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YVETTE GUIGNEAUX: Greetings, everyone. Welcome to the NomCom review implementation working group meeting number 88 on November 4th 2021 at 19:00 UTC.

Joining from the working group today is Arinola, Cheryl, Dave, Michael, and Tom. Joining from ICANN staff today is Kristy, Jia, Teresa, and myself, Yvette Guigneaux.

We'd like to remind you that today's call is being recorded, so please state your name before making a question or a comment for the record and for the transcript. And I do not believe we have any apologies today. Does anybody have any changes to their SOI?

CHERYL LANGDON-ORR: I do. I have updated my SOI but I have stepped down from my five years of service with the GNSO Council as the ALAC liaison to the GNSO. So I'm a little bit freer than I have been previously.

YVETTE GUIGNEAUX: Thank you, Cheryl, for noting that. I think that about does it for me. I will go ahead and get the agenda on screen, and Tom, I'll turn things over to you.

TOM BARRETT: Thanks for that. So for the agenda today, we'll get a verbal update on the standing committee charter based on the legal review, discuss

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about our year-end report which we want to submit in December, and then our upcoming meeting schedule.

Whilst not here, maybe we should also mention, Kristy, real quick, is the letter that went out to the SOs and ACs of the GNSO regarding our decision on Recommendation 10.

KRISTY BUCKLEY: Yeah, do you want to give that update before we dive in?

TOM BARRETT: Yes, please. So as you recall, we've gone back and forth with the ICANN Board and based on our proposed bylaw changes, including for Recommendation 10 which was to remove the hardcoding of NomCom delegates for GNSO, we did agree to withdraw our request to the ICANN Board for those particular bylaw changes, and just recently communicated that officially to the SOs and ACs of the GNSO, although I had told the IPC and BC I think two weeks ago informally. Any other thoughts or questions on that move? So we are done with Rec 10, basically, what that means. We can close that one out. All right, Kristy, back to you.

KRISTY BUCKLEY: Thanks, Tom. So let's see, I'll just go to my notes here. As you all might recall, when Sam from ICANN Legal joined one of the RIWG calls—I think it was in July—to discuss the standing committee charter, there was acknowledgement that it would be a highly iterative process in terms of making some changes, getting feedback, making more

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changes. So she has reviewed it a couple of times since this group last met, and we've addressed most of her recent comments, and she's reviewing it again hopefully later this week if not early next week.

but in the meantime, we wanted to provide an update to the working group on some of the key characteristics in the design of the charter as it currently stands, and it would be helpful at this stage to hear any questions that the working group has, comments, feedback to inform the final iterations of the charter before we hand over a hard copy, so to speak.

Since there's some redlines, comments and questions still in discussion with Legal, but of the ones that are settled at this point and no longer under comment, I'll just briefly review those section of the charter. Feel free to jump in, raise your hand if you want to pause and ask any questions or comments. And I'll make sure to listen in as well, in case anyone wants to jump in.

As you might recall, the charter starts with the purpose of the standing committee. We have basically the same approach to the purpose but remove some of the explainer language as to why the standing committee was created, the rationale and recommendation around it, and focused more on being clear about its purpose, which is really to support continuous improvement, to increase the effectiveness and efficiency of the NomCom, while also enhancing transparency and accountability and providing that continuity across NomCom cycles which helps build institutional memory of the NomCom.

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So that's the current framing of the purpose. Any questions, comments on that? Okay. The next section of the charter is scope of responsibilities, and here we've outlined four main roles. The first is just that providing continuity across NomCom cycles in reviewing, assessing and providing input to ICANN Org NomCom support staff and to the NomCom itself. The second role is building that institutional memory of the NomCom, so same thing, looking at processes, documentation, providing input and feedback on that.

The third role is having strong engagement with ICANN Org. So making sure that there's good relationship there and that good communication between ICANN Org, NomCom support staff and the standing committee. And then fourth, just an articulation of standing committee engagement with bodies that appoint delegates to the NomCom.

In the previous version, you might recall there was a lot more detail about how the standing committee would interact with each of these types of bodies, so we brought it up just a level of detail and in order to characterize, give direction to the standing committee as it fulfills these roles in relation to the other entities without getting into really detail—it'll communicate in this way at this time with this body. So I think it'll give the standing committee more flexibility to do what it does as it sees fit in line with its purpose and scope of responsibilities.

And some of that detail might be useful to put into operating procedures or even a workplan for instance as the standing committee gets underway. So I'll pause there. Any questions or comments on what I've outlined so far?

TOM BARRETT: Do you think there's any material changes in terms of the role and responsibilities of the standing committee with these changes?

KRISTY BUCKLEY: No, I don't think so. It's more just bringing it up a level and being less detailed and prescriptive about exactly how the standing committee would interact with different types of bodies, and just acknowledging that in its role of fulfilling its purpose, its scope and responsibilities, it'll have to play multiple roles and communicate to multiple entities, and that's okay and it's kind of to be determined by the standing committee how best to do that. We've outlined some examples but tried to be less prescriptive in the charter about spelling out exactly how that takes place. Does that answer your question?

TOM BARRETT: it does. Thank you. Anyone else have any questions? Thank you, Kristy.

KRISTY BUCKLEY: Cheryl, to your question in the chat, we don't have authorization to share the redline text just because basically, we addressed Sam's latest comments and she's waiting to look at those. So the way we addressed them may be in line with her thinking, but it may not be. So in order to not create false expectations about certain directions, we just taw it best to give a verbal overview.

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We may have the previous version from July if that would be helpful, but it has shifted since then. [I don't know if any of you have had a chance] to dig that up and just show the previous version in terms of how it's structured.

Going quickly to composition, not much has changed on this, four seats in terms of the standing committee members, stagger rotation of the initial terms so that we don't lose the entire committee of four people all at once. It's similar to the ICANN Board, the seats are numbered one through four and they have a staggered rotation for those initial terms so that their full terms which are three years would rotate in a staggered manner.

And then we've got the NomCom associate chair serving as liaison and observer to the composition. We have the membership requirements, which they're a little bit more detailed but just the kind of key takeaway is someone that's completed at least a full term on the NomCom, they can't be overlapping between the NomCom and the standing committee, selection would consider prior experience on the NomCom leadership team, Work Stream 2 diversity recommendations, for instance.

And then the terms are still under discussion in terms of what equals a full term. Should the initial term, even though it's not full three years in some cases for the first and second seat for instance, should that be equivalent to a full term? What if someone's filing a vacancy, should that equal a full term? So here we've referenced back to the NomCom itself, like how does it consider a vacancy, how does it consider the initial term [inaudible] with the Board. We've proposed some language

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there but Sam still has to review that. The regular term would be considered three years.

Any questions, comments, feedback on that before I go into the meetings?

TOM BARRETT: It seems straightforward. All good changes.

KRISTY BUCKLEY: Okay. Hopefully. Yeah, I think it should be a little bit more straightforward now. So on the meetings, we just clarified—and I think this might have been in the previous version, but maybe we added a little bit stronger language based upon our conversation earlier about should it go to vote, how many people would have to agree? So we just said a majority to participate for quorum, in this case three of the four members. The outcomes are consensus-based. Ideally unanimously or at least majority.

So going back to the previous conversation with Sam, if it's something that the four people on the standing committee can't agree with, then maybe the action or decision needs to be revisited. So we're not overengineering it into votes of participation.

I see Cheryl's comment in the chat. Interim terms on an entity startup are often treated differently. Right. So I think in the current version that we proposed to Legal, we do have it not considered as a full term for the interim term, but the vacancy might be—or it might be the other way around. We pulled language from other ICANN bodies so there's

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some consistency and precedence across ICANN in terms of how we treated that.

TOM BARRETT: So I'm hearing an implicit assumption that observer status means nonvoting. I wonder if we should make that explicit somewhere.

KRISTY BUCKLEY: I'll make a note of that. In terms of the associate chair, you mean?

TOM BARRETT: Correct.

KRISTY BUCKLEY: Thanks. I'm not sure if we have that in there. I don't recall that we spell it out as nonvoting. But I think, yeah, if they're an observer, that does mean they're not voting and we should be more explicit about that.

Beyond meetings, we have accountability and transparency which is recording of the meetings, the minutes, decisions, action items are posted publicly, all members complete conflict of interest statements, and then we have a review and continuous improvement section which says any entity that appoints delegates to NomCom can propose charter amendments and that proposed changes would be subject to ICANN's public comment process and Board approval of the charter amendments. And there's a suggestion that the charter would be reviewed at least every five years. That's it.

TOM BARRETT: On that last point, Kristy, I'm assuming other folks can propose amendments besides the appointing bodies, perhaps ICANN Org or Board.

KRISTY BUCKLEY: Yeah, that's a good question.

CHERYL LANGDON-ORR: That's not what it says.

TOM BARRETT: I know, that's why I bring it up. I don't think we want to limit ourselves to that. And what is the process for changing the charter?

VANDA SCARTEZINI: Including new ones? Are you saying that, Tom? Including new formal members?

TOM BARRETT: No, I'm talking about if they want to change one of the bylaws of the standing committee, certain parties or anybody I guess can propose an amendment, but then what's the process for getting public feedback on that proposed amendment to approve it? Was it Board approval for this?

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KRISTY BUCKLEY: Yes, proposed changes to the standing committee charter would be subject to ICANN's public comment process and Board approval of those charter amendments.

CHERYL LANGDON-ORR: But I think to Tom's earlier point, it may be suitable to have language that says in addition to the Nominating Committee and Org or Board or Org, any appointing body can propose a change, because it's not explicit that it is limited in the language you read out [inaudible] limited, Kristy. So we [inaudible] process.

KRISTY BUCKLEY: Fair enough. Okay. I can add that.

TOM BARRETT: That's a good point, Cheryl. And not only appointing bodies but receiving bodies. They might presumably be interested in some changes as well. So there's no need to limit ourselves.

CHERYL LANGDON-ORR: Yeah.

TOM BARRETT: Yeah. Good point.

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KRISTY BUCKLEY:

Okay, so I'll propose that in the next iteration of the charter. That's really helpful feedback. Thank you. Anything else? Just in terms of timing on this, the plan is to get a hard copy by the next NomCom RIWG meeting, which I believe is on the 17th of November. So it's a Wednesday, not a Thursday. But that's the current plan. So at that point you'll have a clean version that everyone can look at. And we were hoping to send that out in advance of the call so that you have a chance to review that before we're walking through it.

Okay, thank you all for that feedback. If anything else occurs to you, any other comments, questions, feel free to e-mail me and I'll be sure to incorporate that to the next iteration.

TOM BARRETT:

Thanks, Kristy. Moving to the next agenda item.

KRISTY BUCKLEY:

I think for this one, I'll share my screen. As you all are probably aware, normally, the working group provides kind of a status report on its implementation every six months. You might recall that our midyear report, we changed into an executive summary since there were some bigger ticket work items like the standing committee charter that weren't finished and we wanted to be able to include that.

So this next report in December would be more comprehensive, and this is just a very rough draft of the executive summary based upon the last update sent to the OEC in recent work. Here in the executive summary, we would just pull out a handful of things to highlight, for

instance, the conclusion of work on Recommendation 10 as Tom just mentioned at the start of this call, the fact that we'll have a final draft charter for the OEC to consider after all of this work between the working group and ICANN Org and ICANN Legal to help get that in a good place. We are anticipating that we would be able to say we've concluded implementation work on all other recommendations, and maybe we want to highlight that in concluding that implementation work, we identified a number of activities and responsibilities that are probably best suited for that standing committee to take on.

So those are just some examples of what we could highlight in the executive summary. Of course, open to other ideas. This is more just kind of a placeholder. So this is a rough draft of what would be included in that executive summary, and then we've got at the end here a summary of the proposed bylaws changes. Here, we would take out the rebalancing—[catch that sooner.]

And then at the end of the executive summary, we would suggest including this summary table which lists out all the recommendations, says what they are and then the high-level status of implementation complete, and it would include internal hyperlinks so that the reader can jump to that section of the report to see in more detail what the status is. So that's the exec summary, and then the report body, you might recall from previous reporting mechanisms, there was usually a table with every single implementation step and then like a green checkmark or yellow square or red X to show the status of that.

Since in some cases the implementation steps are a little bit more complex than that in terms of—in some cases it was something for

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ICANN Org to do, in some cases it was something for the standing committee to take on, so it doesn't lend itself to that kind of binary, "Here's the implementation step and it's either done or not done." It's more nuanced.

So what we're suggesting is to have the description of the recommendation, we highlight the related findings so the reader understands what was the problem that the recommendation was trying to solve, and then where it's very clear the implementation steps are completely just a checkmark complete. We have a high level of status notes, we outline whether there's a role for the standing committee—in this case of Rec 1, we don't envision one. And then there's a link to that status spreadsheet so the reader can go and look at the detailed status of all of these.

You'll see we've given a couple of examples here. In Recommendation 2, we're saying works has completed but it didn't follow exactly the detailed implementation steps because subsequent conversations, circumstances, shifts in thinking between RIWG, Org and in light of this new standing committee, changed the thinking a little bit. Doesn't mean that the work wasn't completed, but it's more complex than just saying here are the ten steps and we've completed them all exactly as outlined.

So that's what we're proposing as the format for this report in December, and we wanted to get feedback, comments, any other suggestions on how to best report out most clearly on your work.

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TOM BARRETT: Yeah, I like the format. I think Cheryl is saying in the chat she likes this approach as well. Anyone else with thoughts or comments?

VANDA SCARTEZINI: Looks good to me.

TOM BARRETT: Thanks, Vanda.

KRISTY BUCKLEY: So with that, as you see, we've done a couple of examples here, but the rest of it still needs to be filled in. So we just wanted to get some feedback before we did that, and I think our next call is going to focus hopefully on the charter and finalizing those last bits of work, and then we plan to get a full draft of this December report to you in advance of your call on the 2nd of December so that you can provide comments, edits, whatever you like in terms of feedback on that, and then you would use the next couple of weeks to finalize that and get it ready for submission to the OEC in advance of your call on the 16th of December. Does that timing sound reasonable?

TOM BARRETT: Sounds perfect.

KRISTY BUCKLEY: Okay, great.

TOM BARRETT: So for the next agenda item—we'll get into the meeting schedule, then I'll bring up a topic after that. I do want to note for everyone the next meeting's been moved to a Wednesday instead of a Thursday. That's something I just discovered last night myself, which is fine. And then the second I assume is back to a Thursday.

KRISTY BUCKLEY: I believe so, we've switched it back to a Thursday on the 2nd.

TOM BARRETT: So we just have three more meetings this year. So let me ask a general question, which is, what is the biggest piece of work that people think we have left remaining? I know there are some loose ends perhaps, but what's the biggest piece that we'll be working on in the next six months? Any thoughts on that?

KRISTY BUCKLEY: Tom, just going back to our spreadsheet, I think there's three outstanding recommendations where the RIWG has a role, and I'll just try and sort this so you can more easily see only the recommendations where there's RIWG role or steps remaining. So really, it's the standing committee and then ICANN unaffiliated directors. We've asked Sam for an update on how that is going internally, so we're again hoping that on the 17th, she can join that call and speak to that. So you can see in the status notes here, to be discussed with the RIWG pending legal feedback, and then basically same thing on that charter.

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So there's still work for the RIWG to do and inputs to have and some discussion to have, but it's not a heavily lift in terms of the work, I don't think.

TOM BARRETT: Was there a third one, you said?

KRISTY BUCKLEY: I don't think so, looks like there's only two.

TOM BARRETT: So I know Rec 27 is one of several recommendations related to bylaw changes. When does ICANN Org expect to have a discussion on the bylaw changes?

KRISTY BUCKLEY: That's a good question. We'd have to ask that internally. I think what I recall from previous conversations is just that they have to be packaged all together. I don't know if there are other bylaw changes being proposed at the same time. I think in terms of the public comment, if we go to that timeline that we had on the agenda slides there, the anticipation was that the bylaw changes would go for public comment sometime in Q1 of next year, and that public comment would be wrapped up by the end of Q1. But I don't know, that's kind of based upon internal thinking within the team supporting this group, but I don't know if it's hinged upon other factors. We can certainly ask and get clarity on that.

TOM BARRETT: Thank you. Cheryl, you have your hand up.

CHERYL LANGDON-ORR: Thanks, Tom. Yeah, please do ask, Kristy, that would be helpful. One thing I think we need to do when we get to the final drafting of our end-of-year report is just make blatantly clear, in bold letters if needs be, that regarding Rec 27 but also all of those that are involving a bylaw change, that ball is firmly in Org's court. So if needs be, we can step back and say we'll be here to help with any backgrounding and other preparatory work you might want us to do to assist the Org's process, but the bylaw change and that packaging and interaction with public commentary, etc., is all their work, not ours. As long as that then throws it over the fence to the OEC, I think we're doing okay.

TOM BARRETT: Thanks, Cheryl. Likewise, I assume the analysis being done now regarding Rec 27 is more of an implementation issue and is not changing the intent of our implementation. So it's just some sort of due diligence they're doing. I guess we'll find out. Great, so 27 basically, unless we see any material change, we're just waiting for ICANN Legal to complete their piece for that.

And you had mentioned earlier that perhaps we should start thinking about a workplan for the standing committee, that perhaps that's something we start to tackle in January. Is that what you mentioned, Kristy?

KRISTY BUCKLEY:

[Potentially.] Would you mind just sharing the timeline there in terms of what we ...? I think one thing that our team is conscious of is that we did want to allow this group to wrap up the bulk of its work by the end of this year as much as possible. Now, we have to be cognizant of the fact that those bylaws changes are going to go out for public comment. It might be nice to have a webinar to socialize that a little bit and give the community an overview, and there may be public comment feedback that is warranting follow-up discussion or action.

So I think next year could be pretty light in terms of the lift, and I think it might be up to this group to decide, does RIWG want to work on articulating the workplan of the standing committee, or do you want to wait until the standing committee become stood up, so to speak, and allow them to develop that workplan based upon, for instance, earlier iterations of the charter which were much more detailed in terms of activities that the standing committee might be doing. So that might be worth discussing with the group in terms of how you want to proceed.

TOM BARRETT:

So one of my thoughts is that assuming that the standing committee is finalized, that we would want to look at the NomCom operating procedures to make sure they're consistent with the standing committee charter and with the new bylaw changes as well. So, how would you suggest we undertake that effort?

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KRISTY BUCKLEY:

Great question. I would put that to the group. Cheryl in the chat was saying, allow the standing committee to establish its own workplan. Would that also include [examination of operating procedures?]

CHERYL LANGDON-ORR:

Kristy, the workplan is a piece of work that in my opinion needs to be owned by the group that'll be doing it. If you don't, then all sorts of mismatches and misunderstandings can come into play. But what Tom just described, the due diligence on continuity and no unintended consequences of bylaw changes, that's something that ICANN Legal, I believe, has in their area of expertise to double check. And it's often the case that that needs to happen once the proposal for bylaw change has occurred, the public comment process has gone on, any tweaking and response to that public comment has completed, and the final bylaw text is published. And it's at that point in time that I think it might be useful to have a slightly unusual or hybrid approach.

If this, what work we have done in our review implementation working group, was any other sort of reviewing group or even implementation team, we would have probably put forward a couple of people as shepherds or contact points or future work and implementation double check. In other words, known people that Org or anyone implementing something can reach out to to double check, is what we're doing now still in the intent of the original plan, yes or no? If not, then we need to [inaudible].

But it might be possible for us to contemplate having not only that now more acceptable model that we use in ICANN but also perhaps ensure

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that the standing committee that is being stood up also has skin in that game so that we've got this sort of nexus between us handing over the current NomCom being knowledgeable because of the associate chair being part of the standing committee and the standing committee as such having skin in the game. I just think that might be something to contemplate and that we probably need to discuss a great deal more and look at any risks or rewards in that sort of planning. Thanks.

TOM BARRETT:

Thanks, Cheryl. Great point. We can discuss it now, we have a few minutes. How would you suggest we do that?

CHERYL LANGDON-ORR:

One thing would be to ensure that before the bylaws are written into the black ink version and become actionable, that the standing committee is in fact populated and the members are identified and that therefore, we can have previously put forward a set of shepherds, set of names that are willing and able to assist for the ongoing work, webinaring, double checking it fits the intent, etc. but that the standing committee also will need to put forward a couple of names. And I think it would be bizarre if that did not include from the NomCom point of view [inaudible] chair elect depending on the NomCom. But that wouldn't happen until just around the time—

VANDA SCARTEZINI:

We missed some part of your—

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CHERYL LANGDON-ORR: Well, that's the Internet for you, Vanda. Can't help it. I'm on a satellite, it happens. What I was saying is that none of that can happen until around [inaudible]

TOM BARRETT: We lost you again, Cheryl.

CHERYL LANGDON-ORR: [inaudible] time, which will be probably at the end of—

TOM BARRETT: I think we're losing you, Cheryl. We'll go onto mike and we can come back to you if you're able to get back on. Mike.

MICHAEL GRAHAM: [inaudible]. I'm sorry, I jumped away there. I may have to again. We have a bad washer. But what I understood Cheryl was proposing that a member of the current NomCom and probably leadership also be a member of the standing committee or at least be a liaison. And I think the idea of having it be the associate chair which you all recall is appointed by the chair of the NomCom to assist and generally is either the immediate past chair or has worked in leadership of the NomCom to provide that sort of support, I think that would be a great idea. The question I would have, of course, would be that would be a question in—since the chair is the person who asks for the associate chair to join, knowing up front that that would be an additional responsibility of that position I think would be important going forward. But I think that's a

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great idea, because I was frankly thinking of a way to have that sort of liaison between current NomComs and the standing committee to provide that communication back and forth.

And I know the present committee already—we only had one subcommittee meeting, and I know already that some of the newer members are bringing on some really good, thoughtful questions with what is being done and how we do it. And that's the sort of information that I would want to be able to pass back and forth with the standing committee, I would think. Thanks.

TOM BARRETT:

Thanks, Michael. Yeah, it certainly is part of the charter. We envisioned the associate chair to be an observer on the standing committee. you're correct that it may be unfair to expect the current or incoming associate chair to assume that responsibility without having been forewarned. So it may make sense that there's some sort of interim standing committee that we should be able to decide this, I would think, in December given our fairly light work schedule here. And perhaps we could put together an interim standing committee kickoff in January. Vanda, go ahead.

VANDA SCARTEZINI:

In the line of how this 22 NomCom committee could meet, in my opinion, with us during the end of December or something before the break, or beginning of January, to in some way inform how is the issue that we have done so far. And many members of this committee may be not following this work that has been done and could be interesting for the newcomers to understand better what is going to be faced in the

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end of this term, because a lot of members probably will continue and will have to understand this standing committee proposal and so on. So we could use some time, just one meeting, [one and a half meeting, 50] minutes or so to explain what has been done in our report for the end of this year and to give them the opportunity to understand what is going on on the review implementation group. So I believe it would be useful for NomCom members.

TOM BARRETT:

Thanks, Vanda. I'll read Cheryl's comment in the chat in response to Michael. "I was talking about the interface and handover time for the standing committee to be stood up the new bylaws are in black ink, and our work as a working group finally ends. It's not our job to put up the standing committee, just to implement the processes for that to happen, do a formal call for EOIs, etc., would need to go out after the charter is socialized. But we CAN have a joint interim role to get the standing committee sorted post black letter bylaws changes and in synch with the NomCom."

And Michael says in the chat, "Thanks for clarification. We could certainly ask this year's associate chair Ole Jacobsen if he will be able to fill this role for this NomCom."

So yes, I think certainly, it sounds like we should basically be done with our work by the end of the year. We just need to figure out how to transition to the standing committee from a working group. That may take, I guess, Q1 to make that possible. Any other thoughts or comments? Anything else, Kristy or ICANN staff?

KRISTY BUCKLEY: I don't think so. Does that schedule that Yvette just had up there look okay to everyone? I realize that some of the questions and discussion that you all post today might need a bit more time to percolate over the next couple of meetings to figure out, how do you want to proceed come January for instance. So yeah, and happy to take any questions back internally if that would be helpful.

TOM BARRETT: I think the schedule looks good. As I said, I think it's perhaps a little light. We might be able to tackle some of this transition process in December as well. That would be my hope. But great job, Kristy. This is very helpful to get us to this point. We can see the light at the end of the tunnel.

KRISTY BUCKLEY: Great. Happy to help. And thanks, everyone, for your patience. I know it feels like we're going in fits and starts, but having October to really focus on getting a few iterations with Sam back and forth on this standing committee charter was really helpful. So hopefully, we'll be in a go do position come the 17th to review that in detail and go from there.

TOM BARRETT: Great. Thank you very much. We'll see everyone on the 17th, which is a Wednesday. Bye everybody.

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