GNSO Improvements

Monday 29 October 2007

ICANN Meeting - Los Angeles

>>DENISE MICHEL: If everyone could take their seats, we're going to
start the GNSO improvements workshop shortly. Handouts are at the
front of the room here on my right-hand side, your left, the further --
the front-most table.

>>ROBERTO GAETANO: Good morning, everybody. We are trying to set up
the visual support for this presentation. I think that, in the
interest of time, since we have already half an hour delay, I would
like to open and to get started.

I'm sorry we'll have the presentation appear momentarily, but at least
right now I can probably tell you where we are before giving a short
description of the current status of the draft and then open up for
discussion.

The bulk of the time will be allocated for discussion, questions from
the floor and answers from our part.

But let me do a little bit of housekeeping here.

First of all, I'm Roberto Gaetano. I'm the chairman of this working
group. At the same time, I'm vice chairman of the board and the chair
of the Board Governance Committee, under which authority these working
groups are run.

And maybe I can ask the people to introduce themselves.

We'll start from my left, from your right.

>>RAIMUNDO BECA: I'm Raimundo Beca. I'm a board member, appointed
by the Address Council. So I come from a different world, the ASO, but
it's a very good experience to be here.

>>TRICIA DRAKES: Hi, I'm Tricia Drakes, a former board member and a
Nominating Committee appointment on the board. So I am the former
board representation on this. Thank you.

>>SUSAN CRAWFORD: Good morning. I'm Susan Crawford. I'm a
Nominating Committee appointee to the board and a member of the working
group.

>>VITTORIO BERTOLA: Hello. I'm Vittorio Bertola. I'm the ALAC
liaison to the board.

>>VANDA SCARTEZINI: I am Vanda Scartezini. I am on the board until
the end of this meeting, and moving to ALAC.

>>DENISE MICHEL: Denise Michel, ICANN vice president for policy
development.

>>ROBERTO GAETANO: Okay. So the situation of the discussion so far
is, we are working on the basis of the report that was produced by the
London School of Economics. And a working group has been -- this
working group has been created by the Board Governance Committee to
deal specifically with the task of evaluating that report and other
documentation and turn this into a recommendation that will be passed
to the Board Governance Committee for presentation to the board for
approval.

>>RITA RODIN: Excuse me, Roberto, can you hear me? It's Rita. Just

wanted to let you --

 >>ROBERTO GAETANO: Hi, Rita.

 >>RITA RODIN: Hi, there.

 >>ROBERTO GAETANO: Rita, would you please introduce yourself for the
audience.

 We have done that already, all of us.

 >>RITA RODIN: Sure. I'm sorry. This is Rita Rodin, the DNSO
elected rep to the board. And I'm also on this GNSO improvements
working group. I'm sorry I am to do this remotely. But I look forward
to your participation, everyone, in this program.

 >>ROBERTO GAETANO: Thank you, Rita. We are very glad that you could
join us remotely.

 So I was saying, the current situation is this is the second draft.
The first one has been presented in San Juan. And we got some input in
San Juan. This is the second draft. We are going to through a second
period of public comment.

 We had already yesterday an initial meeting with the different
constituencies of the GNSO, then a meeting with the GNSO Council. And
this is going to be the third meeting to have input from the Internet
community at large on this document.

 So after, when this public comment period will be finished, we are
going to produce a final draft that will be passed to the Board
Governance Committee, ideally, in a month or so. Then a recommendation
to the board that we hope could pass a resolution in December or,
latest, January.

 That will also depend on the input that we are going to receive in
this public comment period, because that will give us, you know, the
idea of to which extent some of the parts have to be revised or,
alternatively, where things are pretty much set in the current version.

 So going into the document, I don't want to have a long introduction.
This documentation is available for you to read, and it has been -- the
report has been published already at least a week ago. So I just give
a very brief reminder of what are the most important points.

 The first thing that we decided as a working group is to put the focus
more on the GNSO working group activities rather than in the
deliberation by vote in the council. We believe that the core of the
process of the policy development is being done in the working groups
and that the working groups should not be formed like a replica of the
components of the GNSO Council, but that the working groups should be
open for participation for all the different points of view.

 I think that we might have people who are specific experts on specific
topics. But also, we have to open it up to positions represented by
people that are not specifically -- that do not specifically belong to
any constituency.

 So to have this kind of open model for the working group and try to
achieve consensus positions in the working group. That, we think it's
a very important point in the proposal that we make.

 So following this, I think that we have to revise and adapt the policy
development process to adapt it to the situation by which the focus is
going to be on the working group. And there are specifically some
modifications and proposals that we make, and also to make the PDP
process more efficient and effective, and, in fact, produce at the end
better results.

   Then, going to the GNSO Council, I think that -- we think in the
working group that the way the GNSO Council is structured now, it gives
a very big importance to constituencies. And we believe that in this
situation, these constituencies have represented in some way a very
important moment in the beginning, but that now the structure and the
dynamics within the council and within the GNSO is a little bit
paralyzed, or at least slowed down, by the fact that opinions are
polarized in the constituencies and there are situations by which we
very fast achieve a deadlock. And I think so that we have to go to a
model that is more dynamic and that can also foster some change, make
the change possible.

   So the idea is to use more stakeholder groups as a basic concept.
This is in line with the general philosophy of ICANN and with the fact
that ICANN is proposing itself as the place where the stakeholder --
the community of the stakeholders is going to debate and self-organize.

   And so this model for the GNSO is nothing else than the application of
the general strategy of ICANN to the specifics of the GNSO.

   We have two large stakeholder groups. One is the -- from the supplier
side, and the other one from the consumer side. And we believe that
those groups should be represented on equal weight in the GNSO.

   Within the supplier side, we can identify immediately registries and
registrars. But as also has appeared by the discussion that we had
yesterday and by the discussion that we had in the working group, there
is the potential for creation, for the presentation of interests, and
for stakeholders that are not included in the registries and the
registrar constituencies as they are today.

   One point under discussion yesterday, for instance, was related to the
ISP and the part of the business of the ISP that is the provision of
the infrastructure, which is clearly on the supplier side.

   But I would like to say to make it very clear that this is a flexible
model that will have to be tuned up in time.

   On the consumer side, the big two parts that we can identify are the
business users and the noncommercial users. Likewise, in the
constituency structure as we have today, there's, for instance, no room
for individuals to participate in the GNSO life. So this is something
that I think that with a more flexible model that is the one that we
are proposing can be achieved.

   There are also other groups of people, the market has produced some
actors that were unknown when the ICANN model was first designed and so
that are not present in the current constituency model. For instance,
one example can be given by the domainers, who have a very specific
business model. And I think that that should be reflected, that there
should be room for them in the ICANN structure to express their views.

   Then that doesn't mean that we are going to eliminate the
constituencies. The constituencies still have a value. But I don't
think that they have to remain as the focal point for the policy
production or for the voting mechanisms.

   Constituencies are very important because they are homogeneous groups
where the stakeholders can identify themselves and discuss the issues
that are related to their specific view of the business.

   But I think that there is room for improvement in the current
constituency model that is an effort to make, for instance, the rules
for belonging to a constituency clearer, to have a more transparent --
well, to make them more transparent in terms of membership, in terms of
characteristic qualifications and so on. So to make it also more close
to the Internet community outside and to make clear under what

circumstances it will be possible for an external partner to join the
constituency internal life.

 And the final point is a general overarching element, which is the
coordination of the GNSO with all the other parts of ICANN.

 We do not imply that this coordination doesn't exist now. We only
imply the fact that, like with almost every human activity, there is
room for improvement. And I think that it should be stressed that the
GNSO doesn't work in isolation, but works in a team, in a partnership,
with all the other parts of ICANN. And that's the force of the ICANN
model. And that is something, so this communication and this
coordination is something that we need to strengthen.

 So that concludes -- it's even too long -- presentation.

 And I would like now to open the floor for the discussion. But before
doing this, I'm going to ask to the working group members if they have
some comment. It's customary for me when I do introductions to forget
some key points. And so I rely on the rest of the working group to
point them out.

 >>RAIMUNDO BECA: Thank you, Roberto.

 I would like to highlight in the working group for the policy-making
the importance that is highlighted in the report to the author action.
Because in the construction of a consensus policy, more important than
the chairman in practicing an institution like the RIRs or IETF, that
you do use this kind of working groups for making policies, the authors
are very important in the making of a policy.

 And also drafts, normally are receiving some remarks, you invite other
people to join the drafting group. And this is the way in which a
consensus is built.

 The chairman's role is mainly to see that all the procedures have been
followed and to ask through some mechanism to see if there is really a
consensus. But the real building of the consensus is made by -- are
made by the authors.

 Thank you very much.

 >>ROBERTO GAETANO: So any other comments?

 Okay. So I would like to open the floor. I will remind you that as
for the previous session, we have translation in -- from and into
French, Spanish, and Russian. So if you would prefer to use one of
those three languages to ask the questions, then you are more than
welcome to do so.

 I also would invite the people who will come to the microphone to
speak slowly so that -- to give time to the people who don't have the
language as their native language to understand and to give also time
to the translators, to ease the work of the translators that although
they are very good, they could be facilitated by having, you know, more
understandable contribution to translate.

 I would like to try to open this by subject. Although all the five
points that I have listed are intimately connected, and we cannot
probably discuss one in isolation, I would try to -- you know, also in
the interests of managing the time -- to open with the first point that
is related to the new vision that we have of the role of the working
group, of the task of the working group, and the importance of the
working group as being the core in the policy development process. And
maybe at the same time, join this with a discussion on the PDP. So to
have these two points together in the first, I would say, 20 minutes or
so discussion.

So I'm inviting, soliciting contributions from the floor. Feel free to ask an explanation or to express points of view that are not in line with the presentation. But if you feel that everything is working fine, please come and say so.

Yes, Bruce. Before you start, may I remind, the usual rule, to introduce yourself for the benefit of the audience outside, remote audience. Thank you.

>>BRUCE TONKIN: Thank you, Roberto. My name is Bruce Tonkin, from Melbourne I.T. I just had some comments about or reflections, I guess, on task forces versus working groups.

One of the original intents, as I understood it, in creating the task force structure was that there would be balanced representation from a set of constituencies so that whenever we're looking at a policy topic, we knew at least we covered what we thought were the main stakeholder groups at the time that the DNSO, which predates GNSO, was formed.

Now, there are some limitations with that. One of those limitations is that companies that participate in the Internet don't necessarily neatly fit into that constituency structure. So a large company may well have people in their company that have intellectual property interests, people in their company that might be operating a registrar operation, people in their company that might operate an ISP. And certainly I could say for Melbourne I.T., when looked at the overall company structure, we could probably fit in just about all the constituencies except perhaps registries.

We even have noncommercial people that, you know, would consider themselves -- and even individuals.

So I think certainly one of the advantages of working groups is it does allow members of companies to participate and state what their interest in the issue is. And so that may not necessarily be constrained to a constituency.

But I do think the working group structure has to be very careful that it doesn't throw away the original concept of task forces or the GNSO and that the working group is seen to have balance. And that's going to be very much the challenge.

So one of the things I would perhaps suggest as part of the working group model is that when the GNSO council establishes a working group, it actually identifies at the time who the main stakeholder groups would seem to be for that particular issue, and that the staff proactively make sure there's some representation across those different stakeholder groups.

I don't think you can rely purely on just putting a notice up on the Web site and saying, "Hey, let's see who joins," and if the issue is domain tasting, you find over 100 domainers join and one person from some other stakeholder group and you're not going to get a balanced result. So it's going to be very important when the working group is constructed that you from the outset say, we need to at least have these five or ten or whatever main types of stakeholders involved in that, which will be affected by that issue, and then make sure that the working group is balanced across those stakeholder areas to make sure that the result is balanced, because there's a lot of discussion in the report about saying, you know, we measure whether there is support by, you know, how many people said they'd support that particular argument. But you can stack a working group very easily to get that result from the outset if you don't set that working group up properly. So just a comment on working groups.

>>ROBERTO GAETANO: Thank you, Bruce.

>>STEVE METALITZ: Hi, this is Steve Metalitz. I'm the president of

the intellectual property constituency of the GNSO.

 And in my years as an officer of this constituency, I found that one of my biggest jobs is recruitment.

 It's encouraging people to get involved and to participate in the process.

 Recruiting participants in the constituency, and also recruiting participants or candidates for the GNSO council.

 It's not always an easy job.

 As I look at the recommendations -- and I'm speaking just as an individual here because our constituency hasn't had a chance to discuss this report.

 We will start to do that at our meeting tomorrow.

 But I see, I think, Roberto, in your introduction you made it clear there would be a very reduced role for constituencies. You would not eliminate them, but they would be homogeneous groups that can organize and discuss issues, but they would no longer select people to serve on the GNSO council, and in many ways, it seems as though their role would be reduced.

 I think -- I anticipate if this plan went forward, it would be much harder to recruit people to join the constituencies.

 Secondly, I mentioned recruitment to the GNSO council. Today when I try to encourage somebody to put themselves forward as a candidate for the GNSO council, while I have to acknowledge the long hours that they have to put in totally without compensation of any kind, including for their travel expenses for the most part, and they have to persuade their employers to allow them to do this, but I can tell them that I think they will have some influence and impact in the debate over policy matters that I think are quite important to them that are handled by the GNSO council.

 Again, if I look at the report here, I'm not sure I would have that recruitment tool any longer.

 If you look at what the council is supposed to do, its most important function is to guide the establishment of working groups and monitor their progress. Page 28, the council's role is ensure that the working group follow the appropriate procedures. The council should also verify the level of agreement in the working group, and so on.

 So basically, instead of recruiting somebody for a role where they can have some influence on policy, I would be recruiting people for a role in which they are checking to make sure that some other body followed the right procedures.

 We don't really care what the GNSO council people might think. We just want to know if they can manage this other process.

 I don't know, we could ask the people that I have recruited and encouraged to step forward as GNSO councillors, but I kind of doubt that most of them would have found that role very attractive. And I think most of them would have had a very hard time convincing their employers, their clients, their associates, their colleagues that this is something that they should devote a great deal of time and energy and resources to.

 So I do see, at least in my first reading of this proposal, a lot of difficulties in recruiting participants in the policy process, if this went forward.

Thank you.

>>ROBERTO GAETANO: Thank you, Steve.

>>MARILYN CADE: My name is Marilyn Cade. I'm a business person.
I'm from the business community.

I have been involved in ICANN for most of the time, even before it
existed. And I thought that ICANN was intended to be a private sector
led, bottom-up, consensus-based organization. So I open my comments by
expressing some frustration, disappointment and concern about something
that I see in what has been presented to the community. And then I'll
make some specific comments about the good things I see in it.

But here is what I see.

Whether it is intentional or unintentional.

We have been told not only what to do but how to do it.

And I want to question that and ask you to step back and ask yourself
if that is totally consistent or even consistent enough with a bottom-
up, consensus-based private sector led approach to governance of unique
indicators of the Internet.

The GNSO makes 90% of the policy and provides 90% of the revenue
source collected from a wide base of business registrants, NGOs and
individuals who register names.

The people who come together to make policy in the GNSO do this to
provide a balance so that the contracted parties are not exposed
unfairly. They are not subject to antitrust issues. They have a sense
of comfort that they are working in a community that can bring balance
about the policy considerations.

I fully appreciate we need to make improvements. And in fact, some of
the improvements in the document have been asked for, first of all, by
the council itself, such as improvements and changes in the PDP;
secondly, by the Sharry report, including increasing structural report
for the council. Followed on by the LSE. And in the meantime,
supported by the self-review.

But we have lumped areas where there is broad agreement about change
and improvement that must be, in my view, prioritized first with an
area for which I think there is not enough agreement.

And that is a couple of the major changes that you propose, one of
them being changing the role of the council.

At the last evolution and reform process, there was a proposal to
elevate policy-making to the board. The community rejected that.

And as a result of that, the original recommendation to the board
enabled the board to reject policy and remand it back to the council to
further review or fix, but not to overturn policy or to edit policy.

What we have done now is so change the role of the council whose
primary job is policy management and overseeing policy-making, we are
ending up elevating certain aspects of policy approval and possibly --
not just policy acceptance, but policy approval, and possibly policy
development to a board who already spends 40 to 50% of its time working
on the broader issues related to ICANN.

I think that is a major, major unintended consequence and I ask that
you step back and ask yourself, perhaps there is just not enough detail
here, and perhaps the question is asking the community of stakeholders,
the constituencies and their policy council in the S.O. to consider how
they might implement the outcomes, not dictating how they do it, but

how they achieve the outcomes that we can all agree.

 The second area I am very concerned about is we have everything on a
very fast track, including one area that I think there is not enough
agreement about. And that is how to change, whether to change, and how
the broad business community should be represented in the policy
development process.

 I have heard no one from within the present parties accept the
approach that is proposed. I have heard perhaps adjacent parties
accept it. But what I would say is we cannot put forward a policy
change that makes a major part of our community so unhappy that they
may swim away from the lifeboat because the sharks don't present a big
enough risk.

 And I am afraid the consequence of one of these changes is going to be
viewed that way.

 I think the better challenge would be look at the areas where there's
broad enough agreement, prioritize those, provide structural support to
the council and invite the parties who you think need to make a major
change to present a proposal to you and to the full board governance
community and the board within a 60 to 90-day period.

 >>ROBERTO GAETANO: Thank you, Marilyn.

 Before giving the floor to further contributions, I would like to make
two remarks.

 One is related to what Marilyn has said just a moment ago.

 I think that there must be some kind of misunderstanding, and I think
that we have to touch on this issue.

 When we say that the policy has been shifted from the council to the
board, I don't think that this is neither the intention nor, I believe,
the letter of our proposal.

 When we say we think the core of the policy-making process is moved
into the working groups, it's not moved or punted to the board.

 The second thing is more kind of a motion of order.

 I think that in practice, the previous interventions have shown that
the audience does not like to constrain themselves to the discussion of
the first points.

 So I think that we acknowledge this, and so feel free, also, the next
contributors, to contribute to every point in the proposal, and we'll
manage that this way.

 Thank you.

 >>TRICIA DRAKES: As we are having just a small break -- not a small
break but comment, there were really just two points that might be
helpful.

 One, in the summary, we didn't -- which I think will also help with
Bruce's point, we didn't bring out the importance of finding the Chair
with the appropriate qualities and time and experience for the working
groups.

 We absolutely, in the preparing the report thought it was a
fundamental importance that the chair for the working groups was the
correct chair.

 And, in fact, that would deal -- that is also important with Bruce's
point about representation and getting balance, and that's something

that would need to be dealt with from the beginning.

 Also, Steve's point about the -- why should we bother to be on a
constituency -- sorry, in a constituency and putting people forward to
council. And I might not have said the right words there. Actually,
it's from the current leadership where -- because we have to remember
that it's council that's driving this. So finding both the right chair
and the leadership in the working groups is a fundamental importance.

 So I just thought, Roberto, that was one of the key things. But I
think it is relevant. It's very, very important role. In fact, if
anything, we are enhancing council's role in this rather than looking
to put it down there. And some of the chairs may well be in this room
now or people that you are aware of, but also people coming within the
group.

 >>VITTORIO BERTOLA: Okay. Yes. I wanted to address a couple of the
things that are said. And first of all, the point that Bruce was
making about the possible imbalance in the participation in working
groups.

 And I think it's really a key point because it explains why we are
proposing a consensus-based model, in which it ends up being almost
irrelevant whether a certain position is supported by 50 people or by
five in the working group, because the idea is that you are aware that
you cannot really measure in quantitative terms the weight of different
positions. But you measure in qualitative terms. And this brings the
role of the chair which becomes fundamental.

 So the chair of the working groups should be a sort of facilitator who
is able to tell whether a certain position is blocking, because maybe
it represents the view of a very important constituency or a very
important interest, or maybe it's just made as an obstacle to get to
consensus.

 So it's going to be the chair's call, I think, to evaluate and find a
way to overcome difficulties independently from the quantity of them.
And then of course the council after that.

 I had another point regarding Steve's intervention and the role of
constituencies.

 A point I wanted to make is that, really, the constituencies we have
seen, they vary according to the issue you are dealing with.

 So maybe in certain PDPs, you might have other groups that are
interested. I mean, if you deal with the add grace period, maybe you
get a lot of domainers. Maybe if you deal with WHOIS, you get law
enforcement agencies and privacy advocates.

 So I think that time has shown that reality is more complex than the
six constituencies we currently have.

 And we should have a way to keep an open participation mechanism so
you can get more constituencies in the working groups and get more
participation.

 So it's -- I mean, yes, the so-called formalized constituencies have
an important role, but it's hard to see why they should have a
completely privileged role in regard to other possible participants.

 >>ROBERTO GAETANO: Thank you, Vittorio.

 From the floor.

 >>CHUCK GOMES: Chuck Gomes, speaking as an individual because like
Steve said, our constituency in the registries hasn't had a lot of
discussion as a group on this yet.

I hadn't intended to say this, but since I -- since Marilyn made the
statement that she didn't think anybody supported this, I thought,
well, maybe I better say I support it.

And with some rationale behind that.

First of all, I don't see it as a top-down process, but in reading
your report, I personally think that you guys work really hard to
incorporate the input that you receive from the community from a lot of
sources.

I don't see that as a top-down process. And so I compliment you on a
job well done there.

I also believe it's important -- When I say that I support it, that's
with the full understanding that there's a lot of work to be done.

What you are proposing, and you make it clear in your report, that the
PDP needs to be improved. Absolutely. That's probably one of the easy
tasks, to change the PDP process.

There's some real challenging tasks.

The working group model, we have had some success with that in the
GNSO. This afternoon we will spending six hours on a process that had
elements of the working group process that you are talking about, and
it was a very challenging process, but we had some success.

But we're going to have to do a lot of work to refine that process to
get it documented so that, in fact, the processes work effectively.

And we will improve them as we go, but there's going to be a lot of
work between now and the time we do that.

And so I certainly support what you are recommending in the working
group approach with the understanding that we'll have to do that work,
and we'll do that work together. All of us in the council and any
interested parties that want to do that, working with the board,
working group, et cetera.

With regard to motivation for participating on the council,
personally, I think that it's a pretty important role to be in a
position to make sure that processes are being followed accurately.
And that's very important to us that are members are constituencies to
make sure that that happens, to make sure that consensus is achieved.

But even if that is not a motivating factor for people to participate
in the council, I would hope, then, that they would be very motivated
to participate in the working groups where a lot of the things are
going to happen.

>>ROBERTO GAETANO: Thank you, Chuck.

Michael.

>>MICHAEL PALAGE: Thank you. Mike Palage.

I would like to start off by saying I support the vast majority of the
recommendations that were contained in this report.

I think that they go a long way towards, if you will, remedying some
of the inefficiencies that, if you will, stymied policy investment over
the years.

My comment is with regard to the council. That was, I think, one of
the points that you were originally looking for.

 I appreciate what the committee has done in trying to group or blend
on the user side of the equation with the commercial interest and with
the noncommercial interest.

 My comments have to deal with the provider side of the equation. And
my comments are based upon what I see taking place right now in the
marketplace.

 Although in ICANN's history, it's nice to have the registrar silo and
the registry silo, if you look at what's taking place in the
marketplace, those lines are beginning to break down. And I am sure
that next year, there will be a number of ICANN accredited registrars
who will be seeking to put in applications for registries, or will be
involved in providing back-end infrastructures.

 So the terminology I would, if you will, suggest that this committee
look at is not a registrar or registry, but a registration authority
community.

 And that community does not just have to be ICANN accredited
registrars or ICANN accredited registries, but there are other people
that are providing, if you will, critical infrastructure resources. A
case in point is Iron Mountain. Iron Mountain, although they are an
ICANN accredited registrar, the vast majority of money that they get
from the name space is probably going to be in connection with their
data escrow contract that they have with ICANN.

 There are also, if you will, providers that may be providing
validation services for some of the, if you will, more narrowed or
restrictive TLDs that may be on the horizon.

 So part of what I would encourage this committee to do is, looking on
the provider side, is to try to get away from this registrar/registry
distinction, and allow for the ability to look forward and see how that
community will be blended. Because if you do not look forward when
this three committee, or in three years when you do another committee
review of the GNSO, if you have created these black-and-white
distinctions between registrars and registries that might prevent
continued evolution.

 So that's, as I said, some of my comments. And I think just following
up on what Chuck says, I think there's been a lot of good work that's
been done. The devil is still in the detail with regard to
implementation. But there's nothing that I see that is, if you will,
catastrophic in the direction of where this process is going.

 >>ROBERTO GAETANO: Thank you, Michael.

 I would like to say -- to make one comment, following on what Michael
has said.

 I think that since this point came already in the meeting with the
constituencies yesterday morning and with the meeting with the GNSO, I
think there's a serious misunderstanding in the way we have laid out
the report, because the idea is not to have the flexibility on the
supplier side and then consider that -- on the consumer side and then
consider that the supplier side is really carved in stone and not --
not modifiable.

 I think in the supplier side, we have identified two of the current
constituencies and the mapping is pretty easy. Whereas on the consumer
side, the situation is more articulated, and therefore, we have
articulated better the discourse.

 But the moment that we say that we want to open up to all stakeholder
interest, then it's obvious that also on the supplier side we need to
find definitions. And I'm not happy 100% with Michael's definition of
the supplier side as registration services, simply because I think that

we shouldn't constrain ourself only to registration services. I think that there's a provision of services in the Internet and related to the Internet, of course, within the domain of -- within the scope of the GNSO, which is the generic domain name space. But there's plenty of services that are provided, and we need to be open to the evolution of the market, that will create, without any doubt, in the future new actors, new economical actors and new providers of different services.

 And I think that that's exactly the reason why we want to get away, not eliminating the constituencies, but relativizing the weight and their importance in the GNSO, exactly in order to be able to open up to new stakeholder interests that are created constantly and that don't have a home if we maintain a rigid constituency structure.

 And that brings me also to another short point, if you allow me. And, anyway, I'm the chairman, so I'm allowing myself.

 [Laughter]

 >>ROBERTO GAETANO: It's the fact that was also contained in Bruce's opening comment, when he said there are organizations in which there are different points of view, and that is good if the different points of view can go to the working group and be represented in the working group.

 I would even go beyond this. They should be represented in the stakeholder groups. There's a couple of examples that I made yesterday, like, for instance, a large organization -- let's take Microsoft. Microsoft is in -- could be in the business constituency in the sense that, you know, they are business registrants and they have a number of domain names, and so they can be localized in that specific constituency.

 But besides this, there are some other issues. And, for instance, the intellectual property. Microsoft is not just the name "Microsoft," but they have plenty of trademarks. And so there's an obvious collocation in the intellectual property. But there's even more. I think the fact that Microsoft develops, I don't know, let's say an example, the Internet Explorer, and so a browser, that browser, especially now, with the introduction of IDNs, maybe there are things that are problems that are related to the way the browsers are developed that will have an impact, that are impacted when we introduce the IDNs. So I would like to hear their opinion and their point of view in a working group that is related to the IDNs.

 Now, Microsoft is formally one organization that has, I imagine, a CEO -- I'm not really completely familiar with -- since Bill Gates -- we are used to the fact that Bill Gates was Microsoft and Microsoft was Bill Gates. This is no longer the case. But, anyway, I'm fairly sure that the developers of the browser will have radically different points of view than the intellectual property lawyers, just to make two examples, in Microsoft, and they are both Microsoft.

 So I think that by having a flexible container where those points of view can be represented, that will allow Microsoft to have the development community to participate in the supplier side in a position to be defined, but in a flexible system, it shouldn't be difficult. And also on the consumer side, to be -- to have their interests that are related to intellectual property. Or just to the simple fact of owning domain names, be represented on the consumer side.

 And I think that we need to go to a system that allows this kind of flexibility, because otherwise, we will not be able to get all the completeness in the points of view that are presented to us in order to have a more complete PDP.

 Thank you.

>>BRET FAUSETT: Thank you, I'm Bret Fausett, and at least until
about this time tomorrow I'm the chair of the North American RALO. But
speaking in my individual capacity, I wanted to thank the Board
Governance Committee for this report. I think the goal was to improve
the GNSO. And having read it, I'm confident that if this report were
adopted, the GNSO would be tremendously improved. So I support this
report.

 Let me tell you a couple of places where I think things could be
emphasized and perhaps corrected.

 Tricia mentioned one of my points, which is that the report talks
about the importance of the chair. And it's sort of omitted in the
summary. So I think going back to that, you can't -- if you're doing
open working groups, you can't overemphasize how important it is to
have good chairs. And not only good chairs in the selection, but
giving them the tools they need to succeed. And that is both support
from ICANN staff to help them lead these groups, and also giving them
the tools they need to manage what are often very -- you're talking
about open working groups here. And I think -- I love open working
groups. Let me say, that's a key to this report, and I think you've
got -- if you adopt nothing else, adopt open working groups as the
mechanism for doing anything. But we all know, any of us who have been
involved in ICANN for any amount of time knows that there are people
who join working groups and they are disruptive. We know that there
are people who participate three, four, five, six times a day with
posts to the working groups, who can become -- trying to dominate the
working group and trying to steer it off in different directions. You
need to give the chair the tools he or she needs to get rid of those
people, to focus the group and keep it moving forward. Because you're
always going to have people joining working groups for, I think,
improper purposes.

 Second, I think you can't, again, overemphasize the importance of
scoping the working groups. And it is talked about in the report. I
didn't see it in the summary. But it is in the main report. But I
think trying to come up with something that you can actually start and
finish in a reasonable amount of time is very important.

 And, finally, as someone who's participated as an ALAC liaison to the
GNSO in the past, whatever this council is going to be, I would really
like to see the liaison roles continued. I think you envision that by
saying that the council should have good working relationships with the
other SOs. But I'd like to see it more formalized in the report when
it's submitted to the board as a whole that you maintain the ALAC
liaison, the ccNSO liaison, the other people who participate on behalf
of the other SOs on the GNSO.

 >>TONY HOLMES: Tony Holmes, chairs of the ISP and connectivity
providers constituency.

 Like a few other speakers, I'd like to start by offering thanks for
two particular points. The first is, I listened carefully to the
introduction from Roberto, and the acknowledgment that there are
specific issues for ISPs in terms of the structure is something I
appreciate that's been picked up. I'm not in a position to respond on
that point. It requires a lot of discussion within the constituency.
And so far, we haven't had the opportunity to do that.

 But we will come back to you when we've had those debates.

 Secondly, like other speakers, I'd like to thank the committee for the
work they've done so far and for, certainly, appearing to listen and
pick up the points that have been made in previous discussions with the
community.

 The main point I want to make, though, is something I've said before
during other discussions here. And it relates to the way this work is

going to progress.

 Standing back and looking at the report, there is an awful lot of work
in that, there's a lot of work to be done on the recommendations, both
by staff, by the committee, and in conjunction with counsel as well.

 And the time frames are incredibly tight. It concerns me that some of
the elements that are in the first phase to be done in three months,
they should actually help shape the discussion of some of the
additional work that needs to be done later. And I would advocate an
approach is taken that this is phased in some way, maybe in two phases,
and some of the things that we can accomplish in the first phase help
shape the second.

 That currently doesn't appear to be the approach that's taken. And
it's worrying, because if you stand back and look at the workload of
the GNSO, then it's pretty heavy. There's a lot going on there. And
we don't want to go off course on that. We don't want to drop any of
the current work that we have. But we do need to engage with you. And
I think that if you stand back and look at the program, it needs to be
shaped so that a phased introduction allows a quality product to come
out at the end. And I think we should all recognize that improvement
means constant change, not just one big-bang change.

 So my plea is that you take account of that.

 And on some of the more difficult issues, then that would give us
another chance to come back and have a dialogue that's certainly helped
progress this in the past.

 I'm not asking for it to be open-ended. It clearly shouldn't be. And
you have to have a hard-line date. But please make that realistic.

 >>ROBERTO GAETANO: Thank you.

 >>SUSAN CRAWFORD: Just very briefly, Tony, we are very concerned
about the time scales ourselves. And we have great interest in making
this work smoothly for the people who work so hard inside the GNSO.

 We see our role in the future as a committee as one of stewardship, of
trying to work with the community and with staff to make this a
successful transition. But we certainly appreciate the difficulties of
implementation that are presented by the report. Thanks.

 >>TONY HOLMES: Thank you.

 >>WENDY SELTZER: Wendy Seltzer, speaking here as an individual, for
myself.

 I first want to thank the committee up here for the work that's gone
into this report. And I think for a lot of very good things in there.
And so along with several of the people who preceded me here, I want to
express my support for much of this report. And specifically for the
introduction and stress on the working groups. I think it's very
important to parse out the various functions of these working groups,
to recognize that one of the key functions of the working group is to
describe the problem space and to flesh out possible solutions to that.
And for that, I think there's no reason to limit the number of
participants beyond making sure that the volume is kept manageable and
that people's new input can genuinely be heard.

 And that is not a place for voting or even assessing the level of
consensus at the initial analysis stage.

 And then probably it's not even for the working group to assess the
level of consensus on many of the issues that come forward, because
when the working group is open to all of the people who might have
ideas, there's little reason to expect that it will be balanced

representation as to the weights of various stakeholder communities in the output.

And so, speaking from some experiences on the WHOIS working group, there were places where the process worked very effectively to get new ideas into the WHOIS discussion and bringing forward refinements on ideas in the operational point of contact, and places where it worked, to my mind, rather less effectively when it tried to assess the level of agreement among this self-selected group on those positions. So I think perhaps it remains for the council to make the determination what is consensus once the various options have been presented, and for the working group to set out the options and to flesh out the arguments so that each is presented in its strongest light.

As to the earlier comment about incentives to participate in the council, I would think that the incentive comes from having an impact on the decisions that ICANN will make. And if that's not enough incentive to participate, well, then, frankly, perhaps we don't need quite so many of those people whose incentive has dwindled.

Moving to another issue here, since I come from long experience working with the at large and will be serving as the ALAC liaison to the board, I wanted to raise a bit of concern that I had with the definitions of user groups and still not seeing a home for the individual Internet user in these structures. I think it's -- I would like to see recognized that the individual Internet user, who may not be a domain name registrant, has concerns about the policies around gTLDs and should have places to make those concerns heard. Ideally, earlier in the process than when the GNSO has formulated a policy and is presenting that to the board. So I would like to see the individual Internet user as distinct, perhaps, from the commercial or noncommercial domain registrants recognized as a potential interest to be represented here.

Thank you.

>>ROBERTO GAETANO: Milton, just one quick thing, I'm getting concerned about time.

We are already at 12:30. We can't -- we cannot absolutely go beyond 1:00.

And so if the comments can be brief, and if we get to 1:00, I have to close, even if the queue is still open.

Thank you.

>>MILTON MUELLER: Yes. I'm Milton Mueller, noncommercial users constituency, the chair of that constituency. Some of you have heard my comments before, so I'm going to recite them in a somewhat perfunctory manner, because we've had meetings already. But there are people who haven't heard them, so I feel obliged to make them again. Generally, we are very supportive of the work of the governance committee so far, or the working group. We think that you listened during the initial round of comments. We think that you made a good-faith effort to implement the LSE recommendations and to modify and adapt them as appropriate.

We think that you got the stakeholder group structure right. We think that you've rectified a major problem that contributed to the ineffectiveness of the GNSO by imbalancing particular groups and marginalizing others.

We believe that you have defined sufficiently flexible stakeholder groupings that you would be seeing those in place for a long time and they could accommodate a lot of change.

Just to pick up on what Wendy just said about individuals, we thought

we read in there that individuals could join the noncommercial users and the commercial users, depending on which way they wanted to go. And this was something that we suggested in our comments, for example, and we're happy to see that that was in the report. I think there is room for the individual Internet user in the current stakeholder group structure.

We have a few concerns. We think that this report overstates the case against voting. We think that if you believe that minimizing or denigrating voting is going to make the world a more consensual place, that this is a naive view, and that there is a role for voting. We like the two-tier structure where you develop policy consensually at the working group level and then kick it up to the GNSO Council. We note that the council has to vote to create working groups, to create, adopt reports scoping the working groups, and that it has to select a chair of the working group, and that it has to then approve or somehow verify the report of the working group. Therefore, there is a significant role for the GNSO Council in this process, and that those will be, in fact, done through voting. And we would like to see the rhetoric of the report change a little bit to reflect -- to not completely denigrate voting, but to reflect the fact that you do need it in certain points, and to clearly identify when and where it's going to take place and what level it's going to take place.

The only other cavil we have with the report is that we think that the council is probably too large, that asking for each stakeholder group to elect four council members is at least one too many, and that it should be three rather than four would be a better number.

Okay. I'll leave it at that. Thank you.

>>ROBERTO GAETANO: Thank you.

>>MATT HOOKER: Good morning. I'm Matt Hooker with IDOA.info. That stands for the Internet Domain Owners Association. And we find that with regards to the working report, we'd like to add something to it, because most individual domain name owners, they're not represented at all. And they really don't want to be involved in the process of ICANN. 90% of the people -- 90% of the revenue, it has been said, that comes to ICANN is through the GNSO. 90% of the policy is being made in the GNSO.

The individual domain name owners are actually the basis of the entire Internet. They buy domain names and then people make a lot of money on the services for those domain names.

What we'd like to add to this report -- and most people who own domains all over the world, they don't want to get involved.

What we want is a simple bill of rights that clearly states what rights a domain name owner has, that is, someone who registers a domain name. And you're doing better about our ability to transfer these domain names to whichever registrar we choose. But you've made a big mistake in allowing price increases, because all the individual domain owners that I know, we all think that whatever price we buy a domain at, we're buying the right in perpetuity to renew that domain at that same price every year for as long as we want to keep that domain.

So I think you're in breach of consumer protection laws. And what we want is as clear --

>>ROBERTO GAETANO: Excuse me.

I -- those are -- it's really an interesting issue, and there will be part during this week to address this issue. But this is not in the scope of the GNSO review process. So I would -- you know, I would welcome your comments, but if you could keep them on the contents of the report, just in the interest of time. And there will be, later on

in the week, in other assemblies, the possibility of raising these kind of concerns.

>>MATT HOOKER: Of course. So, then, I'll be very succinct here. Individual domain name owners want to participate in this, but not actively. We want a set of -- a bill of rights that you cannot violate, no matter what you decide to do. That's how we want to participate, by default.

So we want a clearly defined set of rights that no matter what you do, that you can't violate those. And we don't have those yet. We don't have them clearly defined. And we think you've already violated some of them. So let's get that, please, a bill of rights for everyone who registers a domain name, because we think we own them. And, obviously, some of you don't agree. So let's get that cleared up, please.

Thank you.

>>ROBERTO GAETANO: Thank you very much.

We feel that by providing these containers by which, on the consumer side, there is room for hearing additional voices besides the ones that are present in the current constituency, we are moving towards what you would like to have. By having a presence for the -- the possibility of a presence for domain name owners in their own -- as a stakeholder group, that bill of rights issue can be pushed forward.

>> UTE DECKER: My name is Ute Decker. I'm a member of the GNSO Council through the intellectual property constituency.

In the interest of time, I want to be very short.

I would like to make, really, only three points. I would like to clarify that I think there is immense motivation from the business community and from intellectual property rights holders to participate actively in the policy setting as regards gTLDs.

I believe that the GNSO improvements are overall going in the right directions. We are focused here on the GNSO restructuring, because these are more contentious issues.

So on that, should the council get smaller? I think the council is going to be -- the GNSO Council is going to be very busy in the next years going forward and the work has to be divided between councillors. So I doubt the merit of making the council smaller.

How to reshape, if that is considered necessary, the constituencies. I notice that the summary of the report refers to business registrants and noncommercial registrants. And this may be a little bit of a misnomer that has started to heal itself already in the debate, and Michael Palage, for example, referred to business interest and noncommercial interest. And maybe that is a more appropriate way of referring to it.

I know that the category of business registrants is creating quite a lot of anxiety in the business sector, because I fear that involvement might be reduced to registrants' interest. So I propose that maybe going forward in the documents we refer to business interests.

And I also, as a member of the IPC constituency, do think that the intellectual property issues are specific enough and important enough to merit a separate voice one way or the other.

>>ROBERTO GAETANO: Thank you.

>>CYNTHIA HAGAN: Hello, my name is Cynthia Hagan and I work for a very much company that you mentioned earlier. I work for Microsoft and I work in the product development world, not in the policy development

process. And I actually very much welcome the move to working groups because of the fact that that helps my voice be heard.

As a member of product development, I don't make a lot of policy, and I don't really think in those terms. But I can participate very well in working group, because that's the way my job works. And I understand that model.

And I wanted to stand up here and say I support it because it's an example of the fact that you wouldn't have heard my voice, even right now, if this topic hadn't come up.

So I appreciate your work. Thank you.

>>ROBERTO GAETANO: Thank you very much.

>>PHILIP CORWIN: Yes, good afternoon, Philip Corwin, Counsel with the Internet Commerce Association, representing professional domain name investors and developers.

We do not yet have a formal position on this proposal. We find this workshop very useful and we commend you for your good work and, particularly we appreciate the remarks by the chairman here recognizing that our industry which did not exist at the advent of ICANN, has developed, and our members collectively own many millions of domain names and have a large stake in future ICANN policy development.

We appreciate the fact that it's contemplated that we will have a defined role going forward in that process.

And I think the key thing as we look at this proposal being further developed is if the policy development function is going to be migrating from the GNSO to the working groups working on these individual issues, we want to be sure that our industry has some assurance that if we wish to participate in those working groups on key issues for us, that we will have the opportunity to do so.

Thank you very much.

>>ROBERTO GAETANO: Thank you.

I see Thomas and I think that we should keep him as the last speaker. And then if somebody from the working group has some very brief ending remarks, and then we will close.

We are quarter to 1:00 now.

>>THOMAS NARTEN: Thanks, Roberto. So this is Thomas Narten.

And I've heard a lot of good things here, I want direction say like many other people here that I generally support the direction that you are going in.

And there are a lot of observations I can make based on, for example, my experience on the IETF where we have working groups and structures and so forth. Let me emphasize that I think the chairing of the groups and how they are run is critically important. And one of the challenges on the IETF side that we have had time and time again is identifying good chairs who were really up to the task in doing that.

So it's an ongoing kind of thing.

But one of the key things that I think that needs to be thought about in terms of whether this approach can be made successful in general is how are you measuring consensus or what is it you are trying to get agreement around? Because it's always going to be people who don't agree or who are kind of outliers. And in the IETF we say we have rough consensus when there are outliers or people who object to

something, but that's okay because the rest of the group thinks they
need to be overridden.

And I think the key question is how do you know when you can say that
and when you can't? And it's not really based on how many people are
objecting or who is objecting, but it's got a lot to do with what the
issue that's the sticking point is.

And you can't make a priori sort of hard ways of defining that. And
that's one of the reasons why I have trouble with the weighted voting
or voting in general, because it tries to put a particular interest as
having 20% of the say when a lot of times you have to judge the
individual issue in the broader context of how it impacts everything
and is it something easy to address or impossible to address and so
forth.

So I don't have an answer here but I want to encourage the working
group and the community as a whole what is the issue or overall vision
and theme that you are going to judge that a result is actually good
enough.

And I guess one other minor point is there's a discussion about the --
at the GNSO level, perhaps it be more process oriented.

Let me just express a concern there that it's very easy to come up
with sort of process managers that are very good at ensuring that the
process was followed, and you can still have very bad results.

And so you need to have a way of not just making sure the process is
followed for the process's sake, but to make sure that if the result
doesn't look like it's actually going to be good in terms of what it is
your trying to achieve and in terms of it being good for the Internet
community and so forth, you have to have a way of stepping in and not
letting it continue to go forward.

>>ROBERTO GAETANO: Thank you, Thomas.

If you can keep it in two minutes.

>>BRADEN COX: Sure. Thank you. My name is Braden Cox, I am with the
Association for Competitive Technology. And I would like to comment as
a complete outsider, I have been sitting here listening to the
presentations and I think two mysterious points I think the proposal
contains. And I understand the distinction and even maybe the need to
split between suppliers and consumers. But I think we have to think
about who are the suppliers here.

DNS registration is just one part of ICANN, so too is DNS resolution.

And the ISPs play a big role here, and I don't know why the ISPs
aren't part of the suppliers in this equation.

And second, I have never seen an organization that gives voting power
to the Nominating Committee. And I want to -- I would be interested in
understanding further what the rationale is for this.

And I think the key points here really is to think about that a lot of
people think that there's a lot of inside baseball with ICANN. And the
key point to really making things better, I think, from the eyes of the
public and general society is to just make it more transparent and
accountable and understanding the ins and outs.

So thank you.

>>ROBERTO GAETANO: Thank you.

So is there anybody from the committee -- from the working group who
wants to make a very brief closing remark?

We only have a few minutes left.

Yes or no?

>>TRICIA DRAKES: Just quickly.

I think one thing that's come across to me is really the view that perhaps some of the recommendations are actually going to reduce the effectiveness or the work of GNSO.

I think as Milton and Brent and others have brought up, really what is being suggested is really enhancing, in many ways, the responsibility and the coverage of GNSO, both -- not just in selecting the chair, going through scoping the document, but also all the way through the engagement and, at the end, I think there's a small part which says that one will evaluate, at the end, how effective it's been.

So I just really want to get that message across, because it's something, I think, that we're looking for greater engagement and in a broader way.

>>ROBERTO GAETANO: Okay.

Thank you.

So if there are no other comments, I would like just to briefly remind what's happening next.

First of all, I want to thank you all for the contribution that we will take care of all the comments that we have listened to.

And so we are going to -- The public comment period is still open, and we are going to gather further comments from the community.

And we are going to produce another draft roughly by the end of November. We're planning to present a new draft for the attention of the Board Governance Committee, who will then transmit it hopefully for the consideration of the board in the December meeting.

At the latest, in January.

Of course, unless there's an overwhelming number of comments that makes us think that we have to radically revise the document, which, in which case, we might need to take further time.

So that's basically it.

Thank you all for being here.

Thanks to the people who are following remotely.

Rita, are you still there?

>>RITA RODIN: I'm here. I'm here, Roberto.

>>ROBERTO GAETANO: Hi. Is there any remark that you want to make before we close?

>>RITA RODIN: I just want to thank everyone -- I sound really loud to myself. I wanted to thank everyone for their comments and for the recognition of the work that this group has put into the report.

We've tried to do these workshops and encourage and incorporate the public comments. So I appreciate everybody recognizing that.

And just to reiterate what Trish said and Roberto and I guess in response somewhat to Steve's comment. The intention and goal of this committee is really to make the council more efficient, effective and

productive so our hope is, in fact, Steve it will be more incentive for people to be on the council to oversee and direct policy and have more effective working groups to really promulgate policy that we all really need in the ICANN community.

 So we encourage everyone who is on the council -- Tony, Chuck, everyone who made comments, please do get any comments you have if you think that's not going to be the result of what we're looking to achieve because we would really like to hear them.

 Thanks.

 >>ROBERTO GAETANO: Okay.   Thank you very much, and on this note, I think that we can close the meeting.

 Bye.