIKMAN-SCALESE:

Yes, thank you. Thank you, Greg, for actually getting this on the agenda. As usual, I have a comment that is procedural in nature, because I think that the Council is going to need to take a hard look at CCWG working guidelines, regardless of whatever else occurs here, because the response in the letter in relation to the Board action said we don't need to come back to the chartering organizations with respect to this proposal to get their approval, because that is not called for in the CCWG guidelines.

Now, as we all know, because we've been working so hard on the SubPro final report and on certain recommendations that were not adopted by the Board and working with Board reps who have been extremely helpful and cooperative, there's a process in the bylaws by which we go back with supplemental recommendations developed at the Council level. And the nature of cross-community

working groups, if the position is taken, as it has been officially taken, that there is no parallel process for final recommendations of a CCWG, I think that needs to be of concern to the chartering organizations, because in the case of the CCWG, if there's no true opportunity to honor what is called a fundamental principle in the CCWG guidelines, that is the approval of chartering organizations, then I think we've got a process issue and something that we need to kind of figure out longer term. And I did, in fact, have a brief discussion with ICANN staff about this later, and they acknowledged that, yeah, those things work differently. CCWG guidelines don't call for that or whatever, at least that's their position. And so it might be also a deterrent in the future to using CCWG as a mechanism if we don't get better input. I think everybody knows that they reestablished the list for auction proceed members who wanted to join, but in fact the co-chairs of the auction proceeds came back on that list and said, well, we think you should stick with the recommendation seven final recommendation.

But the point of what I'm saying right now is more that I think we're going to have to take a look with the rest of the community at the CCWG guidelines to have a more robust process in this type of situation. I don't know exactly how that would work, and I know we're extremely busy, but I just want to raise the procedural issue. Thank you.

GREG DIBIASE:

Thanks, Anne. Yeah, that makes sense to me as a separate thing to note that in addition to questioning if the Board action was appropriate, questioning, is there a gap in processes for the

CCWG? So, yep, that makes sense to me and I hope we can find a way to note that and continue to consider it. Kurt.

KURT PRITZ:

Understanding that request for consideration from the Council wouldn't be timely, could we suggest or could we discuss the possibility of sending an RFR-like letter or document to the Board expressing or describing how the Board action is not consonant with the bylaws? So it wouldn't be an RFR, but it would be a statement that the Board could still think about going ahead with this.

GREG DIBIASE:

I think we can write any letter we want. I think that's an option. But I think also maybe that goes back to Paul's point, is if IPC is willing and they draft this RFR, we can look at that and say endorse it or say we endorse these parts. So maybe that is a way to capture that idea. Paul.

PAUL MCGRADY:

Thanks, Greg. And thanks, Kurt. I think Kurt just said more artfully than me, right? That once we see what the IPC does here, like you said, we could endorse it entirely. We can endorse parts. We can say we don't endorse it at all, we still think it's a really important issue. And here's why. Right. And so, yeah, Kurt, it would be some kind of communication that says to the Board, we want them to take it seriously and that the issue is not going away. Right.

GREG DIBIASE: Yeah, and I think that, Kurt putting in a finer point on that, speaking in my, I guess, own Councilor capacity that that could give us a starting point on what the Council wants to say. Okay, so kind of what I'm hearing is that joint action from an RFR specifically from Council perhaps is not feasible, but we appreciate the IPC's work here and we'll kind of see what—no harm in—taking from Damon here, no harm in waiting to see what the IPC comes up with and going from there. So maybe IPC can come back with the draft and then we as a Council can determine if we want to do something like a plus one or a Kurt style letter. So I'll ask if Councilors think I have that right as the general consensus here. Wonderful. It's exciting. Pressure is on IPC now, we'll see what they come up with.

Moving on then, we have Council discussion number eight, consider whether further work is needed after ICANN outreach to the European Network Information Security Agency. So this harkens back to something that Thomas Rickert brought on list a while ago, whether we should be communicating what requirements currently exist to the European authorities. ICANN has sent a draft of the letter they intend to send. Am I stealing Nacho's topic here?

NACHO AMADOZ: I'm happy for you to do it, Greg.

GREG DIBIASE: So ICANN shared its draft recommendation. I think the conversation today is if Councilors have reviewed that and there's further work needed.

NACHO AMADOZ: There's another update that we are going to be getting from Caitlin, I think, about what's the status of that letter and what ICANN did.

CAITLIN TUBERGEN: Thank you, Nacho, and thank you, Greg. This is Caitlin Tubergen from Policy Support Staff. I'm actually here today on behalf of Elena Plexida, who I forwarded that letter on behalf of. She's unable to attend tonight's meeting. But I think you all saw that the draft was forwarded, as Greg mentioned, shortly before ICANN 78. I re-forwarded that draft. And when it was forwarded, Elena did ask for requests if there was anything obviously missing or any complaints about how that letter was worded to please let ICANN Org know. Since the small team, when it met several months ago, it agreed that the letter would appropriately come from ICANN Org. However, they did ask if they could review it. And that is why that was forwarded before ICANN 78. I am going to share a link to where that was posted in the chat now. This was also shared, has been shared with the GAC. And the overarching goal of this communication was to share information about both the role and the work of the ICANN multistakeholder model, particularly around its policymaking, along the lines of what had been discussed with the GNSO small team on this issue.

The main point in the letter is that ICANN community policies are not static. And it also included relevant information on existing and upcoming ICANN policies, procedures, and requirements with respect to registration data that are relevant to Article 28. And the aim of the communication is that the multistakeholder model and its policymaking is understood, taken into account, and respected. That letter has been forwarded. And so, as Greg noted, the idea here is to ensure everyone's reviewed the letter. And if folks think that additional work is needed, then please speak up and let us know what the concerns are or what further work might need to be done, if any. So, I'll toss it back over to Greg to see if we have any concerns. Thank you.

GREG DIBIASE: I guess we're opening this to Councilors, if they've read the letter, have concerns. Thomas?

THOMAS RICKERT: Yeah, thanks very much, Greg. And thanks, Caitlin, for outlining the letter and the process. I mean, when we discussed this in the small team, one of the biggest questions was whether it's appropriate for the GNSO Council to provide information on this or what the correct drafting entity, if you wish, should be. Now, I guess it's great that ICANN put together information and also linked to the policies that are relevant to NIS2. But still, I think that it would be worthwhile discussing, maybe not here, but maybe within the respective groups in the genius or whether further information should be provided to ENISA, for example. Because I think that just, quote, unquote, "collecting the relevant policies"

might not be sufficient to make folks understand how these would respond to NIS2 requirements in Article 28. So I leave that up for discussion here or not, right? I just note that I think that more work could be done to explain to what extent in the view of groups or individuals ICANN policies are sufficient or not to respond to the requirements established in Article 28. With the transposition to national law, as you will know, we don't yet know, because that's a work in progress. But if it is our intention to make it widely known what we've done, how we came to the decisions that have been made in ICANN's policies and contracts, I think that maybe some more explaining needs to be done. Thanks for having me.

GREG DIBIASE:

Thanks, Thomas. Sorry, I'm going to ask a follow-up question. So is this flagging to our individual groups that more information is needed, or are you suggesting that the Council should take up a follow-up?

THOMAS RICKERT:

I think I just wanted to ask the question. You know, when the smaller team concluded that it would be good for ICANN Org to communicate this officially, that's a decision that I wholeheartedly supported. Also, I do not know whether we can reach consensus, even if the Council wanted to further elaborate on this, because I know that different views are handled on how ICANN should position itself and whether or not the policies are sufficient. So I think it would be interesting to hear other Councilors' views.

I would just note that since this is such a complicated issue with so many policies that are relevant to this, and since there is such a rich history in ICANN on these topics, it would probably be helpful for national lawmakers that are currently involved in the transposition process to get some easy to understand introduction and information on what actually was done in the [gTLD world.] Let's just be clear that Article 28 is an outlier. It's not high on the national regulators' priority list. You know, they have other things to worry about in the context of this transposition. And for them, for us to expect them to take a look at the policies in the RAA 2013 and read all that, understand through their own research and time, how this is relevant, I think we shouldn't expect that. So if we want to make a difference, if we want them to take into account what ICANN has done, I think we need to present it in a way that's more easy to digest. But I don't mean to sound evasive. Greg, I hope that answers your question.

GREG DIBIASE: Yep. Thank you. Susan, you're next in the queue.

SUSAN PAYNE: So I'm not sure about the value of further work in Council. I'm sort of echoing what I think I heard from Thomas, really. It seems to me that there are definitely differences of opinion in terms of the content of that letter, or I suspect there are. Certainly to the extent that I have feedback from my IPC colleagues, for example, there was some quite strong reaction to that draft, to the letter, and views expressed that it was misleading and inaccurate. I think one certainly could say that there's a perception that it wasn't wholly

factual in the sense of, I don't mean, I'm not calling it false, I just mean when we talked with Elena about the type of communication that was being intended, it was one that was meant to be factual, purely stating what exists. But I think it goes a little further than that, and certainly in the sense of tending to imply that [Ms. Chew] says the following, this is what our policy says, and impliedly, and therefore it's addressed by us. And I think there is undoubtedly difference of opinion across the different stakeholder groups and constituencies about whether that is the case or not. But so I was asked to express that certainly the IPC does not support that letter, and doesn't feel that Council should support that letter. Not that we're being asked specifically to do so, but I'm not sure that work in Council would be effective in addressing the types of concerns that my IPC colleagues have, because we do have these differences of opinion across our different groups.

GREG DIBIASE: Thank you, Susan. Nacho?

NACHO AMADOZ: Yeah, thank you, Greg. Nacho here very quickly, just so that we get back into the schedule. I agree with Susan that this doesn't seem to be work for the Council, because this is not a policy that we should be steering or developing. But I also think that ICANN should keep pushing to try to get some information sense into what this outlier article is in the NIS, because as Thomas was saying, this is something that is going to be not in the focus of the national regulators. And I had firsthand experience with that, seeing that it was going to be hard to get them to understand what

we were trying to tell them about how we think this could impact the whole industry, in this case in Spain. But I don't think that this is something for the Council as such to develop.

GREG DIBIASE:

Thanks, Nacho. And just putting myself in the queue, I think I agree with that. And what Susan said, I just agree with the feedback that she's probably getting from her IPC members might differ from the feedback I'm getting from my registrar members. And so maybe we can leave this effort where it is. So yeah, that makes sense to me. Kurt, and then I'm going to draw a line under this and move on to any other business.

KURT PRITZ:

Yeah, thanks. This is Kurt. I had to rethink my comment after Susan's comment. I also noticed that, at least I didn't see that the letter had a call to action or next steps. And I was wondering, and that might be totally appropriate because writing to entities such as this is way outside my bailiwick. So I was wondering if Caitlin or anyone else on ICANN staff were anticipating next steps, are we expecting a response from the recipients, or is there a plan to follow up? Or is this just a letter sent and then expected to be not responded to? Sorry for that preposition at the end there.

GREG DIBIASE:

Thanks. Caitlin, any response before we move to the next topic?

CAITLIN TUBERGEN: Thanks, Greg. I'm consulting with my colleagues who are engaging, and I will have an answer to you hopefully by the end of this meeting. Thank you.

GREG DIBIASE: Great. So fast. Okay, moving on to any other business. The first thing I believe we have is SPS planning. And I think I'm going to turn it over to Steve Chan for updates and reminders.

STEVE CHAN: Yeah, thanks, Greg. And as part of that, I also tried to do a quick run through of what we envision the agenda to look like, at least as of now. Sorry, Steve Chan for the record. So as a reminder, the dates for the SPS are the 29th through the 1st, so it's coming up quite quickly. Your planning team for this SPS is the Council leadership team, of course, GNSO support staff. But we also got contributions from Marika and then also Heather Forrest along the way. And then Melissa Peters-Allgood is taking part in the planning process as well. And we envision her being part of the, not part of, one of the facilitators for the number of the sessions in the agenda. So I guess just as a high level reminder, in the past, the SPS has been focused quite a bit on trying to plan out the agenda for the year and the priorities for the year. And as a result of past SPSes and PDP 3.0, it looks a little bit different now. I'm trying to plan out what the SPS will look for. And that's a result of having the program and project management tools in place, which makes it pretty clear at least what is intended to be on the Council's plate for the upcoming year and beyond, really. So with that in mind, I just wanted to go pretty quickly through how we

expect the agenda to look like as of now. That team I talked to you, [inaudible] mentioned, the planning team will be meeting tomorrow. The goal is, of course, to make further progress on the agenda, but also to make sure that it's in a place where we can share with the Council and make sure that you're all aware of the general themes of what it's supposed to look like. And then, of course, for you to opine and let us know if you would like to see any changes.

So with that, I'll just go through the three days, or I guess two and a half days more specifically. So Wednesday, the 29th, these are some standard things. There will, of course, be getting to know each other elements. And then one of the things that we've done in the past is invite all the stakeholder group and constituency chairs to also take part in the very first session. They'll be remote. You'll be mostly in person. And part of that is just to make sure that Councilors are aware of how they are expected to engage on behalf of their SGs and Cs. And then a little bit different here is that there will also be some follow on discussion from the 20 year anniversary session that took place at ICANN 78, where one of the things that was talked about was essentially what can be further done to future proof the GNSO. And so that is one of the themes that is part of this SPS. But the main theme for that first day is really looking at the continuum of the PDP and looking at a number of different scenarios and trying to get mutual agreement on what the Councilors think is the Council's remit or role as the manager of the PDP in each of these different steps. And so some of those steps in the Z graphic of the PDP continuum, it's probably pretty apparent what the Council's roles, but in some cases, it might not be so easy. And so the goal there is to really have a

number of different scenarios and spend quite a bit of time looking at the scenarios and like I said, try to get to mutual agreement.

So Thursday the 30th, that's the second day. The goal here, or I guess parts of the agenda here are after having that exercise of getting the mutual understanding of the role of the Council, it's now looking at the tools and mechanisms that are already available to the Council and assessing whether or not they are fit for purpose, whether or not there's tweaks that could be applied, or whether or not there's whole new tools that are fundamentally needed for the Council to be able to conduct its work.

The other part of that day is to look at those themes that were identified from the 20 year anniversary about future proofing the GNSO. So going from theory to trying to make it action oriented, determining whether or not any of those require action items to be pursued by the Council.

The third part of that day is sort of standard SPS fair which is looking at the outlook for the work for the year, and making sure that it seems reasonable. And as part of that, some councilors had requested and suggested that there be a WSIS+20 briefing, and it seemed to make sense to fit it into this item because it may impact the future work of the Council. So that is where that is envisioned.

And then the last part of that day is after having seen all the work in front of the Council is asking the question, how can the Councilors be engaged in all this work, making sure that as a collective body the Council can make sure that it delivers on its priorities.

And so, real quickly on the last day. This is Friday, it's a half day. There will be an update from the comms small team that will be delivered by Tomslin. And then there will be a meeting with the ICANN Board and then also the interim CEO. And then finally there is wrap up and we'll end around midday that day. So, Terri I'm not sure if you had any other housekeeping things you want to mention but otherwise, hopefully that was a helpful overview of what we envision the agenda look like. And like I said, we'll make sure we send it out in writing so you'll have a chance to take a look at it. Thanks.

TERRI AGNEW:

Steve, think you've covered it quite well. Thank you.

GREG DIBIASE:

Thanks, Steve. Appreciate that. I think that will give all the Councilors something to think about. Any other questions from Councilors on the SPS and the agenda that will come out to you shortly? And Susan, I think the answer to your question is we're going to be sending out an agenda and reading assignments.

Great. Before moving on, I just want to quickly note Caitlin's response to Kurt in the chat that ICANN is not expecting a response from ENISA. The aim of the communication is that the MSM and its policymaking is understood and taken into account. Which makes sense to me. Yes, Paul, there will be snacks. All right.

Next on AOB is the confirmation of the RDRS chair. As you'll recall, the work on the RDRS has transitioned into a standing

committee, the reformed RDRS standing committee which will overtake the EPDP small team. Sebastien Ducos who was the chair of the EPDP has volunteered to chair the RDRS standing committee, and we're raising it here to see if anyone has any objection to that to continuing with him as chair. If not, we will confirm that at our next meeting in the consent agenda. Hearing no one, maybe they're excited by the prospect of going to the DC ICANN office in the penthouse, no less.

Next on my list we have a note on an update on the public comment on pilot holistic review. I believe Osvaldo, Mark, and Bruna are collaborating on a draft to share with Council shortly, but I wanted to flag that this is due on November 27th, so the due date is rapidly approaching. Are there any updates from Osvaldo, Mark, and Bruna?

BRUNA SANTOS:

Thanks, and hi, everyone. Just trying to brief you guys very briefly. I think that in terms of the conversation that we're having, the three of us agree that we would like to request for staff to provide us some more clearance, like, or even some more explanation on how the process will be going, and we all agree that the deadline is rather short for such a lengthy and dense review to be kind of implemented, so what we discussed so far would be to request for either a roadmap or some more information on how this is going to go, and also reinforce the needs for, if possible, that this is the only review running at the time, because we assume that it would kind of request for, like, further engagements from the community and so on, and I don't know, Mark, if I'm forgetting anything, but I think we all agree on this kind of, like, general lines on the process

and what we could ask a little bit more from staff in terms of clarification and so on, so just to flag it to everybody, and I promised the two of them that I would work on a small draft for this and suggestion for comments, and I'll do this at the remaining days of this week, just so I'm able to share with them and the Council as well. That's all.

GREG DIBIASE: Thank you, Bruna. Mark?

MARK DATYSGELD: Thank you, everyone. Very briefly, our current assessment, as Bruna said, is that the clarification was insufficient, let's call it that, and it's also late. It happens to be quite late in terms of the timeline, as Osvaldo pointed out to us, so very soon we hope to be circulating this spot, and, yeah, if you have any other suggestions, please reach out to us. The document is open, and it's in the main list. Thank you.

GREG DIBIASE: Great. Thank you, Mark. We look forward to seeing that on the mailing list. Next is an update on the GAC Communiqué, and I think Susan is presenting here.

SUSAN PAYNE: I am. Thank you. Yes. Just a brief update. I know we don't have very much time left. I circulated the links to the two different documents. We basically have a process now where we provide a

response both on the GAC advice and on GAC issues of importance, if we think that there's anything that Council should respond on. And the nature of the response is just, I'm sure people realize this now, but it's not in the nature of kind of advocacy. It's very much intended to flag relevant GNSO activity, previous correspondence, previous PDP, and previous decisions and the like that are relevant to the piece of advice or issue of importance that the GAC have raised. So it's not meant to be an engagement in kind of tripartite advocacy.

So we have those draft inputs at the moment that we're, there's still works in progress, but we are on a bit of a time push now because we understand the Board will be meeting with the GAC on the 5th of December. So that's just a couple of weeks, really. So we are targeting to finish our review and be able to circulate something to the list by about the 21st, so next week, and then Councilors will have a week to look at that proposed draft text. And effectively, will be seeking sort of objections to that being forwarded onto the Board. And in the absence of objections, I think the intent would be to have that forwarded to the Board so that they have it in advance of their meeting with the GAC. And then we would formalize that by voting on it at the next meeting. So if anyone has comments now and wants to feed them into the small team, they're very welcome, but otherwise there'll be a proposed final text that will come around next week.

GREG DIBIASE:

Wonderful. Thank you, Susan. Any questions for Susan before I go to our last AOB? Seeing none, I'll go to Steve who has, I think our last AOB.

STEVE CHAN: Thanks, Greg. This is Steve again from staff and this is the unscripted AOB. But I just want to let you all know that Ariel Liang will be actually leaving the GNSO Support Team. But fortunately, she's not going too far away. She's actually moving over to the new gTLD program along with Marika, actually. So I'd like to think we're sending our best and finest to go make sure that that program is delivered efficient and effectively as I think many are interested in happening. So I just want to make sure that she didn't slowly disappear and you're all aware that she's actually just moved on to another team within ICANN, which we're definitely grateful for. So I just quickly wanted to say that I'm personally grateful for everything she's brought to this team in support of the GNSO. And I think I can safely say that the IDNs EPDP in particular would not be where it is without her. So and actually speaking of the IDNs, while she is moving to that new team, she will continue her support of that project in particular. So that's it. Thanks.

GREG DIBIASE: Awesome. Thanks, Steve. Congratulations to Ariel. We're sad to lose you on support staff, but it sounds like we know where to find you. So really a great situation for everyone. Great news. Congrats again. Awesome. So I think that is our last AOB. Does anyone have anything else before we go ahead and close this meeting? All right. Thank you all. I think we can close this meeting and I look forward to seeing everyone at the strategic planning session. Thanks all.

TERRI AGNEW: Thank you, Greg. Thank you, everyone. Once again, the meeting has been adjourned. I will stop the recordings and disconnect all remaining lines. Take care. Thank you for joining.

[END OF TRANSCRIPTION]