

**Transcription ICANN Singapore
GNSO Policy & Implementation WG F2F
Wednesday 11 February 2015**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

On page: <http://gns0.icann.org/en/calendar/#feb>

J. Scott Evans: Good afternoon, everyone. We're about five minutes over our start time and since we're going to be running this meeting into the cocktail hour, which is very important to me, we're going to be on time today. So we're waiting for Cheryl to get back but while we're waiting for Cheryl I have a couple administrative things.

First, you really do need to speak close to the microphone because even when it's being picked up in the room and we're hearing it projected here, apparently it is not coming across on the audio streaming so you need to be very close to the microphone and enunciate.

Next, I would like to, first, have every member of the working group that's been working on this report to raise their hand so those in the room will know who are actually just on the working group as opposed to those who are here to be informed about the work.

Man: (Unintelligible).

J. Scott Evans: And then I'm going to ask that we all introduce ourselves for the record. I will start and then I'm going to move to Avri and we'll go all the way around this

way. I'm J. Scott Evans from Adobe Systems. I'm also President of the International Trademark Association for 2015. And I'm co-chair of the Policy and Implementation Working Group.

Avri.

Avri Doria: I'm Avri Doria, a member of the NCSG. I'm on the group but have done precious little.

Edmon Chung: Edmon Chung - Edmon Chung from dotAsia.

Tom Barrett: Hi, Tom Barrett from EnCirca.

Val Sherman: Val Sherman, (Smith, Kimber, Russel), IPC. Just hanging out observing.

J. Scott Evans: Okay.

Martin Sutton: Martin Sutton, HSBC and the Brand Registry Group.

Berry Cobb: Berry Cobb assisting staff.

Cheryl Langdon-Orr: Cheryl Langdon-Orr, member of this non-PDP group.

Holly Raiche: Holly Raiche, ALAC.

Chuck Gomes: Chuck Gomes, Registry Stakeholder Group and co-chair with J. Scott. And let me also introduce Michael Graham who is on remote because he is one of our co-chairs. And Olevie Kouami is also one of our co-chairs who could not be here and is not on remote but I wanted to call attention to them as well. And, by the way, just to add to what J. Scott said, it's important I think for you - helpful maybe for you to know who the working group members are but please don't think you have to be a working group member to participate today. We really want everyone's participation. Thanks.

Elisa Cooper: Elise Cooper, BC.

Mary Wong: Mary Wong, ICANN staff.

Marika Konings: Marika Konings, ICANN staff.

Dan Reed: Dan Reed, GNSO Council.

Michele Neylon: Michele Neylon. Blacknight, Chair of the Registrars. Definitely not participating in this working group but if I do stay I will probably ask you questions or something.

Amr Elsadr: Amr Elsadr, Non Commercial Stakeholder Group.

Karen Lentz: Karen Lentz, ICANN staff.

Woman: (Unintelligible), ICANN staff.

Man: (Unintelligible) Services.

Stephanie Perrin: Stephanie Perrin, NCSG and I'm definitely one of the ones who hasn't been doing any work on the group.

J. Scott Evans: We're going to bring a hand mic around. We have some folks who are not at the table in front of a mic and so we're going to bring it around so you can introduce yourself.

((Crosstalk))

Greg Shatan: It's Greg Shatan from IPC, President of the IPC. Middle of the road member of the working group. I've done some work but not as much as the true heavy lifters. I'm somewhere between lurker and worker.

Michele Neylon: And you're a lawyer, aren't you?

Greg Shatan: I'm a saxophone player; I just play - I just (unintelligible).

Sutender Mehta: Sutender Mehta, first time ICANN Fellow. India.

J. Scott Evans: First time ICANN fellow. Glad to have you.

((Crosstalk))

Trang Nguyen: Trang Nguyen, ICANN staff.

Woman: (Unintelligible), newcomer.

Steve Chan: Steve Chan, ICANN staff.

Woman: (Unintelligible) VeriSign.

J. Scott Evans: Okay, thank you everyone. As you know we have put out our initial report for public comment. And there is - what we - before I go through the presentation I think one of the things I'd like to do is we have some constituency members and chairs here and if I could call on those from their constituency just to give us a sense of where you are in preparing your comments.

We just want to get a sense of where everyone is on, you know, are you deep into them; have you not even looked at them; you have no idea if you're going to make the deadline, those kind of things.

Greg, I ask you to start us off with that please?

Greg Shatan: Sorry, did you repeat the question?

J. Scott Evans: For the record, he is a lawyer because he was using his cell phone and typing off some message to someone. I would like to know just where the IPC sort of is in getting ready to prepare its comments. Have you assigned people? Have you started drafting comments? You know, where are you?

Greg Shatan: We have a drafting team, which is studying the report. We have not yet, you know, formulated our recommendations. Again, that I've been a medium weight - at least in terms of participation, not in terms of avoirdupois - member. I think that, you know, we are favorably disposed but we are well underway at least in theory. Thanks.

J. Scott Evans: Could someone from the ALAC tell us where they are?

Cheryl Langdon-Orr: Probably Holly.

J. Scott Evans: Holly, that's fine.

Holly Raiche: She did that because she doesn't know and neither do I, which means to say I do have some views. I listened to your presentation, thank you very much. I've had a quick read through. I really actually probably - I'm probably going to get stuck with the pen unless I can pass it quickly to the left. I just don't have a comment at this stage.

J. Scott Evans: Okay.

Cheryl Langdon-Orr: If I may? Cheryl Langdon-Orr for the record. I think it's important to understand for everyone else at the table who is not familiar, is that better, who's not familiar with the way ALAC does these things. As soon as things go out for public comment they go onto a table, it's reviewed, it's sifted and sorted. It goes to a do we want to comment or don't. This will be a, we do want to comment result. A pen holder and a small group are gathered together and it happens.

So let's assume that because of the early time we are at, that that is what will happen.

J. Scott Evans: Okay.

Cheryl Langdon-Orr: And so we should meet all deadlines.

J. Scott Evans: Avri, NCUC or NCSG, where are you all sort of on getting the comments together?

Avri Doria: Don't know. I mean, it's been sent to the group and the policy committee is aware of it but I don't think we've done much of anything yet.

J. Scott Evans: Chuck, the Registries?

Chuck Gomes: Thanks. Is like the IPC, we formed a team that is developing draft responses that will be presented to the full Registry Stakeholder Group membership. We have had two calls. We had a meeting here this morning. And we are hoping that we can, in a meeting after Singapore, pretty much wrap up our suggestions for responses. And then we will have to get - send it out to the full working group for their response. So I think we've made a good start. Will we make it by March 3? It's going to be tight.

J. Scott Evans: Elisa Cooper for the Business Constituency.

Elisa Cooper: We've only just identified someone to take the pen so that's where we're at.

J. Scott Evans: Michele for the Registrars.

Michele Neylon: I'd love to be able to give you one of those wonderfully vague answers about how we're doing some kind of awfully complex process. Sorry, couldn't resist. I'm just, you know. Cheryl. Sweetie.

((Crosstalk))

Michele Neylon: Now, now.

J. Scott Evans: All right, you're running into my cocktail hour, let's move it on.

Michele Neylon: Sorry. No I think this is - there's quite a few public comment periods that are currently open both between the main public comment thing and other things that are going on involving that four letter thing that everybody keeps talking about.

So I would hope that we would be able to submit some form of comment or if not I will be actively encouraging individual members to submit comments. I mean, just so people are aware, in many instances the Registrar Stakeholder Group does not submit a comment as a stakeholder group but individual members submit their own.

And I just hope that people do understand that. It's not that we don't care as a group it's just it's more efficient and more useful to get the individuals because of our business models and everything else. So, you know, the Europeans we care about certain things; some of the Americans might care about something else more passionately; the corporates care about this; the wholesale, etcetera, etcetera, etcetera. So, you know.

J. Scott Evans: Is there anyone that's an individual that's here that would be thinking of filing comments? I just don't want to leave anyone out. Okay, I think that it just shows, as typical, there's a lot of work going on and because of that people are in various stages, some more advanced than others.

I want to acknowledge we've had a member of the working group who joined us, Alan, I'm sorry, as you take a bite of your sweetie, if you would please introduce yourself for the record.

((Crosstalk))

Alan Greenberg: This is not fair.

((Crosstalk))

Alan Greenberg: I'm Alan Greenberg. Member of the At Large Advisory Committee and currently chair of the ALAC and a long-term member of this group, and one of the instigators, I guess, of it existing. Thank you.

J. Scott Evans: All right so now what I plan to do is I'm going to go through the slides that were presented to the GNSO Council on Saturday morning in the update. And I'm going to run through them fairly quickly because many people in here are working group members; others probably have heard this information before but I want to go through it just so it kind of refreshes our memory about what's going on here so we can (unintelligible) have a substantive discussion.

So, Marika, are you going to run the slides for me? So if you'll go to the first slide. Thank you, Michele, for your visit.

Michele Neylon: Sorry.

J. Scott Evans: so as you can see here, here's our...

((Crosstalk))

J. Scott Evans: As you can see here's our - here is our background. So, you know, there was a staff discussion paper way back in 2013. In April of that same year there was a, you know, a community discussion at ICANN 46. The GNSO chartered this working group in July of 2013 and in January of 2015 we published an initial recommendation report that is out for public comment.

We're hoping that we'll be able to take in those public comments and have a final report by the Buenos Aires meeting, which I believe is end of June, 2015, is that correct? Next slide.

So you can see here the steps that we took. The first thing we did is we came up with a detailed work plan and including some initial sub teams. We reached out to GNSO stakeholder groups and constituencies for input. And we reached out to ICANN supporting organizations and advisory committees for input.

We developed a set of working definitions that we felt would help us facilitate. The reason for this is we thought many times in these debates you have discussions, somebody says X; somebody thinks it's Y and then you come together and you have no consensus because they didn't understand. So we thought if we had a common list of definitions that were not set in stone and they could fluctuate as we learn through the work and be redefined as we learned, but it did help us.

Then we developed some working principles to facilitate our deliberations. And then we had over 40 working group mailings to develop our initial report. Next slide.

So here we go. Here are the principles. The working group recommended that the principles outlined in Section 4 are adopted. You can see here what they are. We have an overarching principle, we have principles that apply to policy and implementation, we have principles that apply to policy, we have principles that apply to primary to implementation and some of those are still under review. Next slide.

So we looked at this and everyone knew that we'd had some past experiences where we'd sort of had diverging opinions on what happens during implementation of GNSO recommendation. And, I mean, it's happened in many iterations. I think the biggest is the new gTLD program although I

don't think it's the only example but I certainly think it's the one that had caused us the most emotional heartburn. And so we were very aware of that.

So then we decided we had, you know, defining (unintelligible) such as either policy or implementation it really wasn't important as developing some sort of standardized mechanisms for addressing these issues and how to effectively and efficiently manage the process. So the working group is proposing three new standardized processes for GNSO deliberations regarding this issue. Next slide.

So we have a process for providing non-binding advice which is expected to typically concern topics that are not gTLD specific. I think sometimes we've see - we went through a whole matrix of situations that have occurred in the past, some where the Board has written a letter to the GNSO asking a question seeking information. And it's not necessarily a PDP type thing, they're just wanting information. So that's one situation.

Some nonbinding advice that means advice that has been - has really no force on a party but it's just information that's out there. It can be used however it wants but under the bylaws it's not required to be used.

If the expectation that such input would be treated in a similar manner as public comments because that's exactly what that is, correct, that's advice or opinion from the stakeholders, so that's how we thought of it. And, for example, it could be used to provide input on like the strategic plan or recommendations from accountability and transparency review team. So those are the kinds of things that we might have.

I know I'm going to too fast, I'm sorry. Non English speakers, I apologize.

Let's go to the next slide. So we thought about a GNSO guidance process so loving the acronyms as we do, the GGP. This is to provide, you know, binding

guidance on the ICANN Board. So but this is not something that is expected to necessarily result in a contractual obligation for contracted parties.

By binding guidance we mean, you know, advice that has a binding force on the ICANN Board and can only be rejected by a vote of more than 2/3 of the Board if the Board determines that such guidance is not in the best interest of ICANN or the ICANN community.

So as we typically, you know, involve clarification of or advice on existing gTLD policy recommendations, this could be in response to a specific request of the Board or the GNSO initiative. For example, such a process could have been used in relation to the request for the ICANN Board to provide input on the Brand Registry Agreement Specification 13.

Next slide. Then we also realized that there were situations where the full blown PDP process is probably a little laborious or a little heavy handed for the issues that needed to take place. And so we thought of a GNSO expedited PDP. But this of course is going to have certain conditions and will only be used in certain specific situations that we hope to have defined in our policy paper.

So this is to develop recommendations that result in new contractual obligations on the contracted parties and requires consensus so the qualifying criteria for when you might invoke an expedited PDP to address a narrowly defined policy issue that was identified and scoped after either the adoption of GNSO policy recommendation by the ICANN Board or the implementation of such policy.

So to use an example of the GNSO process something that would have been like the straw man but it would have been a - something that everyone understood, it's an existing policy, it wouldn't be created out of whole cloth as we got into the issue. It would have been something that the stakeholders

within the community have adopted and accepted and been standard operating procedure to handle these types of issues.

Qualifying criteria is to provide new or additional policy recommendations on specific policy issues, so that's very important those words, that had been substantially scoped previously such that extensive pertinent background information already exists. So there are already reports, there are already studies. It's just making some further decisions that need to be made with regards to the work that was scoped and done before.

For example, the issue was already scoped in the issue report for possible PDP, that wasn't initiated. It was part of a previous PDP that wasn't completed, or there are other projects that - like the GGP.

Okay, Alan.

Alan Greenberg: One slight correction and then one addition to what you were just saying. You said that this would result in contractual - in changes binding on parties in contracts. It could. It could be a continuation of a PDP that was unrelated to contracts or something like that. So that depends on the substance.

I'll just highlight one of the reasons that you might want to do this in virtually every PDP we've done over the last number of years we've included a recommendation that it be monitored and presumably if we find something that we did slightly wrong we fix it. We've never had a mechanism to fix it before. This is such a mechanism.

J. Scott Evans: Thanks. Next slide. So there's further details on all of these processes in our report in the annexes and in the proposed bylaw language too that we think would need to be amended in the bylaws to allow for these processes to come into our system.

And Section 5 of the report also outlines a number of specific questions that we're still requesting input on. So we still - that's the reason you're - probably more than any other time your responses are so important because we are still seeking information from the community to help guide us so we can complete our work.

Not just comments on ideas we've come up with but specific information that we need you to give us and feed us so that we can continue our work. Next slide.

So one of the things that we did was we sat down with the ICANN staff who has come up with a very detailed process on how to deal with the transfer of work from the policy team to implementation teams. And they have come up with a very nice thorough, thoughtful process and we made sure to benchmark with that and to make sure that we were all scaling and benchmark next to that. And you can see that that's in Annex F.

And it's hard to see, Berry Cobb, thank you for this. This is, I think, Berry put this chart together initially. It's a really good helpful thing. It's hard to see here but it is in the report. And I think you should pay some nice attention to it. It informs a lot of what the report is about. Next slide.

So the PDP manual, we believe, should be modified to require the creation of an implementation review team following the adoption of PDP recommendations by the ICANN Board. So you see we believe it should be mandatory. But we also believe that there needs to be some flexibility because if it's not required you shouldn't force us to have something we don't need. But rather than - so we say it's mandatory but in the event that no one feels you need it you don't have to have it.

So then we look down and we see principles in Annex H should be applied to IRTs. The working group recommends that the principles that are outlined in Annex H, which is in the report, are followed part of the creation as well as

the operation of an implementation review team. So we've had some of these implementation review teams and it's sort of been scouts honor; no one's really understood. There's no been an articulated standard for how they're supposed to behave.

We've been very lucky because they've worked well but we're trying to circumnavigate a problem where the process gets in the way of the work. And so we think if everyone has a baseline understanding and consensus agreement to that it'll help us move the work on a serious fashion. Next slide.

So our public comment period is open. You can provide input. One of the things we've done to try to help and especially if you know people who are individuals that want to apply is we've come up with a survey that asks specific questions that is a lot easier than drafting a huge paper. So don't feel like your input only has to be in the, you know, some huge policy paper. You can go in and fill out this survey and we're going to take that information and pay considerable attention to it.

We're trying to make this as easy as possible because what we want is as much diversity and responses from the various different groups and different perspective so it will inform our work.

So I open the floor up now to Chuck first as co-chair to see if he's got any comments, and then if he doesn't to any working group member who might have a comment and then we'll go to the floor.

Chuck Gomes: Okay, Chuck Gomes speaking. And just to add on - what J. Scott said - and by the way, nice job of presenting the overview of all this. The report really will give you the details, okay?

Our - notice the asterisk comment at the bottom of that slide. Our preferred method for comments is the survey. And if you do the survey you probably don't need to submit anything else.

Now you'll see on the fourth bullet there's also a template for providing comments that is - the reason we're using a template is that if you do use that the comments are organized by topic so it makes it easier for us to summarize and analyze the comments.

But if you do the survey you probably don't need that because all the items in the survey except for the demographic information on the first three items, I think, there's a comment box. And the very last item in the survey, Number 15, is a place where you can add other comments.

For example, other than at a high level there's nothing in the - there are no questions about the GNSO input process, the GIP. But if you had a comment on that you could enter it into that last section - Number - Item Number 15. So again the survey is the preferred method. And like J. Scott said, if - we think that will facilitate your efforts in that.

And a PDF has been provided of the survey for those of us that are responding as groups - you don't want to have to have everybody in your group go through the survey itself, the live survey. But there's a PDF. Now please use the latest - the one that's posted right now is the latest version.

We did find a little bit after we posted for public comments that there were a couple of errors in Items 10 and 11. Those have been fixed so if you use - if you refer to the survey that's on the Website, that will be the most current. And as far as the PDF a revised PDF version was sent out. And if you have any questions about which one that is we can help you on that.

J. Scott Evans: Okay, are there any working group members - I see Alan - do I want to take a queue? Does anyone else have a comment from the working group want to get in the queue? Okay, Alan.

Alan Greenberg: Thank you very much. What I'm going to say may sound strange given that most of you know that I've been very heavily involved in this process. But as we're coming right near the end I came to a conclusion that as much as I support every individual part of what we're talking about, we have looked at it as little bits and pieces. And we have not stepped back and looked at the overall package.

And it strikes me, as much as I can defend every part of this, and, you know, the synopsis of the original debate of policy versus implementation. You know, we quickly came to the conclusion that if something looks like policy and smells like policy it's probably policy and therefore the GNSO has to weigh in on it. Completely reasonable position.

But it strikes me something like the gTLD PDP if we were to ever, heaven help us, do something like that again. However, I'll point out that the PDP we're talking about for the second round may be pretty close.

And no matter what we put in a PDP there's going to be implementation and details and writing a new Applicant Guidebook, or whatever we call that thing, that will raise issues as we go along.

The gist of what I'm saying is if we do all this will we have a workable process? We will have a process where we dot every I and cross every T to the satisfaction of the GNSO but will we have a process that takes 14 years or is unwieldy to orchestrate or have to go back to the GNSO N times too many.

And I just wonder I think we have to step back at this point and look at the whole thing and see is this really a cohesive thing that's really implementable, excuse the expression?

J. Scott Evans: Marika.

Marika Konings: Yes, this is Marika. I think one of the things we did discuss at an earlier stage is to potentially do a couple of use cases. So what we may want to do and especially looking back at those, I think, examples that we even highlight here to kind of map out like, you know, if, you know, the GGP would have existed at the time of the request on Specification 13, how would that have looked?

And do we indeed believe that that would have, you know, resulted in outcome that we are looking for like, you know, predictable, transparent process. And maybe that is a way to at least, you know, do a kind of, you know, use cases for each of these that will then hopefully give a more sense that, you know, it is indeed doing what we think it will do.

I think at the same time you may want to build in a kind of like, you know, after X amount of time let's look back and really make sure that, you know, we can course correct if needed.

And similarly, my assumption is that the group will also recommend an implementation review team that, again, as this is being implemented because, you know, it will require changes to the bylaws and operating procedures, you know, if there are things that we then find out that maybe, you know, because I can imagine as we insert some of this we may realize that there are other sections that also may need updating.

So I think we do want to have some kind of - and I don't think we need to do that as part of the working group because I don't think it's necessarily, you know, best use of our time. But as part of implementation I think we want to be able to have that conversation if need be.

J. Scott Evans: Marika, this is J. Scott. I would suggest that we need to take in the public comments because we're going to have to adjust - we should be adjusting to them. I would suppose we're going to get some input that's going to require us to adjust.

But what if I suggest that we have a session in Buenos Aires when we've taken in the public comments. We have what we think is going to be our final document and we do those use cases in a public forum where people can stand up and comment and bring things that we may not see because we're looking at it just from our own perspective. And open it up to the community as we do this and work that through in a group.

Like take two hours and do that one day so that somebody can say, hey, but I was there and that's not how it happened and let me tell you why so we don't miss anything.

Alan Greenberg: I think the use cases are certainly something we must go through. The other exercise that would be intriguing if we could actually do it is looking at something like the gTLD process, how many GGPs would we have invoked if we had had to go through? And is that something the GNSO could have sustained or everyone would have collapsed with work overload?

Again, I'm just pointing out these are the questions I think we need to make sure that we're not coming out with a completely logical process which would weigh us down more than we want to be down. And of course Marika has an answer.

J. Scott Evans: Marika.

Marika Konings: No, this is Marika. Not an answer but I think maybe that question is not the right one to ask because on the new gTLD PDP there would have been an implementation review team. So those - that may have already addressed some of the issues before a GGP is needed but it's only a theoretical...

((Crosstalk))

Alan Greenberg: I think we had an implementation review team. It was the ICANN as a whole over four years.

J. Scott Evans: Thank you. Just in response to what Alan is thinking he's saying that counting how many GGPs and could be the Council or the GNSO generally have sustained the workload. I'm hopeful that the processes that we have designed are less work than the ad hoc processes that would have had to have been invented and then invoked and taken place each time that type of request was made.

At least that's what I hope we set out to do and I hope we accomplished it. If there's an idea that in fact these are - that the cure is worse than the disease then we should, you know, examine that. But I am fairly confident that we actually managed to set out to do what we - that we accomplish what we set out to do.

J. Scott Evans: Thank you, Greg. Does anyone else from the working group have something to say? If not then I'm going to go to the other members in the room - the participants in the room who may have comments or thoughts that they want to share with us.

Holly Raiche: Holly Raiche for the record. These are sort of - first of all I'd like to applaud the fact that we've acknowledged policy is just throughout. I think that's really important. And I've got a couple of case studies where one is kind of looking back and one looking forward.

The looking backward - I'm now a member of the - from my sense - Whois conflicts. I have read the initial report before the implementation. Then I've read what the implementation came up with. And one year down the track it's easy to see that what was in the initial policy, which was a set of things, which was essentially you have to prove that there's a conflict.

The way that was implemented actually meant that a lot of people in countries with strong privacy laws couldn't implement it. So I'm just wondering how you build in a - has the implementation team come up with what was

originally intended? And my looking forward is looking at - I suppose it's another Whois issue. This time it's policy about the privacy proxy servers.

Now we're still dealing with kind of high level stuff. Part of that is because that's where we are and part of that's probably because every time we try to get into deep stuff everybody kills everybody else and we all back away. And there was a comment made in today's meeting, well, we've got another two years. And I thought, no we don't. Not when it's two o'clock in the morning for me.

But what worries me is if we don't drill down then the implementation of that policy is going to be wide open. So I'm wondering if there is a way to actually address a very strong connection between all the debates that go on in a policy group and then really it is just implementation even though we have acknowledged rightly that almost everything we do is policy. Thanks.

J. Scott Evans: Is there anyone else that has a comment or concern or thought? Stephanie.

Stephanie Perrin: Thanks very much. Stephanie Perrin for the record. Just following up on what Holly has introduced there, I was a moment or two late because I was in a debate with someone over the virtue of having outside independent - I wouldn't call it oversight - but commentary on our implementation.

And I'm kind of on the - first we have to fix it inside before we, you know, what good is somebody outside saying you're not doing this right? Nobody listens anyway. But there is the problem - I'm concerned about back to the slides where it's a mandatory review unless we all agree we don't need a review.

And the problem with that is, as Holly says, if we reach an impasse where we kind of know this isn't working but nobody wants to spend another three years getting up at two o'clock in the morning, we're all going to say, yeah, okay it seems to be fine. Tick. I mean, we're human, right?

And I think that's one of the problems with some of the procedures that aren't working which is the one that Holly's pointed out, the conflicts of law with Whois. I mean, it would be interesting to see what we wind up with after we do the review process that we've volunteered for. So just kind of a question, how do we, you know, how do we get around that?

J. Scott Evans: We have a comment from Michael, one of the co-chairs. Is he on the phone? He's not talking. Can you read it?

Marika Konings: Yeah, this is Marika. I can read it for Michael. So there is a comment from Michael Graham, he says, "Alan, I think the challenges of the proposed Whois PDP would be a perfect test case for these alternative processes. As to the public comment, I don't think we can emphasize enough how important the community's input will be. Please use the survey not only as a group or advisory committee but as an individual. This is a great way to provide input without the challenges of a more formal comment."

J. Scott Evans: Chuck.

Chuck Gomes: Yeah, I want to respond to that, and probably go back to what Alan said and maybe even what Holly said. But I don't think - I have, myself, not thought about somebody submitting an individual comment in addition to your group submitting a comment that you may have contributed to. But I'm kind of throwing this out; my personal reaction is I think that would be okay, would it not?

J. Scott Evans: It's absolutely okay. Everyone is a member of the community. And just because you're not in a constituency or because even if you are in a constituency you should still feel free to provide your own individual comments. The registrars are going to do that, that's what Michele just said, that they're operating procedure.

And as long as your group - they're okay with that, you know, that's your politics in your group. For this group, as much input as we can get, as much diversity of viewpoint as we can get will help us develop something that has to meet a lot of diverse interests, I think personally.

Avri.

Avri Doria: This is Avri speaking. And, yeah, I think that that is correct. And it's also within the NCSG's normal practices, indeed people submit individual comments and then if we find that the group has agreed to those then they get endorsed or what have you. So I think individual comments first and then groups when they can is definitely a good thing.

Chuck Gomes: Chuck again. And coming back to what Alan said about the high view, looking at the holistic view instead of just the little pieces, and that's absolutely right that we need to do that as a working group. But I wanted to comment that one of the advantages of having people that haven't been involved in the details is that it's much easier sometimes for them to look at that view so again, and encouragement to participate.

Now, coming back to some of the things that Holly said, when you look at the information in the report on the IRT, the Implementation Review Team, you'll see that we talk quite a lot about composition of that.

And you'll - take a look at that because the composition of these Implementation Review Team probably isn't going to be just like the policy development team because you need levels of practical operational expertise in those, depending on the policy. But take a look at the composition and make sure we've covered it well there. We spent quite a lot of time talking about that.

J. Scott Evans: Alan.

Alan Greenberg: Thank you. By the way when I said we need to look at the overview, not just the details, I wasn't really addressing people who were going to make public comments. I think that's a major job of this - of the working group itself.

I'm reacting to something I think I heard Stephanie say, and I'm not quite sure, but she was talking about an external review. The word "review" in the IRT is a modifier - is modified by implementation. It's a team reviewing the implementation, not reviewing the policy itself. It's not an opportunity to go back and did we make a, you know, did we make good recommendations.

That we may well need a process in some cases to do that, but that's not this process. This is to make sure that indeed the recommendations, to bolster the extent the word of the recommendations is accurate, and certainly the intent of the recommendations be followed. So it - I'm not sure the concept of an external entity doing that is appropriate.

J. Scott Evans: Stephanie, I see a hand towards the mic, does that mean you'd like to respond?

Stephanie Perrin: Yes, the reason why I was in this discussion with this person was that was his proposal that really ICANN should be getting commented on by various independent international organizations.

And I realize there's been a great inside, outside debate in the cross community working groups on accountability and - I don't even want to go there. But...

J. Scott Evans: Yeah, if you use that word again we're going to make you put a dollar in the jar.

Stephanie Perrin: Right, yeah. That's what I was afraid of. But I think my concern is that in order to rebuff any suggestions that the only true oversight of whether the implementation procedure is working would be independent is were going to

have to really really be certain that when we do the review, like I like mandatory, and mandatory should be someone who isn't so deep in it that they're going to say tick "yes" we did a great job.

As discussed in this discussion we've just had, it's better to have fresh eyes that are looking at it from a distance. How you achieve that I don't know but...

J. Scott Evans: Alan's and is up and then Chuck.

For the record that was J. Scott Evans. We need to start announcing ourselves because we do have people on the phone participating and we also have it - a transcript.

Alan Greenberg: Alan Greenberg speaking. Their main - with regard to the conversation you're having, there may well be a need to have an external review of our policy decisions, and even our policy implementation. That's not - but that's not this review team. This one was to solve a different problem. If that is the problem we may - and indeed, in some future major PDP, you know, I glibly said that the implementation should follow the word and the intent.

I have no doubt that on some major issue you'll get two people who were on the PDP group who said the intent really was - and, you know, thing you have a real issue of do you follow the word or do you follow Intent A or Intent B? And we can't fix all the problems I had of time; some of them we're going to have to address when these come up.

J. Scott Evans: Chuck.

Chuck Gomes: Thanks. Chuck speaking again. And talking to both Stephanie and Alan, in particular but of course all of you. First of all understand that the PDP, as it exists right now, and the procedures that go with it, allow for the use of experts. So - but I would say to bring together what Alan and what Stephanie

are saying, the first place that should happen is in the policy development process itself.

Now, if we get into an implementation phase where we discover something that may have been missed or may be we think it's improper you'll see in the recommendations - and this is where the principles come in really well so look at those principles closely - if there is an indication that the policy needs to be revisited then that goes back to the policy development body; it's not handled in just - just at an implementation procedure.

J. Scott Evans: I'm going to take chairs prerogative and insert myself and then I'm going to go back to you, Stephanie. My personal perspective is I'm hoping that by having this policy we're going to build trust, right? Because I think most of the issues that have occurred have been a lack of trust. And I'm hoping as we mature as an organization and we get down to the business of doing business that that trust will come in. And I'm hoping that that's what this is going to do is spur trust via common understanding.

You know, and so that's my hope. And by doing that I think some of this folderol that we've had in the past, which is built on trust and sort of a - assuming bad intentions a lot of times rather than assuming everyone is really trying to get to the same place, we just have different views and different ways of doing it. So that's - it's my personal hope is why I participated in this group is I'm hoping to get us there because I think when we get there a lot of it will get easier.

Stephanie, I'm sorry, go ahead.

Stephanie Perrin: Not at all. And I hate to be flogging a dead horse here but let me give you my favorite example of something that I find very strange in policy. And I don't know how would you fix it but it is the Whois conflicts procedure. And we have a letter on the table from an authoritative group of oversight Commissioner's, namely the data protection commissioners, who told us -

wrote to the Board and said, "Hi, we're 28 legally authorized data protection commissioners. We're telling you right now you're in conflict with law. We'll make it simple for you for Europe."

So that letter is on the table. It's been there since last spring. To me that an authoritative piece of external advice that is coming in and that should trigger a review mechanism, not of the procedure, which is what we get with the Whois conflict procedure we're talking about - and I'm sorry Michele is not here to comment on this because I'm sure he would.

But we have a - we don't review the policy, we review the procedure. But that letter itself called in question the policy. So we're doing a lot of work here. And it's an improvement on what we've got right now but it doesn't - in the end it's not broad enough to encompass that particular instance. You see what I mean?

J. Scott Evans: I'm going to let Chuck has asked to respond. Did I see - Alan did I see your hands go up as well? Okay Chuck and then Alan.

Chuck Gomes: Chuck again. To reinforce what I said before so in that case - you said something very key, it brings - that letter brings into question the policy. So maybe the policy needs to be revisited in part.

Now that may be a guidance process or it may be an EPDP, again, you begin to see how the pieces start to fit together. But you would have to involve the supporting organization, the policy development body, in revisiting that.

J. Scott Evans: Alan, we need to start saying our names again. That was Stephanie who brought up the question about the letter and Whois team. That was just Chuck Gomes. And we're going to Alan Greenberg.

Alan Greenberg: And it's Alan Greenberg speaking. If this particular issue did not have the title "Whois" on it, and we were not in the middle of a humongous, complicated, multi-armed dragon that's been going on for a decade...

((Crosstalk))

Alan Greenberg: ...that's been going on for decades, then the process would be pretty simple. Someone would say, whether it's the Board demanding a PDP or whatever process is appropriate at that point or you as an independent councilor making a motion and the GNSO decides to do it, or the GAC demanding a PDP, which the GAC is allowed to do, and the policy would be revised.

Unfortunately, that's just one small part of a much larger problem that would (unintelligible) who knows how many activities going with and no one has the stomach to try to fix that problem in isolation.

So if it were a different problem other than associated with Whois, there would be plenty of paths that we have to go forward and fix the problem. It's just part of an ugly one that isn't that easy.

J. Scott Evans: Okay. So are there any other issues or any questions, concerns, comments? If I could ask each of the folks that are here from a constituency if you would help us proselytize the survey, put it on your list, put it in your newsletter, do whatever you need to do to help us get this information in by March 3 it would be such a great help. We really really appreciate that.

Since I see no more comments I'm going to bring us to an early close because I'm sure everybody had meetings all day and more than likely some of you have others to go to. So thank you all very much for your time. We really appreciate you coming today.

I would like to personally thank my co-chair, Chuck, for all his hard work, and each and every one of the task, the working group members who have given

more time than they humbly would say, Avri and Greg, they have done good work, solid work. Given the myriad of things they've handled they have showed up for the majority of the calls. It's been solid, good progress. It's a real commitment so I hope you are communities will say thank you and from my sincere thanks for you for all your hard work, thank you all.

And to Mary and Marika who keep us inside the lines.

Alan Greenberg: And to our two co-chairs who have had more patients than I could ever imagine having.

END