

**gTLD Registries Stakeholder Group
Tuesday, 20 October 2015
ICANN 54 Dublin
Working Lunch Session**

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Cherie Stubbs: Stakeholder group and for those who are participating with us remotely welcome. We will start in no later than one minute. Thank you - if everyone could have their seats.

Keith Drazek: Hey thank you Cherie. This is Keith Drazek. Welcome back to the afternoon session of the Registry Stakeholder Group Meeting here in Dublin, Ireland. We had a few issues left to discuss related to the council motions and issues so I am going to hand it back at this time to Jonathan and after that we will have our stakeholder group discussion - stakeholder group only discussion about the council chair elections so Jonathan over to you.

Jonathan Robinson: Thanks Keith just pulling up my list as I restart - here we go. The challenge here is I know we had a pretty full room and attentive audience earlier this. These are called discussion of possible action I think so nothing substantial is going to take place at the meeting itself but we might direct the course of - we would like to direct the course of next action. So I think it is useful people know about them and I will try and be brief because I know that we have got plenty to be getting on with.

There a couple of items of process relating to the Standing Committee for Improvements. I am not going to highlight those. You are welcome to have a look at them. They are being discussed by the council. They are not sub - not significantly material and they are used process improvements.

What we have got is the issue of the request from the board concerning possible policy work on replacement insurance requirements. This is that change in the registrar insurance requirements and the board. Essentially these items are - the next two items are all in and around correspondence with the board and what we might do to deal with them.

So the first is in dealing with the resolution waiving the insurance requirement for the registrars and asking that the GNSO consider where the policy work on replacement insurance requirements should be undertaken. So I will pause there and see if anyone has any comments.

I just think it is useful that if I flag each of these items and see that if anyone has anything they want to feed into that meeting and by the way just to be clear that council meeting on Wednesday, as with the weekend sessions of the GNSO are open meetings so you are welcome to come and make any comment or point in those meetings. So that is point one - go ahead Jeff I am not - (Keith) can I rely on you to manage the queue or - yes, okay so.

Jeff Neuman: Thanks Keith - this is Jeff Neuman. I was a little confused by the board sending - I don't view insurance as a policy question, I view insurance as, you know, a protection issue. That was protection for ICANN as an entity but I am not sure that that is the type of issue that council or the community should take up. I don't - it worries me that getting in to something like that could lead them to believe that other parts of the contract are policy issues when I don't view them as policy so that is my thoughts on the.

Jonathan Robinson: To be clear the question that is being asked and it is a very good point, it is a good response because the question asks of the GNSO whether policy work on replacement insurance should be undertaken so our answer could be, "No, we don't believe it is the case," and to the extent that the registries or - and - or registrars in this case or both think that is the case I think that could be helpful.

Jeff Neuman: Thanks and sorry, the second point on that same thing is that if ICANN is saying that that is a matter - it is a matter of policy then registries who have that provision in their contract would that be viewed as policy as well? Registries have those in their registry registrar agreements so I would hate for that to get lumped in with the whole discussion.

Jonathan Robinson: Let me be a little more specific here Jeff because the key issue is the closing paragraph of the letter from Steve Crocker and it says, "During community consultations on this topic, that is the withdrawal of the insurance requirement, some community members said that a different type of insurance requirement for registrars might better protect registrants who are harmed in the event of registrar negligence. As a result the board is referring this matter to the GNSO in the event the GNSO wishes to consider additional policy work on this topic."

I do read if - I will give an interpretation I think read - read in my personal interpretation. We have told the board so often, "Stop meddling in our business," that they are - there is a little bit of an unwritten thing in here saying right, you are supposed to give these things back to you - here they are. And I think they are going to hand back so that gives us the opportunity to say, "Thanks for giving it back but we are not going to do anything." So, you know, thoughts?

Keith Drazek: Thanks Jonathan, anybody would like to get in the queue? Okay, Reg.

Reg Levy: I was going to give my input about which way the vote should go but I am with Jeff on this. I don't think it is an issue for the GNSO.

Keith Drazek: Okay, Pam.

Pam Little: Yes, I personally do not understand why the provision is in the registry, sorry registrar accreditation agreement in the first place if it is intended to protect registrants. Maybe, because it is a general liability insurance and how often does a registrant or consumer would resort to that provision to sue or pursue a registrar who is negligent?

Jonathan Robinson: Oh sorry, just to come back, just to give a direct response there. What they seem to be saying is some community members said that a different type of insurance might be required and so that is the - they are not focusing on a, you know, the general liability insurance requirement is gone and now they are saying, "Well what about a different type of insurance to protect registrars?"

Keith Drazek: Okay, Jordyn.

Jordyn Buchanan: Thanks Keith, so I think there is two questions here and I think we might - I think Jonathan you framed it correctly previously which is that it is nice the board is asking us this and we can say, "Aha, thank you for asking us. We don't think this is a matter of policy," if we think that is the case.

I think the two questions are number one, does the GNSO need to take a position on either eliminating or replacing the general liability requirements as a matter - as an initial matter? I think the answer to that is no, rightly - there is not an existing policy that requires the general liability insurance and therefore ICANN can do whatever they want with that insurance requirement without needing new policy.

Then there is - I think there is a second question which is would the GNSO community like to undertake policy work relating to what insurance registrars ought to hold in the interest of better protection registrants or something like that? I would say the answer to that is probably also no, partly because I think that is outside the picket fence and I think it is perfectly fine for the council to go back and say, "Thanks for asking this question," - in the first case we say, "We think you can do whatever you want with the existing requirement because there is no existing policy, and number two, we actually don't think is an appropriate place for us to be doing policy because it is outside the picket fence."

Keith Drazek: Thanks Jordyn - Liz.

Liz Finberg: Yes hi, Liz Finberg, PIR, for the record. So I think there is also at least for the Legacy TLD's there is also sort of a mechanical issue at play. So we recently had to file - had to ask ICANN to amend our contract because our RRA for Org is attached to the contract, unlike the new GTLD Agreement where

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everybody can just, you know - the RRA is not part - part and parcel of the contract, so we had to file and seek - leave to amend the contract to reduce that requirement and then no sooner did that happen then we got word that, you know, ICANN thought that the, you know, the - at least in their opinion they wanted to eliminate it entirely from the RAA.

So I guess going back sort of to where we began is it really - is it policy at all and if we allow that it is policy will every registry, or at least Legacy TLD have to keep going back to ICANN every time we want to lower or change an insurance requirement.

Keith Drazek: Okay, thanks (Liz) - Reg.

Reg Levy: Thanks, I want to briefly expand or respond to Pam saying - who asked why it was in there in the first place and I think it is because these were written by (unintelligible) and it was - it is kind of a standard clause in US contracts that in B to B transactions you have an insurance requirement partly to protect yourself against or for the purposes of an indemnification but also partly to insure that the business that you are doing business with actually a business so that they have to have a certain level of insurance and savviness in the business world to be able to get there.

And I think that ICANN correctly noted yesterday and I for the life of me cannot think of who it was, potentially (Cyrus) actually, said, you know, "We put this in there and we don't see any reason - it doesn't have anything to do with security and instability being (unintelligible) so we are going to take it out." So my recommendation initially was going to be Jonathan that I would say yes we should take this out but I am also still of the mind that the GNSO shouldn't be really weighing in on it.

Keith Drazek: Thanks Reg - any other comments or questions - Kristina.

Kristina Rosette: If I can draw on some of my prior experience I think it is a safe bet that there will be other counselors who will argue quite strongly that it is a matter of GNSO policy so I think our counselors need to be prepared to articulate very clearly and specifically why it is not.

Keith Drazek: Excellent, thank you Kristina - anybody else - Jonathan back to you.

Jonathan Robinson: How do our counselors other than me feel like - feel - what is the position do you feel like you are in to articulate this clearly and strongly.

Keith Drazek: That is for - that is a question for the existing councilors, not the new ones.

Bret Fausett: I will articulate it clearly and strongly.

Jonathan Robinson: Thanks, I think it is important because it will be a medial backup and content to deal with that so - and I have taken some notes. I will share them

with Donna and Bret as well. They are just my own personal notes but I will share them with you just so there is more background there as well content.

Okay, the next item then is on - it is a similar kind of thing where it is a discussion of possible action. Request from board concerning policy work on exclusive registry access to generic strings and there is another letter from the board where we went back to the board and said, "Look, you are asking us to do this in public interest, global public interest but have you defined global public interest?"

And they came back and said, well, they will support the community in diving that so they sort of sent it back over the fence and in reference to exclusive registry access to generic terms the board is supporter of the GNSO considering the fact and for subsequent rounds of new GLTD program and stands ready to provide any information. We look forward to hearing your progress on this topic.

So I think here we just indicate that it will be part of the new GTLD further - any further work on new GTLD's and that should be enough so that is what I suggest we do - any other comments or points?

Jordyn Buchanan: Yes so I guess two points again. So first is I do think this is a topic that one of the unresolved actual policy topics from this round. I think the GNSO does need to weigh in on as we head into potential future delegation of additional TLD's so I think at some point the council is going to have to undertake this work.

As to whether or not like it makes sense to do it like right away or wait until you figure out how you are generally establishing the work around the subsequent rounds or subsequent TLD's I think is a question that is probably for the council to work out. I don't have a strong opinion on but maybe it makes sense to get a head start recognizing that it is probably going to be necessary to undertake this work in any case.

But my second point is I don't think you - like given that - given that you are doing that you would frame the work is like, hey we need this as an open policy issue from this round that we sort of stumbled in to and need to make sure that we resolve before we go into the next round.

I don't think you ought to feel constrained by the fact that the board asked to look at it in the general public interest, you just need to answer the question of should there - should registry operators be able to limit a generic term to exclusive use and under what circumstances and I think that is a perfectly rational basis for a PDP and then I just sort of leave open I think where that fits in the sequencing of the council's work is a separate question that maybe the new chair will have to undertake.

Keith Drazek: Thanks Jordyn, anyone else in queue - Jonathan back to you.

Jonathan Robinson: Right, so I am trying to get through this but is - I guess it is important to make sure so that is exclusive access to generic strings. We have got the final of the independent examiner on the GNSO review and an opportunity to discuss those - any particular aspects of the final report and consider the possible implementation. I am not sure we are going to go very far with that now on the implementation side and then new ICANN meeting strategy.

So I guess the opportunity here is for you to communicate any particular concerns that you have that you would like to raise at this point in terms of that final report and I mean I am just hesitating because this - I can just feel the scope - I mean when you see the enormity of - and we haven't even touched on, nobody has mentioned IANA transition and you see all of this stuff going on in the background so it does make it challenging for - I understand for people to keep on top of it and I think Chuck has been part of the working group so it is a shame he isn't here because he might have - he is on a (unintelligible) so him - let's at least give him the opportunity if he would like to speak and anyone else.

Chuck Gomes: Hi everyone, this is Chuck - Jonathan could you repeat your question please, I was busy typing in the Chat.

Jonathan Robinson: No worries Chuck, it wasn't a specific question. It is really just that there is the discussion of possible action item relating to the final report of the independent examiner on GNSO review.

Chuck Gomes: Okay.

Jonathan Robinson: So the point for the council really is to discuss the recommendations of the work - of the GNSO working party on particular aspects of the final report, you know, the concerns that have been raised, and also to start to think about implementation. So it is really a matter of making sure our group and the stakeholder group and the councilors are informed enough to weigh in should they feel they need to at this stage. It is relatively early but there is still talk of, you know, perhaps weighing in to possible implementation of some of the issues so that is the context.

Chuck Gomes: Sure, let me comment on that. That is easy to do. The GNSO Review Working Party had a meeting yesterday I think, depending on what day we are talking about - Monday morning early in the day and I was unable to participate because they didn't have remote participation but I have been pretty active on the list the last several days.

The Working Party is actually going through and in their meeting yesterday went through a lot of the - most of the 20 - 36 recommendations and has developed recommendations or will finalize those recommendations to the OIC, the Operational Improvements Committee in terms of implantation. So we are actually looking at, you know, making suggestions with regard to implementation.

I haven't seen the final results of that yet but we are going to have another session in the next - I think in early November where we will finalize that work and of course that will then be vetted with our various constituencies and stakeholder groups so that the whole community is involved, not just the working party.

I think in most cases the recommendations probably are pretty good. Some of them will be more costly and more complicated to implement and will take that into consideration in the recommendations we make. There is one recommendation as I think everybody probably is already aware, recommendation 23. It is a little more complicated and I think the Working Party is coming to terms with a statement with regard to that.

That is recommendation where Westlake said that the - they thought that councilors should be elected by constituency. Well I don't have to tell anybody in the room there that that has some problems with it because for example in the contracted party's house, you know, so far we don't actually have constituencies.

Anyway I think basically what the Working Party will come back and suggest there is - is that before approving such a recommendation the GNSO needs to look at that and deal with some of the problems based on existing structure and future structure of the GNSO before any such recommendation would be recommended.

So let me stop there - I probably said more than what you need but hopefully that is helpful. I will certainly ask - answer any questions that you might have.

Jonathan Robinson: Thanks Chuck I think that is very helpful and you have obviously got the direct experience of it so I am good that the group is probably briefed and knows what is going on and that we have got the capability to handle that item.

Chuck Gomes: Oh one more thing Jonathan - Chuck again. The Organizational Effectiveness Committee, I think I said it wrong before, OEC, is not going to consider this until after the first of the year so we have some time to work on it and that is probably an important point that everybody needs to be aware of. Thanks.

Jonathan Robinson: Thanks Chuck and over to you then Keith. I think that covers the GNSO item.

Keith Drazek: Okay, thanks very much Jonathan and thank you Chuck. It is good to hear your voice. I should just take a moment to note that if anybody thinks there is something odd that Chuck is not here in the room with us and he had a death in the family last week and decided to stay closer to home and Chuck just wanted to let you know that our thoughts and prayers are with you and your family. I think you speak for all of us here in the room and you are missed here.

So let's go ahead and move on. The next item on our agenda is - let's see getting back to our list. Yes, - go ahead Stephane.

Stephane Van Gelder: Oh perhaps I can just - putting someone on the spot a bit but just before we finish with the GNSO business I just wanted to point out Valerie Tan who is over there. She is the new NomCom appointee for the CPH so there is Valerie. Please make her feel very welcome and help her out as much as you can.

Keith Drazek: Great, thank you very much Stephane. Okay, so next item on the agenda is to talk about the council chair elections. So I think we have had extensive discussion about this for several weeks on the list. We had a dedicated call for interviews with James and Heather, the two candidates. We discussed it earlier with the registrars to get their input and thoughts.

I am going to open it up I think, you know, as it stands right now the new incoming councilors will be the ones casting the vote for the new council chair. There has been a suggestion on the list that technically we could have the ability to sort of, you know, let the councilors decide on their own how we want to vote. That is typically not how we do business in the Registry Stakeholder Group, certainly not on policy issues but - and this is an important decision and I think that speaking personally as one of the incoming councilors taking off my chair hat for a minute, I would be - I would prefer that we stick to our procedures and our normal processes and come to a consensus discussion or decision around how we cast our vote in terms of the next council chair. So I am asking to be directed and I think the other councilors, incoming councilors would feel the same way.

So and I would ask, you know, certainly Rubens and Donna if you all have any thoughts on that as the councilors before we open this up.

Donna Austin: Thanks Keith, Donna Austin, do you mean in terms of the question of whether we want to be directed by the Registry Stakeholder Group?

Keith Drazek: Yes, exactly.

Donna Austin: That is certainly my preference, thanks.

Rubens Kuhl: Just wanted to Rubens for the record - just wanted to point out that wouldn't like to be directed to vote for none of the above so direction is definitely interesting but not when it goes toward direction that possibly not where we want to go.

Keith Drazek: Fair enough, thanks Rubens. Okay, so I am going to open it up. Let me take a queue. Okay, go ahead Martin.

Martin Sutton: Martin Sutton, HSBC. I mentioned - I heard some talk earlier about politics and that kind of concerned me a bit because I didn't quite understand whether it was internal politics or external politics and the reason I say that is

I think there was an indication that it is very much internal politics and some squabbling which is a real shame when we start looking at the particular candidates. You know, it is the quality of the candidates I think from what I have seen and heard very, very capable of doing the role.

So my - I have got a question here. It is really to understand and if anybody can help me as to what is the advantage of one of those individuals taking the role and secondly in terms of the accountability discussion that have, you know, been going on for some time that puts a strong focus on ICANN from the outside so the visibility of this and being able to indicate and illustrate, you know, quick decisions are made but, you know, conscious decisions are made where we don't hold hands with another Stakeholder Group for instance because I think it is very much is what does this group think is best option in coming to that agreement but understanding it shouldn't just be the internal politics.

Keith Drazek: Thanks Martin so I can respond to a little bit of that myself and then others may have views. I think your first question was it internal or external politics. It is internal politics to the GNSO so it is external to the Registry Stakeholder Group but it is internal the GNSO and the council in which we operate.

And so in a sense it is a, you know, the question is I think politically if we signal or, you know, if we - yes, if we vote for a non-contracted party house is that a gesture that would gain us something in terms of taking away the arguments for a restructuring of the GNSO.

The longstanding complaint from the non-contracted party house is that the contracted parties are usually of like mind that we stick together as registries and registrars. The non-contracted party house in this bicameral structure is very diverse, of different views. There is non-contracted party, non-commercials and commercials and they don't always agree. They rarely agree and so it is harder for them to stick together and identify a candidate that they can support.

As a result the contracted party house for a number of cycles has had the chair position so one of the complaints that the non-contracted parties use is that we have never got - had the chair or we almost never have the chair position and that is an example, an indicator of the dysfunction of the GNSO structures, that is why we need to restructure.

So contracted parties like the current structure for those reasons so I am stating it bluntly - go ahead.

Martin Sutton: So that does raise a couple of questions which is - it is largely around again looking at the candidate if there is not much in terms of difference between them and there is this internal politics but bigger and beyond that there is the external optics.

Would it actually be far more preferential to make that part of the decision as a factor because that could, with a very good candidate on the different side with Heather that could actually resolve a number of visible issues that are constantly raised but with no real objection as to the candidate because the qualities, capabilities exist in that candidate. So that is the kind of point that I was trying to make with the exchanges on the emails.

Keith Drazek: Thank you Martin and this is something that we actually have discussed a fair amount on the registry list over the last several weeks. It is actually something we discussed the last election cycle. This is not a new issue and those are the exactly sort of the questions that we are asking ourselves here.

I think one of the questions that I have asked myself and asked myself is, you know, it - does the gesture really get us anything in return and it is just - because I think the complaint will always be there but is a question - go ahead.

Martin Sutton: So the response to that - I am a business person, I am mainly an operations guy and to my mind that means we have got one extra resource to use on our side for a very complex year. We have lots of working groups in operation. You put that resource where you are going to get the best return.

That goes back to my first question which is or one of the first questions which is where is the advantage of taking that chair position. I don't know what it gives anybody either side in taking that role, apart from, you know, it is a complex job to do, let them get on with it. That is where I see an additional benefit.

Keith Drazek: Understood - so I have Reg and then Ken in the queue. Would anybody else like to get in - Kristina, okay Reg.

Reg Levy: Thanks. I definitely think that the political value of selecting someone from a non-contracted party house is not to be underestimated but I am not convinced that it wouldn't just be seen as a token gesture and I am not convinced that it would get us anything.

I would be very interested to hear from the people who were here in the last cycle why the decision was made last time the way it was because clearly this is the same conversation that has been going on and it sounds like at that time the same thing was - the same decision was come to. It is not valuable enough for us to make, I am not going to call it an empty gesture, but to make what may be seen as an empty gesture, simply for the bone to throw to the non-contracted parties.

Keith Drazek: So Jeff are you responding directly. Okay so Jeff is going to respond and then I have got Kristina, Bret, sorry, Ken, Kristina and Bret.

Jeff Neuman: Yes, so - this is Jeff Neuman. There hasn't been a viable candidate from the non-contracted party's house since we divided into houses and I don't mean that as an insult.

I mean that there has been no candidate that has been supported by the non-contracted party's house unlike in this case where Heather is supported by both the NCSG and the CSG so we actually never did have - we have never been in this position where there have been two candidates, one supported completely by the other house and one supported by our house so even though we had a discussion about finding a candidate from the other side there was never one presented to us since - I am going back, you know, you had Jonathan and then you had Stephane before that. You had Chuck before that and then the one before that was...

Cherie Falco: And welcome to the afternoon session of the registry.

Jeff Neuman: Avri.

((Crosstalk))

Jeff Neuman: Yes she was in nominating committee perhaps. She wasn't from the other half of (that).

Keith Drazek: Thanks Jeff. And also just to clarify that last cycle there was a competitive election, right. But it was - it was Thomas Rickert? Or was that within our - was that - yes, Jonathan go ahead.

((Crosstalk))

Jonathan Robinson: We just don't appoint practical - practicalities here. Either side can put up a candidate of any current counselor. So they can, you know, the other side to put up a counselor from our side and vice versa.

And in fact, at the last cycle - the last competitive cycle, which was aghast when I came in, I think I stood unopposed at the previous two annual cycles. Thomas Rickert stood as the NomCom appointee, but he was nominated by the non-contracting party's house.

So to that extent they did have a candidate. And it was a competitive election and evaluated on the merits of the candidates.

((Crosstalk))

Keith Drazek: Sorry. Go ahead.

Jeff Neuman: Yes just to respond to that. That - yes, he was put up by the other side but he wasn't a - we didn't have this discussion of optics and everything because it wasn't the same thing.

Keith Drazek: Right. It's a slightly different dynamic. So I've got Kristina, Bret, Jeff. Who else would like to get in the queue? Yes sorry Ken -- Ken, Kristina, Bret.

Ken Stubbs: I'm sorry, but what it really boils down to in my opinion is competence and the ability to lead and manage. And when you make your decision, you have to decide whether or not both candidates - start out with are both candidates equally competent. Do both candidates have the experience in that environment? In my opinion they don't, Number 1.

Number 2, I could turn the optics around and say, well then I guess what it really means with the way that this whole GNSO is divided, the contracted parties always have the power. It seems like they have to come to us to ask us to support somebody who may or may not be that competent, Number 1.

And Number 2 is, I'm sorry, I can't buy the optics. And the reason very simply is if whoever makes the final decision to allow this migration from the US Government to an independent organization looks at this as one of the principle determining factors as opposed to be accountability issues and the board and stuff like that. We got a real serious problem going forward.

So I'm going to stay with competence unless someone else can prove to me that my decision isn't practical.

Keith Drazek: Thanks Ken. All right, Kristina then Bret.

Kristina Rosette: Sure. Kristina Rosette, Amazon. First I'd like to respectfully disagree with Ken on the issue of competence. Heather has been involved in ICANN for many years, although most visibly recently has done frankly a masterful job with the country and territory games cross community working group.

Given the competing interests and very active participation of significant numbers of representatives of governmental - national governments, I think the fact that that working group is not in fact included at this point is really quite a testament to her capabilities.

Second, I can assure you that the CSG at least will gain as much mileage as they possibly can if there is not at least one vote from the stakeholder group in support of Heather.

Part of what - part of that is going back, you know, even before (Bruce Tonkin). There hasn't been a candidate from the stakeholder groups in the non-contracted party's house.

Yes, it's correct. Tomas Rickert was the - is the voting NCA assigned to that house. Didn't come from any of the stakeholder groups in that house. Avri Doria, non-contact - NonCom appointee joined NCS - NCUC after she was elected chair.

I just would really encourage the folks in this room to give some serious consideration. While I would like it to be the case, and I think I can see this on behalf of Amazon that the stakeholder group would support Heather.

If there is not a willingness to do that with all three of the votes that are allocated to us, I'd really strongly encourage us to split our vote.

Keith Drazek: Thanks Kristina. I've got Bret, Stephane, Reg, Martin, Jeff and Donna.

Bret Fausett: Let me raise one important distinction between the two candidates. And I don't have to go back far, just rewound the clock one hour to when we were talking about the IPC making a very strong statement to the board about the need to bring copyright infringement into our abuse mitigation, our responsibilities.

Now, if at that is indicative of the views of the IPC, we are going to have a chair who views the mandate of the GNSO as very large when perhaps the actual mandate of the GNSO is much smaller.

So that is an important distinction in the candidates and the views that they'll bring. Remember that the chair has some important responsibilities for setting the agenda and bringing things before the Council. And I worried that a chair with a very large view of ICANN's mandate may not be the right person for us.

Keith Drazek: Okay thanks Bret. Over to Stephane.

Stephane Van Gelder: Thanks this is Stephane. On the history Kristina, I think Philip Sheppard was the last true non-contracted party's chair. I think he was here in the room or he is. So perhaps he can correct me if I'm wrong.

But as Jeff was saying earlier since the [picameral](#) structure there hasn't been one. So it was Avri then Chuck. I believe Chuck was on - ran unopposed. I ran against Olga, then Jonathan against Thomas and then - then that was it.

And the second time I ran I was unopposed. And the second time you ran, you were unopposed. So that's the politics Martin that we're dealing with is, you know, there's a feeling - I've heard a feeling from the other side that it's always us and why should that go on, et cetera, et cetera, et cetera.

But you asked a very important question, which I'm not sure you got an answer to which is what's in it, you know, what does it give the winning side to have the chair?

And if you look at - I mean I can certainly answer it from the other - taking it from the opposite side. The house that gives up a counselor to the chair position gives up a counselor. That's very clear. It's very hard to be an engaged, active counselor and at the chair at the same time.

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And this is part of the discussion that I had with James. And this is where - this is what I was seeing this morning. This is where one of the things that he convinced me is that, you know, he is keen to, if elected to be able to steer the Council in a direction of effectiveness.

And that's important point, you know, keeping the Council effective that might make it worthwhile having someone as organized and as knowledgeable as James is.

So, you know, I think he was answering the question from that point of view. And he certainly convinced me that it's probably at this stage the best alternative.

Keith Drazek: Okay thanks Stephane. I've got Reg, Martin, Jeff, Donna and Jon. Reg.

Reg Levy: Thanks. I want to build on what Ken said about competency and that it also has to do with fairness and the ability to set aside your own position in order to chair the discussion and not let your own viewpoint come forth. And that is not a skill that I have seen evidence with Heather when I had worked with her, even just last week.

And - but indication of what the IPC is thinking right now is also something that gives me pause about this situation. With regard to the votes, can somebody sketch out the history of why we might not want to split the vote because I think that that sounds like a fairly amenable option, especially given the division that we have here.

Keith Drazek: Jonathan you want to respond to that?

Jonathan Robinson: Two things, and I may not have the whole picture, but typically, and be clear, I'm not necessarily anti splitting the vote, but it would be unusual. Typically we formed a common view and directed our counselors to that common view.

It may be that this is - this forms a new situation. And maybe indicative of the changing makeup of the group. So it's possible that that could be the case, but that's been our historic position.

When that translates into the actual votes in the Council for the chair, there is - there are certain thresholds that have to be passed. And essentially in order to make it go straight through, and I - perhaps not around. Did you walk through the voting process this morning? So you've got it. You've got the 60% threshold, the 100%. Okay, so I won't revisit that. Thank you.

Keith Drazek: Okay thanks Reg. Thanks Jonathan. Martin.

Martin Sutton: Thanks, Martin Sutton. Yes, I hear all of this stuff and I - it just, you know, typically is the same thing that will be said on the other side. So, you know,

for all the - I haven't heard a clear indication of what we get out of it except we lose a candidate as a counselor into a very, very demanding role as chair.

So, you know, thanks Stephane. You pointed one element out where I'm sure I can hear the same goes from other parties, and including other contracted parties. So even against what I heard from Reg, I've heard completely different stories that are very neutral, very capable, very organized.

And so all I'm saying is that these same conversations will be going on in the same house, but with a different mirror. So again, I'll just go back to my point in terms of what are we giving up that's so drastic? What are we getting for it that makes it so important that we want to ignore the external optics and politics that are beyond that the GNSO and far more reaching? So okay thank you.

Keith Drazek: Thanks Martin. Jeff, Donna, Jon, Ken.

Jeff Neuman: Yes thanks. Jeff Neuman. I just want to say, so I'm friends with both of them, with both Heather and James. So I just want to put that on the record. I don't believe it's fair for people to say that one person is more competent than the other if they don't know them very well.

I would say that they are at least equally competent, at the very least. So you may not know them and you may have your own preferences, and that's totally fine. I mean you could think of one - for whatever reason, but let's not make an assertion that one person is more competent than the other.

And then I also want to point out that no chair has - even going back to Philip, no chair has used the position of chair to push their group's agenda. None of them. Not Jonathan, not Stephane, not Chuck, not Avri, not Bruce and not Phil - and Ken, not you when you were chair a long time ago, when you were registrar rep.

So let's not take the view of a - of the IPC and say that every person in the IPC feels as strongly as the position they just advocated. And that they can't be neutral. Let's not get into that. Let's decide who the best - who we think the best candidate is and go with that.

Let's not attribute a group's position to that person since nobody's done that in the past. And, you know, the splitting votes is accounted for in our bylaws, or in the charter that we have.

So it's not unheard of. It was thought that at some point we could be a diverse enough to split our votes. So that does sound to me like a viable alternative. And, you know, we'll see what happens with thresholds, but it is something that we should consider. Thanks.

Keith Drazek: Okay thanks Jeff, Donna.

Donna Austin: Thanks Keith. Donna Austin from Neustar. So I appreciate, you know, the politics that we're trying to deal with and the optics coming from the other side and getting a little.

But I think we also have to think about, you know, the optics and how it looks to the registrar stakeholder group if we go against their wishes as well. So we need to be very conscious of that because I think it doesn't, I mean certainly from my perspective it doesn't look good if we are going against the registry stakeholder group.

You know, Michele said here this morning, if in their mind it was two, you know, good candidates then, you know, they would have a serious discussion about it. But obviously they have some concerns about the IPC element of it.

And to some extent, you know, we really need to think about how that looks from our perspective if we decide to vote with the other house, particularly on something that is, you know, particularly serious. And, you know, has a - so it's a 12-month decision, so it could work against us in some respects down the track. So we need to be careful of that.

And I think in terms of Martin's point about, you know, what do we give up. Obviously James has thought about this, you know, for a long period of time and whether he's interested in doing this, and obviously Heather has done as well.

So I think that bit about taking somebody out of the discussion, that's something that James has already considered. So I don't know that it's a conversation that we necessarily need to have. Thanks.

Keith Drazek: Okay Jon.

Jon Nevett: Thanks, Jon Nevett. I want to echo a couple of things that Jeff said. You know, I want to speak in favor of other right now. She's not only competent, I think she'd be a fantastic chair. Anyone who has worked with her, I don't know about anyone, but I worked with her and I think she would do a great job.

And I wouldn't want any comments that are transcribed here from anyone to, you know, the otherwise - anyone reading those to think otherwise. I think she would be very good.

I think James would be excellent as well. James is the contracted party's house nominee, correct. I think that we have a responsibility as someone - we nominated him as a group. And I think we have a responsibility to vote for him in the first ballot.

And then I don't think we could go wrong if that doesn't elect him. And the other house is united behind Heather. I think we take another look at it at that

point. And then I think maybe we do split votes in the second ballot or something like that.

But my preference would be vote for him in the first place because he's our nominee. It would be pretty awkward and odd not to vote for our own nominee.

And then to the extent that one candidate isn't elected, then we revisit. And again, we'll have the luxury this time, not that we haven't in the past, but we have the luxury of having two fantastic candidates. Thank you.

Keith Drazek: Thanks Jon. Very well said. Ken's in queue next. But I just want to note that, you know, when we talk about, you know, if there isn't a candidate out of the first election elected - sorry that wasn't well said.

But the second ballot happens pretty much right away. It's not like we can come back to the group and talk about it. So at that point I think the counselors voting would need to have the discretion to decide whether to split it, how to split.

But I think there's a sense that if it's a question of split or not split, it's also a question of do you continue to support James with two and, you know, or vice a versa, right. Ken go ahead and then Jonathan.

Jonathan Robinson: Just to come put of (pressure) point), I'm not sure - the trouble with the pressures that Jon outlined, and just to be clear, as far as I'm aware you go through that first round and you don't repeat that election again and then think again. You basically - you either have - your result then goes to a vote between the leading candidate and none of the above.

So at that point your split vote has no purpose. So if we are to consider a split vote, I think it's probably at the first round. And understanding your point as to why we might not, is at the first round rather than at the second round because by the second round you're voting between the leading candidate.

Now it's obvious at that point your vote for none of the above is a protest against the leading candidate, or you'll just go off the leading candidate. Thank you.

Keith Drazek: Thank you Jonathan.

((Crosstalk))

Jon Nevett: Could I ask a question and just follow up?

Keith Drazek: Yes and then Ken.

Jeff Neuman: Jonathan, what happens if the entire contracted party house votes one way and the entire contract - non-contracted party house votes the other way? No one candidate has more support, right?

Jonathan Robinson: Yes. It goes down to the NCAs.

((Crosstalk))

Jon Nevett: Let's say those are split.

((Crosstalk))

Jonathan Robinson: An equal split, you need 60%. So if it's an equal split then you restart, right. Yes, when that happens, what you've just said Jon is 50/50, right? That's what you're saying, 58/58? Because there's a number - there's three NCAs and there's one that's not voting.

Jon Nevett: So to Jonathan's point, that was my scenario. If there is a tie and that there is a revote or something like that, yes then we could think about what to do. And then secondly, it that there is - if it goes to another ballot of 60% because someone got more, then we support that candidate. Thank you.

Keith Drazek: Ken and then Susan.

Ken Stubbs: Yes two things. Number 1, we are not kicking the can down the road here. Number two, if we split our votes, but are all intents and purposes and let us assume that Heather has full support in those houses, then Heather would be the candidate who would go forward to Heather or nothing at all.

So I think we need to be - we need to concentrate. First of all, if we're going to be voting with the non - with the other contracted party's house, and if we're voting as a united house, we know that there's going to be another round because Heather - neither one would.

The only thing you have then is how much unanimity is there on the other side. We're operating on the assumption at this point and time that all three - that the business - the IPFs, the IPC and the so forth are all going to vote unanimously for Heather.

I cannot be assured that that is necessarily the case because I have talked to people on the other side and there is still some balls in the air over there. So, it may be a situation if we vote unanimously with the registrars that the other house ends up to use the term cutting their own throat if they can't convince the other two constituencies.

Keith Drazek: Thanks Ken, Susan.

Susan Payne: Yes thank you. I just - I wanted to quickly respond on what Jon was saying because I was agreeing with most of what Jon said right up until the end on

the reason why we shouldn't split the vote in the first round, having been because we put James up as a candidate.

And we specifically discussed this when we were deciding whether to support another candidate. And specifically agreed that we were doing that but it wasn't in any way dispositive of how we were going to vote.

If it hadn't been for that discussion and that agreement, I don't think we had agreement on putting him up as a, you know, supporting him as a candidate necessarily from the whole of the stakeholder group.

So I'm really concerned about how the whole process has played out I guess. And that's just a quick comment I wanted to make at then I'll get back in the queue.

Keith Drazek: Okay thanks. Yes, and just to be clear, no decisions have been made here. We're still working through this. We actually don't have to make this decision, even though we have to get ready to go to the board, it doesn't have to be done this second. We have until tomorrow.

We can take it to the list. We can, you know, gather for another discussion. But - so no decisions have been made despite what people have said in terms of their personal views. You're back in queue. Go ahead.

Jordyn Buchanan: All right, so I want to react to a couple of things I've heard. So first of all, even though it is absolutely the case it is James's choice to run or not, I don't think it follows from that that there's no cost to the contracted party's house to having James serve as a chair as opposed to an advocate.

And, you know, I think Jonathan has done a fantastic job as the chair of the Council. And I think the Council would have - the Council as a whole would have been worse off without Jonathan's leadership.

But at the same time I think as a registry stakeholder group, we very much I think would have been able to more forcefully advocate our position at times if Jonathan would have been able to serve as an advocate as opposed to neutral chair.

And so it is, you know, perhaps we should think that it's up to the registrars to decide whether they want to dilute their voice or not. But I certainly don't think we should just dismiss the fact that we do lose an effective advocate in the form of James if he does become the chair.

I'm not necessarily advocating for Heather for that reason, but I just, I don't want us to dismiss the cost associated with having a representative serve as the chair because we do lose some advocacy as a result.

And the second point I would make is I'm just going to go back to this gesture I made on the list. I don't feel like we're anywhere near a consensus in this room. And I know that we generally direct our counselors how to vote.

But usually we do have a consensus in the room when we do that. Usually it's on a policy topic. And often, if we need to get to the point that we provide direction if we don't have consensus, we could conduct a vote in order to figure out what the overall - how to direct them.

And in this circumstance, I don't think we really have time to conduct a formal vote. I don't think we have consensus around the room. And so the only sensible thing to me seems to simply allow the counselors to vote at their own - vote their conscience essentially, which is where we'll end up - if we end up in a situation where they have to make decisions on the fly, that's roughly where we end up anyway.

And I agree with Susan that we shouldn't be locked into the first round just because James has advanced as our candidate because we didn't in fact have this conversation before James was advanced as a candidate. Okay thanks Jordyn. Susan.

Susan Payne: Thank you. Jordyn is right, we don't have consensus, and maybe we won't get it. I think if that were the case, I don't think we should be asking the Council (unintelligible). I think we should be directed them to split their votes.

You know, there are clear views on, you know, in favor of both candidates. And that's reflected by instructed the counselors to split their votes. But the point that I was (standing up there), actually I was (unintelligible) and I kind of forget - forgot which point I wanted to make.

But it was just to go back to the registrar's candidate and the choice of James of the registrars. You know, I don't know James so I'm not making any statements about his suitability or not. Whereas I do know Heather and, you know, it's very easy for me to feel very supportive of Heather because I do know her and I've worked with her.

But, you know, the fact that the registrar selected James and are, you know, supporting him consequently. I mean of course they're not going to vote for Heather. I mean he's their candidate and they selected him.

And so we shouldn't be sort of looking at that and going the registrars have gone with James because they, you know, they think he's the best candidate. I mean they're going with James because he is their candidate. I don't think that's something that we should be taking into account.

Keith Drazek: Okay thanks Susan. Jonathan and then we need to wrap up because we have to get to the board meeting and we also have to talk about the statement that's been circulated.

We're going to come back after the meeting with the board and continue with this conversation because it we are clearly not ready to make any decisions at this point. So this will be the topic after the board meeting back in this room. So Jonathan you have the last word right now.

((Crosstalk))

Jonathan Robinson: I'll make two words, one on substance, one on process. I do think - and I'm thinking about it. I don't have the answer, but I do think that issue of scope and purpose of the GNSO Council and policy making within the GNSO is something really critical we need to think about.

And in evaluating the candidates, you know, the argument was made in favor of James. And I'm not necessarily saying it falls in favor of James, but I am saying it's - I really think it's a critical point for us because one of the challenges we'll face is expansion of scope.

And I think it is in the interests of - without (Elliott) in the room to say the contracted parties to retain their tight scope. I mean the whole reason we are passionate about the split between the two houses and scope is about the protection of the nature between what is in scope for negotiation NonCom track or not. What is in scope for policy development in our contract and what is out of scope?

And all of us are in the same boat in that area. So that's - on process, I'm a little worried - I'm not quite sure. And I'd like someone, including me to try and understand if we draw in the first round 100%, 100% to Jon Nevett's example, I'm not quite sure what happens there.

I think we made - that may be the case where we therefore fail to have a result. And as a consequence of failing to have a result, we then put the two vice chairs in charge of the Council and have to re-nominate.

So we go into a deadlock. And that is problematic for a number of reasons, which I won't try and describe now. But both optically and practically, that's not great. I'm off the Council. I can't help. And we end up with the two vice chairs.

So that's - I don't think that's a like - I don't feel that's a likely result, but we should be aware that that's an issue. Thanks.

Man: And that's the new vice chairs, by the way.

Keith Drazek: We need to draw line here. Thank you. We're going to continue this topic after the meeting with the board. We now have to take just two or three minutes to talk about the statement and who's going to read it and all of that. Jon go ahead, Kristina if you want to...

((Crosstalk))

Jon Nevett: The last paragraph seems to be all about registrars and 3.18. I don't know if we are wordsmithing and all, but it doesn't deal with registries. And instead of saying in the first sentence, the last paragraph that, you know, ICANN compliance should rightly be involved in working to see that all registrars should respond to requests under RA 3.18.

I'd rather see it say ICANN compliance should be rightly involved in working to see that all requirements or, you know, contractual provisions are adhered to by the contracted parties, or something like that. But if he's not in the room, then I don't know what we could do.

Keith Drazek: Well remember, this is a statement that we - I assume somebody is going to read. And I'm happy to do that if that's the decision for the group and the board session.

And then it's going to keep up conversation, right. So there's an opportunity I think to come in after the fact with further points and the elaboration. What do you think Jon?

Jon Nevett: If that's the case, I would suggest that (Elliott) read it because it's really coming from the registrar perspective. And then we support - side with them. And then maybe we can follow up with a statement of our own.

Woman: Hi (unintelligible). Maybe what we do is we have the registry start reading and then (Elliott) comes in joins and just reads the last paragraph. So two people stand up and read it.

Man: He can read the whole thing and then we can just individually come up and say, if we want that we support the statement. And by the way, you know, we think ICANN compliance should make sure that, you know, contractual obligation are adhered to.

Keith Drazek: All right, so let's communicate - thank you. So let's communicate to (Elliott) that he's on the hook for reading this. He'll be eloquent as always. I think just in terms of process, because we need to move to the board room now, I got a note from Allan Grogan saying that he's not going to be there at the beginning of the session with the board. He asked for this topic to be pushed towards the end. And he said he'd get there quickly.

So we have three topics for discussion with the board - if I can find my notes. The CCT RT appointment criteria, this content regulation issue and then any sort of discussions about the urgency for our next round or our interests to see a next round.

So we'll take those other two first and then leave the content regulation discussion for the bulk of the discussion, but towards the end, Kristina.

Kristina Rosette: Yes, I'll just - there have been a couple other additional tweaks suggested on the list. I'll incorporate those and then we'll go ahead and send the revised statement.

Keith Drazek: Perfect.

Kristina Rosette: I'm going to copy (Elliott). But since I'm going to stay here and get this done because otherwise I'm going to get off the network and it's going to be a mess. Could someone communicate to him our request that he be the one to read it?

Keith Drazek: Yes absolutely.

Kristina Rosette: Thank you.

Keith Drazek: Thanks Kristina. Okay, so we'll go to the board meeting room, which is in the auditorium. And then come back here immediately after for a continued discussion about the Council chair election. Thanks.

END