
ICANN76 | CF – ALAC Hosted Community Session: Unfinished Business and the Role of the ODP
Thursday, March 16, 2023 – 09:00 to 10:00 CUN

YESIM SAGLAM:

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With that, I will hand the floor over to Jonathan Zuck, ALAC Chair. Thank you.

JONATHAN ZUCK:

Thanks, Yesim. And thanks, everyone, for coming to this session: Unfinished Business and the Role of the ODP. This is sort of borne of a little series that we had going that we were calling Unfinished Business. The first one was related to applicant support, and we held a session on that because that felt like something that had come out of the Subsequent Procedures Working Group unfinished, right? And then the next session was on closed generics. And I don't know if you recall, but that's where we had the applause meter as [K]athy and Mar[c] debated the topic of closed generics.

And the topic here was meant to be auctions as the next unfinished business of the Subsequent Procedures Working Group, but because of the completion of the ODP and the fact that two of those topics have become new working groups of a sort—I know they all have specialized names now, but there's two little teams working on those issues—and auctions at this point is taking a different path, it seemed interesting to

have a more generalized discussion about how an ODP fills the gaps, so to speak, when the staff are put in a position to make policy decisions because the community has left them there and how that should be addressed by the Board, etc.

And with two of these under our belt, it seemed like a good time to talk about the process generally and how people feel about it. I'm sure it's just the beginning of the conversation. So I appreciate everybody coming to start this conversation and talk about it.

So just by way of talking about the panelists and how they were selected, these were all folks that have been very involved in this process and therefore seemed like the right ones to discuss some of the implications of the ODP.

Becky Burr, here to my right, is the current ICANN Board Director. She's also on the Board Caucus on the new gTLD subsequent procedures policy development process.

Heather Forrest is a past chair and past vice-chair of the Generic Names Supporting Organization. She's also a past councilor of the GNSO Council, which is responsible ultimately for developing the policy around new gTLDs.

Alan Greenberg is a past At-Large Advisory Committee chair. He's also the ALAC-appointed representative to the System for Standardized Access and Disclosure Operational Design Phase, or SSAD small team, and he worked quite a bit on the EPDP with respect to GDPR that led to that SSAD effort.

And finally, he almost requires no introduction. I don't know whether or not Jeff Neuman made it into the new Dungeons and Dragons deck of cards, but there's probably been no single individual that's a more dedicated knight trying to slay the Subsequent Procedures dragon. And that's Jeff Neuman, who was the ODP liaison from the GNSO. He was one of the co-chairs of the Subsequent Procedures Working Group. And so probably there's almost no one that has had more points of entry into this process overall.

So thank you all for being a part of this discussion.

So one of the questions, rather than ... Oh, I'm sorry. I skipped over you because I was trying to do the women first. Sorry. Do I have Lars?

UNIDENTIFIED FEMALE: Lars needs no introduction.

JONATHAN ZUCK: Yeah, Lars wrote the ODA. So we can blame everything on him. I guess I don't have a bio for you in front of me. I apologize. I don't know how it happened. He's the Senior Director of Policy Research and Stakeholder Programs. He was involved in the ODP process, and we really wanted to have somebody from Org staff be made available to talk about, well, how that process meant and impressions that you have from how you attempted to bridge the gap when you saw, lack of a better term, holes in the policy development process. So sorry about that, Lars. Don't worry, we'll be coming to you a lot.

So one of the first questions I wanted to ask—and I thought I would direct it at Becky—is, how does the Board decide potentially when something rises to the level of requiring a GGP or a small team or whatever the latest and greatest sub-working group is called as opposed to something that is developed by staff or the Board in terms of solving something that might otherwise be considered a policy question?

BECKY BURR:

So the Board has a lot of these caucuses and working groups, and sometimes we think that there's a massive proliferation of them, and people try to figure out how to consolidate. But usually it turns out that, when a policy issue reaches a certain point in the community— a PDP is being formed; a PDP is ongoing; there is work between the Org and community on certain things—the Board will have a role in it ultimately in the sense that policy will come up to the Board. A question comes up: how do we best keep on top of this issue? Also, we appoint liaisons to various working groups. And so the timing on when one of these working groups or caucuses form within the Board varies quite a lot.

I call tell, with respect to SubPro, for example, the SubPro caucus was created a long time ago while the SubPro PDP was still working. And the reason that we created the SubPro caucus was actually that it was involved in monitoring the policy development work, but more than that, it was a vehicle for educating the Board on the complicated issues that we know would be coming to us.

So we did, for 18 months, weekly or sometimes every two weeks, deep dives on specific topics. So we had a specific call on auctions, a specific

call on closed generics, a specific call on community preference evaluations. And that started out for purposes of education. And then we have obviously liaisons to the process, and so we could hear about the developments as they were going along. And then once the policy recommendations came up, we started switching gears to the issues that we saw in the policy recommendations themselves.

Now, we had comments on those policy recommendations as the policy development process was working its way through, and we think that's probably most helpful: if we see an issue, we say something about it as early as possible to give the issue most efficiently back to the community, where the resolution belongs.

JONATHAN ZUCK:

Thanks, Becky. And what do you imagine the process will be going forward on auction in particular?

BECKY BURR:

So on auctions in particular, the Board has expressed concern about private auctions in particular. And I think the next step will be to enter dialogue with the GNSO Council on that.

Now, the GNSO Council will have to reach out to the GNSO constituencies to get input up to that, but also we have ALAC advice, we have GAC advice, and SSAC advice. So we have all of those other mechanisms. And we will take that input with us into our conversations with the GNSO Council. It's unclear to me where we will land and how we will proceed. It's possible that we could have a conversation, and the Board's concerns are resolved, and we move forward without

changing things. It's possible that the Board, after consultation, will say, "No, we really are uncomfortable with these private auctions because of the various ways it might affect the application process and the outcomes," in which case, if the Board says, "Prior to voting on this specific issue, we're not comfortable with that," the council will have the ability—may have the ability; it depends on how the issue is framed—to use their authority to modify a policy before it's approved. Theoretically, the council could call for another policy development process. I very much we can have our conversation in a way that avoid that need. But we can't predict in advance where that will go because we are entering into this with an open mind with the purpose of having a conversation with the community.

And I just want to say one thing because I know this has been a concern. We've framed this in the resolution that you will hear today as a consultation with the GNSO Council, but that is because that's where the policy recommendations came, and that's where we need to start. That is not to say that that usurps any of the other vehicles in the bylaws for other parts of the community to enter into conversation with us.

LARS HOFFMAN:

Just quickly to add to what Becky said, in the ODA, there's a mentioning that there might be value in consulting with the third parties, with experts, who understand auctions and especially how to avoid any gaming aspects thereof, which I think was one of the main concerns that the Board has expressed about. So I think that is also something we can explore during the implementation process around that. And we're planning to do so.

JONATHAN ZUCK: Thanks, Lars.

I think Heather has her hand up on this topic of the criteria to use for when things are pushed back. So Heather, are you with us?

HEATHER FORREST: Yeah.

JONATHAN ZUCK: Go ahead.

HEATHER FORREST: Thanks. And I'm so sorry I'm not there in the room with you. I was there until Monday afternoon and had to return to rainy old England—rainy, cold, old England, I might add. But it's really lovely to be with all of you today. I just want to make sure that we're careful here that we don't muddle together two very distinct concepts. So I'd like to speak generally rather than about, say, auctions specifically. I'd like to push us back to the general concept of an ODP.

And to the question that you're specifically asking here, Jonathan, about the criteria to determine when a discussion is sent to Org or the community, these two questions or these two concepts that I think we're risking muddling together are both important. They're interrelated, but they're nevertheless distinct. And the one is, what is policy versus what is in scope in implementation, or this sort of PDP versus IRT question. The other is, what do we do with the issues that the

PDP cannot agree on? It's tempting for many reasons to ask by corollary, how does the OPD or even the IRT deal with this? But in my view, that's not asking the right question because it's not for the IRT or the ODP to fill in the policy gaps where the PDP has or cannot. This is firmly within the GNSO's bailiwick. This is Article 11.1 of ICANN's bylaws.

The challenge that we have, I think, is that the GNSO operating procedures give us the various consensus designations. And they include in that the option of strong support but significant opposition, which is defined as "a position where, while most of the group supports a recommendation, there is a significant number that do not support it." And the ops procedures also give us divergence, which is also referred to as no consensus.

So it's very, very clear, whether we like it or not. And maybe that's the question, Jonathan. The GNSO is clearly empowered to assign those designations in its final report. And so it's not wrong for doing so. This isn't me castigating a PDP or a PDP leadership for assigning those designations because they're there, and they're there to be utilized. But we have no history as an organization—and by this, I mean not just the GNSO but the entire community, plus Board and Org—in dealing with this situation of where we can't agree effectively.

I served as GNSO chair at a time when we took the unprecedented step of terminating one PDP that had run on so long with so many issues [on the difficult] end of the consensus spectrum that ultimately legislation was put into place but we had really no choice but to terminate the PDP, and another PDP that ran so long with so many issues at the difficult

end that effectively we had to recharter or re-form it because it had run its participants down so much that we were down to no members.

This I think is the heart of the problem, and I think that's probably, Jonathan, for a session for the community to talk to the GNSO about. How does the GNSO handle this? It's not so much, how does the ODP handle this? Thanks.

JONATHAN ZUCK:

Thanks. Good points, Heather.

Becky, you wanted to chime in?

BECKY BURR:

Yeah. I just want to say, since we're raising this up to a general rather than a specific to the SubPro, that one of the issues that comes up in implementation—and we hear people complaining about this all the time—is efforts to relitigate. There's another way to think about that, and I think it's an important thing that feeds directly into whether we need an ODP or not, which is that sometimes the language in the recommendations is ambiguous enough to mean something to everyone that's a little bit different. And so we accuse people of relitigating when actually they're in a room asserting their understanding—now, this is not always the case—of what the words are. Sometimes there is just plain old re-litigation, but okay. But I think we need to acknowledge that sometimes the PDP language is insufficiently clear about what was agreed on that the IRT gets bogged down [with].

Now, I want to say clearly that I don't see that in the SubPro final report. I think the SubPro PDP did an amazing job of being very clear with respect to the language, being very clear with respect to the level of consensus and divergence from consensus, and provided volumes of information of the legislative history that will help us. But we have had lots of PDPs where people accepted language that meant a lot of different things, and that created problems, and that fed into the need for an ODP.

JONATHAN ZUCK: Thanks, Becky.

Oh, I see Jeff Neuman in the queue on this general question, I guess.

JEFF NEUMAN: Yeah. Thanks, everyone. Sorry, I couldn't—

JONATHAN ZUCK: Thanks for being here.

JEFF NEUMAN: Yeah. So one thing I want to say too is that it's interesting—and it's something that I had quizzed the GNSO Council on ... For almost all items, the SubPro Working Group got full consensus or consensus designations. There was one item, the closed generic issue, which was divergent. That was clear. There was no prevailing view. But the auctions one is an interesting one because that was actually strong support but significant opposition. But the council, rather than sending

that recommendation up to the Board, decided not to send that recommendation up to the Board because it said there was no consensus. And to me, that actually did the community a disservice because, yes, there was significant opposition, but there was also strong support for what was proposed. And to keep that from going to the Board to consider actually puts us in a position where we're almost forced to re-litigate those issues, even though technically the Board really should have been provided with, "Here was the proposal that got a lot of support. It had significant opposition, and we should work on that."

So I always found that interesting, especially for something that doesn't require what I'll call a capital-C/capital-P Consensus Policy. Those things are generally reserved for policies that have an impact on legacy gTLDs or registrars and therefore would have to change their contracts. But in this case, for a new TLD process going forward, it was bizarre to me personally that a recommendation that had strong support, including the general opposition to private auctions, couldn't go to the Board because it didn't have "consensus."

So that's just one thing to think about and consider for the future.

JONATHAN ZUCK:

Thanks, Jeff.

Lars, what would you say were the biggest challenges you faced—the staff faced; I didn't mean you personally; I was joking before—in trying to put this document together in terms of the output from the Subsequent Procedures Working Group.

LARS HOFFMAN:

Thanks, Jonathan. I have to think about that. So it's a very comprehensive document. I'm going to start maybe with what worked really well or what was easy. We have a good relationship that we started, as Becky said, with the caucus. We've been working on many of these issues before, so I think it was very helpful, both for the caucus and for staff, to dive into the various topics with a lot of understanding already.

I think Karen Lentz, Vice-President of our team, also contributed and worked with the PDP that was going on.

And I think, overall—I mean, I'm going to be speaking quite freely—the amount of recommendations and implementation guidance was very large. And so I think one could have a conversation about the policy development process to what details and how many recommendations and how many [inaudible] are required to improve a process. Could the same results in the same intention that the working group had maybe been achieved with a leaner report?

So I think, for us, it was a bit of a challenge at least in the beginning to really get a good overview of the over 300 outputs plus the annexes to not just understand each individual recommendation but also see the big picture of what we are trying to achieve here and what we're trying to improve, globally speaking, compared to the 2012 round.

For example, if I can just add one tiny thing to do, if a PDP ... Essentially what is happening here is they revised a policy from several years ago and a process as well. So I think what would have been helpful for staff

and I think for the Board too and for the wider community is to really have a concrete list of—I'm making up a number—25 things that didn't work last time around for the community and why they didn't work. And I think that could have then guided maybe a very focused document on how for next time around we can address and improve and change these things that happened last time.

So I think that also goes a little bit—if I can just hang on to the microphone for one second longer ... You started off with the improvement of the PDP process. I think a close relationship between Board['s] working groups and staff, especially towards the end of the PDP, would be very helpful and, in many cases ... We have Satish and Hadia over there, who I think are on the IDNs EPDP, where I think staff has been (and Edmon, the Board liaison) very helpful, not taking any responsibilities away from the group but simply informing them of some of the implications that some of the draft recommendations might have. So helping the group to formulate better recommendations through a collective brain, if you want, I think is something that probably will go a long way to make the whole multistakeholder process and the policy development process specifically maybe more effective and efficient. Thank you.

JONATHAN ZUCK:

Thanks a lot, Lars. And I think it's important for all of us to remember that we're trying to objectify this discussion now. And this isn't about critiquing anybody's work or anything like that, where it's all a go-forward thing. I know that the Subsequent Procedures Working Group attempted to address part of what you're saying by suggesting that the

2012 was a de facto, a status quo, and that it was only consensus changes in that that would make their way into the report. So I know that was part of Jeff's and the rest of the work group's effort at that very thing of limiting what came out.

Jeff, do you think that the process would have benefited from more staff intervention or implementation guidance along the way? I know your hand is up, so I don't mean to derail what you were trying to say, but that's my question.

JEFF NEUMAN:

No, I think it's related, so thanks. I think, first, just on what Lars said, we have to go back just for some context. So if you are older like me and others, you remember that the 2012 round was a result of the 2007 policy. And the 2007 policy was very high-level. It was like Lars had said, where it was, like, the top 25 recommendations. But they were so high-level that what ended up happening is a five-year period where ICANN staff then tried to implement it, and we had so many more discussions with the community that it took so long because the recommendations were so high-level.

So what SubPro tried to do this time around was to say, "Okay, it was too high-level the last time. Let's affirm what we liked from the last round, which may not have been in the original policy. So let's add that to the policy, and then let's have a bunch of outputs that relate to what changes need to be made." So a lot of those 300-whatever outputs are actually just affirming what happened the last time. So that's a pretty substantial portion of them. And that's only to make sure those things are now put officially into the policy for posterity, for future, for all of

that. So while I understand it's very detailed and there's a lot of outputs, it's kind of the reaction of what happened from the 2007 round to the development.

And then, more specifically to your question, absolutely, 100%, staff—"we" being first the group with Avri and I as the co-chairs; so this was before Avri was on the Board ... I can't tell you the number of times we wrote and we had conversations with ICANN leadership to please show up to the meetings—and not only that but to contribute. And so ICANN GDS or GDD or whatever they were first started showing up at the meetings but they didn't say anything.

And then I think now we're more into Cheryl when Cheryl became one of the co-chairs. Cheryl and I went to Fadi and Akram and others and basically said, "Please don't just send people—that's great—but actually feel like you're free to contribute."

And it really wasn't until, I would say, the end of 2019, where ICANN staff drafted its first assumptions document, that I think we got the message home to them that, "No, really, you should do more than just observe some of these meetings. But we really want your participation."

And to be fair to ICANN staff, before that, ICANN was what I would call gun shy in the sense that, every time they would participate in anything prior, they were always chastised by one group or another for the opinions that they were expressing. And so they were almost scared to say anything in any of these groups.

And Cheryl and I tried to make ICANN GDS staff/GDD staff comfortable. And any time we knew that there was going to be participation, Cheryl

and I really said to the group, “Look, guys. This is a benefit to us for them to participate. You may not like what they have to say, but let’s invite them in. Let’s make sure we hear them and address their concerns.”

And I think, from that point on, we got not only participation from ICANN staff but I think this is one of the first PDPs where the Board actually responded during comment periods. And the GAC officially responded to comment periods. So this is something that now happens a little bit more often, but I think, by the time we got the Board input, it was a little late in the process. And by the time we got GDS input as well, it was very late in the process. And some of us were scratching our heads, going, “Karen and others, you’ve been at meetings for two years so far. How come it’s only now that we’re hearing this input?” And I understand why that was the case, but moving forward, hopefully ICANN staff feels more comfortable in providing that input at a much earlier stage. Thanks.

JONATHAN ZUCK:

Thanks, Jeff.

I wanted to go to Alan, who is our representative from the first ODP to express ... You saw some disconnect, I think, between what you believe were consensus policies that came out of the work group and how they were expressed or interpreted in the ODP process. What was your reaction there?

ALAN GREENBERG:

Well, for part of the answer, you have to go back a little bit in history. The original design of the ODP included something called a community

design feedback group, which was a group with wide representation to try to make sure that the ODP stayed on course and was correct. There was a lot of objection to that because, to be honest, the design of that community group was overkill. It was convoluted. The processes were complex. And everyone in the community said that. The reaction was to eliminate it completely and replace it with a liaison from the GNSO, not necessarily even a subject matter expert.

And certainly for the first ODP (the SSAC one), that ended up causing significant problems. The process for the ODP was complex. They were given a 200-page document with a lot of convoluted, interwoven recommendations and tried to translate that into some sort of reality that could be implemented. And they did a pretty good job. The number of errors was small, but the impact of the errors was significant.

So there were some decisions where they were misinterpretations of what was said. There was some design decisions that were actually changed in the process. And as a result, a lot of the goodness disappeared because there was a focus on the problems.

There were also, I believe, some misjudgments in how the data was presented, which I think would have been viewed very differently if it had been presented differently, particularly the financial ones. The costs were portrayed as a cost to ICANN, where much of the cost, for instance, was a passthrough cost, and someone was being charged and was paying for value and therefore it shouldn't have shown up as a real cost.

So there were a whole number of things that I believe, if there had been community feedback along the way, could have been corrected.

Now, that wouldn't have changed the overall design of the SSAD which, from a PDP point of view, from my point of view, had some problems in it. And the Board's decision not to implement, I believe, was a wise one, regardless of these little details in the OPD and the ODA.

But nevertheless, I think the ODA would have been different and viewed differently if these things had had a chance to be corrected during the process.

JONATHAN ZUCK:

Thanks, Alan. That raises this question of what sometimes can be the habit inside the ICANN community of throwing things over a transom. In this case, we threw the report over the transom, along with Jeff, I guess, and had that as our primary community input.

Lars and Becky, what do you think about this idea of more community engagement along the way, conveying legislative intent, or whatever the right way is to describe it is, in the process of the ODP? Is there enough of a feedback loop there?

LARS HOFFMAN:

Thank you, Jonathan, and thank you, Alan, as well. I'm going to answer this slightly differently. So the policy development process foresees that the community makes recommendations and implementation guidance, and they're free to do so within the scope that they're given. I think what we discussed earlier ... It is going to be very helpful—and maybe we weren't as good as we were in the past—to make sure that the working group has the input from maybe even a Board liaison, from staff, not on what they should do but what impact their

recommendations would have the way that staff interprets them. And then the working group can go back and say, “You know what? You interpreted this very wrong. We want actually something very different,” and can, based on that, clarify the recommendation. I think if we got to a place like that, that would be very helpful.

On the point that Alan makes, I have to be honest ... And I’m all in favor of community consultation and participation. I think there’s a big role in that for the communities involved in the implementation process through the IRT. What you have seen in some of the IRTs in the past—I hope I’m not overstepping—is that the IRTs, like very few ICANN groups, are obviously not a coherent body. Many policy recommendations receive consensus, but that doesn’t mean they were unanimous. And so there’s often, I’m going to say, at least attempts maybe to revisit some items, which is not the place that should have happened during the PDP.

The ODA is a process in between. The document at that moment lies with the Board. And to my view—Becky might very well disagree—the Board is asked to make a decision on recommendations that have been approved by the GNSO Council. And the Board has said, “This is a big report, potentially with a big impact (resource and timewise), and in order to make a decision on whether these recommendations are in the best interest of ICANN or the ICANN community, we would like more analysis on what the impact of that recommendation that was sent by the community would mean.”

And what we did during, I think, both ODPs, once we weren’t quite sure what the recommendations meant or how to interpret them, is we went

back via the liaison, asked the council, and received answers on that. And that helped us.

But having the community provide feedback on our analysis? To me—I have to be honest—it does not quite feel right. The Board has asked us for analysis, and that should be the Org analysis.

Now, should the community be able to also send their analysis of what the report means to them and what it should achieve to the Board? Absolutely. I don't see there's any issue with that. But this essentially is a request from the Board to the Org. And the reason it was only the GNSO Council liaison and not a broader liaison was because the document was at that moment in the hands of the GNSO Council. They had approved it procedurally, and they had sent it to the Board. So it is for the Board then to go to the council and ask for clarification.

Now, if the council wants to say, "Okay, let's go back to the working group and ask them what they think before we give our feedback," that's the prerogative of the council. No concerns about that. But I think procedurally it would be a bit strange. The Board receives it from the council and says, "Well, how does everyone else think this is meant?"

So I think the process, in my view, was right.

Now, can improvements be made? Absolutely. We had only two ODPs, so I think, if we had a three one, we'd want to learn what would happen and improve on that, obviously. Thank you.

JONATHAN ZUCK:

Thank you.

Go ahead.

BECKY BURR:

I'll try to be quick. But I think, Alan, that, when you were talking about errors and misinterpretation, you were talking about the SSAD ODP, not the ... I think that that's a critical point in time.

The way I'm about to characterize what I'm saying is mine alone and not the Board's. But I think that there was an awful lot of magical thinking involved in the SSAD EPDP Phase 2 recommendations. And the problem was that the recommendations weren't clear because, in some cases, people were preserving the right to argue about things down the road. So when you say they're wrong, I bet that there are people out there would say, "No, these interpretations weren't wrong. They were right." That's the re-litigation thing. Unless you get the language crisp and precise, you're going to have the ability to interpret things in different ways.

And so, first of all, I don't disagree with Lars. I do think that the way that the process proceeded in both cases was proper. But I also think that the difference between the clarity, notwithstanding the complexity of the SubPro PDP ... There was a difference between the clarity of the output, and there was also a significant difference between the agreement with the group itself about what they were deciding on. I really do think that the EPDP Phase 2 policy recommendations ... That PDP process should be something that we take apart and study really hard in connection with the review of the ODP because I think there is a lot to learn there.

JONATHAN ZUCK:

Thanks, Becky.

Alan, you're next.

Everyone, let's try to keep your interventions short because they're all going long, and I want to make sure that we leave time for community questions and things like that. So I don't mean to land that on your head, Alan, but you'll be the first to set the new standard.

ALAN GREENBERG:

Okay. Partially, I agree with Becky. Certainly, the PDP did have a lot of magical thinking. There were a lot of things in the output that were not clear. And there were probably things in it which were ill-advised. And, yes, the PDP process itself I think needs some investigation to find out why that happened or understand why that happened. No question about that.

But there were also things that maybe were unclear but there was no question what they meant among the PDP participants that were interpreted differently by the ODP group. And there was at least one issue which was crystal-clear, had full unanimity in the group, and was implemented differently. A different liaison from council might have caught that, but we're not talking personalities here.

But the bottom line is the Board is going to make a decision based on the ODA, and it's really important that the ... Now, that doesn't mean the IRT and the final design will follow the details of the ODA, but if there's something crucially different which will influence the Board's decision whether to go ahead or not, then it's really important to catch that early, not late. And those are the kind of things I'm talking about.

It's not an issue or re-litigating. It's making sure there's clarity or making sure that staff understands there wasn't clarity. And maybe they have to make a decision because someone has to along the way on some issue that really isn't policy but needs to be decided.

So as I said, different liaisons may have affected it, but you really need subject matter experts, and you really need people who were involved in the discussion actively. And I recommend, as [did] the original design—several ... I'm just not pushing my idea and trying to force it through, but I want to make sure there is clarity and we are respecting what the PDP said when they actually said something clearly. Thank you.

JONATHAN ZUCK:

Thanks, Alan. Yeah, it's interesting that a couple people brought up this idea of magical thinking because another interesting aspect of both ODAs is that they both came back with numbers that people had difficulty accepting and then an Option 2 in both cases. There was a, "Yeah, but if you're willing to accept this other alternate way, here's this." And that to me suggests the possibility that maybe we're asking a lot of both the community and the staff in terms of what's in the industry called business process reengineering and that maybe outside help earlier even in the work group process and in the ODA/ODP process might be beneficial. So perhaps that would avoid some of the magical thinking that might lead to some of these really enormous numbers that have come back.

In my queue right now, I have Jeff. We're twelve minutes left, so, everybody, try to be, again, quick because, if there's other questions, we want to be able to get to them. So, Jeff, please go ahead.

JEFF NEUMAN:

Thanks. I just wanted to briefly go over what the GNSO Council liaison actually does or did, at least for the SubPro, because I wasn't privy, obviously, to the SSAD. But I was the GNSO Council liaison, and I got to tell you, I really was treated as a liaison. I mean, I had monthly meetings, but almost all of the were just to talk about the status of deliverables and what was coming out [and a] assumptions document and also to go over questions that were being asked of the GNSO, not even really to go over answers, because the questions were sent through me to the GNSO, answered, and sent back.

So as a liaison, I didn't really have—and Lars can confirm—substantive discussions about the SubPro at all with ICANN staff. And I certainly didn't see any of the ODA before it came out to everybody. No idea of what was actually going to go in there. It was literally just to pass through questions that the GDS team had and make sure that those answers were drafted and then given back.

So I wouldn't even call that a feedback loop, Alan, as you ... It's not even a feedback loop of one. It's really just literally a liaison.

So I do strongly believe that outside expertise should be brought into help with ODPs, and I put in the chat—I won't read it—basically my analogy. ICANN is not a development shop, at all. And so when they

come up with numbers, they really need outside experts to help them realistically forecast what the numbers would look like.

Anyway, that's it. Thanks.

LARS HOFFMAN: Jeff, since you said earlier I was too young to remember 2007, I'm happily confirming that.

JONATHAN ZUCK: Thanks, Jeff.

And into the queue now, Justine, please go ahead.

JUSTINE CHEW: Thank you, Jonathan. I'll just try to make my intervention very short, and it's specific to SubPro because I'm [inaudible]. Anyway, nothing to do with SSAD.

I wanted to go back to what Lars said before about keeping ODP process true because it's a process that's initiated by the Board. and I can respect that and I can understand that. And I think, to a point, that is correct, but my take on it is similar to some of the other views that have been expressed in that I think the ODP could have benefitted from a few more subject matter experts being in the process, discussing directly some of the things. And the way I approach it is the ODP team submitted questions to the GNSO Council through the OPD liaison, which is Jeff, and that indicates what issues the ODP wanted clarification on on certain assumptions, which is fine. So the process is going one way.

There was no way for GNSO Council to establish whether you understood the ... Well, you made the correct assumptions in the other things that you didn't query us on. And if you have an incorrect assumption, and you're building something/output based on an incorrect assumption, that's going to raise problems. And that's what I felt happened because I was following throughout the process with the ODP. I appreciated the fact that there were regular updates and reports being given, but I didn't think that it was sufficient enough in terms of details.

So from that process, I couldn't work out whether the op team actually made the correct assumptions throughout. And from reading the ODA, my thought is the answer is, no, you did not have certain correct assumptions in making your output.

So I think, from that perspective, it would have been beneficial to have a few more subject matter expert[s]—not to critique the work of the ODP to supplement, to make sure that assumptions are correct, so that your output is defensible and justifiable. Thank you.

JONATHAN ZUCK:

I want to give Lars a chance to respond. I'm really enjoying this conversation. I hope everybody is.

Heather, you're in the queue. Were you saying something related before I let Lars respond? Or should I let Lars respond first?

HEATHER FORREST: Jonathan, I'm more than happy to let ... It is related, but let's give deference to Lars.

JONATHAN ZUCK: Okay.

LARS HOFFMAN: Thank you, Heather. Thank you, Justine. So if I think it goes back to the process. The assumption we made we shared on a regular basis publicly with the GNSO Council. That's where it was sent to. They were published throughout on the SubPro throughout the process.

JUSTINE CHEW: I understand. And I'm saying that that is not enough because, as I said, I was following throughout the process of the ODP, where you were providing updates and assumption documents. And I couldn't get too much in connection out of that. The only result that was really substantial was the ODA, and that was too late.

But having said that, I'm going to say that, being ... I'm the Vice-Chair of the EPDP on IDNs, and I think the solution has presented itself anyway. So I don't think we're going to have this problem again. The fact that there's going to be more Board liaison and GDS liaison participation in the PDP process itself I think is going to work out all the kinks. Thank you.

JONATHAN ZUCK: That's great. We're already on the road to recovery.

Heather, I want to come back to you.

HEATHER FORREST:

Thanks, Jonathan. Much appreciated. I think, if I understood the initial reference to magical thinking—we’ve referred to it in a number of different contexts since—it was this idea of, almost by way of justification and explanation, that the ODP had to engage in magical thinking because that’s essentially what they were given by the GNSO, which forced that hand.

And I just want to say—we’d been discussing the SSAD at the time [in] the EPP implementation—I’m not quick to defend in this kind of a way, but we all need to bear in mind that the very first ODP that we ran was for the very first EPDP (Expedited PDP). I acutely remember the challenge of having to charter that EPDP essentially to pick up all of the issues that the Registration Data PDP (RDS PDP) didn’t manage to solve in three years. And then they tasked a new group with some overlap, a new group of people with twelve months. I mean, that’s what the Expedited PDP is by its various nature; twelve months to resolve questions that another group hadn’t managed to resolve in multiple years.

So I’m always quick to say I think the GNSO can do a better job. If what goes into the pipe improves, then what happens further down the pipe will improve. But I do think we need to be a little bit sensitive here to the fact that, as we try and evolve, we’re not going to get it right the first time.

And I think the key for this session—what I take away from this, Jonathan; and I think it's an excellent initiative on your part and a fabulous discussion—is, wow, let's gather these learnings. Let's gather all these learnings. And, whatever we do the next time, let's make it—the next one is not going to be perfect, whatever it is—better than the ones we've had. Thanks, Jonathan.

JONATHAN ZUCK:

Thanks, Heather. I almost don't need to say anything to wrap up, so I appreciate you wrapping up this session for me there.

We've come to the end of our time. It's obviously a short period of time to discuss a pretty big topic, but I really want to congratulate everyone on not personalizing it and really objectifying the process because that's what we really need to do to have the best process going forward. So there will be many more conversations like this, but I appreciate all of you participating and getting the conversation started. So thanks a lot.

[END OF TRANSCRIPTION]