DAVID MCAULEY:
Thank you. So, I want to say it's been a while since we've spoken. I would like to welcome everybody back. I look forward to trying to find a way forward so we can start to regroup and move on.

Before we get started, let me ask if there are any updates to the statements of interest. Not hearing any. Let me ask if there is anybody who is attending by phone who is not showing up in the Zoom room. Again, not hearing any.

So, in just a moment, we'll get into agenda item number two, which is to look at the current state of play. But before I do that, since it's been a while, I want to ask our lead staff support, Bernie, if he has any comments that he would like to make. I'm not asking you to make any, Bernie. I just want to give you a chance if you have anything you would like to mention to the group. Thanks.

BERNIE TURCOTTE:
No. I'm just glad we're getting a meeting. Thank you.

DAVID MCAULEY:
Thanks, Bernie. So, let's move to agenda item number two, which is to establish, as I said, the current state of play. We have been struggling with a couple of things, as we all know. One is low participation rates. We do have a nucleus of a very active group, many of whom are on this call. As I said, I'm very appreciative of that. But we also need more members because we've seen it before, the list I put out of additional items that fall under bylaw 4.3 that sort of fall to us to do and they're

becoming obviously very important. Not only to finish the rules of procedure, the interim supplementary rules, but also to gather more members and also then to deal with the challenge that Malcolm put on the floor about the nature of ICANN Org's participation in this group.

So, let's take that issue as the first one to address in this call. As you've seen from my various emails about this next meeting, this meeting that we're having right now, is basically sort of a reorganizational meeting in a sense.

Malcolm has put a challenge on the floor and has explained it quite diligently. I took a little bit of a different view. I think it's fair to say that Malcolm's position was supported by Malcolm, by Robin, and by Mike Rodenbaugh. I don't know that I mentioned Mike's support in my email, but Mike, in an email to the group on December the 6th supported Malcolm's position overall. So, that is a challenge to the nature of ICANN Org's participation in this group.

There is a procedural question relating to the challenge that we face in getting a decision on this and that is how do we move the challenge forward. We had a hearing about it in December. Both sides got a chance to air their positions, their rationale for what they thought, and then we had a difference of opinion on how we move this issue forward.

And as Malcolm pointed out in an email that he sent to the list today, he has drafted a letter to ICANN chartering SOs and ACs to present the issue to them for decision basically. I was of the view I believe that I expressed that the issue would go to ICANN and the SOs and ACs. So, that's where we are.

I want to ask if anybody has any comments on the procedural issue about how we move this issue forward for resolution. Do we go with Malcolm's approach? Do we go with my approach? What do people think? I'd be very interested to hear what folks have to say about that. So, [inaudible] comment. I'm hearing someone speaking up. Could I ask who that is?

CHRIS DISSPAIN: David, it's Chris.

DAVID MCAULEY: Oh, hello, Chris. Welcome.

CHRIS DISSPAIN: Thank you. I don't want to get into a discussion about the rights or wrongs or anything other than to suggest that it strikes me that the best way of dealing with this is to acknowledge that we have had – that we need to reconstitute, reinvigorate – whatever the right words are – this group and that in its reformed, reinvigorated version, that's the question which could and should then be considered rather than now.

DAVID MCAULEY: Thank you, Chris. Fair point. I do have a hand up now from Malcolm. So, Malcolm, why don't you go ahead and speak up? You have the floor.

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MALCOLM HUTTY: Thank you, David. Welcome back, and I guess welcome back, everyone. It's been quite a while since we spoke last and I think we may have forgotten what we said the last time we spoke because I think we got a bit further on than you recall, David. I believe that at the last meeting we actually decided how we were going to approach this in principle and were left to execute it. I believe that what we decided at the last meeting was that we would write to the chairs at the SOs and ACs, inviting them to propose new participants for this group and also for their view as to whether or not ICANN staff members should be voting participants in the group. I believe that what we decided was that you and I would work together on a draft letter to do that, and then that would go out.

Now, you were interrupted by – well, you know what you were interrupted by and so do I. So, that didn't happen at the time that we thought it might which caused some delay. But I wouldn't want us to go backwards. I think where we are is that we have decided to write that letter and the question is not what is the approach for how we resolve this but does the letter properly reflect the situation where we stand and therefore can it go out and can it be approved to go out, which is a rather bit further forward.

So, I think what we should be looking at now is the draft letter and whether that letter accurately reflects the position that we're in and clearly conveys to the chairs of the SOs and ACs the situation so that they are able to respond effectively.

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CHRIS DISSPAIN: David, before … I [just want to] respond to that.

DAVID MCAULEY: Please go ahead.

CHRIS DISSPAIN: In principle, I have no problem with writing letters, but I just want to stress that this group is actually a group that's been set up … It's not a community group. It's a group that's been set up pursuant to the bylaws and has a very specific task and that task is in respect to the IOT. It's not, in the board's view, a representational body. It is a specifically bylaw-tasked body and whilst I have absolutely no problem whatsoever with this group deciding, should they wish to do so, to write to the SO and AC leaders and ask them what they think, I would suggest to you that it would have – that such a letter would have far more – sorry, a response from the SO and AC leaders would have far more weight with the board in the event that the letter had been decided to be written by a fully functional IOT [inaudible] has unfortunately [inaudible] lost people along the way and isn't in fact operational at this stage.

Now, I acknowledge and accept … I just want to be very clear it is my personal view. I accept that my view will not be liked by others but that's my view and I wanted to express it at this stage. Thanks.

DAVID MCAULEY: Chris, hi. I would like to briefly restate what you just said, Chris, to confirm it because I lost a little bit of it. The connection at my end went pear-shaped for one or two moments. If I'm not mistaken, you were of

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the view that it would be good if in fact we could get a letter to the SOs and ACs and that what would be important more than our letter is their response to the questions posed to them, their views on this. That would actually be more informational to the board than what the IOT comes up with, acknowledging our current challenges. So, let me ask you, is that roughly a fair statement?

CHRIS DISSPAIN: Sure. I'm very happy for you to write to the board. If that's what you want to do, that's fine. But it strikes me that it would be more powerful if you went out to the SO and AC leaders with your concerns about ICANN's involvement in this once this committee, this working group had been reconstituted so that you could say to the SO and AC leaders that the reconstituted group with the new volunteers, the people that they had put onto this group, have had this discussion and feel it is appropriate and sensible to write to the SO and AC leaders and ask them that question.

DAVID MCAULEY: Okay. So, yes, I was talking about writing to the SO and AC leaders, not to the board. You're basically proposing a two-step process, then. We add new members and then write that letter to the SOs and ACs saying we've discussed this amongst ourselves with the new members.

CHRIS DISSPAIN: Yes.

DAVID MCAULEY: And we are of the view that this challenge exists and here's our views on it. What do you think? Is that a fair statement now of what you've said?

CHRIS DISSPAIN: Yes.

DAIVD MCAULEY: Thank you. I still have Liz in the queue and I understand the nature of Malcolm's challenge but in the pursuit of fully discussing this, I want to ask Liz to take the floor and comment and we recognize that the nature of the challenge that's in front of us. So, Liz, go ahead.

LIZ LE: Thanks, David. In regards to the nature of the challenge that's in front of us, in December of last year when this issue came up, ICANN Or has stated its position with respect to the challenge and we don't want to repeat that, per se, rather just our perspective has been that our role is to support the community and ICANN Org was asked, ICANN legal was asked, in 2015 by community to participate as a member in this effort and that our participation to date has been consistent with that ask.

                    We recognize that this is an important, a very important, group that, as Chris put it, was formed as the result of a bylaws requirement. The work itself is critical to ICANN. So, from the Org standpoint, we agree with the suggestion that Chris has expressed which is not putting aside the challenge at hand but I think we recognize as an entire team that there are issues with participation and that we need to repopulate the IOT.

So, we agree that it makes sense to first take that step of working to repopulate the group, get the members that are needed to be able to do the work that's needed and then address he issue of ICANN Org's participation in the group and our level of participation in the group once it's been repopulated.

I also want to address Malcolm's point that we decided to send a letter to the SOs and ACs. I don't remember that happening. I do remember – and ICANN Org's position is – because [inaudible] the bylaws provide that the IOT is to be established in consultation with the SOs and ACs, we do agree that it seems appropriate that any discussion about whether or not ICANN Org should be a part of that team should be consulted with SOs and ACs in terms of the manner in which how – I don't remember that happening. If the group decides that that letter is the appropriate way to go, we don't have an objection to it. But I would ask that we have the opportunity to provide comments and read the letter and provide comments and I admittedly have not had a chance to review it in full, and so would ask for the opportunity to do that and respond back on list. Thanks, David.

DAVID MCAULEY: Thanks, Liz. I have two hands in the queue, but before I go to Malcolm, whose hand was first – I think, Becky, you put your hand down. Before I do that, I will at some point, Liz, come back and ask if you know and if you could inform us as to what is going on to add members to the group. In other words, would it require a letter from the IOT to kick that process off? I've heard that there are steps underway to add members

MALCOLM HUTTY: Okay. I'd like to give a brief reaction to a couple of the points that have been raised in the order that they just occurred to me. To Liz's point that ICANN legal hasn't had an opportunity to review that letter, well, I posted that letter on the list on the 5th of March, so there has been some opportunity and we're not making much progress here and we seem to be going backwards in reviewing decisions that appear to have already been taken.

So, I would think that there has been an opportunity to review that, if there's been a willingness to actually engage with it. To Chris's question or suggestion that we would stage this and repopulating the group and then asking the question, I would actually be interested in the answer to the question, does he think then that we must actually stall all our work until the repopulation has completed? I notice that you had further items listed on the agenda below. Is it Chris's view that we need to wait until the group has been repopulated before we can consider anything more? And if not, what is the rationale that this issue alone should wait until it's been repopulated but other work can continue? That would seem to me to have the appearance of inconsistency. So I'd want to know what the rationale for a separate treatment there was.

More generally, I must say I must express the frustration that I feel that we're moving backwards here. We were constituted as a representative group. Yes, we are constituted under the bylaws, but that doesn't stop us being a representative group. Every ICANN group is constituted under the bylaws. That's how the bylaws work. That's what the bylaws are for. The fact that we're constituted under the bylaws doesn't stop us being a community group. The bylaws explicitly state that this is to be a group comprised of the community. And that's the basis for the challenge that ICANN staff should not be full members of it, or at least part of the basis of that challenge, because the bylaws explicitly state that this is a community group.

So I think it is for the constituting organizations to repopulate this group. I'm very concerned about the suggestion that there are some hidden, secret processes already in frame to repopulate this group with essentially [placemen] picked by ICANN Org. Not that I really recognize the concept of ICANN Org. There's no such thing, really, there's only ICANN incorporated as we all know.

But the idea that this is being handled sort of behind closed doors [inaudible] placemen would really worry me. The proper process for a community group is to ask the community to make its appointments. You asked, David, for a clear proposal to be put on the table for how we would do that, you wrote to me and asked me for that. I put it on the table on the 6th of March, and now we seem to be sort of ignoring it.

It seems to me frustrating. Why, what is even the point of engaging in this group if decisions never get moved forward if ICANN Legal disagree

with them, if they can always be revisited, and the input from community members is always disregarded?

DAVID MCAULEY: Malcolm, before I go back to the queue, I think your concern about the secret work in the background was prompted by my observing that I thought there may be discussions underway about how to do this, and so let me further explain it.

I didn't mean to indicate there's any secret work going on. I don't know. I don't believe there is. But I do know that our interest in getting new members is – that knowledge is out there in the community. In fact, I think it's in the ccNSO context, I've actually seen it in their list.

So what I've heard in the background is there are discussions going on – and it's not limited, I don't even know if it includes ICANN Legal – as to discussing perhaps a process to figure out how to put members on this. And as I said, I've not been engaged in any of those discussions myself. But I didn't mean to indicate or imply or hint that there's anything secretive or hidden going on. It's preliminary discussions, I don't even know amongst who. I'm just making the point really that our need for members has become well-known.

So anyway, let's go back to the queue. Greg, and then Becky. Greg, go ahead.

GREG SHATAN: Thanks. I spent the last few minutes looking through our archives, so to speak. It seems that the last true meeting that we had was December

13th 2018, and I found an e-mail sent out by Brenda on December 20th that indicated that there was one action item coming out of that meeting, [DM,] to draft a note to SO/ACs regarding issue of ICANN membership in the IOT and requesting more members to be appointed for review by the IOT.

At that meeting of the 13th of December, the agenda had an item on it to review a draft note from David asking for members, but not bringing up the ICANN participation issue. That was in an e-mail that David sent to the list on November 28th 2018.

So I think at that meeting of December 13th, we did decide that the letter would have two purposes, and the next thing, I think, was probably Malcolm's draft in March, I believe. So I think in terms of not coming back in on ourselves or going backwards, that's sort of the state of play.

Personally, I think that the issue of getting new members has become a little bit overworked and overwrought. It doesn't need to be that complicated. It's too bad that we didn't do it. [We tried somehow to hitch] two items together and managed to accomplish neither of them. We had just gone ahead in December and requested new members, we'd have them by now.

But in any case, I don't think it needs to be complex to ask for new members. Just a simple note. If we do roll it in with the ICANN participation, that's fine, or it could be two notes, two letters. But the one thing we shouldn't do is what we did between December and now, essentially, which is to sit with - and get nothing out.

Sometimes, the perfect is the enemy of the good. So either we should move forward on Malcolm's letter, which is what we did decide December 13, that there would be such a letter and that it would be drafted. And I don't know if David drafted a letter, but Malcolm did.

So it seems to me that in the interest of not redoing decisions, we should review that letter and get it out, unless we think that a quick and simple request for new members should just go out as soon as tomorrow, as soon as on this call, and stop getting overwrought about it, because I have a feeling that we will probably need to spend some time talking about Malcolm's draft. I don't think we'll need to spend any time talking about requesting new members.

So my proposal would be to bifurcate the two. I see Elizabeth saying that the request for volunteers was published openly and transparently in ICANN community leadership digest to all the SO and AC leadership. Not sure when that happened. I think the follow-up from David as the chair would be useful. I think we should concentrate on just dealing with that in a quick and dirty fashion and concentrate in terms of the letter in the issue of ICANN Org's participation. And that way, we don't have this kind of dance of two very different goals and different processes. So hopefully, we can just make a simple request for more members or follow up. I guess Elizabeth, if you can show us when, where that came out. Because – okay, digest beginning 4th of April. Hopefully, the community leadership sent that on to the community membership. I'll have to check and see whether being [near] rank and file I ever saw that. But probably.

And then just rely on that as something to follow up on, and then just make the letter a single-purpose letter to deal with ICANN Org. Thank you.

DAVID MCAULEY: Thank you, Greg. To answer your question, I d id put a draft out to the group along with Malcolm's, but that's just an answer. So the next in the queue is Becky. Becky, why don't you go ahead, please?

BECKY BURR: Thanks. And I don't particularly want to be controversial, but I feel like I am going to be controversial. I find this entire discussion about whether ICANN should participate as full members of the IRP-IOT very puzzling. I don't think that there's anything in the bylaws that provides a basis for excluding full participation by members of ICANN Legal assigned by Org. And rest assured, the board is paying close attention to this.

And frankly, as a member of the board of directors, I just want to be clear that I would find it very hard to reconcile excluding full members of ICANN Legal from full participation with my fiduciary duties to the corporation. This is a process that is critical and fundamental to ICANN, and it's the institution's views and the views of the board funneled through the organization and through the organization and through the participating board members is, I think, simply a requirement for legitimacy.

And the second thing is I don't think that there's anything sneaky or secret going on here, but I just want to make sure everybody

understands that the IRP implementation oversight team, the requirement is that it be established in consultation with the supporting organization and advisory committees and comprised of members of the global Internet community. But it is a team, a committee that is a creature of ICANN Org, not – it doesn't stand in relationship to this project in the same way that the GNSO or other organizations where there is a clear divide about who has authority for what.

Obviously, we want the community – since this is as far as I'm concerned one of the most important things that came out of the accountability work associated with the transition, we want to have this be as fully grounded in the community as possible. But I just like to get done with this conversation about whether ICANN Org participates fully in this and whether there are secret processes.

We want the SOs and ACs to provide members, but I do not think that that is the only source of membership in this team.

DAVID MCAULEY: Thanks, Becky. Robin is next in the queue. Robin, why don't you go ahead?

ROBIN GROSS: Thanks. Yes, so I'm also a little bit puzzled by this conversation and the by the lack of progress that we made in what seems like six months now. I remember at the ICANN meeting when Göran told – I believe it was the [GNSO council or it was in the public forum,] but when Göran

said, "Yes, of course, ICANN staff is not the same kind of participation as the communities group. Of course."

And [inaudible] decision being made [inaudible] review Malcolm's letter, and now [it's pretending] like neither of these things happened, and we want to sort of redo and go back and say [inaudible] answers on both [inaudible] didn't like those answers.

So this is exactly [why] the CCWG accountability was created in the first place, was because when this kind of gaming happens by the organization to try to change "[inaudible] the community and we can't have that, we must maintain total control," it's a little bit frustrating. I remember the decision that we were going to review Malcolm's letter. We said we were going to do that, and here we are, months later, and nothing has happened except now [we're] pretending like we didn't make that decision and we need to consider making other decisions.

And I'm also concerned about the concept that the goals of writing to the SOs and ACs and trying to get new membership are mutually exclusive goals and we can't do one until we've done the other [and put them together.] This, again, seems like another example of just trying to game the system by coming up with silly arguments and silly justifications to delay and try to prevent us from moving forward in the direction we were heading in just because the organization might end up losing a small, tiny bit of control here.

So I'm a little bit frustrated by this situation, to be honest. That's all. Thank you.

DAVID MCAULEY: Thank you, Robin. I think we got the gist of what you're saying. There was an artifact from time to time on your phone, but I think the gist came through pretty well. I think we got what you wanted to say. So Elizabeth, you're in the queue. Why don't you go ahead?

[ELIZABETH LE:]   I wanted to add some clarification to the call for volunteers and request for volunteers that was put in the community leadership digest. We placed that up and it ran for about three weeks.

There was some outreach from the community leadership in terms of how a person might be able to join and if there were any requirements to joining. So the request was taken down to get additional feedback from this group as to what are ways to answer some of these questions. So currently, the request is no longer running in the community digest, but it was running for about three weeks.

DAVID MCAULEY: So Liz, it's out there amongst the community, so presumably, it's being worked on.

[ELIZABETH LE:]   Yeah.

DAVID MCAULEY: But that is a word back to us to try – somebody suggested earlier, I think it might have been Greg, to go out and try and put some urgency in that process. So thank you very much for that.

[ELIZABETH LE:]   And I know that there's also been other members that have tried to do – I know the community is talking, I know there's outreach efforts. There have been – four people indicated interest. So it's out there, it's being discussed.

DAVID MCAULEY: Thank you. Next in the queue is Greg. Go ahead, please.

GREG SHATAN: Thanks. A key term here in trying to look at, if you will, the legislative history of this group, is global Internet community. Becky read from the appropriate section from the bylaws that the members of this group were to be drawn from the global Internet community.

And to remind myself of kind of the first time related to this process that we heard the term "global Internet community" was probably – although the term existed before, but I if you look at it in this context, it was probably the NTIA's announcement of March 14th 2017 where the press release was issued, "To support and enhance the multi-stakeholder model, the NTIA today announces its intent to transition key Internet domain name functions to the global multi-stakeholder community."

And then hilarity ensued, as they say. So part of the question is, what is meant by global Internet community? And in a way, we wrestle with that in many different ways over the course of time and what the role of ICANN Org is in the global Internet community. In that way, this IOT is a little bit different than other IOTs since it's got its own bylaw, so I think we need to look at that.

My view is that what got transitioned was oversight from the NTIA to essentially the accountability structures and the empowered community. So my conclusion in looking at that is that ICANN Org's role would seem to be minimal in that, and looking at it as the community as opposed to – and how we have kind of – when we have assembled the community, so to speak, what we have done to do that.

This is not a conclusion I come to because I am angling for a particular result. It's just my view that that's where the analysis takes it. So how we define the global multi-stakeholder community for the purposes of the accountability and the transition is really what needs to drive us. If we want to dig more deeply into what that means or figure out in some fashion what ICANN Org's role and the board's role is in terms of the workflow of this IOT, we should discuss that.

I think this is not an abstract question. Perhaps we're talking about it far too abstractly in that we have, I think, at this point at least specific concerns about what might be seen as two nodes of viewpoints on certain issues with ICANN Org kind of coming down on one side, at least some members of the group coming down very much on the other side. And that's kind of where the issue takes us.

And I haven't thought about this long enough to figure out what this says the role of ICANN Org should be, whether it's no role at all, whether it's just another brick in the wall, or is it some special role, I would tend to – the just another brick in the wall theory based on the idea of the global Internet community, global multi-stakeholder community, and the idea of kind of being equally multi-stakeholder In that sense. But we could probably torture this more significantly if we wanted to.

So, whether it's the global Internet community or the global multi-stakeholder community, we can argue about whether that's a significant difference as well. Thanks.

DAVID MCAULEY: Thank you, Greg. I don't see any other hands in the queue. I'll make just an observation in my personal capacity, and that is that there was a difference of opinion within the group. I personally was on the side that was across the aisle from where Malcolm was. I actually do see a role for ICANN Org, and I've stated that. And back in December when we had that – we should put that link out again, I think I will – discussion, that basically was my position.

But it sounds to me like there's a couple of things that we need to address. One is this group is frustrated at the time it's taking, and I will acknowledge that I'm responsible for that in good part. We need to move on. We have the challenge that's well-articulated by Malcolm, and I think we've recognized that we within the IOT cannot decide the challenge ourselves. I think we fairly think it falls to somebody that

would be acting appropriately under bylaw 4.3 [N,] which I think deals with establishing this.

So my suggestion, since we're on opposite sides and I think we are both reasonable in our approach, is that maybe Malcolm and I could take his letter – I do have some differences of opinion with Malcolm's letter. I don't think we need to get into them in detail now, but just for one example, Malcolm, I would tell you that I'm not sure the ccNSO will see the participation in the IOT quite the same way you do, because they have interest in the IANA naming function contract, PTI service, all that kind of stuff.

But in any event, if Malcolm and I take his letter and work amongst ourselves – and I'll put a commitment that I would send something to Malcolm within a week, so in other words it's not going to sit there like Robin was concerned about and Malcolm was concerned about – and get on with it and bring something to this group, we have to move this issue. Everybody's frustrated by the delay, and I think if Malcolm and I could do that, we could at least come to this group and say we've given it a good effort, here's what we think works, or we've given it a good effort and we haven't cracked this nut. But I think it would be incumbent on us, because we both feel strongly about this, I believe, reasonably, to try and come up with something that we could push this issue and maybe both issues to the appropriate place.

So I'm just interested if people think that that would work. Malcolm, would you be willing to do something like that?

MALCOLM HUTTY.   David, I'm always willing to try and work with you on reaching a conclusion that we can all agree on, but we do need to agree essentially what we are aiming towards. Are we aiming towards a letter to the SO/AC chairs inviting them to give appointments? If so, I'm very happy to work [on you and any formal words] that may state as clearly and succinctly as possible what is being asked of them and why.

DAVID MCAULEY: When you say appoint, meaning appointments to the IOT?

MALCOLM HUTTY: Yes. No, sorry, appointments to the – yeah, the implementation oversight team. Yeah. This group. Yeah. That's what we're talking about, is it not?

DAVID MCAULEY: No, it is.

MALCOLM HUTTY: Okay. Thank you. So if we are agreed, once again, that we are going to write to the chairs of the SOs and ACs inviting them to propose new participants to this group so that we can be revivified and move forward with renewed vigor, if that is the objective, I'm very happy to work with you on [the formal words] to achieve that and anything that can move that forward is good with me.

DAVID MCAULEY: Well, I would like to – oh, goodness gracious. I'm sorry, I'm struggling with Zoom a little bit. Pardon me for my hesitations here. I'm not sure we even agree on that, because the way I read bylaw 4.3 is that it's an ICANN bylaw that – and I'm talking specifically about 4.3 N is that an IRP oversight team would be established in consultation with SO and ACs, and that to me would include ICANN too. But can we try, Malcolm –

MALCOLM HUTTY: Sorry, in what sense is ICANN – no, I don't know what you mean by ICANN too anyway, but in what sense is ICANN Legal an SO or an AC? It's not.

DAVID MCAULEY: I agree with that. I agree with you there, that it's not. What I'm saying is –

MALCOLM HUTTY: Okay, so [it says that] it will be established. I'm sorry, I'm really confused here as to why you think writing to either ICANN Learn or for that matter the board is required by this bylaw.

DAVID MCAULEY: No, I'm –

MALCOLM HUTTY: It states clearly that it is the community.

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DAVID MCAULEY: I wouldn't write to the board. They don't need this in their lap right now. What I'm saying is it strikes me as I read bylaw 4.3 N that an IRP IOT will be established in consultation Work Track eh SOs and ACs, not n consultation by them alone. In consultation with them. And who is it that would be acting them? Well, these are ICANN bylaws. And what I read there is that ICANN would be. That group, whoever ICANN is, and the SOs and ACs.

But I want to come up with a –

MALCOLM HUTTY: [inaudible] you were only – let me pull up that particular –

DAVID MCAULEY: Okay. While you do that –

MALCOLM HUTTY: – [inaudible] because it says that the team will be – and I'm trying to pull it up, but I don't have it in front of me.

DAVID MCAULEY: Well, take a second to pull it up and we can give the floor to Greg Shatan. He's got a hand up. Why don't you pull it up so you can ... and then I'll come back to you after Greg.

MALCOLM HUTTY: Can you give me the clause number?

DAVID MCAULEY: I was looking at 4.3 N as in Nicholas.

MALCOLM HUTTY: Okay. 4.3 N states that "Shall be established in consultation with the supporting organizations and advisory committees – that's the bit you quoted – and comprised of members of the global Internet community." That's the bit that you omitted. That is the phrase, comprised of members of the global Internet community.

                        That requires us to have it comprised of – well, really, the people proposed by the SOs and ACs and not by the ICANN staff who are not members of the global Internet community. They are staff support.

DAVID MCAULEY: So, before I respond, let me go to Greg Shatan. Greg has the wisdom to crack through this and give us a solution. Greg, go ahead, please.

GREG SHATAN: Thanks, David. I don't know if I'll live up to that introduction.

DAVID MCAULEY: Sorry about that.

GREG SHATAN:	I agree the language is squishy when we want it to be a little bit firmer. "Established in consultation with" certainly seems to mean that there is another party that is doing the establishing, and the consulting, and that the SO/ACs are being consulted with. And I think that taking this in the larger context of the bylaws, that would be ICANN Org or ICANN Inc, ICANN the corporation.

Now, members of the global Internet community is, again, squishy. I note that when ICANN announced the transition, it talked about the transition of stewardship of the IANA assets to the global Internet community – I did not use the term "multi-stakeholder" that time, it's the global Internet community, so I guess the question for interpretation purposes, who has stewardship, specifically stewardship of the IANA assets. Does that help us? Is it the community that has the stewardship and ICANN that has the job?

And does it make sense to have this – [to] say that ICANN is not a member of the global Internet community? Or was it intended that this be completely non-Org people? I don't find anything here that definitively says that, because the term "global Internet community" is squishy. But I think if we do look at it as a question of stewardship, in that case, I do believe that stewardship went to the non-Org and the oversight to the non-org. But I'm willing to consider what part of what we do is considered stewardship and who does that. But clearly, again, NTIA was transitioning something from one place to another. And in the view of the community, what might have been an intention to transition ICANN into a state of self-stewardship was roundly objected to and is the reason that we had the accountability working group and ultimately this IOT.

Bottom line, the practical issue is to what extent can ICANN Org bend the ultimate result of this IOT on understanding that it will go to the board afterwards anyway? AND that's really the question, not whether there's zero participation or support participation or full participation and how many votes ICANN Org gets.

Even if ICANN Org had full participation, a concept of rough consensus would probably say that one community, one aspect of the community objecting is not enough to override consensus. So even being a full member doesn't necessarily change the ultimate result.

Maybe there's a way to get away from naked power relation issues to trying to solve this in a discussion of substance. I don't know, but I'll leave that to another time. Thank you.

DAVID MCAULEY: Thanks, Greg. Let me suggest something – and Malcolm and I just couldn't agree on who the letter goes to, but as you all know who participate in a number of groups, many groups work through subteams or whatever you want to call them, Work Streams, whatever it might be.

What I'm suggesting now is a little bit different than what I suggested a moment ago, and that is that Malcolm and I – who are naturals because we're on opposite ends of this, for good reasons, we both are acting in good faith in my estimation, but we're sort of at the opposite ends. So that's why I think we would make a good team to sort of get together and discuss whether we as a two-person subteam can come up with a

way to move this forward in order to address a very valid concern that's been expressed in this call, that is the passage of time.

I put a draft on the table, but then after that, Malcolm put a draft on the table, so he's the last one that spoke in this respect. So then the burden would be on me to get to Malcolm, and I can't do it any more quickly than within one week, but I'll commit to do that to try and get in touch with Malcolm and say, "Malcolm, here's what I think of your draft. Do you think that you and I can discuss a way forward?" And if we can't, then we'll come back to the group and let them know that.

But why I'm saying that is we have seven minutes left in this call, and it's very difficult to get these things done in a call. And so I'm suggesting that Malcolm and I take this away and see if we can't figure this out or figure out how to present it. So I'm going to ask Malcolm specifically if he would object to that, but I'll ask if anybody else, while Malcolm is speaking, thinks that's a bad idea and does not want that to happen, I'm going to ask them to raise their hand or do whatever you do in Zoom to make that point be known. And I'll ask Bernie and Brenda to please take a look and make sure we capture that.

So Malcolm, do you have a reaction to what I'm saying?

MALCOLM HUTTY: [inaudible] can you state that again, please? [Exactly] what you're asking from me so that [inaudible] what you're asking.

DAVID MCAULEY: I'm asking that you and I become in essence a subteam that I – the obligation would be on my part to get in touch with you within a week, probably with a reaction to the draft you've put on the table, but perhaps with some additional things in an e-mail with a view to getting on the phone to seeing whether we can't figure out a way to propose to this group how this issue can be moved forward. And I'm doing it in part because we're running out of time, and in part because I think a focused subgroup might be a better way to tackle this. That's what I'm asking you.

MALCOLM HUTTY: Okay. Yeah. I'm on board with that. [Always lucky to] work with you, David. [inaudible] move this forwards, not backwards.

DAVID MCAULEY: Thank you, Malcolm. And vice versa. So any objections, concerns or anything like that? I'm not seeing any. I don't think there are any. So I think that's going to be the best we're going to do out of this call, and I recognize the very validly expressed concern of we've got to move this forward. We need new members, we need to get moving, we need to get back to substance. I think we all feel that, and so I will commit, as I said, to contact Malcolm within a week. I'll be in touch with him by next Wednesday, and he and I will then try to move it forward, and we will either come back with what the results are or if it's taking us longer than we think, we'll come back with an interim update as to what's going on.

So, I don't think we should move on to anything else in the agenda. I'm sort of thinking we're at the AOB part of the call. But Greg, your hand's up. Why don't you go ahead?

GREG SHATAN: Thanks. Just to implore you and Malcolm with regard to the getting of new members to not let the perfect be the enemy of the good, and that until we have our reconstituted membership, our chance to have meetings at which we can have substantive discussions is imperiled. So I implore you, done is better than perfect.

DAVID MCAULEY: Thanks, Greg, and I would mention to all – and especially to Liz or whoever handles SO/AC work and communications is hopefully, since a communication apparently went out to those folks, if there's ever a chance to [exert] them to press on and continue on, hopefully, they'll do that. They shouldn't hear about this with a view to losing any momentum, because we're talking about it as well. my hope is that they're press on independently and do what they need to do.

And I'm at the point, in my estimation, of AOB, and would invite hands or comments if anybody has anything they want to bring up under Any Other Business. And I don't see or hear anything, so we've done an action in this call of creating a subteam, two motivated folks, I believe, and so we will see what we can do, and the bird's on me to get things started by getting in touch with Malcolm.

So I want to thank everybody for being on this call. I know this is not easy and it's difficult work, and it's repetitive. I understand all that. I just want to say thank you, and we shall press on. With that, I believe this call was ended and we can stop the recording. Thank you.

MALCOLM HUTTY: Thank you, David. Thank you, everybody.

DAVID MCAULEY: Thanks.

[END OF TRANSCRIPTION]