

**Transcription ICANN Toronto Meeting**  
**Impact of New gTLDs on ICANN's structure**  
**Sunday 14 October 2012 at 14:30 local time**

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Coordinator: This call is being recorded. Thank you very much. The time is 2:41. The session may begin.

Stephane Van Gelder: Thank you very much. Welcome back everyone. We are now going to discuss the impacts of the new gTLDs on ICANN structure. This is part of an ongoing project that we have as part of the GNSO and this is being led, this effort by Thomas Rickert. So I'm going to ask Thomas to lead this session for us please. Thank you, Thomas.

Thomas Rickert: Thank you very much Stefan and welcome back. As we remember a couple minutes back when we discussed with the board, I gave a little status update on where we are. We have provided a letter on the board on September 24 and that letter was an (amalgamation) of the use gathered in a little subgroup that tried to answer the question of the impact of new gTLDs on ICANN structure. And we particularly focused on the view of the council and the impact on the GNSO council.

However, if you remember, we started the discussion about this topic a little bit earlier. And if I remember correctly, at that point in time only the registries had sent their inputs to the board. Other groups followed later and sent comments to the board, other SOs and ACs. ALAC and others have also done so and I'm happy to circulate the link to the website where the comments have been posted. And I think that we should now use the session to discuss what if at all the next steps for the council should be surrounding this important topic.

Again, when we drafted our letter I think the (consultations) in the various GNSO groups had not been yet finalized and they had not yet provided their input. So now a little bit further the groups have had the discussion on the subject matter and I think we should now discuss what our approach would be in order to take this further.

And as you can see, I have not prepared the PowerPoint slide because I want to keep this discussion quite open and not waste time presenting the various views to you. I think that it's far too important for me to sum up what the groups said. Sometimes they are quite lengthy statements. Others are shorter but there is a variety of views around that have been voiced and I think that you should go back and read those.

I would like to focus a little bit more on what you think the role of the council is in this discussion and what next steps if at all for the council would be to work on. Is there anybody who would like to kick this off? Wendy?

Wendy Seltzer: Well after sharing the last PowerPoint presentation, I will gladly jump in. I'm afraid it will somewhat echo points that I've already made but I think that this is a perfect time to be reviewing the larger structuring of council because the influx of new gTLD applicants and perhaps the influx of their users in different capacities will be an odd fit with some of these groups and silos that we currently have.

And rather than trying to fit them into one or more of these existing stakeholder groups and houses, it'll - why not open up to a broader structure that enables affiliation space on interest? Certainly there are challenges in figuring out how do we count and weigh and balance all of the interests but I think experience has been - the houses don't do that well.

Stephane Van Gelder: John Berard, please.

John Berard: So this may be a continuation of the conversation that Jeff had at the end of the last meeting which is when does the bottom up become top down. I view the GNSO council as a creature of the GNSO and I note that there is a bit and then a bit more and I suspect there will be a bit more consideration among the constituencies and among new entrants either to fit in or to find a new landscape.

And my feeling is that the GNSO council needs to continue to be responsive to the requirements, the demands, the self organization really of the GNSO itself. It may change the structure of the GNSO council but I don't think that it's appropriate to consider changing the structure of the GNSO council in advance of how the GNSO council is going to organize itself.

Thomas Rickert: Thank you gentleman. I think that we're getting closer to the heart of it. You may remember that during our last telephone conference, I presented the agenda item that I reported of the discussions that we had and there were certain - there were some participants in the group that felt it was completely inappropriate for the council to discuss the impact on the wider GNSO because it was felt that this was more something for the individual groups to discuss.

My proposal at the time was to do sort of a tech finding and to see what the implications for the individual groups are and then a second step to draw conclusions from that in terms of the impact on the council because certainly if we anticipate newer constituencies to be founded for example, that would

have impact on the building structure and a democratic structure of the council.

So at this stage, can I ask your view on what do you think, number one, that the council should have a discussion about this in a wider sense or should the discussion actually narrowed to the council only? And I think we can't probably discuss it in isolation. So we need to take a more realistic view at the whole GNSO to assess the impacts on the council. (Unintelligible).

Lanre Ajayi: Thank you. Coming back to that intervention, we had diverse views, discussing from the council point of view or discussing it more from the stakeholder's point of view. It's to my understanding it is just a matter of avoiding parallel working, for one thing on the one hand, to avoid parallel working . So not that we (unintelligible) start to discuss methods which are to be discussed on (unintelligible group levels, and they will come up with the same things to be discussed, and you know, due to some extent are the same people we have same people that's coming this year and on stakeholder level.

So the question for me is what could the council really then contribute on top of that what stakeholder groups are constantly doing with this? So can we find the kind of common approach here for a counter level in addition to that what the stakeholder groups are contributing? And I can say our constituencies already contributed to that discussion and are still discussing on top. I would say the council should ever use information could use the information as well and contribute to that just as a - to make it transparent. So I do not have a real solution.

I just would like to put that question and what - if could the council be on top, could make them on top, put on top to get a multi stakeholder groups (unintelligible) constantly providing.

Thomas Rickert: Thank you (unintelligible). (Donald), would you comment on that? So am I correct in assuming then that we think that this is a matter that the council should be discussing? Not only talking about council related issues. As I said, I think we need to group affect finding in the individual stakeholder groups and constituencies but now I think these groups have discussed that. Now we need to take that to the next level and draw some conclusions from it. Chuck?

Chuck Gomes: Okay, Chuck Gomes. It's similar to what I said in one of the sessions yesterday. The council's role because it's one of the managing a policy process, I think the question that needs to be asked is this a task related to that responsibility? I'm not sure it is.

It absolutely is important at the stakeholder and constituency level and I guess my first reaction - and I'm open to listen and interact - but my first response is this really as best left at the stakeholder group and constituency level. And just from a practical point of view, it will probably be very difficult to reach any sort of a consensus at the council level because we're each impacted in different ways.

Thomas Rickert: Thank you Chuck. And before you change - that is exactly the question that I asked. What should the role of the council be if at all and what should be our way for it? I have John Berard and then Mary.

John Berard: I second Chuck's point. This is a matter to the GNSO broadly unless of course we're looking for contentious controversial issue to latch on to. He said facetiously but no, I think this is better left for the GNSO at large.

Thomas Rickert: Thank you John Berard. Mary?

Mary Wong: I think all of you believe that each stakeholder group and/or constituency instructs different reaction things to do. Going back to (unintelligible) point and yours Thomas about staying on top of the issue, there is an issue that's important ultimately how it's going to be something else but we also as a

council considering and (Thomas) this is your fact finding point having each group come back to the council at least in the port of what is thought of proposal reactions.

I'm not saying that it shouldn't be left to the stakeholder groups and constituencies but should we each keep one another informed of what that fact finding is and what is going on so that should we be required as a council either to write or give a report or an update or to prepare an action plan, we would already have information regularly along the way. So I guess my question is would be the council be comfortable asking each group or relevant group to come back to the council to report at some stage?

Thomas Rickert: Thank you. Milton?

Milton Mueller: Great minds think alike and Mary basically said what I was going to say only less querulously. So when people say that the council should not discuss it I was wondering who should. Are we simply bumping it down to the stakeholder groups or to the constituencies and if so, would they need a request from the council at some point? And maybe the council could help by asking specific questions that would not limit what people could talk about but would guide them in terms of what questions that we think need to be answered at this stage.

Thomas Rickert: I have Chuck again.

Chuck Gomes: John Berard went before me this time.

John Berard: My feeling is that we should leave it for the GNSO and look broadly and then act on policy matters as they are made evident.

Chuck Gomes: Chuck again. I understand why the stakeholder groups and counselors would need direction or request from the council to respond to something like this. So maybe I misunderstood you Milton in that regard. Now I'm not opposed to

the council adjusting that or encouraging that but I don't think stakeholder groups and constituencies need direction from the council to respond to a particular issue.

Thomas Rickert: I have Milton and then Lanre.

Milton Mueller: So the idea is we just wait for the - when John Berard talks about the GNSO doing something, I guess I'm confused because there are parts of the GNSO that do things and there are different parts that present something to the council which act through the council but the GNSO as a whole doesn't do anything as far as I'm concerned. They all go in different directions.

And so what's wrong Chuck, yes I am talking about the council sort of saying hey folks, think about this. I don't know if that's too top down for people but it seems that it's happening anyway because the discussion has been initiated here and now those of us who agree that it should be discussed with the lower levels and then go back to those lower levels and start discussions.

John Berard: Milton, the discussions don't need to be started. They're well beyond having started. And so it would be upside down for the council to intrude upon a process under way without knowing if ultimately if those decisions are going to put the kind of stress on the council that would require our consideration of some structural change. Each of us is aware of what's going on specifically in our own constituencies, stakeholder groups and generally within other constituencies and stakeholder groups.

I view that as a pass report to the council. I just don't think this is something that we should be putting our fingers into. I don't think this has to do with managing the policy making or gTLDs.

Thomas Rickert: Thanks John. And just - I'm not trying to slowly move to the chair seat. I just couldn't see that as part of the table.

Stefan Trumpy: Just one more to the right and one more to the left.

Thomas Rickert: I have Lanre and then Mary.

Lanre Ajayi: I think the issue should be left with the constituencies without limiting the scope. I guess after discussion from that level the (unintelligible) of my report to the council and then the focus can't be discovered and the direction of which to go can be highlighted and from here it could be turned back (unintelligible). And the initial stage I think should be left wide open with that (unintelligible).

Thomas Rickert: Thanks Lanre. Mary.

Mary Wong: So many times find a middle ground here. I don't think we're really all that far apart. I think there is a way for the council to monitor the situation without being talked - without giving all the direction that would be considered interference or above and beyond our role. I think it's possible to see this as one perfect example of the council being the manager that it was set up to be in the current process. And John, this may be one exception to the policy role simply because it has to with GNSO structure restructuring and functioning down the road.

So since we know that this is an issue that will impact the functioning of GNSO, if the council were merely to act as a project manager - maybe it's because I'm married to a project manager I think this is important - to have a report at some point from each constituency. It could be at the next ICANN meeting where we have all the groups back to report. It's not so much the council meddling or saying you didn't do this or we want you to do this rather than that so that we know what is going on in each group in case issues do come up and we're prepared when the time comes.

Thomas Rickert: Any comments? Chuck.

Chuck Gomes: Thanks Thomas, Chuck again. And keep in mind what I said was I don't think there's a requirement for the counselor - for a constituency or stakeholder groups to receive direction from the council on something like this, but I also said that it's okay for the council. I don't think they need to get beyond - soon as you start trying to get a consensus position on some of these issues, it's probably going to be futile exercise.

It's better coming from the groups themselves but I did qualify that I am not opposed to doing something like what Mary's saying where if there's some useful function - and you're right. If and when - I think this is down the road away - we get to talking about GNSO structure. That's quite a different issue then in terms of there's going to be council role but again, it will be heavily dependent on the stakeholder groups and constituents. So I'd be more than happy to keep it on council.

We have representation for every constituency and stakeholder group in the GNSO around the table. We could ask each other to tell each of us what's going on in their particular constituency or stakeholder group and be guided by our own point of view. There's no bar for one council asking another for information.

Thomas Rickert: Thank you. Milton?

Milton Mueller: Maybe I was trying to fill in my statement of interest form. I have a few comments about that but - so I may have missed the context of the discussion so what is it we're actually discussing here that the council should do? Are we talking about the impact of new gTLD on the ICANN structure or are we talking about the GNSO review or are those two things so closely intermeshed that we can't separate them? I thought it was impact of new gTLDs on ICANN structure.

I thought that the GNSO council and its working group played a big role in defining the two how structure that we now have. It wasn't really a policy

issue but we did have a big working group or task force it was on that. So I guess I don't see why we couldn't have some kind of a council level interacting with constituencies and stakeholder group discussion of the impact of new gTLDs but maybe I'm focused on the wrong issue here.

Thomas Rickert: Before I responded, let's go to (unintelligible).

Lanre Ajayi: Thank you. Yes, circulating skill, this question now here that the council should contribute or the stakeholder groups. I understand the question for the impact on the new gTLDs on ICANN structure specifically on the impact on council related matters. So this is one that we should (unintelligible) but I'm convinced to what we should do.

So I'm very close to that but as Mary was saying before, why shouldn't we think about our (unintelligible) of the council, what is our experiences at very rare to receive problems? Are we satisfied with the outcome of in the past of the council of what we are doing in relation to our obligations that means managing the policy process? So those questions come to my mind.

We could deal with that on a council level and then put - maybe we could put together some of these questions and then refer them also to back to our perspective tools and discuss it with that because maybe we have (unintelligible) views on that but we also need some discussion on those in our group.

So there is some space I see which could be discussed on council level here with regard to the impact. So it could also be seen as somebody comes okay, I'm not satisfied with that result because I think we need more roles in the future for our group or for what else. And so this kind of thing should be discussed and should be asked for and that's my comment.

Thomas Rickert: Milton in response to your question, there has been a vivid discussion when the request originally came in as to what the scope of the answer of the

council should be whether we could actually take a deeper look at the stakeholder group or constituency level or whether we should focus on the council related issues arising from the new gTLDs only and the latter was preferred.

So if you look at the response that was sent to the board that focuses exclusively on the council and not on the respected groups and since we are continuously being asked regarding this topic, I think we now need to make up our minds whether we want to continue the discussion at the council level. If so, in what depth or what we say thanks but no thanks, we have delivered what we can deliver at this stage and we've talked to the individual groups should you be interested in the rules on the impact.

So I think what I intended with this discussion is for us to shape our view on what - how we would like to take this subject forward. If you prefer this to be dealt with the individual groups that's okay. If you would like the council to perform sort of a coordination role to gather the views of the respective groups, that's also okay. But I think we need to determine how we're going to move forward with this.

So as an interim with what I heard is the proposal that there should be or the focus of the text finding work should be done within the respective groups. Nonetheless, you would be open to suggestions to keep up the dialogue with the council and have the council acting sort of a hub to receive feedback from the groups and then maybe we need to update our response to the board. Would that be a way forward?

Lanre Ajayi: (Unintelligible). I have to understand actually. So you mean a coordination for the council? I would say from my stakeholder group point of view, I wouldn't see a coordinating for the council to sentence. So this (discussion) as well yes, but coordinating all the views, how it's the board for example, that's not the way we could deal with it. So I really would like to see what the council

could do on top or power on top of that with what the stakeholder groups are doing rather than just coordinating, putting things together and forming...

((Crosstalk))

Thomas Rickert: That wasn't the intention.

Lanre Ajayi: Okay.

Thomas Rickert: So the respective groups - that's my understanding of the (unintelligible) group - the respective groups should report to the board whatever they deem necessary to report and comment on the impact. Nonetheless, I think it was Mary's suggestion that we ask the respective groups to send their feedback to the council as well and then for the council to see what the consequences of these individual statements for the counselor are and then we can assess the impacts on what's actually the call of the counselor.

Lanre Ajayi: And by organization that the council itself now starts to put together some questions from a counselor point of view with regards to the obligations, the task of the council, how we see that in the future, whether we are satisfied or not and then those questions back (unintelligible).

Thomas Rickert: That's fine. I have John.

(John): So I guess I'm just - I don't know how we integrate this into what is already the ongoing process. Jeff, I'll draw your attention to the fact - and everybody else to the fact that you guys, the registries, have filed charter amendments. It's out there now for public comment that the action of the registry can stick the registry stakeholders. What role would the council play in the structural changes that the registries are contemplating? I guess I'm just confused as to how - what standing we have in that regard. Maybe for individually or for constituencies or our stakeholder groups to comment on that.

(Jeff): It's not an unprecedented item, right? A non-commercial stakeholder group went through a number of changes and instituted by the non-commercial stakeholder group but then it was put out for comment so that anyone in the community could comment. I don't believe the council as a whole filed any comments but certainly some other groups may have done so. So I think that is the area of we put this out. We made some changes. Actually they're good changes to be more inclusive and allow the ability for the interest groups to come into being.

So the council has a role but like the community they can make comments and the same thing would be true for - right now there's a petition for a cybercafé constituency. I was in a non-commercial stakeholder group and I'm sure we'll see in the future a - I've heard rumblings of potentially a brand or a single registrant gTLD constituency within the registry stakeholder group. So I think these are primarily matters from within the stakeholder group but ultimately when changes are proposed it will go to the community for feedback but not necessarily the council.

I was thinking more from the council level as some issues that were brought up by Bertrand like needing sizes and what are the logistics. And the fact that one of the things that you mentioned that rang a bell with me was additional meetings that need to take place with these groups. So if you notice on your agenda, there's a specific meeting of the end tag, the new gTLD applicant group. My - and that's for tomorrow so they had to get a room and time and had to make sure that there weren't too many conflicts with that session.

The number of those meetings are going to increase substantially and right now we're already going to way too many or there's way too many conflicts between these that we can't go through. I think that's going to be an issue I think the council may want to comment on. We've seen it today. Just point back to you John, your stakeholder group decided to hold a meeting while the council is meeting and the IPC did the same thing. We're going to have a lot

more conflicts and we need to start thinking about how it's going to affect the agenda as a whole.

(John): And there's a CSG meeting going on right now.

Thomas Rickert: Which is crazy. Jeff in response to what you said, that's exactly the point. On the quantitative aspect attendees growing by number, more meetings required, we have concluded those factors in our response. And my question to you is we have this on the agenda. We've been asked by the board to provide an update.

Judging from some of the statements that I've got now we would say well, for the council, we have said what we had to say and therefore we refer to the respected groups for their input. So that could be an answer and I'm not suggesting that this would be a bad answer to have but we could stop this discussion at the council level today. And so I'm trying to find out what this group feels. I would share the view that if we want to consign the roles of the council to actually dealing with the current information that is available, then we are stuck with a quantitative issue that we've already commented on.

(Jeff): I think that was sort of in line with my recommendation as I think the councils come as far as we can come at this point. I think next year there may be additional items but I think at this point we sent our letter. We've made our comments to the board today. We - our stakeholder groups, constituency groups have submitted comments. At this point in time, I'm not seeing like we need to keep this as a constant agenda item but more something we need to keep an eye out for if there's any new developments.

Thomas Rickert: The various groups have also provided their inputs to the board. Mary, I would like to bear in mind your suggestion as well as (Eric)s. We've had that we might want to ask questions to the respected groups to find out more information. We want to shelve this for a couple of months and then ask for updates?

That would be an answer that we could give so that we maybe reopen to see whether there are updates either let's say in six months' time or should GNSO review discussion require us to devote our attention to that at an earlier stage. We'll also do that too as a way forward. Can I get some feedback on that? Chuck?

Chuck Gomes: I'm not really adding anything to what (Jeff) said there because he really said what I was going to say earlier and that is that stating that there's not a council response right now shouldn't in any way prevent the council from commenting later if it's appropriate. So I think we just need to keep that in mind and I think it's pretty hard to predict when that would be but each counselor in their respected groups are going to be aware of what's going on and can raise it in the council if it seems appropriate for a possible council response on this general topic later on. But to try and predict when that might be right now it's pretty hard to do.

Thomas Rickert: The six month period was just a place holder to ensure that we don't lose it out of sight. But what I can suggest to you is that I keep an eye on that to see whether there are comments coming in. Should there be any developments that require our attention I will bring it back to the group so that we close it up for the time being. Stefan?

Stephane Van Gelder: Thanks Thomas. I just want to take us back to something that Alan was discussing yesterday. I do think it's on a different subject but I think it's a pity that we are unable to provide a response if it comes to that.

As we just discussed it may not but I think it's something that - there's a lot of work that you've put in and your group has put in already and we should be able to try and put ourselves in the mindset of being able to respond as a council. And I'm beginning to see it feels like too often we're just hitting a wall and then we decide we're unable to respond, that we'll just leave it to the groups to respond but it could be two different things.

Thomas Rickert: Thanks Stefan. I have John.

(John): I take issue with the characterization on willing to respond. I don't think that we are in a position to respond right now as Chuck has said.

Stéphane van Gelder: I said unable to.

(John): I don't think we are unable to respond. It's just that I don't think there's anything to respond to at this point. And as soon as there is, I would be more than happy to help direct whatever we would consider.

Thomas Rickert: Thank you, anybody else? Jeff?

(Jeff): I would just say it a little bit differently. I don't think we're - I don't think we have anything else to add other than what we said in our letter and what we communicated today to the board. I don't feel like we should be obligated to respond any further than that at this point.

Stephane Van Gelder: That's an answer too. I think that we're running out of time. We're already one minute over.

(John): I was using this as a test to see if you could keep time.

Stephane Van Gelder: I guess I should've told you.

(John): Excuse me, Stefan. We've run out of time.

Thomas Rickert: So thanks everybody. I'm going to wrap this up in an email to the counselors in the coming date and should you feel to discuss this further, we can do so on the mailing list.

Stephane Van Gelder: Thank you very Thomas for taking over. Thanks everyone for the conversation. We will end. We will have a 15 minute break. Could I ask counselors please to be back at 3:30 for our session on looking over domain names subject to UDRP proceedings and we will have the working groups with us I believe at that time - he's here now. So that's (unintelligible). So operator this session is now over, thank you.

Coordinator: Thank you for participating in today's conference. You may now disconnect at this time.

END