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DAVID MCAULEY: Hello everybody. This is David McAuley speaking. I have been the interim Chair of the IOT, but I am very happy now to introduce a new Chair of the IOT and that is Susan Payne. And so, I'm going to say welcome, Susan, thank you for stepping forward, and over to you.

SUSAN PAYNE: Thanks very much, David. Oh, Becky, you've got your hand up.

BECKY BURR: I just wanted to say thank you, David, for all of your hard work on this. I know you're going to stick around and continue to do some hard work, but I didn't want to let you step off the Chair seat without a big thank you. And also thank you to Susan for stepping up.

SUSAN PAYNE: Thank you. Thanks Becky. Yes, and I also was going to say thank you to David. I know he's been shepherding the work of this group for the last few years and I've no doubt that he's very much looking forward to being more of a participant and less of the person in the hotseat for a little while. So, thanks for that and thanks for handing it over to me, David.

I think I know most of you on here. I hope that even if you don't know me personally yet that you were on the first call that we did after this group was reconstituted. And so, we all spent some time then giving introductions to ourselves. So, I don't want to spend time doing that but I just... I know a number of you already personally and I'm looking

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forward to working with all of you and getting to know those of you that I don't know that well yet better as we go through our work.

I also want to just thank you all kind of in advance for bearing with me. As you know I'm one of the new members to this group. And so although I had done a fair amount of kind of reading in before I joined the group, I still have a certain amount of work to get up to speed, particularly in terms of finding sort of documents and reviewing the past discussions because obviously this group has been going for a very long time.

And so, if I miss something or make a mistake in how I characterize something, then please if you spot that then please do correct me. I know a number of you have got the sort of longer history in this group than I have and so I'd really like to be able to benefit from your knowledge and expertise. And please sort of bear with me and if I make a mistake, it is a mistake, it's not a sort of deliberate act.

So, with all of that brief introduction, I think the first thing we need to quickly do is a review of the Agenda and any changes to Statements of Interest. Actually, I'm going take those the other way around and just do the SOIs first. So, first things first, are there any changes to the Statements of Interest of anyone that we need to note? I'm not seeing any hands and I'm not hearing anyone.

And at this point then I'm also going to say almost if not, why not? From a quick review it seems to me that we still look as though we don't have everyone in this group with an SOI and a few of them, at least from my very quick check, look as though they haven't been updated in quite

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some time. So, I'm not going to do any kind of naming and shaming but could I please ask you all to create an SOI if you don't have one or to update it or make sure you just have a quick look at it and make sure it's up to date, if you haven't looked at it in some time.

And if you don't know how to do it or have any questions, then I'm sure Karen or Bernard or one of our very helpful Staff members can help us or help you with that. But also, you can feel free to reach out to me and I will do my best to guide you through the process as well. But I think that given we have this as an Agenda item to review changes, I think it's inherent that we all have one.

So, moving on from that in terms of the Agenda for today's call, which is up on the screen. So, our plan for the call here is first of all to review the documents that were circulated since the last call and particularly... Sorry, I'm hearing... Did someone want to speak or is it just background noise?

KAVOUSS ARASTEH: Can you hear me?

SUSAN PAYNE: Yes. Hi Kavouss.

KAVOUSS ARASTEH: Yes, I am sorry. Welcome to the Chair of the IOT. I am very sorry. May I request you respectfully to kindly take it a little bit more slowly but not so quickly? I'm very sorry. Please. Apologize me. Thank you.

SUSAN PAYNE:

Thank you so much, Kavouss. I apologize myself because I think I do speak a little too quickly sometimes. I will do my very best to slow down and please don't apologize for asking me to do that again if I get too quick. So, yes.

First of all, yes, we are going to do a quick review of the documents that were circulated, in particular the ones that were sent around with the Agenda that Bernard kindly circulated on Monday, I think it was. After that, we'll have a discussion on the way forward on how we will treat our next steps, if you like, for making progress on the interim rules and turning them into final rules. Then if there's anything else we'll discuss any other business.

And so just before we start, did anyone have any other business that they wanted to flag now? And please let me know now and we can put it onto the Agenda. Otherwise I will try to remember to ask you again at the end. Okay. I am not seeing any hands and that's good. Not hearing any voices. Okay. So, Agenda Item 3, we're cantering through this. Oh, sorry. Now I've got a hand. Bernard.

BERNARD TURCOTTE:

Sorry. I just wanted to note that we had one of our members drop off for personal work reasons. So, he has been removed at his request from the list. Thank you.

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SUSAN PAYNE: Oh, I think I may have misunderstood you. I thought, I was assuming you were saying to me someone had had to drop off the call, but is that... Is it more than that, Bernard? Is it someone who has had to pull out?

BERNARD TURCOTTE: Yes, that is correct. I believe it's Dovan. I don't have the name in front of me, but he requested that he could no longer participate so I thought I should inform everyone. Thank you.

SUSAN PAYNE: Oh, thank you. That was a disappointment, but we will manage without him. Okay. So, for next Agenda item then, which is Agenda Item 3, we're moving swiftly through, is in order to do a kind of review of the documents that were circulated. And just to give you all some background, in readiness for this meeting I listened back to the recording from the last call which unfortunately I wasn't able to be on.

And I came away from that feeling that I felt that I would find it really helpful and thought that you probably, especially if you are new members, would also find it really helpful to really understand which parts of the interim rules that were adopted by the Board at the Barcelona Meeting reflected Working Group agreement, and so to large extent are done, and which parts were aspects where more work is required. And so, to help us really understand what parts of those interim rules we need to be focusing our attention on.

And so, Sam very kindly took on the task of producing something that would show us that, and that's the set of documents that was circulated

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with the Agenda. So, I'm going to ask Sam if she can take us through them. But just before she does so, I wanted to just flag to you that I don't necessarily, and I'm sure some would agree, I'm not viewing these as set in stone. If someone on this call or in the Working Group, particularly if it's someone who has been a longstanding member, thinks that there's something missing and that there's a topic that is being characterized as kind of, you know, was subject to agreement but in fact they feel that it isn't done, I'd like you to please feel free to flag it.

I think we're all in this group together to try to make sure that we cover off everything that needs to be covered and if you think something's been missed, please just raise it. So, with that I'm going to turn this over to Sam, if that's okay.

SAMANTHA EISNER:

Thanks Susan, and hi everyone. This is Sam Eisner from the ICANN Legal Department. And just for background, I've been working with the IOT since its formation. And we did some introductions on the last call, but I've worked on IRPs in the past.

I'm not part of our active IRP Team here at ICANN but I do work closely with them so I'm not involved in the day to day maintenance or ICANN Defense of IRPs but I do work closely with that team and do pay attention to the rule setting and how the rules might impact the proceedings. And so, I'm kind of your link back to Org for more specific information if we find that we need that or anything else we might do.

So, one of the things that Susan indicated we had really a need to figure out ways to bring this group and the new members up to date about

what happened. And we had a conversation on our last call about the difference between the interim ruleset that was developed and where things might have been agreed to be leftover for supplemental rules versus how things, are there areas that maybe weren't agreed to but aren't final. And so, I think that that's part of a whole package of what we're going to look at.

And so, there were three documents that were sent out to the IOT yesterday, and we'll walk through one of them today. But the first one is a redline between the May 2018 version of the supplemental ruleset that when the first idea of the interim rules was introduced to the IOT versus what was actually approved by the Board.

So, there's a sense from the group of the work, the substantial work that happened between the introduction of the idea of the interim ruleset and the time that the IOT finalize the rules to send to the Board for consideration as a set of interim supplementary rules. And you'll see within that redline that there were significant areas with a lot of added language change and a lot of those reflect significant discussion amongst the IOT.

And if there are any areas that people are interested in understanding the background on, I can work with Bernard and others to help try to pull together the reference to where those items were discussed.

And then the second document is probably the one that's most important for us to look at today as we think about resetting the work from where the expectations might have been as to where the IOT

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would go. And that is the identification of where we had understanding that more work was yet to be done on supplemental rules.

And then we have a third document which is an initial discussion document, and this is really just kind of a first set and I think that this is another place particularly where we have the benefit of having many practitioners added to the group. The process that was used to select and solicit interest to join the IOT and to select members really took into account those who might have participated in international arbitrations might be a little bit more familiar with the ruleset. And so, we looked for other areas where you see that there might be benefits to clarifying the rules to really set a good stable document for the future of IRPs for the benefit of promoting the purpose of the IRPs within the ICANN system.

You know, Mike, I see your comment in the chat that there was not significant discussion on many issues as there wasn't significant participation in the group. And I take your point. That's also one of the reasons why we've gone through and reconstituted the group. There were not many viewpoints represented in our discussion. So, that's another reason why we worked with the Board to really set up paths to reenergize the group to bring new viewpoints in so that we could really look at this again and make sure that we have the ruleset that is the most appropriate for the purpose of the IRPs.

So, whoever is running the Zoom Room, if you can pull up the document that is the supplemental rules as approved. And I see Kristina has a hand up so why don't we go there as we're pulling that document up.



KRISTINA ROSETTE:

Thanks Sam. Kristina Rosette. And I'm not really quite sure to whom this question should properly be directed. But one thing that I was trying to find was some kind of documentation that the previous group had prepared that kind of mapped out the outcome of the Public Comment period and how those viewpoints were integrated into the various iterations of the rules.

I did find something from March 2017 that was basically a one pager, but I didn't know if there was anything more than that. Simply because it seems to me, and I guess I don't want to get too far ahead of ourselves, but I think one thing that we need to decide is to what extent is this an opportunity to just kind of go back and given the concerns about prior spoken participation that there was kind of robust considerations given to comments, and conversely that there wasn't just one comment that ended up becoming integrated into the rules for reasons that nobody can really at this point articulate.

So, you know, I don't want to... I don't know if you're the right person to answer this but if you're not, I'm hopeful that whoever is could point us in the direction of that documentation to the extent it exists. Thanks.

SAMANTHA EISNER:

David or Bernie, would you like to try to address that? I see David's hand up.

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DAVID MCAULEY: Thanks Sam. I just got unmuted. I'm not prepared to address it right now. In other words, I think it's a fair question that Kristina raised, and I'd be happy to take a look but I didn't prepare for that question coming into this meeting so I can't point to a document or to the document. I'm happy to chat with Bernie following the call and see what we can come up with with responding to it. But I just can't do it right now.

BERNARD TURCOTTE: Sam, if you're speaking, we're not hearing you.

SAMANTHA EISNER: Thanks David. I do know that we had some documentation of the Public Comment Summary Analysis, etcetera. But I think it's another one of those areas that I think is a really good point for us to think about as we're moving forward. Because if I recall we had decent participation in the Public Comment Forum but there might be areas where we did only have one or two comments on a section.

And so, I think particularly as we get into... I can use for an example something that we'll flag today and will have to be... I'm sure Susan will get onto our Agenda fairly quickly, the issue of consolidation in amicus, right? We had some principles that I think we could've distilled from some of the Public Comments that came in, but we do need to look again to make sure that we're doing it correctly within the IRP Supplementary Procedures.

There also could be other places where we had one or two comments and either they're spot on or they're things that we identified as not

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taking on or maybe took on too heavily, but I think makes sense to look back over.

So, the document that you see up on your screen right now is... Sorry, I'm just opening up a second screen here so I can follow both. So, this is the ruleset as approved by the Board. And one of the things that we've done to try to help move along the IOT understanding of where things happened was to take this and to put in some comments of the areas that we understand were the things that the IOT understood needed to address as we continued through the process.

And then there's one thing that's flagged in here that you'll see is also reflected on the other sheet that I mentioned on the other call last week about a proposed change that we're recommending based on practice to date. So, if you want to... Let's scroll to the Page 4 first. So, this is the time for filing. Or not to Page 4, yeah. Page 4. Sorry. And number 4 up at the top. Keep going. We'll come back to that one, Brenda.

So, this is one of the areas that we explicitly understood needed more conversation among the IOT. This is an area where there was a second Public Comment that the results of that comment are not reported to be reflected in this document. This is an area for specific conversation among the IOT and this the time for filing issue.

If you look in the comments that are attached to the document, I included a reference to the Public Comment Forum itself as well as copying in the alternative language that was proposed for Community consideration during that Public Comment Session. So, this is a very

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clear area where we know that we need IOT further consideration and discussion.

If we can scroll further down, if we go to Page 6 Item 5B. So, translation. When the document... when the full ruleset was first put up for Public Comment, I believe it was in 2017, we did not have language in there regarding translation but we knew that it was something that we needed to maybe think about addressing more. And we did have some Public Comments supporting that translation should be addressed more completely than it was.

And so, all of the text here under this 5B is text that was not put out for Public Comment during that first big round. We tried to distill some of the premises of what it's based on from the Public Comment but there are issues that we should still look at, make sure that we captured it correctly, make sure that we have the translation principles reflected appropriately, and that we've agreed upon the right principles to have reflect in here.

And then also particularly address issues of cost. We have some discussion here about cost and cost shifting regarding translation, but we do want to make sure that we have this done correctly. And I think that this is an area where we have some opportunity for discussion. Was there someone who wanted to speak?

KAVOUSS ARASTEH:

Yes, I wanted to speak if you'll allow me. Kavouss.

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SAMANTHA EISNER: Go ahead, Kavouss.

KAVOUSS ARASTEH: Yeah. My question is that you said that there was something which were not put on the Public Comment. Am I right? This is one category. The other category is something was put on the Public Comment, but the comments were not taken into account. The third is if they're not taken into account whether they were discussed or totally ignored to discuss them.

So, this is how it should be distinguished between all these categories. Number one, those that were not put to Public Comment. You have to identify them. So, the put to Public Comment and comments were received, whether after examinations we have not agreed to the Public Comment in our cases. Because I mean many groups, I understand that sometimes we don't agree with the comments made. Or we totally ignored the Public Comments. So, these are the three different categories that mean you kindly clarify what we are doing. And perhaps David or somebody, a colleague, or Bernie could help us on this issue. Thank you.

SAMANTHA EISNER: Thanks, Kavouss. I think that's a really helpful way to look at it. From my recollection, and we'll go back through and others on the IOT might recollect this differently so clearly this is something that we'll need to put back together, the only area of Public Comment that we did not in full reflect in this version that was approved by the Board was that

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second Public Comment solely on time for filing. And so that is an area that we know we have to go back through.

The comments that were received earlier on that first full set that went out for Public Comment, I'd rely more on David and Bernie for this and I think that David's already indicated that this is something he has to go back through, I think we went through as the IOT and looked at all of the topics of those comments. So, it's not that there was a whole group, a bunch of issues for which Public Comment was not considered. It's just that we know for the time for filing issue, it's not reflected in this version, if that helps.

KAVOUSS ARASTEH:

Yes, it does. Thank you very much.

SAMANTHA EISNER:

Sure. So, that's the translation issue that we flagged. And then we have, if we go down to Page 8, topic number 7 is consolidation, intervention, and participation as an amicus. So, this is an area where there was a lot of work and many different iterations of text done amongst the IOT between the time that the idea of the supplemental or the interim rules were introduced and when the Board took action on it.

There were Public Comments about this idea, about consolidation and intervention. This is a concept that existed in the ruleset that was initially put up for Public Comment a couple of years ago. And so here, you know, the IOT did work to attempt to address those issues of who needs to be an essential party to an IRP, who should have the right to

come in and preserve their rights in an IRP, who should be able to be heard.

And I think some of this was changed even in the weeks leading up to the Board approval of this. And so I think that this is an area that makes sense for the IOT to really revisit and look at holistically to make sure, again just like with the translations, that we have the proper principles reflected in here, that the rules are drafted appropriately to reflect those principles, and to make sure that the IRP, the purposes of the IRP and having the right people either participating as parties or having the opportunity to weigh in on IRPs as they're proceeding against ICANN, that all of those principles are appropriately reflected.

And so, this is one of those places where we can figure out which is the right version to start with, but this is a very... This is going to be an area where we have room that we need to take and time that we need to take within the IOT to see if this needs to be updated.

One of the things that you'll see here in this side note is also the reflection that this section discusses the role of a Procedures Officer, and this is something that you saw reflected up at the top during definitions, too, if you've scrolled through or as Brenda was scrolling through, there was a part of the definitions section about a Procedures Officer that was highlighted. And so this is an area where we can come back and give you some more information but we've had an experience with the Procedures Officer process during the one IRP that's really moved forward substantially since the interim rules were approved and there was a lot of confusion about the roles the Procedures Officer that led to a lot of briefings solely about the role of the Procedures Officer

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and ultimately wound up with the Procedures Officer giving some information as to how he would rule but differing his ruling.

So, it's one of those areas that we see as in practice has not upheld the purposes of the IRP. It didn't add to efficiency, to clarity, to any of the aspects of the IRP. And so, we think that there might be some things that we can rely on more in the ICR Rules or general arbitral practice that doesn't create the confusion of the creation of this Procedures Officers role did. And so this is where we'll really be looking at if the IOT is interested in doing that but the experience that the members bring to help get this into a better and more streamlined form to really uphold the purposes of the IRP as well as reducing the cost and the length of the proceedings for the party.

So, those are the three main areas that, from our review of the records we recalled as needing the IOT to look back on. For those of us who were involved in the IOT previously, you know, we'd be interested to hear if you thought that there were additional areas of rules that were understood to still be requiring further discussion.

And again, this doesn't cut off the possibility that we relook at other sections but I think we'd like to get on the same page with everyone that we identify the things that we had agreed to carry forward and then handle the things that we'd like to look at anew as two separate buckets. And so, Susan, with that I'll turn it back to you.



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SUSAN PAYNE:

Lovely. Thanks very much, Sam. And I'll just pause briefly in case anyone has any other questions on that particular document before it comes down out of the window. Okay, I'm not seeing any.

The third document that I'm not sure that Sam has spent too much time discussing but has touched on and which you will have seen circulated is this one called Potential Areas for IOT Consideration. And this is issues like that Procedures Officer. Sort of issues that, as I understand it, have kind of come to light as this currently only single IRP under the new rules has been underway or indeed that has come to light, as you can imagine, once you start really looking at the rules because you need to use them. It does start identifying areas where you sort of think, "This is a bit inconsistent or this doesn't look like... Now that I'm reading this afresh, this doesn't look like necessarily it works in practice or there may be some more thinking that could be done here."

And this is, as I say, this is ICANN Org's experience. It may well be, I don't think we have anyone in this group who, apart from ICANN Org, who has actually been an IRP Participant under the new rules, but nonetheless there may amongst you be people who have either looked at the rules because you have been envisioning possibly bringing an IRP or indeed because you've been looking at them in preparation for joining this group and have you seen things which you think don't necessarily accord with kind of normal arbitral practice.

So, yes, Mike Rodenbaugh is telling us he is representing some clients under the new rules. And I think again just as Org has identified some areas where they think we as a group may want to look again and think again, I'd like to encourage others in this group if you have likewise

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done so, I do think it's worthwhile us considering whether we should address them as well. I know that we obviously has lots of work to do and we don't necessarily want to reopen the whole document unless we feel we need to but at the same time these rules are incredibly important and it would be good to get them right rather than to leave something in place that we can all see is an issue. Kristina? I'm not hearing you, Kristina. I think you might be double muted.

KRISTINA ROSETTE: I don't know. Can you hear me now?

SUSAN PAYNE: Yes. Hi.

KRISTINA ROSETTE: Okay, excellent. Sorry. Thank you. One potentially new issue and perhaps an expansion of one of the previous...

SUSAN PAYNE: Kristina, we were hearing you and can see that you're still talking but you seem to have vanished. I'm assuming it's not just me and that no one can hear Kristina.

SAMANTHA EISNER: She put into the chat that she's typing. She's having audio issues.

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SUSAN PAYNE:

Oh, okay. Thank you. Sorry, I'm not managing my chat list very well. Okay. In the meantime, I did see that there was a question earlier from someone asking about... Oh, from Kurt. Thank you. Asking about the overlap between the list of bullets that David presented last week and what Sam just presented. I'm not sure if that has been answered in the chat.

Kurt, risk of repeating what you've already been told, the list of bullets that I think is called Remaining Work for the IOT that David presented last week was sort of all of the work that we have to do. There were various areas in the Bylaws where this IOT is expected to be doing something or assisting with something. So, for example, as well as the rules for the IRP, we need to develop the Cooperative Engagement Rules, we need to develop some rules for appeals, and so on. And at the moment we're just on the IRP Rules. So, I hope that helps.

And Kristina, your hand is still up. I'm not sure if that's a new one. Okay, it's an old one. Alright. I am not seeing what your comment was, Kristina, but maybe we can come back to it when you're able to. Oh, hang on. Okay, here we go. So, I'll read this out. I know most of you are in the Zoom Room, but I know Kavouss is not.

And so, Kristina says one new issue and one addition to an existing issue that she has considered. The new issue that she's suggesting is conflict of interest. The current configuration seems overly narrow and wouldn't take into account a situation in which a potential IRP Panelist doesn't have a material relationship with one of the parties but has a relationship that is materially averse to one of the parties. And then the second issue which is in addition to an existing issue is Kristina is

suggesting that we take a broader view of consolidation of joinder than is flagged in the potential issues list. Thanks for that, Kristina.

I'll do a quick reaction to that which is it seems to me that it would be helpful for us to start gathering all of this in one place in a kind of a single document where we're essentially gathering a list, you know, a to-do list on these rules. And so perhaps I'll touch base with Bernard after this and see if that's something that we could have. Perhaps we could capture in a Google Document if people are all happy with working in a Google Document so that we have the capacity to all work in the same document and make suggestions into that of additional topics that as a group we can consider.

And Mike Rodenbaugh is raising in the chat another, which is a new issue regarding presidential value, the prior IRP decisions. And then raising another one around transparency of documents both in discovery from ICANN and publication of correspondence, pleadings, etcetera. So, I can see Samantha's hand is up so I'm going to ask her if she'd like to speak. But just to say I think all of these are really good suggestions, really valuable, and I think it would be helpful for us... I will forget them if we don't have them in one place and I suspect I'm not the only one who will do so. So, I think that I would find it useful even if no one else does. Sam?

SAMANTHA EISNER:

Thanks, Susan. My comment was going back to Kurt's. I think from a review of the bullet points that David had there might be some areas that we can fold right into the supplemental rules as we work through

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them. For example, rules around ICANN's default, that might be something we can add in easily, but I think on the whole many of those items are kind of separate issues that aren't addressed by the work that you see here today.

In terms of the transparency issue that Mike raised, if you can scroll down a bit, Brenda, one of the things that you'll see in here, and I think that this might be aligned with one of the areas that Mike is thinking and he might have other things in mind as well, but there is a need to clarify the availability for obtaining documentation that's within the IRP. And so that's transparency amongst parties and making sure that the correct information is shared amongst those who need to have it. There also are clearly areas in the rules that go to broader concepts of exchange of information between parties that are something that we could look at. Thanks.

SUSAN PAYNE:

Great. Thanks so much. That's really helpful. Karen, did I see your hand up or was that...? No, it doesn't look like it was. Sorry about that. Perfect. Then, I'm coming back to my Agenda list, I think in terms of the... Oh, sorry. Flip?

FLIP PETILLION:

Thank you, Susan. Hello everybody. Flip Petillion for the record. I was wondering how you would like to proceed. I find this document very interesting with potential areas, but I actually would have expected a more systematic approach. Is that the purpose, Susan, or are we going to work with an Excel Spreadsheet and update it on a regular basis,

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indicate what has been discussed before, what is new, what is added, and what is the status of all these new added items? It's really just a question, but I'm a little bit puzzled at this time. Thank you.

SUSAN PAYNE:

Thank you, Flip. That's a good suggestion and I think to some extent that ties back into what Kristina was saying earlier when she was asking if there was a document which kind of reflected the work that had been done previously in terms of mapping the previous Public Comment and how that had been dealt with. And I think that may be in part the same kind of document as you're thinking about.

As I said, I also as I was preparing for this meeting and reviewing what we had so far, was feeling that this all really useful but that it would be helpful for us to be using, if you like, a sort of consolidated list. And Bernard has kindly agreed that he will set up a Google Doc for us to use. Maybe actually a Google Spreadsheet might be better to allow us to track a bit better.

But I do think, yes, I don't believe we have that at the moment. I don't believe that the group did have that in the past, or at least if it did, I haven't located it. But I'm somewhat hopeful that if something like that exists already that it can be kind of... We can build on that, and if not that we can create something so that, yes, so that we can kind of track our work a bit better. Bernard?

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BERNARD TURCOTTE:

Thank you. We're big believers in getting spreadsheets and organizing lists of things. We have done so with all the Public Comments. I've posted some of those in the chat. And if the group likes working on it, it's certainly easy for us to do and we'll be glad to assist in getting that up as soon as possible. Thank you.

SUSAN PAYNE:

Thank you, Bernard. And I'm sorry I haven't been keeping a good eye on the chat again. So, if anyone has put anything into the chat that you think needs to be sort of added on the call, please do put your hand up and speak. Otherwise, I will go review the chat afterwards in case I have missed something.

But I think this is a good point to take us onto effectively the next Agenda Item really which is for us to discuss the way forward on the rules. And again, you know, really welcoming the input from everyone on this call on how we take things forward. I think even just during the course of the call we've obviously had a question come up, if you like, of to what extent do we reopen everything, thus keep our work quite narrowly targeted. And I think perhaps, I think to my mind, sort of somewhere between those two extremes is probably right.

But we may be able to have a better sense of that if we're able to find the document that will help us to track what the Public Comment input was and how that got addressed by the group to date. And that may help us a great deal in determining what we should or shouldn't reopen. I think we're all conscious that this works needs to be done, these rules need to be finalized, and we don't want to drag this out for longer than

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we have to, but we also, I'm sure, all do agree that we do want to have done a diligent and thorough job and ensure that these rules work. So, I've got two hands. Kavouss first.

KAVOUSS ARASTEH:

Yes, thank you very much. It's just to the... To what extent we should reopen the discussion or document? Even during our previous work, unfortunately at some occasions some people have reopened a subject on which there are already some consensus. That's back to the last [inaudible]. We agreed with that. We didn't want to just point to anybody.

But I think we should be quite careful not to open something on which we already have consensus. And so, we have to look at areas which have not been addressed and areas that are very sensitive, and now after some time is maybe a little bit of reflections. If it is very sensitive, we could see whether or not reopen that particular topic or subject.

So, we received the proposal from reopening subjects already agreed and to see whether there is any sensible or sensitive things, and if everybody by consensus agrees to open that, reopen. Otherwise, we would not open the work that has been already done. So, we would not an official day of work. Thank you.

SUSAN PAYNE:

Thank you, Kavouss. That's a very sensible suggestion. Bernard?



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BERNARD TURCOTTE:

Thank you. Public Comments. The first Public Comment, and I posted that link in the chat earlier, really the majority of the comments were related to time limits and time to file and various other things, and we'll get the detail out to you. The rest were, if I remember correctly and it was four years ago, were mostly onesies and twosies on various subjects.

So, the core of the original 2016 Public Comment was around time to file and associated things which led us to have that second Public Comment. And of course, we did not resolve that. I also posted that link of the summary of the comments which you can read. So, there's not a lot that we did not look at seriously that was brought up in a Public Comment. Thank you.

SUSAN PAYNE:

Thanks, Bernard, and I guess then there's an extra distinction that I guess we make between things that were looked at in detail and as Kavouss points out, the previous iteration of this group essentially agreed, reached a consensus position on versus things which may well have had considerable discussion but nevertheless still needed more discussion in order to reach a consensus position because the group had not at that point managed to do so.

And hopefully we will be able to focus our attentions on that latter and ideally perhaps, yes, taking on board Kavouss' suggestion that if something had consensus, that really we're cautious about reopening and do so only if there's a demonstrable need and kind of the

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agreement of the group. Kavouss, your hand is up. I'm not sure if that's an old one.

KAVOUSS ARASTEH: Yes. I want to comment on what Bernie mentioned.

SUSAN PAYNE: Certainly.

KAVOUSS ARASTEH: He said that we have not seriously taken into account the Public Comments. I would like to compliment that. It's not that you have not seriously. We have considered to great extent. Then there was some obstacle, difficulties, problems, from efficiency point of view. And I remember some explained to us the situation, and I even remember that I commented on her support.

So, if you want to talk about the timing, we should look at the discussions or records that we have on transcription to see what, why we have not, in the view of some people, taken that into account. Sometimes there were reasons for that.

So, we should not take a gun to that, just open for the timing, because this is the most sensible. I remember we have gone through the timing many, many times back and forth from each say why they, back again to each say... Then each, plus some why [inaudible]. So, we have to look at the record and to have a discussion summary to see what were the

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reasons that one. So, I couldn't categorize it if you have not seriously taken into account. Thank you.

SUSAN PAYNE:

Thank you. Thank you, Kavouss. Bernard, I think your hand is up again, so I'll go to you and in the meantime, I'm just quickly having a look at the chat. There's a suggestion from Kurt that perhaps we'll touch on after this.

BERNARD TURCOTTE:

Thank you. Just clearing up, I don't think I said we did not seriously consider comments. I said that the focus of the comments was on the timing issue and there were other small things. But I think all comments were considered and seriously, quite seriously in certain cases. Thank you.

SUSAN PAYNE:

Lovely. Thanks. I think that we're all on the same page. So, Kurt has put a suggestion in the chat. We have a list from Sam, this is kind of new issues. We have a couple of other suggestions from the team. We should allow a week for members of this team to raise other issues. And then in order to then, for the purpose of reviewing the Public Comment, members of the team could review the last round of Public Comment and identify topics that should be discussed, taking into account all the circumstances. And Kurt is asking if there's a Staff Summary in existence.

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So, Kurt, just a quick reaction to that. There were two Public Comment periods. One of them was some time ago and was sort of on a wide range of topics. I think it was around about 2017, although I may have that wrong, a wide range of topics, a sort of set of rules were put out for Public Comment and then essentially feedback was sought on that. And then the group, as we've heard, have over the months and indeed years since then, have spent time discussing that and hopefully, as we understand it, reaching agreement on some aspects altogether.

There is a report of the Public Comment but it's not terribly detailed, and I think Bernard actually posted a link to that in the chat. I think I'm correct in saying. If he didn't, I do think that it is linked to on our Wiki Page. But as I say, if you go to it it's not terribly detailed.

Then there was a second Public Comment which was just on the timing issue. And that Public Comment happened around the middle of 2018. And it's my understanding based on what I have seen that the input from that Public Comment period has not yet been reviewed in any detail at all by this group. And so specifically with relation to the timing issue and the issue of whether there is a backstop time limit or the so-called repose, that is obviously, as Samantha also indicated earlier, that's a big topic for us to discuss. And we will definitely have to review those comments that have been received on that topic.

But regarding what's agreed and what isn't agreed from the first Public Comment period, I think that is where we go back to Kristina's request earlier on this call of is there something that easily tracks that for us.

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Regarding the way forward, I am also conscious that in addition to doing things like asking people to surface other issues so that we have a clear picture of all the things we need to do, I am also conscious that I know many of you are keen to kind of actually get to work and sort of start feeling like we're making progress. And so my suggestion would be, and I'm raising this to see what you all think, is that we obviously know we have three issues at a minimum, the translation issue, the joinder consolidation amicus issue, and the issue of the timing, and we know we have to deal with them because they were expressly sort of held over if you like.

And that perhaps in addition to time spent helping us to get up to speed on what else might perhaps need a rereview, that we could actually start on looking at those. My first, my initial reaction, brief reaction was that we know in particular that timing was really important, there was a Public Comment on it, that comment period, the comments that were received have not really been addressed and so my initial reaction was that we should start there. But I have reflected on that and I think perhaps that is not the best place for us to start. We know that that is a really difficult issue and will likely be a little bit contentious and require us to try to all find a path forward.

And therefore I think perhaps it makes sense for us, since we are a new group, albeit that some of us have been working together on this for a long time, but overall we're a new group and I think it would make sense for us to try to pick one of the other open topics that's perhaps a little more straightforward to kind of get used to working with each other and start sort of getting to know each other a bit better and

working well together. So, that would be my suggestion and I'm interested in thoughts on that. And I can see Kavouss has his hand up.

KAVOUSS ARASTEH:

Yes, Susan. I fully agree with you that we could start something else other than going to those timing which is sensitive. Nevertheless, I would like to propose that we table that for reflections, but not tossing that, and going to some other items, for instance translation.

And maybe for translation also we need the scope of the briefing because we have not just the issue of translation in some other part of the ICANN and subsequent [inaudible] and others and something is also I will say almost sensitive on the... So, we have to have also something, and we should know that if you the summary of that, the [inaudible] of the language or language on the cusp of that, that also needs to have a briefing.

So, I think to make a little bit of work more efficient, I'm sorry to burden Bernie and some others at ICANN for this reason, but this is help us because unfortunately we had a long stop and some people need to refresh their minds in where we have put it aside and how we could resume it. So, I would suggest that taking your comment, your suggestion, going to other items but at least for those areas that we need some input from ICANN, we ask that input for instance comes for translation and also for the timing to have some briefing where we are and what are the things that we need to discuss. This is just by way of suggestion in supporting your proposal. Thank you.

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SUSAN PAYNE:

And thank you, Kavouss, very much. I am really appreciating your interventions, not least because I'm almost feeling like I must have... I feel like I must have told you what to say almost. Almost everything I think that you are raising are things that I was going to suggest or was hoping that someone else would suggest.

So, my proposal would be that, and this is actually one of the reasons why I also thought that maybe a translations was a decent place to start, that we then would ask, that we as a group could have an advance of our discussion on that topic, that we could have effectively a kind of collection of targeted background materials that would allow us all to get up to speed.

So, I'm thinking for example of what was the version of the rules on the topic in question, what was the section of the rules rather that was put out to Public Comment if there was one, although as we understand it translations was not really included in the first Public Comment. But then what do the rules say now so that we can see what has developed so far as a result of that Public Comment period. The input that came in during the Public Comment period that addressed that specific issue so, the extracts from the input would be ideal.

Because to have us all try to go through individually each individual Public Comment that was submitted and try to find the bit that deals with translations will be time consuming for everyone. So, I'm hoping that we can have something that consolidates that for us. And then that points us to any discussion as well that was had during the IOT Working Group Discussions again on that particular topic so that we have

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effectively all of the background information that we need about translations for us to decide on our next steps. Kavouss?

KAVOUSS ARASTEH:

Yes, I'm sorry. I make another response, suggestion, to yourself and the group [inaudible]. I think with this background document that you mentioned, I fully agree with you, and we also need to ask ICANN to provide us any lesson learned from the present application of this interim procedures from the language point of view, from the timing point of view. That will help us because you are not always talking of wishes of the people or of idealistic or so on.

So, we should look into the implementation, into the cost, into the holistic matters. So that may help us just as a supporting material to understand what are the lessons that we have learned, whether we have area problem in the translation that has been encountered, or do we have problem with the timing that has been raised by the people.

That will help us. If there is anything available. If there's not, you could say no information is available. But it would be good if we have some information also available to assist with our job. What I'm suggesting is for the time that we have just on hold, we try to pick up all these things and [inaudible] and have something, if possible, more conclusive as soon as possible, not rapidly, as soon as possible. That is what I'm saying because all of us may have been engaging in other parts of the ICANN. There are many other things going on and we have to use the time very efficiently. And again, sorry for asking so much supporting material or background material. And I thank ICANN already. Thank you.



SUSAN PAYNE: Thank you again, Kavouss. So, I think we generally seem to be... I'm seeing a few comments in the chat as well that seem to be agreeing on that. As I said, I thought if we start with translations, that would allow hopefully not quite such an onerous exercise. And I'm kind of looking to our Staff support here to see whether they will be able to do this for us, that perhaps if they could start to put that kind of consolidated background information together for us on translations as the first priority, and so that we can be sure to have that before the next call.

And then I think we would be hoping to have the same kind of information for the other topics as well. But not necessarily needing that all to be done before we have our next call in two weeks. If that takes a little longer than that's not a problem to us. So, I'm sort of looking to Staff to see whether that sounds reasonable and possible.

BERNARD TURCOTTE: I believe on the translation issue we should be able to get something out end of this week, early next week to allow everyone to have a good read at it.

SUSAN PAYNE: Great. Thank you very much, Bernard. That sounds... That's very helpful to hear. We had to... There's a couple of comments in the chat about the timing issue and that seems like the more important issue. And I totally agree, Flip, and Chris has agreed, too. It is incredibly important, but I think we... As I said, I think let's try and start off with a topic where

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hopefully we can all build a bit of trust amongst us a group first and then we'll get onto some of the harder stuff.

And hopefully we can feel a sense of achievement as well, if we can tick off a couple of hopefully easier topics first. That would be my preference, I guess. So, I'm seeing... What else am I seeing in the chat?

Kurt is agreeing. He thinks, "Here is a thought born of naivety. I wonder once very early on the game whether we should undertake any remaining issues with the Standing Panel of criteria with the idea that the task could be split off and ICANN could start the recruitment while we finish with the rest of it." Thanks for that suggestion.

That's a good suggestion, Kurt. And I may be misremembering but I seem to recall on the last call that Kavouss had been working on something on the Standing Panel and that they were due to be publishing something fairly soon. So, perhaps that's a good place to look at this topic when we have what gets published by Org. And maybe I should just ask Sam whether I've understood correctly.

SAMANTHA EISNER:

Thanks, Susan. Yes, you have. We're finalizing what we're going to be posting on that. And just to Kurt's point, there actually aren't active tasks for the IOT on the Standing Panel issue. There will be tasks for the IOT as it relates to development of training materials and potentially to working with the Standing Panel if there are further revisions of the rules needed in the future. But there's no active task for the IOT as it relates to the Standing Panel currently.

SUSAN PAYNE:

Sorry, I was on mute. Thank you. There are couple of things being flagged in the chat. Perhaps it's worth, yes, us doing a sort of giving some thought to that. I know we do have some topics on Standing Panel certainly. We also have to develop a recruit process for members of the Standing Panel. And obviously all of this is important, too.

But we don't have a Standing Panel yet. So, as I think Sam is indicating, perhaps working on the recruit process is not quite the highest priority as some of the other things. But definitely not ruling it out. I would imagine that we as a group will be very interested in what is being produced shortly and undoubtedly will want to have a review of that. Okay. Alright.

So, I may be missing something in the chat. If I am and anyone wants to put their hand up and actually speak, that would be super. Otherwise, I think I've reached sort of more or less the end of the items that I wanted to cover today. I did say that I would circle back to people again and see if there is any other business from anyone. Kavouss?

KAVOUSS ARASTEH:

Yes. I just want to in a simple way to affirm or confirm what Mike said but I don't think that anyone has any doubt of the brunt of the [inaudible] of the IOT to review whatever comes from ICANN on the Standing Panel. This is already understood, and I don't think that there is any doubt or any difficulty [inaudible]. This is issue relating to Standing Panel is not to confirm or reaffirm the right of the IOT. This is already dealt and has not been questioned by anybody so that's the

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idea, recognize that I would like to know on the Standing Panel what are the issues that they want to discuss. Thank you.

SUSAN PAYNE: Thank you, Kavouss. I think that maybe... I'm going to throw that open. A number of people mentioned...

MIKE RODENBAUGH: I'll speak up to that for a second, Susan.

SUSAN PAYNE: Thanks.

MIKE RODENBAUGH: This is Mike. I mean, you know, Kavouss, the issue with the Standing Panel is of course that it's still not in place and the Community honestly has no idea if or when it'll ever be in place because we haven't heard a word from ICANN about it in years, I think. And so, Samantha told us in the last call that ICANN's coming out with something in a few weeks. None of us really knows what that is, but when we see it, I just want to make sure that it's on our radar to take a look at.

SUSAN PAYNE: Sorry. Yes. Thank you, and certainly I think that would be my expectation as well. So, good to know that there is people thinking that we need to look at it. I don't know that we necessarily are anticipating an issue. It's more that I think I'm right in thinking that it is one of our

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tasks is just to be general, to provide general input onto the Standing Panel process.

But the Bylaws actually give, I would have to go back to the Bylaws to remind myself of precisely who's responsibility the Standing Panel is. It wasn't a responsibility for this IOT. Or I think it is Org's responsibility but with input from the Community or something like that. But I'm very happy for us to sort of bear it in mind and I've no doubt that we'll all be very interested in seeing what gets produced and is published for the Community. Okay. Yes, so again, in terms of...

Well, still waiting to see if anyone else has any other business, there's actually one that just occurred to me and I don't know if Bernard or Karen can answer it for us, but again on the last call there was mention of us having a meeting in Cancun and I wondered whether there was any update on that. I believe the intention is that we will have one. I'm just not sure if a timeslot has been allocated yet. So, I just thought worth circling back if there's any update.

KAREN MULBERRY:

Yes, Susan. This is Karen. I have asked for March 9<sup>th</sup> at 10:30 in the morning in Cancun. I haven't heard anything back from the Meetings Team to confirm that assignment but that is what I've asked for so I'm assuming it's moving forward.

SUSAN PAYNE:

Perfect. Thank you very much. So, everyone, can you kind of keep that in mind and sort of try to keep the time free or try, so far as it's in your

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power to avoid conflicts, which it probably it isn't. But expect to be meeting on March 9<sup>th</sup> at 10:30 if you possibly can do. Okay.

So, again, last call for any other business or anything else that anyone else wants to raise on this call? Otherwise we will, I will work with Bernard and our Staff and indeed with David to see if we can find the document, the sort of document that Kristina was talking about and also to anticipate that we will be talking about translations next time around and that we will have some briefing materials circulated to us before that so that we are all up to speed.

Okay. Alright then. I'm not seeing anymore hands or just seeing some nice comments. Thank you very much for your nice comments. I will let you get back to your day and give you ten minutes of your time back. Thank you all very much for joining and really, thank you all for your engagement. It's been great. So, we can stop the meeting now and the recording. Thank you.

**[END OF TRANSCRIPTION]**