

**Transcription ICANN London
Update on Policy and Implementation
Saturday 21 June 2014**

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Jonathan Robinson: So welcome to the next session which is on the work of the Policy and Implementation Working Group and providing us a status update and the activity of the working group to date.

I mean, this is something which really percolated out of - at least in part the new gTLD program and some of the critical boundaries that we found ourselves working with. So welcome to one of the co chairs, in fact both the co chairs are here. But I believe J. Scott is going to be presenting so over to you.

J. Scott Evans: Thank you very much. This is J. Scott Evans for the record. I'm just going to be very brief. We have a very limited time on the agenda. Just to let you know where we are.

The working group has been working and we have finally finished some working definitions and a principles guide to assist us with dealing with the charter questions that were put to the working group to deal with.

We initially asked for input from the community. We received input from the ALAC, the Registry Stakeholder Group and the Internet Service Providers and Connectivity Providers constituencies.

Others we did get some feedback from but most - some of the other groups said that they would like to see a draft report before they gave input; they didn't want to give proactive input on the front end. So we've begun deliberations on Deliverable 1.

At one point we had developed a work plan that had us breaking into sub groups and the sub groups were all going to take particular deliverables and then bring them back to the group.

But we have since decided, because of the level of participation that we're having within the group, that we would come and deal with it all as a working group. So the working group as an entire whole is now dealing with Deliverable 1 which is the development of GNSO policy guidance process. And so that's what we're working with now.

Next slide. So it's our hope that we will soon complete the review process. What we've done is taken several instances where there has been a GNSO advice or guidance that has been asked for or given by the GNSO to the community and to the Board. And we've looked at those specific instances and how they came about and what their deliverable was.

And we've gone through those and we're trying to identify the strengths and weaknesses with regards to each of those efforts and how that - what are the lessons we've learned from those particular instances.

And then we're going to - we're hoping to take those lessons learned and then come into some sort of - let that frame our discussion with regards to the deliverables in our charter and how that is going to help us frame what we have learned and, you know, what are the best practices that we can take to put in some guidance from the lessons we've learned from past experiences.

Our target is to have a report - or at least an initial report out for comment by Los Angeles. It will really depend on - that is an optimistic target to be quite frank with you. It will depend on at the end of our meeting Wednesday what the impetus is for going forward.

Currently we were on a biweekly call schedule due to the fact that we thought we would be breaking into smaller groups and the smaller groups would meet on the off week and then full group would meet during the biweekly call. And

we're hoping to go to a weekly schedule that would get us with more momentum going forward.

The unfortunate thing is we can't - we have to put that to the whole group and so we're not sure what the buy in level is going to be on that until after Wednesday. I think Chuck and I both feel fairly optimistic that people will want to move forward on a weekly basis but we can't tell you that's where we are now. We can just tell you that that's our plan.

Next slide. So we have a face to face meeting that's open to the public. We would ask everyone to come. You can check out the wiki that we have up that has all of our information and all of our work to date so if you feel like you want to find out where we are we've been very transparent.

We have a work plan that has been adjusted. We've got some working principles that we are going to discuss on Wednesday that will help guide us into staying focused on what we are supposed to deliver because like so many working groups with different personalities we find ourselves on occasions going down rabbit holes and we're hoping that by being very up front and reminding ourselves with a document of what we're supposed to be doing and what we're supposed to be delivering will keep us on task.

So we're having this open meeting at - you see it there from 3:30 to 5:30 on Wednesday and we invite everyone in the community to join us to find out what we're doing, to give your input on what we've done.

And then we hope - and during this meeting that we'll complete this review of the past difference so that we can get this learning - the learnings in front of the group to begin deliberations and then we're also going to review our work plan and discuss how we move forward after London, as I said, with regards to scheduling.

Next slide. So one of the things that we're hoping to do is keep momentum by having the calls weekly. But I will tell you is one of the things -we have 42

participants identified in this group and only about 10, maybe 11 on occasion, people routinely participate.

And so you see why we've had to go to the full working group dealing with everything because we only have 10 people and we're trying to make sure that it is representative and we have as many voices present during discussions as possible. And so, you know, it's like everything else.

I do want to say one thing that we've learned and I think it's a lesson learned that I could say here. And I only bring it up because it's something that I heard John Berard talk about during his presentation.

One of the biggest weaknesses we've identified sort of across each effort that we've reviewed is a clear indication of what the Council is going to do with the work that's delivered to them and how that gets taken up by the community or by staff once it's been delivered.

There seems to be a great deal of understanding at the beginning of the process of what everyone feels like is going to happen and then a very different understanding or an implementation or something at the end of that process. And so that disconnect is something we've seen in every effort we've looked at. There seems to be a real disconnect there.

And I heard John Berard bring that up earlier this morning so I just want to highlight for you that that's one of the learnings that we're coming consistently across each effort that we're learning and we're hoping to develop a process that will help us in framing that better and keeping the Council, as well as the community, focused on this work is beginning, here's the deliverable and here's what's going to be done with that deliverable when it's delivered to the Council.

So with that I will open up to any questions. And if you - Chuck, you know, please feel free to jump in if I've missed anything or Marika if - or Mary of I've

miss, you know, spoke or Alan who is a very active member of our group as well, if you want to chime in or if I've missed anything. But that's our report.

Jonathan Robinson: Thanks, J. Scott. I have a question right away on that last point. Was that - were you making reference to the output of this group specifically or groups in more generally and how the Council handles...

((Crosstalk))

J. Scott Evans: When we've looked at the efforts - I told you we've taken specific instances. I think we took the special trade - I'm just going to throw out a couple we've looked at, the special committee on trademarks, the STI, I think it was, the IRT, we looked at also specific instances the Board has asked for guidance. I think it was the IGO NGO instance was one where we looked at, you know, how it came to the Council and how it was reacted to and what efforts were behind it.

And consistently no matter what the generation of the work was how it came to the Council and then became a working group and became an effort or became there was an understanding at the beginning of what everyone I think felt was going to happen when the work was completed and why they were doing this work and a very big disconnect when it actually was delivered and what happened with it once it was delivered.

There's a disconnect there. And I think that causes some of the friction in the process is unmet expectations whether they're realistic, unrealistic. I think they're not enunciated very well and agreed upon at the very beginning. And so that's one of the learnings we're taking from.

And I only brought it up because I heard John speak of it today as something that in his efforts they're looking at, that was another learning they're taking. And so I think that's something we need to keep our eye on.

Jonathan Robinson: Alan and then Marika.

Alan Greenberg: A follow up on that last point that J. Scott made because that's nothing I've ever been really conscious of. There are a couple of exceptions; the IRT is certainly one of them but that wasn't a GNSO activity. And the recent IGO INGO PDP had a outcome that was different from what is typical in that some of the recommendations, albeit soft recommendations, were not followed by Council.

But other than that I think there's a, you know, I haven't analyzed carefully but I thought that there was a pretty uniform reaction by Council to adopt things that were presented to it by its own working groups. But maybe I'm missing something.

Jonathan Robinson: I know Marika wants to respond and then...

Marika Konings: Yeah, this is Marika. And maybe just to add because I think where I think J. Scott was heading as well there's more that in a PDP when PDP recommendations are adopted it's very clear what happens next and when the Board can reject or what needs to happen in that case.

I think the point that we've seen on these various initiatives that indeed advice or input is asked for but is not clear at the outset what happens with the input or advice provided and I think that's where the disconnect is but there may be a certain expectation from the Council if the Council would provide input or advice that would be followed or it would have some effect.

And it wouldn't be clear at the outset what that advice or input would generate. And I think that's one of the learnings we are taking away and then that hopefully will come back as well as we develop the framework that any process that is started should have a clear sense of, you know, what is done with the outcome and what process it may trigger either at a Board level or staff or wherever it would be directed. I think that was the -yeah.

Jonathan Robinson: So I've got - following Marika I've James. Avri, are you also in the queue?
Did I see your hand was - no, so I've got James next then Alan.

James Bladel: Thanks, Jonathan. James for the record. And thanks, J. Scott, for the update and full disclosure and mea culpa I'm one of those AWOL members of this working group. And I try to attend as much as I can but, you know, like everyone's calendar it's constant triage.

I just wanted to - one comment, one question. I think it was a really interesting insight about the deficit, I guess, between expectations and realities and making sure that everyone's expectations coming out of groups are synchronized, not just from the members of the group and then Council but also between the community and staff.

Because I think that's probably the source or the root cause for a lot of the issues that are causing the friction there. But my question is what do you see ultimately as the end - okay or do you see as one possible end result of this working group a bright line or a multipart test to, you know, based on these previous issues that have happened that when we find ourselves going down this path again that we can follow a certain recipe or script to determine whether or not an issue is clearly, you know, on one side of a policy implementation boundary and needs to go back into the policy development process?

I mean, is that the - is that the goal generally or, you know, or am I just - maybe my expectations are out of sync.

J. Scott Evans: I think the ultimate goal is to define a process in which input is required and how that input should be taken in because so many times I think there's been frustration and I think the - the implementation of the new gTLD process highlighted this but it's - I don't think it's the only instance in which this has occurred in which there was a high level like 60,000 foot policy made and then it begins to be implemented and then in that implementation there are

things that many people feel are policy that's being developed, not implementation.

And so it's clearly identifying and setting out some sort of guidelines for when that occurs or when that's identified what process takes place to put it back and how that follows. And for the record, I'm sorry, this is J. Scott responding to James's question. And I think Chuck also some input here.

Chuck Gomes: Hi, Chuck Gomes. I'm a co chair with J. Scott. And I think my prediction would be that we probably won't have a bright line, at least not a real clear bright line between policy and implementation. And as you know as part of the working group even though you've been AWOL for a little while, one of the principles that I think was unanimously agreed to in the group was is that the multistakeholder model, bottom up process, doesn't stop when you go from policy development to implementation.

And that I think is what J. Scot was saying there when he's saying the input. There's a need for ongoing input even if you are in implementation phase so that we don't just go from bottom up to top down, it's bottom up multistakeholder all the way through implementation.

So will we come up with a bright line? Maybe not, but hopefully some guidelines as what should happen when you are into implementation of a policy that's already been developed.

Jonathan Robinson: Thanks, Chuck. Marika.

Marika Konings: Yeah, this is Marika. And I think on the policy guidance aspect specifically I think the objective there probably is twofold. On the one hand to provide additional tools or procedures that the Council can use depending on what questions may come to them that are not PDP-related and at the same time set very clear expectations on what happened in each of - if it's one process or multiple processes what needs to happen and also what happens with the outcomes. I think that's already what we identified currently.

And as, you know, I think we've said before the only formal process the GNSO Council currently has is its availability is the PDP. There's nothing else formal. We have used many different ways of providing advice or input or whatever we label it but there's never been a formalized process.

So I think the idea is if, you know, if we can provide some guidance then there may be various options and maybe there is indeed a formal guidance process that'll also trigger certain requirements. For example, you know, public comment or participation from certain groups or possibly as well, you know, response by the Board.

I think those are the things where we're currently considering and thinking about and that is, you know, recommendations around that will come back in relation to that specific issue we're looking at at the moment.

Jonathan Robinson: Alan, next and then John and then we should probably bring this towards the end.

Alan Greenberg: Just first to follow on to J. Scott's and Marika's comment what - J. Scott, when you were talking I thought you were talking about how the GNSO handled outcomes and that's why I raised the issue. But Marika's right, if we're looking at how the community handles outcomes there is a lot more confusion on that one.

To follow on on what Chuck was saying, there's always going to be a bright line that is when the GNSO finishes its initial policy activity and goes into the next phase. I do not think there can be a bright line between policy and implementation.

The message that's coming through is that there must not be an impermeable brick wall that we toss things over that the bright line, to the extent we can ever determine it is between issues that the - will impact the community and

issues which will not impact the community. If issues are going to impact the community at any phase of the process the community has to be involved.

And that's really the bright line although we've had significant discussions on how do you recognize when there will be impact versus when it is pure implementation which is mundane mechanics and it's not easy. So it's always going to be somewhat fuzzy but the concept is a very bright line if the community is involved - if the community will be impacted it must be involved.

Jonathan Robinson: John.

John Berard: Thank you, Jonathan. John Berard from the Business Constituency. J. Scott's comments and Marika's comments lead me to want to remind each of us again as to one of the persistent underlying weaknesses in the policy development process and that is the number and active participation of working group members.

So I will - I'm drawn to this by the work of a former councilor, whose name shall not be mentioned, but I do believe that the statistics that J. Scott cited with regard to the Policy Implementation Working Group, the response that we've gotten at the Cross Community Squared Working Group and the ongoing consultation with regard to PDP changes that each of the councilors are involved in all speak to an underlying weakness that we really do need to address.

And I'm not smart enough to know individually how to do that but it strikes me that there can be no bright line between policy and implementation if policy is not owned by more people than the handful that do it now as the number of staff members grows and the brief of ICANN expands it'll become even more difficult for a small group of working group participants to keep pace with the work of the organization. So that may be in the coming years so the most important thing that we can do is to focus on how to strengthen the participation in the working group.

Jonathan Robinson: Just a remark and a comment on that. I mean, I've got no doubt that that's, again, going to be - that participation capacity and work over - workload is going to be a theme for us in our meetings. And I suspect it's probably going to bubble over into being a theme for this whole meeting, one of the sort of meta themes that comes through.

I mean, we can come back onto this a little more rather than specifically on this but, please, hold me to that. I think when we have the more strategic discussion a little later I think it's something we should definitely come back to.

Petter.

Petter Rindforth: Just a quick comment on that. I agree more or less but I would say it's actually more efficient to have a small but active group than looking at the paper and all the names and think that you could await comments from all - how many was it - 42 members which actually make it more harder to do an effective work for those that actually are active in the group.

So I have - as I say I have no ideas either how to make it better but it's an important issue that we have to deal with for future working groups. So small efficient ones that can also work quickly with the issues.

Jonathan Robinson: Got Alan, Stéphane and John and then I think - we're sort of - I'm just slightly conscious that this is a really important issue but it's not necessarily Policy and Implementation Working Group issue, it's more of a bigger theme. But anyway let's go with Alan, Stéphane and John.

Alan Greenberg: One quick point on that. Small efficient groups staffed with really competent caring people can produce good products but they lack credibility however with the overall community if they are not more representative and widely represented.

Jonathan Robinson: Stéphane.

Stéphane Van Gelder: Thanks, Jonathan. Stéphane Van Gelder. I also think that we're talking about several issues but they all boil down to the issue that you've just mentioned, Jonathan, which is overload or volunteer burnout. And we can talk about working group composition and the size of them.

The actual - the main point is actually that you're getting the same volunteers on the same working groups being worked to death basically, having to keep up with something that is - that remains a volunteer position and that has to be either added on to an everyday job or has to be that person's only interest because they're in a position to focus exclusively on that.

And I think at that point we have a system that starts breaking down. And I think it's time to stop circling around this issue and being nice about it and start calling it what it is. We're - I think we're at an inflection point here where ICANN is beginning to stop working as it should. And we're seeing this even today I'm doing a session tomorrow for the ATLAS thing on volunteer burnout.

But that - those two concurrent meetings, for example, they are draining enormous amounts of volunteer resources and they're competing for time slots. And who can keep up? You know, I think the system really is breaking down.

Jonathan Robinson: So I happen to agree with you. I see heads nodding around the room. I'm really keen we pick this topic up but it's not strictly this so maybe what I could ask for is that anyone who wants to talk about this topic just recognize it and make either a very brief point or come back to this in half an hour when we really will pick up on this theme I suspect because I've got all sorts of people coming in now.

I've got John, Klaus, Marilyn, Avri, Thomas. But I'd really encourage you to wait until - if possible - that we pick this up as a full blown theme rather than

in this particular session. We're slightly off topic I feel but let me not - John, go ahead.

John Berard: John Berard with the Business Constituency. Jonathan, I am good with coming back to this later. I agree in large measure with Alan. However, I do believe that the political implications of ICANN's failure to support a multistakeholder, bottom up, consensus driven decision making process puts it at a serious disadvantage in the broader Internet governance discussion. And so it's not just strategic but it's also very political I feel.

Jonathan Robinson: So if we can confine ourselves to a series of brief comments like that then, Klaus, did you - Klaus, you've dropped your place in the queue. Thank you. I've got Marilyn.

Marilyn Cade: Thank you. My name is Marilyn Cade. I'm going to ask for possibly thinking slightly differently about this than calling it volunteer burnout by first of all saying I actually don't feel like a volunteer, I feel like a stakeholder. And I think all of you are.

Volunteers sometimes create a expectation that we have a choice about doing this work. And I personally feel that in a bottom-up consensus based organization that is developing protocols and standards and policy actually our involvement is very essential. Staff are here and Board are here to support this.

So I want to think differently about this. And not that it's burnout but that in fact our job has grown and our responsibilities have grown. And perhaps the structures we put in place initially and then adjusted when we did the last GNSO review need to be reconsidered. And just as - I'm looking around the room and I see people who really used to be able to do this work as part of their day job and now this job has become a broader part of their day job because of the implications of the decisions that are being made at ICANN.

And I might just throw out for example brands - companies who hold big brand names became involved in helping to build ICANN for a different reason 15 years ago. Today some of them are applicants for gTLDs but they're also very, very concerned about SSR, security, stability and resiliency; an issue we spend a lot of time thinking about within the Business Constituency.

So maybe in the GNSO review process, Jonathan, and within the Council we should all be thinking about - our job has really grown. There are three times as many governments who come to the ICANN meetings as when we founded ICANN. There are four times as many ccTLD managers who come.

And if we think about it maybe from two perspectives, one may be burnout; the other may be we have to think differently about the fact our footprint has grown, our responsibilities have grown and maybe ICANN's support to us has to shift into more support rather than hiring more staff who are doing new initiatives and new programs. But it's stuff to think about, I think, in the broader GNSO review. Thanks.

Jonathan Robinson: So again to reiterate I couldn't agree with you more that this is something for our open and substantial discussion that comes up after the GNSO review session. It's also relevant in our preparations for meetings with the Board and with Fadi. So just - I'm not in any way attempting to remove this off the topic but let's just - we close this session with two comments from people who have been waiting patiently and that's Avri and Thomas. Try and keep it brief and remember we will come back to this related point.

Avri Doria: Thank you. Avri speaking. I actually do want to bring it back to the implementation and policy issue. I don't actually believe in whether it's stakeholder or volunteer burnout; I tend to think it is more disillusionment. I tend to think that it's people that look at the work they've done in one place and then they see it sort of disappear and be dissipated in another.

So I actually think that the - keeping up the policy aspect of implementation and making sure that the work that is implemented is consistent would have - because I know when I'm looking at, yes, there's a lot to juggle but it's really the question of is it worth it? And as long as you think it's worth it you can stretch. But the second you don't think it's worth it you get into talking about burnout. So I tend to believe in a causal problem for burnout which this group is working on. Thanks.

Jonathan Robinson: Thanks, Avri. Thomas.

Thomas Rickert: It's interesting because I guess my comment fits seamlessly to what Avri's been saying. And I have a question for the working group co chairs. My question is I think that there will always be lines between policy and implementation; there will be no clear cut solution for whatever scenarios there might be.

And is it your view that maybe the lack of participation or the decline in participation as a result of people fearing that there might be no tangible results that we can work on? And that, you know, if this ends up being a case to case decision and a reaction required on an individual basis by the Council in each instance then people might be frustrated and not devote attention and time to this because of a lack of - ambition to get something tangible and worthwhile out of this.

J. Scott Evans: I'll just quickly answer that as the co chair. I don't think that's the concern. I think the reality is that it is as most things in this world it's a combination of between what Avri just said and what Marilyn said. It is a combination of both; Disillusionment and over-burden. And I think that's what it is.

We had a much higher participation level at the beginning but then the world exploded like probably a month and a half after we really started having meetings and we saw people getting involved in other initiatives because the table grew.

I think as things are delivered to the Council and/or the Board and they are then reacted upon by - put into place the disillusionment grows. So I think it's a problem from - I don't know, Marika, if you would - but I think it's sort of a combination of those things that causes it.

And I give great kudos to the staff who try very hard to keep people engaged and make sure that they have the information that they need to stay engaged and do a lot of cajoling to keep people involved.

Because one of the things you have is legitimacy. I go to Alan's point earlier which that is one of the biggest thing is you have 10 people participating, they put out this work product and although everybody was invited to that table nobody comes and then everyone wants to tear it down on the backend which brings the disillusionment that comes in which then brings the burnout of where am I going to put my time.

It's all sort of a house of cards or a domino string that one tips and they all start to fall. So that's - would be my comment and/or answer. And this is J. Scott Evans for the record.

Jonathan Robinson: Well, I mean, to me it's fascinating that in discussing the work of this working group we've really teased out one of the - as I say I feel it's a critical theme for the GNSO. But I think it's a theme for the meeting at large so there's no doubt we should come back to this. I suppose one personal comment is that in terms of this - there's been talk of blurred lines I think you can have relatively sharp lines without - but still iterate between the two.

So, you know, or in fact the third. I sometimes - I personally feel we shouldn't only have - view it as policy and implementation. What we seem to miss sometimes is a sort of specification - design specified build and if we had design specify and build we might be able to have slightly more compartmentalized work. But I risk making my own two cents worth, which is really about the working group rather than hearing from the working group. But that's my little thought on it.

Are we happy to close this session? I think we're running a little late on time, and move into the review. And I assure you we'll come back to this theme of workload, participation, involvement, in the session after that. Thanks.

If we could stop the recording then and pause for a minute before we move on.