

**Transcription ICANN Dublin
GNSO session Saturday 17 October 2015
Discussion of Motions**

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**On page: <http://gns0.icann.org/en/group-activities/calendar#oct>
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(Jonathan): Okay so let's recommence that session now we have the recording running. So this session is the first session to deal with the motions which are on the council's agenda at our Wednesday meeting during the course of a formal ICANN meeting.

We have two motions before the council this time around. The first is a motion to approve the working group recommendations from the data and metrics and working group.

You will recall the presentation from Jonathan Zuck this morning at which - are there any concerns or issues or questions regarding the motion having had that presentation of the work this morning.

Has anyone got any concerns they'd like to raise now? So just to make it clear for anyone who is not familiar with the process here I mean we' obviously had the background to the work this morning.

We have an opportunity to discuss the motions now to the extent that you would think that there is going to be any concerns or issues with those it would be great to hear them now.

We also have set aside a session on Tuesday evening which allows you to bring back any concerns you may have picked up on in your different stakeholder group and constituency meetings on Tuesday.

Ideally we'd anticipate those now but we also have a session to cover them. And the purpose being that we've had an opportunity to discuss and resolve any prospective contentious issues both here in the weekend sessions and on Tuesday evening.

It doesn't seem that this is particularly contentious but are there any issues that anyone would like to raise? Do you see any concerns arising from your groups or constituencies when you deal, when you put this motion before?

Okay so that's good it seems that we don't have any concerns or otherwise on that motion. The next one is the one that deals with the approval of the charter for the next generation gTLD registration data services.

And of course this we did hear about this morning also and clearly there is the charter is embedded in the report and to some extent the output of the joint group that the board GNSO group that did the work on that.

Would anyone like to make any comments? I mean this second motion is made by Susan Kawaguchi and I don't know that we have a second yet but I have a hand from Volker so go ahead Volker.

Volker Greimann: Yes just as a concern in recognition of the complex nature of the work that's going ahead and the volume that the report has. The registrar

stakeholder group has not had the opportunity to discuss the motion or at least the motion or at least the underlying final report at length.

And I expect the time that we have on Tuesday will also not be sufficient so there is a high likelihood that we will be asking for a deferral to be able to discuss this at length.

(Jonathan): Thanks Volker. Avri.

Avri Doria: Thank you Avri speaking. As I discussed on the mailing list I do think that this is an incredibly complicated process we're about to start. Again we haven't had time to discuss it in any detail but I really do believe that it needs to be gone through carefully in terms of the council and granted I am escaping that problem as such.

But it is not going to be easy to manage and I really believe that it needs to be looked at, it needs to be understood. There are a couple issues missing. I had brought up one issue missing which basically as I understand it those items that people asked for for example in comment NCSG had asked for the impact analysis the rights impact analysis to be done at every stage.

There was a comment that said no it should only be done at stage was it two? And therefore because there was a difference of opinion quite rightly it's not in there at all.

So that's a kind of problem that needs to be dealt with. There may be other issues like that. So I think rushing into this particularly intense thing without doing a charter review team it doesn't need to be drafted at this point but I really do think it needs to be reviewed and scrubbed.

So even asking for a delay at this point as Volker was doing is I think premature. You know, granted it hasn't been seconded yet so it doesn't even need to be delayed yet but of course it could easily be seconded.

So I really think that people should take the time to really review it before going down on it and make sure they understand how to manage this process because it is not going to be trivial. Thanks.

(Jonathan): Thanks Avri. Marika.

Marika Konings: Yes this is Marika I just wanted to respond to Avri because I think you weren't here in the morning when we spoke about - yes so basically I tried to respond as well to the comment you made because basically I think as the board GNSO process working group foresaw at the end of phase one or as part of phase one the requirements are defined including those of the requirements for the impact assessments that need to be done while the actual impact assessments will be done at the end of phase two when you actually have the policy recommendation.

And I think that is something how to - at least the board GNSO group foresaw that. And as I noted as well this morning there were a number of questions that indeed related to the framework and, you know, (stabbed) in filling the position.

Some of those issues that I think that were raised were either already considered by that group and, you know, maybe discarded or dealt with in a different way.

You know, some of them may be new issues that need further consideration but at least from a staff perspective we think that is something that the board GNSO then should discuss and see if that requires changes to the charter as it currently stands which is based on that process framework.

But I also noted that the framework itself or the charter itself has a lot of flexibility in it and in most cases it talks about, you know, at a minimum this needs to be required.

And also I think James made the same point as what happens if, you know, by the end of phase one you realize that phase two as it's currently structured doesn't mean at all your requirements are what you thought you would be doing.

And I think there, you know, the feedback or at least the response I had I think it is foreseen that this is indeed an ongoing process that needs to be closely monitored and course corrections may need to be changed along the way.

And that's something where, you know, the council will need to keep a close eye probably also in coordination with the board group that has been created to work with the council on this.

And what I suggested to James, you know, a way to do that maybe as well to either write in the motion that, you know, at the end of each phase the council has an obligation to re-confirm the charter or, you know, make changes as it deems necessary or even in the charter see if further language is needed to ensure that that flexibility is in place.

As, you know, this is going to be a long process and things may happen that may require either additional work or a different approach.

(Jonathan): Thanks Marika. Provisional response and then response from Avri and then to (Stephanie).

Avri Doria: Thank you, yes that all makes sense but I guess two things is one, I think that the GNSO does need to review the charter even at the beginning. That I don't believe that the GNSO and the council have actually done a scrubbing, a review of it.

So I agree with you doing it after every phase makes sense. Doing it at the beginning makes sense and then actually as you said if it does need to be

rewritten, not rewritten largely but tweaked so that there is a review after doing that one only.

And I don't think there are any major issues I just really think it's a jump into this deliberately and as opposed to just sort of yes it's hard, it looks like a lot of work, don't want to think about it now let's think about it later. I think you really need to think about it now.

(Jonathan): Thanks, I've got (Stephanie) and then Volker.

(Stephanie Perrin): (Stephanie Perrin) for the record. Firstly if you need a supporter for Volker's motion I'd certainly support it but I also agree with Avri. I think we need to discuss the whole matter.

I think I've got a pretty decent background in what this involves and I cannot figure out the logistics. I'm very heartened by what Marika is saying but we need to get our heads around what this means in terms of staffing and we're suffering from a bit of burnout at the moment with all the number of things that are going on.

Certainly those of us who have been working in the PPSAI group and the Whois conflict adding this on right now is kind of overkill. We'd like to figure out how we're going to staff this.

It's not the kind of a PDP where you would jump in in three years and be able to contribute effectively I would suggest. Thanks.

(Jonathan): Just for clarification when you said support for Volker's motion you mean the proposal to defer the motion the registrars - yes okay so I'll come back to that in a moment or maybe just make it clear before going to Volker.

I mean so a deferral is interesting. A motion is made and then a request can be made to defer. The purpose of the deferral as Volker alluded to is to create sufficient time to properly consider the substance behind the motion.

The opportunity to grant the deferral is in the discretion of the chair. And that discretion should therefore be exercised in that context. Is, you know, has there been sufficient time to consider the motion?

So for example had we had substantial presentation on this previously and it was seen to be that actually the purpose of the deferral was simply to slow it down with no good reason rather than to that might be a reason to refuse the deferral but that's just the context there.

So it doesn't need any support. If Volker or the registrars come back and say we'd like to defer the motion within reason that will be granted by the chair but based on the fact that it is assessed to be a good faith deferral.

So just to clarify that point. Let's go to Volker and then we'll come back any other points as we need to.

Volker Greimann: Thank you (Jonathan). Another point that we should be aware of is that this probably will be a high resource working group PDP which will take a lot of resources that are currently allocated in different areas or are expected to be allocated in different areas.

And we should be aware that once we embark on this that other work will likely either suffer or not be undertaken at all just because the (unintelligible) doesn't have the resources.

I'm thinking of a second round of new gTLD's, I'm thinking of other Whois efforts that are going on. Should these even, should even other Whois efforts be continued once we embark on this because once this working group is through then they may become moot at that point.

Just a couple of things to consider that once we are starting here and there will not be much left for other things.

(Jonathan): Okay thanks Volker. I've got Brett.

Brett Fausett: Thanks just to dovetail on what Volker just said. I have concerns also about the workload here because we do have the subsequent TLD issue coming up. At the same time I don't think we should shy away from work just because it's going to be time consuming.

A lot of our things are going to be time consuming and the fact that this is a large piece of work and the subsequent rounds PDP that I hope we create before the end of the year is going to be a sizeable piece of work.

That doesn't mean that we should necessarily, you know, defer one or defer them both or not do the work. You know, if there is work to be done I think we've got to figure out a way to resource it and whether that's asking for more participation from the people in our constituencies asking ICANN for additional staff for support I think we've got to do what is necessary to get the work done.

(Jonathan): Thanks Brett. I've got (Susan) and then James next then we'll try and pull the threads together on this.

(Susan): Well I absolutely agree with you so I don't have a lot more to add but I do think there are, you know, with all the new, the reviews coming out, you know, maybe we should look at all of those.

The other thing is and it's just with a little tweak that to the motion it was, you know, per the process, you know, you're supposed to do a call for volunteers within 10 days.

But then we also added the language that, you know, and that call for volunteers would be left open because I could see, you know, in 10 days if this was approved if this motion was approved, you know, people aren't even going to pay attention to this with all the accountability issues going on.

But I do think there is several major initiatives but as Brett said we can't shy away from that. This work all needs to be done in a timely manner. So I'm hoping we can move forward.

(Jonathan): I've got James I think next and then Avri.

James Bladel: So James speaking. Just hitting on some of the same notes that everyone else has is that one question or concern that I've raised I think in the past and probably bears revisiting is, you know, where are we in terms of capacity to take on work, you know, in the GNSO as a community and do we have any excess capacity, can we expand that capacity I think to Brett's point and to (Susan's) point about getting some additional volunteers because we've got this, we've got more in the pipeline.

And I think we have to recognize at some point that it's easier to launch a big project than it is to actually commit the years of human time to actually complete it. And so that's the recipe for a queue and backlog and we're facing that now.

And how do we, you know, it's this council's responsibility I think to either prevent that entirely or to see it coming and head it off or to prioritize the work that we have coming down the pipe to make sure that we don't just kind of get stuck.

And I think that's where we're headed now and to Brett's point, you know, the answer can't be we do nothing until the deck is clear because that's never going to happen.

So how do we take it on intelligently and I don't have an answer for you (Jonathan). I think that it really kind of it falls on us I think as a council to take stock of where we are, what we have currently in the pipeline.

How close is it to being completed because this is not and probably true for next generation second round but especially for this. This is not something where a newcomer no offense can come in and get up to speed quickly and take this on.

This is, you know, this is a complex PDP that's going to require some industry and community veterans to untangle some of the issues here and I don't see any of those with a lot of time.

(Jonathan): There's only one bit of good news really and that it's not my problem. But from your perspective that's a bit of news. Sorry I couldn't help it. Avri.

Avri Doria: I know exactly how you feel and I almost feel like I'm butting in on something that's not my problem. But anyway I want to be clear I wasn't suggesting that this not be done.

I said there is no choice about doing it this is a board requested PDP that council has got no choice but to do it. What I was really suggesting is to treat it like the serious piece of project management that it is and have a team of people from the council and elsewhere that, you know, understand managing projects of this kind and make sure that you go into it with eyes wide open and well planned.

As I say you can't suggest not doing this one. Any of the others, you know, the PDP future gTLD's you could postpone because that's completely up to the GNSO.

This one you can't this one is on the table you have to do it it's just make sure you're taking it on in a well-controlled manner and that's really what I'm

advising is have the charter review team it's not a drafting team but it's a charter review team where you take the time, you look at it and you make sure you understand how you're going to do it.

Brett Fausett: Can I follow Avri's point quickly?

(Jonathan): Yes go ahead Brett and it feels like we've got the landscape on the table here so I'd try to like try to bring it together.

Brett Fausett: Avri raises a good point that this is a board requested PDP and maybe that's our hook to go back to the board and say you asked us to do this, we're maxed out now you give us the resources that we need to get it done.

So they have put this on our plate so this is a perfect opportunity for us to ask for additional staff, additional consultants whomever we need to get the work done.

Avri Doria: But you'll have to tell them what it is you need.

(Jonathan): Marika.

Marika Konings: It is Marika. Of course from a staff perspective we have anticipated this work and have, you know, planned for additional staff resources to assist with this. So I think from that perspective, you know, we knew this was coming and it's not that we're now suddenly like who is going to be staffing this.

And if for example (Lisa Feifer) who was also working with the EWG and is an expert in this area is one of the people that will be helping us. So at least from a staff side I think we feel very confident that we'll have the resources to support this effort.

You know, not underestimating that either that of course it is a big piece of work and will also require a lot of community participation and engagement.

(Jonathan): Okay so that helps because really I mean the things I've picked up on this obviously there is the prospect we started off with the prospect of a deferral simply to get to grips with the substance of the motion.

There is the subsequent suggestion that the motion could be withdrawn temporarily in order to regroup and figure things out. There is the prospect of reviewing the chart.

I didn't think just to be clear Avri and make sure we are in agreement on this. What I understand you to be proposing is a careful review of the charter by whom?

I mean we're not proposing - yes the council you're not proposing a charter drafting team or it's given the unique nature of the way in which it has been crafted this is more reviewed by the council just combing over and checking that it covers the bases.

Yes okay. So and then there is a question of just say we did go through and approve the motion at our meeting there would still be a question of when the work commenced.

Now (Susan) pointed out there is a procedural point which is do we send out a call for volunteers because we have to within 10 days that's what our process is. Personally Marika do you want to respond to that point quickly?

Marika Konings: Yes that is not a requirement. I mean we've put that in normally to just say like once the charter is adopted, you know, let's move on with it and we usually put in within X amount of days.

But the council could hearsay as well in four months time. I don't think it's prescribed in the operating procedures that it has to be within a certain timeframe.

(Jonathan): That's helpful clarification because one thing Marika and I talked about in a kind of offsite prep session for this meeting was the prospect of just given the self-evident workload and landscape as to whether we put that call out for example earlier in the new year and commence the work then which might give some time for pause and thought.

So it's an interesting point how we deal with when we have the motion. I mean certainly it feels like something we should at minimum just discuss with the board a little bit.

Say look you might not be aware this is the first time you had a board initiated PDP. This is a substantial and multi-faceted piece of work. We know that work has been done with the joint committee but we're simply concerned about community capacity.

And so I'm trying to think of a pragmatic way forward. Any suggestions as to where we go from this given that's a little mini landscape of options. James.

James Bladel: So yes sorry no solution just an observation of a different kind of problem which is that if we go back to the board, you know, the way that you mentioned I think that we need to be very careful with that approach because we have all of these other PDP's.

I know there is concern for example about the second round and there is concern about capacity for the review of RPM's. And so we can't I think send a message to the board that well we don't have time for the thing that you started because we're too busy doing the things that we want to start.

I'm concerned about the message that sends as far as, you know, it's either subconsciously or tacitly prioritizing our initiated PDP's over theirs. And so I think we need to find a way to interleave those together or put them all on hold pending some sort of something coming off the pile.

Just a note that, you know, of cautious about going down that path.

(Jonathan): So that's very wise and that makes sense but that doesn't stop us talking about the fact that there is a sizable amount of work one item of which is this and so that certainly can be a topic.

I wonder how we could do this because it seems to boil down to I mean no matter what there is some refinement work to be done or at least a review to get fully comfortable with what's in the charter.

There appears to be a window of time needed to be created to either to achieve one of three things really. Proper consideration of the substance and potentially doing that (unintelligible) deferral or a remaking of, you know, withdrawing and remaking of the motion.

And we don't have to decide this now I mean you can discuss it in your groups as well and we can come back and sort of round off this discussion on Tuesday evening. That may be the best way to do it.

But we certainly have as far as anything what the board is concerned - and what I'm mostly hearing is that the council is probably going to have to do some work in the relatively short term about evaluating what gets done when and how and what, you know, when we think community resources are going to be available.

And the simple reality is that given where we are here now I mean we've got November, December. I can see the transition and related matters pulling continuing to pull resources out of the community for at least the next couple of months.

And so that's something to - and again I think it's reasonable to raise that with the board. So perhaps rather than decide now that the most likely outcome is

a deferral or a withdraw of the motion perhaps we should just mull it over, talk it over with our groups and then come back and try to decide this on Tuesday evening. (Stephanie).

(Stephanie Perrin): Thanks, (Stephanie Perrin) for the record and I'm guilty of focusing on this because it's a key issue for me that I'm interested in but it does seem to me that unless our colleagues downstairs that are working on accountability pull a rabbit out of a hat accountability will stay on the table for a while.

This is an issue that ICANN's fought over for the last 15 years. The EWG I'll be shot if I say it was a failure because my colleagues are around but it wasn't an unmitigated success let's say that.

It's really critically important that this be done well in a way that reflects positively on the multi-stakeholder model in my view. And given the burnout we're all experiencing because of what's going on downstairs I don't think we can achieve it right now to be frank.

So I think it's really important that we figure out the timing. Maybe that means some serious looking at a council level that project management how we're going to do this thanks.

(Jonathan): Thanks (Stephanie) and as Marika reminded me there is no reason why we couldn't talk about the boards view on timing. Maybe they're not in such a hurry given everything that's on their plate.

You know, we're assuming that they're jumping at the bit. So I'll give a last word to (Rubens) and then I suggest we move on from this for now. I don't think I would try and force us to a conclusion at this point I think we've aired the issues quite well. Go ahead (Rubens).

(Rubens): I wonder whether such efforts will be hindered or not by the European court of just decision that (locked) in fact we (locked) in safe harbor which will probably need to be factored into such a discussion.

So my personal opinion should probably defer that until we actually know the implications of that decision. That can change much of the structure or much of the decisions along.

So I don't know if you have yet knowledge to the (unintelligible) of such decision.

(Jonathan): I'm in no sense going to even attempt to make any kind of answer to that but it would be interesting to add that to the board and just ask the board if they're doing anything about that if they've commissioned any work both in dealing with that if there has been any work commissioned within ICANN to assess this.

And I think we have this elsewhere in our interactions so that's a good point. So if we could add that as a sub-bullet Marika, Mary into the discussion that would be great.

Okay, so let's draw a line under that item

END