
GNSO Council Meeting

Thursday, 21 December 2023 at 13:00 UTC

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Zoom Recording:

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<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, Prudence Malinki (first council meeting | replaced 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 (joined briefly but absent for all votes), Osvaldo Novoa, Thomas Rickert, Damon Ashcraft, Susan Payne

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

Nominating Committee Appointee (NCA): Paul McGrady

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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 the IDNs EPDP

Mike Silber - Chair of the GGP

Becky Burr - ICANN Board

Karen Lentz and Dennis Chang - ICANN Org

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

Caitlin Tubergen - Policy Development Support Director (GNSO)

Saewon Lee - Policy Development Support Manager (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 taking place on Thursday, the 21st of December, 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: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Jennifer Chung?

JENNIFER CHUNG: Thank you, Terri. You are welcome. Kurt Pritz?

KURT PRITZ: I'm here. Thank you.

TERRI AGNEW: You are welcome. Greg DiBiase?

GREG DIBIASE: I'm here.

TERRI AGNEW: Prudence Malinki? I do believe Prudence is just joining us now. I will circle back to Prudence as we're getting her switched over to panelists. Desiree Miloshevic?

DESIREE MILOSHEVIC: I'm here. Thank you.

TERRI AGNEW: You are welcome. Lawrence Olawale-Roberts?

LAWRENCE OLAWALE ROBERTS: Good morning, all. I'm here. Thank you.

TERRI AGNEW: You are welcome. Mark Datysgeld? I don't see where Mark has joined yet. Damon Ashcraft? Damon, I do believe you're connected. Do you mind checking your audio. Damon, I see where your mic is still muted. All right, we'll come back to Damon.

In the meantime, Prudence, you have joined. Do you want to go ahead and acknowledge that you're on. Prudence? Prudence, if you are speaking, I see your mic is unmuted, but we're unable to hear you. I'll come back to Prudence. Susan Payne?

SUSAN PAYNE: Yes, I'm here. Thanks, Terri.

TERRI AGNEW: Wonderful. I started to wonder if it was my audio. 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: I'm here, Terri. Thank you.

TERRI AGNEW: You are welcome. Tomslin Samme-Nlar sends his apology. The proxy goes to Manju Chen. Manju Chen?

MANJU CHEN: Here. Thank you, Terri.

TERRI AGNEW: You are welcome. Bruna Martins dos Santos sends her apologies. And the proxy goes to Stephanie Perrin. Paul McGrady?

PAUL MCGRADY: I'm here. Thank you.

TERRI AGNEW: You are welcome. Anne Aikman-Scalese? I don't see where Anne has joined yet. Jeffrey Neuman?

JEFF NEUMAN: Present.

TERRI AGNEW: Justine Chew?

JUSTINE CHEW: I'm here. Thanks, Terri.

TERRI AGNEW: You are welcome. Everton Rodrigues?

EVERTON RODRIGUES: I'm here. Thank you.

TERRI AGNEW: You are welcome. All right, we're just going to circle back before kicking it off. Prudence, is your audio fixed now? Do you want to go ahead and try it? Take two.

PRUDENCE MALINKI: Hi, everyone. Prudence present and here. Thanks.

TERRI AGNEW: You are welcome. And I confirm it works. Damon, are you back with us?

DAMON ASHCRAFT: I believe so. Can you hear me?

TERRI AGNEW: I can now. Perfect. All right.

Thank you, everyone, for that. We do have guests joining us today. Donna Austin, chair of the IDN's EPDP, Mike Silber, chair of the GGP, Becky Burr, ICANN Board, and Karen Lentz and Dennis Chang with ICANN Org.

The policy team supporting the GNSO is David Olive, Steve Chan, Julie Hedlund, Caitlin Tubergen, Saewon Lee, 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 activated their chat to select 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. Welcome, everybody, to the December meeting. Thanks for joining during the holiday season. We have a lot to get through today, so I'll dive right in and first ask for updates to statements of interest.

Hearing none, I'll confirm that people have reviewed the agenda and ask if there's any changes anyone would like to make to the agenda.

Wonderful. Next, I just want to note that the minutes from the previous council meetings have been posted and are available

online. As always, please review after these meetings to ensure that we have appropriately captured everyone's feedback.

And with that, another reminder to always review the specific themes in the project list and action items. The links are all posted here.

And with that, I think we'll dive straight into the consent agenda, which is confirming Sebastien Ducos as chair of the RDRS Standing Committee. So if you may recall, the work on the RDRS is transitioning from a working group to a standing committee. Sebastien Ducos, who was chair of that initiative, has now volunteered to be chair of the standing committee, and the motion today is to simply confirm him. We've talked about this in previous meetings, so I think we can go to a voice vote. I don't think there's a motion to read here. Staff, does that sound right? And if so, can we proceed with a voice vote on this matter?

TERRI AGNEW: Yes. Just to make sure we cover all bases, why don't you go ahead and just read the resolve? Just to make sure.

GREG DIBIASE: Sure. "Resolved. The GNSO Council hereby confirms Sebastien Ducos as the chair of the Registration Data Request Service Standing Committee. The GNSO Council thanks Sebastien Ducos for his continued service and requests the GNSO secretariat to communicate this decision to Sebastien Ducos."

TERRI AGNEW: Thank you. Shall I go ahead and move into the voice vote now?

GREG DIBIASE: Please.

TERRI AGNEW: Perfect. Would anyone like to abstain from this motion? Please say aye—

GREG DIBIASE: I see Steve's hand.

TERRI AGNEW: Go ahead, Steve.

STEVE CHAN: Thanks. There's actually two items on the consent agenda.

GREG DIBIASE: Oh, sorry. Do I read both of them?

STEVE CHAN: I want to make sure we note that. And at least traditionally, we don't actually read the motion to save you a little bit of effort at this time of day. Thanks.

GREG DIBIASE: Thanks. Sorry. The second item is the GNSO review of the GAC communique. And this involves the communique that the Small

Team drafted, as well as the items of importance, which Susan noted, on list, was not included in the original motion. And as the issuer of this, the proposer of this motion, I seconded her amendment, or accepted her amendment, as friendly.

So can we scroll down to the resolve clause on the GAC communique? “Resolved. The GNSO Council adopts the GNSO Council review of the ICANN 78, Washington, DC communique advice and issues of importance and requests that the GNSO Council chair communicate the GNSO Council review of the ICANN 78 GAC communique advice and issues of importance to the ICANN Board. GNSO Council requests that the GNSO liaison to the GAC also informs the GAC of the communication between the GNSO Council and the ICANN Board.”

Are there any comments and concerns with this second item on the consent agenda before we proceed with a voice vote?

David, do I see your hand?

DAVID OLIVE: The ICANN 78 meeting was in Hamburg.

GREG DIBIASE: Oh, that's true.

DAVID OLIVE: So the communication was the Hamburg communique. So I thought I would just quickly ... I just caught that. I'm sorry for the delay in seeing that.

GREG DIBIASE: Yeah, I see that the URL seems to point to the Hamburg
communique, so it's correct. I am certain that we can fix that. So I
will change that to—

DAVID OLIVE: Okay, just delete Washington, DC, ICANN 78. That was the
communique that they list, so that's fine.

GREG DIBIASE: Right. Okay, we will do that. Thanks, David.

Okay. Any other comments before moving on to the voice vote?

TERRI AGNEW: Greg, it's Terri, and I just want to confirm that, Manju, since you
did second this, you're comfortable with the changes as well?

MANJU CHEN: Oh, yes, Terri. I have sent to the mailing list at, like, three minutes
before we started the meeting that I second Greg's acceptance of
amendments.

TERRI AGNEW: Perfect. All right, voice vote it is. 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.

UNIDENTIFIED SPEAKERS: Aye.

TERRI AGNEW: Would councilors holding proxies please say aye? So this is Manju Chen for Tomslin Samme-Nlar, and Stephanie Perrin for Bruna Martins dos Santos.

MANJU CHEN: Aye.

STEPHANIE PERRIN: Aye.

TERRI AGNEW: Thank you. With no abstentions nor objection, the motion passes. Greg, back to you.

GREG DIBIASE: Great, thank you. Moving on, we have a formal council vote on the EPDP on internationalized domain names phase one final report. As you recall, in May 2021, the council approved the initiation request for this, and the EPDP team was expected to determine the approach, consistent with for a consistent definition of all gTLDs and develop recommendations that will eventually allow the introduction of variant gTLDs at the top level. We had a

presentation on this report in our last meeting, and in this section we will vote on the final report. There are more details here, but I think we've gone over those in the last meeting, and I think I will be turning this over to Manju to present the motion and see if we have further things to discuss before a vote. Manju, I hand it over to you.

MANJU CHEN: Thank you, Greg. So, I'm not sure, how do I present this motion? Do I read through the warehouse or I just suddenly let everybody read the motion?

GREG DIBIASE: I think you can go down to the and read the resolve clause, if that sounds right too staff.

MANJU CHEN: Oh, cool. So, "Resolved. the GNSO Council approves and recommends that the ICANN Board adopt all 69 final recommendations as documented in the EPDP IDN space phase one final report. Should the final recommendations be adopted by the ICANN Board, the GNSO Council requests that ICANN Org convene an IDN implementation review team to assist ICANN Org in developing the implementation details for phase one final recommendations and ensure that the results and implementation conforms to the intent of the approved recommendations. The implementation review team shall operate in accordance with the implementation review team principles and guidance approved by the GNSO Council in June 2015. The GNSO Council thanks the

leadership, members, participants, and liaisons to the EPDPID and team for their commitment and hard work in completing the phase one effort of the EPDP.”

GREG DIBIASE: Great. Thank you, Manju. Before we move to the vote, I want to see if there are any things people would like to discuss before we proceed.

Susan?

SUSAN PAYNE: Yeah, thanks, Greg. It was just more of a comment, if that's okay. Just a couple of things. Firstly, having read this report, which is very detailed, the string similarity rules do seem very complex, and I guess I've got a personal fear for future applicants that it will be difficult for them to tell in advance whether they might be similar to an existing TLD because of the comparison with potentially tens or hundreds of variants. So it's just kind of a wish, really, or a hope that when the implementation is being done, a mechanism can be found so that potential applicants have a means to identify the variants that might impact their potential application. That's just a sort of expression of wish.

But generally, I was one of the people, I think, in DC, who was putting quite a lot of pressure on Donna and the rest of this working group. And so I just wanted to say thank you and kind of commend them, firstly for bringing this in on time, as they promised. And it's a really detailed and solid piece of work. And I think the topic is complex, but the [rate] report is really easy to

read. The recommendations are clear and they've been really clear about how they've taken the public comments on Board. So I just wanted to say thank you.

GREG DIBIASE: Thank you, Susan. And I certainly second that. I think it's very encouraging (the timeliness of this report), given the complex subject matter and detailed. And regarding your wish, I think you're probably going to be involved in implementation, so maybe you can make your wish come true. Wonderful.

Does anyone else have comments or discussion points before we move to the vote?

Hearing none. Let's proceed with a vote.

TERRI AGNEW: Thank you. This will be a roll call vote, so I'll read your names and this will be on the EPDP on IDN's phase one final report. Desiree Miloshevic?

DESIREE MILOSHEVIC: I say yes.

TERRI AGNEW: Thank you. Damon Ashcroft?

DAMON ASHCRAFT: I vote yes.

TERRI AGNEW: Kurt Pritz?

KURT PRITZ: On behalf of the RySG, I vote yes.

TERRI AGNEW: Stephanie Perrin for Bruno Martin Dosantos?

STEPHANIE PERRIN: Yes.

TERRI AGNEW: Stephanie Perrin for yourself?

STEPHANIE PERRIN: Yes.

TERRI AGNEW: Greg Dibiase?

GREG DIBIASE: Yes.

TERRI AGNEW: Wisdom Donkor?

WISDOM DONKOR: Yes.

TERRI AGNEW: Peter Akinremi?

PETER AKINREMI: I vote yes.

TERRI AGNEW: Prudence Malinki?

PRUDENCE MALINKI: Yes.

TERRI AGNEW: Manju Chen for Tomslin Samme-Nlar?

MANJU CHEN: Yes.

TERRI AGNEW: Manju Chen for yourself?

MANJU CHEN: Yes.

TERRI AGNEW: Nacho Amadoz?

NACHO AMADOZ: Yep.

TERRI AGNEW: Mark Datysgeld? Mark? Oh, I see where Mark has dropped. We will try to get Mark back on. Laurence Olawale Roberts?

LAWRENCE OLAWALE-ROBERTS: Yes.

TERRI AGNEW: Jennifer Chung?

JENNIFER CHUNG: On behalf of the [RIFG], I vote yes.

TERRI AGNEW: Susan Payne?

SUSAN PAYNE: Yes.

TERRI AGNEW: Thomas Rickert?

THOMAS RICKERT: Yes.

TERRI AGNEW: Antonia Chu?

ANTONIA CHU: I vote yes.

TERRI AGNEW: Osvaldo Novoa?

OSVALDO NOVOA: Yes.

TERRI AGNEW: Paul McGrady?

PAUL MCGRADY: Yes. Thank you.

And I'm just circling back to see if we have Mark on yet. One moment. All right. I don't see where Mark is any longer connected, so let me go ahead and get that noted. Thank you.

One moment, please, while I tally the votes. For the Contracted Party House, we have seven votes in favor and no votes against. For the Non- Contracted Party House, we have twelve votes in favor and we have one absent. With that (100% in Contracted Party House and 92.31% in the Non-Contracted Party House) the motion passes.

Back over to you, Greg.

GREG DIBIASE: Wonderful. Thank you to the team and the council for this expeditious work. I'm really excited to see this move forward. Great.

I think we can move to the next council vote on the GNSO guidance process for applicant support guidance, recommendations final report. One quick note on this item. We have it as a motion to the vote, but there was some discussion on list, and so if there are concerns, we can move this vote to next week. So I just wanted to put that as a placeholder before handing it over to Paul to provide comments, because I want to make sure ... I think I saw Anne had some questions on list and Kurt might have had as well. So I'm going to dive in by handing this over to Paul to present the topic and the motion. Then we can see if we have discussion and if councilors are prepared to vote, we can vote today. If not, we can defer to our January meeting.

So, with that, Paul, are you able to jump in here and go over the motion and kind of describe what the potential vote is that we're looking at today?

PAUL MCGRADY: Yes, Greg. Thank you. Hi, everybody. This is Paul McGrady. So we're here with the work outputs from our inaugural GGP. And frankly, I'm excited that the work got done on time and I think done well. Mike Silber is here. He is the chair of the GGP. He will be available to answer any questions that you guys ask me that I am stumped by because I'm a mere liaison. But I will do my best.

Before I read the resolve clauses, I think it makes sense to take a look at the work of the GGP, and staff has prepared some handy

slides for me to walk through. I won't take a ton of time because I know we have a busy agenda, but I do think laying out the background of this work so that folks can see how it differs from other work on applicant support, which I'll be talking about in a later agenda item, makes sense. And then from there, if there are questions, maybe we can have those. And at that point, I think we'll know whether we are prepared to vote on this and get it on to the Board and staff, or if we are going to take another month to do that.

So, staff, can you guys put the slides up there? I'm not sure that I can share my screen on a meeting this big. All right. Caitlin is working on those.

STEVE CHAN:

Hi, Paul. Thanks. This is Steve. We're working through a slide sharing snafu. It didn't go to Caitlin, who's on screen share, but I have them, which is not helpful.

PAUL MCGRADY:

Okay, no worries. Maybe I'll tell a Christmas story. They always say on the radio to never have dead airtime. Well, why don't I do this? Why don't I just go ahead and read the resolve clauses and we'll get that out of the way and so we don't have to do it again later while the slides are getting ready?

So the resolved clauses are that the genus council adopts the guidance recommendations as outlined in section three[:] working group final guidance recommendations. The GNSO secretariat, on behalf of the council, requests that ICANN Org ensure that the

next round implementation team considers these guidance recommendations. The GNSO secretariat, on behalf of the council, thanks the chair, GNSO Council liaison, and members of the GGP Applicant Support Working Group for their hard work and dedication in bringing this important project to completion.”

So we have that out of the way in case we do vote. If we don't vote, that's okay, too.

So here's some background slides. If we can go on to the next one, that'd be great. So, basically, this will talk about the work plan and timeline, the summary of the tasks the GGP team undertook, the public comment summary, the summary of the final guidance recommendations, key changes following public comment review, and then some discussion time, as Greg has already mentioned.

All right, so on the work plan, and ... And I know it's kind of funny to talk about work plans and timelines after the fact, but part of what we're doing with this GGP is celebrating that the GGP process works well and quickly. And so you'll see that this team basically kicked off its work a year ago, moved quickly through its tasks, finalized the initial report, published it for public comment within like seven months of when they started, which was great (there was a 40 day public comment period), and then the team went through and reacted to the public comment and did a final report. That final report was agreed to by full consensus of the entire GGP team, which is always great to see, and delivered on time to the GNSO Council.

So the reason for this slide are two things: one, to show that the GGP appears to be an effective, speedy tool, which is good to know (it's our first one), and secondly, frankly, just to praise Mike Silber for running a great team and getting it all done in a timely way. I think that having somebody who really knows what they're doing, chairing a team, is really important. And Mike was a great example of that. So, work plan and timeline.

Let's go on to the next screen. All right, so, task one was to review in detail the 2011 final report on joint Applicant Support Working Group and the 2012 implementation of the applicant support group that was completed. Task two was to request input from GGP representative group to identify subject matter experts. That was completed. Tasks three, four and five (now we're getting into the meat of what we were doing) was to analyze and prioritize the metrics, identify indicators of success, and determine impacts on the Applicant Support Program lifecycle. And then task six is to recommend a methodology for allocating financial support where there is inadequate funding for all qualified applicants. So tasks three through six really are the heart of the matter.

I know that Kurt raised a question or a suggestion on the list about deferring this for a month so that people can consider how this interacts with the work of the Small Team Plus. The work of the Small Team Plus is really about encouraging the Board to expand the scope and nature of applicant support, whereas the GGP focused on the metrics, the indicators of success, and the methodology for allocation. And so, although we sort of confused everybody by having two things called applicant support going on at the same time, the work has always been very separate from

each other and hopefully not overlapping in any meaningful way. So I wanted just to point that out, since we're talking about the tasks that the GGP undertook, I suppose, to what the Small Team Plus is doing.

Let's go on to the next slide. So, during the public comment period, there were ten submissions received. We list out the commenters here. I think it's great to see the commenters because it's a way to thank the community for taking the time to invest in this process and actually put in good comments. All nine out of nine of the preliminary recommendations received comments. The overwhelming majority (I shouldn't say overwhelming majority) of comments did not raise either significant concerns or issues the GGP had not already considered. The written group did review, analyze, and address the comments, and two of the nine recommendations were changed as a result of the public comment review. Sometimes it was something somewhat straightforward, like a preamble text, but there were changes made. And working group members were expected to coordinate their participation with their representative groups. And as I noted before, the guidance recommendations were agreed to by full consensus, following with public comment summary and finalizing [by the] Board.

Let's move on to the next slide. And so here's the [chunky heart]. What do tasks three, four and five mean to accomplish? So one is to increase the awareness of the Applicant Support Program, to communicate the availability of pro bono and ICANN provided information and services, to ensure the Applicant Support Program has the necessary resources, provide timely and

accessible application materials and the application process, to ensure a certain percentage of successfully delegated gTLD applications are from supported applications, and investigate the extent to which supported applicants that were awarded the gTLD are still in business as a registered operator after three years. So essentially it's figuring out how to make sure that word gets out, how we measure success in terms of the number of applicants, and then checking up on those applicants to make sure all remains well.

All right, we're going to go on to the next slide. We have three more things. If there is inadequate funding, the GGP recommended that the fee reduction be allocated equally across all the qualified applicants. Any Board members that are listening, we certainly hope that there's adequate funding and that allocations like ... This is in the event of inadequate funding. We're not hoping for that. We're hoping for adequate funding ... designate a minimum level of support and develop a plan if funding drops below that level, and then communicate the results of the evaluation process and allow applicants to know about their range of support allocation as early as possible. So that was the summary or the outcomes from task six.

So again, all these are fairly straightforward. Want to draw the changes following public comment review. And again, I'm sorry if everybody's like, why is Paul so in the weeds on this? I think it's important. One of the things, as we know (we've talked about as a council), sometimes people feel like their public comments aren't taken into account. They are, but sometimes it feels like they're

not. And so this is a great slide because it shows the actual changes made following public comments.

So on guidance recommendation one, we added ... So I'll start: "Target potential applicants from the not-for-profit sector, social enterprise and/o or community organizations, from underserved and developing regions of countries." That was the initial language. Following public comment, it was added: "This should not exclude any entities from outreach efforts, such as private sector entities from underserved and developing regions and countries, recognizing the goal is to get as many qualified applicants as possible." So that was as a result of the public comment review.

For guidance recommendation five, under indicators of success, we had no fewer than ten, or 0.5%, of all successfully delegated gTLD applicants were from supported applicants. That's an indicator of success. If this happens, then that was an indicator of success. We added, this should be considered a floor, not a ceiling, and ICANN should strive to exceed this minimum. So, in other words, we're not asking ICANN to hit 0.5%, we're saying that's like the minimum to hit. And if we do even better as a community, that's terrific.

And then lastly, there weren't changes to the recommendations of seven, eight and nine, but we did add the preamble text that you see here, and why not read it? "As noted above, the GGP Working Group emphasizes that ICANN Org's next-round implementation team should take into consideration potential dependencies among all the recommendations, in particular with respect to guidance recommendations seven, eight, and nine relating to

recommending a methodology for allocating financial support where there is inadequate funding for all qualified applicants. The working group clarifies that these recommendations are to be interpreted as interdependent and that the objectives therein are to be balanced as a key aspect of the program's success." So, in other words, it's the old famous ICANN word "tapestry," like these are meant to all be read together, not picked apart.

So that, I think, may take us to our final slide, or pretty close. Yes, that was. So now we are at the discussion point. And Greg, would you like to run the queue? Would you like for me to run the queue? How would you like to do this?

GREG DIBIASE: Sure, I'm happy to run the queue.

PAUL MCGRADY: Perfect. And if anybody asks any questions that are difficult, I will ask Mike Silber to jump in.

GREG DIBIASE: Right. Great. Can we stop sharing? Because I don't think I can see. Oh, I do see the queue. Anne, I saw your hand first, but it went down. So I'll go to Kurt.

KURT PRITZ: I'll defer to Anne if she wants to go first. Her hand was up first. Do you want to talk, Anne?

ANNE AIKMAN-SCALESE: Oh, I was deferring to Kurt because I'm non-voting, but please go ahead, Kurt.

KURT PRITZ: Oh, no, no, no. Yeah, I had a couple of points. One poll was something you touched on with regard to the parallel processes between the Small Team and GGP. So this really isn't a question for Mike, whose work I commended in my e-mail and commend again. So the report is really clear. You know, you said hopefully there are no areas of overlap, but it seems that there are. The GGP has some really specific recommendations for operating the program, and the Small Team has a list of ideas that might be adopted that might even contradict themselves, but might be adopted in implementation. And I wonder if putting both these things to the IRT eventually is going to confuse and delay things, that it seems like we designated the GGP to take up this work where the IRT thought substantive work still needed to be done. And so now we've done that. So I'm just concerned that two reports that do seem to overlap in this one area might delay rather than expedite things.

I also had this question about inadequate funding. I thought the gTLD program was supposed to be self-funding in itself, so I don't quite understand that we're concerned or we identify the question of funding the right way because the gTLD program fee proceeds are supposed to fund the applicant support unless there's something contrary in the policy recommendations. But I don't know. That's sort of always been lingering in the background.

Anyway, those are my two points. And again, Mike, thanks very much for the work.

PAUL MCGRADY:

Thanks. If I can address those, Greg, to the extent that I can, the first comment was about the interplay between the GGP implementation recommendations and the work the Small Team Plus is doing on a policy recommendation. The policy recommendation will be a supplemental recommendation that will go to the Board and is fairly straightforward. I was going to put this in the chat on the next agenda item anyways, but if anybody wants to see where we are in terms of a fairly stable draft of that work, click on the link and go to the bottom. You'll see some of the changes that are made.

Because that is a policy recommendation, that's on a different track than what the GGP is attempting to do here. The GGP work will go to the IRT. Obviously the Board will be informed about it. But again, the GGP was about how do we let people know about the Applicant Support Program, how do we measure success, and to the extent that there is a funding shortfall, how should that be handled? The work of the Small Team Plus is not talking about how much money should be allocated, what happens in a shortfall, all those sorts of things. The work of the Small Team Plus is talking about the scope of applicant support beyond an application fee reduction only. And so, yes, they're adjacent to each other, but I do not think they're contradictory.

Right now, the thinking for the Small Team Plus (and I'm sorry that this is two agenda items being smushed together) is, because it is

a supplemental policy recommendation, we will pass along to the Board the ideas, the proposals, from very Small Team members in the ALAC as sort of an implementation.

So, yes, I guess in theory, Kurt, there could be something that is an idea from a Small Team member or the ALAC that does not line up directly with what the GGP is recommending. And I don't know of any problems like that, but that is (and I hate to say it this way) sort of an issue for the IRT, not really a policy decision for council. And so I would say there are things that conflict between the GGP recommendations coming directly from council and an idea that came from a Small Team member, or even, (I hate to say it) ALAC: that the council's position would be thought about very deeply before adopting something contradictory. But again, I'm not sure that that's a tension that we can resolve right now.

On the second question, which is allocation of funds and whether or not the gTLD program is self-funding, I don't know the answer to that, and I don't know if there's anybody on staff that knows the answer to that. But I always thought that there was some dollar amount that the Board set aside, and that it was a known amount, and that they would budget this applicant support issue like they budget anything else. And so I think that's the reasoning behind having some thinking in advance about what happens if we have a real stampede of applicants-support applicants, which we hope we do.

How do we handle that? I guess there's two ways to do it. One is to implement the ideas from the GGP. The other thing is to make a budget shortfall go away by having the Board open the first more broadly. Obviously, that would be a much better outcome.

But not knowing if it will happen and how it will play out was, I think, some of the thinking behind by the GGP put in recommendations on that particular issue. So, Kurt, I hope that's helpful. Thanks.

GREG DIBIASE: Thank you, Paul. That all made sense to me. Anne, you're next in the queue.

ANNE AIKMAN-SCALESE: Yeah. Thank you. And, Kurt, I appreciate the questions that you've raised, because I think they make for an interesting discussion. With respect to the first question, I think, actually, it would be helpful to the IRT team in particular to move forward with finalizing the GGP report and sending it over to the Board for the very reason that you raise, which has to do with consistency because within the IRT, right now, on the applicant support sub-track, we are raising questions of the consistency between the GGP work, which I think is excellent, by the way ... And congratulations on all of that, Paul and others. And there are good reasons to make the IRT work and the GGP work consistent. And I think that's the real benefit right now of going forward with this GGP work.

And I especially appreciate Paul pointing out the changes that were made after public comment, because I think that's going to help us in the applicant support sub-track of the IRT to make sure that the handbook that goes out for public comment and the work that was done by the GGP is all consistent.

And then secondly, with respect to inadequate funding, I think I had the same question that Kurt had. I have raised on the list the recommendations, seven, eight and nine, not understanding very well about what the term “inadequate funding” means, given that I think what ICANN does is they establish a budget that is a certain sum that they're going to dedicate to this effort. But unfortunately, I haven't studied the budget that could be applicable in the next year and the year beyond when we open the round to know where they would go with that. But it's also my understanding, as Kurt says, that the budget comes out of applicant fees and that's what ends up paying for the fee reduction that applies in the Applicant Support Program.

So I don't think any of us can know that right now, but it's hard to figure out how you proceed when the recommendation is that there's no prioritization among applicants, but yet there should be a minimum. I guess at this point, the Board gets to figure that out. Is that what you would say, Paul?

GREG DIBIASE: I'm going to cut in and say I see Mike's hand, and maybe he has some insight on this funding issue.

MIKE SILBER: Thanks, Greg, much appreciated. And thanks, Paul, for the very kind words. A lot of hard work by a lot of people. I think there are a couple of comments just to note. The first is that the GGP had a very specific set of terms of reference given to it by council. And we did at times feel a little constrained because it was very

narrow, but I think it was intentionally narrow to avoid or to deal with this situation where there was parallel work going on.

So my understanding is the intent was that we deliver a result which helps inform the other discussions, which helps inform some of the other deliberations, which gives context within which people can make policy recommendations or practical implementation recommendations. So the GGP was not designed to address all of that, and the team will bear me out where I tried to stick quite vehemently to the terms of reference and not allow us to get off track and to wander into some of the areas that are being considered by the Small Team Plus that are considered in terms of implementation, because otherwise we would still be doing this work.

So my view is that you take the output of the GGP and you put it into context in terms of some of the implementation issues. So in terms of funding, yes, the intention is to be self-funding, but what we can't do is wait for the program to be adequately funded and people to pay their fees and then say, "We now have money to provide through to the Applicant Support Program," because one of the key recommendations is that needy applicants be able to submit their applications for support ahead of opening the general availability before people can actually start applying for gTLD because otherwise we run the risk of the same catch 22 that people had in the previous round of applying for applicant support, not receiving it, but then not having the ability to go and raise funding to proceed without possibly getting the support that they were hoping for. So we've worked on the basis of the recommendation that came through before that in terms of

opening the application support applications early, which will allow [it].

So yes, there is a little bit of circularity and I don't have a magic answer in terms of exactly how the funding works, but it's going to be between council, staff, and the Board to work out exactly how we handle that demand cycle versus the availability of resources. But one of the things that we recommended is that there should be funding. We should not get into a prioritization, there shouldn't be a beauty contest. People need to meet minimum criteria. They need to know that they're going to get support or not, and they're going to know that they're entitled to a minimum level of support.

Now if there are not a huge number of qualifying applicants, then they may get, for example, a 100% fee waiver. But if there are a lot of them, then they may only get to the threshold, which would be, for example, a 30% fee waiver. But they need the predictability of knowing you will get a minimum if you qualify, that you will get a minimum of x percentage fee waiver. And if there is sufficient budget, you may get more, but you won't get less because what we can't do is slice this cake so thin that people end up with a few crumbs and it's meaningless. And that's why the recommendation is if we start getting really close to the edge where the number of applicants starts getting to the budget, hitting the budget, that is allocated by the Board for applicant support, and that there is a risk that qualifying supported applicants won't be able to access the support they require, then we need to go back to the Board and ask for that budget to be supplemented.

So that's how I see the process. But this is just input into those processes. This is not intended as the final word, but it's guidance.

And the council very clearly told us, “Stay in your lane. Give us guidance on very specific issues, and don't get into areas” ... There was a temptation. We were all tempted to start wandering off, but we were told very clearly, “Don't wander off into those other areas. It's not your responsibility.”

GREG DIBIASE:

Great. Thank you, Mike. And I'm also noting Steve's comment in the chat that there's already adopted recommendation regarding budgeting for the Applicant Support Program, Recommendation 17.12. “ICANN Org must develop a plan for funding the Applicant Support Program as detailed in the implementation guidelines below.” So I just wanted to note that as well.

And then I'll go to Desiree with one note that we are running slightly behind, but Desiree, go ahead.

DESIREE MILOSHEVIC:

Yeah. Thank you, Greg. I believe that Mike has successfully answered my question, which was exactly at which point has the applicant ... When does he need or she to say, “At this point, we don't have sufficient funds”? And I wanted to see if this is something done in the implementation phase or something prior to that. So thank you, Mike, for answering that question, and congratulations on the good work. Thanks.

GREG DIBIASE:

Thank you, Desiree. And thank you, Anne and Kurt. I like that these comments are thinking about future work for the most part.

We're thinking about potential roadblocks or issues down the line. So I think that's really constructive.

So I'll draw the line on discussion there, and then I'll just see if there anyone that objects to a vote in this meeting today. Is there anyone not ready to vote today and recommends this should be deferred? Or hearing no objections, I will proceed with a vote. So I'll open that up.

Hearing none, let's move to a vote on these recommendations.

TERRI AGNEW: Thank you, Greg. And just remind me, has the resolved been read yet?

GREG DIBIASE: Yes, Paul, read it as we're waiting for the slides.

TERRI AGNEW: Thank you. I thought so.

GREG DIBIASE: It was robust discussion in between, but, yeah, I think that's where we landed.

TERRI AGNEW: Thank you. This will also be a roll call vote. Again, this is on the GGP for applicant support guidance recommendation final report. All right, let's go ahead and kick this off. Peter Akinremi?

PETER AKIMREMI: Yes, Terri.

TERRI AGNEW: Thank you. I'll take that vote as a yes. Desiree Miloshevic?

DESIREE MILOSHEVIC: I vote yes.

TERRI AGNEW: Thank you. Damon Ashcraft?

DAMON ASHCRAFT: Yes.

TERRI AGNEW: Paul McGrady?

PAUL MCGRADY: Yes.

TERRI AGNEW: Greg DiBiase?

GREG DIBIASE: Yes.

TERRI AGNEW: Stephanie Perrin for Bruno Martins dos Santos?

STEPHANIE PERRIN: Yes.

TERRI AGNEW: Stephanie Perrin for yourself?

STEPHANIE PERRIN: Yes.

TERRI AGNEW: Prudence Malinki?

PRUDENCE MALINKI: Yes.

TERRI AGNEW: Manju Chen for Tomslin Samme-Nlar?

MANJU CHEN: Yes.

TERRI AGNEW: Manju Chen for yourself?

MANJU CHEN: Yes.

TERRI AGNEW: And I don't believe we have Mark back on the line yet, but I just wanted to double check. Marky Datysgeld? I confirm he has not rejoined. One moment please, while I mark him absent on this.

Susan Payne?

SUSAN PAYNE: Yes.

TERRI AGNEW: Nacho Amadoz?

NACHO AMADOZ: Yes.

TERRI AGNEW: Osvaldo Novoa?

OSVALDO NOVOA: Yes.

TERRI AGNEW: Antonia Chu?

ANTONIA CHU: Yes.

TERRI AGNEW: Thomas Rickert?

THOMAS RICKERT: Yes.

TERRI AGNEW: Kurt Pritz?

KURT PRITZ: Yes.

TERRI AGNEW: Lawrence Olawale Roberts?

LAWRENCE OLAWALE-ROBERTS: Yes.

TERRI AGNEW: Wisdom Donkor?

WISDON DONKOR: Yes.

TERRI AGNEW: Jennifer Chung?

JENNIFER CHUNG: Yes.

TERRI AGNEW: Thank you. One moment please while I tally this. For the Contracted Party House, we have seven in favor and no abstentions. For the Non-Contracted Party House, we have 13 in favor and one absent. The motion passes at 100% with the Contracted Party House and 92.31% for the Non-Contracted Party House. Greg, back to you.

GREG DIBIASE: Thank you so much. This is great work by everybody. Thank you so much, Mike, for all of your work and your availability on this call to answer questions. I think that was constructive discussion, highlighting things that we're going to need to look forward to in the IRT.

Lastly, I just note that I'm excited about the use of the GGP. It seemed like it was a successful use of this tool and something we should keep in mind going forward as an option we have on the table.

The next item is update from the SubPro Small Team on the non-adopted recommendations. As we discussed at the SPS, we're going to keep the council updated on each stage of the progress here to ensure transparency. So we've added this, even though I don't believe we have a decision point today. It's good to get updates and so I will hand it back to Paul for an update on the work of the Small Team here.

PAUL MCGRADY: Thanks, Greg. This should be fairly brief because we sort of already touched on some of this in the last agenda item, but just a

reminder that the majority of the pending recommendations from the Small Team work are resolved, and the council has adopted our updated assignment form and work plan. So we are on track.

And we are now the Small Team Plus, which is the Small Team plus some others from within the community to help us think they think through. And we are beginning to develop supplemental recommendation language. We have what I consider to be a fairly stable version of that in Recommendation 17.2, which was the first one we tackled. I put a link to the briefing document on 17.2 and if you scroll down to the bottom, you can see, like I said, it's a fairly stable draft and we have moved on to additional work.

One of the items that I wanted to raise for the council's attention in terms of this update is that we received word from the IRT that the old COI, which was a letter of credit process, will not survive into the next round, and that ICANN Org is indicating that the EBERO, the Emergency Backup Registry Operator process, will be funded in a different way, not funded through the COI instrument. There was some discussion about therefore leaving that particular recommendation on the cutting floor because it seems to have been overcome by events. However, there were some on the Small Team Plus who wanted to push it to the end of our work stream just to have some more time to think through various scenarios. I'm a big fan of scratching things off your list of things to do, but also a big fan of listening. So we have pushed that to the end and we'll check back on that as we go.

So those are the two sort of substantive updates of things that we've done or things that we've moved in our work plan. We are taking a two- week break. We met Monday, but we won't meet on

Christmas Day and we won't meet on New Year's Day. And so our work resumes, I think, January 8th, if I'm remembering correctly, and we are meeting every week. We're getting good participation from the Small Team Plus members. It's not just council members. So I'm pleased about that, and we will do further updates.

But if anybody has questions on the work of the Small Team Plus where we are, what we're up to, happy to have them.

GREG DIBIASE:

So, real quickly, Paul, my question would be ... So it seems like we're at a place with a tentative agreement on 17.2. What's the next decision point for council? What would be the next juncture at which we'd look at the Small Team Plus work and say, all right, we endorse this tranche of work?

PAUL MCGRADY:

Yeah, that's a good question that's being kicked around. So, for example, the work on 17.2 is important work, and it would be great if we could get that in front of council and then on to the Board.

On the other hand, we did talk about having a community input session in Puerto Rico on the work of the Small Team. And so I do think that's an area of perhaps discussion among council leadership about how we want to handle that. We want to accelerate it, especially because this particular part of the work of the Small Team can be taken out by Small Team Plus members and socialized within their groups, and then council can move

forward with it so that the Board and IRT staff can keep going with their work, or do we want to store it all up and save it for the end?

I'm a fan of finding a way to keep the process moving one supplemental recommendation at a time so that we are able to maximize the timeframe for the IRT staff. But I'm also a big fan of listening and if we think we need to have that sort of consultation session or whatever in Puerto Rico, I get that as well. That was the original idea.

So, Greg, I'm sorry to report fuzziness in my answer to you, but it certainly is an issue that has been raised. And like I said, my personal feeling is that getting the recommendation moving is important. But I think that is a topic of discussion.

GREG DIBIASE:

Right. So just to recap, the status quo is we'd vote on these on council after a community consultation in Puerto Rico. But I just want to note that there is, I guess, a more efficient alternative of voting on something now. So personally, I think we can stick with the status quo for now, but I thought it was worth a discussion on council.

Anne, I see your hand.

ANNE AIKMAN-SCALESE: Thanks Greg. And thanks Paul, for updating everyone. I like that idea of having to vote after discussion in San Juan. But I had actually thought (and I think Paul mentioned earlier) that we were going to post the language on 17.2 just to show where we are in

our interim work, because I think it's extremely successful. The work that's been done with the Small Team Plus has been excellent work. And I thought maybe we were going to share that 17.2 language that Paul said that he had. I think it'd be beneficial just for councilors to be aware of it, even though we're not voting on it right now.

GREG DIBIASE: Thanks, Anne. I think that's available to councilors. I don't know if we have ... We're running a little bit behind, so I don't know if we're going to display it right now. Maybe a note to review it. Paul, I see your hand.

PAUL MCGRADY: Just to note that I shared that earlier in the text chain, if councilors would like to see that. But I'm going to put it in here again.

GREG DIBIASE: Yeah, put it one more time.

PAUL MCGRADY: Yeah, I think it is good work. And like Anne, I encourage all councilors to read it for its own sake, but also just to be aware of what we're up to. I think it's really important for that transparency. Thanks.

GREG DIBIASE: Great. Okay. Thank you. Paul. Did you have one more? No. Okay, great. I encourage all councilors to read what Paul posted

so we can all stay advised of the Small Team's work, but for now, let's move to item seven. So for this we have some special guests from the Board. And to introduce this topic, this regards urgent requests on the EPDP for temporary specification two.

So I have some notes I'm going to read real fast as background. These recommendations were adopted back in May 2019. Recommendation eight read "A separate timeline of less than x business days will be considered for the response to urgent, reasonable disclosure requests. Those requests for which evidence is supplied show an immediate need for disclosure." Then there's, in brackets, "Time frame to be finalized at a later date." ICANN Org convened an IRT to discuss this, and public comment went out. Several commenters expressed dissatisfaction with the implementation of recommendation 18 around the issue of the response timeline for urgent requests.

And to summarize, there are some on the IRT, particularly in the contracted parties, that believe it should be two business days in recognition of the realities associated with reviewing legal requests. And I think the language in the original recommendation said days. And there are those, including the IPC, BC, ALAC and GAC, among others, that believe that the requirement should be 24 hours in recognition of the urgency associated with the narrowly tailored class of requests—for example, a life is threatened.

So basically, I think, to paraphrase, there was an impasse reached in the IRT on the number of days here, and GAC wrote to the Board about this topic of urgent requests. I believe SSAC has plans to write to the Board as this. So this went back to the

Board, and the Board has signaled discomfort around the recommendation, despite the previous adoption. And so we've invited Becky to kind of discuss what the Board's view is here and then try to determine as a council what should be our next steps, noting that this is an adopted recommendation that is currently in implementation.

So hopefully I did justice to the current status of this recommendation. But maybe I'll see if Becky is on the line and can provide the Board's view of potential issues with this recommendation.

BECKY BURR:

I am here, and good morning, good afternoon, and good evening to everyone. I think you did an excellent job, as far as I can tell, explaining the current situation.

Let me just give you a little bit of background on the Board's involvement. This did come to our attention in the form of a letter from the GAC, but it also came at exactly the same time that we were looking at the final plans for RDRS launch, and the issues got a little conflated. We tried very hard to keep them separate, but the first thing, as we were looking at it, is we said, in the context of the RDRS, where there were absolutely no SLAs, where everything was sort of best efforts by the registrars, that it made no sense for ICANN to be holding itself out as offering something that was a reasonable way to get information in response to imminent threats to life, injury, child trafficking, and other very serious things. So we did decide that that functionality should come out of RDRS.

But at a more fundamental level, we started thinking about how law enforcement (because I think these generally come up in the law enforcement context) ... how these kinds of ... A child has been kidnapped, there's some imminent bomb threat, those kinds of things where you really have to get the information quickly.

A couple of things were pointed out. I think some people pointed out that in those situations, the law enforcement rarely needs the personal information. We have no basis for evaluating that. So we just sort of put that aside as a fact. But what we do know is that in general, law enforcement in local jurisdictions has relationships with in-jurisdiction registrars, or registrars who are doing a lot of business in the jurisdiction, and they have direct mechanisms for reaching out and getting somebody on the telephone if they need someone. And so that is the way these things are typically going to be responded to. And that makes sense. We also recognize, of course, that not every law enforcement agency has a relationship with every registrar.

But the problem with that is that as a matter of good practice and in some cases, as a requirement of law, the registrar is going to have to authenticate the requester. They're going to have to authenticate that the law enforcement agency that says who they are are who they are. They will have to authenticate that. And that turns out to be doable in a reasonable amount of time in some places, and not doable at all in other places.

And in addition, there are going to be situations where, no matter what, a registrar is going to feel with good justification, that they cannot give out information to law enforcement in a particular country. Depends on where they are.

So as we started thinking about this, we began to be increasingly concerned that whether it's two days or ... I mean, I think the generally 24 hours is going to work in situations where it's not necessary at all, where there are relations, established relationships between law enforcement and registrars. And then whether it's two days or three days, that's not really fit for purpose. And we're not entirely sure that ICANN can mandate or offer something that is appropriate and fit for purpose in those circumstances.

So the Board's view is we need to take a step back and look at this whole urgent request thing. And there may be times where expedited requests are appropriate, but the particular circumstances here (imminent threat of death, injury, harm to infrastructure, child trafficking) could be that it's very difficult for us to understand how this functionality would work.

And as Greg said, this is accepted policy, it is implementation, and we don't have a mechanism for saying we really think this needs another look. So our mandate is to sort of initiate a conversation with council to figure out how we deal with this issue and how we have discussions about it.

That's what I got. Happy to answer questions.

GREG DIBIASE:

Thanks, Becky. I guess I'll start with a preliminary, maybe difficult question. Like, hypothetically, if there were a mechanism for the Board to claw back a recommendation and say, "We would like to review this further," would the Board use that in this situation?

And I know that's probably an unfair hypothetical. I'm just trying to wrap my head around what we're doing with ...

BECKY BURR: We haven't had a vote on that and I don't want to represent what the Board would do.

GREG DIBIASE: Sure.

BECKY BURR: But I think that the Board is sufficiently concerned that the current policy, whether it's generally 24 hours, two days or three days, or whatever it is, isn't fit for purpose.

GREG DIBIASE: Thanks. And then my second question is, I thought there was agreement (and I could have this wrong) that the rest of the policy can proceed. We are just still dealing with this, but we don't want to hold up the rest of this policy because there's other dependencies. And so I just want to make sure that that is clear, that everyone's on the same page: that this policy can go forward, because there's important things, there's dependencies on this policy, [and] we're just discussing this particular recommendation.

BECKY BURR: Yeah. And the Board was very clear that that was what it wanted to do: proceed with all other elements of the policy.

GREG DIBIASE: Great. Thank you. So let's open this discussion up. I think, from my perspective, we need to be thinking about constructively what are our options as a council on this situation. But let's go to Damon first.

DAMON ASHCRAFT: Sure. Thank you, Becky. I just have a quick question. And living in a jurisdiction where there are a lot of registrars located in Arizona, you mentioned that law enforcement had ties to registrars. And I'm just sort of curious, is that coming from the registrars or is that coming from law enforcement, saying, "Yeah, we do have sort of that inside track"? I'm just sort of curious on that, because I can tell you all I hear about local law enforcement here in Phoenix is that they're understaffed and have a hard time doing a lot of law enforcement. So I'm just sort of curious on that.

BECKY BURR: Well, I do think that ... It is coming from registrars and registries, from contracted parties. I know that personally when I was associated with a registry, we would get calls from law enforcement. I have to say that in most cases in the United States at least, it was federal law enforcement. And to the extent it was external, it would have been a well-known Five Eyes law enforcement, but federal, as opposed to provincial law enforcement generally.

DAMON ASHCRAFT: Thank you.

GREG DIBIASE: And Damon, I just wanted to add to that that there is a separate requirement in the registration agreement that registrars maintain a law enforcement contact. So via the contract, there already is or should be an alternative mechanism for escalation for issues generally. And that could include a request for disclosure of information. So just adding that background.

DAMON ASHCRAFT: Thank you, Greg.

BECKY BURR: Yeah. Greg, I think that requirement in the RAA, I believe, requires sort of 24/7 monitoring. One of the things that we heard from the contracted parties is that the people who monitor that functionality are not the same as the people who deal with WHOIS registration data requests.

GREG DIBIASE: Thanks, Becky.

Other questions or thoughts here? If not, maybe we can brainstorm as a council on what would be the next step.

Susan, I see your hand.

SUSAN PAYNE: Yeah, thanks, Greg. I'm really pleased to have this conversation, and actually it has been certainly for me personally been helpful to hear Becky explain the Board concern in a bit more detail because I hadn't entirely appreciated some of the nuance. But I think if

where we end up and where we are at the moment certainly appears to be that there's no time limit for these urgent requests because it's been sort of taken out while we work out what else goes on, that does cause some concerns. And I think just as we've seen with the DNS abuse amendments, the contract is there and the obligations are there in the contract to hold the sort of bad access to account, and it's not there to say what a reasonable time response period is so much as it's there to say what it isn't. So if it takes over a certain period of time for a registrar to deal with the request, then it hits a point at which it's not reasonable, it can't be justified, and it constitutes a breach of contract. And that's there not as an outer time limit that then everyone will work to, but as a time limit, so that over that time limit there's a breach and there's a situation where ICANN Compliance can deal with a bad-actor registrar. And that's what I think everyone really wants here quite as much or more even than they want, obviously, swift responses, and they do want that.

But I think we do know, obviously, there are some personal relationships, there are registrars who react very promptly and all of that, and they're not going to change how they act because of some time limit in this contract. But just as we've seen with the DNS abuse amendments, it's to give ICANN Compliance a point at which they can say you're now in breach.

I think we need to try and find a solution that gives that, even if there's, then, some way of carving something out for the ... How many territories are there where you can't disclose to law enforcement? I don't think we should be working for the lowest common denominator all the time. We need to have something

that's an obligation, a contractual obligation, after which Compliance can act, and that's essential.

BECKY BURR:

I don't know the answer to whether or not there is a response time that is built into the requirement for the assistance for law enforcement line. Before we decide that there are no timelines at all, let's find out the answer to that question. I'm trying to look through the RAA to find that.

And just one other thing that I've spoken to law enforcement, and obviously I've spoken to the law enforcement that I have access to (s generally, western law enforcement), and they've pretty much confirmed that they wouldn't use this, but what they've said is not everybody has a relationship with every registrar. And that's right. But that's precisely the circumstance where the lack of authentication functionality becomes a big impediment.

GREG DIBIASE:

Thanks, Becky. Yeah, that's an interesting point by Susan; taking out one recommendation could have raised other concerns about a timeline, generally.

So I guess my question, just thinking on a way forward ... Becky, this is your summary of the Board's view, but I don't think we have anything formal from the Board saying we think this is an issue.

BECKY BURR:

Yeah, that's right.

GREG DIBIASE: One thought of a next step, because I'm not sure how the council can respond to something ... We really appreciate this informal conversation, but we're not sure that there is a unified, totally agreed- on position within the Board to respond to. So I think that's my first question. Maybe that would be the next step: for the Board to kind of formalize their position here, write a letter to council saying, "This is the issue we'd like your help resolving." Those are my initial thoughts. Paul?

PAUL MCGRADY: Thanks, Greg. Yeah. And in that communication from the Board, it would be really helpful if the Board can sort of explain why council because the policy says that the contracted party is to give reasonable access to legitimate requesters, that otherwise the request doesn't run afoul of GDPR, and it lists law enforcement as legitimate requesters.

And so I guess from my point of view, I want to be helpful, and I really love the informal conversation. I think, as we've been talking about for the last several months, this is how things get worked out instead of log jam. But I'm personally having trouble understanding how this is not an implementation question rather than a policy one. And so I think as part of the Board, explaining what the concern is, it's also like explaining how can council help with this? And anyways, I'll leave it there. Thank you.

GREG DIBIASE: Thanks, Paul.

BECKY BURR: I'm happy to answer the "why council?" Because it's the place to begin the conversation, not that we have reached any conclusion that the council is the entity that has to fix it. None of that. It's more just "we have a situation here and we don't have a solution that's identified in the bylaws or in any written-down procedures." So it's the first step, but definitely we can get you a written description of the Board's concerns.

GREG DIBIASE: Thanks, Becky. That's really helpful. I think something more concrete in writing could serve as a good starting point. As Paul noted, we're kind of in uncharted territory procedurally, but maybe we can put our heads together and try to figure out next steps.

I think, timing-wise, we're ready to move on to our next point. I'll open it up to any councilors for any last minute comments or questions for Becky.

Okay, well, thank you so much, Becky. I think this is really helpful to understand what's at stake and what's not. And, yeah, hopefully we can narrow in on this issue and come up with a creative solution to resolve it.

BECKY BURR: Great. Thanks so much.

GREG DIBIASE: Alright, next on our agenda is a council discussion of the request for reconsideration from the Intellectual Property Constituency. As you recall, we've discussed in the last couple meetings some

concerns about change in a recommendation coming out of the CCWG-AP. I'm not going to go into too much detail here because I think we should all be familiar with the issue and we've discussed it a couple of times, but I thought it may be worthwhile to note that IPC has gone ahead and filed an RFR, and I wanted to give them the opportunity to introduce the topic and then we can discuss if there's a role for the council in addition to this work.

So I see Susan on screen. Susan, are you going to take this one? Thank you.

SUSAN PAYNE:

Yeah, thanks, Greg. So I'll kick off and I'll try and be quick. So, as Greg said, the IPC did file a request for reconsideration, and it relates to the Board decision that they made in Hamburg on the way in which they proposed to disapply access to the accountability mechanisms, such as the independent review procedure, or IRP, to the auction proceeds grant program.

And I think everyone's probably had the opportunity to read the RFR by now. Damon did post it to the list, even if you haven't actually had time to read it in full, because I know it's quite voluminous. I don't think anyone on council really is kind of unaware of the issue. Prior to the Board resolution, which led to the request for reconsideration, the council had had a number of discussions on the issue.

Nut I did want to say, for the avoidance of doubt, it's not an objection to the grant program, and it's not been filed as a means to slow down the distribution of the funds. And it's also not an objection to the removal of the accountability mechanisms from

the decisions under the grant program, provided that it's done in a proper manner. But what it is is an objection to the manner in which the Board is proposing to do those things.

There were recommendations from the CCWG auction proceeds that the accountability mechanism shouldn't be applicable to the grant program decisions. And having considered the issue, the CCWG also said that this needed to be done by means of a change to one of ICANN's fundamental bylaws. And there's a formal process for that. It has a high voting threshold, and that's to ensure that there's the necessary wide support from the empowered community to changing a really important community safeguard.

And those formalities were built into the bylaws deliberately. It's not meant to be easy to set aside the fundamental bylaws. It's not meant to be easy to remove the right that those who engage with ICANN have to challenge by using the accountability mechanisms. It's meant to be hard. That doesn't mean it can't be done. It's just there's a process to go through, and the auction proceeds recommendations recognized that.

And the auction proceeds recommendations were adopted by the chartering organization, so everyone was on board with it. And then they were improved by the Board, and the Board instructed staff to proceed.

And it was only after more than a year with not having proceeded with that fundamental bylaws change, that then we were told actually it wasn't needed. And that's what basically the Board resolution was in Hamburg: that a bylaws change isn't needed and

that instead the auction proceeds applicants will be required to agree to a contractual term saying that they have no access to the accountability mechanisms and the IPC doesn't believe that that's the appropriate mechanism and that although the fundamental bylaws change the Board said wasn't needed, they said that they would look into making a change. But the intent of that change, as we understand it at present, is not to simply disapply the accountability mechanisms to those auction proceeds decisions, but instead to set up some kind of umbrella bylaws change that would in the future make it much simpler to disapply those accountability mechanisms in other situations without going through the formal bylaws change process that's built in there as a safeguard for the community.

And again, we don't consider that that is the appropriate way forward and we think that that's unacceptable. And frankly I would be astonished if a bylaws change that was proposed in that form (and again, we don't know the exact language) was passed by the community.

So in terms of what we want, obviously we want this to be discussed here in council and we want to hear your views, but we recognize that the RFR that the IPC has filed is lengthy. It certainly contains some elements and arguments that are specific to the IPC. And so whilst if any groups want to join in with that RFR, we are certainly welcoming of that. We also recognize that that may not be the path that people want to take, but we do think it would be helpful if there's a formal expression of support for the principles that I've just talked about.

These are all points that we've discussed in council in the past and there's been quite a lot of support from council members. There's no requirement for this in order for the RFR to proceed. But I do think that it's important for the Board to be absolutely clear that this isn't just the concern of one constituency, the Intellectual Property Constituency, but rather it's the concern of the GNSO as a whole. And that makes it more difficult for this to be ignored, to be put aside.

And so that's what we wanted to come and have a conversation about: is there support for a council giving that kind of support by means of perhaps a letter or something that Damon and I would very happily draft and put out for consideration?

But I'll stop. I don't want to spend too long. Happy to hear from others.

GREG DIBIASE: Thanks, Susan. One preliminary question. It sounds like we haven't received any responses. Is there a deadline by which the IPC is expecting a response? Maybe a silly question.

DAMON ASHCRAFT: Greg, we don't know. We think it would come fairly soon. And again, with respect to the letter that Susan and I are proposing to write, we would get that done quickly. But, yeah, we're not aware of a specific date when we'll hear back.

GREG DIBIASE: Thanks.

SUSAN PAYNE: Sorry, I should have seen if I could remember the precise language and the bylaws. There are some expectations of “expected within such and such a time,” but it's not an outright deadline. It's a relatively quick process. There's a procedure whereby the ombuds is asked whether they want to engage or not, and then when there's a response back from them, whether they do or don't, this is then considered by the Board Accountability Mechanisms Committee. We know it's with the BAMC, but RFRs generally don't have a very long time period.

GREG DIBIASE: Okay, thank you both for that. I'll just quickly add the registrar perspective. I think this was discussed. There was, I think, concerns about signing on to the actual RFR, given it's pretty legalistic, and there could be concerns about the IPC perspective. But I think that's an interesting conversation; a letter, something to the extent of that the council, at a minimum, recognizes there are issues that warrant discussion and, at a minimum, encouraging a response to actually consider this issue ...

So I'll go to Stephanie then, Anne.

STEPHANIE PERRIN: Thanks very much. And I just wanted to say that we discussed it at the NCSG policy meeting on Monday. And first of all, kudos on all the work in that document. And I'm not the lawyer here, so I have no idea whether it is the correct legal wording. And I'm not sure that we have anybody working on that at the moment. But

there is general agreement in the NCSG. I think I can say on behalf of them that the way this is done was done procedurally falls quite far short of the mark and is of concern to the community.

So as you said just a minute ago, Greg, we may not always agree with some of the language of the IPC, and their particular concerns, of course, are different than ours, but we certainly endorse the sentiment. So a letter seems like a really good idea to me because I know nobody ... Well, correct me if I'm wrong, gang, but I don't think anybody's going to come up with a parallel legal document of that depth and strength over the Christmas holidays, at least not in our group. So I'd like to explore this letter idea. Thank you.

GREG DIBIASE: Thanks, Stephanie. Anne?

ANNE AIKMAN-SCALESE: Thanks. Certainly not with respect to my role as a member of the IPC, but just rather generally as a NomCom appointee, I absolutely do support the idea of a draft letter from council regarding the procedures.

I think, you know, Greg, you made a point in the SPS meeting, too, about the dialogue that we were know. The dialogue with the Board is very important, I think, to be emphasized in that letter.

The other question, I think, that needs to be raised in the letter is that there's documentation in the Board meeting about a potential for a further proposed much broader fundamental bylaws

amendment. And I think that when we get to the drafting stage, that should potentially be added as a concern that council needs to express and definitely support the letter. Thank you.

GREG DIBIASE: Thanks, Anne. Paul?

PAUL MCGRADY: Thanks, Greg. Yeah, I think the letter is a great idea, and I think, Greg, you've sort of hit the nail on the head, which is that it can communicate to the Board essentially that there are important issues here that are worthy of a substantive discussion and ultimately a decision. And I think that that's important. We can convey the message. There are probably all kinds of clever legal ways to get rid of this, but that won't necessarily ... Maybe there's some kind of victory, but it won't be the moral victory. The moral victory is if the Board reads this, listens to it, listens to the community, decides to reengage in the dialogue that we thought we were having with the CFO that got cut off by what was a fairly surprise vote on this, to reengage in that dialogue and work it out so that the RFR goes away because we've worked it out. That to me is the great win. A win would not be to just summarily dismiss it on some clever legal grounds.

So I just wanted to say that I think the letter is a good idea, and if we're going to do it, I suspect that Susan or Damon will probably get voluntold since they're the leader of this topic. But I'd like to help on a drafting team if we have one. Thank you.

GREG DIBIASE: Great. Thank you, Paul. Manju?

MANJU CHEN: Thank you, Greg. So actually, I find that amusing. I think item seven, item five, and item eight, in essence, is the same thing. So the Board wants to walk back from some kind of decisions they have made. And for item seven now, we're like, "Oh, probably it's a good idea," but for item eight, we're like, "No, it's so bad. We have to file for reconsideration."

So I guess my question is, if we support item seven and changing whatever the original recognition it was ... And remind you all, it was a long and hard discussion, too, to reach the final recommendation, like what people were stressing for the whole cross-community working group on auction proceeds. It was as long as challenging, and the recommendation was made. The threshold of voting was as high for the council and the Board. And I would start now, because, whatever reason people are considering now, probably we need to change that. If we are okay with it, are we opening another round of anybody else filing for reconsideration requests?

I guess this points to how we want our policy-making process to be like. Is it for predictability? If we make recommendations, we are sure. And when it's approved by council and the Board, we are sure that it's going to be implemented without being relegated during any kind of implementation process or even afterwards. Or we're okay with just opening up to everything? When people feel like we have to walk back, then they walk back. So that's, I guess, an essential question we really have to think about. Thank you.

GREG DIBIASE:

Thanks, Manju. And maybe I'm alone in this, but I don't think we've agreed that we would change the recommendation. Becky thought about. I think there's just an interim step of, okay, tell us what your concerns are and we'll consider them. But at least from my perspective, our response very well may be "These recommendations got full consensus and went to the Board. There's nothing for council to do here. We're not necessarily changing them."

So I don't think we know what our disposition is on item seven yet, other than we'd like clear communication from the Board. That's my two cents there.

But I think that is a really good point, Manju. This is a similar vein of a question that was raised at SBS: what happens when the Board changes their mind on an adopted recommendation? And maybe that's why a letter urging conversation around this could be productive.

Kurt, I see your hand.

KURT PRITZ:

I just wanted to voice support for the idea of writing a letter in a timely fashion to perhaps recommend that the Board step back from this issue based on the fact that the community discussion was still ongoing on the implementation, so that the implementation was not done yet.

Do any councilors support the Board action to obviate the protections offered in the bylaws, the request for reconsideration

in the RoP? Does anybody support the ability of the Board to be able to rescind those via a resolution rather than changing the bylaws? I find that hard to support, but I just want to check if anybody here supported that and what the rationale for that might be.

GREG DIBIASE:

I have not heard that position to date, Kurt, but it's a good question worth asking. And then I guess more generally, because we've had some discussion now, I think the question is, does anyone object to a more general letter not endorsing the RFR specifically, but simply stating that the council believes that there are issues worthy of discussion and we encourage the Board to actually consider this and have a dialogue and maybe even, as Paul said, not resolve this on some legal technicality.

Stephanie, is that an old hand?

Great. So hearing, I think, no objection to a more general letter stating that there are concerns raised in this RFR that we think are real concerns that need discussion, maybe I'll propose that we turn it over to Susan and Damon (and I think Paul weaseled his way in there too) on starting a letter that the council can consider.

SUSAN PAYNE:

Thanks, Greg. Yeah, happy to. And obviously, if anyone else wants to put their hand up, you're welcome as well.

GREG DIBIASE:

Great. Thanks, Paul. And I see Anne volunteering as well. Okay, great. I think we have an action item there, and leadership will check in with this team, and then we will put the letter out to list for discussion when it is drafted.

Okay. Turning to our next item, I think we're running slightly short on time. Not too bad. So maybe this is going to be a rather quick overview. An update on the key outcomes coming out of the strategic planning session. Leadership is now working with staff on a final version of document outlining next steps.

But I think, Caitlin, you said you might be able to provide a little more information here on what's next to do on our plate?

CAITLIN TUBERGEN:

Yes. Thanks, Greg. I wanted to note that, as with every strategic planning session for the GNSO, there will be a detailed report that shows all the outcomes and actions agreed to by the council so that we can refer to that throughout the year. Leadership is currently reviewing that and we will be circulating that to the greater council shortly.

Additionally, the action items coming out of the SPS that we reviewed on day three will be entered into the master action item sheet for the council so that we can start tracking those.

I know we're running short on time, so we don't need to go through all of these in detail, but just at a very high level, the first outcome was that after receiving a review of the program and project management materials, councilors agreed to review the work in detail on at least a tri-annual basis. We discussed piloting

that at the next ICANN meeting in Puerto Rico. Paul kindly agreed to assist with that.

I just wanted to note here that we'll discuss this more later, but the idea would be that everyone reads the project management tool in advance of that session, so that when we do meet to discuss it, it can be an informed discussion.

We had some talks about the recommendation report that follows a working group's final report. Staff is going to be investigating the origins of that report and potentially propose edits if possible, and that was to avoid duplication between the working group's summary of the recommendations and the eventual recommendations report that goes to the Board.

We discussed at detail the role of council liaisons to GNSO working groups, ensuring that we have all of the resources regarding that role so that liaisons can do their job, and also to ensure that the descriptions of those roles are up to date. Following that, the council will be able to discuss whether gaps exist.

Outcome four. This came out of the discussion about what it means to be manager of the PDP, and the group agreed to work on an aspirational, non-binding statement that will seek to note that it's not the council's job to undo bottom-up, consensus-driven outcomes of working groups, and that once that's complete, councilors can leverage that statement.

The council also discussed at length situations and how to limit the likelihood that PDP recommendations approved by the council will eventually not get adopted by the Board. So staff is going to

be documenting existing steps and measures to ensure that the recommendations are able to be adopted by the Board. Or “Board-ready” was the term the group used.

We talked about the council's management of unplanned work and we asked if there was a specific timeline by which councilors would like to review or deadline to review outcomes from small teams and other councilors. The group said formal rules are not necessary and that they could be reviewed on a case-by-case basis.

We talked about how there's some general concerns about how public comments are considered by PDPs. Staff is going to be documenting the existing process and propose additional mechanisms.

Outcome nine was another general theme about two-way communication between the council and other parties. And so one thing coming out of that was to establish a quarterly check-in with the Board, to have an informal discussion and also use Board members as an early warning sign to avoid potential surprises.

We talked about updates from working group chairs and council liaisons being more purpose-driven. The outcome of that is staff to leverage the existing format for prep week webinars, propose a checklist of questions or elements for working group chairs to consider, and address if we need to provide updates.

Again, we talked about the importance of small teams, but some of the scrutiny around that, and in order to address that, there's going to be some proposed edits to the small team guidelines and

that councilors can leverage that document to cultivate a better understanding externally about how those teams are used.

Outcome twelve deals with something discussed earlier in the meeting, which is potential gaps in policy development; for example, modifying recommendations that have already been accepted by the Board. So staff will work together with the council to identify areas where ambiguity may exist and consider next steps.

And lastly, there was an update from the Communications Small Team from the council, and councilors expressed interest in having more time for that discussion at a future council meeting. So that will be added to the council agenda planning list.

That's the overview. All of these will be included in the SPS report, but since the observers and some councilors may not have been present when we went over these on the last day, we wanted to have them included in a public meeting, remind everyone what they were, and continue with the good momentum coming out of that session.

So apologies for talking fast. I was trying to get through it quickly. And with that I will turn it back over to Greg.

GREG DIBIASE:

Thanks, Caitlin. And I encourage councilors to take a closer look when this document comes out and add any suggestions on list or in discussion at a subsequent meeting.

Moving on at AOB, I'm going to quickly give an update on the diacritic study request because this is with leadership. Mark

Datysgeld sent a draft to leadership. We haven't had a chance to look at the request yet, but we're going to review that, probably not the next week because of the holiday but in the first week of January, and report back to council on the status there. Hopefully we can get that moving.

And then I think (we're short on time) there is a ccNSO update, Desiree, you'd like to present?

DESIREE MILOSHEVIC: Thank you, Greg. Yes, speaking about takeaways from the SPS and the liaison being more driven and purpose-driven, I prepared a short update for the Q4 activities from the ccNSO Council. It's about their activities in Q4, and it isn't a long update, but it's worthwhile.

And as you can see, there's been a lot of elections. The ccNSO has looked at reappointing their Board representatives, Board seat number twelve. And then there were ccNSO regional council elections. And there's also an ad hoc council working group that's been set up to fulfill some of the IANA gaps. And the ccNSO will also work on the update of their process that I have, which is the 360 council review process.

If I could ask Terri to go to the next slide because there's a little bit more details here, and then we could actually cover it all at once. So as I said, Katrina Sasaki has been reelected to the Board seat. And then on December 1st there was a European Council election. As you know, the ccNSO chooses its councilor. There were about three candidates. And the ones that you see on the screen: Peter Koch from dot-de has been elected to serve on the

council from the European region, as well as Sami Mohammed Ali from Bahrain to serve from the Asia Pacific and Australian region, as well as Jiankang from China, who has been elected to serve from the Asia Pacific region. So I think we may want to send a letter congratulating them on their elections.

With regards to this update, this process started last year, whereby the councilors who have been nominated by the NomCom would undergo a review process. And basically what it is is it's a feedback process where other councilors could give feedback about the work of these councilors that have been nominated.

So the next phase will be in January 2024, taking into account lessons learned from the first round of the review. This ad hoc council group actually was triggered to fill in some IANA policy gaps. And it's been triggered by the situation with dot-lb, Lebanon. There's a caretaker situation where the ccTLD manager passed away. So that discussion will start now in Puerto Rico and it will continue, I believe, going forward.

There was also a discussion with the council regarding the consultations on public interest commitments and registry voluntary commitments. The decision is likely to go in the direction of the ccNSO Council not filing any comments, but individual ccTLDs may decide to participate.

And also, the last thing is that the CCNSO had its closure of the 20th anniversary. They seem to have more parties than we do. So they also have a virtual cafe format, which is like a world format. They had disclosure done online with some kind of Zoom lounge

area being created where you can take small breaks. So the metaphor was like going to a cafe where you switch tables at times.

And that's about it. I think we may want to think about what we're going to do at the meeting in Puerto Rico. And we also had a discussion at our SPS discussion with regards to the WSIS+20 review. Maybe we can take that on the list. But if anyone has any questions, I'm happy to answer. Thanks.

GREG DIBIASE:

Thank you for the update, Desiree. I certainly agree with that congratulating new leadership would be a nice thing to do.

Any questions for Desiree before we quickly move to the last items?

Okay, can we go back to AOB? So the last, very quickly—oh, sorry. Lawrence, I see a question from you.

LAWRENCE OLAWALE-ROBERTS:

Yeah, sorry, just a quick question.

Desiree, you mentioned that a 360 is now requested for the NomCom appointee. And just curious to find out if this was a requirement—I mean, if this request came from the ccNSO councilors or it's a request from the Nominating Committee.

DESIREE MILOSHEVIC:

This is something, to best of my knowledge, done by the NomCom. It was not initiated by the council itself, but in [inaudible]. Thank you.

LAWRENCE OLAWALE-ROBERTS:

[Alright. Thank you.]

GREG DIBIASE:

Okay, thanks, Lawrence. Thanks, Desiree. Last, real quickly, we received a notice about community consultation on PICs/RVCs, as well as a notice that there's a draft public comment period on the budget. I encourage all councilors to bring to their stakeholders and SGs to respond individually. We can decide if a council response is needed. I don't think we have time for that discussion today, but I will recirculate or remind people on list. And if councilors do believe a unified council response is necessary or warranted, you can raise those concerns there. But for now, I'll leave it as notice that these requests have gone out and to share with your stakeholder groups and comment as you see fit.

With that, we are over time. I'm going to draw this meeting to a close. I want to wish everyone happy holidays and a happy new year, and thanks for everyone's work in 2023. And I look forward to 2024. Thanks all.

TERRI AGNEW:

Thank you, everyone. Once again, the meeting has been adjourned. As Greg said, happy new year. Take care, everyone.

[END OF TRANSCRIPTION]