

**Transcription ICANN London  
Standing Committee on Improvements Implementation  
Saturday 21 June 2014**

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Jonathan Robinson: Again, a very warm welcome to everyone. And let me introduce to you Ron Andruff who is chairing the Standing Committee on Improvements and who is going to give us an update as our first session this morning on the work of the Standing Committee on Improvements. So over to you, Ron. Thanks.

Ron Andruff: Thanks, Jonathan. And thank you for the beautiful London weather; it's a surprise for all of us I'm sure. And maybe that's also part of the culprit why people may not be in the room, they might be out enjoying some of the London.

In any case it's a pleasure to be here and thank you for putting the SCI on as your first meeting agenda. For those of you who arrived a little earlier, the SCI was - the Standing Committee on Improvements Implementation actually had its first meeting - started the sessions with our 7:30 start today so it's nice to be able to move out of that straight into this report.

So I'll ask Lars who actually has the slides up for us if we can move to the first slide. So this slide is a summary of our current activities. And I'm going to talk a little bit more detail on a couple of them but I think it's important to understand that as you well know here at council level it's the thorny issues that you don't have the time to really get deeper into. And so that's the stuff that we are assigned and we take it on gladly.

And I'm proud to tell you that because we have a number of lawyers on the SCI, an overwhelming number of lawyers, and even lawyers that say they're not lawyers and I'm looking down the corner of the room here at Avri who has two parents, it was revealed today, who were lawyers so that was a revelation for us to understand where all of those intelligent comments come from.

So here we are. We have a lot of lawyers who parse the words. And we work very closely together to - in a collegial fashion and I'm very pleased that we do get down into the weeds on these and work through them in great detail. And we're now at a point where we've got a couple of consensus calls. Staff - through staff advice and we're grateful for it; they've suggested that we try to combine a number of the things that we're working on to put them out to public comment.

So when you see here on this slide we had our review of the GNSO Working Group Guidelines in relation to this concept of divergence when we talk about consensus, consensus for, consensus against, we've now completed that exercise and put it out for formal consensus. That means for review within our constituencies and we've agreed on that.

The second element is the proposed language for the 10-day motion. And this is with regard to the operating procedures. We spent a lot of time talking about that this morning. In fact a predominant amount of time was spent discussing this rule. And we're very close now to getting to a place where we can put it out for consensus call to our constituencies and then to public comment.

And then we want to propose some language for the electronic voting that you've asked for. And I want to talk actually a little bit with you about that but I'll move on at this point just to say that those three elements there are the things we look to combine into one public comment to send out to the community so that they can weigh in and give us their thoughts on that.

Drilling down a little, if we can go to the next slide, Lars, the current activities, the first element there is the consensus levels. We are looking at this from a number of points of view, but it came to us, as you know there was a - your own Thomas Rickert was chairing a working group and the consensus was actually about consensus on divergence. And so we worked through that one and have come to this point where we think we found the solution.

But I think this is also a point that came to the table some 6 or 12 months ago we talked about consensus and whether or not the SCI should be working off of consensus.

And now we're the working party on the GNSO review and there's some discussion around consensus. So I think this is not completely gone in terms of how much more discussion we need to have but it is something that we feel that we've reached clarity on this issue of divergence and consensus level.

So we've covered that activity now from what we were asked to do but I just want to bring to the table the idea that in fact we will be coming back to Council talking more about consensus and whether or not rough consensus or other levels up consensus might be better tools to work on different projects as opposed to just always hewing to full consensus.

We'll go to the next slide please. So today, as I mentioned, we talked a lot about remote and electronic voting. And there was some questions that came up within the SCI that we thought might be helpful to bring back to the Council for some clarity.

And so if I might just ask Anne Aikman-Scalese to just take the microphone and bring this to your attention and perhaps we can then, if not right now at some point over the course of the week you might give some thought to this, Jonathan, with Council and then come back to us and give us direction.

So, Anne, if you would.

Anne Aikman-Scalese: Yes thank you, Ron. This is Anne with the Intellectual Property Constituency. And the question that we've been tossing around in the subgroup that's working on email voting, we call it email voting, is the question whether email voting should occur in connection only with motions that have been introduced in a full meeting and discussed in a full meeting or whether the scope of the request from Council would also dictate that we consider the issue of introducing motions through email and potentially only having discussion of motions through email.

This particular issue has not actually been discussed within our constituencies yet so I want to underline this is a very preliminary sort of question related to the scope of the request from Council and that we'd like a little bit more direction is possible on that particular question.

I hold my own biases on that but I won't state those, I'll just ask the question in a neutral fashion. Thank you.

Ron Andruff: Thanks, Anne. And, Avri, would you like to add anything to that?

Avri Doria: No, since the question was posed in a neutral manner I have nothing to add at this point.

Ron Andruff: Thanks, Avri. Jonathan.

Jonathan Robinson: Thanks. I guess there's a couple of things. One, we should note that so if I can get that recorded - I'm not sure who from staff is tracking these items because certainly these - it's Lars, right, so if you could make sure, Lars, we get that recorded so it either comes through at the very latest in our wrap-up or gets logged on our action list going forward.

I'm not sure if anyone else would like to respond or pick up on that right away. Volker.

Volker Greimann: Volker Greimann speaking for the record. Just one question is which problem is email voting supposed to solve? I mean, we currently meet once a month, discuss all the motions that we have on the table prior per email and then again on the live telephone conference or in the meetings.

And I assume that email voting or other remote voting would either replace the current meetings that we have or take a role of the vote in between so I'm not sure where this is heading.

Jonathan Robinson: I think Avri wants to respond to that and...

Avri Doria: Thank you, yeah. There were a couple cases that were posed and in fact in the whole proposal that's coming out it lists specific cases where it might happen. Some of the cases where there have been a lot of discussion on it but in the regular meeting it just didn't get around to the voting but the decision needed to be made before the next meeting and therefore so that was one possibility.

Another possibility was the case we've seen sometimes where there have been requests for - call it advice recommendations since it's not properly advised but it's not properly policy recommendations from the Board. And others looking for some comment that then was either the option of, you know, having a special meeting or not being able to give that advice recommendation in the appropriate time.

So those were cases where then if the chair and the members of the Council felt that there had been adequate discussion and this is the question that we are staying away from to neutral of quite adequate discussion means, but if there had been adequate discussion; then a vote could be taken out of meeting. And those were the kinds of circumstances. Thanks.

Jonathan Robinson: Thanks, Avri. I've got Marika next.

Marika Konings: This is Marika. I think if I recall the original event that actually triggered this request from the Council I think it was on the UDRP lock vote where I think the motion was introduced after the deadline so the Council wasn't in a position to actually vote on it during the meeting and people didn't really want to wait until the meeting following because I think the next meeting was only two months because I think it was in the summer period so there was a need to call a special meeting.

And then people said, well, if we actually see that, you know, people do agree but for procedural reasons we can't vote in a meeting couldn't we have an email vote instead of having, you know, to reconvene everyone, bring everyone on the call. And I think that was the original intent at least from a Council perspective that only in those circumstances you may want to use an email vote option.

I don't think at least was anticipated at that stage that it would replace Council meetings or the idea that you wouldn't even have discussions on a Council call. So but that was the original intent, as said, I don't know if that has changed in view of what feedback or the questions that the SCI has asked at this stage but that was I think the original reason why the council asked for this issue to be considered.

Jonathan Robinson: Thanks, Marika. And it does highlight one of the thoughts that's been going through my mind is it highlights to me how it's incumbent on the Council when referring matters to the SCI to scope them as tightly as possible. And I know we sort of know this but I'm going to remind myself and all of us that when we do that it's important to do so. Thomas.

Thomas Rickert: This is Thomas Rickert for the record. Maybe to give you a little bit of background information. When we got this task I was the first on the SCI to draft a little piece that we looked at. And I was speaking of email voting all the time mistakenly, right? And then I think it was Avri who pointed out that looking at this we should not limit ourselves to email as a vehicle for remote voting but to broaden this to all types of electronic means of voting.

And that sort of opened up the discussion on how we can take the Council's collaboration to the next level by deploying means of communication which we might not be doing to the full extent possible. And that would also, you know, that ended up in us looking at ways to make the Council's work more efficient in between meetings because I think we have a lot of tasks before us that, according to the chair's discretion, have been sufficiently discussed and where we can then say okay this is something that we need to take action on quickly.

And unless a councilor objects to us doing this we can take this outside a meeting and get this decided in between meeting without the need to convene interim meetings between our scheduled meetings. Because as you know, we have to publish the dates for our scheduled meetings I think one year in advance or something like that.

So this would add a lot of flexibility to the Council's work and put us in the position to respond to requests that we hopefully get on a more frequent basis let's say from the Council - from the Board to respond to some policy questions easier and quicker than currently.

Jonathan Robinson: And back over to Ron.

Ron Andruff: Thanks, Thomas for that. And also to Marika. I think this is the crux of the matter is that the - we looked at it and we continue to look at all these elements as trying to create more flexibility and being able to have a more agile GNSO Council.

And a lot of it weighs on the chair's discretion. And so we really wrestle with making sure that these are elements have to be adequately discussed and so forth and ultimately that will always come back to the chair saying I believe we have. And it's up to then the councilors to say no we have not.

So there are some checks and balances in there but, again, the idea is flexibility. And I think where we're walking down this road to the next element which is the waiver exception to the procedures. And you can see how electronic voting and the operating procedures are intertwined and a lot of these things have this - they're relative - one's relative to another.

So when we talk about one element we find ourselves going back and talking about another element and how it actually intersects with the first one. So this is where the work is done but, again, the whole point here is to say that we're trying to create flexibility and bring this to - or bring forward ideas that will smooth the process.

Anne, please go ahead and then we'll move on to the next one. Please, go ahead.

Anne Aikman-Scalese: Thank you, Ron. It's Anne with IPC. And I did want to mention that an aspect of this email voting or e-voting that does need to be considered further also is the question of quorum. So we're trying to clarify in our draft when is that quorum measured, the purpose of the quorum in relation to full discussion and to make sure that whatever proposal we recommend to you after reviewing that with our constituencies does in fact honor the operating procedures and quorum and comes back to you in a way that's clear. Thank you.

Ron Andruff: Thanks, Anne. And so if we can move to the next slide, Lars? Oh, I'm sorry, Chuck, go ahead.

Chuck Gomes: Thanks. Thanks, Ron. Ron?

Ron Andruff: Yeah we can hear you.

Chuck Gomes: Good. Just a quick caution or maybe a question, have you checked with the General Counsel's office in terms of this? My memory is kind of vague but I remember when we - years ago when we talked about voting other than in an

in-person meeting there was some concerns from the legal side in terms of that might caution them as let's get their input too because - by the way I'm very supportive of being more flexible so that we don't get stopped on something because of procedural issues. So I'm very positive about this but just make sure we check the legal part of that.

Ron Andruff: Thanks for bringing that to the floor, Chuck. In fact we do. As we refined our position then we check with Legal before we bring it to Council to make sure that we've actually checked that box and don't bring something forward that's a waste of time. Thank you.

So we've touched on many of these elements but - and in fact the third one, if I start from the bottom of what you said a moment ago, Jonathan, we appreciate it. The more clarity we can get in terms of the assignments that the SCI is given, so the sharper the mandate the sharper the output that we can deliver you and so that would be very helpful.

Now moving to the top we've got a couple of things that are interesting elements about the SCI insomuch as I talk about how these different things are interrelated but then we also - we have a responsibility in our mandate to actually review different elements. And so if you look at the first bullet the third - or the second element says in its working group consensus levels recommendation SCI recommends reviewing GNSO Operating Procedures in their entirety.

And then we ask the question so the SCI take this on it should be part of the GNSO review because what we're finding is as we're going through these things and refining them it comes back to what's happening at the operating procedures level. And of course as a working group - or working party, actually, I'm not sure if it's a working group or a working party, that's working on GNSO review right now that's going to hand it off to the independent reviewer.

So we would like some direction on this GNSO Operating Procedures because all of these elements that we're talking about are aspects of that. And as we look at those aspects we see that there are gaps - gaps or language that is not harmonized and so forth. So the question is who should be taking this on and how should we address it? That's something we look to you.

And then finally I want to bring to the attention of the Council that we're having difficulty - and I think many working groups are in terms of making sure that all of the parties that can be at the table are at the table. So we make note of the fact we're getting lack of active participation from all the stakeholders and constituencies. We're seeing specific - some specific groups showing up to every meeting and we're seeing some specific groups not showing up at all.

And so I would like to bring that to the attention of Council. It's very difficult for us to achieve consensus when we chew on something for a very long time and we're missing two or three critical components in terms of constituencies being at the table. And so that's something we just wanted to alert you to.

So with that the last slide then - there are actually three or four more slides which give some background and so forth. I would ask that staff would be sure to send that around to Council to make sure that any councilors would like to look through this in more detail and come back to us with any questions and thoughts that you would have that.

So with that that's the - that's the sum of my comments unless there are any questions or thoughts that we can respond to, I'm happy to take questions. Hearing none, I will give you back the floor with one minute ahead of our schedule. Thank you, Jonathan.

Jonathan Robinson: Extremely efficient. Thanks, Ron. I mean, and thank you to you and those that are turning up and working hard on this in your group. I mean, these are

some thought-provoking issues and some challenges. And we've got to be careful they don't sort of ricochet between the Council and the SCI.

And, you're right, there's some bigger higher-level points in this as to how some of these issues get dealt with and it's been very helpful that you've not just tried to run with it and produce a solution but indicated where there are some challenges.

I'm not quite sure where we take this in terms of resolving it. I don't think we can necessarily resolve any of these points and nor should we try to in a hurry. But are there any comments or questions before we close the session? Any further input on this - on the sort of points that Ron and the group have made? Anyone would like to add anything? Volker.

Volker Greimann: Yes, Volker Greimann speaking. Just one more point to add to the discussion of the email voting. I think one of the points that we should focus on is accessibility of the Council work for outsiders, for people that are interested in the work that we're doing.

And I'm splintering the discussion into the email discussion, having it - part of the discussion per email and then voting by email or other means might cause outsiders to even have to look more for the reasons why we vote in a certain way.

Having the Council discussion and the votes at the Council meetings allows for a prior discussion to take place and not splinter the - having - not splinter it up, i.e. outsiders don't have to look at several sources to find out what each councilor said and thought about a certain issue to make him vote in a certain way.

And I think having that discussion in the Council meeting is very valuable from that perspective. And I would argue that it should not lose sight of that goal as well when you make our processes easier and might cause damage to outsiders trying to figure out what we're doing actually here.

Ron Andruff: So I would say thank you all very much and wish you a very profitable work week. See you in the hallways. Thank you.

Jonathan Robinson: Thank you, Ron and colleagues in the SCI. SIC or SCI. Thank you very much and we'll draw that session to a close. And if I could just make one remark that we should take the roll call now that we've had an opportunity for everyone to join us at the start of the next session and I'll be leaving you for that session. Thanks.