
ICANN76 | CF – GNSO: NCSG Membership Meeting
Sunday, March 12, 2023 – 10:30 to 12:00 CUN

ANDREA GLANDON:

... I will read them aloud during the time set by the chair or moderator of this session. If you would like to ask your question or make your comment verbally, please raise your hand. When called upon, kindly unmute your microphone and take the floor. Please state your name for the record and speak clearly at a reasonable pace. Mute your microphone when you are done speaking.

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With that, I will turn the meeting over to Julf. You may begin.

JULF HELSINGIUS:

Thank you, Andrea. And thank you, everybody, for showing up, both here in person and online. This is actually my first meeting as a chair, so be gentle with me. And as a new chair, of course I've been thinking about, how can I best contribute to our group? And we had some excellent policy work in the group. We have a really great policy

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committee. We have great councilors. The thing where I saw where I could possibly make the biggest contribution is really on the administrative side, so that's what I'm going to be focusing on during my chairmanship.

So let me quickly go through what's going on on the administration side. So one of the big issues we've been facing is that membership application approval has been very, very slow because of problems with our IT systems. So that is something we are now trying to solve by working with the computer system and seeing how we can do work around that and clearing the backlog.

I also did a major cleanup together with consulting the EC with our mailing list. There was a reason for doing that. I kept getting reminders about 3,000 outstanding join requests every day in my mailbox. They were also basically spam accounts from 2021. So I cleaned those away. We cleaned away those mailing lists and cleaned out all members from other mailing lists. So that's now been cleaned up.

We have started a big internal discussion about our infrastructure because we have some mailing lists on different hosts. We manage them on two different interfaces. Our wiki isn't really in the shape it should be. And so on.

So one of the things I did was actually resurrect the tech team. We used to have a tech team, but it kind of went passive. So I now resurrected it. And you might have seen the call for members for it. And we seem to have a group that can look at IT issues. I mean, considering how many of us are somehow professionally involved with IT, it's ... yeah. Okay. I'm not going there.

We also again finally have a financial committee. That's something that we, by the rules, should have but we just didn't have it. But now we do. So, tick. Well, mostly we haven't needed a financial committee because our finances aren't that great. We don't really do much for ... yeah. Not that they aren't great, but it isn't a huge burden. It's very simple stuff. But the other role for the financial committee, apart from managing our funds, is really looking at things like the ICANN budget proposals, and so on, and commenting on them. So that's of an important role.

We are in the middle of a discussion about Board Seat 14 with the Commercial Stakeholder group. Lori and I are going through this dialogue. And the Commercial Stakeholder Group has come up with some candidates that we are looking at and are going to interview very shortly, and we will see what that leads to. But that's an ongoing process.

Next slide. Thanks.

KATHY KLEIMAN: Would it be worth pointing out that one of the candidates is in the room?

JULF HELSINGIUS: Oh, yes. We have one of the candidates in the room, yes.

KATHY KLEIMAN: Informal hallway opportunities.

JULF HELSINGIUS: Absolutely, absolutely. Take the opportunity to talk to Liman as much as you can.

And I'm throwing up some ideas purely for discussion at this point. This is not anything where we have decided, but one is—

KATHY KLEIMAN: Farzi had a question.

JULF HELSINGIUS: Sorry. Is there a question?

KATHY KLEIMAN: Farzi, did you have a question?

JULF HELSINGIUS: Was there a question? Oh.

FARZANEH BADIEI: Internally, we issued a call for nomination for Board candidates from NCSG, so what is the process now that there are others who are nominated—I think—by NCSG? So we need to internally discuss that. So what's the timeline exactly? How are you going to do that?

JULF HELSINGIUS: The timeline is as soon as possible because we are really working on a very tight timeline. But we have issued a call for candidates. We have gotten some interest. We will also look, of course, at those candidates. They are part of the same process.

KATHY KLEIMAN: Going back to an earlier issue, can I ask how many live membership applications we have that are waiting for processing, approximately?

JULF HELSINGIUS: We have about 40-50 pending applications, but there are duplications among them. But part of the problem is that the system duplicates easily, so in some cases we have four times the same application with slightly different data and other fun things. So you don't want to know about it.

Yeah. So going back, some things I would just want to [inaudible] for discussion as ideas. One is we've been discussing different mentoring schemes. But what I would suggest instead is a shadowing scheme, where our less experienced members could be shadow representatives working together with the main representative on different working groups, committees, and task forces, which would also be then somebody who's up to speed to jump in in if the primary representative can't actually attend or something.

Then I really think we need to have a proper discussion about picking our fights. There's just so many, many fights to fight and so many hills to die on. We can't die on every hill.

KATHY KLEIMAN: We can't?

JULF HELSINGIUS: We are, but we shouldn't.

KATHY KLEIMAN: Okay.

JULF HELSINGIUS: So we need to do some sort of prioritization. I mean, we feel very passionate about so many different subjects, but we really need to pick the ones we are decide are worth putting all resources in and fight those really hard. But some are just not worth doing, either because we don't care that much or because they are unwinnable. And we need to realize that earlier enough.

And one thing that's probably going to be very controversial is that maybe we should put in some mechanism reviewing our representatives and how they're doing in terms of participation, for example—keep a little bit of tracking how well they're actually doing, and, do we need to sort of enforce a team in some, let's say, working groups or something?

KATHY KLEIMAN: And one more, perhaps: have post and track—and maybe it's out there and I don't—who's the representative so that we don't have to ask the whole list. It's easy to know who it is and what their e-mail address is so we can go to them with questions.

JULF HELSINGIUS: Tomslin, do you want to take that one?

TOMSLIN SAMME-NLAR: Yes. We do have that list of data now online on our page, so you could find all the updates representatives for each group working group that's active.

KATHY KLEIMAN: Could you maybe put a link in the chat?

TOMSLIN SAMME-NLAR: I'll do that.

KATHY KLEIMAN: Thank you.

TOMSLIN SAMME-NLAR: I have a question of my own to Julf. I know you've put these items for discussion. Are we supposed to discuss them today?

JULF HELSINGIUS: No, they're more just general sort of—

TOMSLIN SAMME-NLAR: Okay.

JULF HELSINGIUS: But it's something we probably need to do over the e-mail list and so on.

TOMSLIN SAMME-NLAR: Alright. Thanks.

JULF HELSINGIUS: We can of course discuss them if we have time at the end of this meeting. So no problem with that. Let's hope we have time.

Farzi?

FARZANEH BADIEI: I don't know if it's appropriate to discuss this issue in this session, but I want to talk about the statement of interest issue that we have been discussing on the mailing list. I proposed a text, and then I had a fierce argument with myself on a few issues that I want to put to the group. And then we can decide and we take it back the mailing list to decide what we want to do about the SOI and disclosing the clients and people that we represent.

And also I wanted to know when we can actually go and make that statement. So during a council talk/town hall that there is apparently?

Okay. So if we can sort that out. I don't know if it's today or if we can do it during this session. Just wanted to put that out there. Thank you.

JULF HELSINGIUS: Thank you. Yes, because that's an important one.

Manju, would you want to address that?

MANJU CHEN: Just to add that the task force will be having a meeting in Cancun. We're having it on Wednesday at noon. And just to be clear, I'm not there as the NCSG rep. I'm there as the council liaison. But I've talked to the committee members, and I have suggested, if our rep is not here—because he's not physically here—it's not going to be a formal session, and they have agreed that I can change hats if needed. So just information for everybody. Thank you.

JULF HELSINGIUS: Thank you, Manju. And if anyone happens to have two hats of different colors, let Manju use them. It would be appreciated.

Anything else on this administrative part and stuff, which mostly just basically is letting you know a little bit of what we've been up to so far?

If not, I'm going to move on on the agenda. And one of the things that we have always been complaining about is how to really get our newcomers up to speed in terms of properly being integrated in our processes. And we have this Policy Transition Program pilot going on which staff actually has come up with ideas for how to help us. And it looks very interesting. And we are going to get an update on how that's going.

MELISSA ALLGOOD: Thanks, Julf. I'm Melissa Allgood. Thank you for inviting me to give you the updates today. So a brief history on the origins of the Policy Transition Program. As staff, we observed a gap for newcomers coming into the ICANN ecosphere, having the tools to really substantively contribute to policy and advice development. And we also observed a

need within community groups—certainly not exclusive to yours, but including yours—that had a bit of connection with these newcomers—how do you find these new people that are interested in participating?

And so the Policy Transition Program was born. We wanted to think of it as that natural next step for Fellowship, alumni, or other interested newcomers to facilitate those community connections and to gain substantive policy knowledge that can then further the work of the community.

So the policy knowledge that we have presented. We focused on the Applicant Support Program in our pilot, which we'll talk about more in a moment. But that information is presented in a neutral manner. So that really does allow the participant to take the knowledge and apply it through own lens, through their own bent.

So you may recall that, about six months ago, we came to you and asked if we could launch this idea as a pilot within the non-commercial side of the GNSO. So I thank you for your agreement for that, and I thank you for your support in the work itself of the pilot.

We launched, in the fall of 2022 ... I'm joined here by a few of my colleagues from the policy team who have supported the effort. We have 17 participants, including Benjamin over here. He is participating with us. And the group that we have right now in the pilot all happen to be former Fellows. A prerequisite for participation was the ability to contribute to the work of your non-commercial groups.

Like I said, our topic has been the Applicant Support Program. And the way that we've navigated it is we've crafted asynchronous learning

modules that are narrowly focused on applicant support. And we've asked our participants to use those in an asynchronous manner, review, get up to speed, and then come to our monthly sessions ready to engage.

And so we have had a number of sessions. Avri Doria joined us, and Matthew Shears. Avri was able to give her real historical perspective on co-chairing the JAS Working Group—the J-A-S Working Group; I get conflicting opinions of how I'm supposed to say that one—but also she and Matthew shared a lot about their individual stakeholder journey and why they come to the work and the value that they derive out of the work.

In December, we had Edmon Chung join us, who was able to discuss his experience with dot-kids, being associated with the only successful applicant coming out of the Applicant Support Program.

And then, once our participants have ... And this is where they are currently. They've had these asynchronous that have taken them through the work of SubPro. So we're about to dive into the GGP. That's our next module.

But we were fortunate enough to have both Farzaneh and Kathy join us and had a really lively, robust conversation with our participants. And my thanks to both of them for crafting the way we were going to have that conversation to make it the most impactful, hopefully, for all of you.

So before I hand it off to those in this room that have familiarity with the program, I will just let you know that we are in the waning days, the final

months, of the program. We are going to give a module—what we are calling Module 3A—about the work of the GGP on the Applicant Support Program through, really, March. And then we will need to of course update that as the GGP continues to do their work. But we will be wrapping up the pilot effort. We are really committed to turn these very focused topics into primers that we will keep evergreen really become a catalogue and resource of how to get up to speed on a given topic and have that forward-facing for the community. So we're excited about that. I've heard Stephanie in your community for years now talk about a need for a librarian. I know that this is not that need, but hopefully it's touching on that same identified need to be able to have a one-step resource of, "Here I can get my jumping-off point for this given topic."

And so we are also currently working on resource allocation and how we're going to get this program structured to bring out to the broader community. So those discussions are actively happening now.

But with that, happy for any questions and certainly happy if Farzaneh, Kathy, Benjamin, or anybody else want to share their impressions.

BENJAMIN AKINMOYEJE: Yes, the Policy Transition Program has been a great experience because it's also very practical.

And, Farzi, I'm going to put you on the spot here. I mean, having the opportunity to get, at the same, the historical perspective, the context, and then also living experiences of those who were part of these documents that we see often and are so gigantic ... But then you don't have to go through all of that. Someone just gives you the [inaudible]

and the thinking behind it. And then you also have an opportunity to practice. For example, we're giving a chance to make our own comments to the SubPro, the 2012 edition, with the hindsight of what has finally happened. And that was really impressive. And I'm not afraid now to put in public comments because we had that hands-on experience. So I think it's a good program, and I encourage its continuity.

And I also want to talk to us as a community to talk advantage of these individuals that have been equipped and capacitated to really quickly get them into positions where they can start acting in our interest because pretty much they all showed up because they believe in the Non-Commercial Stakeholders Group, and now they've been trained or shown the ropes. So I think it was a good experience, and I think many of us—unfortunately, they are not here—are ready. Thank you.

MELISSA ALLGOOD:

Thank you. Benjamin, thank you for reminding me about the public comment exercise we did because the intent was to make it substantive, to also try to have the participants feel more confident about picking up a pen and having that be an entry point for substantive policy contribution. And that was actually a suggestion that we heard from Avri in our fall session as part of her journey. So I wanted to pick up on that. Thank you.

There was also one thing that, moving forward, I wanted to share. We do have a few sessions upcoming, and we hope that Rafik is going to be able to join us in our upcoming session when we start to encapsulate

the entire Applicant Support Program and then through the lens of the GGP as he is working on that effort on your behalf.

So I'll stop there.

JULF HELSINGIUS:

Thank you. Well, before, Farzi, I let you speak, I'm just going to say that one thing we are thinking about are ways to actually recognize the graduates from this program because I think that could be very valuable. Farzi?

FARZANEH BADIEI:

Around 2018 and 2019, we had, when ABR existed—I think they now ... So we proposed to two capacity-building initiatives. And by “we,” I mean NCSG. And one of that was policy writing. And the NCSG members ... We got the funding, and I think they hired somebody, like an outside consultant, that, for a day, say down with the NCUC and NCSG members. And I think that was just NCUC. So they sat down and they discussed and how to write policy, and they found that a very useful exercise.

And the other program that we wanted to do, which was about capacity-building and role plays and scenarios—so people would take different roles and have an understanding, like table-top exercises ... We wanted to do that, but the program was designed more about conflict resolution. But that was another one that I think was good for capacity-building. If you want to look into it, I can send you this.

MELISSA ALLGOOD: I would definitely appreciate that. Let's connect.

JULF HELSINGIUS: I'm hearing lots of good things.

Any more comments or questions to Melissa or anyone else?

BENJAMIN AKINMOYEJE: So, talking about identifying the graduates, they're all out there. Most of them probably scattered around ALAC. I don't think it's good enough for us to just say, "Come to us." I think we should identify some pertinent agenda or topics we want to follow. Kathy is already trying to do that. I just hope we can really firm that up and tell them areas where we need them and make it easier and simple for them to quickly jump on our ideas so that we can take advantage of them, not for them to become very capable of understanding our arguments and use it as a weapon for other communities to neutralize our own points of view. It's not a bad thing to be kind of suspicious. I'm just saying, if we don't quickly get them and get them busy, it might not be helpful for us in the long run. Thank you.

JULF HELSINGIUS: Thank you, Benjamin. That's a really good point.

So, Kathy?

KATHY KLEIMAN: Seconding that, Benjamin. You're absolutely right. The key to happiness in ICANN—happiness in ICANN, guys—is having something

you want to work on, having something you want to research and write and talk to people about. And so the sooner we can plug everyone in ... In fact, I was wondering if anyone else in the room is part of this program right now.

So, Benjamin, you were right. We need people in this room with us talking because they did seem so interested, so excited, and so ready to dive in. I'm with you about that excitement and interest.

JULF HELSINGIUS:

Any more comments or questions?

If not, thank you, Melissa. Thanks for great work. We really appreciate it. Thank you.

Alright. Moving on, Manju, do you want to talk about the SOI? Or you don't feel the need to go any further?

Fair enough.

MANJU CHEN:

I thought we already finished talking about it. I don't know.

JULF HELSINGIUS:

We did so very quickly touch on it, but do you want to really briefly talk about what the actual issues are?

TOMSLIN SAMME-NLAR: I think it might be helpful if we just bring up the statement that Farzi had written and we quickly have a look, considering that the town hall is today.

JULF HELSINGIUS: Good idea. Let's do that.

FARZANEH BADIEI: Okay. As a little bit of a background, the statement of interest is a part of the transparency effort: when you engage with various policy groups, you need to also say who you are and who you work for and if there is any conflict of interest that needs to be disclosed. And I think, in the working group—Manju, please correct me if I'm wrong—they were discussing how these SOIs should disclose transparently who the clients of law firms are or organizations and who they are representing in these working groups, right?

MANJU CHEN: If I can just explain, currently, if you are in the GNSO and you want to participate in any kind of policy activities in GNSO, you will have to submit a SOI (Statement of Interest). And the task force is proposing that, aside from this general SOI we're doing now, we should add a special SOI when the working group sees fit. And this special SOI will ask those who are filling it to, as Farzi says, disclose who you're working for when you're in this group.

So the problem is now that the constituencies don't like this kind of disclosure requirement, and they are asking to have this disclaimer to

just be like, “Oh, I work for this large firm,” but not disclosing the name. And in the U.S., those kind of ... Well, they’re more specific but still vague details about whatever they’re working for.

So the fight is between, do we want to have this kind of disclaimer for those who are not comfortable with disclosing? Because, of course, they’re arguing for that they have this contractual law/relationship with their clients which are prohibiting them from disclosing information. So that’s why we’re trying to ...

But also, when we were discussing this, Stephanie came up with a compromise, which is, if you don’t want to disclose full details to everybody, maybe we can have this escrow person who ... For example, you just disclose the information fully to the working group chair and staff. And then probably that could be a compromise. But then, during our last meeting, both parties (against and for) were not really happy for this compromise. But like I said, I’ll report back after we have this meeting on Wednesday. Thank you.

JULF HELSINGIUS:

Thank you, Manju.

We have a question in the chat.

DAN GLUCK:

Thanks, Julf. And the question is from Anne. “Re: the statement-of-interest task force, what has been the discussion in relation to the disclosure of general types of clients for both lawyers and non-lawyers? For example, I just retired from the practice of law, but my ICANN SOI

discloses past representation of non-profits in the health services field, federally registered Indian tribes, defense contractors, casinos with entertainment and restaurant operations, an historic tourist attraction, an opera company museums, and independent artists and authors.”

JULF HELSINGIUS: Manju, can you possibly try answering that?

MANJU CHEN: Yeah. Thank you, Anne, for the question. So exactly this is why people are not comfortable about the disclosure of this information because they will be like, “Oh, I represent a lot of clients. And if I’m disclosing all of them, it kind of muzzles up the point, because people just want to know who you are really get paid by when you are doing this.” So that’s part of the argument.

So as part of the discussion, that’s why there’s for and against about this suggestion. I hope that answers your questions.

JULF HELSINGIUS: Thank you, Manju.

So, Farzaneh, do you want to read out your suggestion for wording?

FARZANEH BADIEI: Yeah. So I did this, and then [Jean] reviewed it. So I’m going to read [Jean's] version. So it says, “The ICANN statement of interest is a part of the crucial transparency governance mechanisms that help with healthy policymaking. ICANN policymaking processes are public, and

anybody can get involved. When involved with policymaking, we need to know who is representing whose interest to avoid capture by the few powerful actors. Asking for confidentiality in SOIs endangers the integrity of the policymaking processes and makes it prone to capture. Attorney-client privilege should not apply to policy processes that are public. And if clients are not willing to be disclosed, they should not be represented.”

I am not sure about the last sentence. So that is the argument that I have been having with myself.

Also, there is this issue that ... So the issue of attorney-client privilege is that, when you have a contract with a client, at least in the U.S. system, you can't really disclose.

We had this conversation three years ago as well, Kathy, but let me just ...

But that is for communication between the attorney and client. And it's not when you're representing somebody in a policy group. I don't know if that is even applicable.

Now, I'm not an expert in attorney-client privilege. I'm a lawyer, but I'm not an expert in that.

Now, what I was thinking—and I have been talking to various members of NCSG—is, okay, if we are saying that everybody should disclose who they're representing, if there are some vulnerable communities and/or organizations that might be endangered, which is not the issue that the Intellectual Property and others will be facing because they work with large corporations—but for us, we might be working with vulnerable

communities—does that mean that we need to disclose who we are representing? And if that is the case, does that put them at risk?

Now, the conclusion after this argument I had with myself ... I went around and talked to other people, and some argue that, first of all, we don't work like this. Like, the vulnerable communities don't go to law firms to be represented in ICANN. So what we do is we have these members, like Article 19 and EFF and others, and then, through the efforts, they can be represented. So that doesn't really affect it then. It's kind of like it's a useless argument that I was tackling.

So I think the general consensus among NCSG is that transparency should be there.

But, now, Kathy, I actually wanted to discuss this with you more because you actually were involved in ... We discussed this, I think, three years ago: attorney-client privilege and stuff.

JULF HELSINGIUS:

My first comment, before I let Kathy respond, is, if you're having a debate with yourself, I'm not going to get in between there.

KATHY KLEIMAN:

But before we move back to the other issue, let's drill down on this. Are there vulnerable communities that ... I mean, there are vulnerable communities that many of us can think of that would be involved in policy debates. But I would generally agree they tend to filter through certain types of digital rights/human rights groups.

But your debate is a really good one—before, again, we get to attorney-client privilege issues. Do you have an example? Does there something come to mind? Do we want to keep an exception somewhere if we think that people’s lives are on the line. Some of us worked with groups where their lives would be on the line, but not through the policymaking process, per se, through the disclosure of domain name registrant data to the wrong parties.

But back to your excellent debate with yourself, do you still want to delete that last line?

JULF HELSINGIUS:

So we actually have a raised hand. Jean, do you want to talk about this?

JEAN QUERALT:

Yeah. Hi. So first of all, thanks a lot for presenting and taking care of drafting the paragraph. So structurally speaking, the paragraph is pretty much divided in three areas. So the first sentence has basically set the context of what is being discussed in the paragraph. Then comes the specific positioning as to what could be the harm if anything happens. And the third one is actually the ask.

So the last sentence that Farzaneh is having a conflict with with herself is basically the ask of the whole paragraph. If we remove it, then the paragraph is not a question for anything. It is not stating any single position.

So I would first lean on the side that transparency, although sometimes it may have the negative possible implications that have been

discussed—people who may not have defended themselves, etc., etc., and as well the legal elements that I’m absolutely foreign of since I’m far from being anything similar to a lawyer ... But definitely, if we are asking for the SOI to do anything useful, which is to make sure that no one is representing interests that could be in the shadow, then I don’t really see much of an alternative to radical transparency and basically forcing everyone to disclose.

And, again, if we remove the last sentence, then we have to think, what are we going to be changing it with? What’s going to be stopping it? Because that’s the ask because there’s nothing else in the paragraph otherwise, there’s going to be [stating] a position from the constituency. Thank you.

FARZANEH BADIEI:

So I’m glad that you agree with me and I’m not the only radical person in the room.

But then one of the things that is ... So we are saying that, if clients are not willing to be disclosed, they should not be represented. So we are kind of saying, okay, we want everybody to disclose who their clients are with their consent and, if the answer is that then they don’t want to, then we say, okay, so the solution is that they should then be represented.

So I think that keeping it is fine. It’s just that also we need to think about ... No, it’s okay. I’m going to continue having an argument with myself if you allow me. But I think that the last sentence was a kind of—which I wrote—a little bit punchy, and it affects inclusivity that we advocate

for. But I think it's, as Jean said, a statement that we have to make. So I'm fine with it. We can keep it.

JULF HELSINGIUS: Thank you. We have a comment in the chat as well.

DAN GLUCK: Thanks, Julf. And the comment from Anne is, "I don't think lawyers can disclose any comments to an escrow situation without the consent. And I don't know why any client would consent. Attorney-client definitely applies, and a lawyer can be disbarred. Also, it seems that there are others besides lawyers who may not want to disclose clients by name, specifically do to sensitive, competitive information. And there are sensitive situations. It's not true that IP lawyers don't work with vulnerable communities. Many have pro bono commitments as well."

JULF HELSINGIUS: Kathy?

KATHY KLEIMAN: I don't disagree with Anne often, but I'm going to disagree. In my experience and what I was taught in my law firm is that clients are not confidential. Attorneys represent clients. And in general, I was taught we're always allowed to say who are clients are. My law firm was particularly a telecommunications law firm. It was dedicated work before the Federal Communications Commission. And we virtually never submitted a comment to the Federal Communications Commission on behalf of the law firm. The law firm didn't have views.

Our clients had views. So whether it was a radio or television statement commenting about broadcast spectrum, whether it was a satellite company commenting, we always, always did policy work under the name of our client because that's who was paying us and that's who we were representing. I can't even imagine going before the Federal Communications Commission or the Federal Trade Commission and not saying who your client is.

There are a few cases where, if you're buying up a bunch of land and you don't want everyone to know that Disneyland is coming in, they're not authorized to disclose clients.

But let me tell you the one example where a law firm always discloses its client and why it's always public information. If the client doesn't pay, the law firm will sue the client. They'll try everything they can. But at that point, it's very public who the client is. And the law firm always, always in its agreements reserves the right to sue a client.

So maybe it's your negotiations with your attorney, how you form your strategy. If Julf is my client, I may not disclose that we discussed this possibility and that possibility before we decided to go down this path, but once we go into the public policymaking forum, of course, of course I disclose who my client is because that's why I'm there. And this idea in ICANN that so many of us haven't been disclosing—so many lawyers—is not right. Let's make this like every other policymaking forum. Let's make it much more transparent. Thank you.

JULF HELSINGIUS:

Thank you, Kathy.

Sam?

SAM LANFRANCO: This might be a non-starter, and it might cause the hair to rise on the lawyers in the room, but is there a possibility of using, in the verb sense of the term, an escrow client in which the lawyer or the representative says, “It’s been lodged, and it’ll only come out if there’s a serious issue”? So there’s a third party that holds this.

KATHY KLEIMAN: I’ve never heard of that.

SAM LAFRANCO: Okay. It’s independent of things like money.

KATHY KLEIMAN: But it gets past the idea ... I mean, in escrow ... We still want to know who that person is representing. Who are they in the room for? This is very important in the multistakeholder model—who’s the stakeholder?

SAM LANFRANCO: There are those groups out there who are personally risk if they are identified. And how do we handle that?

KATHY KLEIMAN: So that’s back to Farzi’s point. I thought we had moved on to law firms.

UNIDENTIFIED MALE: [inaudible]

KATHY KLEIMAN: Thanks.

JULF HELSINGIUS: Okay. I think I would suggest that we move on. And this is a debate we probably—

ANNE AIKMAN-SCALESE: Sorry, I had a hand up. Sorry, it's Anne. I have had my hand up because I do need to respond to Kathy. Sorry.

JULF HELSINGIUS: Okay. Go ahead.

ANNE AIKMAN-SCALESE: Thanks. And I'll try to keep this brief. It's true Kathy and I often disagree, certainly on procedural approaches. I mean, we often agree on procedural approaches, and I think what is ultimately needed here is some kind of compromise.

But one point I wanted to make about Kathy's personal experience in her law firm is it's potentially quite different from the experiences of other lawyers because, in fact, what you're talking about here is it's a state-by-state matter because, in the U.S.—and I'm not sure about other countries, and maybe we need to bring some further facts in ... For example, I'm admitted in Ohio and Arizona. I've retired from the practice of law, so none of this is going to really affect me going forward,

but there are specific provisions at the goal/obligations that apply in the U.S. on a state-by-state basis, many, many of which state specifically that the identity of the client is, in fact, confidential information.

Now, sometimes, on the trademark side of things, when we look at the public record, we can see who represents someone with respect to a certain trademark, for example. But certainly there isn't a public record for that client with respect to representation in policy matters.

Now, before something like the FCC or whatever, you have to state who you're representing, but there literally are, Kathy, in many states, prohibitions in disclosing the identity of the client without their consent. And I think facts can be brought on this, but in a more constructive fashion, we had to, on the Name Collision Analysis Project, supply a much more detailed SOI, and I'm wondering if the task force has looked at the NCAP SOI to see if there's anything fruitful there. For example, one of the things you had to disclose was, "Have you ever filed public comment on behalf of a particular client?" And therefore, that is known. So have you looked at the NCAP special SOI?

JULF HELSINGIUS:

I don't know if we have, but that's a good point. Thank you, Anne. That's really a good point there.

Now I'm actually going to stop this discussion and move on. And this clearly not something we can resolve in this group right now. We need to continue discussion—

UNIDENTIFIED SPEAKER: [inaudible]

JULF HELSINGIUS: Yeah. Definitely. This was for discussion, and we had a good discussion. So thank you, everybody.

So next I want to actually quickly talk about the Work Stream 2 recommendations. We did a lot of valuable work. Many from our group participated in formulating the Work Stream 2 recommendations with lots of things coming out of it. And there are two recommendations that will affect us to some extent in that—if you do the next slide—ICANN Org conducted a mapping inventory for basically each supporting organization, advisory committee, and stakeholder groups and everything to see what things needed to be at least looked at. They didn't say, "You have to fix this." They said, "These are things where you have to look at whether your current rules and guidelines and statutes really comply or not." And most of the points they actually raised for us do make pretty good sense.

So I'm going to just quickly summarize. So things like SOs, AC, and groups should document their procedures for non-members to challenge the issues regarding eligibility to become a member. We need to look at whether the ones we have match this.

Farzi?

FARZANEH BADIEI:

So I just have a small question. So is this—because I’m getting a bit of déjà vu—about the accountability of ACs and SOs that we had a work stream years ago?

Okay. So I get it now. I understand. So just to give you a little bit of information about what we did, I was involved with that work stream, and we came up with those suggestions. And we reviewed our bylaws and stuff, especially at the NCUC level, we considered those. We came up with operating procedures at the NCSG level. And we are good. We are an accountable stakeholder.

JULF HELSINGIUS:

I’m really glad to hear that. All I’m saying is that these are things we’re asked to look it, and it sounds like this is going to be a rather easy exercise, which is good to hear. So I’m actually not going to go through all of them. These are the kind of points where there’s a fairly long list—well, not that long—of things like this that we just have to check that we have documented properly. And what you’re saying is we have, but let’s do one more check. And it’s just one reading of stuff going through this.

DAN GLUCK:

Thanks, Julf. We have a comment in chat from Jean. “Just for the fun of it, I just today tested ChatGPT by asking to generate a PlantUML diagram of ICANN, its constituencies, etc. The result was both somewhat disappointing and fascinating. I’d love to compare it with ICANN’s output.”

JULF HELSINGIUS:

Thank you.

So, yeah, I don't think that I need to go through all the points there. There aren't that many, but they are still things we need to look at.

If you can just jump to the last slide. Yeah. So we might have to just appoint a small working group or task force or something to just go through and look at these points. So this is work in progress, but I wanted to brief you on something that we have to do.

Any questions or comments on this one?

FARZANEH BADIEI:

Sorry, what working group?

JULF HELSINGIUS:

We might have to start a small internal working group, just to look at this.

FARZANEH BADIEI:

To ...

JULF HELSINGIUS:

Double-check.

FARZANEH BADIEI:

Double-check. Okay. So there was a survey. And this is a long time ago, but it's ICANN. Five years is, like, a day in ICANN.

JULF HELSINGIUS: I'm glad you said that and not me.

FARZANEH BADIEI: So we did a survey, and actually NCSG and NCUC responded to that survey. We just have to update that if they need it. Don't spend too much time on this. Seriously. If they're really keen, they can do it themselves.

JULF HELSINGIUS: Are you volunteering to help us?

Right. So—

UNIDENTIFIED MALE: There's a hand up.

JULF HELSINGIUS: There's a hand up?

UNIDENTIFIED FEMALE: Yeah.

JULF HELSINGIUS: Rafik?

RAFIK DAMMAK: Hello. Just, first, to support what Farzaneh said. There was already some efforts to document the different operating procedures. So I think it's okay to just review quickly to check against any checklist.

I'm just concerned talking about updates to the charter. I really advise against having that. That's a huge, time-consuming activity, and I don't think it's necessary to this case because it's all about really operating procedure. I think we have all the principles already in our charter, but it's just more a need to check how it's implemented in any operating procedure and so on. And that's something quite flexible and can be done by the executive committee and the policy committee.

JULF HELSINGIUS: Thank you, Rafik. And that's good to hear. So it sounds like we need one or two people to just go through these points and check that we actually tick all the tick marks.

Right, so I think we can move on from this one. The next one is actually Kathy going to talk about closed generics.

KATHY KLEIMAN: Closed generics, and then I think we go on to a Board question that the Board has asked us.

JULF HELSINGIUS: Yes. But first the closed generics.

KATHY KLEIMAN: So, first, closed generics. And I am going to share my screen, so give me a second here so I can move through the slides. Can everybody see the slides?

Okay, fantastic. So two different things. A lot of people here know what closed generics are and have heard me talk about this before, but some people haven't. So just to make sure we all know, I'm going to talk a little bit about what are closed generics and what is the Closed Generics Small Group doing and then a question from the Board to us.

But let me also announce that Melissa wears many hats here, and she's the facilitator of the Closed Generics Small Team that has been together, which we'll talk about in a second. Christian Wheeler, as well, is just incredibly working with us.

Okay, so what are closed generics, and what is the small group doing? And just spoiler alert: a lot of what we're doing is under Chatham House rules. So what I'll be doing is going through the three documents that we've published. So what are closed generics? This is just an excerpt of different slides I've shown over the year. Closed generics are a strange exception to the general ICANN rule that registries sell domain names through registrars to registrants. And most TLDs are open, and these are the ones that we know about and use a lot—so dot-com, dot-org, and dot-net, going back to the oldest gTLDs, dot-xyz, dot-horse, dot-vip, dot-club.

A few brand TLDs. We agreed to create a closed TLD for brands, in which case the registry and the registrant are the same thing. And the idea was that you can't force somebody really to open up a second-level domain under dot-sony or dot-IMB or dot-Panasonic. It seems very appropriate. And in fact, this was an expedited policy change that was approved and has gone through Specification 13 and the registry agreements. Again, for dot-Sony, dot-IBM, and dot-Panasonic, the definition is closed, that

the registry is the registrant. Top-level and second-level are the same name.

But, in 2012, the largest companies in the world applied for a number of closed generic TLDs. A closed generic is generic word of a business, industry, organization, or thing applied for ... In this case, the examples I'm using were applied for by one company to be run solely by that company. So Google applied for dot-blog. Amazon and Google applied for dot-cloud.

Let's go down. Amazon applied for dot-book. And I have to tell you there was outcry across the world. And we heard from booksellers around the world—dozens of them. A lot of outcry on this. The Board actually held its own comment period on this.

So to make a long story short—oh, and non-commercial. Members of our community objected as well. And so this is ... He still working? Parminder Jeet Singh. Is he still running a non-profit in India? Does anybody ...

Is he? So he wrote this incredible—in my personal opinion—op-ed piece in the Hindu newspaper: “Beauty Lies in the Domain of the Highest Bidder.” And he was very concerned that Loreal had applied for dot-beauty as a closed generic and what the implications of what that would be in India, where there are many small businesses working in the beauty industry.

So to make a long story short, the Board basically banned closed generics in the first round and gave the applicants an option. “You can change your application to open, you can withdraw, or you can wait

until the next round.” And virtually everybody became an open TLD: the registries selling registrations through the registrars to the registrants.

The Subsequent Procedures Working Group obviously had this as a policy issue, and we tried for four years—and I can’t even begin to tell you how many meetings we had on this—and we could not arrive at any consensus. Widely divergent views on this, basically going into three camps: everything, nothing, something in the middle.

And in 2022, the Board asked our GNSO Council and the GAC if they would meet in a small group. The Board does not want to make the decision as it did in 2015 on what to do going forward. At least that’s the implication. So the Board asked if the GNSO Council and the GAC would send people into a small group to help find a path forward. And the GNSO, the GAC, and ALAC said yes.

Okay, so our group has been meeting. Melissa is striking me to tell me if I’m publishing anything we’re not allowed to. We’ve been meeting very actively by phone once a week, often very early on Monday mornings throughout the fall. We met in person in D.C. in a very well-organized, well-run meeting for two full days. People came in from around the world, and those who couldn’t participated remotely.

We are trying to find a path forward on this very difficult issue, a framework, and we’ve issued three reports to share our work thus far with the ICANN community. All stakeholder groups and the GAC and the ALAC are looking at the same three public reports.

So let me give you some clips of these that will just kind of show you the broad path that we’re looking at. So the first is ... And I’m not asking

you to read all of this, and I will not be reading all of this; the slides will be posted, I understand. So I'm just going to try to give you ... So the objective of the facilitated dialogue, which is another word for the work of the small group ... Oh, I forgot to show you. I'm sorry. Three GNSO members, three GAC members, and an ALAC member and an ALAC alternate are the people on this.

UNIDENTIFIED FEMALE: Six [members].

KATHY KLEIMAN: Six members.

UNIDENTIFIED FEMALE: Six [GAC.] ALAC alternate.

KATHY KLEIMAN: ALAC alternate. Okay.

The objective of the facilitated dialogue—this is what we're doing—on closed generic gTLDs is to formulate a workable framework to identify and handle closed generic applications for the next round or rounds of new gTLDs. And should the participants from the GAC, GNSO, and ALAC reach agreement on the framework that meets with the approval from the GAC and the GNSO Council, the expectation is—and here I added italics—for the framework to be further developed through appropriate GNSO policy process. Assume that's going to be expedited, folks because many people want new gTLDs to come out quickly.

Okay, Whoops. Sorry, that's a little off the screen, but I think what we want is on there. So this kind of summarizes the meetings that have taken place so far. This is eight virtual meeting. I think we're up to nine now, maybe ten. Okay. And so the group considered whether an applicant for a closed generic gTLD should have to demonstrate that there's a unique need, if you're going to get a closed generic gTLD, for it. Participants generally agreed that an applicant must explain why a closed generic is necessary in order to operate in the closed manner that's proposed.

Okay, so we've agreed that there is a there there, and so we're working on three different things: Block 1 (the application criteria), Block 2 (the evaluation criteria and process) and Block 3. Is there any ongoing obligation after this is delegated? If we've created all these rules and the applicant has agreed to do all these things, is there a monitoring process? And so, again, framework. Big picture. We're not diving down into the details. That will come back to the GNSO to do.

A lot of text on some of these. And I promised you I wouldn't talk too long. So I'm going to go through the three phases that were in those blocks again from our public documents. So in this case, we're going to say that the ... Where am I? I think I'm in the ... I'll just read the first paragraph. "After the facilitated dialogue concludes but before the next round of new gTLDs initiates, the application criteria and process for closed generic gTLDs should be fully developed, implemented, and transparent." That was something SubPro wanted: clear criteria when you're applying. "So prospective applicants will therefore have the opportunity to familiarize themselves with the necessary criteria for delegation ahead of the application round. The facilitated dialogue

group believes it is the responsibility of the applicant to provide evidence of their eligibility for a closed generic gTLD.” So, boom. It’s going to be right there. There are going to be special application questions on this.

Then it will pass to an evaluation process. I’m in the second line here. “Evaluation criteria will be used to assess the responses and any evidence submitted by the applicant, such as its commitments to continually serve the public interest goal or goals it has identified. As with the application, the evaluation criteria must be objective, measurable, and enforceable, and the evaluation process itself must be predictable.”

And then jump down to the bottom: “The group believes that a panel of evaluators would be best suited to make the decision about a closed generic gTLD,” because of the specialty of this area because language is going to be an issue, and lots of other things. The idea that this is going to run through a group of evaluators as community priority applications do is, thus far, something we’ve been thinking about.

And then the post-delegation phase. Don’t bother to read it. It basically says, if you make a commitment, we’re going to ask you to show us that you’ve done it and that there’ll be a review. And we can just see, at the bottom of the third paragraph, “The review should mirror the objective and measurable commitments made by the applicant in its application.” (Are you doing what you said you were going to do?)

I think that’s it for this, so let me pause for questions and also to check that I haven’t overshot my Chatham House. Okay.

TOMSLIN SAMME-NLAR: Thanks, Kathy. So assuming you're allowed to answer this question based on your Chatham House rule, looking at these phases you've showed us, is it safe then to assume that the group in summary is saying closed generics should be allowed with special circumstances?

KATHY KLEIMAN: Tomslin, that's a good question. In some ways, that's basically why you sent us into the room: to come up with a compromise, unless I'm mistaken. But that was my understanding: people were sent in the room to come up with a framework that creates a path forward for some type of closed generics, if not all of them.

TOMSLIN SAMME-NLAR: Okay.

JULF HELSINGIUS: Go ahead.

FARZANEH BADIEI: So we need to discuss NCSG's position on this—so whatever solution that you're coming up with—because, as you know, Kathy—you know better than me; you're my mentor—there was a long debate among NCSG members, and they didn't agree. Some agreed with having closed generics, and some didn't. So I think we need to go back to the mailing list and discuss. I understand that it's not like that ship has sailed, that we just say, "No, we don't want it," or say, "No, we just should allocate

closed generics,” but on the solution that you’re coming up with with the group, if we can discuss it and see what the members think, that would be great. I don’t think we can come to consensus over that, but it's getting a feel what the members think about the solutions that the working group provides.

KATHY KLEIMAN: Are you talking about talking about the details of what’s going on in the ... Or just opening up the discussion of closed generics in the NCSG?

FARZANEH BADIEI: I think we should open the conversation and also be very clear that we are not at the stage that we say, “Oh, I’m against or for it.” We have to contribute to a solution. And in order to do that, we are just consulting with you. And this is the group that is working on it, and these are the solutions that the group is also thinking about so that NCSG can give us their opinions so that you can reflect that when you’re discussing with the working group.

KATHY KLEIMAN: The more input, the better. Sure.

JULF HELSINGIUS: Any other—

KATHY KLEIMAN: There’s one other question.

JULF HELSINGIUS: Oh, yeah. Go ahead.

DAVID MORAR: I have a question less on the substance and more on the process. When this process will be successful eventually, do you think this is a good precedent for building policy at ICANN in the sense of ... Obviously, this is a specific issue that's been thorny and whatever, but do you think that, based on the fact that this has been successful, we'd end up doing this, where GAC and ALAC have a strong sense of policymaking now? Sorry.

KATHY KLEIMAN: That is a brilliant question. Can we move on to the next set of slides? Let me hold that a second because that's exactly the question Board asked us in some ways. So that's my next set of slides. So hold that thought. Let's see if there's anything else about closed generics here.

JULF HELSINGIUS: Anything else about closed generics? I think [inaudible].

Yeah, maybe we can then move on to the next point, which is actually the question the Board asked us and we need to answer.

KATHY KLEIMAN: Okay. And we'll clarify: asked us and, I understand, all the other stakeholder groups.

JULF HELSINGIUS: Yes.

KATHY KLEIMAN:

So this is a tradition, for people who don't know. We go into the Board meeting tomorrow. And it's on the schedule. You're welcome to join us. And we create questions. If anyone isn't on our list, we create questions for the Board. Both NCSG and NCUC and NPOC have been engaged in this process over the last few weeks. And the Board generally gives us a question or two, too. And this time, they gave us a question ... I'm going to read it because it's a rather complicated question, but it goes straight to the last question that was asked.

“The ICANN Board would like to explore how to combine the efficiencies of an agile approach to problem-solving like the Council's Small Team's”—and I'll just add that that would include the Closed Generic Small Team—“with the need for accountability and transparency to make progress on policy conversations. When would”—and let me just add, on progress and policy conversations, if something stalled, can we push it?—“such an approach be most appropriate, and how can we ensure that it does not circumvent required steps in the policy development process?”

So do you want to give a first answer—no, no. The person who asked the question.

JULF HELSINGIUS:

David.

KATHY KLEIMAN: David, do you want to give an answer on that? Since you asked the question, do you ...

FARZANEH BADIEI: Kathy, I just wanted to remind us that I made that point when we were discussing coming up with this alien working group that is just ... Like, the words “being creative.” And I raised that. But you disagreed with me, I think.

No?

KATHY KLEIMAN: I don’t remember what conversation we’re talking about.

FARZANEH BADIEI: Okay. I remember this was at The Hague when Maarten was the chair at the time. He sent a letter and said that we are going to discuss with the GAC and we’re going to have this process to discuss closed generics, which is not in the bylaws. It is just alien, like made up processes. And I said that to Maarten when we were having a meeting. But they disagreed that they just made up a process. If they wanted this to be reopened, if they wanted to reopen the issue, it should have gone back to the GNSO Council. That is the process. And this agile stuff? What does that mean? Soft approaches not to follow the bylaws and come up with ad hoc processes that also affect the integrity of the whole of ICANN policymaking?

So that’s my opinion. But I’m so glad that David here agrees with me. Right?

DAVID MORAR: [inaudible]

FARZANEH BADIEI: So anyway, David, go ahead.

DAVID MORAR: I mean, obviously I don't have the same vehemence that Farzi does for anything in life, but I was more asking you that question: if you think, based on somebody that's been in it, it's useful. Because, as somebody from the outside, I don't think that we should find creative and agile ways to do a runaround on the bylaws. But being in the meeting, in the conversation, would we be interested in having an ICANN-wide conversation about making these part of the bylaws, maybe? Right? Which is a can of worms. But we're opening a can of worms? Well, no. It's to make it on paper to say that these are now actual ...

UNIDENTIFIED FEMALES: [inaudible]

DAVID MORAR: I mean, to be fair, I think the Board is asking, "Hey, would you give us permission to skirt the bylaws?" What I'm saying is we should rewrite the bylaws if we want this crazy thing. And, yes, it's going to open up a can of worms that's going to take forever. And maybe that's a way to deal with something so out of the box. But that's why I was asking you:

do you think it was in any way useful or meaningful to do it this way, as somebody that has been in the process?

JULF HELSINGIUS: Kathy, do you want to answer that? We also have Rafik with his hand up, but if you want to answer this one.

KATHY KLEIMAN: Never let it be said I skirted a tough question. And it's a good question. First—Manju and Tomslin, correct me if I'm wrong—we fought this. We fought this tooth-and-nail on the council. We objected. We were the only ones. We objected. We objected vehemently and we objected continuously. Am I misstating?

TOMSLIN SAMME-NLAR: Not at all.

KATHY KLEIMAN: Okay. So it went forward anyway. So the question is, are we going to be there or not be there? And we're there. Okay? And we're there.

But now the question is coming to us on a larger scale, on a more official scale: do we want to codify this “agile,” the cool term and programming? “Agile programming. Agile approach.” I have all sorts of personal opinions about agile programming, too. But do we want to codify it? And I'm hearing a resounding no in the corner. But, again, we are in the room because, if we weren't, that room was going forward. Thanks.

JULF HELSINGIUS: So I'm sure, Rafik, you also have opinions about "agile," so go ahead.

RAFIK DAMMAK: Yeah. I have kind of an issue with using some terminology from another context. In this particular case of ICANN, I think it's quite misleading. In software development, it has some history and some reasoning. So I think it should be highlighted.

But my main concern here is kind of déjà vu discussion about the kind of effectiveness of the multistakeholder model and about policy development. We had the same topic three or four years ago. I think it was at the Barcelona meeting. And I'm trying to read here between the lines. It seems like it's implying there isn't always an issue in policymaking, which means in our case, the GNSO, so it takes forever to deliver a recommendation, which is not too bad. But there was a lot of effort and continuous improvement, at least at the GNSO Council level, on how we are managing the PDPs and trying to improve in terms of process and so on. So then we end up with the working group delivering on time.

But what is missing here in terms of the whole life cycle is, even if the working group delivers a recommendation, the recommendation ends up in purgatory or limbo because the Board takes forever to approve the recommendation. It's approved [by them]. And we have now even a new process like this ODP and so on. So it ends up that we take a long time at the Board level to approve the recommendation that's coming up from the bottom-up consensus-based process. And then, many

times, the whole discussion is how to rewrite this recommendation, and we end up trying to create new processes and how we push for a specific outcome because there was a request from specific groups and so on. So we have a big issue here.

So when we talk about flexibility—maybe that’s the correct wording here—it’s something we should really oppose because the whole issue here is not really about how we are delivering those recommendations. It’s really about the approval. It’s about the implementation that takes a long, long time. And I would like that the Board take more responsibility here to make decisions more quickly. Again, it’s just a feeling of déjà vu. It’s the same topic that was discussed in, I think, the Barcelona meeting. That was about the effectiveness of the multistakeholder model. So maybe different wording, same topic. Nothing new. And I just would like us to resist here [any attempt] to talk about flexibility and so on. If you want to fix things, you then have to fix the whole life cycle. And everyone should take responsibility, including the Board and ICANN Org in terms of implementation.

Sorry for taking too long.

JULF HELSINGIUS:

Thank you. So if I can try to very quickly summarize what you said, don’t break what is already working, and it is a good idea for the Board to get more agile.

RAFIK DAMMAK:

Yeah, kind of.

JULF HELSINGIUS: Okay.

Farzaneh?

FARZANEH BADIEI: So I totally agree that the Board should ... Because, for years, they kept asking us, “How can we make the processes more efficient and effective?” How? By not reopening the issues all the time when we give you the recommendations. You keep coming back to us. You keep reopening issues. Come up with a way that you don’t have to reopen issues.

And then it just came back to me—all the conversations that we had, Kathy, about the group and the objection. And I remember that Tomslin and Manju were involved as well. I think that what I can do is I can go back and look at the arguments that made against having this closed generic group and then come up with something coherent that we can say and use that group as an example. Maybe we don’t have to name it but just say that we have seen initiatives before that were kind of similar to what the Board is thinking and we object to that and we don’t want it. So that’s what I can do.

BENJAMIN AKINMOYEJE: Rereading the question, I’m beginning to think that maybe we [shouldn’t just straight out] like that. There might be times that, without necessarily touching the bylaws ... And we may be the one if we’re initiating this mechanism, especially if we want faster approvals and

things like that because I think, if we are leaving it for them to always create things for us, then we react. What if the system is asked to create something and then we leave them in the reacting positions to mediate, but as the question has said, without touching the policy development process? So maybe we should look at it again. That's what I just thought of. Thank you.

DAVID MORAR:

Thank you. In reading the question, what's between the commas is "like the council's small team." Why would the Board care about what the council does? And that's a different issue. The small teams are something that the council can just do versus the closed generics kerfuffle. It's something that they've created out of thin air, which I would say is different. And that's why I was a bit confused when we got to this question in tackling the previous concern because this specifically asking for something that isn't necessarily part of what the Board should care about, because whatever comes out of the council's recommendation is done in the way that the council does it, right? I don't know. I feel they may be trying to use the council small teams as a front man, and in the back of that is the Trojan horse of doing stuff like the closed generics thing. That's just a perspective.

KEN HERMAN:

I understand the Board's interest in improving the processes. I'm mystified as to why they would so blatantly propose something that's contrary to existing processes.

But that aside, one thing, Kathy, I didn't really catch from the description is, what is the outcome of the discussions within this small team or whatever we call it—this body—that's now interdimensional, if you were bringing together different parts of the organization's mechanism for deciding things? What is the output from that? Because what is determined by that output helps us understand whether it's going to compromise the processes that ICANN has in place for making decisions on things across councils and across different bodies.

So is it advisory in nature? That it's going to go back to the various bodies for endorsement and further discussion? That's its intention. If that's the intention, then where is the concern that we are compromising the integrity of the policymaking process? If it's going to simply be rubberstamped, then perhaps there would be some major concern. But it would help to understand what the end goal will be and how that process will follow. You can't stop people from meeting informally and saying, "Okay, let's discuss this across institutional boundaries," whether it's the GAC and ALAC and GNSO. Maybe it's helpful for the process, but if it's formalized in some way, which sounds to me like what this question is getting at, then there might be some reason for concern.

So for me, it comes down to, what is the process after this?

KATHY KLEIMAN:

And for that, I'm going to go back to our councilors because they're part of the creation of this process. It's really the council working with the GAC and ALAC a little bit, but council and GAC. So Tomlin, what happens next?

TOMSLIN SAMME-NLAR: Thanks. To your question and concerns, it's quite similar to concerns we had in the council. We brought this up. The concern we had was that this meeting between GAC and GNSO is at first it sounded like they were going to develop policy, and we thought, well, GAC shouldn't be developing policy. So the council said, "Well, they're not going to develop policy. Their output should be a framework which should come back to the council, and a policy development process should be initiated and advised from that framework or based on that framework."

So basically, to answer your question, the output is a framework document which the council will use to charter a policy development group.

JULF HELSINGIUS: Any other comments, opinions, or questions?

Manju?

MANJU CHEN: I guess just to add that, in the Board's question, they made the council Small Team as an example. And in council, we are even having concerns with small teams. It's not like we don't like how effective it is, but I believe, last year, when we were having the strategic planning sessions, there were concerns raised about the transparency because it's not a formal process. So there is not really operating procedures on how to keep records, the mailing list, or for other councilors to follow what's

going on in the small teams. So I seriously don't know why they're making this as an example, because it in itself has problems.

JULF HELSINGIUS:

Tomslin?

TOMSLIN SAMME-NLAR:

Thanks. To Maju's point, I was looking at the question and focusing on the need for accountability and transparency. And I was trying to work out how it ties with the agility that they're asking for.

And to Manju's point, the concern we have with small teams is regarding transparency, actually, which somewhat puts the small team example, as Manju said, as the wrong one because we have concerns about how transparent enough the small team in the council is in making or coming up with solutions.

But as David mentioned earlier, it's easier for the council within its council to create a small team made of councilors [than go to a] policy development process and bringing folks that should not be developing policy to meet together to develop policy.

I know they say [inaudible] or circumventing the process. But it's concerning. And that's the Rafik's point that, when we continuously try to improve the process, we seem to be moving towards a direction of circumventing the process, actually.

JULF HELSINGIUS:

Thank you, Tomslin. I think that was a great summary of the whole point.

On that note, as I see, we just reached end time for this session. Perfect timing. Thank you, everybody, for coming. Thank you for participating. It's been a really good discussion. Thank you. And the meeting is ended.

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