

**Transcription ICANN Toronto Meeting**  
**Motions Meeting**  
**Saturday 13 October 2012 at 17:00 local time**

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Coordinator: Welcome and thank you for standing by. Today's conference is now being recorded. If you have any objection, you may disconnect at this time. Sir, you may proceed when ready.

Stephane Van Gelder: Thank you very much. So welcome back everyone. We will now discuss the motions that we have on our agenda for the open council meeting that takes place on Wednesday.

And we have a very full agenda as far as motions are concerned which is something that I think is good. Just to give a little background to that we did move the calendar around for the last couple of months in the build up to the open council meeting for this AGM.

Just to make sure that we didn't have meetings that happened just before and then we turn up here and have an agenda that's not quite full enough. So we cancelled the meeting and moved some meetings around just to - to try and have these meetings with monthly intervals.

And it seems to have turned out well. We have eight motions to consider. The first one -- I'm sorry -- and this session is designed to help us thrash out any issues that we may have with motions before we come to the open council

meeting on Wednesday so that we can do some of the leg work on these motions beforehand.

And hopefully, be in a position then to just consider the motion on Wednesday. So let's start with the first motion which is John Berard's motion on something we just discussed.

John Berard: I - I think it's been quite well thrashed.

((Crosstalk))

John Berard: I suspect that anybody who's had something to say has said it. If not, anybody else?

Stephane Van Gelder: No. Mary?

John Berard: Mary and then Milton. Mary?

Mary Wong: Thanks, this is called taking turns. It will come as no surprise I think that the NCSG opposes the use of the word endorse in the first resolve clause for reasons that I need not retread.

So either depending on what happens between now and then to the extent that this motion goes forward we would suggest at the very least that the word endorse be replaced by something else in your rewriting of the resolve clause.

I have acknowledged or something to that affect, but we believe that it can't possibly be an endorsement of the Council when our stakeholder group opposes those definitions and metrics.

Stephane Van Gelder: Thanks Mary. Milton, did you...

Milton Mueller: Yes, just a different thing. I sort of like the idea that Jeff had floated about asking them to reconsider some of the metrics in light of the -- now that we know what the applicants are actually proposing. How would you measure the effectiveness or lack of effectiveness?

And in general I just, you know, I agree with what Mary said but I thought that you're kind of looking only for things that can get worse and you're not looking at metrics that would indicate, you know, improvement in the market.

If - if you were to ask, you know, is society better off because we have railroads in 1830? You know, and then 20 years later you know, you the details would say, "I hate the railroads. My grain prices went down because I had more competition and there's other people that say they love it."

I mean this idea of surveys mediating market entries strikes me as - as strange, but basically I agree with Jeff that we should - we should recalibrate the metrics based on knowledge of what is actually out there as an application.

John Berard: Well the - the numbers are neither evil or good. We are merely trying to establish units of measure that would then allow people far smarter than I to draw some objective conclusion as to whether the program has been a net benefit or not to - to registrars on a global basis.

And - and so I don't want to assign an intent to any particular number. Certainly, Mary, if there is a - a word other than endorse, I'm certainly open to it. Perhaps you can think of some and offer it up as a friendly amendment. We have no - no problem with that.

Stephane Van Gelder: Thanks John. Jonathan and Wolfgang and Wolf?

Jonathan Robinson: Thanks Stephane, I suppose I'm looking for some clarity from Milton about expectations here. I mean this is starting to look like the motion will be deferred.

But are we looking at -- and from Mary's suggestion there may be minor -- depending on your perspective -- alterations - minor alterations to text that may have quite significant meaning.

But nevertheless change is to the motion but that that motion would then be - reappear in three weeks time or - or whenever the next council meeting is. The question is, what are people's explanation that there is a limited amount of change that will take place in that period.

And so we have to just generally, you know, manage one another's expectations of what we think might come back in three weeks time. Because there's simply a limited -- and you heard what Steve said as well about the - the time pressure that he believes that we're under to sort of move this forward.

So I - I...

Stephane Van Welder: Thanks Jonathan. Wolfgang please?

Wolfgang Kleinwachter: Yes - yes I suppose the problem you know at this stage to endorse the definition. I think it was also mentioned here that a definition is a rather delicate thing. If you have really endorsed it and adopted it, then it stands for a long time.

Though (Bill), Avri and I was involved with the definition of internet governance in developing internet governance in the meeting and we had to struggle with the narrow definition and the pro definition.

And finally we came up with this broad definition and there was some other proposals on the table at this time about the narrow definition. And what I see now from what I've seen here from the definition that's really very narrow definition.

And so publicly if we just, you know, just give us more time to discuss the definition of consumer we could have the narrow definition which would allow more flexibility also for the future.

I think (unintelligible) definition of it in terms of governance which is a very abstract level. This definition wasn't concrete and goes into very concrete procedures which has to risk that it's really narrows the scope and, you know, eliminate a lot of other aspects which, you know, if you, you know, just because -- what is consumer trust into the DNS.

So I would be very careful. I could live with the formulation but as Mary has proposed endorse is too strong and probably we can find a more flexible wording which would allow further discussion on those issues.

Stephane Van Gelder:           Wolf please?

Wolf-Ulrich Knoen:   Thanks Stephane. Well, I tend to disagree specifically with Jeff on this item. I think this is a -- I understand that document as a living document. It's not a document that's just right now finished and then it is what it is so it has to be a living document.

Simply because the environment is going to change and they'll be changing in the future as well more and more and the markets are changing as you see. But on the other hand we can't wait for that if you wait and we review that and something change anyway in another way and then you have to review again.

So I would like really to see that this document is going to be forwarded. I could accept what was said by Mary and Wolfgang we can add to that amendment or the question of endorsing or finding another word.

So I think you should come up with some proposal for that. But I would like really to see that information be forwarded. Thank you.

Stephane Van Gelder:            Thanks Wolf. Jeff?

Jeff Neuman:            Yes, just to respond to Wolf. You said you disagree with me so I guess my point was now that we know the current landscape and we know that there's a 1/3 of the applications that are brand and a lot of those - most of those being closed TLDs.

I think it would be unfair to use these metrics or some of these metrics against them. It would - it would absolutely look horrible in certain circumstances if in the aggregate as Steve said the brand as a whole were judged on things like, does their website tell or talk about the benefits of the TLD itself? Or is it easy for people to register names in those - those TLDs?

It's -- all I'm asking is to go -- I'm not asking to revise everything. What I'm asking is that now that we see the landscape is what it is, that there's just a quick re-look at what certain types of measurements that if one were to look at would skew the results and make it look like, so if it's a future round coming up - round two.

I'd hate for people to say, "Well, look it didn't increase consumer choice because these things didn't happen. Therefore, we shouldn't do it when there could be thousands more brands in theory that want this."

We need to be sort of -- now that we know what we have let's take a quick look. That's all I'm saying, take a quick look, see where the criteria is still irrelevant, which ones.

Stephane Van Gelder: Thanks. I think we have to move on just to -- we've got seven other motions to consider and we spent 16 minutes on one. So can we...

Adam Peake: I've had my hand up for three minutes, but you weren't watching.

Stephane Van Gelder: I was - I was trying to work out what other motions we might want to do.

Adam Peake: Just a very quick comment. I can live with the group with a slight delay if the working group says they can come back quickly. I can live with submitting it saying that the working group is relocating at it in light of these issues and my issue of a revised version.

But - but to demonstrate something is going forward I would not want to see the average aggregate numbers lowered because of this kind of skewing problem by the time the review team is convened. Thank you.

Stephane Van Gelder: Thanks Adam. So let's move to motion two which is a motion that was made by Zahid and unfortunately Zahid is not able to be with us in Toronto due to visa problems. So he's obviously greatly missed.

But we can look at this motion and just see if there's any discussion that we want to have on the possible initiation of a PDP on uniformity of contracts, to address registration abuse.

This motion like John's has not been seconded yet so on Wednesday I will be calling for seconds unless someone wants to second before that either on the list or during our discussions and we'll make a note of it.

Any discussion that anyone wants to have on motion number two? It appears not, Jeff?

Jeff Neuman: Sorry this - this will go into the category of we have way too many things that we are "addressing" abuse. And I know this is one of those items that was left over from 2009.

But I think since 2009 again with registrar accreditation agreements with everything else we've been working on, it seems like everything has an element of abuse.

I think that talking about contracts is actually distract - talking about contractual language distracts from talking about the issues themselves. And the registries have discussed this and we don't think this is something that we could or would support simply because we think this is a) covered elsewhere and b) really encourages the focus on contract languages opposed to focus on actual substance.

Stephane Van Gelder: Thanks. Any further comments, Chuck?

Chuck Gomes: Thanks. By the way just a proximate matter the importance of the resolution actually says I think it'd be a good practice maybe it's just me if the actual impact was stated in the resolutions rather than to have to look somewhere else.

I did happen to look somewhere else and what I found if I did it correctly is that one of the things it's saying here is we're going to initiate a PDP to do research.

Why do we need PDP to do research? It seems like to me it would be better to do the research and maybe we need a little drafting team to help do that or with staff help and so forth.

But I don't think it's necessary to initiate a PDP to do research unless I'm misunderstanding something.

Stephane Van Gelder: Marika?

Marika Konings: This is Marika. The PDP is not intended to research. The research part actually comes in that there's certain elements where we believe on the basis on the research we've done for the issue report would need to have - would need to answer in order to form the deliberation of the working group.

So the suggestion was to, you know, if when a PDP is launched, part of the working groups charter is to look at those specific questions and, you know, that's done as part of the working group discussions or it might be, you know, staff might be you want staff to look at or, you know, a third party to look at and gather some of that data.

But to have that kind of information to help inform the discussion of the working groups so it's an element of the working group not the only task that we foresaw as part of the...

Chuck Gomes: I recognize that it wasn't the only task but it looked like a first task. And what I'm saying is that it'd be better I think to get that done before you form a working group and do a PDP.

Stephane Van Gelder: Thanks Chuck. Any further comments? All right guys let's move on to motion three please if we can just scroll down, thank you. This is motion made by John seconded by Wolf, to request an issue report on the uniformity on reporting.

And I will ask if anyone wants to discuss this motion? So we can expect a straightforward council discussion on Wednesday looks like. Do you want to say that out loud or is that just for my benefit?

Jeff Neuman: Can you scroll through that motion again, just from beginning to end? Yes, sorry. We got to work on our motions they're way too long. But I support it actually.

Wolf-Ulrich Knoben: Quick let's move on.

Stephane Van Gelder: Absolutely right. Thanks Wolf?

Chuck Gomes: Jeff? Stephane?

Stephane Van Gelder: What?

Chuck Gomes: There's a question and no one asked and I don't understand why, are there staff resources to do this?

Stephane Van Gelder: Staff, are there staff resources to do this?

Marika Konings: Which one?

Chuck Gomes: Uniformity Reporting.

Marika Konings: Uniformity Reporting? To be perfectly honest I think a lot of the work has already been done, you know, the paper the compliance produced for example.

I don't think, you know, Mikey already shared some thoughts as well. There's some information in the registration abuse policy working group so I think looking at the work that needs to go in there I think it's more the question, what needs to happen after that if there are the resources for that?

But I think a lot of the information that into you know what is the issue? I think we -- has already been as part of different initiatives and I think it's a question of - of bringing that together.

And I think it will be more of a question of, okay what are the next steps? Because I think as - as I think is clear from the motion and also the previous

discussion is not necessarily the intent of - of having this go into a PDP but there might be other avenues that may be more effective or need to be considered as well as part of the next step.

But, you know, of course this is only one of the issue reports PDP's, you know, charters that are being considered here. So I think overall we will need to have a look at what is going to be adopted and what it means for our work load.

And we might need to come back to you and say well, "You know, we can start on, you know, these two or three issues." But it means that one or two of them will have to wait a bit longer so that might be a discussion we may need to have maybe as least part of one of the wrap up sessions as we know one of these are moving forward. You know, something we can do at that stage.

But also I think from a community perspective because of course all these -- even though there's staff work up front -- all of them would apply eventually as well -- community work.

Stephane Van Gelder: Yes. Thanks Marika and thanks Chuck for bringing that up? I think it ties into what we're discussion - discussing this morning as well about the presence or absence of people on these groups trying to get this work done.

Anyway, moving on which was suggested before. We are looking now at Motion Number four which is a motion to initiate a PDP on IGO's in - as part of the new gTLD program on the protection of IGO names.

Motion made by Jeff and not seconded so far. I have Jeff, Mary, Thomas.

Jeff Neuman: Yes, I just wanted to clarify for the record. It's not IGO's it's International Organization, so it's important because there are people that are kind of -- it includes IGO's but also INGO's as defined.

Stephane Van Gelder: Thanks for - for correcting that. Mary?

Mary Wong: Thanks Stephane. I would like to second this motion and as well comment for the record that this is a motion that's supported by both constituencies in the NCSG.

And particularly with our new constituencies in part because much of the recommendations that will be worked on in this PDP were really requested - were first initiated by (INPAC) at an earlier ICANN meeting.

Stephane Van Gelder: Thanks Mary. So we'll note - make a note of that second, thank you. Thomas?

Thomas Rickert: Just wanted to second and now Mary was a little bit quicker.

Stephane Van Gelder: Any further comments? Okay, let's move on to motion five. A motion made by Jeff, seconded by me to approve the SIC Whois working group charter. Any discussion on this anyone wants to have? Okay...

Man: Wendy had her hand up.

Stephane Van Gelder: I'm sorry, missed you Wendy, sorry.

Wendy Seltzer: Thanks, I just wanted to raise a suggestion that Avri made on the group discussion list regarding putting a slightly stronger emphasis on considering the rights impact of the - the SIC Whois as we put into the PDP process reference to - to rights (INPAC) that we could call that out more clearly in the charter.

Stephane Van Gelder: Marika?

Marika Konings: Just wanted to note for the record that the drafting team worked really hard to try to get this charter in front of the council for this meeting with the realization that of course all of the hard work is still to come.

I think there's a real hope from the drafting team at least that, you know, the council is able to consider it and hopefully adopt it. Because otherwise it would mean we would have to wait for another council meeting before we can actually start with a call for volunteers and launch the whole process.

So I just wanted to - to share that - that with you.

Stephane Van Gelder: Thanks Marika, that's both useful and good to know. And as was noted earlier it's always good to but note the hard work that goes into these things and the positives when there are some of milestones being reached and these things being completed in a short space of time. So Marika thanks again for making those comments. Thomas?

Thomas Rickert: As regards to specifications that is prescribed in the PDP process anyway so I think that it would be a dangerous precedent to specify it in the charter because that might imply that to be absent of that specification that wouldn't be necessary.

So I think it's in there per se hard coded into the process.

Stephane Van Gelder: Thank you. Jonathan?

Jonathan Robinson: Yes, if I understood Marika correctly, your concern is perhaps this may be deferred but it comes to that. You know, maybe we should ask that question directly and cover that issue if that's a concern. Is there anyone who feels they might be likely to motivate for this to be deferred so that Marika can get at least a little more rest or sleep over the next couple of days?

Stephane Van Gelder: If Marika's losing sleep over this, it's time to stop I think. But anyway, good question and that's why we have these sessions. So, you know, if anyone wants to help us out there, then please do so. Jeff?

Jeff Neuman: Yes, first it's a typo in the resolve that's kind of just glaring through GNSO, although I like the GNSO, but it's in the first resolve. But I wanted to address, Avri brought that issue up the drafting team is still discussing it.

I don't believe there's any consensus within the drafting team to adopt that change. Partly because of what Thomas said that it's built in and partly because we already think it's covered in other areas of the charter.

And as (Tom) actually put it - it sets a dangerous precedence of calling certain things out in the charter. Remember, we're not talking about the substance of the work that they're doing. We're only talking about the charter and we believe it's included elsewhere.

So I would strongly urge the adoption of this because we'd like to get this PDP moving.

Stephane Van Gelder: Thanks. Any further comments? So we'll move to the next motion please. If we could just scroll down, motion six which was made by me seconded by Wolf and aims to adopt the IRTP Part C Final Report and Recommendations.

We heard from the group earlier on. This is another area where we've had as was explained by members of the group and James Bladel to be more specific. In fact, we have had very hard work from the group members to reach the deadlines.

So it's one where we both wanted to get this in and we're hoping that it's going to be voted on into long terms so that we can maintain that momentum. Any comments or questions? Marika?

Marika Konings: This is Marika, just maybe to briefly explain the motion and how it's built up because basically three different, you know, resolve parts I think had three had different voting specials associated with them.

The first one is basically adopting the recommendations in the report at our, you know, consensus policy recommendations. So basically just refers to the report as, you know, those recommendations are described there.

The second result clause relates to the recommendation of the working group to form an implementation review team. Basically that group would be formed once the recommendations would have been adopted by the Board.

Because as, you know, once the GNSO Council adopts these or I'm assuming that the would still go out for a round of public comment before the Board considers them.

So there's not much sense to form a group before the recommendations are really final, you know, in case any issues that are raised and recommendations may be referred to the back sample.

And then the third resolve clause relates to -- let me just scroll down -- to the next issue report on IRTP Part D and I think as you heard James explain the suggestion of a recommendation of the working group is to put all of the remaining issues together in this one final or hopefully last PDP on the IRTP where you'll see I think that the first four issues those are all related to the - the TDRP, the (unintelligible) Dispute Resolution Policy and they were in the original PDPD.

The one, two, three, four, fifth bullet is the one issue that was in the PDPE and the last one that doesn't actually have a bullet -- so we need to fix that -- is the issue that was suggested by the IRTP Part C working group to be added to this as part of their discussion.

They wondered whether, you know, this - the FOA's are still needed in light of the use of EPP codes. So just to give you a little bit of explanation on how it's a build up.

Stephane Van Gelder: Thanks Marika, that's very helpful. Mary?

Mary Wong: Thanks. This is probably a minor question, but I ask it not specific to this motion but potentially for the language of future and other motions that a council might make.

And this is really with respect to the resolve B clause or the second resolve clause. Because when I was reading this for the first time I noticed that it said implementation in accordance with the - the letter and intent of the report or something like that.

And just the usage letter and intent kind of struck me as a little bit odd and I went back through the report and it bas- there are a few places where it does say implementation and according to the intention of the group which I assume is what implementation should be doing.

So I guess my question is, is there a reason why we're using letter and intent here, or should we just say, in accordance with the recommendations or intentions of the working group?

Again, maybe not specific to this -- not a big deal but for future motions.

Stephane Van Gelder: So is this something you - you'd like to offer as a friendly amendment to get changed or is this just a more general comment?

Mary Wong: I would like it for this purpose today to offer it as a potential friendly amendment if you and Wolf feel like being friendly.

Stephane Van Gelder:        Okay. Can you send it in on the list so we can have a record of it?  
   Thanks. Any further comments? So let's move on to motion seven which is a  
   motion that was made by Ching not seconded yet.

   And which is a motion that suggest we ask for an issue report on  
   recommendation two of the IRD working group final report? Is there any  
   discussion on this? Ching?

Ching Chiao:                Thank you Stephane. Actually not much to address at this moment. It's pretty  
   much straightforward motion on actually putting the recommendation, for  
   recommendation for the IRD in two particular parts.

   You've actually heard what this talked about a part of which needs  
   collaboration further with the ITF and, you know, their progress on the  
   recommendation for having the access to the I mean the registration data.

   And then for this one it's particularly I would like to emphasize on the  
   necessity of inclusion particular on the registrar and also on the registrants  
   side about the responsibility of transliteration or the translation on the - the  
   contact information of the registration data.

   So I would really hope that the council take the lead on this so that's about it.

Stephane Van Gelder:        Thank you very much Ching. Any further comments? Okay, so I  
   obviously can't count because I -- sorry Rafik?

Rafik Dammak:              I wanted to second this motion.

Stephane Van Gelder:        Thank you very much. Can we make a note of that please,  
   seconded by Rafik. There's not eight but seven motions and we've gone  
   through them all. And as it's been a long day and we still have one session  
   left.

I would suggest that we move straight ahead into the DSSA session if Mikey's ready to -- Mikey are you ready to give that update if we start now? Great. So let's do that - let's end this session, start the next session on DSSA and perhaps we can note to finish a few minutes before our scheduled time.

Operator please end this session and restart.

Coordinator: This concludes this conference. Thank you for your attendance. You may disconnect at this time.

END