

**Transcription ICANN Los Angeles
New gTLDs Subsequent procedures WG
Wednesday 15 October 2014**

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Bret Fausett: Good morning, everyone. It looks like it's almost 8:30 like 2 minutes until our start time so you're an awfully long way away from me. It would be much better if, from my point of view, maybe not from yours, if you joined us at the round table.

Man: Hey. New G - this is the GNSO Discussion Group in Constellation on October 15, 2014. So we'll run from 8:30 to 10:15 local time.

Bret Fausett: Feel free to join us around - oh wow, that's.

((Crosstalk))

Bret Fausett: Yeah, yeah. That's the stadium effect. Please feel free to join us up here at the table if you would like; it would certainly be my preference that I see you all. We'll get started here in just a couple minutes.

Steve Chan: That's unfortunate.

Bret Fausett: What does?

Steve Chan: Just trying to live stream the mind map. It's not cooperating.

Bret Fausett: Okay.

((Crosstalk))

Steve Chan: (Unintelligible).

Bret Fausett: Let's go ahead and get started. We're going to get the mind map that we've been talking about on the discussion list on the board in the room. And we're going to get a version of it into the Adobe Connect. But if you're in the discussion group mailing list you probably already have a copy of this and if not it's on the wiki; right?

Steve Chan: It's on the wiki.

Bret Fausett: It's also on the wiki also so you can log in and get it. There it is. Good. Well welcome, everyone. I'm Bret Fausett. And I am the temporary chair of this temporary committee, as I identified myself in one of the previous sessions.

We're - we are a discussion group to create a policy development set of recommendations for the GNSO Council. If you're familiar with the GNSO's policy processes you'll know that the process starts with an issue report that is requested by the GNSO Council, drafted by the ICANN staff and then adopted by the GNSO Council after staff does its work.

Here, the potential issues that we could look at for policy development were very large. It was a very large set of issues. So rather than have the GNSO Council try to guess at what might be appropriate policy at this stage, we created this discussion group to try to tease out some of the issues that people thought might be appropriate for future policy development work and to make a set of recommendations back to the GNSO Council.

We have to date gathered 75-80 issues. I would like to gather even more, to the extent that people think that our list is incomplete. And I think we can - I'd like to spend perhaps the first segment of today's two-hour session talking about the issue collection efforts, hearing from people what issues are most important to them and thinking about how to organize them a bit into subject matters.

At that point I'd like to use the second half of the meeting to think about what we want to do with these. And I'll set out some of the range of options so you can be thinking about them up front.

You know, one possibility there is that we look back at the GNSO's previous policy recommendations. And I think the best way for you to find that if you don't have it handy is to do a search for GNSO new gTLD policy recommendations. And the date of the document is August 8, 2007. If you look for that August 8, 2007 policy statement from the GNSO you'll find a list of - you'll find the previous policy recommendations.

And that, at this point, is gospel. That is what ICANN staff tried to implement. They may not have always gotten it right to everyone's definition of what those policy statements are about. But when you talk to ICANN staff and the people who are responsible for drafting the Guidebook that's what they always come back to; they tried very hard to stay close to those policy statements.

And there are seven - the policy statement is composed of seven principles, 19 policy recommendations and I think 29 implementation guidelines. So that's the way the previous policy came out through the policy development process. And you'll see it's all at a very high level.

So getting back to where do we go from here. If we do nothing, those are the policy statements that will guide subsequent rounds of new gTLDs. If we want

to change anything in that August 2007 policy statement it will require a policy development process.

It may be that we don't want to change any of those policy statements, what we want to do is supplement them, clarify them and maybe add to them and anticipate some things that we - problems that we may see in future rounds. And that will require a policy development process also.

If we - if we do have a policy development process one of the things we should think about and ultimately it's going to be a decision for the GNSO Council to make, but one of the things we should possibly think about recommending is whether we want to have multiple policy development groups or a single policy development group for all issues we identify.

There may be some issues, for example, the how to best encourage applications from and investment in emerging countries for the next application round. That was a policy process that had its own working group in the previous round. It seems fairly discrete to me, maybe that's something that gets spun off and has its own working group. You can imagine trademark protection getting it done working group.

So, you know, it's all open. We should think about how we want to do that and how best to handle that. But I'd like to see us make a recommendation to the Council whenever we finish.

So with that as background I'll open it up for any questions right now I'm sort of where we're going - what we're going to do today. And does anybody have any comments or anything to make?

Well seeing none, let's move straight into issue collection. Why don't we - Steve, can you go over a little bit of the process to date and what you've done here with the mind map and then I'd like to open it up for discussion.

And also, if you're - let me say this before Steve speaks, we are still in the process of collecting issues. We have a discussion group, mailing list for people to submit their set of issues. We have a wiki where people have submitted issues.

If you're not part of the working group, And one of the great things about meeting here at the ICANN meeting is that we are able to welcome people who either have not participated in the working group to date or just finding out about this now.

If you want to - if there's an issue that you particularly care about you can join the working group or you can - there are pieces of paper all around the room, you can, you know, absolutely leave the thing that you care about most on a piece of paper and leave it here for me and Steve at the end of our session.

You can put it up on one of these whiteboards. We will take these whiteboards with us at the end of the day or you can drop it into the Adobe chat. However you get the issue to us, we will collect it and we will put it up into the issues to be discussed and to be possibly forwarded on to the GNSO Council. So there are a variety of ways that we can collect issues.

And with that I'll let Steve talk a little bit about what we've done to date.

Steve Chan: Thanks Bret. This is Steve for the transcript. I think I said on some of the calls this is just really a collection of issues that all of the discussion group - discussion group members have contributed to the group. And it's not really trying to redesign how any of the way that the issues might be shared, it's really just to capture them for the most part birdied them and put them in a collection and categorize them in hopefully a logical fashion.

And so we've talked about this in past discussion group calls. We shared it through the mailing list and it's been on the wiki. So it's out there for you guys to take a look at and, you know, provide a reality check to me to make sure

that what is put together as a draft make sense to everybody in the discussion group.

So as Bret said, I think we want to continue that discussion here. We can - it's good to have a live debate about how this - how these are categorized and also to look at these perhaps discretely to see if, you know, we're missing anything.

Because having a live discussion we're able to bounce ideas off each other, look at something like Bret said might be something that could be carved out as a discrete process - policy development process like serving developing regions or the rights protection mechanisms.

So I think we could probably look at some of these discretely here in this session and make it a live working session so that we can hopefully come to agreement. And, you know, as Bret said we're not going to close off collecting issues going forward. But I think for us in order to go forward and to move forward with the discussion group we have to kind of draw a line at some point to say that we're, for the most part happy with the issue collection at this point. We need to take the work to the next level and provide recommendations on how we expect these issues to perhaps be resolved.

So I think that's all I had for now.

Bret Fausett: So right now Steve has organized things into, let's see, looking at the - blowing up the mind map, one, two, three, four, five, six, seven - seven issues - seven sort of subject matters. Open it up for comment. I want to make this a working session, it's not a presentation session.

So would love to get some feedback on how things have been organized here and whether you think that some of the subjects are too big, perhaps they should be broken down into smaller subject areas and - or maybe we misidentified the possible subject headers.

So right now we have the application process, the rights protection mechanisms, string similarity issues, execution and implementation sort of post-application process, issues specific to registrar concerns about really some of the way that these have launched and how we've interacted with the registrars and then we have sort of a miscellaneous bucket that we haven't been able to really put into a specific subject.

So I'd just like to leave it there and see if there's comments on our sort of gross issue organizations. Go ahead, Edmon.

Edmon Chung: Edmon Chung here. Sorry I'm not part of the working group yet, I'll send my name in to be added to the mailing list. So I don't know a little bit of the background and just want to get a clarification. I see that first of all I kind of quickly jump to mind the CPE is kind of on the string similarity. That kind of, to me, it's a little bit strange; I think CPE should be a completely separate bucket of things.

The other thing that I immediately look at is this - there's nothing on IDNs. Obviously that's my favorite topic. I think there are - there are a number of things that need to be looked at in the IDN as well.

I don't know whether it was after some discussion that CPE was put in there or what about IDNs we discussed or this is - at this time it's really just at a stock-taking kind of status.

Bret Fausett: Yeah, I mean, we tried to - we tried to find logical places to put them. Some of the issues - and I think CPE is one and that's Community Priority Evaluation for those who don't know the acronym, some of the issues have grown contentious enough that they may deserve their own place, they may deserve their own discussion group.

CPE I think it may be one of those issues that is important enough to some people that it may - if it were thrown into a larger subject matter or thrown into larger discussion group it may overwhelm things. It might be - I think it's definitely appropriate to think about pulling that out.

Avri.

Avri Doria: Thank you. I'm - in fact in terms of CPE I think that's actually a secondary in terms of community support because CPE is actually, at least in some of our minds, an aberrant way to have solved the recommendations about community support in the initial recommendations. So I think, you know, one area is basically, you know, community TLDs is basically - and then CPE is a derivative thing because that was the solution that was provided by the staff but there's no CPE in any of our recommendations that we made in the first place. So I would actually put it in a class with other community concerns.

In terms of other classes I think we need the developing economy class. That sounds wrong but in categories that we have there I think we need, you know, developing economy as a category where there are a set of issues. And I think we can pull them out.

And I think we probably also, and this is a process one, we definitely need a set of issues on the whole notion of appeals within the application processes. That that was an area that whether it was appeals to name conflicts or appeals to CPEs or appeals to what have you, that has been sort of a second order contentious issue all the way through that either there's no adequate way to do it or - and that's separate from the whole accountability appeals question it's appeals within the application process.

Bret Fausett: Yeah, we should definitely put appeals mechanisms in there if it's not already as one of the issues. Edmon, I want to come back to your point on IDNs. Tell me a little more - because I didn't apply for IDNs, I don't really understand the unique issue that may be there. How would - how would we treat IDNs

differently than ASCII TLDs for policy purposes. I mean, what are the kind of things that we would want to pull out from IDNs?

Edmon Chung: Edmon here. Well first of all there were a number of recommendations from the IDN working group outcomes that were dropped and completely ignored and decided not to take into consideration. So there are - that's, I guess worth reviewing. In terms of specifically perhaps, you know, how the current - because current LGR with the label generation rules and the IDN variant TLD discussion will probably inform future discussion on this.

So I don't want to preempt that but there is going to be a bunch of stuff that will come out from the current process at the IDN works there. So at least that. And then - so two main things; one from the IDN variant work that's ongoing and the other - some of the items that were not included in the original working group outcome.

Bret Fausett: Yeah, I may - would you be able to help tease some of those issues out because I'm...

Edmon Chung: You want specifics...

((Crosstalk))

Bret Fausett: Well not right now. Now necessarily right now but, I mean, as a follow up, I mean, right now fine but I want to make sure and capture the issue and get it in there because I don't know that we've had some IDN focused comments on the policy issues that we've gotten to date. So I might like to get something more finely grained either now or, you know, in the next couple weeks.

Edmon Chung: Edmon here. I can immediately - I remember two...

Bret Fausett: Yeah, good.

Edmon Chung: ...that are at least - were decided not to be included in this round. One of which is single word or single character, depending on how you see it, IDN TLDs. And the other one is the evaluation of IDN policies that includes expertise from those language communities. Right now it's purely a technical string evaluation.

There is a, you know, how it's run was an important component of the outcomes report was that but, you know, we never got a response - during the AGB development we never got a response from staff why it's eventually not included.

Oh there's one more, there's a consensus agreement on avoiding ASCII squatting, what is called ASCII squatting kind of like a transliterated versions of IDNs that are not available yet. And, you know, some protection mechanisms for that. That was not included in the current implementation.

So these are three that - off the top of my head. It's been quite a while, the (unintelligible) report so, you know, we should probably look back at that. And of course IDN variants.

Bret Fausett: Go ahead.

Tijani Ben Jemaa: Thank you. Tijani Ben Jemaa from ALAC. Avri said it but I want to tell it again. I think that the community applications and developing economy people - applicants from developing economy are - is the main issue we have to address. Because if we don't do - because both need remediation. And I would perhaps put them together because they need perhaps this same kind of action.

If we don't do that ICANN will be serving only the rich and ICANN will be against the inclusion - the inclusion of communities, the inclusion of developing economies. This is the same - the first point.

I have another point that we have, as we spoke about CPE, we can also speak about string similarity. It was funny what was the results of those panels. So I think that it is something that we have to address very seriously. Thank you.

Bret Fausett: Ray.

Ray Fassett: Thanks, Bret. Is this on? Great. Oh good. Okay, Ray Fassett. I think the role of the independent objector is something I would offer input to look at. The role of the independent objector was inserted, I don't know, third or fourth version of the Guidebook. And I think it was put in a little half-baked and led to some issues and lots of money being spent. And I think that needs a really thorough look at in terms of the role of the independent objector.

Bret Fausett: Thanks. What else do we have?

Rubens Kuhl: Rubens Kuhl, NIC.br for the record. I would just like to point out there is a problem in the mind map where highly regulated TLDs are inserted with the name collisions. So I don't get what - how high regulated TLDs like dotBang, dotInsurance or so far - would have to do with name collisions.

I also like to point out that there seemed to be two assumptions in the mind map that (unintelligible) that should continue but I think we should challenge the assumptions.

One if them is COI, continued operations instrument, that could be simply scrapped out in favor of applicants simply making a deposit for that money instead of a letter of credit which would be incredibly simpler for hundreds of TLDs that have led in 10,000 domains. So we should probably (unintelligible) not whether we should make it easier or consider but simply removing it out.

The other assumption which I think it's embedded here is that registries should have a shared registry system. We have many registries that have - that are exclusive access registries that simply don't need shared registry systems, they don't need (EPP) interfaces, they could edit their zone files out of Microsoft Word and that would work.

So there seems to be some assumptions that this should continue and I think we should challenge those assumptions not take those for granted.

Bret Fausett: Okay thanks. Yeah, I had heard the continuing operations instruments letter of credit issue before. I think that was a problem for just about everybody. And there may be some - there may be some simple fixes that ICANN can, you know, do for that going forward. And then I - let's see, anything else?

Steve Chan: So thank you all for contributing additional issues. So, sorry, this is Steve for the transcript. So the mind map is developed and, you know, I may have my own biases in the way that it's created so I think just to speak to Avri's example, I think it's really important for you guys to give me information, feedback on how it's organized.

So when I saw something like CPI I might think that that's part of a string resolution or string confusion resolution mechanism rather than going on to something larger like community. So I think it's very valuable for you guys to give me these ideas.

The second thing is regarding Rubens comments, so I guess for something like COI I could see that rolling up into something higher like continuity. So like that could be one mechanism that we can address to continuity of registries. So maybe it's not a discrete topic by itself, it's something goes up into some higher issue or policy that we need to address.

Bret Fausett: Avri.

Avri Doria: Avri Doria speaking. I have one quick, and it's just a stray thought that I had while you were talking is we've talked about the necessity to map all of these things, not the mind map, but to map all these things back to the principles, the recommendations and the implementation guidelines.

And I'm wondering to what extent that becomes a possible organizing methodology that's sort of all of these things in some sense relate to at least one of those recommendations or perhaps they don't so there's, you know, an Other category.

And, for example, the one about the minimalist registries and the, you know, the need for all that, there was the recommendation that sort of said - I don't remember the exact words, though I probably should - that, you know, the scaling factor of, you know, registry and requirements should not be that all need to be equivalent or, you know, to a dotCom. I forget exactly how we put it. We talked over the language for a long time.

So perhaps a lot of these things can be linked back to those principles and such. The problem in that of course is some of them may point to a couple but mind map does give you ways to indicate those relationships.

Bret Fausett: Yeah, I like tying it back to the previous policy recommendations. I think that might be a nice organizing principle. I don't - I do think that the mind map is an interim tool for us to focus our discussions and sort of see things visually. I think at some point when we figure out where we want to go with this we're going to have to get a drafting team together to turn this into, you know, more fulsome set of words and organizing of the issues.

Edmon.

Edmon Chung: Edmon Chung here. So I think that's a good idea, a very good idea. It gives us a sense of where, you know, how this map back into our original policies. Adding to that actually somewhat diametrically opposed, you know, to that is

kind of new things. One of the things that is - it's bits and pieces over here now is a fundamental question of whether categorization, you know, exists.

And I don't think we need to argue that anymore. We used to say, you know, it's hard to categorize but, you know, it's pretty apparent there are different categories at this point beyond open and community.

So that might be something that we should look at. And that doesn't tie to any of the policies because we decided that it's too hard to categorize. But now with all these things maybe we should - need to rethink that.

Bret Fausett: Yeah and I think - I actually - since we're going back to the GNSO with possibly creating policy development processes I think it's very helpful to do this mapping and then say, you know, these are recommendations that directly contradict things that we did in 2008. These are new sets. I think that's a really good way forward.

You know, and I already heard at one of the new gTLD sessions on Monday I think it was Werner mentioned that rounds causes it's own sets of problems. But one of the policy recommendations is applications must initially be assessed in rounds until the scale of demand is clear.

So if we think that round stop, round stop, is causing problems then that's directly contradictory here and we should, you know, have a further conversation around that.

Avri Doria: Not really because it only said initially, initially has gone by.

Bret Fausett: Well until - it says until the scale of demand is clear so I guess...

Avri Doria: It's pretty clear.

Bret Fausett: Yeah, you know, is it? I mean, I guess I'm not certain that we figured out what the demand is. I don't, I mean, I don't know you'll see it until round two. Will it be greater than or less than round one? I don't know.

Avri Doria: You're right, we don't have the growth versus, you know, diminishing line. We don't know what the long-term curve is going to be. But we do know that demand is big versus little so, you know, it's at least - what I'm trying to argue on - this is Avri speaking again - is that since it says initially - okay so then we're dealing with to what degree does no mean, you know, that we actually understand it and it's complete.

But that's also one of the things that I think needs to be measured, needs to be understood from the evaluations we're doing at the moment and perhaps needs more work.

Bret Fausett: And demand may not be clear because, I mean, demand at \$185,000 with requiring you to run a shared SRS system if you're a closed brand, and, you know, there maybe that, you know, demand changes if you change the rule so there's that too.

Werner, I mentioned your name so it's only fair to give you the microphone.

Werner Staub: I just think it's worth remembering that the meaning of round wasn't intended to be, in those days, what we have now. It was more like a round (unintelligible) piston engine, you know, it goes but it by own, you know, the speed is actually already initiated a second round. It's not like it - if the piston engine makes one explosion then you wait, you know, five minutes and then another one, then maybe, it wouldn't work like that. A rocket works like that.

But - and it's of course highly unpredictable. If a round worked like a piston engine it goes like, you know, say the next round would actually start even though the exhaust hasn't finished exhausting the, you know, the fuel, you

know, that's how it should work. That actually wouldn't be so much of a - such a big thing with the rounds.

And the other thing is even that and even that round mechanism which, you know, was different from what we have now was supposed to be just for some time. And then just, whenever you come you would deposit a request.

Maybe the one reason we had in mind for that, and because I was there, Avri and I was there too, was that there would be contention for strings and this was easier to handle in rounds than if people tried to be - go ahead another and look and one another and say oh he's submitting now; I have to submit now too. So that was the thing that would have been easier to address with a piston style - piston engine style round.

Bret Fausett: More like cycles than rounds just...

((Crosstalk))

Bret Fausett: Yeah, keep going, yeah. Go ahead.

Avri Doria: A couple things on that. I think that's very true but we did also say that there had to be a halt or a pause - not a halt but a pause after the first one because we knew that there were things we hadn't covered and that's what we're in. But I think the notion of rounds perhaps going forward, if we do do rounds going forward, doesn't need to include that. So I think that makes sense even though this one did have a predetermined pause.

And okay I forgot the other point. There was another point I thought of while he was speaking but then I started speaking and forgot it.

Edmon Chung: Edmon here. I guess the rounds thing, yes, one - I'm not sure we had complete consensus on that, you know, it would definitely happen in definitive frequency. But there is a concept that, you know, all the applications that

received in one round is considered, you know, there is no first come first serve thing. That I think was better established.

So within one round there's a window of application and there is no first come first serve in that window. And each subsequent round, that's - that is what was meant by, you know, in rounds I think.

Avri Doria: I did think of the things that I'd forgotten. And perhaps it's one of the topics and I don't think is here. One of the notions that we had had, and it was related to one of the principles, was that if there was contention that people would be - would be encouraged to sit down together and talk.

And one of the examples - and unfortunately this is where we have to get more explicit this time, but one of the examples we had constantly talked about was three people that wanted dotBear would get together and they would each decide that okay I really wanted Grizzly, I really wanted Gummy and I really wanted Brown Bear and that they would be able to change their strings probably a little less absurd example, but they would be able to change their strings.

And very quickly into the early rounds of the Guidebook there was a staff decision that going back with a new string was impossible. And so that - I don't know if that's reflected in here. I don't remember it being reflected but that's certainly one of the things that we need to reflect is the notion of if we do rounds and there's competing strings it has to be possible or should be possible for people to negotiate a changed string.

Bret Fausett: And I think had we had that rule, just speaking personally now, I think had we had that rule a lot of people would have used it. I think there were a lot of people who would have preferred to accept maybe a less good string in exchange for not going to auction.

Avri Doria: No doubt.

Bret Fausett: Yeah. And I think if you asked anyone who applied for dotHome whether they would like to change their string they probably all say yes. There were a couple of comments in the chat. Liz Williams is participating remotely and said that on the demand question that we were talking about just a minute ago, "The demand question needs to be carefully crafted. Is the question demand for registry operations or demand for domain names. The two questions are very, very different."

I mean, I guess I read that previous policy statement as demand for new gTLDs not necessarily demand for new domains. But it's a good question and worth looking at.

Edmon.

Edmon Chung: Edmon here. So in response to that particular question, I think at this level we should really only look at the demand for applications, application of a new gTLDs. The reason for that is we don't know what people use the new gTLDs for yet and we're supposed to encourage innovation.

Maybe they just have one particular second level domain but, you know, it serves a very good function and innovation. So, you know, just because the volume of second level registrations or second level domains, you know, should not be an indicator of demand and what we see at this - that's my personal view.

Bret Fausett: Yeah, I think that is the definition of demand, too. And, you know, brands may not have any SLDs. They may want to only have TLDs. And I think demand is going to be really hard to capture outside just having another round and seeing what comes in the door.

Because I've heard anecdotally in the hallways that there are, you know, hundreds if not thousands of brands that are eager to have a new application round. And if you open it up tomorrow that they would all apply.

You know, those aren't companies though that are likely to disclose their intentions, you know, at a public microphone. So that's all anecdotal and it's going to be really hard to capture until we actually, you know, see people put up their application.

So any other comments on the issue collection list or the subject matters that we have here?

Woman: We are a new registry operator for the TLD dotPharmacy. And I'm not sure if this is the right meeting to bring this up but the issue that really threw us for a loop was the public interest commitment. And not the commitments themselves, we're a highly restricted registry and we had already written many similar restrictions.

And so we weren't in disagreement but the process of the Board and the GAC trying to come to agreement on what would be acceptable that delayed our process a couple of different points in the process. And I'm wondering if there's any way to address that sooner than later.

Bret Fausett: So just trying to capture the comment. Is the idea that we would be able to identify - what do you mean sooner rather later on the PIC resolution?

Woman: Before we open a new window for applications let's make sure that the public interest commitments, as they are now, are going to be sufficient, and if they're not let's decide those before people are applying.

Bret Fausett: I'm trying to think how would we - how will we test whether they're sufficient or not? But I get the question. So are the - the question would be, are the

PICs sufficient to hold people accountable for their public interest commitments?

And then let's evaluate how they've worked before we - before we do it again.

Woman: Right. Because I understand they're still under - they're still a matter of debate and...

Bret Fausett: Yeah. Okay. Jeff.

Jeff Neuman: Sorry, this is Jeff Neuman. I think that touches the broader issue too of just the whole - I mean, even though the GNSO had it in our policy that the process - everything should be set before the round starts, you know, that policy was pretty much thrown out the window even before the window started.

So I think it's a broader thing of, look, no matter what advice you get you can't change the rules once the round has started. Like no changing of rules. So the question is if there's going to be these new things like public interest commitments or whatever else they come up with down the road, and who knows what they'll call them, you can't change course.

That is, I think, probably the number one issue that almost everybody had. And what all these things boil down to whether it's the PICs, the name collision, the change of the agreement, I mean, for those of you who don't - we had an original agreement, the agreement was done, final. Everyone that submitted \$185,000 submitted it under the guise that that was it, the agreement is the agreement; no changes.

And then all of a sudden probably the biggest change you could ever possibly have, which was a unilateral right to amend, was added. I mean, I don't know how much clearer the GNSO could have been before we started that last round. But whether we could, you know, and Avri knows, I mean, we put this

in there, it was very specific. I mean, there needs to be air tight whatever we say, no changes means no changes unless the GNSO approves.

And I think that's - so that relates to public interest commitments or whatever else there is.

Bret Fausett: I think that's a great point. And I - anticipating the way that the Board would deal with it, I mean, the Board would, I think, tell us that GAC advice I co-equal to the GNSO advice. And if we say never change the Guidebook what are they going to do with GAC advice that comes out post-Guidebook?

Jeff Neuman: Yeah, but the argument back there is that a contract is actually more tight than GAC advice. Like this is something that ICANN staff just - even today or yesterday when we had the Registry constituency meeting it was basically like the GAC advises the ICANN Board that it doesn't like XY or Z and my reaction as a registry operator is, I don't care. I'm one party to a contract.

And the GAC could tell you A, B, C or D but if that's not allowed in my contract it doesn't matter. It's irrelevant. And I know nobody wants to be told that they're irrelevant and that's probably going to get tweeted so I did not say the GAC is irrelevant for the record whoever is tweeting.

But what I did say that a contract under the law has much more weight than a group that provides advice whether it's the GAC, the ALAC, the SSAC, right on the same collision stuff, there's much more respect under the law in almost every country for a contract then mere advice. And ICANN is not a regulatory body as much as everybody thinks; under the law ICANN is not a regulatory body.

Bret Fausett: And just to supplement what you just said about don't change the rules later. Liz Williams in the chat suggested that perhaps we ought to think about being flexible on some things and firm on others. And maybe there's not a one size fits all on don't change.

Jeff Neuman: I think there was flexibility on certain things in the contract. There definitely was. And that was years worth of work talking about it and there was flexibility. What there was not flexibility for was a complete change in the entire agreement that would make everything in the world flexible under the agreement.

This is heavily negotiated. I mean, a lot of the applicants came in, in 2012 but, you know, Jon Nevett and I and others here were negotiating that agreement since 2008.

Bret Fausett: Werner.

Werner Staub: Yeah, I just in the context of the rounds question, I think we have something that seems unrelated which is exclusive use of a TLD and string confusion. The fact that these things have not been seen before caused us quite a bit of problem.

String confusion is not the same for exclusive - between pairs of exclusive use TLDs as between TLDs that are used for - by third parties; it's very, very different. Even the ICANN Board failed to make that distinction.

And if we talk about rounds, you know, getting, you know, getting by next to one another is different problem if you - if there are two exclusive use TLDs or they're confusingly similar. You could even say that the cases that we do know unicorn and Unicom, you know, if there exclusive use there's absolutely no problem, you know, why should they be stopped? There is really no problem.

You know, however, if you have even much less confusable TLD string, if they're third party use it's an enormous problem. And this distinction was not made.

Which also means that if a TLD is applied for exclusive use and then say later, you know, there's a wish to change that this should be possible but there must be a process to kind of check if it causes a problem, they're going to say oh yeah, I applied exclusive use and said no, actually, I would like to make it third party use.

If at least if the string confusion problem would have to be checked at the most have to built into the procedure from the start so people know if I apply for exclusive use and later want to change I will have to, you know, face the procedure and this may actually tell me, no, you're not allowed to make it third party use because it would cause confusion.

Bret Fausett: Ray.

Ray Fassett: Thank you, Bret. Ray Fassett. So on a little bit different subject, I wouldn't mind seeing this group look at single character top level domains, the possibility of that; even number - top level domains consisting of numbers.

Now I know this issue was looked at as part of this current exercise but - and I don't claim to be a technologist but I do recall not being overly persuaded for the reasons of not allowing, you know, for example single character or numbers. And this round was obviously going to be more ultraconservative in approach but I think as we move forward I think that issue needs to be looked at again. Thanks.

Bret Fausett: Good. You know, I go back to - there were two principles that I think this one would fall under as we're mapping some of our thoughts to the previous policy recommendations. The previous rounds had things like strings must not cause any technical instability and strings must not be a reserved word. So, you know, we may want to think about that, you know, exactly what does cause technical instability because we said it but I don't think we defined it.

Edmon.

Edmon Chung: Edmon Chung here. Actually I actually think we did define it quite a bit in the sub working group report. It is not fully implemented by the (AGB), though. I think single letters were, you know, addressed. Issues with number plus letter was also talked about.

I guess the eventual (AGB) implementation is a subset of what was - what was considered a possible for many - some of them unknown reasons, some of them known reasons.

Bret Fausett: Avri and then I have a question for the group. Go ahead.

Avri Doria: Yeah, this is Avri. I think one of the things that happened is I think at the time we assumed that all those reports from all those sub group were part of the recommendation and to the staff implementing they were an optional reference more than - but again, that was the difference in the age when you didn't worry about being as point by point specific because you'd already talked it over with the staff and they had already agreed, yeah, they would do it that way.

So we didn't obviously and that's one of the reasons why we need to do a lot of clarification this time because obviously that is not the world we live in now even if it really wasn't then either.

Bret Fausett: Just a quick show of hands either in the physical room or in the Adobe room, how many people were involved in the prior policy development process inside the GNSO? Oh this is helpful. You know, I'm thinking it may be - I was on the GNSO Council as the ALAC representative in 2005 and 2006 so right at the beginning of this. But I didn't get too far down into the weeds of this because most of it happened from 2007, 2008.

So I think it'd be very helpful if we had a sort of a group of members who were involved in that previous policy work who could help us map, you know,

what we're doing now to the previous policy discussions. I'd like to volunteer you all to get involved in that next stage. Edmon.

Edmon Chung: Edmon Chung here. Certainly happy to look at it. But I'd really like to, if we can, try to ask staff to look at it. Because their view of it might be a little bit different from us when we created the policies. And then we can, you know, perhaps add on to that. That might be even more useful, that's just my sense of it.

Bret Fausett: Good, good, yeah, I'll enlist staff here.

Steve Chan: This is Steve. I'd like to volunteer to go ahead and do that because I just got volunteered. But actually just to comment a little further on that. I think an additional step we can take from this mind map is to try to frame these issues in more of a singular voice.

Some are just - I want it changed this way or - I think you need to think of it I guess possibly more in questions, can we consider it this way. And then also the second part I was going to bring up which was brought up for me was that, yeah, staff will go ahead and try to map these issues once they're reworded and normalized against the policies if that's actually possible. Because in some cases it might not map back to a policy. Thanks.

Bret Fausett: Yeah, that's actually a nice segue for maybe the second half of the meeting, from a project management point of view, I think we need to now take the inputs we have and any that we have continuing to come in from the mind map, probably to a, as Steve said, the issues framed in sort of a uniform manner and a uniform style and get it out to the group to say yes we agree or that was my issue and you recharacterized it but get some comment and feedback back on it. And then map them to the previous work.

And then we have to think about really what we want to do at the end of that. Do we want to have a narrative report? Do we want to ask for multiple policy

development processes? Do we want to just give it to the GNSO and let them sort it out? I mean, ultimately they're going to do that anyway. The next stage is really for the GNSO Council to decide.

But I want to open it up to the group to - for ideas about what our end product should look like. What are we working toward?

Avri Doria: Yeah, thank you. I actually think that if we can take it all the way to recommendations based on a number of PDPs and even items that belong in charters because realizing that the new - I guess it's still an experiment at the moment but the experiment within issues reports, which is what comes after this, is to include charters.

And so if we are recommend - I'm not saying we should give charters, but if, within our recommendations, we can include, you know, a set of - we see these as the various work efforts with these missions and these milestones as recommendations then we're giving input to the draft charters that show up in the draft issues report or in the initial issues report - preliminary - that's the right word, in the preliminary issues report.

So that would be helpful because otherwise we give this batch of information, leave out the part about how to do or the division of the policy development processes then we're leaving it to kind of to staff to guess when they're putting together the preliminary report.

Bret Fausett: Yeah, and fortunately, I mean, we've got Steve and Lars in the room now and maybe more ICANN staff but I think we've got - and Karen's back there. I think we've got - I think we're working collaboratively with the people who are going to do the issue report so I think there's going to be continuity between what we're doing here and what comes out the other side.

Now, Avri, do you have any thoughts on one policy development group or multiple?

Avri Doria: I sort of think it's going to end up multiple but I really think we need to see sort of our sorted list of issues before we know that for sure. But I tend to think there's going to be several different kinds. And we've also seen that narrow focused PDPs work quicker than omnibus PDPs.

But then again we've also seen the sort of you only have so many people that are paying attention problem that you don't want to divide them over too many PDPs so you sort of have this balancing act to play between how many and then there's also the issue of and how do you make sure they all stay consistent so that you're making a consistent recommendation when you're making a recommendation.

So those are the things to take into account. The more PDPs we have the more work there is in terms of keeping them coordinated and having a common direction to give so.

Bret Fausett: That's a fair point. Edmon.

Edmon Chung: Edmon here. I guess the last time round what happened was there was under one roof and then there were sub groups. And I agree with Avri, it's a choice. I don't think any particular would be superior over the other. It might be easier for other people to track if it's under one roof though. That I think might be true. Because then we have other PDPs happening and, you know, to the outside world that's not focusing on it which group of PDPs, you know, is - that might be one consideration is how outside would be viewing and following.

Avri Doria: And this is Avri jumping in again. PDPs have overhead so the more PDPs you have the more PDP overhead you have and have to think of that part of it also.

Bret Fausett: Yeah, the only - so just thinking through this, I do agree. Consistency, you don't want inconsistent results from different groups that aren't talking to each other, easier to manage for the people involved if it's all under one roof. Nobody has to think about where they have to volunteer if they're looking at multiple groups.

If they only have one issue sometimes it's hard to pick which of the multiple groups you're going to be involved in. So most of the reasons suggest maybe one policy group except, you know, we would - we'd get things done more quickly - reach consensus if we had a small issue. But I think the argument is in favor of one group to sort of predominate. But I also think it's a good idea maybe not to make that decision yet but continue to think about, you know, what would work best for us.

Steve.

Steve Chan: This is Steve. So I guess one thing to consider - all those are certainly valid points. If there are certain policy development processes we might want to carve out to go separately or earlier it certainly complicates that because, you know, we could be waiting for some of these reviews to come through and for everything to go at once we kind of have to have everything on the table and understand this is what we need to address and put in the charter.

So it limits our flexibility I think if we - I know we're not making the decision now but just a word of caution I guess. Thanks.

Bret Fausett: So one comment that - off of this and I'll pick it up, Liz, your comment in the chat. Liz asks, "Have we presumed that a PDP is necessary? What actual policy issues need to be considered versus perhaps implementation issues?"

I think once we get our list of issues together in this next iteration as we move from mind map to a report and then we map them to the previous policy

recommendations we may find that some issues fall away because they don't rise to the level of policy.

And perhaps, you know, we include everything in the report. And I can see our list of issues becoming our charter for the policy development group that is formed on the other side of this GNSO Council vote.

And, you know, the charter being, you know, think about subsequent rounds and you should at least consider the following points in the following subject headings. So it could be that our work becomes the working group charter.

Avri.

Avri Doria: Yeah, another point on that is that at the moment it's the original PDP plus the (AGB) in a sense that defines the existing policy. Not really but in effect. And so anything where we say well we believed it was there in the original policy but that's not the way it was implemented means that there is a clarification necessary but a clarification is policy making at this point.

Because if it's different than what the (AGB) did then obviously others understanding of the policy is different than the understanding we're having now so that clarification becomes policy work. So I think that even things that perhaps we don't want to change from the original policy but we do want to clarify it or change from the (AGB) become policy items.

Bret Fausett: Have we captured all of those things so far?

Avri Doria: I would never say we had captured all of anything.

Bret Fausett: Yeah.

Avri Doria: I think we have captured a bunch of those things.

Bret Fausett: I mean, I think if we've captured - so as I've looked at the - I don't know - well let me back up. When people have looked at issues that they want to raise for the working group I don't know that they've necessarily looked back at the (AGB). Perhaps some have.

But I would think that at some point if policy recommendation comes out on the other side and we look back then at the (AGB) then we may realize that, you know, that that's a change from the (AGB).

But I think, you know, whatever the policy group comes up with, you know, whether it's inconsistent with or opposed to the (AGB) will hopefully make it into the next round. And we should I think work collaboratively with the people who are writing the next version of the (AGB) to make sure that happens.

Let's see, anybody else on sort of where we go from here, next steps, process. Well let me ask a different question, and we may be able to wrap up early. What - if people want to volunteer for a drafting group - a small drafting group to take segments of this and write it up I'd love to have the work done at the volunteer level. If there's not enough bandwidth or interest in that then maybe we can prevail on ICANN staff to take the next draft of this.

But I've seen some interest. I think Liz suggested in the chat that she'd be open to working on a draft. Don't know if anyone else would be interested in that. But either raise your hand - Rubens - and then - or, you know, just drop me a note to the mailing list and let me know that, you know, this is something you'd be interested in. Lars.

Lars Hoffman: Sorry, it's Lars Hoffman for the record. I'm just wondering whether also when we reach out to - certain we have volunteers to put something together we should maybe formally reach out also to other SOs and ACs and request their input for this.

I know everybody can join this group, this is an open group, but just to have all the bases covered that they're aware that this is happening and if they want to submit any issues that they feel have not been covered yet that they are welcome to do so.

Bret Fausett: And it also raises another questions as to whether we should put our work out for public comment for any - I don't think it's required; I don't think the bylaws require a public comment period at the end of this. I think we could feed directly back into the Council at the end of our work. That would be my preference that we use the existing structures and try to work directly with any constituencies we're involved in to solicit feedback, this is the GNSO group.

So we do have the existing mechanisms of, I mean, if you're from the IPC you should please share our work with the IPC, if you're from the Registry constituency, as I am, you know, feed it back into there and try to get comments that way. But we could also open this up for a short public comment period. Avri, you're nodding your head yes.

Avri Doria: I tend to think that opening it up - not necessarily the full double, you know, because it doesn't have to go for a regulation but I think opening up for a comment period before it goes to the issue report it doesn't hurt; it really doesn't hurt to have people read through and say but you forgot and get that included before the issues report happens. So I would think that since it doesn't cause harm and it could cause some good it would be worth doing.

Bret Fausett: It only causes time so.

Avri Doria: There's so many things that need to be fixed before this next whatever starts that I don't think a month of comments is going to be the gating factor.

Bret Fausett: Okay, all right.

Rubens Kuhl: You said it is a problem of time. Is there any time constraint?

Bret Fausett: There - we are working under no deadlines. There are no time constraints on our work. So the only time constraint is trying to - is understanding that any policy development process that comes out is probably a multiyear process so the sooner we start the sooner we finish.

You know, I think if we could finish our work, which would form a draft charter for a future working group with a set of issues identified, if we could get that teed up for a vote by - I'd love to get it done by the Marrakesh meeting but the first meeting is a little early this year, it's in February I think. But, you know, that would mean finishing our work by the end of this year, having the comment period perhaps starting over the end year holidays and into January and then getting a motion drafted for the Council in terms of Marrakesh.

I think that's doable. And then if the Council votes on it then they create a policy development group - or no, we create - we send it back to staff for an issues report. The issues report would come back in 60 days so maybe we would have it by the Mexico City meeting. And then we, you know, start up the policy development group there.

And then I think we're talking about a couple of years. So now we're into 2017. You know, again, a month or two here in the terms of these very long deadlines really isn't going to change things. But this is a long haul.

Rubens Kuhl: As you said, it is a matter of years so 21 days is not something the will harm the system. And what I understood from the session of Monday is that we don't have to delay but we don't have also to hurry. So I think that we have to make this public comment.

Bret Fausett: Good. Good. So I - you've now convinced me. I think unless I hear opposing, you know, views we'll put it out for public comment. You know, I think our only constraint is that there are people - you know, as I mentioned before

anecdotally I've heard that there are people who are lined up at the gates to - for round two. I don't know how true that is. But, you know, I think the longer this goes on the louder those voices are going to get. They're probably pretty quiet right now.

But I think we ought to do the work that's required and let the time chips fall where they may. And let's just work as far as we can. Anyone else on either substance or process or next steps?

All right well is there anything? Well seeing nothing I'll wrap our meeting up early and you can move on to your next meetings. Again, this is ongoing open work. If you have any additional submissions put them into the wiki, give them to either me or Steve. You can even write thing down on a piece of paper or meet us after the meeting. But thank you all for your attendance and your great input.

You can stop the recording now. Thank you.

Coordinator: And this concludes your conference. Have a wonderful day.

END