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ICANN72 | Virtual Annual General Meeting - GNSO Council Meeting Part 1  
Wednesday, October 27, 2021 - 12:30 to 14:30 PDT

NATHALIE PEREGRINE: Could you please have the recording started?

**[ Recording in progress ]**

NATHALIE PEREGRINE: Thank you very much. Good morning, good afternoon, good evening, everybody.

Welcome to the GNSO Council meeting, Part 1, on the 27th of October 2021.

Would you please acknowledge your name when I call it. Thank you.

Pam Little.

PAM LITTLE: Here.

NATHALIE PEREGRINE: Maxim Alzoba.

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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MAXIM ALZOBA: Here.

NATHALIE PEREGRINE: Kurt Pritz.

KURT PRITZ: Here.

NATHALIE PEREGRINE: Sebastien Ducos.

SEBASTIEN DUCOS: Here.

NATHALIE PEREGRINE: Greg Dibiase.

GREGORY DIBIASE: Here.

NATHALIE PEREGRINE: Kristian Ormen.

KRISTIAN ORMEN: Here.

NATHALIE PEREGRINE: Tom Dale.

TOM DALE: Here.

NATHALIE PEREGRINE: Marie Pattullo.

MARIE PATTULLO: Here. Thanks, Nathalie.

NATHALIE PEREGRINE: Thank you.

Mark Datysgeld.

MARK DATYSGELD: Here.

NATHALIE PEREGRINE: John McElwaine.

JOHN McELWAINE: Here.

NATHALIE PEREGRINE: Flip Petillion has sent his apologies for council meeting part 1 and part 2 today.

And we have Susan Payne as IPC councilor, temporary alternate.  
Welcome, Susan.

SUSAN PAYNE: Here. Thank you.

NATHALIE PEREGRINE: Philippe Fouquart.

PHILIPPE FOUQUART: Here.

NATHALIE PEREGRINE: Osvaldo Novoa.

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OSVALDO NOVOA: Here. Thank you.

NATHALIE PEREGRINE: Wisdom Donkor.

**[ No verbal response ]**

I don't -- yes, I see Wisdom in the Zoom room. Wisdom?

WISDOM DONKOR: Present.

NATHALIE PEREGRINE: Thank you very much.

Carlton Samuels.

CARLTON SAMUELS: Here. Thank you, Nathalie.

NATHALIE PEREGRINE: Thank you, Carlton.

Stephanie Perrin.

STEPHANIE PERRIN: Present.

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NATHALIE PEREGRINE: Farell Folly.

FARELL FOLLY: Here.

NATHALIE PEREGRINE: Tatiana Tropina.

TATIANA TROPINA: Present.

NATHALIE PEREGRINE: Tomslin Samme-Nlar.

TOMSLIN SAMME-NLAR: Present.

NATHALIE PEREGRINE: Juan Manuel Rojas. I see Juan in the Zoom room.

Olga Cavalli.

OLGA CAVALLI: Present, Nathalie. Thank you.

NATHALIE PEREGRINE: Thank you. Jeffrey Neuman.

JEFF NEUMAN: Present.

NATHALIE PEREGRINE: Cheryl Langdon-Orr.

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CHERYL LANGDON-ORR: Present. Thanks, Nathalie.

NATHALIE PEREGRINE: Thanks, Cheryl.

And Maarten Simon. I don't see Maarten yet in the Zoom room.

As the guest speakers today, we'll have Antonietta Mangiacotti -- sorry, Antonietta Mangiacotti from ICANN org.

And we have GNSO policy support staff also in the Zoom room. So may I please remind everyone here to state your name before speaking as this call is being recorded.

We're in a Zoom Webinar room where councilors are panelists and can activate their microphone and participate in the chat. Please set your chat to "everyone" rather than the "host and panelist" default setting for all to be able to read the exchanges.

A warm welcome to attendees on the call who are silent observers, meaning they do not yet have access to their microphones but do have access to the Zoom chats.

This is a GNSO Council working session. Therefore, questions and comments will be taken during the open mic session at the end of the meeting.

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Please note that private chats are only possible amongst panelists in the Zoom Webinar format. Any message sent by a panelist or a standard attendee to another standard attendee will also be seen by the session's hosts, co-hosts, and other panelists.

To view the real-time transcription during this call, please click on the "closed caption" button in the Zoom toolbar. As a reminder, those who take part of the ICANN multistakeholder process are to comply with the Expected Standards of Behavior.

Thank you very much, Philippe. And it's now over to you.

PHILIPPE FOUQUART: Thank you, Nathalie. Good morning, good afternoon, good evening, everyone, from Normandy, France. My name is Philippe Fouquart. I'm the GNSO Council chair. And welcome to our AGM council call. Welcome to our guests.

And a warm welcome to all councilors. I hope you are all well. So this will be in two parts. I will chair the first part, and Pam Little will chair the second one. And I think we can start with our agenda.

Any change that you would like to make to the agenda that we've got for today?

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Okay. Seeing no hand, moving on. So normally at this point, we would remember that we go through the project and action list. And given our full agenda, we agreed with Berry that we would just refer to the email that he sent on the 10th to the council list. And since we did that review on Monday during our priority session, I think we'll just move on with this, unless someone would like to raise something particular. Just looking at the hands, no one. Okay, thank you.

So moving on -- thanks, Berry.

Thanks for that. Takes us to the consent agenda. We have two motions for today: The approval of our liaison to the new gTLD SubPro -- the SubPro EPDP and the approval of our liaison to the GAC.

And I think, Nathalie, you can take us through the vote.

NATHALIE PEREGRINE: Thank you very much, Philippe.

Would anyone like to abstain for the motion, please say aye.

[ No verbal response ]



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Hearing anyone, would anyone like to vote against this motion?  
Please say aye.

**[ No verbal response ]**

Hearing none, would all those in favor of the motion, please say  
aye.

**[ Chorus of Ayes ]**

No abstention, no objection, the motion passes, Philippe. Thank  
you.

PHILIPPE FOUQUART: Thank you.

Thank you, Nathalie. This is Philippe here.

And thanks to Jeff for stepping up for these. And congratulations.  
So looking forward to another year as GAC liaison. And I'm sure  
we're all looking forward to the work of the ODP on SubPro.

So with this, let's move on to Item 4. And that's our council vote  
on the EPDP Phase 2(a) final report. And I'll just give, in my  
capacity as liaison, a brief couple of elements of context before  
we go to our discussion. So the -- as you would recall, the EPDP

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Phase 2(a) final report was submitted to council on the 3rd of September. And an updated version, including all minority statements, was succinctly submitted on the 13th of September.

Council leadership shared the proposed motion at our September meeting. The goal was twofold. It was to allow sufficient time for us -- for you and your -- as GEC sees to consider that motion and the way we would approach this.

And the second intent was to vote on the report at this meeting. And this is what we have in front of us.

So on the content of the final report, I'm sure you're very familiar with this. But just a couple of points. So I think we all understand that a number of groups would have liked the recommendations to go further, and other groups consider some of the recommendations not appropriate or unnecessary. So that is clear on this.

And the challenge of the task at hand, I would just like to remind the council of the chair's statements, including the final report. I'll just use Keith's words for this: This final report constitutes a compromise. That's the maximum that could have been achieved by the group at this time under our current allocated time and scope, and it should not be read as delivering results that were fully satisfactory to everyone.

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I think that's telling. So that's why I'm using these words so clearly.

To some, it is insufficient or excessive. And to others, it is a small step but a step forward, nonetheless.

As an aside, I would just note the conversation or the exchange that we had yesterday with the GAC, which I think was interesting in that regard.

On the meaning of this vote, I appreciate, as I said, the frustration that some might have on the results that is captured in the final report.

But I would just like to remind council, us -- I include myself in this -- as a role of the public manager of the EPDP. So it's not our role to review the discussions and decisions that the EPDP team took, which is captured in the report. That's what statements are here for, and they will be included should they be in the results of our vote, if you so decide.

So our role is to ensure that the process has been followed, and this is what this vote is about.

So just two concluding notes before we get to our discussion, on the issue of scope on Recommendation 1, that's the creation of a

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data element, that was raised at our September meeting. And just to add to the response that we, as leadership, provided at the end of September, I would just add that certainly we probably could have done better in terms of communication. Speaking as a liaison, as I put it in our statement, it would have led to the same conclusion. I have no doubt about that. But given more time in face-to-face meeting, more interactions, we probably would have understood each other better. And the sense of frustration, which I call miscommunication, which I can understand, could have been avoided. I think that's a fair point.

So with this, I'll just maybe look to the future, just recall that in that same final report, there is a proposal that council commits to follow the existing procedures to identify and scope future policy work. So if the logistical circumstances change or if further legal clarity is provided, then there's an opportunity for us to reconsider the next steps that we can take.

So with this introduction, I would just like to open the floor for comments, for a discussion on this final report before we get to our vote.

Kurt, you're first.

KURT PRITZ: Hi, Philippe. Thanks.

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And thanks for the comments you just made about the question and scope. I wish to comment on that. The RySG requested at our last meeting that there be a council determination whether Recommendation 1 is out of the charter scope. And the subsequent determination sent by email from the chair that the recommendation is within scope and in today's motion. The RySG accepts the determination by the chair that Rec 1 is within the scope of the charter. And we are prepared to vote on the package of recommendations, but we wish to make some points regarding that determination.

You talked about doing better the next time, so I want to talk a little bit about how we could do that. So I want to make some points regarding the determination that arrived in the email.

First, we found none of the points in the email to be persuasive, but more about that in a minute. You know, more importantly, we're kind of disappointed by the process by which the determination was made.

So, first, the email makes this set of procedural arguments, one that RySG should have used a formal escalation process. But that's only used when we disagree with the chair, and the RySG agreed with the chair that the council should make this determination.

In the emails, the determination said the issue was raised after the initial report and, as you said, late in the day for the EPDP team determination. But, you know, what's the point of the comment period if not to raise additional issues, even if it is late in the process?

And, you know, the argument also says that this was the chair's decision. But the chair said -- made a preliminary decision but then said it's for council determination. So it's not really appropriate, we think, to pass it back to the chair at this point.

And, finally, the email says there's no notice to council until after the final report was published about this issue. But, in fact, the part of the email that was -- where the transcript was omitted was when the chair turned to the liaison and said, So it's up to you to take this to the council now. So there's enough of us attorneys sitting around the table to understand that that's constructive -- constructive notice and that the RySG satisfied its duty to provide notice.

But I wonder, too, about the point making these procedural points. Would we pass a bad policy if a box wasn't ticked, or a form wasn't submitted? I don't think so. If we can all picture like a black and white case in our minds of mistaken policy, we wouldn't rely so much on these procedural arguments.

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I think it's more important to talk about substance. And substantively the determination -- the email quoted the charter and said, The EPDP team will consider these questions posed at a minimum. And I went "whoa, at a minimum," that includes other stuff, and so that would make it within scope.

And the charter -- you know, it quotes the charter as saying the team should consider mechanisms. Again, I say, "whoa, a flag is a mechanism."

But then I read on, and I read that those were the quotes in the Phase 1 charter which was necessarily expansive. You know, I think importing the broad scope -- the broad scope language of Phase 1 in an attempt to broaden the scope of Phase 2(a) was inappropriate and really contradicts its intentionally narrowed construction to really keep the scope narrow.

You know, to me, if anything, the arguments laid out in the determination have convinced me of the opposite conclusion that the recommendation was out of scope. But I'll say more about that in a second.

But, you know, more importantly to us is -- was how the determination was made. You know, at the time the issue was raised by us in an SO meeting. I was not sure about the issue,

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which way it would come out. We were looking forward to a discussion.

The RySG statement at the last meeting was not designed to win the argument. It was meant to raise the issue for council discussion and determination. And we expected the leadership to come back with some sort of methodology for making the determination, you know, go around the table once and have the chair decide or go around and vote or form a small group. But we didn't expect a decision. And we think this could have been even done in way to not delay the vote. So we made the request hoping there would be a council discussion on the matter.

I think the council is comprised of the ecosystem's most thoughtful policymakers. And as managers of the policy process, we look forward to their opinions and interactive discussion. But, you know, that opportunity for discussion was denied.

In what cases, if any, should a council rep's request for a council discussion/determination be denied? We're told that the council is the manager of the policy process and is not to discuss substantive issues. But if we agree that the issue was raised in good faith -- and it was -- then where better else to have this discussion? The EPDP team was done. And in any event, the chair intimated in the interest of time, the council could consider this issue also.



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So then where, you know? In a closed meeting amongst staff and leadership? Or in a public council discussion?

You know, I think a public discussion better reflects the relative health of the ecosystem. And, you know, so I've been a manager for way too many years. And sometimes when an item comes across my desk, you know, I find it best just to do it myself. And I think sometimes as managers of a process, we could do it ourselves.

In any case, I would hope that if any councilor raises an issue of importance to a stakeholder group, that we would all support a discussion on it.

So setting my notes aside for now, you know, I struggled with whether or how to make this statement. You know, on one hand, the RySG asked me to raise this issue and at least get our day in court and have a good discussion on this, despite however it turned out.

So I crashed and burned on that. So I wanted to make it known that while we're fine with going ahead with the vote, we think our -- we didn't want to do that without making our case (indiscernible)

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On the other hand, it sounds a little bit whiney and harsh to be making this statement, but really make it with the idea that it's a constructive criticism for how to improve going forward and how to involve all the council members in conversation going forward. You know, I'm delighted that Philippe has put his hand up again to be chair because I found him to be reasonable, thoughtful, even-handed and, you know, a good listener, which makes him a rarity at this among the firmament of ICANN leadership.

So we really wanted to make these points with the idea that the Council can get -- you know, use our talents and become better -- better involved in these and other issues.

So thanks very much for indulging me, everybody else. You know, Chair and everyone. Thank you.

PHILIPPE FOUQUART: Thank you. Thanks, Kurt. And thanks for your kind words.

On the -- more on the nature of your and the registries' concern. It's going to be difficult to go through each and every point. That said, I think the issue of scope as a principle something that could arise anytime and is likely to arise in an EPDP under the same conditions. Meaning that the question cannot be addressed as team is -- the work of the team is time limited and there's a need for the chair to take a decision very quickly.

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And given that that is something that is not unlikely, given the way we work and the why you PDP, I think there's enough room here to think about how we could -- on this sort of issue relative to scope, without adding any administrative burden, if you see what I mean, a way to think about a way we can address these things in the future in EPDPs, either through what you said, through a sort of expedited review of the question either during the EPDP, although that would be maybe -- I don't know; I'm thinking out loud -- could trigger something to council during the work of an EPDP or after the final result is delivered. And with a collegial review of the scope question, make sure that that is as transparent as possible.

I guess what I'm trying to say is that what happened is what happened, but a similar issue relative to scope raised -- and again, there were reasons why that wouldn't -- that was not brought forward to Council. But we may want to think of how we could address similar concern relative to the scope and whether something is within or outside of charter the in the future in a more collegial way, I guess.

Thanks, Kurt, for that, and I'm sure that would be part of a statement, if you so desire.

So next -- next in the queue is Greg, I think. Greg.

GREG DiBIASE:

Hey, everybody. This is Greg, for the record.

I just wanted to say a couple quick notes from the registrars' perspective.

Just real briefly, the registrar's belief the options and guidance for contracted parties in the report represent a concrete step forward. While we don't agree with everything in the report, we believe the team came to an appropriate result. And I agree with the Chair's statement that the final report constitutes a compromise that is a maximum that could be achieved under the circumstances.

I'd also like to say something closer to my own capacity as a councilor. I think it might be worth it to take a step back here given the frustration on a lot of sides of this issue and appreciate how difficult the subject matter was here.

Data privacy laws and GDPR specifically are really complicated, and the consequences of noncompliance can be severe. I think if you ask a sampling of businesses around the world, they would say the same thing, but this might be the most challenging legal issue they're fighting.

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So from that perspective I just wanted to say, you know, I think it's okay that we did not reach consensus on some of the issues here. That's the nature of the multistakeholder model: Sometimes not everyone agrees. And I think that does not mean that ICANN and the GNSO are failing, generally as some commentary or blogs have said. To the contrary, I think we're making progress on a lot of fronts. RPMs and SubPro are advancing. The transfer policy is hitting all its milestones so far, we launched the scoping exercise on accuracy.

So I just wanted to take this time to stop and say, you know, as a community, we should keep in mind and focus on how we can positively contribute to the multistakeholder process as opposed to attacking it if a PDP outcome is not exactly what we desired.

PHILIPPE FOUQUART: Thanks, Greg.

Next is Maxim.

MAXIM ALZOBA: Maxim Alzoba, for the transcript.

I have a short suggestion which will not add too much of administrative burden and will allow us to avoid such situations

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where the time raising between different, simple, small processes cause just lack of information passed to another chain.

In case of serious items which can severely change the outcome of the work of the war group, I would recommend that the requests or notifications to the Council to be sent to the chair and leadership with a copy to the Council list. Lots of people monitor that, so we will not lose the item in the process.

And that it's -- it should be added as an action item, like check the response until it's resolved. It's simple. It will take a few minutes.

Thanks.

PHILIPPE FOUQUART: Thank you. Thanks, Maxim. And thanks for the suggestion.

Well, obviously, we're not going to do the PDP on the fly during -- during a Council call, but any suggestion I would welcome. I'm sure we'll think -- we'll have to think in terms of making sure that it does not slow the work of the team and it's something that fits within the formal request procedure, if you see what I mean. But then again, we'll need to think about that. But thanks. Thanks, Maxim.

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And, Greg, thanks for articulating the fact that for a number of us, and count me in, this is very much thinking in terms of accepting that it's a mixed bag from your own perspective. And I know with my ISPCP hat, it's very much the same. I guess we would have hoped for a slightly different result, but there we are. We accept the consensus-building process, so thanks for articulating that.

John, you're next.

JOHN McELWAINE:

Thanks. John McElwaine for the record.

Just -- so echoing on with some recommendations or suggestions. I don't know if we could even implement it here, but it probably would require another month, is that when we have a report, final report such as this where we're admittedly not reaching consensus on a number of the points, like the EPDP before, this may be a good situation in which we do have a motion put forth that votes on the individual recommendations. And that way we -- the constituencies that have issues such as scope or whether it really was an answer to the charter question or the question that the GNSO Council asked in this case, finer points can be put on the votes and suggestions, and recommendations for follow-up actions can be undertaken.

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So just a suggestion. And again, we probably could implement it here, but I'm not asking for that at this point unless the entire Council feels like that's a wise move.

Thanks.

PHILIPPE FOUQUART: Thank you. Thanks, John. This is Philippe here. Certainly an option in similar situations.

I -- For what it's worth, I gave you, and I know it's the sentiment of a lot of people, that sort of separating, splitting out recommendations also has some drawbacks. But that was -- that was also the intent of sharing the motion very early in the process, what I thought was very early, and appreciating the context and the fact that we can't meet. But the idea was also to consider the structure of the way we're going to be voting and the structure of the motion.

But indeed, in similar situations, and I think I mentioned that it's also an option to -- to vote separately on the recommendations. But as I said, it has drawbacks that we need to consider.

Thanks. Thanks, John, for this.



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Anything else? Last comments that people would like to discuss or record? Although the statements during the vote will be recorded after that.

Okay. Okay. Seeing no hands, I think we can move on to our vote. And Pam is the submitter of the motion. So, Pam, would you like to read the resolved clauses for us?

PAM LITTLE:

Yes, please. Thanks, Philippe. It's Pam Little for the record.

So I just submitted a minor change to the motion I submitted earlier. I'm not sure whether all councilors have had a chance to see my email so I will just explain there is a minor change that was made a few hours ago. Previously, resolved clause referred to -- resolved clause 1 referred to the recommendations. Now it refers to the whole report.

So resolved clause reads as follows: 1, the GNSO Council approves the EPDP Phase 2A Final Report and recommends to the ICANN Board of Directors of the adoption of the EPDP Phase 2A recommendations 1 to four.

2, the GNSO Council requests the ICANN Org to convene an Implementation Review Team to work on the implementation of these recommendations. The Implementation Review Team will

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be tasked with assisting ICANN Org in developing the implementation details for the EPDP recommendations, evaluating the proposed implementation of the recommendations as approved by the Board, and working with ICANN Org to ensure that the resultant recommendation conforms to the intent of the approved recommendations. The Implementation Review Team should operate in accordance with the Implementation Review Team principles and guidance approved by the GNSO Council in June 2015.

3, the GNSO Council extends its sincere appreciation to the chair, Keith Drazek, vice-chair, Brian Beckham, EPDP team members, alternates, and support staff of the EPDP team for their tireless efforts to deliver this Final Report.

Thanks, Philippe.

PHILIPPE FOUQUART: Thank you, Pam. This is Philippe here.

So I think we can -- we can go to our vote. And Nathalie will help us go through this. And, Natalie, if you would just remind us of the conditions relative to a vote on a final EPDP all right.

Nathalie, would you like to do that?

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NATHALIE PEREGRINE: Thank you very much, Philippe. So for this particular vote the threshold will be a supermajority, meaning there are two scenarios. One will be that two-thirds of the council members of each house vote in favor or that three-fourths of the council members of one house and the majority of council members of the other house vote in favor.

So for that one, I'll proceed to a roll call vote.

Maxim Alzoba.

MAXIM ALZOBA: Yes.

NATHALIE PEREGRINE: Stephanie Perrin.

STEPHANIE PERRIN: Yes.

NATHALIE PEREGRINE: Carlton Samuels.

CARLTON SAMUELS: No.

NATHALIE PEREGRINE: Carlton, would you like to provide a statement with your objection?

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CARLTON SAMUELS: Yes. I really have been engaged in matters pertaining to registration data since about 2007.

I think I have heard every conceivable rational argument for and against standardizing the process and the procedure for the collection, curation, access and disclosure of registration data. I'm very aware of all the privacy issues. They have been debated here as long as I have caucused in this environment. But I actually believe certain registration data ought to be available in the ordinary because they have to maintain consumer confidence in the DNS and the security and continual well-being of the DNS.

The minority views that I have seen contrary decisions of the EPDP Phase 2, they are persuasive to me, and they are in line with my thinking on data quality and integrity. I believe if data is not going to have quality and it's not going to have integrity, nobody to collect it.

The tentative tinkering, and I call it tentative tinkering, that I see reported from this PDP outcome is not just -- it's just not enough. I don't know when you're going to signal that it is not enough, but I think, you know, the Board still has a responsibility, and they may (indiscernible) their authority and reject the recommendations. They are a supermajority vote for that. But I

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really don't think I should connive. It is an error, and I think I shouldn't connive with error, so I'm voting no. Thank you.

NATHALIE PEREGRINE: Thank you very much, Carlton. I will now proceed with the vote.

Farell Folly?

FARELL FOLLY: I vote yes.

NATHALIE PEREGRINE: Greg DiBiase.

GREG DiBIASE: Yes.

NATHALIE PEREGRINE: Flip Petillion. Sorry, Susan Payne for Flip Petillion.

SUSAN PAYNE: No.

NATHALIE PEREGRINE: Susan, would you care to accompany your objection with statement?

SUSAN PAYNE: I will refer to the statement that my colleague John McElwaine will make.

NATHALIE PEREGRINE: Perfect. Thank you, Susan.

Tom Dale.

TOM DALE: Yes.

NATHALIE PEREGRINE: Juan Manuel Rojas. Juan? You may be muted.

I will return to Juan in a minute.

Marie Pattullo.

MARIE PATTULLO: No.

NATHALIE PEREGRINE: Thank you. Marie, would you care to provide a statement?

MARIE PATTULLO: Yes, of course. Just let me change screens.

The business constituency would like to provide the following statement.

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At the outset of its work, the working group was tasked to, quote, "preserve the WHOIS database to the greatest extent possible," close quotes, while complying with privacy law. However, the working group yet again, and this time during Phase 2A of this EPDP, did not reach that objective. The resulting Phase 2A policy proposal exceeds what is necessary to protect registrant data.

As we documented in our minority statement to the Final Report, the BC strongly believes that optional differentiation between legal and natural persons is inadequate, and that ICANN policy must require such differentiation if the working group's objectives were to be reached and thus contribute to the preservation of DNS security and stability.

Phase 2A recommendations are not making the distinction between legal and natural, result in a significant number of records being needlessly redacted or otherwise being made unavailable. This is unacceptable in light of the increasing prevalence of online harms and our continually reduced capacity to address them expeditiously.

The EPDP Phase 2A Final Report contains no real policy and places no enforceable obligations on contracted parties. The only substantive recommendation, Rec 1, requests that ICANN Org work with the IETF to develop a standard for RDAP to

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facilitate differentiation, but there is no corresponding policy requiring its use by registries or registrars.

For this reason, the BC must vote no on the policy recommendations and must object to the designation of GNSO support as one of consensus.

Thank you.

NATHALIE PEREGRINE: Thank you very much, Marie.

The vote will now resume. Philippe Fouquart?

PHILIPPE FOUQUART: Yes.

NATHALIE PEREGRINE: Kristian Ormen?

KRISTIAN ORMEN: Yes.

NATHALIE PEREGRINE: Tomslin Samme-Nlar?

TOMSLIN SAMME-NLAR: Yes.

NATHALIE PEREGRINE: John McElwaine?



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JOHN McELWAIN: No.

NATHALIE PEREGRINE: Thank you. I believe you have a statement, John?

JOHN McELWAIN: I do. So the -- on behalf of the IPC, on September 20th, 2020, Council leadership put forward the following proposal on the issue of legal versus natural persons which had been pulled out of EPDP for lack of consensus.

That -- the EPDP team was expected to answer two questions each with two subparts. On this topic, the final report is clear that the EPDP Phase 2(a) team did not reach consensus concerning instruction 1(a).

Moreover, the guidance in instruction 2(a) shifts responsibility for such policymaking out of the GNSO to private parties that do not incorporate the consensus or compromised positions of the community.

As such, 50% of the instructed questions, i.e., the charter of the EPDP Phase 2(a), have been left incomplete and without community consensus.

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While the IPC supports the hard efforts and incremental steps forward made by the Phase 2(a) team on certain issues, with consensus on major pieces of the charter have not been reached, it is incumbent upon the GNSO Council as a manager of the policymaking process to get to work utilizing tools to encourage compromise and to bridge gaps amongst working group members so that important ICANN community work can be completed. This is not done here.

The IPC requested a deferral of this motion to suggest ways to ensure that substantial, important work left unfinished by the 2(a) team could be addressed. One possible manner to move forward with IPC support would have been to have voted on the Phase 2(a) recommendations individually.

Such difficulties should have been foreseen. However, the motion IPC is asked to support has unfinished work that is important to all segments of the community.

For these reasons, the IPC must vote no. The decision is not taken lightly. And, indeed, a minority of IPC members did favor these outputs as being minor, incremental changes that are better than nothing.

Nevertheless, without the benefit of additional time that deferment would have brought, it is impossible to undertake any

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formal vote within the IPC which might have given more precise assessment of the level of support and might perhaps have indicated a more nuanced voting position such as splitting our votes, if it were appropriate. Thanks.

NATHALIE PEREGRINE: Thank you very much, John. Your vote is no.

Wisdom Donkor.

WISDOM DONKOR: Yes.

NATHALIE PEREGRINE: Pam Little.

PAM LITTLE: Yes.

NATHALIE PEREGRINE: Mark Datysgeld.

MARK DATYSGELD: I vote no.

NATHALIE PEREGRINE: Thank you, Mark.

Does the statement from Marie also cover the BC so you will not be providing one?

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MARK DATYSGELD: I stand by Marie's statement.

NATHALIE PEREGRINE: Okay, thank you.

Sebastien Ducos.

SEBASTIEN DUCOS: Yes.

NATHALIE PEREGRINE: Tatiana Tropina.

TATIANA TROPINA: Yes.

NATHALIE PEREGRINE: Osvaldo Novoa.

OSVALDO NOVOA: Yes.

NATHALIE PEREGRINE: Kurt Pritz.

KURT PRITZ: Yes.

NATHALIE PEREGRINE: Juan Manuel Rojas.

**[ No verbal response ]**

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So I see that Juan has dropped from Zoom.

Juan, can you hear us?

PHILIPPE FOUQUART: Tatiana, I see your hand up. Is that on this point?

TATIANA TROPINA: Yes. It is on this point.

NATHALIE PEREGRINE: Sorry. Just to confirm -- sorry. Just to mention we received Juan's vote via email to the council mailing list as he's unable to speak. And he's voted yes.

Tatiana, would you like to speak before I conclude the vote or after?

TATIANA TROPINA: No. You can conclude the vote. I just wanted to say about Juan and email.

NATHALIE PEREGRINE: Okay, perfect. Thank you so much.

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So for the contracted party house, we have seven votes in favor and none against. For the noncontracted party house, we have eight votes in favor and five against. The motion passes with 100% in the contracted party house, and 61.54% in the noncontracted party house. Thank you ever so much, Philippe. And back to you.

PHILIPPE FOUQUART: Thank you. Thank you, Nathalie. And thanks, everyone, whichever was your vote. This is the end of an important process, although, as I said, there will be next steps. So I think we all appreciate the reservations on the adoption. So to some extent, we'll have our own reservations.

But I do hope that we get something out of this for the benefit of the whole community. But at least for those who took part in the EPDP, it's been a tremendous task. I don't want to forget the team. And, really, the amount of effort, work, and energy they put into this, I don't want to forget that. And thank every working group member, the alternates, Keith, the chair; Brian, the vice chair; and staff who worked on this.

But I think that that's an approval. (indiscernible). I think to some extent it puts some caveat to it, but that's an approval. So thanks. Thanks for this.

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And thanks for the inputs that you provided. There are lessons to learn from that as well coming back to the discussion that we had earlier. And I'm sure that there are things that we can improve. I think for EPDPs, we're learning at every phase; and this one is no exception.

Okay. Thanks. Thanks again.

And moving on to our Item 5 on our agenda, and that's our vote on the revised GNSO councilor job description.

A couple of elements of context before we go to our discussion on the motion. So as you may recall, council leadership sent a draft and proposed revisions to the job description for NomCom. We did that on September 13. And as noted then, the essence -- and I have to say that originally, we thought that that could actually be done through email. And it seemed quite -- I don't want to say harmless because these are significant, meaningful changes; but we didn't expect that amount of discussion, I have to say.

But we -- on the substance, though, we believe the preference should be -- by NomCom should be given towards nonaffiliated candidates which is of particular importance when the appointee will serve as a voting councilor, where the balance of council needs to be considered.

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Voting members may be in a position to provide a deciding vote, so that's an important -- an important point that we need to take into account.

Now, that being said, several of -- several councilors have asked what is -- what is the rush. I'm not sure we can call it a rush. But as you would probably know, NomCom will begin that call by November. So it's probably -- our November meeting is probably our last opportunity to formalize the feedback, as the recruitment process to attract candidates is expected to start around that time.

So that's the element of timing, even though the deadline by NomCom for those inputs are -- is already overdue. So naively, maybe would hope to complete the review via the mailing list, as I said.

That being said, there were two very important observations made to the list, the one by the IPC who shared concerns over the substance of the change and the Registry Stakeholder Group who requested more time for this.

So from a procedural perspective -- and as Pam is the original maker of the motion -- and Pam will be stepping down by the end of this meeting as a matter of fact -- she's agreed to withdraw the motion to allow Tomslin to resubmit it. And he would become the



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primary maker of the motion. So I'll turn to -- before we go to our discussion, I'll go to Pam to address the withdrawal first before we go to our discussion.

Pam?

PAM LITTLE: Thank you, Philippe.

Pam Little for the record. Hi, everyone.

I guess, Philippe in response to your question, yes, I'm willing to withdraw the motion. And I guess we should ask Tomslin whether he's okay with that given Tomslin kindly seconded the motion.

Tomslin, are you okay with the withdrawal of the motion?

TOMSLIN SAMME-NLAR: Tomslin for the record. Yes, Pam, I'm absolutely okay with it.

PAM LITTLE: Great. Thank you, Tomslin.

Philippe, back to me.

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If it's okay, I would like to say a few words why we put the motion forward and the thinking behind the proposed changes.

PHILIPPE FOUQUART: Thank you. This is Philippe here. Yes, thanks, Pam. That would be extremely useful, if you could describe the rationale, where we started from, and for us to have a discussion after that.

Thank you, Pam. Back to you.

PAM LITTLE: Thank you, Philippe.

Pam Little again. Hi, everyone.

So really appreciate the comments, feedback from various councilors, including the IPC colleagues.

The idea of putting the motion forward wasn't really to give everyone a surprise or -- really things like this in the past, we don't even have a motion even -- we don't have -- we didn't even have it on the consent agenda. We usually work via the mailing list; and there usually was consensus and we would send the correspondence, communication off.

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But in this case, as Philippe said, we tried that. We were hoping -  
- we didn't expect the control or the sensitivity around the proposed changes, to be honest, because what we proposed really was based on a discussion among the leadership. And based on our own personal experiences, observations, within the GNSO and within ICANN.

We thought throughout the years we've seen various appointments to the GNSO Council by NomCom, and this is another opportunity where every year we take a look at these job descriptions that we provide to the NomCom for the selection process.

And we thought these changes really -- the changes for those who haven't really followed this closely, the proposed changes really are intended to seek a balance between -- to achieve the goal of what this role is about, the NomCom appointees to the GNSO Council, and also to achieve, to me, two key goals, which is the intents of the roles and the other one is diversity.

And we heard a lot of -- some comments and queries about how important it is to have people who have accrued knowledge, experiences. And we just marvel at some people within our community who have been involved in ICANN since -- or before inception of ICANN, right? They bring tons of experience and

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knowledge. I get that. We are just amazed at how many knowledge and experience they have, like a dictionary.

But we think on the other side of the coin, there's also a very important consideration, which is how the GNSO Council, the two-house structure, and the NomCom appointee, what their role is. And, also, in the GNSO structure, there's a very delicate balance where each SG and C within the GNSO select or elect their representative on the council. And we have just gone through a very challenging vote on the EPDP 2(a) final report where you'll see that these NomCom appointees could sometimes play a very important role or cast a critical vote in resulting in a motion either carried or not carried. And really just this mixture of consideration, we all get the desire to have people who have the necessary experience, ICANN knowledge, so they can hit the ground running when they are appointed to the GNSO Council.

But I also believe -- this is something close to my heart personally. We need diversity. We need the balance. We need someone who knows all the ICANN history, has all the knowledge, but we also need new blood. We also need to give those who are not really within what we call the ICANN bubble an opportunity to provide new perspective. And I think that the NomCom appointee role gives a wonderful opportunity to have those people, to have those new voices.

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So the proposed change is really saying if everything being equal, then preference should be given to those candidates who are not currently affiliated with any SG or C or even SO and AC. So the keyword is the "current affiliation." We are not saying, hey, if two years ago, five years ago, they were from another SG or C or they are from another SO/AC, you cannot consider them. It's who are currently affiliated. We feel they might be a consideration about whether there's a potential or perceived conflict as well.

Let's say you are an active member of a GNSO stakeholder group or constituency, and you are casting your vote in that SG or C, then you'll be going on the council, or you may be also representing that SG or C participating in a PDP or other ICANN structure but then you're going to be on the GNSO Council casting vote on some of those PDP outcomes or outputs. We do see, at least from my perspective, potentially there could be some confusion, if not perceived conflict of interest.

So it's with that, sort of our personal understanding and expectation of the role, we proposed those changes. But I also see the other side of argument, that there will be a preference to have someone who is already very knowledgeable, who is -- who has in-depth experience to come to the council.

So I think those arguments are both ways. And there's pros and cons both ways. For me, the goal of independence of this role and

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the goal of achieving some diversity and some balance on the council -- and the council structure really are what's driving those proposed changes.

But given now that the motion has now been withdrawn, I guess the topic will be left to the new council to see how you continue this conversation and weigh out these pros and cons and see what's the best for the council. And as Philippe said, the deadline really is November.

So with that, I'll hand it back to Philippe to manage the queue.  
Thanks, Philippe.

PHILIPPE FOUQUART: Thank you. Thanks, Pam.

And in that spirit, I think for the discussion and just following up from -- this is Philippe here for the record -- from what you just said, Pam, and for our discussion, we'll need to determine what are the sticking points that are agreed on in the motion that we have or whether -- and/or whether we need to convene a small group between now and November to further review the text to make sure that it reflects the consensus of the group.

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So that's -- that's something we can do. The work would need to be completed in a timely manner for the SGs and Cs to be able to consider the text.

So with this and with the introduction that Pam gave, I see that, Tatiana, you are first in the queue.

TATIANA TROPINA:

Thank you very much, Philippe. Of course, I'm outgoing councilor. So good luck to all of you dealing with the discussion in the new council cycle.

I also want to say that I'm speaking here as the NCSG representative and not as the vice chair.

So just a nutshell, I want to say I am standing with Pam, and I fully -- I fully agree with her reasoning. And I think that in a nutshell, it is about one stakeholder group or one constituency not having the additional councilor if somebody is too close or too much affiliate.

And there is nothing -- I mean nothing personal about this, but I do think that we need to strive for diversity. And it's not about not being affiliated with ICANN at all. Affiliation can be with other -- with other (indiscernible), but it's just about being too close to home of something.

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I also wanted to say that the (indiscernible) one is actually not new to GNSO like as a suggestion. For example, the ccNSO, as far as I am aware, because I applied and I was appointed by NomCom for the ccNSO for the next ISOC, they do have a requirement not to select a person who is affiliated with the ccTLDs in order not to break the balance of the ccNSO Council. And I think that this is kind of eligible -- you know, valid concern. And I think it would be good for us, even if it doesn't go to NomCom as a recommendation, it would be good for us to at least deliberate on how much we want this to be.

Thank you. Or you, I mean. I'm outgoing.

PHILIPPE FOUQUART: Thank you. Thank you, Tania.

Maxim, you're next.

MAXIM ALZOBA: Maxim Alzoba, for the record. I would like to underline the current situation where we see the decline in, I'd say, pool of volunteers. Because it's the second year without face-to-face meetings. It's quite hard to get new people into the ICANN ecosystem and expect an understanding of GNSO whereabouts, of the procedures without being somehow close to the whole, I'd say, set of persons who know few things about it is bit unrealistic. And



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despite the fact that we do need diversity, we shouldn't say that, okay, all new candidates should go from At-Large, for example. Yes, it would give some balance out of GNSO into some other's hands. So if we're speaking about independent persons, those independent persons should not be affiliated among themselves.

Thanks.

PHILIPPE FOUQUART: Thank you, Maxim.

Philippe here, for the record.

I think leaving aside the difficulty to find volunteers for this, the question that you asked and the nuance between affiliation and expertise that Pam made is the question and might be the question for the group. Can we have that? I think the issue that the changes we're trying to address was precisely that: Can we have expertise according to NomCom and still independence?

I -- For what it's worth, personally, I think that's achievable, but that wouldn't be asking for someone without a past, without some experience. Hopefully a large experience on the matter. But I think the issue of -- of voting balance cannot be neglected. Whether that's a tractable problem, it remains to be seen. But that's apparently a valid concern.

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Thanks, Maxim.

Next is Susan.

SUSAN PAYNE:

Thank you. Susan Payne for the record.

I'll be quite brief. I just wanted to thank you, first of all, Pam, for withdrawing the motion for a vote, and Philippe as well for accommodating this. You know, I think -- I think Flip made it clear that the IPC's view is this was something it was important to discuss, and it is a sort of fundamental issue, really, of whether there is priority given to candidates who have no affiliation with the existing structures.

My view and the view, I think, expressed by Flip is one that reflects the concern that we are, by going down that path -- admittedly it says all being equal, preference should be given, but the effect of that is to both dis-incentivize applicants who are affiliated with structures and also to suggest to the NomCom that they should prioritize applicants for positions on the GNSO Council who are not affiliated. And yet of course we're all saying, all things being equal, and of course one of the expectations that's still contained within the job description is something about having a deep understanding of GNSO structures.

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Just reading the job description as it was amended, it seems to me inconceivable that you will get both the independence that you're seeking and that deep and -- knowledge and understanding and experience that you supposedly have as well. And we feel that it's -- it is potentially cutting out a pool of very well qualified candidates. And, therefore, if there are concerns about things like how people vote and whether they will be impartial and whether they -- you know, whether they will commit to representing the best in terms of the ICANN community and not particular stakeholder group interests or client interests or whatever, then the way to address that is to put it in the job description and have it explored by the NomCom.

And, indeed, Pam also mentioned, when she was talking, about the notion of you might have a scenario where someone had been voting in a stakeholder group or constituency or perhaps had been participating in their behalf in a PDP, and then when it came to the Council voting, they were also there voting on it. Well, of course, you know, that does happen in any event in relation to the stakeholder group and constituency appointed appointees, obviously. But if that is a real concern, then that also can be addressed in the job description and the NomCom can be given a clear instruction that, you know, that if a PDP is due to come to a vote during the term or there's an anticipation of a PDP coming to a vote during the term and the NomCom candidate has been actively involved in that PDP, then perhaps they're not the

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candidate for -- you know, for that term. I mean, if we really think that that's a concern, you be address it in the job description.

I did -- I wanted to just refer to the job description; in particular, the markup that Flip circulated. And I can't take any credit for it. It was, as I say, Flip. Flip worked on this. But I think he made some really thoughtful suggestions, not just of sort of changes to exclude people and disqualify them but actually gave some thoughts and consideration to what are the qualities that we actually want to see from a candidate and what do they want -- what do we want them to do if they're going to be a councilor?

So rather than being a negative of let's exclude people who are too associated with a particular group, it's focused much more on, you know, having a demonstrable ability to guide policy development, being a consensus builder, that kind of thing. And I think that is irrespective of the path we go down with respect to affiliation with groups.

I think there's real scope for if we're going to do an exercise of upgrade this job description, there's real scope here for actually being a bit more positive about the skill set that we do want to see rather than just leaving that element to the NomCom.

Thanks.

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PHILIPPE FOUQUART: Thank you. Thank you, Susan. Philippe here. And that's certainly elements that we -- and I'm thinking about the -- what you just said about the -- the immediate past. I'm not sure that's an English word for that but say the involvement of the candidates in an ongoing PDP and the potential conflict of interest if that -- the Final Report issued by that same working group would come to a vote in a Council what he would be appointed. That certainly -- It seems that we can find terms in such a way that we can, as you put it, express a preference rather than excluding people. But I think -- what I'm hearing is that there's nonetheless some recognition that there's something to address here, hopefully.

So I -- I tend to think that what we're trying to reach in terms of having independence and still having expertise is something that could be captured in the job description. So thanks. Thanks, Susan, for this.

Olga, yeah, you're next.

OLGA CAVALLI: Thank you, Philippe. This is Olga Cavalli. Thank you very much.

I find this discussion being very interesting being a NomCom appointee. And I agree with Pam about diversity, but I think that someone that is new blood to ICANN and does not know about

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how GNSO functions and the structure and of the difficulties about the text and the documents and the amount of time could be -- could be too much for someone that is not really involved. I understand the concern about independence and all that.

So I think that we have to be careful not to discard people who are really qualified, and they know about how our PDPs are developed and all the complexities on the work of the GNSO.

I would -- If a small group is formed, I would like to volunteer for contributing from my experience, but I think we should go towards what we want to see, as Susan said, in the candidate and not disqualifying candidates that have a lot of experience that could be very useful.

Thank you very much.

PHILIPPE FOUQUART: Thank you, Olga. And Philippe here, for the record. And, yes, it seems that there's room for a small group, no pun intended, to be formed. So if people would like to put their name in the chat or just send a note to the list, I think that would be -- that would be a good thing for us to review the text along these lines.

Thanks, Olga.

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Next is mark.

MARK DATYSGELD:

Thank you very much. I would like to briefly comment on the fact that, yes, I understand the question of the balance and the voting and the need for -- to keep this balanced, but at the same time, it is the NomCom's job to assess whether a candidate can remain neutral or represent that position correctly. It is literally their entire job to assess whether a candidate is qualified, to serve in that role. And that role is not an SO/AC role. It is a NomCom role. It's a specific chair assigned for that.

So that is while I appreciate the concept of asking for somebody that's from outside the process, shall we say, at the same time, it is what the NomCom is doing. They are trying to find a candidate that can fit that role the best. And if we are to trust the process of the NomCom, they will always try to give us a candidate that can fit that particular role.

So I'm pretty -- I'm unsure if asking that proving that the person is not particularly involved in ARB, is that useful. Because if you are in this community, you will be. This is a difficult community. The work here is very difficult. And because we are so in the process, maybe we forgot that sometimes, but it's super difficult. It's not something you can just drop by and pick up. That's literally

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impossible. So if somebody's qualified for the role, we will have some kind of interaction, and probably quite a bit.

So I would say that we should lean more towards trusting the NomCom on their work. And if we are in doubt of that, then there's a problem with the way that the system is set up.

So those are my comments for now. I would appreciate if we could discuss this further in the future.

Thank you.

PHILIPPE FOUQUART: Thank you. Thanks. Thanks, Mark. That's certainly something that the small team can take, and we'll re-discuss this at Council. And for what it's worth, I certainly agree with the -- what you just said about the difficulty of doing what we do without a certain -- at least a minimum of background.

I would just observe on this that I think both the Board and the ccNSO Council in their job description, I would encourage you to have a look at that. Off the top of my head, the CCs say explicitly that they do not want an NIC, they do not want a ccTLD manager. They want someone who's just totally out of their normal remit. And they have -- And they're very -- I wouldn't say extreme, and I



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would argue that they don't have an easy task either, if you see what I mean.

Now, just an observation. But what you just said, Mark, is well taken.

Pam, you're next. And last word for you.

Pam.

PAM LITTLE:

Thank you, Philip. Pam Little for the record. Yes, thank you for giving me that opportunity.

I just want to respond to a couple comments. Really this wasn't intended to disqualify or exclude experienced and knowledgeable candidates. Really it was intended to strike a balance. I personally feel we don't have that balance at the moment where I can see in the ICANN community there are people who -- who are very active, have multiple roles, but we, as some have observed, there's a kind of a volunteer fatigue. We tend to see the same people appearing at different places, and how can we overcome this? I think if it's not in the NomCom appointee space, we, as a Council and as a GNSO, really need to look at that issue.

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So the proposed change, as I emphasize, are not intended to exclude qualified candidates. It really just wants to promote the idea of independence and diversity and achieve a balance and respect the GNSO structure, et cetera. And I can see there are a lot of good ideas and interest in discussing this further, so I guess I'll defer that to the future discussion.

And with that, thank you for the discussion and the time.

Thanks.

PHILIPPE FOUQUART: Thank you. And thanks again for leading, initiating this. And as a way forward, I think we, indeed, can have that small team of councilors. And those interested, please express interest on the list or in the chat. And the small team will be tasked with taking the motion that was circulated. I'm sure the IPC would convey the revisions that they wanted to make to that motion. And the small team can take the comments that were made during this session as to the risk of discouraging the volunteers need not to exclude but adopt a positive stance on this and, rather, provide directions. And also a stress for the candidate to remain neutral and we can certainly think of what that might mean in practical terms such as prior involvement in a PDP, or a standing council is expected to vote for example.

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So with this, I think we're slightly behind schedule, so I'd like to close this discussion and move on to -- thanks again, everyone, for this -- for these elements, and thanks again, Pam, for the work on this. Moving on to item 6, and that's the GDS update on the framework for the policy status report on the UDRP. And I think Antonietta is with us from GDS, am I correct?

And just before we go to the presentation, just bear in mind that there are two goals for this: try and have some agreement on the purpose of the policy status report and agree on whether what will be presented here is -- is beneficial to our decision-making process on this topic so that GDS can start their work accordingly.

Who from GDS is going to introduce this?

ANTONIETTA MANGIACOTTI: Hi, this is Antonietta Mangiacotti. I'm here with ICANN org. And I'm going to be presenting on the revised proposal.

Can you hear me okay?

PHILIPPE FOUQUART: Absolutely.

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ANTONIETTA MANGIACOTTI:

Great. Just checking. Perfect. So, yes, I'll be presenting on the revised proposal for the Policy Status Report on the UDRP, which is an ICANN consensus policy and was created to -- so it's a resolution of disputes regarding abusive registrations of domain names.

If we can go to the next slide, please.

So for today's presentation, we're going to start off by providing a brief overview of the GNSO Council comments that were forwarded to ICANN org following our update to the council on a proposed outline for the report. Then we thought it would also be helpful to clarify the scope of the Policy Status Report and what the public comment process for that report is.

We'll also provide a quick recap for the proposed framework for the UDRP status report, what data we have available to support with the assessment of UDRP, and then conclude with estimated timeline which has been updated to include a public comment period.

So in September, as mentioned, ICANN staff provided GNSO Council with an update of a proposed framework for the UDRP status report to which the council later provided staff with comments on related to things like the structure and organization

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of the report or also some examples that were being proposed for inclusion in the report among other things.

We reviewed the feedback. We thought it was very helpful and much appreciated, and you can see we've shared a few of the comments that we received from the GNSO Council in the lower half of the slide.

And we wanted to note that we will be taking those on board when we work on the report as we want to make sure that the information that is included in this report is being presented in a balanced manner because to clarify, the goal of the Policy Status Report is we don't want to take a position on an issue. We are just presenting the data that we have on the UDRP and the key issues that have been raised.

Next slide, please.

Thank you. All right. So the consensus policy implementation framework calls for a review policy when there is sufficient data and time to highlight the impact of the policy and that Policy Status Report should be provided to the GNSO Council when there's enough data and metrics to assess impact of the policy.

With this in mind, we wanted to reiterate that the purpose of the Policy Status Report is to provide an overview of the policy and to

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support assessment of a policy's effectiveness. So the Policy Status Report would provide the relevant data to help build the structure of and issue report and the PDP charter, if that work is undertaken. Whereas the issue report describes the issue and recommends whether the GNSO should start the PDP. So to help with the assessment, it includes things like the history of the policy, background on a policy's process and procedures, recent and readily available data related to the policy, overview of key issues, as well as changes or trends that have been observed.

Next slide, please.

So the consensus policy implementation framework also provides for a public comment period for the status report to allow the community an opportunity to identify any issues that they've experienced with the policy as well as any data that may need to be collected to inform next steps.

So for this effort, we think building a public comment period is a helpful step but bearing in mind that it also would extend the timeline for completing the work.

And like other public comment processes, any relevant input received is included in the standard report of public comments as well as incorporated into the revised Policy Status Report to provide insight. And those are submitted to the council who will

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then determine next steps such as initiating a PDP or further data gathering.

Next slide, please.

All right. So when it comes to the Policy Status Report for the UDRP, I want to clarify that the purpose of the report is just to provide an overview of the available data related to the UDRP and to support the GNSO's assessment of the effectiveness of the UDRP in meeting its intended purpose.

And when it comes to the organization of the report, with that it would be helpful to follow the same structure and approach that was done for the transfer policy status report so to organize the data and information to assist with the assessment of the UDRP in terms of the policy's overarching goals, as we understand them to be, but also has been touched on in the final issue report on the UDRP, which are concerning the efficiency of UDRPs and (indiscernible) to provide trademark (indiscernible) , mechanism for resolving domain name disputes, fairness of the system. Does the UDRP operate in a fair and consistent manner for all stakeholders while also retaining sufficient flexibility to address evolving Internet and domain name practices? And addressing abusive registrations, has the UDRP effectively addressed abusive registrations of domain names?

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So we wanted to clarify that we're just organizing the UDRP-related data around these goals and including any pertinent information under these questions or as they relate to these questions, but we're not expecting the data itself to answer these questions as that would be part of the actual assessment of the UDRP.

So to note, the Policy Status Report does not draw any conclusions of the effectiveness of the UDRP. It just merely presents relevant data, key issues that have been raised, the viewpoints, and also includes some examples as they relate to each UDRP goal and question in order to then support the GNSO's assessment.

Next slide, please.

So in this slide, we wanted to provide a quick recap on the data that we have available to support with this effort which is for the time period ranging from January 2013 to December 2020, some of which we've previously collected to inform other projects and review efforts and includes things like the number of UDRP complaints that were filed, the decisions that were issued for each provider.

So this data that we collect is published in a table on each provider's website and the data points were included in this table,



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which varies slightly from provider to provider, usually includes things like the case number, the complaint/respondent's name, the domain names being disputed, the case filing date or year as well as a decision date or year, and the outcome of the case which could be whether the name was transferred, canceled, or some other outcome.

Additional UDRP-related data is also available and published on provider's website includes the administrative and panelist fees as well as you would also be able to calculate the UDRP case length. However, this would only be for Forum because they're the only provider that publishes in their table the complaint filing date and the decision date. All other providers publish the case year or decision year or date year. So we are unable to do the calculations for the other providers unless we were able to go in individually to each case and pull out the specific dates, which there are thousands of cases and require significant amount of time.

What we also have available are the number of reverse domain name hijacking filings through the website dndisputes.com. But this is also readily available for domain name disputes filed (indiscernible)

And in terms of the UDRP-related complaints to ICANN, this data is collected by (indiscernible) compliance dashboard. And while

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the UDRP-related inquiries concerning things like trademark infringing registrations, that would be provided to us in a report from Global Support Center.

Next slide, please.

All right. So in terms of the timeline for this work, we revised it to include a slightly longer time frame for completing this exercise. We also thought it would be better to present the number of weeks that we estimate each action taking to complete, from the time that staff is asked to undertake this effort as opposed to specific dates that were presented at our (indiscernible).

And then as I mentioned earlier, we also provided the timeline to incorporate a public comment period. This would give (indiscernible) a chance to provide any issues they may experience with the policy as well as to identify any data that would be helpful to perform next steps.

So this brings me to the end of the presentation. And I think next we are opening up to discussion. Thank you.

PHILIPPE FOUQUART: Thank you, Antoinetta. This is Philippe here.

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So just to make sure we have the calendar right, week 22nd is early June, unless I'm mistaken, at the latest.

So I see John. You had your hand up, John?

JOHN McELWAINE:

Thanks, Philippe. John McElwaine for the record.

So I see on page 4, maybe we can scroll to that page 4 of the slides, it's the fourth bullet point.

Well, anyway, the fourth bullet point said, "any other data, information, that may help community deliberations." And then page 7 had some data sets. In fact, there has been a bunch of suggested other sources of data in the chat here.

I was just trying to reconcile the fact that the bullet point 4 seemed to indicate that they would be looking for other data and then the data sets were fairly limited. Is there going to be any -- and we have a fairly short time frame of data collection. Looks like about five weeks.

Is there going to be some effort to coordinate for some data collection from the community, from GNSO councilors? If you can kind of explain how that all fits together. Thanks.

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PHILIPPE FOUQUART: Antoinetta, with regard to the sources -- yep.

ANTONIETTA MANGIACOTTI: That slide there is what we have readily available right now where we have collected for other reviews and projects. If there are suggestions for other data sources that are available for us to include in this report, you know, we would welcome those suggestions.

PHILIPPE FOUQUART: Thank you, Antoinetta.

So from a practical standpoint, I suppose we can collect this through council. I think that was what you suggested, John. But we'll find a workout -- find a way out, I'm sorry.

The principal of other sources is acceptable apparently.

Thank you, Antonietta.

Susan, you're next.

SUSAN PAYNE: Thank you. Antonietta, thank you for saying you will take on board some of the feedback received.

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So I did have a couple of questions. The first one was in relation to that. You obviously are giving us this sort of slightly updated presentation here. But is there an intent to come back to council with a sort of more complete sort of framework presentation of what you intend to cover?

Your first presentation from September included certain information, and then this makes some comments about input you've received and suggests that, for example, you'll take some of that on board.

But is there any intent to come back actually with basically a new version of the proposal that pulls all this together so that we can actually see what you're proposing? So that was the first question.

But then the other one is partly a question for you but actually is also a kind of comment for the councilors, and it's about the timeline for this. And really thank you very much for building in a bit more time. Certainly thank you for building in a public comment period. I think that's very important.

And obviously, you have extended the time a little for the data collection and drafting of the report. It's now five weeks. But I must say, I think if this exercise is really to be valuable to the PDP, it feels to me like sort of time should actually be spent in doing a

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fulsome review and gathering the data that is available, you know, and not simply going to the readily available data that's on some websites or data you've already collected for some other purpose but to actually do a proper comprehensive exercise of gathering the data that's going to be useful to the PDP.

Phase 1 was incredibly hampered by lack of data and really it feels pointless going into a review of the UDRP sort of half-cocked with a sort of partial exercise of pulling some extra information together but really not a fulsome one.

And, also, I would comment that in relation to a fulsome exercise, there's huge amounts of data sitting with the providers. You've mentioned that you plan to go to their websites. But, you know, do you plan to talk to the providers? They almost certainly have additional information that they can share with you, both data but also about problems encountered, if you like, or issues that might be things that should be drilled down on when the UDRP is reviewed. And if you don't plan to talk to them, then that doesn't get surfaced.

And I think I will stop there because I see Marie has her hand up, and I'm sure she has lots of salient points to make. Thanks.

PHILIPPE FOUQUART: Thanks, Susan.

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Maybe a response to the two or three points that Susan raised, Antonietta, on the notion of a comprehensive and exhaustive collection of data. And as to the -- maybe I should address the first question.

The idea of having this discussion now would be for us to give a go to GDS to start the development of the Policy Status Report. I think there's certainly a way to have an update between now and the public consultation on this. But the idea of this discussion was to give the go. So the presentation or framework -- yet another one was not planned.

To the second question, Antonietta, maybe.

ANTONIETTA MANGIACOTTI: Yes. And I have to say I agree with the first part and can certainly provide kind of a status update on our work, if this is undertaken.

In terms of the data that we have available, it is so far what is readily kind of available and what we've collected previously.

The goal as far as what we built in the timeline was reaching out to the providers, primarily to have them confirm and review the accuracy of the data that we would be including in the report, although the UDRP has been around for over 20 years. And so to support more comprehensive review, if additional data points are

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desired or information -- or cases relating prior to 2013, those we could work with providers on obtaining those as well. But just bear in mind, again, it would mean extending the timeline for completing this work.

PHILIPPE FOUQUART: Thanks. Thanks, Antonietta. Hopefully that point defines the second question. Thank you.

Marie, you had a question.

MARIE PATTULLO: Thank you, Philippe.

PHILIPPE FOUQUART: Thank you.

MARIE PATTULLO: Marie Pattullo from the BC.

Thank you very much for taking on board so many of the comments we made to the initial proposal. We are very grateful.

I would like to raise a few issues.



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Backing on to what Susan said but also some separate ones, if we look at the slide that we have up at the moment, one of the things that concerns me is number of complaints filed and decisions because the number of cases doesn't tell us anything about the nuances. It doesn't tell us was there one case filed by one guy. Were there 10,000 cases filed against the same guy? What were the nuances of the case? So I think the figures alone without understanding how the UDRP is built and what works underneath that are going to give us a very odd picture.

I also notice here that you talk about fees. But I'd like to put in a rather large dataset that doesn't seem to be on this, which is cost. And from the brand-holder perspective, there's a massive cost. And this is not, obviously, mirrored on the side of the cybersquatter.

When you talk in the bottom in the italics when you say -- no, I'm on the wrong side, but one of the slides you talk about different viewpoints which is important. But again, these need to be based on feedback because what we're trying to achieve here is something that will actually be useful for Phase 2.

Now, if you can either go forward or back a slide. I'm sorry, I'm not sure, I think it's back one. Yep, that's it. Thank you. And that was the point I was raising. And here I really do want to underline something that I mentioned before.

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Costs are good for brand-holders. I'm not sure that's fair, Jeff, but that's a very separate conversation.

Addressing abuse. Now, this is something I would really, really like you to rephrase, please, because the original UDRP, as we know, written by WIPO, isn't about abuse.

And with all of the other conversations in the community about abuse, we really need to make this clear. This is narrow. It's about cybersquatting. It's about, as you've said here, abusive registrations of domain names. And I think we need to be very careful the RPM Phase 2 doesn't get wrapped up in the entire DNS abuse issue.

Overall, I do see what you're trying to achieve, and I do thank you for it. But if we are going to be useful to the colleagues, to the volunteers who will be working for years on RPM 2, we need to give them not just numbers that don't explain, and we really do need the people that run this policy to be involved I think.

Thank you. Sorry, not run the policy. Run the procedures. Thank you.

PHILIPPE FOUQUART: Thank you.

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I'm mindful -- Maybe just a quick response, Antonietta. And we're running out of time. Susan, we could probably take a couple of more comments, but we're really running out of time.

So Antonietta, a response to Marie's observations. Quickly.

ANTONIETTA MANGIACOTTI: Yes. Yeah, thank you for that, comment. I think you know the purpose or, you know, the goal of the report, of this report is mainly to just kind of present and put together what we've -- you know, what are (indiscernible) that have been raised, what data, you know, that is available. But we can -- I can certainly take this back and discuss with my team to see if there's any additional data that we can include in this report.

PHILIPPE FOUQUART: Thanks. Thanks, Antonietta.

I -- I'm trying to make sure that we -- that the comments that were just made are included in the framework and yet make sure that you can proceed with the work, and we don't stay in the way, and we've got so many things to do at our next meetings. I'll make sure that -- are there -- Again, the purpose of this was to make sure that GDS could start their work on the basis that we just described, notwithstanding the comments that were made.

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And can I have the -- the concurrence of the room that the work can start? Maybe we can make sure that we have an update reasonably soon to make sure that we have a common understanding as to, notably, on the sources of data and the way they are processed maybe. But we don't want to stand in the way. I think that's the whole idea.

So anyone opposed to GDS moving forward with this policy status report? And we could have reasonably soon? Or do you see a problem with initiating the work now?

Susan, you have your hand up.

SUSAN PAYNE:

Yeah, I'm fairly opposed to moving forward. I don't -- I'm not opposed to this work being done. I'm very, very supportive of it, but I'm supportive of it in a really thorough and reflective manner and not going off half cocked. And I know that that pushes out the timeline, but I put this comment in the chat and it reflects my current bitterness but what is the point in pushing forward with this in a speedy and urgent matter as if this is PDP needs to go on as quickly as possible when we already know that there are a whole bunch of PDPs that are sitting either not even reviewed by the Board, like the RPMs Phase 1 or that have been reviewed by the Board but are not in implementation or the implementation is dragging on over years and years and years.

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We've been told all week by Xavier and Göran that we have to prioritize and that recommendations that have been made won't get implemented or they'll be de-prioritized, and goodness know when we'll ever get to them.

So where's the urgency? I think it's far more important to do a really thorough and thoughtful job rather than getting this sort of off Council's list, which is how this feels.

Thanks.

PHILIPPE FOUQUART: Thank you, Susan. So I'll turn the question over. I see, Kurt, you have your hand up.

KURT PRITZ: Yes. Much to everyone's regret.

While I share Susan's bitterness, I see a benefit to moving ahead in the data collection. I kind of see this as a two-step or multi-step process to get to the goals that Susan and Marie indicated, and others like Justine indicated in the chat, that it's not just about quantitative data, it's about qualitative data.

And I think that initial round of collecting quantitative data from known sources and others suggested by us leads to -- leads to the

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questions that will get to the issues, you know, so we can do the thorough job that everyone's suggesting.

So I don't -- So long as this is an iterative process and we augment the process along the way so we can uncover the issues, I think we could go ahead with the commitment that, you know, we get routine updates and a team of people that are most interested can kind of steer this effort towards uncovering what the issues are so that the PDP can be effective.

Thanks.

PHILIPPE FOUQUART: Thank you. Thanks, Kurt.

And so, Antonietta, on that basis of essentially collecting an initial collection of data, coming back to Council, you know, iterative process of sorts, making sure that it is, to the community, fit for purpose, is that something that would be reasonable for you?

ANTONIETTA MANGIACOTTI: I think so. I mean, I want to take this back to my team and discuss with them, but I think it shouldn't -- you know, shouldn't be an issue in terms of providing the -- kind of the data that we're, you know, going to be looking at and incorporating into the report, and adding on any additional suggestions for information and

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data points that we can use for the report as well. So that should be -- should be fine.

PHILIPPE FOUQUART: Okay. Okay. So it means that somehow the framework may be adapted as we move along, but with some review by Council reasonably soon. I think that's the ask. And we don't want to replay Phase 1. I think that's the concern.

So with this, I'm mindful of time. Thank you again, Antonietta. Thank you again to those who took part in the discussion, and we'll move on to our next item. That's the AOB. And again, since we're slightly behind schedule, we'll take number of those to the wrap-up session for tomorrow. 7.1, we'll be seeking a vice-chair for the SCBO. We'll talk about that tomorrow to make sure the transition is smooth next year.

On 7.2, we will need to acknowledge the project plan of the IDN EPDP. As you will recall, that was a question mark when we approved the charter. And I would like to get to point -- to 7.3, the potential next steps to the Board response to our letter regarding the deferral of the IDN implementation guidelines.

So it's a question for Council. Given the Board response to -- to us on this topic, would the -- and given that what we discussed during the approval of the charter of the charter IDN EPDP, the

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EPDP will probably be in a good position to identify the gap -- the overlap with those guidelines and determine whether there is, indeed, an overlap, i.e., things that need to be removed or whether there's none and we can safely keep the guidelines as they are. And if so, can we -- So can we ask the EPDP to do that, to do that analysis, and with the understanding that their work plan might have to be adapted? And we'll discuss that with the EPDP leadership.

So is it the sort of next steps that we could undertake? Anyone? Any concern on this -- on this approach?

Okay. Seeing no hand, I'll -- we'll come back on to that tomorrow during the wrap-up, but I just want to acknowledge that we went through this and make sure you're aware of the question.

So again, mindful of time, I'll skip 7.4 and go to our farewell and thanks to those who will be leaving Council, because it's, indeed, the time to say goodbye.

We have a number of outgoing councilors: Carlton Samuels, Osvaldo Novoa, Pam Little, Tatiana Tropina, and Tom Dale. Thanks. Thanks, everyone, you've helped Council tremendously, for your years of service. Carlton with the SSC and transfer policy charter; Osvaldo, my fellow ISPCP Counselor for the SSC and the



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accuracy scoping team; and Tom for the SSAD consultation and the GAC communique.

So thanks. Thanks, everyone. Farewell. I hope we will meet again soon. Sooner than later. Confer the discussion that we had earlier today during the plenary.

To these thanks I'd like to add and thank Cheryl who will be stepping down in her role as the ALAC liaison. Thank you so much for all these years you've helped with (indiscernible) a lot in that role. Thanks, Cheryl.

And last but not least, our vice-chairs, Tom and Tatiana, for all the work that's been done throughout the year. Within leadership, probably too many things to thank you for, but your support was tremendous. So I'm extremely, extremely grateful for all you have done. So all the best to you in your future endeavors. Hope we'll meet again, as I said, very soon, and get rid of this frustrating speaking to a screen for a year.

And finally, I know they won't be leaving, luckily enough. I just want to thank staff and all those who supported us throughout the year. I'm going to forget some of you, but Nathalie, Marika, Steve, Berry, Emily, Mary, Julie, Emily, Terri, and Andrea. I'm sure I forgot someone, but you know who you are. So thanks again.

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And, indeed, a massive thank you to staff. Hopefully we'll meet again -- we'll meet again soon.

Nathalie, I think do we have a thank you -- PPT of all the things and the messages, indeed. That we'll go through before we go to the microphone.

Unfortunately, I'm not sure we'll have the time to go through all of these, but these messages will be shared with you, with your -- and again, we hope we will have an opportunity to meet again very soon.

Exactly, Jeff. I thought that there would be background music for this. But I can't play any from where I am.

So...

Since we're getting to the -- close to the end of this Part 1, I just want to let you know that we will have our open mic just after this. So if people would like to step up in the queue or note a comment or question in the chat, you are certainly -- certainly welcome.

Cheryl. Thank you.

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CHERYL LANGDON ORR: Thank you very much. I was just queuing for the open mic, but I just wanted to take the opportunity to say, having held the role as the, hopefully, trusted conduit (indiscernible) At-Large community and the GNSO Council since 2016, and following on from 2003, that passing on the reins to Justine Chew, and introducing and recommending Justine, although she isn't a stranger to many of you, to be my replacement in this role is my honor, my privilege and my pleasure. And that is all I wanted to say to the Council, and thank you, Philippe, for indulging me.

PHILIPPE FOUQUART: Thank you, Cheryl. And we will be welcoming Justine in due time. But again, thank you for all your help, and we'll see you soon, then. Julie?

JULIE HEDLUND: This is Julie Hedlund, and I'm going to read a couple comments that were entered into the chat earlier.

One is from Volker Greimann. And this was during the discussion of the EPDP Phase 2 vote. His comment is: No one has been able to substantiate any benefits in non-redaction of pure legal personal data, especially given that the wrongdoers and abusers are not going about setting up Evil -- Evil Inc's left and right to

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make their registrations. Differentiation is, therefore, to be assumed to do nothing to address abuse issues. End of comment.

And the second comment is from Jeff Neuman, and in his role as a GNSO liaison to GAC and to everyone. Comment, question for open mic later. He says thank you for your confidence in me in being ODP liaison for SubPro. In that role I would love to hear from the Council and community about their expectations for the liaison aside from what is in the role description. More specifically I'm not asking you to evaluate the performance of the current SSAD ODP liaison but, rather, what do you like about what that liaison does, what can be -- what more can be done, if anything? Is the amount of information you are getting from the SSAD ODP liaison enough or is there more information you would like to get? How often do you expect to be briefed and what else can I do in the role for the Council and the GNSO? The role description makes it clear that I'm limited as to what I can do in my personal capacity, and I understand and agree with that. What does it say -- what it does not say is what is expected from the GNSO perspective, and that is my question for you.

Thank you again. End comment/question. And that's all from me.  
Thank you.

PHILIPPE FOUQUART: Thank you, Julie. To Jeff's question, any views on the timing?

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I think there's -- what we -- well, there's a couple things. What we -- what we do for the SSAD is at every meeting, at least, we have an opportunity for a report and an opportunity for councilors to chime in and to ask for clarifications or -- or -- or provide elements relative to the answers that -- or the clarifications that were requested by the ODP team in terms of regularity, in terms of frequency of reports. That -- that seems to be appropriate even for the SubPro ODP.

That's, at least, my view on it. Whether there are any additional requirements on the role that I'm not sure that probably something that we can take on board for the SPS. The reason for that is that one of the themes of the SPS will be, indeed, how we - - that's my word, but do the after-sales of the policies and the reports that we approve and hand over to the Board. That include the ODPs. And if there are specific requirements to the SubPro ODP, that's certainly something that we can -- we can discuss more thoroughly during the SPS.

I would only note that, indeed, it was important for people that it would seem that the role would be a go-between the ODP team and council. And it is, indeed, a liaison. I think we stressed that in the job subscription that, it was I think also something that the standing selection committee was sensitive about.

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But I appreciate that's not a very substantive response to your questions, plural, Jeff. But that's at this stage and being two minutes late pretty much I can offer.

Hope you understand. So with this, anymore -- and, thanks, Volker, for the comment. Duly noted.

With this, any -- any more comments or questions? Yes, noted, Jeff. Probably something to think about in terms of the full template or what sort of information is expected exactly.

SubPro is a special beast, and the SSAD might not be applicable here. Point taken, Jeffrey -- Jeff, sorry.

So with this being three minutes late, I think we can adjourn the meeting and this Part 1. Thanks again for taking part. And, again, thank you to all those that we won't hear and see again, even if it's on the screen for the moment. All the best to you all. And speak to you soon.

I think we have half an hour break now, just about. We'll reconvene at midnight, my time. So that's CET, so that's 10:00 UTC. And speak to you then. Meeting adjourned. Thank you.

**[ END OF TRANSCRIPT ]**