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GNSO Policy and Implementation
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Man: GNSO policy and Implementation Working Group Cadogan, London ICANN 50.

J. Scott Evans: We haven't had a chair. Well I was out in the hall. Okay everybody why don't - we're running a late and but we - I think we do have two hours. I think we have the room until ah, 5:30.

                         Um, do we - are we being recorded? Do we have...

Man: Yes.

J. Scott Evans: Can - can we start the recording? Okay. So my name is J. Scott Evans and I'm with Adobe Systems incorporated. And I co-chair the Policy Implementation Working Group with Chuck and our Vice-Chair Michael Graham who's down at the end of the table and (Olivier) who may be on the phone. I'm not sure if he dialed in or not.

                         Greg Shatan.

Man: Shatan.

J. Scott Evans: From the Intellectual Property Constituency. So I just want to welcome everybody here. I'm sorry we're a little late. There was a little confusion 'cause there was someone else in the room. But we're here now.

So for the people who don't know this is a group that's sort of looking into how to decide when something is policy or implementation or how do we do that and what are the boundaries around how that gets decided and what principles should be involved in determining that and then how do we handle it?

So why don't we go around the room and make a roll call and decide if anyone needs to update their statement of interest.

Again I'm J. Scott Evans from Adobe Systems incorporated and I'm here as co-chair but I'm also with the Business Constituency. Chuck?

Chuck Gomes: Chuck Gomes from the Registry Stakeholder Group. And I'm with Verisign. I'm co-chair but I'm gladly letting J. Scott lead today.

Marika Konings: Marika Konings, ICANN staff.

Karen Lentz: Karen Lentz, ICANN staff.

Anne Aikman-Scalese: Anne Aikman-Scalese with Lewis Roca Rothbgerber and I'm a - the IPC. Thank you.

Michael Graham: Michael Graham with the IPC. I'm with Gnosis IP Law soon to be with Expedia.

Susan Payne: Susan Payne. I'm at Valideus. I'm with the IPC and I'm also on the NTAG.

Mary Wong: Mary Wong ICANN Staff.

Wolf-Ulrich Knoben: Wolf-Ulrich Knoben. I'm the (CE) Internet Service Providers Constituency and the company T6 which is - which (unintelligible) direct exchange in Germany.

Jonathan Frost: Jonathan Frost. I'm with .Club Domains in RSG.

Tom Barrett: Tom Barrett. I'm with EnCirca. We're a registrant.

Phil Rushton: Phil Rushton, BT.

Dominique Lazanski: Dominique Lazanski, GSMA.

Jen Taylor: Jen Taylor, BT and ISPC.

Steve Chan: Steven Chan, ICANN Staff.

J. Scott Evans: And Greg are you - can you hear us?

Greg Shatan: I can hear you fine. Can you hear me?

J. Scott Evans: Yes. Okay.

Greg Shatan: I hear myself coming back. Yes it's Greg Shatan from the IPC (unintelligible).

J. Scott Evans: Great. So just to let those who are new to the group today are sitting in and have not been on our calls to let you know sort of where we are and what we've done.

                   We spent some time and we came up with a work plan that was pretty detailed about how we were going to handle the work and had roughed out a lot of deliverable dates for certain deliverables that would happen.

And some of the first deliverables were a set of principles that would guide this process as well as definitions so we would all sort of work with a common understanding when we were talking about terms.

Please understand that everything that we have created to date is a work in progress. Nothing is a final output.

So if you read on our - on a wiki or something some of the work we've done and you're bothered or disturbed by it please understand that our whole idea is as we go along and as we hear comments and as we develop we are planning to make adjustments in accordance with that.

We also have spent some time adjusting how we were going to work. Originally our plan was that we were going to divide up into sub teams once we got some of the first of the work on sort of the ground level work.

But then we realized that it was just better if we proceeded as an entire group to do each of the deliverables as we proceed through the outline. So that's where we are now. And we've been working on our deliverable 1A which is what we had done is staff had prepared to us a flowchart of several different initiatives that have occurred what would you say, probably over the last three to - three years maybe Marika, about the last three years?

So the examples we've used in our chart it's been over the last three years and they - they're different initiative that have all started in different forms and fashion. There's not template for how they were begun.

And it - so we have an understanding of how they got initiated, what happened during that process and what if anything happened as an output from that process.

And have spent what, the last three calls we've had discussing what were the strong and weak points of each of those efforts and getting that input in so

that we can then look at that and decide how best to approach capitalizing on the strengths and putting into place mechanisms that we hope might eliminated the weaknesses.

Alan I'm sorry you weren't here when we went around the room. Would you - I know that you're a well-known face in all of ICANN and - but I - just for the record if you would introduce yourself and your affiliation?

Alan Greenberg: Sure. I'm Alan Greenberg, a member of the At-Large Advisory Committee and Liaison to the GNSO.

J. Scott Evans: So our plan today is to spend some time hopefully finishing up our review of the chart and the examples that we have.

We don't necessarily plan to go back and rehash anything. So if there's anything that you see in participating today and you have a strength or weakness, great for you to send it to us by email or to send something to the wiki. But we're not probably going to go back and have a full discussion of that too because our focus is on moving forward not rehashing discussions that the group's already had.

And then we hope to look at our work plan and make some decisions about how we're going to move forward. And so that's our - sort of our schedule today.

Can we go ahead and click through so we can put up the chart that we're working through strengths? Didn't we have like three left, three or four?

What - well why don't we - yes let's - I'm sorry go ahead and let's look at that. Greg are you on the Connect Room? Can you see? Okay great.

Greg Shatan: Yes.

J. Scott Evans: I don't have it up so I'm (unintelligible).

So this is sort of a summary of having to this point where we sort of feel like having looked at these instances and gone through the weak points and strong points what we feel we've been informed of the lessons we've learned about.

And as you can see at a minimum we think there needs to be clear guidance on what happens with the outcome of the effort. And I think I made this point at the GNSO council work session on Saturday where I said that one of the things we're learning is there seems to be a huge disconnect between when the work starts and what everyone think will happen with the work and then when the output comes out and what's done with the work.

And that needs to be - there needs to be a much greater understanding from all parties involved both affected and those doing the work about what's going to be done with that work and what effect if any will happen.

And I think we saw some examples of that this morning in the EWG meeting where a lot of people were reacting as if this was a settled plan that was going to be imposed on everybody when in fact it is nothing more than a discussion document that hopefully will identify if any further work needs to be done prior to our PDP beginning and if so what. And then what issues should handle in a PDP and should it be one or more than two - so it just shows that they're - we have to be very - much better at our communication about what expectations are.

We found that they need to be inclusive and representative that as I think Fadi also pointed out on Saturday one of the greatest struggles this organization has as it mature is the ability to trust one another.

And I think our discussions and I think with Alan who's made the point on more than one occasion is it - trust becomes very suspect when people feel like it hasn't been representative or inclusive.

So even when the work or the output may be good work it is suspect if people or communities or groups feel like they weren't able to adequately participate.

Another group is - another thing is we need the ground rules on how you participate and, you know, acknowledge that there may be - you know, some people that are there just for one issue there's like one issue people even though you're dealing with a variety of things they're only pushing one agenda. But that's okay. But we need to clearly - be clear that that exists and acknowledge it.

And we need to understand that there are also people that are just listeners in our - that are just sort of observers. And that happens in our process.

But we also need to be better project managers to understand that there are those participants and we need to do something to make sure we're minimizing the repetition of going over the same ground again and again. We have to move things forward. And that's just better project management.

I think one - another good thing that was said this morning is when the gentlemen - we had a first comer come to the microphone from ISAC Canada. And he said that he felt like one of the things that would help this organization and it feeds into what we're talking about was that anyone who chaired a working group should have to take a mandatory course or something on chairing committees because his observation was there was a lot of time spent where two people in a group of 30 were arguing over and over a position and the chair wasn't taking the position of chair and moving things along.

Another thing was to have ten minutes at the end of every minute every meeting set aside where you had to agree if there was any consensus work that had come out of the meeting because so many times everyone went out of the room some feeling like there was consensus, some feeling that it wasn't and some not knowing what had happened at all.

And so it might be nice if there was sort of a template put into place with that. And I thought those were two valid points. So that kind of goes to number three up there, a more effective process.

Four is to explore alternative or additional ways to obtain input at an early stage, so something like the EWG a working group. Or if it's a particular technical issue or particular issue that speaks to one group let's just take for example not to be controversial law enforcement.

If it's something that has law enforcement implications we might want to reach out to some technical experts in that particular field and have them inform us and educate us before we begin our own work. Because we don't want to begin work that can't even be done because it just doesn't exist in the real world. The Internet is not another planet. It still operates within the terrestrial atmosphere that we all exist and but it needs to be that this process needs to be as lightweight as possible that it's an alternative to the policy development process that exists.

We have a process for that. And if that's what we're going to do we should do a PDP. So we shouldn't be as cumbersome here. We need to be a little bit more nimble and agile in certain situations.

And to know that the potential topic leads, the people who chair are sort of versed in the topic and the procedures that they understand what's going on and to ensure that we get broad input as early as possible so that we're not backtracking or we haven't fallen off a cliff because we didn't get input we didn't know that we're headed down a track that would work.

For example I'll give you an example with something like this was the IRT. There were registries and registrars in that process. And the reason was they could tell you this will never happen. It just doesn't work. It's technically not feasible so that the people trying to come up with solutions wouldn't go down that rat hole.

And so being able to identify that and get that in early and as early as possible I think goes to being more lightweight, goes to being more efficient and I think will help us.

So those are some of the early learnings. Does anyone else have a point of - Anne?

Anne Aikman-Scalese: Yes thank you J. Scott. This is Anne Aikman-Scalese of the IPC for the transcript.

I was re-reading the ATRT2 final recommendations. And there was a significant amount of discussion particularly with respect to final Recommendation 5 about distinguishing the need within the organization that has apparently been recognized in ATRT1 to distinguish between policy-making and implementation.

And two things I noticed about that it may be simply a lesson learned that there needs to be an earlier determinations based on reading the ATRT2 report of, you know, whether something is policy or implementation and tag it as such. That was certainly their recommendation.

And the other thing I noticed in their report was that the - their final recommendation was that this needed to be addressed in a cross-community group. And I think I can read from it.

So in terms of lessons learned I guess what I was trying to say was that with respect to lessons learned maybe we should also incorporated, you know, lessons learned regarding policy and implementation that were very clearly documented in the ATRT2 report. I think that's what I'm trying to say.

J. Scott Evans: I haven't looked at the report for a while but I did look at - I don't recall that they made any particular recommendations did they?

Anne Aikman-Scalese: Yes (unintelligible).

J. Scott Evans: Okay I'm taking a queue. Anne go ahead and respond to that.

Anne Aikman-Scalese: I'm sorry yes it was ATRT2 Recommendation 5.

J. Scott Evans: Okay.

Anne Aikman-Scalese: And then let me find - okay I had it (unintelligible) may I read it?

J. Scott Evans: Sure...

((Crosstalk))

Anne Aikman-Scalese: Oh I made a mistake. Recommendation 4.

J. Scott Evans: Okay.

Anne Aikman-Scalese: My bad, recommendation 4.

J. Scott Evans: So go ahead and read.

Anne Aikman-Scalese: Final recommendation. The board should continue supporting cross community engagement aimed at developing an understanding of the distinction between policy development and policy implementation, develop

complementary mechanisms whereby the supporting organizations and advisory committees SO AC can consult with the - and this is particularly relevant now obviously w- and consult with the board on matters including but not limited to policy, implementation and administrative matters on which the board makes decision.

Apparently and ATRT1 this is I'll referred to as policy-making versus administration. But in ATRT2 they said the community should start referring to it all as policy versus implementation.

And the Recommendation 4 of ATRT2 is very specific on this cross-community engagement and definition of a policy "versus" what we call it policy and implementation.

But I think actually that point was more to whether you call it administrative/executive or whether you call it policy and implementation. So I don't think the versus matters that much.

J. Scott Evans: Okay I'm going - Marika?

Marika Konings: Yes this is Marika. First of all we have (Olivier) on the line...

J. Scott Evans: Okay.

Marika Konings: ...so to welcome him. And secondly on the ATRT2 recommendation just to know that the discussions on policy implementation started out as a cross-community effort. You know, we have the staff briefing paper and response to that the organizer session which I think was in Beijing where we invited representatives from all the SOs and ACs to participate.

At that stage we realized as well that, you know, the GNSO wanted to undertake some specific work on this. And I think Jonathan sent a letter to all

the chairs or the SOs and ACs, you know, asking them if they would be interested to join and participate.

And I think at that stage actually not specific interest was received and it was decided well at this stage let's move forward with the GNSO specific aspects.

And as we work through those as those, you know, as these specifically relate to the GNSO PDP, you know, other groups may look at this, learn from this and we can see if some of what we do can maybe be elevated to a more SO AC state.

With specific regard as well to the ATRT2 recommendations because the board has come back as well too to different staff members to ask for input on the recommendations what is currently being done, what is already ongoing.

And we provided feedback there as well that, you know, this effort is actively going on coming out from what started off as a cross-community effort but, you know, it was felt as more appropriate at this stage to being conducted in the GNSO.

And our recommendation has been to basically first wait for the outcomes of this group to really be able to determine, you know, what else needs to be done and addressed.

So I think as well in all reality if we look at policies that are being developed most of those come out of the GNSO.

I think the ccNSO to date I think has done two if I'm not mistaken. I think the ASO is well on a - I think they'd done a couple of more but is needed that they have some much - so many coming out.

So I think that's why as well the focus has been on this aspect. But it's definitely not something that is being forgotten. And when we get to our end stage I think it's then again the moment to engage other groups and say okay we now have something that we want to recommend for the GNSO.

Others may want to look at this as well if any of this can be elevated to, you know, general ICANN principles for example and how to deal with policy and implementation related conversations.

J. Scott Evans: Okay Alan?

Alan Greenberg: Thank you. A couple of comments, first of all regarding the ccNSO they - they're working on their second PDP right now. And the first one was in fact the process to develop their own operational rules not related to ccTLD policy. So they're really in a different world than the GNSO is right now.

At the time of the ATRT1 the recommendation there was really focused on executive action. That is what could the board do as opposed to what does - what has to come from the policy organizations. And it was done in relation to a, you know, different issues.

By the time we got to ATRT2 -- and I was a member of ATRT2 -- the whole issue had blown up of the intellectual property rights and the protection rights which directly led to this PDP or to this working group sorry. We're not a PDP I don't think let to this working group and of the policy versus implementation and now policy and implementation.

It's very much a moving subject. I think we now understand much more about the process as we move from initially identifying a process to developing policy to implementing it than we did before.

We are now having things of iteration in our process essentially saying that we understand that when we think we're finished with the policy and start implementing it we may well find new policy issues.

That concept of a loop back in the overall flow was not there before. It was very much a straight through no looping back at all. So we understand that differently today.

The output of the Expert Working Group should we go ahead with a PDP and actually implement anything resembling what they're talking about is going to add a brand new phase.

We're going to have a major software design process somewhere in the middle. The mind boggles because we know coming out of a software design process number one we're supposed to go into it with hard design which of course is bad practice these days with agile design. And we know there are policy issues that will come out during the design phase. We know. There's no way we can't.

And it's not clear how we're going to work this into a PDP process whether perhaps we need a pre-PDP and a post-PDP. So that's going to change the world again.

So the world is shifting under us as we're trying to develop the rules. And I think we simply have to accept that and understand that it's going to be a difficult grind ahead.

And what we're going to come out with at the end is nothing resembling what we thought it was at the beginning.

That doesn't make our life easy but if we want to come up with anything useful I think we're going to have to work in that environment.

So I wouldn't get caught up to much about words that were written last September in an ATRT report which by the time it was published probably weren't the right words anyway and six months later almost certainly aren't.

J. Scott Evans: But I just want for the record I did want to say that we did reach out to all the other ACs and SOs and everyone at the beginning. And I want to say we - when we touched based with them on the second occasions a couple of them said back to us we would prefer to wait to give any input until you have an output that we can review.

We asked specific questions which we in retrospect think may have been too dense to seek input. But they've - that's what they've said.

I just want to get it on the record that we've done not only did we do it at the beginning when we constituted we went back and we've received specific feedback from some that were like Anne if you can keep it really short I'll let you continue on this subject because I want to move us along so we can get to the review.

Anne Aikman-Scalese: Short and to the point I think bullet points or Number 8 would be the community needs to develop criteria policy, defining policy, defining implementation to increase its effectiveness. That's a lesson learned.

J. Scott Evans: I think we're going - we're getting there. These are the lessons we've learned based on what we just went - the things we've reviewed to date.

Marika Konings: And this is Marika. Maybe there's some confusion as well with the title because the lessons learned are actually on the following pages where we identified that for each.

What you see actually on the top is what we've tried to drive from those lessons learned as kind of principles. What would GNSO policy guidance process need at a minimum?

So basically from the lessons learned all the things that we've reviewed these are some that, you know, we tried to derive.

And as we're still, you know, reviewing some of those others may be added. This is definitely not intended to be a complete list.

But as a starting point looking at what we've learned so far these are some of the principles that the GNSO policy guidance process that we don't exactly know what that would look like would probably need, you know, to me that's it has to qualify based on the conversations we've had so far.

Man: We also have a separate document of principles which we did before this which are additive but not necessarily fully represented. And one of them is the ones you just talked about.

J. Scott Evans: Okay so let's move on to the next part of today which is to - I think we were going to look at the remaining - I think we had two or three that had not been gone through - we had not actually gone through. Maybe it was more like four.

Woman: Yes...

((Crosstalk))

J. Scott Evans: Yes I was going to say I don't want to tell you what birthday I just had but I could say it qualifies not to read that type.

Michael Graham: J. Scott while she's pulling this up I'd sort of like to suggest as well..

J. Scott Evans: Can you identify yourself for the record?

Michael Graham: Oh I'm sorry, Michael Graham for the record. I'd sort of like to suggest as well that we include in this some of our observations from the EWG report because I think those are some lessons that we learned as well just in how it's been dealt with.

J. Scott Evans: I don't think there's anything to stop us from doing that at all. But I would let's - maybe we can reflect on that after we work through these where we've been provided this good information and we've been dealing with it.

I know that everyone at least on the committee I suspect has looked at this because we've had it in front of us on several calls and I'm hoping has been judicious enough to review it with - when they haven't been on the call as well.

So what we've done as you can see for those who are new to this discussion have not participated before is we've identified as I've mentioned before at the top certain efforts that happened. And then we have within this document outlined how they were initiated and the different steps that may have occurred throughout the process -- sort of a summary of what went on in a very high level summary.

And then before all this information is a row asking for strength and a row asking for weaknesses. So where are we now?

I think we did IGO.

Marika Konings: I think we're on Column 7 the correspondence on the trademark clearinghouse straw man proposal. Let me move over here.

J. Scott Evans: Marika since you've got it in front of you can you just set the stage for us about how this was initiated and then lead us down through the column so that then we can get to strengths and weaknesses?

Marika Konings: Yes so this is Marika. So basically this relates to a request from the ICANN CEO to request policy guidance from the GNSO council on two items in relation to the TMCH namely the straw man proposal and the IPC and BC proposal for limited defensive registrations.

The public documents were also posted for public comment at the same time. And I think - oh I'm going to fast here.

Basically the process that was used was as couple of council members volunteered to develop a first draft for council review. Conversations took place based on that initial draft on the mailing list.

A number of comments were received and then incorporated in the draft. And in the end it was determined that a majority of council members supported the letter and that was reflected in the letter.

So it wasn't a letter that was supported by all but a majority was in support of sending that letter. And as such it was also noted in the letter itself.

There was no public comment on the council response itself but I said public input was sought on the same questions via the public comment forum, took approximately three months to get the letter completed and was sent to the CEO.

And the only strong point that was identified so far as was provided requested feedback to the board. And a weak point timeline is always an issue when implementation details are being debated.

J. Scott Evans: And I think those are mine. I think I added those before our last call.

Marika Konings: (Unintelligible) lose your call...

((Crosstalk))

J. Scott Evans: I think so. So you see what my perspective is is I thought a positive was that the GNSO actually responded. They were asked for policy guidance and they provided it.

But I think it's a little kludgy to be three months and when you're seeking to get details rolled out to applicants about how things are going to operate a little slow.

And it frustrates the people new to the process and those aren't new to the process that are trying to make business decisions on budget and development in a certain situation. It frustrates staff. I see Karen shaking her head because they can never get to the end of the damn project because the finish line keeps being moved around.

So I think timeline is a real big thing. Does anyone else - is anyone in the room - and please feel free if you're familiar with any of this or know what we're talking about and you have an opinion to come up and give your opinion about what we're talking about.

But does anyone else have a strong - a strength or weakness that they see that occurred here? Marika?

Marika Konings: Yes this is Marika. I think one of the weaknesses and I think it comes back as well and to some of the defensibles we identified before is indeed that I wasn't clear how this letter was going to be adopted.

And I remember there was some frustration or concerns at the end that indeed it turned out it was a kind of a majority decision.

I'm not sure if there was actually a motion or it was more of a kind of decision on the call because normally any formal motion there is simple majority.

But I think in this case there was a deadline where people felt that it had to be sent. And I think there was - trying to look at Mary because she was involved in that time as well whether some of these felt that that minority view wasn't sufficiently expressed or respected in the letter.

So again I think it comes back to the process at the outset was not clear on how it was going to be dealt with which resulted at the end of the day I think with frustration on the part of some groups because they did not anticipate or expect that it was going to be handled in that way.

So again I think it goes back to having very clear from the outset what is going to be done, what are the timelines, what are the mechanisms for adopting and setting that?

J. Scott Evans: Great. Can you make sure that you put that down in our weakness? I think Marika has been on our calls the one that's been describing these into the chart as we go unless you like I did and you did at one point and I think Alan did as well sent a version around to the list where you'd gone through and add yours. And I think those have all been captured here.

Alan were you on that council at the time as the ALAC rep?

Alan Greenberg: I've been on the council forever.

J. Scott Evans: I'd like to get your perspective sort of here of strengths and weaknesses because you lived...

Alan Greenberg: I'll be candid. As you were talking I came up with the negative and then I realized no that was on another letter that we sent. And they all sort of merged together over time.

This was one of the first semi successful times that council attempted to say something as a council without simply chartering a workgroup to go off to work for a year or two.

So for the fact that we actually said something is a positive. Council's is getting much better at that right now and quite different from what it was just six months ago.

That being said this was a very, very divisive issue. And there - it was clear from the beginning there was going to be no council statement that everyone supported.

And in fact the positions of some of the groups changed over time. And if we were to do it again or change again if were to revisit that exact question partly because of the work this group is doing and its predecessors and the corridor discussions on what is policy and is implementation.

I mean I'll give you a personal view. The ALAC came out with a position early on in the discussion of the straw man activities that a particular aspect of it was policy.

And I realized a few months later and I was the one who put forward that position to the ALAC and I realized I was wrong.

In reviewing where the precursors to that policy came from it was out of an implementation project. And there was no way I could in my mind say that something that modifying making a tweak even a large tweak in an implementation project was policy.

Because if that implementation project had in its wisdom gone a slightly different direction they would have come out with the result that the straw man came out with I mean all except where it wouldn't. But it could have and it would have been implementation at that point.

And that project which was the STI group which created the trademark clearinghouse in URS in its front cover page said this is an implementation. This is not policy.

So positions evolved over time so it's not surprising that it was a divisive issue at the time. So I'm not sure we want to use it as the strongest model. It was simply one of the interim things in the stage from the GNSO not being able to come to address this kind of issue at all to being better at it now.

J. Scott Evans: Okay well real quick since we've got Karen in the room and she was the one that was having to react to a lot of this just from a practical level can I ask you, you know, a positive or negative?

And I don't mean to put you on the spot but you were dealing with this on a daily basis and trying to, you know, get something out to a world that was clamoring for guidance right?

So I'd really like to know sort of from your perspective as the person that was having to react to this what's your perspective?

Karen Lentz: Thanks J. Scott. This is Karen Lentz from staff. So you've alluded to a couple of things. One is, you know, you do have an implementation project and timeline and product and actual technology that needs to be built and a lot of people who are depending on that and still debating questions about what to tell them to build. So that's the first obvious point.

The second I think is along the lines of what Marika was saying that, you know, there is a sense that yes this is, you know, perhaps something that we should reach out to the GNSO for guidance or advice on this issue just on the basis of a sort of I don't know gut sense that, you know, this is, you know, may seem a touch on issues that, you know, have already been discussed at length in policy type discussion.

But then, you know, it wasn't set out, you know, what will happen once that advice is received, how it will be taken in context with the public comment, what kind of response or reaction can be expected so that just wasn't there.

A lot of that was because, you know, it was - there was no defined process. That's, you know, there's no way to know if you're following the right steps or, you know, what the outcome is supposed to be or the parameters are supposed to be.

And that's a lot of the frustration is, you know, people see the outcome and they disagree with the outcome. But they also don't understand, you know, why the process went the way that it went which is, you know, just one reason I'm a big supporter of the - this group and what you're doing.

J. Scott Evans: Super. Thank you so much. And I - Marika you had your hand up. Was it just to tell me that Greg was wanting to speak?

Okay I'm going to take a queue. Mary was your hand just to tell me that? Okay so Marika and then Greg we'll come to you on the phone.

Greg Shatan: Thank you.

Marika Konings: Yes and this is Marika. You know, not seeing any members from NCSG in the room I'm sure they would make the point as well as one of the weak points that they didn't believe that indeed the viewpoint of the council that was communicated was actually taken into account.

I think it also alludes to (Karen)'s point and that maybe it wasn't clearly set out at the start on how input would be received versus, you know, public comments submitted, you know, viewpoints for SOs and ACs.

And I think that as well to them filing, you know, several I think reconsideration requests, I think several conversations that followed that. But I think where they felt that indeed the council said something and that was basically the opposite was done or was ignored so again I think this kind of clarity on the one hand what is a process for the GNSO Council or the GNSO as a whole to do something but also then at the end stage what happens with that product when it gets sent either to the board or to staff or whoever the input is intended for.

J. Scott Evans: I don't want to speak for the NCUC but I would agree with you so would you capture that? Because I think I don't want to ignore what we all know is a reality. And if they disagree with that we don't have to attribute to them. We can just say that we know some groups.

Greg?

Greg Shatan: Greg Shatan for the record. I think that, you know, one of the things that was awkward about this so it's a weak point is, you know, without a real process for the council to issue policy guidance and with letters from the council to issue policy guidance and with letters from the council being at a relative rarity the idea that the council would speak as the council when, you know, clearly at least two constituencies if not more had, you know, two constituencies had actually put up and worked on and kind of led the effort to get these proposals put in place and yet the council speaking as the council and not just as the kind of remaining or other stakeholder groups and constituencies, you know, felt awkward.

The letter does, you know, say if the majority of the council that's saying this, you know, but, you know, it's still letter from the council. So I think that created a, you know, an awkward situation especially since it was essentially ad hoc.

You know, if it's recognized that the council can issue policy guidance that it's essentially, you know, supported by only a majority, maybe even a bare majority of the council then that's at least would be a recognized process. I'm not sure I would support it but it's a recognized process.

But kind of having the council, you know, the power of the council speak against, you know, certain of its own constituencies, you know, felt a little what, negative.

And I think that, you know, lastly I think that in terms of, you know, whether the - what was in - what was put up in the straw man solution was, you know, or whether the letter was ignored, you know, certain parts of what was proposed did make it through. Certain parts were recognized even by the council in this letter as being implementation and others weren't.

So, you know, there's I think at least a kind of a split decision on whether what was, you know, started out, you know, with the straw man solution effort and the limited defensive registration effort was, you know, listened to buy the board when the council spoke on it. Thank you.

J. Scott Evans: Great, thanks Greg. Anyone else have a comment here or can we move to the next column? Do we want to do lessons learned here? I - okay go ahead Marika.

Marika Konings: So this is Marika. One that I wrote down was a need for clear process at the outset including how end product is adopted by GNSO council.

J. Scott Evans: I can live with that. Anybody have a problem with that sort of summing up our discussion? Ann?

Anne Aikman-Scalese: I kind of thought - Anne Aikman-Scalese. I kind of through part of Greg's process or Greg's comment brings in the issue of how big council

speaks for all the constituencies and stakeholder groups and when there's less than unanimous agreement on policy matters.

And I have to admit, you know, I don't know the answer to how that's worked in the past other than in this situation. And if we're developing a procedure that's supposed to be to work faster and be lightweight and that kind of thing will we have to deal with that?

J. Scott Evans: Marika?

Marika Konings: This is Marika. I think absolutely and especially if, you know - and probably the council would trigger a reaction from the board. Because presumably the board will say well, you know, if it's in my one councilmember we should be required to do something.

But think if similar to PDP recommendations their consensus policy recommendations they require supermajority not unanimity. But they are, you know, require simple majority to be adopted as consensus policies. And the board still has an option to overturn them but it requires a higher voting threshold.

So I think definitely in looking at, you know, even if it's a process or processes, you know, there may be, you know, higher level or lower level thresholds maybe on, you know, a public comment forum, you know, putting that in maybe that's a simple majority that make sense.

But if it's for example, you know, policy guidance that has more significant impacts maybe there you want to look at a higher voter - voting thresholds. So I think that is definitely something that will come up I presume.

J. Scott Evans: And I would say that it's not just the board that asked for policy guidance because am I incorrect to say that the GAC sent a letter seeking guidance on

IGOs back in Costa Rica? They went to the GNSO Council because there was - they refused - they didn't vote on it.

Chuck Gomes: This is Chuck. They did send a request to us and to the board if I'm correct is that right Mary?

Mary Wong: I don't remember the exact chronology. This is Mary Wong. But I think they definitely did send us of a letter with a very specific request to the GNSO Council so maybe that's almost irrelevant whether they also sent it to the board, because it was direct communication from the chair of the GAC to the chair of the GNSO.

J. Scott Evans: So I think the point is that there needs to be something because when we hold - when the council is held out as the one that has to kind of guide the policy process and they're asked a specific question from some organ within this community there needs to be some way for them to respond and an understanding of how we get there and what obligations have to be met in order to provide that.

And I think that that is guidance that everyone feels when it isn't they're betrayed by the process or whatever ad hoc process there is.

And then again we get to that the issue of trust and the issue of so many other issues. So I do think Anne that it's something that we need to take into - seriously into consideration.

Chuck Gomes: Chuck again. And just to put all that in in a little bit of context it doesn't mean that the council is going to be able to give very specific guidance.

In some cases they may already have the guidance that's needed. In some cases they may not so it may be a response saying we've received this, we don't have the guidance at hand but we will work on this -- whatever that means in a specific instance.

J. Scott Evans: Jonathan?

Jonathan Frost: I just wanted to point out that with regard to the GAC issue this may be going a little bit beyond implementation guidance and more interpretive guidance. You know, that might open up the door.

I mean it probably does open up the door because anyone can come and say well now we want an interpretation on this policy and expand it and expand it. So it's all little bit broader than implementation.

J. Scott Evans: I think to some extent but I - what no one ever understands is no is an answer too. I mean you can say no that's an implementation - you're asking us a question that's not policy guidance.

And at some point we have to realize that there are rational people that are around the table and that they're going to have to make some calls.

So I think you're correct. But no my answer would be well then somebody just stand up and pound the table hard enough and point that out. And we would hope that the people feel that way would have a voice to stand up and speak.

Chuck Gomes: Chuck again. And I have a question for us. I wonder if we should broaden the term and not call it policy guidance or implementation guidance. Maybe it's just the term guidance because it's going to apply to both.

I don't know what...

J. Scott Evans: That's probably true.

Chuck Gomes: Yes.

Anne Aikman-Scalese: Anne and I agree that's right because I think the initial question for GNSO is is it policy or is it implementation. And so if its guidance sorry this is implementation.

I just heard a debate before GNSO right now about something that well wait, why are we being turned back into a policy issue which we think is already been decided?

So as far as this procedure this guidance procedure I totally agree with Chuck. It first has to be decided, you know, what type of guidance is appropriate.

J. Scott Evans: I'm going to go to Marika and then Alan.

Marika Konings: This is Marika. And then I think I've made this point before looking as well where requests are coming from and then what they relate personally I would probably see it as a way where you have probably different options.

And policy guidance is the formal process that is used when the board requests input on policy related issues whether that's, you know, outcome of PDP recommendations or other policy related items.

And then you probably have a more - a guidance process that is on other items or maybe it's called differently.

But I think we are probably looking at, you know, one very formal process that would go to a certain status if the council indeed adopts that, you know, through certain mechanisms where there may be certain minimum criteria that need to be met in order to, you know, have a little bit of a similar rigorness as a PDP but at the same time, you know, fulfilling that lightweight kind of view but still being able say this is the view of the council.

And we've gone through, you know, some due diligence in order to achieve that. It's not a kind of few people in the group write a letter and adopt it.

But I guess you have as well in other instances where you don't need it and it is more - you have a more lightweight guidance process.

And there may be some different models that we could provide to the council saying look you're basically look at what comes in and I almost feel like a flowchart.

The council gets a request. If it's, you know, policy advice guidance this is the process you follow. If it's something else, you know, these are the three or four different options that you can choose from.

Council discuss what you think is the most appropriate. Is there a specific timeline because you may also have a process that, you know, we can do in 30 days, one that you need at least, you know, three months for.

I think that those are the kind of options at least from our conversation I think of may be a model that we're looking at.

But again that's my personal view of having, you know, heard the different points. And I'm looking as well what the council specifically has done in different instances.

J. Scott Evans: Great. Alan and I just want to take. Greg I see your hand is up and so after Alan I'll call on you.

Alan Greenberg: I guess a couple of things. I think Marika is right. When we started this working group the concept that council would pick different processes depending on the details was almost hard to - us would imagine.

But we've seen them do it once and likely to do it a second time in a different - with a different process in the next month or so.

So we are likely moving to a more flexible agile model then we envisioned before. This is - it's very clear.

But we don't just issue advice on policy. The IRT is the Implementation Review Teams even when they don't get into changing policy there are interactions.

Now so far they have not been rejected to the extent that we felt it was necessary to go to council and get the stamp of council on it to demand it.

But essentially the IRT is working on being delegated on behalf of the council to make advice on implementation.

And, you know, whether we need a special name for it or not I don't really care but we do give advice and guidance as it were on implementation. So that's not a new concept. We're already doing it.

J. Scott Evans: All right Greg?

Greg Shatan: Hi, Greg Shatan for the record. Just going back to the - and maybe this is a too small a detail for this point.

But, you know, thinking about the council voting by majority on this type of guidance seems troublesome to me when most of the things that council votes on now are as a result of some kind of underlying consensus procedure either, you know, by a working group or the standing committee on improvements or something like that.

So a consensus process has already developed the item that is being voted on by the GNSO Council.

You know, if the council is providing policy guidance kind of by itself without, you know, having any kind of group constitutions to do so then really the whole concept of a bottom-up consensus driven multi-stakeholder model goes out the window, at least the consensus driven part of it.

And it becomes a, you know, old-fashioned majority rule process which, you know, I think is not within the ethos of ICANN.

So I would encourage us as we look at this potential guidance if it is going to rest with the council itself and not some, you know, body constituted by the council that the council should adopt a consensus procedure rather than a majority vote procedure for responding to such guidance requests. Thank you.

J. Scott Evans: Greg one, I don't think I've heard anyone say that it should be a majority vote. I think what I heard was you need to have some process and if you went with that as an example. So I don't think anybody's gotten that granular yet. But I appreciate your comments.

I think you're saying that this is something that is so special it needs to be taken it needs to be a pretty rigorous procedure to make sure it happens.

And when you're not going to constitute a group to work on it and you're having to react at a certain time.

And I sort of like Marika's idea of a decision tree model that, you know, that the marble goes down a certain trail based on how it's triggered.

And if it's one thing it may be very, very rigorous because it's going to the board with a specific meaning and what will happen out of that is a lot more serious than sort of just giving your opinion about something that might be a little bit more lightweight. And I'm going to recognize Chuck.

Chuck Gomes: Thanks J. Scott. Chuck speaking. And too the council as a policy management body which is going involve involvement with implementation as well.

And I like the idea of a decision tree. But they're going to have to - we'll probably can end up with some responsibility to make a decision. Is this something that we have already have the information we need for advice or do we need to go out to our groups whatever process that means? And we can deal with that later.

But the original reason I wanted to speak was we're talking about policy guidance, implementation guidance, et cetera.

What we have to keep in mind is the groups in the community that seek those likely will not have the same definitions we have.

So as were working through this we're going to have to keep that in mind. Like the GAC may send us something that they think is policy advice, we may find out its implementation advice.

So when we're using these terms it's very important for them to be defined. But we can't assume that even the board will - they may always say they want policy advice.

We may think it's something different. Just keep in mind that - and maybe that's another reason why you - we use a generic term of guidance and then we refer to the definitions and provide the appropriate guidance there. I'm not sure exactly how to handle that but let's keep it in mind that even though we as this group may agree on what the definitions are it's quite likely that the people requesting advice will not at least not for a few years.

J. Scott Evans: Alan?

Alan Greenberg: Thank you. For practical purposes there is relatively little difference right now between a decision that is recommended by a working group and passed on to council for ratification and a decision made by pulling the various constituency parts of the GNSO and the councilors representing them voting.

The one real difference in right now is ALAC because we're the only group that on a regular basis participate in working groups but do not have a vote.

And therefore we can vehemently disagree if there weren't a working group but if there weren't a working group and just a poll of councilors who in turn pull their constituencies, their stakeholder groups then we would be a lone voice. Hopefully in the future the GAC will also fit that model however.

So I would presume that if council were to vote for something based on a legitimate polling of their stakeholder groups and do it against the recommendation of the ALAC or the GAC and either of us also have the ability of telling the board hey these guys completely stonewalled us, they didn't ask, they didn't listen and here's the, you know, we disagree with their definition with their recommendation that would have some significant impact.

So right now there's not an awful lot of difference between the two. In the future there might be and I would like to think that a future council would figure out a way to take that into account in making such a decision.

So I'm not really perturbed right now by council making a decision based on councilors talking to their groups and as opposed to a working group for things that are not of a sufficient magnitude to warrant a working group. That may change in the future.

Chuck Gomes: Chuck speaking and it seems to me that we could recommend a process whereby they not only go out to the voting constituencies and stakeholder

groups but to go to the GAC and the ALAC as applicable and get your input before they make a decision.

In other words it doesn't have to depend on you having a vote on the council itself.

Alan Greenberg: Chuck it's Alan speaking. There is no time when that hasn't been done. There always in recent decades and in recent years consult.

The issue were to come out if there was a virtually unanimous or close to majority or close to super majority position on council that everyone likes it and the GAC and the ALAC don't ultimately we do not have a vote.

So either some councilors would vote sympathetically with us or it - the issue is still a real one.

J. Scott Evans: Okay I'm going to move us along here only because we have four more columns to go through and I want to - I really want us to walk out of here at 5:30 we have gotten through this.

And we still have to talk about next step in the work plan that we've looked at and I want to give ourselves the last 15 minutes. So we've got 30 minutes. Okay...

Woman: Really quickly I would like to request staff to inform this committee the procedure under Section 16 that was discussed in the GNSO.

I think it's may be related to some of the things that we have discussed here right now. And it would be very helpful for us to understand Section 16.

Is it in the PDP manual or is it in the PDP manual (unintelligible)?

Marika Konings: Yes and this is Marika. And just for those that weren't in the meeting that refers to the procedure that exists in the PDP manual in cases where the GNSO council wants to modify or amend policy recommendations prior to ICANN board consideration.

So the idea is that the council has already adopted them, sent them to the board but realizes or there's new information or indeed in this case feedback from the board that maybe you need to reconsider or make changes. And that is a procedure that is outlined there.

We can share that information. It's basically proposes three specific steps that need to be undertaken. But it's indeed an existing mechanism but it's very specific related to changing policy recommendations prior to board consideration.

Woman: Right. And...

Marika Konings: We can send that information.

Woman: I just wanted to note that it's being invoked in this case because a letter came from the board asking the GNSO to reconcile policy that differs as between GAC policy and GNSO policy.

So the letter came from the board and this is thought that it could potentially trigger Sections 16 in this situation with respect to our CIOC. So it's instructive for us to understand it.

J. Scott Evans: I would suggest that we ask our two staff if for our next call if we could have this as an additional column and maybe the EWG process how that went about and we can discuss those so we can do that because that was Michael's request.

We won't get in it today but if we could have it laid out so everybody can look how it was initiated, what steps went through, what discussions have happened. And then we can have a discussion on it now.

Because I don't think it's very fruitful without having sort of it all laid out to be able to consider. And I'd like to have fruitful discussions. It's - yes Mary? I'm sorry.

Mary Wong: No not at all. This is Mary ICANN staff and J. Scott we can definitely do that. I guess a suggestion which may have been implicit in what you said was that maybe the group does not really focus on discussing those two last columns as a next step of business.

It may be something you wanted to come back to later on given that both of them are fairly early on in the process.

J. Scott Evans: You know, that's a great suggestion and once we get them in there we can decide or maybe we want to identify now the early stages of what we saw certain weaknesses and leave that open to come back and circle back once we see sort of what the ultimate endgame is with regards to those projects.

Okay I want to just move us through quickly and I'd like to say that I'm really going to move us along so that we can just get this done so that we can then take the last 15 minutes to look sort of at the work plan and talk about the chair and vice chair recommendation for schedule.

Because I think that's really important and I want to make sure we get the discussion and close out and know where we are at the end of this meeting.

So the next one is, the next column is a response to the board's request on closed generics.

So in February of 2013 the ICANN board had a meeting and the new gTLD Committee adopted a resolution where they requested the GNSO to provide guidance on the issue of closed generics.

If the GNSO wishes to provide such guidance the committee also requested that any guidance be provided on a certain date which was March 7, 2013.

So it actually was about a month again a little over 30 days to provide this guidance which was coincident with the closing of the public comment form on this particular issue.

So the ICANN board resolution is what - the committee resolution is what prompted this.

There was no methodology, the composition of the group it was - there was a council discussion. There was a draft letter was circulated by the chair of the council for the list review and comment.

The council discussed the issue of closed generics at its meeting on February 14 -- Happy Valentines -- 2013 meeting and respond - to respond to the new GTL program request.

A letter was drafted noting the view of the GNSO Council been given relatively - a short timeframe it is not possible for the council to provide policy guidance on the issue with the appropriate levels of consideration and consultation.

Nevertheless although council is not in position to provide formal policy guidance on the issue at the time the council has encouraged the GNSO stakeholder groups and the constituencies to share their views. In other words they punted on this topic through the relevant public comment forum.

Opportunities for public comment there was no council response on behalf of itself. And there was time constraint because they had to give the input in just over 30 days.

So there you have it. I think I put down as a strong point provided response to the board and it outlined an alternative method for seeking input which I think is a strong point.

They just didn't say, you know, we can't do it. They said but we're going to encourage others to do it so that you get some input but there was a big timeline issue.

Chuck Gomes: This is Chuck. Your strong point's also a weak point I think in that the board didn't really understand the multi - the bottom-up multi-stakeholder process or respected.

And I don't care. I mean the bottom line is is that to ask for that and to ask the GNSO to provide feedback in 30 days tells me there is no understanding of what's involved to really be bottom-up. And they're asking the council to be a legislative body and make a response.

Now I'm going to go to do quickly like you want. I go right to a lesson learned. I think there's an education requirement that we have with regard to how the GNSO works. And that applies to the board as well as others.

J. Scott Evans: And I think that's an excellent idea and I think that it - that may be something we want to suggest is there many organizations that are complex sort of have a standard rollout that they do for new people involved.

And it may be something that we want to do for board members as part of their orientation that - and it's driven by the GNSO, not by staff teaching them but - so they can ask questions directly and also have GAC members come

to that as well so that they can receive that. But that's just an idea I'd throw out there. Marika (unintelligible)?

Marika Konings: Yes this is Marika. Just to mention on the GAC point we see as well sort of conversations of the GAC GNSO Consultation Group that indeed even though we I think we've presented several times to them how the PDP works that I see really little understanding on how it works as well what the existing mechanisms are for them, you know, to take part and provide input.

So really going through that step by step I think will provide - will be very helpful at the end of the day as well for them to understand or appreciate where they can provide input or where we're currently missing steps.

So it's a lengthy process but I think at the end of the day will be worth it because at least there's a common understanding of how things work, who does what and where are the appropriate moments for them to provide input. So I think it's a great idea.

J. Scott Evans: Anne?

Anne Aikman-Scalese: Yes it's Anne. And it seems like in our decision tree process that this time element should figure in to the process design either by, you know, that the time demands will dictate which type of process you can use or the other way around, GNSO quotes to the board and responds you want a real answer on this it will take X number of days or it will take an expedited PDP.

Or so either the decision tree process itself that needed timeframe dictates the process or the GNSO comes back to the board for - or GAC whatever for example and says well we can address this but it will take 90 days.

There just needs to be some kind of fill in the blank in the lightweight process as well that helps categorize.

J. Scott Evans: Well I think what you're talking about is managing expectations. And I think that that's a lessons learned is we're not very good about managing expectations.

I mean in if your boss is asking you to do this you may very well have said well that's a great thing but I'm going to need X.

And I'm not so sure that sometimes we don't realize maybe we should go back with a question and ask if we can have X.

They may say no but you don't - as my mother said you don't know unless you ask. And so it's just managing expectations. Alan?

Alan Greenberg: Yes I'll note the last - second to last request we got from the board said we want an answer in 45 days but one of those answers can be we need an extension. So...

J. Scott Evans: Well we're learning as we go right? And that's the - that's the organics of an organization like that.

Okay let's move to Column 9.This is a correspondence that is on stream similarity .So during the GNSO Council meeting on 5 September 2013 the council discussed the issues associated with the stream confusion decisions that had been made recently.

And relating to plural and singular's hotels, hotel cars, car autos, auto as an ICANN GDD President Akram had initiated in an interview - (intimated) in an interview that if there were conflicting decisions it would be for the GNSO community to assist.

The GNSO Council received an update on the issues that included references to previous relevant GNSO advice and discussed potential future activity to be initiated by the council.

So on its who framed the issue or how was this issue framed the GNSO council meeting 5 September is where this issue came up. Methodology for selecting membership there was none because it was not a membership-based response of a working group.

Composition of a group this is based on the council discussion. There was a draft letter was circulated by the GNSO chair to council list for review and input.

The draft letter was circulated. There was no public comment. The letter was submitted on 18 September, so that's 13 days after the initiation of this discussion at the meeting, the council meeting.

The letter went to the ICANN board's committee, the new gTLD committee. So and there was a response I think from that committee back to the council in October 2013.

Strong point it's in the - already noted here was there was the council self-identified the issue and take a proactive action after receiving the update from Akram. And the weak point was there was no real clear plan for how to resolve it.

Chuck Gomes: Chuck again. And this is one that you can hardly cover without going back to the new gTLD PDP in which string similarity there was actually quite a bit of guidance. Actually there was a lot of trademark language as you recall in terms of string similarity.

And so this one kind of leads into other things where we can learn things and we're going to cover those when we talk about, you know, specific guidelines for - PDPs and how specific they're going to get with regard to implementation recommendations within the policy work.

So we don't need to cover that now. But it is going to - these things all intertwine in the future work that we're going to do in this working group.

If the risk I think one lesson learned is the risk of not being very specific in policy recommendations is that you will get to a point where there are serious roadblocks in terms of how to implement it.

And of course this one we've seen it, we've seen a lot of discontent. We're going to probably learn more about it when we get into the review of the new gTLD program. But I'll just stop there okay for the (unintelligible) on general context.

J. Scott Evans: I think Anne did you have your hand up? Okay I'm sorry. Alan?

Alan Greenberg: Just a short anecdote. Somebody and I can't remember who said that if we had tried in the new gTLD PDP to be very specific on all the details it would have taken us another two or three years. Of course not having done that it took us five years.

J. Scott Evans: Okay. I'm going to move onto the next one. Oh yes go ahead.

Chuck Gomes: Sorry to slow it down a little bit, Chuck again. But this may be one of those examples as bad as it is or it - where we needed to go back to some policy work.

That was an anecdote. But the reality is even if we had spent the next three or four years we wouldn't have quite understood all of the things.

If you look as an example if you look at all the issues that are in that GAC that have been on the GAC board discussions for the last year or so and this regards to string similarity and all of those other things, when the GAC had an opportunity before the launch to identify all of the issues that concerned them none of the current ones were there.

They didn't become obvious until we actually saw examples.

J. Scott Evans: Okay. The next one is which I think is very interesting having been in this organization as long as I have is where the GNSO Council commented on the APRT2 report. I think it was very - shows the maturity of an organization when it chooses to participate as a group in the public comment I think.

So public comment forum was open for the ATRT2 committee to obtain community input on their draft recommendation and report.

This opened on 7 November and was going to close in order for them to get a final report out by December 31.

So there was a councilor who took on who volunteered I think for to draft an initial letter to be discussed and circulated throughout the council and discussed on a list.

Conversations took place on the mailing list which are publicly archived. They're restricted for posting but I think anyone can review them.

The draft letter was circulated to the council, it was discussed on the list. There were various iterations of the letter so the input was received and there were changes made based on the input.

Was there opportunity for public comment? Not on the council response itself. But there was a public input being taken on the ATRT report by the public comment forum being opened itself so the issue is receiving public comment.

Chuck Gomes: Chuck jumping in here. And it's we would presume that the council representatives who represent particular groups whether it be the At-Large or whether it be the Registry Stakeholder Group was were communicating and at least given the opportunity for input from their members.

J. Scott Evans: I didn't hear anyone screaming about that so I assume that that was being done because I haven't heard any complaints.

So one of the strong points identified here is there are no weak points is that there was good timeline management here that the momentum a lot of times I think Alan we can agree and Chuck and everyone here that's one of the things in any volunteer organization you always suffer from is loss of momentum.

We're going to be talking about that in about ten minutes. So I just want to put that forward. So and they managed it quite well.

I don't think there's anything here to me that's informing us one way or another as a lesson learned other than maybe it can be done. Anne?

Anne Aikman-Scalese: I think Alan actually made a point that is a lesson learned that there's an aspect of policy development that's got - ongoing based on experience. And that that needs to be recognized in this process.

In other words it's a bit of a fiction I think that one develops a policy and then it's presented and adopted and then that aspect's well completely over with.

So whether you address it with IRT or whether you address it with, you know, guidance or whatever it does not seem to be the experience for this organization that policy is baked at one point and does not change going forward.

J. Scott Evans: I think it depends. I think you could argue the UDRP hasn't gone anywhere for 13 years. But, you know, it's policy that was put out. It was decided and it's - now it may get done but it survived 13 years pretty well.

But there are other things as the organization has changed and the ecosystem has changed and the market has changed that requires that.

When I started in this process in 1998 names were very similar to telephone numbers they were just addresses. They had very little value.

And then there's now a secondary market for names and names are auctioned and they've become more like a commodity. And all of that sort of marketplace reality that's comment to the ecosystem has acquired policies that were baked for an address to change.

And I think we're seeing as innovation occurs and is being sort of sought in the process that there are new models coming in all the time that are going to challenge the policies that may have been ten years ago seem baked.

But I think it just depends. But I think the opportunity for it to have to be more fluid is probably more a reality now than it was five or six years ago. Alan?

Alan Greenberg: Thank you. I think if you exclude the new gTLD process which is being different and as Chuck pointed out we consciously decided not to try to have too much detail in it at the beginning in general the policies that we make are stable. They don't change.

We may come back three years later or four years later, or nine years later and say we need some more changes because the world's changed or something.

In general we don't go back and tweak the policies or very rarely do we do that.

And I'm trying to remember what your original question was because I had something to say on it.

Woman: Alan what you said was you could not have provided for everything that came up after the PDP was done. That - I'm sorry but what you said was you could not have - if you had been that specific it would have taken you another five years.

Alan Greenberg: But I said the new gTLD one is a different one. We've never tackled something quite so large and all-encompassing and handled it in the same way. So it really is eight different beast than the other PDPs that we have done. And I really wish I could remember what the comment was that I originally put my hand up for but I can't.

J. Scott Evans: Yes I was going to say I'll challenge you Alan in the fact that I think that there are more of these that are going to be similar to the gTLD process.

                   I mentioned the EWG that are going to be similar to that. So Anne's point is your both have good points and I think it just really depends on as we evolve.

                   I think there are going to be situations where you're right where they will be much more baked and they will only be tweaked on instances and there'll be others we have to realize we'll have to be more fluid.

Alan Greenberg: I was talking about history. I don't disagree with you at all. You know, challenge me I already said that on the EWG implementation just figuring out what the roadmap through it is going to be is going to be a real challenge. There's absolutely no question on that.

J. Scott Evans: Okay so the last column has to do with board request concerning .brand RA, the Registry Agreement Specification 13.

                   So for everyone in the room - yes - do you have a point?

Alan Greenberg: I now remember what I was going to say. We were talking about the ATRT2 and were there any lessons learned?

One of the lessons learned was I was the author of that recommendation. And although I didn't actively participate in the GNSO discussion I certainly was monitoring it and had heard much of it before.

And the concept of working together, you know, it's very different when the board sends a question, we think about it and then toss it back over the wall.

In this particular case there was no wall to toss it over. It was a cooperative iterative process. And, you know, the GNSO recommendation comments changed a little bit because of some things which were true but hadn't been clarified very much in the draft.

And it was very much a community and a cooperative process. And it worked very well as you pointed out.

Most of the time when we're doing these kind of things we're going to toss documents over the wall and you don't know ahead of time how the other group's going to respond to it. And that is a lesson learned, not necessarily when we can fix but a lesson learned.

J. Scott Evans: Okay. So .brand RA registry agreement Specification 13, in December 2013 there was an initial proposal from the Brand Registry Group. It was published from public comment. There was a proposal for the Specification 13 to the ICANN registry agreement contractually reflects certain limited aspects of the .brand-new gTLDs.

In April 2014 the board committee wrote the GNSO Council noting quote as you know on 26 March 2014 the committee -- I'm paraphrasing -- took action to improve Specification 13 to the registry agreement. There's a link.

Specification 13 provides limited accommodations to registry operators of PLDs that qualify as ".brand TLDs."

As many as 1/3 third of all new gTLD applications might qualify as a .brand TLDs. Specification 13 reflects months of discussion on many key issues raised by the community during the public comment forum and other community outreach sessions.

At the same meeting the committee also approved the incorporation of an additional clause in the Specification 13 with implementation not being effective until 45 days from the publication of their resolution.

This additional clause will allow a registry operator of a .brand TLD to designate no more than three ICANN accredited registrars at any point in time to serve as the exclusive registrar for the TLD.

Implementation of this additional clause is delayed for a time in respect of the GNSO policy development process by providing the GNSO council an opportunity to advise ICANN as to whether the GNSO council believes that this additional clause is inconsistent with the letter and intent of the GNSO Policy Recommendation 19 on the introduction of new gTLDs.

Who framed this? It was a letter from the ICANN board committee to the council. What was the methodology?

One councilmember volunteered to lead in gathering information and input on this topic in order to draft the motion for the council's consideration.

There were conversations that took place on the GNSO council mailing list publicly archived but posting restricted.

Input was also received from the Brand Registry Group which is not represented on the council because they are not a registry identified - they're not a recognized constituency at this point I don't think.

There were discussions during GNSO meetings and on the mailing list. There was no opportunity for public comment on this.

Time constraints, this additional clause was going to go into effect in 45 days of the resolution which would have been 26 March 2014.

Oops sorry, the letter was sent on April 3 and the council voted on a motion at its meeting of April 8, 2010. It was just over a month.

So the resolution passed by the council in response letter to the - was pending in May. And it was sent. So what do we think is a strength or weakness of that?

Chuck Gomes: Tom let me put you on the spot. As a registrar rep because you guys obviously are directly impacted by that. Can you contribute here?

Tom Barrett: I guess I have a sense of unease in how the whole process played out which is, you know, the traditional policy development process is something occurs within a GNSO working group. It has participation from all the constituencies.

They eventually come up with some sort of recommendation and then it gets shared for public comment. We see the public comment period and eventually gets approved, adopted by the board.

And so there's nothing wrong with anyone submitting a proposal to ICANN which is what the BRG did.

The question I have which I think is relevant for this group is who decided that this did not have to go through a PDP and who decided this would go straight to the public comment period as if the PD, the policy please was done and this was now on its way to implementation?

So it - I think it's really gets to the root of why this group is here is how was this decided, who was consulted outside of ICANN staff about what - well now we'll just post this for public comment.

J. Scott Evans: And I can answer that question I don't know. I don't know. Obviously the board committee made some decision because they're the one that right this.

So if I was just to go from looking at the cold facts I just read to you it appears that decision was made by the board committee not even the full board.

Tom Barrett: Right so without ever looking at the merits it looks like it circumvented the normal policy process.

J. Scott Evans: Alan?

Alan Greenberg: Certainly it was initiated through a rather unusual process. But the council's decision ultimately was this is a policy issue but we ratify it.

They could, council could have said this is a policy issue and we must go through a formal policy process.

Tom Barrett: The policy was never - the council was never consulted. It was published by ICANN but...

Alan Greenberg: No, no I understand.

Tom Barrett: So there was no ratification prior to publication?

Alan Greenberg: No of course not. I didn't say there was. I said our - the letter effectively ratified it by saying it is policy but it can go...

Tom Barrett: To do that lets - to do that after the fact doesn't make it - is not justification for doing it. That's like rationalizing okay we're okay with this process.

The point is there was no checkpoint saying this should go through a PDP. And the community wasn't asked are their policy issues that's being asked for here that we should debate right?

It went straight to publication which has the appearance of all the policy debate has taken place right? So to be asked to ratify something after it looks like there's a fate accompli it's too late, too late as soon as they published it.

J. Scott Evans: Okay. Well that's a - he has a - that's his opinion about what...

Alan Greenberg: No, no and I agree. And I agree. And I agreed that it was initiated in a rather unorthodox way. But ultimately council could have said this is not - since it is policy it is not something that we're going to just ratify.

If you like it you can either override us, you know, the atomic front or will go through a PDP or whatever the process but council chose not to do that.

J. Scott Evans: I'm going to call on Susan because she's had her hand up. (Udi) can't see her hand because your back is turned.

Susan Payne: I was just going to say I hear what you say Tom but actually when it went up to public comment it did go out to public comment for people to comment on things like whether they felt that it was appropriate, was it a breach of policy?

And there were no comments in time that made any - that had any objection on that front.

So I think one of the other things it needs to be captured is that there was an issue around the public comment as well with comments being accepted after the time has expired which should not have been submitted or...

Tom Barrett: Okay right.

Susan Payne: ...should not have been accepted.

Tom Barrett: And this really points out the problem because we were all suddenly trying to defend the BRGs Spec 13 right?

And because we're in this defensive mode we're not stepping back and saying was this the appropriate process right?

And just as you right - your points are right and for the same reason I think I was hesitant to even participate at that point. I thought it was too late so I'm just going to come out and look like I'm attacking the BRG Spec 13 instead of objecting to the process. So by following this process it discouraged any real debate.

J. Scott Evans: Anne?

Anne Aikman-Scalese: Anne Aikman-Scalese. And I think Tom makes a good point about process. And it's part of why we are in this room is to create processes that are reliable and that that ultimately does increase trust.

And I think it's a good thing that they're, you know, with public comment. And I'm not sure if the chart acknowledges that there was public comment. There might be a little confusion there.

But I go back to whether or not this particular issue had been debated and fully discussed within the PDP process and maybe it wasn't because the whole brand registry thing evolved right and we're back to the fact that there's this evolution of issues that come up in the new gTLD program.

And I also go back to possible applicability of Section 16 for the PDP manual for that type of issue in terms of process - letter - similar to the process that

we're looking at right now with respect to reconciliation of GAC and GNSO advice on RCIOC.

So I really - when one staff does send that Section 16 process to us I really recommend that we study it.

J. Scott Evans: Okay. Yes Jonathan?

Jonathan Frost: I'm Jonathan Frost. I think that this - I think this particular example gets us to really important lessons.

And the first I think is it's kind of an example of something we don't want to happen in that I mean if we come out with the proper processes in this group it will go through that process and not this process.

But it also shows that this particular example the reason I went like this it's because the brands I mean they put all this time and resources and they really needed these TLDs to be out. They just waited so long.

So I mean it also needs to impress on us that whatever we do come up with they don't all have to go through it really fast but there needs to be the option of having it pushed through in an expedited basis so the staff doesn't feel like they have to circumvent the whole process.

J. Scott Evans: And I just want to be fair to staff. I'm not so sure staff did this. I think the board committee was feeling pressure to wrap up these issues. And they themselves did it and staff just did what they were told by the board committee in making sure that the proper communications ended up on the proper desks.

Our staff takes so much beating up I want to make sure that for the record I'm clarifying that they're here to just push the pig through the pipeline. And that's what they did in this particular instance.

Alan if we can - we really need to move on. We've got about ten minutes and one of the things I like I'm kind of famous for is keeping us on time.

So I would like to - Greg has his hand up. Greg do you need to speak up here because if not I'd like to...

Greg Shatan: Just...

J. Scott Evans: ...move on. But if you...

Greg Shatan: Just very briefly...

J. Scott Evans: Okay go ahead.

Greg Shatan: ...to follow-up on that last point. The - my sense was that the board or the NGPC did this to kind of try to split the baby that, you know, they felt that they, you know, ratified that portion of Section 13 by themselves they'd be, you know, accused of kind of, you know, top-down. And if they rejected it, it was going to cause a, you know, could cause a big problem so their idea was to try to throw it back to the community in some fashion.

So perhaps their intentions were good. But, you know, going back to what Tom without a good process good intentions can still can lead to bad results or bad situations. Thank you.

J. Scott Evans: Tom real quick.

Tom Barrett: Just one follow-up. I completely disagree with your last comment. I think it's the staff's job to push back to the board saying it's not our job to simply to push papers. It's our job to make sure that policy is followed. And the board, you're not following the process.

So the staff does they do be empowered to push back and say this is not how we're supposed to do things?

J. Scott Evans: Okay thanks.

Right now we have a document that Chuck I'm going to turn the conversation over to you because you have spent a long time and thought putting this together although it has input from some of the other vice chairs and (Murika) - Marika, sorry Marika and if you could just lead us through this really quickly. Marika do we have that put up on the...

Chuck Gomes: I don't think we - this is Chuck. I don't think we have a clean version. So let me just in one minute say I develop a mapping document of our defined deliverables from the charter and the things that we're doing okay, some - a lot of them still in the future.

And we have reviewed it as a leadership team. My suggestion if nobody has any objections let's prepare a clean version probably get a list of comments or particularly relevant we can probably remove the comments.

Let's distribute this to the whole group so that you can see...

J. Scott Evans: Right.

Chuck Gomes: ...it and you're welcome to comment on it.

But it provides - it leads right into where you want to go which is the next steps. Because I think deliverable three were at least done for now on the list of lessons learned from previous implementation efforts.

And by the way in that regard I think the two that we want to add probably don't go under this. We'd probably add a new category because they haven't

been implemented but we can - we should still cover those because they will help us.

J. Scott Evans: Okay now folks speaking of momentum the chairs and vice chairs are strongly recommending that we go to a weekly call schedule for 60 minute calls.

We would take next week off which is the history of working groups is that you do not have a call the week after a meeting.

But beginning the week of July 7 I believe is correct we would have a meeting on Wednesday the 9th at our normal time only it would be 60 minutes rather than 90 minutes. And we would begin meeting weekly.

The reason for meeting biweekly originally was because we were going to have subgroups that would be meeting in off weeks. We are not having subgroups.

And we really need to get some momentum and keep charging forward because we still optimistically -- and Marika's going to look at me with a big frown -- have the fact that we hope to have something to defer in October.

And if we're weeding - meeting weekly -- this is our recommendation to everyone -- we think that there is at least a better chance than we would have at least a rough framework if not a rough draft of an output by that time.

And we would like everyone to, you know, we're not going to impose it on everyone but that is our strong, strong recommendation is that we go to weekly 60 minute calls.

Alan?

Alan Greenberg: You have my strong, strong support.

J. Scott Evans: So Anne?

Anne Aikman-Scalese: I definitely would support that. And I think we also need to look at because of the ATRT2 when we're done with that how to get cross community input on it.

J. Scott Evans: And I agree. And so at this point I think we've covered everything. Our next call the 9th. That's July 9. We normally meet at 1900 UTC is that not correct?

And so it will be a 60 minute call. So those of you go ahead and put it on your calendar and we'll start doing it.

And please go ahead and mark it as a weekly call so that we can get as great participation as we can.

I would also encourage everyone here to make sure if you can that your informing back to the group that you're here to represent what we did here and what we're going to do going forward.

So if they have any input they want to feed to you that we're making sure that we're using this process that everyone knows what's going on and they can funnel into you or join us if they want to participate and help us get this work completed.

Wolf-Ulrich did you have a comment?

Wolf-Ulrich Knoben: No. I'm fully happy with that schedule so because it's just easy. This morning I learned there was a working group meeting daily. So and so you did not oblige us. Thank you.

J. Scott Evans: All right. If everyone's okay if we can get rough consensus I'd say we adjourn this meeting.

I want to especially thank (Olivier) and Greg -- and then we have one more person on the phone as well or do we just have the two -- for taking time to meet with us on probably odd hours and for having great patience and for being participatory. We want to thank you.

To everyone in the room that is a member of the Working Group for those newcomers that are here to either spy on us or learn more about what we're doing or whatever we appreciate you being here. And we hope that if you find this interesting that you'll come to our calls. Let Marika know. We'll get you on the mailing list. We'd love to have your support and have you with us. Thanks.

(Krista Hillasfor): Just wanted to mention thank you for the meeting and sorry I didn't contribute anything, maybe next time. So it is just really nice to follow-up your work and I hope to contribute in the LA meeting.

J. Scott Evans: Great. If you would just for the record tell us your name and your organization so we have that in the record.

(Krista Hillasfor): My name is (Krista Hillasfor) and I come from - actually frontier of Finland but also do work - business (unintelligible) and some academia as well. And I'm kind of multi-stakeholder myself. Thank you.

J. Scott Evans: Great. Thank you so much everyone.

END