
ICANN78 | AGM – IRP-IOT Work Session
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DEVAN REED: Hello, and welcome to the IRP-IOT session. Please note this session is being recorded and is governed by the ICANN Expected Standards of Behavior. During the session, questions or comments submitted in the chat will only be read aloud if put in the proper form as noted in the chat. Questions and comments will be read aloud during the time set by chair or moderator of this session. To view the real-time transcription, click on the closed caption button in the Zoom toolbar. To ensure your transparency of participation in ICANN's multistakeholder model, we ask that you sign into Zoom sessions using your full name. With this, I turn the floor over to Susan.

SUSAN PAYNE: Thank you. Hi, everyone, and welcome. Liz is online. Good to have you with us, not least because that means we are just at quorum. In the room, we have Malcolm, Flip, myself, Susan, David McAuley, and obviously, we have our support from Bernard. We have one observer at the moment, which is very exciting. Okay.

So, to kick off, this is our second IRP-IOT meeting during the ICANN78 meetings. So, a number of us have obviously had the opportunity to be here in person, which is great. Our agenda for the meeting is essentially the same as the agenda we started with on Monday. So, I think we've

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already dealt with the action items, and I won't propose to do that again. But just in terms of reviewing the agenda, we endeavor to finalize the proposed text of Rule 3 last time.

And actually, there are some new proposals for language. So, we will come back to that on this call. We'll also sort of circle back on the discussion the draft public comment text for Rule 3, Rule 5(b) and Rule 7. And then we will look at Rule 4. The proposed draft public comment text for that particular rule, which is the rule on timing, and which now also incorporates initiation.

And then time permitting, and actually based on how Monday went, I think we may have time to begin at least a sort of preliminary look at the cooperative engagement process and what might need to be done in relation few rules for that process. And then we have agenda item 7 is AOB, and I'm not sure if anyone has anything to raise as AOB, but I will do my best to save time if there is any. I'm not sure, David, if you had anything or.

DAVIN MCAULEY:

I'll mention thing. Hi. Thank you, Susan. David McAuley speaking for the record. In anticipation, if we had time, I prepared just some bought some discussion prompts on appeals. And so, if we don't get to it, that's great. I could just send those around by email, but that's what that would be for. Thanks.

SUSAN PAYNE: Cool. Thank you. Okay. And I suppose we should also do the updates to Statements of Interest since we do that every meeting. So, looking around the room, does anyone have an update with their Statement of interest? And Flip has put his hand up.

FLIP PETILLION: No. Not on that one, but my AOB would be to discuss timing just to see where are we, where will we be in November, December.

SUSAN PAYNE: Thanks, Flip. I got excited then. I thought we had an SOI update. Liz. Oh, I see you.

ELIZABETH LE: Thanks, Susan. It's not an SOI update. Just to add on to what Flip is saying. I'd also wanted just to if we can talk about what the process looks like. Once we're done going through this, is there going to be some kind of an overall read or whatnot before we put out public comment? Thanks.

SUSAN PAYNE: Thanks, Liz. Okay. Yeah. I will make sure that I keep some time. All right. I guess if we're on-- Sorry. All right. Change of order. First up then, I think we're slightly going out of order on the agenda. But we looked at some of the draft public comment text in our call on Monday. So really, just an opportunity on first off, on Rule 5(b), which is the one on translation. If there's any sort of input since our last meeting on the

text, not the text of the rule, but a reminder, this is the input on the proposed text in terms of the rationale and so on. To see if anyone has anything that they want to raise that they haven't thought of when we were discussing it on Monday.

And I'm pausing and not seeing any hands. So that's good. And then same question for 7, Rule 7, which is the rule on consolidation intervention and participation as an amicus. Again, just same question to see whether we can kind of tentatively put them to bed or not. David?

DAVID MCAULEY:

I'll make a comment just because I mentioned at the end of the meeting on Monday is I was considering something about Rule 7, but the more I thought about it, the more I thought it was really an edge case that we probably don't need to address. And so, I just want to close that loop.

SUSAN PAYNE:

Thanks, David. That's great. All right. So, I think Rule 5B and 7, I think we feel fairly comfortable about, certainly for the purposes of this meeting. What I am going to suggest is because obviously not everyone is here, I think, on both of those, after this meeting, I'll suggest that there's a sort of final opportunity between now and the first call that we have after ICANN78. And so, if there are comments that anyone wants to make, then I'll be asking for suggestions to be put into the Google doc, and we'll only-- we won't come into the meeting and start discussing things fresh. But if someone's raised something in the Google doc in advance, then I don't want to close off the opportunity to take some input on that text.

I mean, I think we can also have-- Obviously, the language of Rule 3 itself is still a bit up in the air, but in so far as we have the rationale language so far in Rule 3. Again, is there anything that anyone, wanted to flag on Rule 3, which is about panelist selection? So same question, really. Liz.

ELIZABETH LE:

Thanks, Susan. I think I saw Kristina had proposed some language with respect to one of the sections on Rule 3. Let me just go to that. I don't know what the section number is. One second. And I do have some comments to reflect on that, on the proposed language. And then I think I also saw some proposal come in from Malcolm.

SUSAN PAYNE:

Yeah. Thanks, Liz. So, I think I'll I will circle back to the actual suggested text from both Malcolm and Kristina in a moment, I think. But in terms of the public comment document, so the rationale tech insofar as it may change, I guess, once we finalize the language of the actual rule, but as it currently stands, just clarifying that that there's no specific concerns about any of the language in there.

ELIZABETH LE:

Oh, I'm sorry. I completed the two things. And if you're just speaking about the language for public comment, no concerns here. Thanks.

SUSAN PAYNE:

Super. Okay. That's good. Well, I think before we start on Rule 4, I think perhaps we will go back to that text of Rule 3 because you've raised it,

Liz. People may not have had a good opportunity to review the text that Kristina circulated and Malcolm's proposal as well, but to the extent that people have, I'm happy to have some discussion that.

I think perhaps the slightly more self-contained issue is perhaps is Kristina's language. I don't know. Devan, do you have Kristina's email? Are you able to pull that up? Oh, dark. Okay. So, you'll recall this was we were discussing this Rule 3A. It's part of the set of rules that apply if there's a lack of capacity in the standing panel. And we had proposed that whether standing panel is in place, that it might be appropriate for the standing panel chair to suggest a process for alternative panelist selection if the standing panel isn't able to field one or more of the panelists needed for a particular case.

And so, Kristina had raised a concern that, obviously, it wouldn't be the intent, but as the language as it stood could arguably have allowed the standing panel chair to just kind of suggest anyone he felt like as or any kind of process at all for selection of those alternative panelists. And so, Kristina has therefore suggested, first, that it's not simply just proposal of a process but that the standing panel chair will, in her suggested language, adopt and implement a process for completing the IRP panel selection. And then her additional language is to do with addressing, that concept of suitable and appropriate panelists.

So, Kristina's suggestion, which is highlighted in yellow, is for process for completion of panelist selection that is consistent with the integrity and fairness of the IRP and generally accepted ethical standards for international arbitration. The objective of this process is to select panelists for the IRP panel who are independent and impartial and have

both the necessary capacity and the requisite diverse of skill and experience needed for the particular IRP. So that's the suggested language from Kristina. I know I've got Liz in the queue, and then I see Flip in the queue as well. So, Liz.

ELIZABETH LE:

Thanks, Susan. So, I think in reading this language and just recalling the conversation that we had at our last meeting and understand recollecting Kristina's concern is there seems to be a vagueness to what this process looks like. Because I think the current language speaks to the panel suggesting a process, but then what next? I think from org standpoint, the concern that we have now with the proposed language that Kristina's provided is that it seems it suggests that it's empowering one single panelist with the ability to impose their own process as opposed to recognizing that this is a party's dispute.

And so, our concern is that by changing the language to having instead of the standing panel proposing a process, it's to adopt and implement a process, that creates some an imposition the panel of a process that the standing panel foresees and how it should be selected. And I don't think that we have the way that we've tracked this so far, we haven't empowered a single member of the standing panel to impose the process on the selection of other panelists.

I don't know what the solution necessarily is. Maybe perhaps we don't need the first section, just move b to e. Or how else we can make it more concrete and take away the concerns that Kristina expressed, but I think that's written. Our concern now is that it imposes their selection process. And I appreciate the language that she has added with respect

to a reminder of the integrity and fairness of the IRP, but I think at the end of the day, as written, it still does allow the standing panel chair to impose his process on the selection. His or her. Excuse me. Thanks.

SUSAN PAYNE:

Sorry. I'm just struggling to work at how to unmute myself when I'm in person. Apologies. Thanks for that, Liz. I have some thoughts of my own on that, but I know Flip is in the queue, so I will I'll look to Flip first.

FLIP PETILLION:

Thank you, Susan. I'm a bit confused, but first, if ever we would keep this text, I think there should be a comma between IRP panel and the standing panel. That will help the reading of the text. There is a comma missing. Second, if you keep this text, the text is problematic because it's as if the chair will never be in a problem of capacity. Which is clearly not to be excluded. Third, for the rest, I actually like the text. It's consistent. Actually, I would even prefer that we refer to YBA rules. That would make it even better. Fourth, I'm a bit confused. Oh, I see. No. I'm not confused any longer.

Yeah. So, we have a couple of things to cover. As there, I don't think this is covering the issues that I raised. As we discussed offline, the normal way of proceeding to choose a panelist, both parties select one and then the selected ones find a chair. And it is in that process that you encounter the problem of capacity. And it should be over by denomination just before the appointment.

So, I would like to see an approach, a text that is in line with practice, and that is not purely theoretical, because this is quite theoretical. And I would love to see a more practical approach. It is as if we are talking here about a panel that is three, selected at once, and parties never did it before like that. And why would we all of a sudden because we have a standing panel change that? Whereas in the past, over the last, let's say, 15 years, the selection process was very manageable, effective, efficient. Even if we work with a standing panel, I think that selection process should still be applied. And we avoid capacity purposes.

SUSAN PAYNE:

So, W that a hand that I saw? Okay. So, David is in the queue and Malcolm's in the queue. Oh, was he? Okay. Malcolm.

MALCOLM HUTTY:

I was just going to say that I think that Kristina's language is moving us in the right direction in terms of guardrails. It might not be there yet for the reasons that Flip has said, but I think Flip and please, Flip, if you don't view it this way, please say so, but I think your comments really, really apply just as much to the existing text before Kristina's amendment as they do to Kristina's amendment. And so, I wouldn't take them as in any way a rebuttal or a rejection of the direction of travel that Kristina is pushing this.

Incidentally, Flip, well, you mentioned that this presupposes that the chair would not have a problem on capacity. I think there's a distinction between the chair not having the capacity to serve on a panel and not having the capacity to select the panel because they're two different

processes. I think we probably have no choice, but to assume that the chair is in a position to resolve lack of capacity problems because unless we can have some entirely new mechanism for dealing with that. And if he weren't able to-- if he fell within the group of people that were unable to serve on the panel itself, then this text wouldn't a problem for that.

SUSAN PAYNE: Thanks, Malcolm. David.

DAVID MCAULEY: Thank you, Susan, and thank you Malcolm and Flip and Kristina, and Liz. It's David McAuley speaking for the record. And I thought Liz raised a fair point about creating a process that's outside of what we've done or what the Board has accepted, etcetera. I mean, it may seem like a small point, but I don't think it is. I actually think it's a fair point. As between what Kristina wrote in the email and what Malcolm wrote in the email, I tend to like Malcolm's approach. If I understand it, that is that there's a burden on the panel, sort of sua sponte burden on the panel to recuse himself for certain reasons. And if someone wants to litigate against a panelist that hasn't done it, go for it.

But I do think it would be wise for us to come up with the solution and not to say chair, why don't you solve this? And the two backdrops that I would urge us to keep in mind is, one is to come up with some approach that doesn't let this issue become an issue in litigation. I mean, this is we just don't want that. And two is we should do all that is reasonably possible to keep the selection within the standing panel

and not to go outside. I mean, that's my hope. I think that the purpose of the standing panel is to get people over time who are accustomed to ICANN and the nuances of ICANN.

So, with that backdrop, I guess my approach, my statement here is between what Kristina has done and what Malcolm has done, I tend to like what Malcolm has done and would urge us to sort of follow a path that does those kinds of things that I mentioned. Thank you.

SUSAN PAYNE:

Thanks, David. So, I put my hands up because I'm putting myself in the queue as well. I don't see they are in either role. What Malcolm has proposed and what Kristina's proposing. I think their proposal is to seek to address slightly different things. I'm hearing quite a lot of kind of pushback about this notion of allowing-- of passing the decision on what the process should be for panel selection off to the standing panel chair. And I think there's a ready solution to that. Or I would suggest as a member of this group, if you like, rather than imposing this as chair, but it seems to me there's a ready solution.

I'm going to trouble Devan to pull up the text of Rule 3, just generally, just the rule text. And it doesn't really matter whether it's the one with the rationale or the other one, but the one without the rationale maybe is easier to look at. Because we ended up with this Rule 3. And then if you could scroll down to Rule 3, subsection 3a. We ended up with that process because we had some discussions in our group about giving this decision to the standing panel chair to make their own determinations. But we have a perfectly good process that is then set

out in in the subsequent paragraphs b through e, which is much more aligned with what happens in practice in an arbitration.

And which is what is the process at the moment while we don't have a standing panel, which is each of the parties find themselves a qualified panelist it says from outside the standing panel. But it could be because we don't have one. And then those two panelists get together and find a third. And there's some timings for if they don't do it quickly enough, and then there's a fallback position of the ICDR administrator sending them all lists of names if they really haven't got their act together and done anything.

And so, I think the process we had originally was simply the b through e process. And we developed this additional kind of thinking of what about why don't we give the standing panel chair an opportunity to propose what they think the way forward should be, but we can take that back out again. We put that in because I think that came up as a discussion within our group, and we thought that might be a way forward. But if we're now looking at it and we're not very comfortable with it, I think we can-- I suggest a solution is we take it out and we just stick with b through e.

We just take out paragraph a, and we go back to the previous position, which is if there's not a standing panel in place, so we don't have one, or if the standing panel doesn't have the necessary capacity, then the process is the claimant and ICANN, each select a qualified panelist from outside. And then those two panelists get together and select a third one. And if they haven't selected their panelists within the time limit

that we're suggesting to them, then there's a process for moving things along, and so on.

I've been talking too long. I'm not quite sure when Liz put her hand up. I suspect she's first in the queue, and then I'll go Malcolm and Flip.

ELIZABETH LE:

Thanks, Susan. Yeah. I think we're aligned on this, that from reading this, it makes sense to us that b through e is a process that is in place and, from a practitioner standpoint, has been applied and its working, especially based upon Flip's comment and based upon our experience as well. So, I think it makes sense to go with b through e. And it doesn't seem there to be a need for us to carve out a specific section that a is trying to address. Thanks.

SUSAN PAYNE:

Thanks, Liz. Malcolm. Flip.

FLIP PETILLION:

Well, I agree with Liz. And I liked the suggestion by Susan. It's kind of a lender of last resort. And that's practice. That's how we did it in the past. It worked. It will work again.

SUSAN PAYNE:

All right. I think then there seems to be a general feeling that we're perhaps overengineering here. And so, let's scale it back. It will probably need a tiny bit of tweaking around by me just to make sure that-- I don't think I can literally just take a red pen to a. I think I'd

probably have to have the language that sort of says, if there's the lack of capacity this is our process. But I think we can go back to a simpler version. I'm seeing Bernard's hand.

BERNARD TURCOTTE: Do we define qualified somewhere? I'm just making sure we close all the loopholes. Do we define what qualified is?

SUSAN PAYNE: Well, I don't think we do define what qualified is, and perhaps that's where Kristina's language comes in because she-- I'm making you switch back again, Devan, to the Kristina email. She suggested some kind of principles, at least. Yeah. I mean, it is in the interests of the parties. You're not going to appoint a panelist that isn't up to the job.

BERNARD TURCOTTE: Well, they have to be hired by ICDR anyway, right?

SUSAN PAYNE: I don't think so.

FLIP PETILLION: Hired by ICDR? I think so. Legally, ICDR does not hire panelists. It's actually an agreement by the panelists with the parties once they are appointed. Yeah. But I would not define it. I would not define it. I've always referred to the 4Ps, which is knowledge of process, practice, pragmatism, and I forgot the fourth one, and procedure. So, you need

to know the 4Ps. And when I do a commercial talk, it's the 5Ps because then it's a pity that comes at stake as well.

SUSAN PAYNE: Remind me what the third one was. Sorry. So, process, practice.

FLIP PETILLION: Pragmatism.

SUSAN PAYNE: Pragmatism and procedure.

FLIP PETILLION: And I also have personality. So, it's a mixture. Qualification is really a mixture.

SUSAN PAYNE: So, indulge me. Is this the Petillion for Ps, or is this something that is, is this a sort of a widely understood kind of arbitration principle? I guess I'm seeking to understand if everyone talks about the 4Ps or if this is a special Flip.

FLIP PETILLION: No. No. I've taken the effort to put it on paper, I don't know, four or five years ago, and that was published. And I got really good comments about that. But I honestly think that that was just putting on paper what is done in practice. So, what are you looking for when you are looking

for a well-qualified person? Somebody who knows the procedure to practice. Like the ICANN practice, we are thinking of somebody who has the personality, somebody who is pragmatic in the approach, who does not issue an award to dispute theory, but that is really effective, efficient, that can work the parties, that is practical for the parties. That is it. If you want to hear it like that, I'm actually stating the obvious.

SUSAN PAYNE:

Thank you for that. But I'm interested in do you think-- It seems to me it's not expressed in the same way, but I feel like Kristina's language is kind of saying the same thing. You're picking someone-- The process that needs to system with the integrity. And I don't think we need to worry about that. But the objective is to select panelists for the IRP panel who are independent and impartial and have the necessary capacity and requisite, diversity of skill and experience. I mean, that's language that comes from the bylaws, and so it's not a bad thing to reference. I don't think that conflicts with your 4Ps.

FLIP PETILLION:

No. It's more abstract. Mine [inaudible 00:31:54]. It comes from the bylaws.

SUSAN PAYNE:

Yeah. I think it's helpful to have bylaws language. Okay. David?

DAVID MCAULEY: Thank you, Susan. I agree with Flip. And I think it's a fair question, Bernie, about defining qualified. I think the answer is no. I'm in the camp says no. But because the bylaws specify what a panelist is, I don't think we necessarily need to repeat that. I honestly don't. I think that the rules can simply be simple and straightforward. I'm happy with the b through e approach or b through whichever it was, and with taking out a, but I think Kristina's language is good, but I don't think it's necessary. Thank you.

SUSAN PAYNE: Okay. All right. And so, I guess Flip is in the sort of ambivalent camp, and David feels we don't need it. I'm not hearing a huge amount of support for needing it. Again, we're quite a small group, and, obviously, Kristina isn't here arguing, advocating for the inclusion of the language. So, think this is another one we probably can't put to bed, but I can circulate, something that I think reflects the discussion we've had and, hopefully, we are getting close to alignment. Flip.

FLIP PETILLION: If you want to put it to bed, I'm happy to join David's view. Entirely.

SUSAN PAYNE: There we go. Yeah. Okay. All right. Liz.

ELIZABETH LE: Hi, Susan. I just put this in the chat as well, but I agree with David and Flip.

SUSAN PAYNE: Okay. Lovely. Thank you. Okay. Absent. Any really strong reaction when we've finalized the language. I think we're there.

FLIP PETILLION: There is a typo.

SUSAN PAYNE: But I think we are. There's a typo. Thanks.

FLIP PETILLION: No. No. Well, there is use of, what was it? IRP panel administrator and then administrator. I just want Coherent language.

SUSAN PAYNE: Oh, yes. I'm flagging that. And also, we haven't yet. We still do need to go back to Malcolm's suggestion as well, so I'm not ignoring that. Yeah. All right. Sorry. Let me then now suggest if you don't mind, Devan, do you also have Malcolm's email from Monday? I hope you do. Did you send it? Yeah, it went to the list. The attachment. Okay. Yeah. Let me see. I'm just trying to download it myself now. Can I share my screen if I-- Oh, okay. Oh, yeah. Okay.

So, then this is some suggestions that Malcolm made in relation to subsection 2. And well, you're here, Malcolm. Why don't I let you talk about it?

MALCOLM HUTTY:

I simply proposed deleting a few words from subsection 2 which set out some of the reasons why a panel might not have capacity. I don't know if you could change the track changes so that it shows the full track changes. It will show the words they deleted. That would be under review, and then show all markup.

Okay. I don't know why it's not showing the deletions down in that case. Are you showing them in the bubble beside? Okay. Deleted "the requisite diversity of skill and experience needed for the particular IRP proceeding". Yeah. So deleted that and put "all recusal" instead. And so, then the reasons why the panel does not have the capacity is due to other IRP commitments or recusal.

And then if you scroll down, I've added a new section there that says that a member of the standing panel may recuse themselves if in their opinion, in their opinion, they lacked the requisite skills and experience needed for a particular proceeding, which is the language, the existing language from the bylaws. Or in accordance with the norms of international arbitration. So, the effect of this is to broaden the circumstances in which this whole section might be needed because it's not just if they lack the capacity.

It's also if they say that I'm recusing myself because of conflict or any other reason that they've recused themselves. But it also narrows it because it places the capacity, the lack of skills and experience thing as a question of recusal. So, someone has recused themselves. They think that they don't have this requisite skills and experience needed for the proceeding. And that's a recusal situation. They've recused

themselves, they're no longer available. And accordingly, there was not sufficient capacity. Now, Susan, I see you puzzling over that. So, I clearly haven't explained this well enough, or maybe it's just a bad idea.

SUSAN PAYNE: It's not a puzzling. I don't understand you. It's me trying to think on the about wove whether that it's a personal lack of requisite skill and experience as opposed to a collective within the standing panel.

MALCOLM HUTTY: Well, if a sufficient number of them decide that, then there's a lack of capacity.

SUSAN PAYNE: Interesting. Yeah. Flip.

FLIP PETILLION: Thank you. I hear you, Malcolm. I hear you. I think you see something, and you want to regulate it, and I don't see the need for it. And I would stick to the language that was there, which was actually bylaws language as well. And you would try to define recusation or recuse and you are limiting it, and you're linking it to international arbitration norms. I don't see the need for this, apparently. And we will come back to our earlier comment about engineering, overengineering. Do we really need to change this text on that?

MALCOLM HUTTY: But this was language we'd introduced ourselves. This is not existing language. What I'm changing is the language that we've introduced ourselves because I feel that it introduces a confusion here. It says it's setting out that the reason for lack of capacity is due to one particular thing, whereas, actually, there could be a range of reasons why there's a lack of capacity. Yeah.

FLIP PETILLION: If I may come back to the mic. You are here starting from the viewpoint that it's the panel that is recusing himself. Correct?

MALCOLM HUTTY: It's the panelists. Yes. It's recusing us.

FLIP PETILLION: It's the panelist that is taking the initiative. Sorry. But in practice, that is not really what happens. In practice. It's a party that raises issues. And there may be other reasons for raising it that are not in the text here. There can be conflict of interest, there can be bias, there can be different reasons, and that's to the parties to raise that.

MALCOLM HUTTY: Thought we were in agreement that we did not wish to encourage this and wish to put this in a narrow box of where it would be an extraordinary thing to do, and you'd be challenging the propriety of the panelists if you did so as a party. And so, the idea of this really was to

implement that what I thought was a consensus view in this group at the last meeting, that we wanted to put it in that kind of box.

And by flushing this under the category of recusal, I thought we achieved that because if you challenge a panelist saying, well, you ought to recuse yourself and you haven't because you're conflicted. Well, yeah, I mean, that's a brave and maybe foolhardy thing to do unless you're really, really certain of your ground. And I thought that was what we were seeking to achieve here. Now if it's not what we're seeking to achieve, then I understand why you're less enamored at my proposal because I thought that was a common endpoint that we're aiming for, and I was simply seeking to implement it.

SUSAN PAYNE:

So, certainly in the case of the lack of requisite skill and experience needed, that concept, the bylaws concept in question, absolutely. Our intent is to make this something that the standing panel is effectively making the determination it. That's why we had the language up in 2 about in their discretion and so on. It being for the standing panel to determine there's the lack of the requisite skill and experience. But I think there is a distinction between that and something like conflict of interest. I mean, where, yes, of course, you expect the panelists to recuse themselves for conflict of interest if they are conflicted, and that's the expectation, but it absolutely becomes something where the parties raise.

And I guess this lack of skill and experience is also something in theory a party could raise. I mean, we've not closed the door to a party raising it just because we haven't built into the rule. I guess my reaction is more

putting this on the same par as conflict of interest. For me, it kind of opens it back up again more rather than closing it down.

MALCOLM HUTTY:

The idea here was that first, by putting it on the par with conflict of interest, a makes it a super sponsored thing as referred to. Yeah. It's something that you ought to consider as a panelist yourself, are you satisfied? Given that it's in that category, then if a party raises it, they're not really raising it sort of as a first consideration. They're raising it as a challenge to the failure of the panelists to have properly recuse themselves as they see it, which puts them on the back foot in making such a thing.

It doesn't mean the door is closed. You can do make such a challenge if you think that the panelist has not done what they ought to have done. But you are saying you've not done what you ought to have done, which is the house says discourages that, and then very deliberately moves it away from it being an open question. Oh, well, we have to have a panel, well, they have to have the requisite skills and experience. Well, what do the parties think that means in this particular case? Let's have an open inquiry as to what we are looking for from this.

It's like, this is not the way that I thought we wanted to go. And I thought that last meeting had a clear consensus on that. And that's why I've folded this in this way deliberately to make it a thing that could be done, but a thing that would not normally be done like that. It'd be frowned upon unless it was something had clearly heard.

SUSAN PAYNE: Malcolm, it's Susan again. I don't think we've got a disagreement on the principle. I think we've got differing opinions on the implementation in the sense of, to me, calling this out like that and adding it in with the same kind of consideration of whether there's a conflict makes it more open to challenge by people versus less open, and you think the reverse.

MALCOLM HUTTY: I think they do. If others disagree, if people think I'm reading this wrong. After all, to be honest, I would also tend very much to defer to Flip in that kind of thing because he's the one with the experience on these matters. To my reading, it very much works that way. But if I'm wrong, then I withdraw the proposal.

SUSAN PAYNE: Okay. So, I've got Flip in the queue, and David. So, Flip. Okay. Flip is an old hand. David.

DAVID MCAULEY: Thank you. David McAuley speaking for the record. So, I think Malcolm stated the principle right, and I think you are correct. I think that's our objective. This needs to be done and dusted. No litigation over this. And so, the issue is how do you best do it? And when I read Malcolm's language, I liked it, but I understand the point, I think, that's being made, that as we write these things, we tend to get a little bit wrapped around the axle, perhaps, and we may confuse ourselves. And maybe we should exercise an Occam's razor kind of principle. Let's minimize

the elements that we create and defer word that we didn't define "qualified" and maybe a reference to the bylaws, the bylaws talk about this.

And also, I should say in the backdrop, I too want to listen to Flip. He is a practitioner, and I'm not. And so, there's a great deal to say, or let's hear what the practitioners have to say. So, in other words, what I'm saying is I think Malcolm's right. We do want to put this in a narrow box, but I think there's a fair point being made, what's the best way to do it and we should be perhaps parsimonious in how we do it. Anyway, that's it. Thank you.

MALCOLM HUTTY:

I would just say that if my language is discarded, which is fine, I still think we need to-- There's still a problem that needs to be addressed, even if mine is not the best way of doing this. In that the language that we see here in green is this is not existing language. This is a new language we crafted, and it doesn't seem to be complete. Yeah. It's not the only reason why there could be a lack of capacity. It sets up a binary here if there is a lack of capacity due to one thing or due to another thing. And they're not necessarily completeness as the range of the reasons why there could be a lack of capacity. If my language is not accepted, then something else is going to need to be put in here, I think.

SUSAN PAYNE:

Okay. Thanks, Malcolm. I'm putting myself in the queue at the end, but I've got Flip first and then Liz. So, Flip.

FLIP PETILLION: Two things maybe. In practice, please take into account that Council do not raise these kinds of issues lightly. This is something when you do it on behalf of a party, you do it after full consideration, and in my practice, it's rarely done. Second, let's think that, or let's consider that. I'll try to find my words now. There are heavy reasons and easy concepts like conflicts of interest, as opposed to lack of skills, which is actually something that the person in question can assess the best better than anybody else, definitely if that person is on a strip itself.

But lacking skills. Let me put it bluntly. Being dumb is not a reason to recuse somebody. You can be a perfect nincompoop, as you say in English, I think, and act. No, I'm going far, but I can name judges who are not that smart, but that is not a reason to recuse them.

SUSAN PAYNE: I love it. Okay. Liz.

ELIZABETH LE: Thanks, Susan. I support what Flip and David are saying. I understand what and I appreciate the suggestion that Malcolm is making. I do think that it probably from what is being suggested by David and Flip, we agree. It makes sense to not overprescribe this and overengineer this and I think leave the language as currently the way that we have it without the proposed addition to this.

SUSAN PAYNE: Okay. Thanks, Liz. So again, I feel like I'm sort of advocating a bit here, so I've of put my hand up and I've kind of taken my chair out of if you like. If we can scroll up to 2, subsection 2, Devan, that'd be super. Oh, yeah. Okay. So, we've got the deleted language, but we'll read that deleted language back in. But the reason we have that language in there. So, the panel does not have capacity due to other IRP commitments or the requisite diversity of skill and experience needed for a particular IRP proceeding is to reflect as best as possible what it says in the bylaws.

But I don't think that that excludes the situation. I don't think that leaves a gap. If three standing panelists are unavailable because they have a conflict of interest, then they're out too. I don't think that's a gap. They have a conflict of interest. There's a lack of capacity.

MALCOLM HUTTY: Yes. But it's not a lack of capacity due to under IRP commitments or due to having no lack of skills--

SUSAN PAYNE: Skill and experience.

MALCOLM HUTTY: Skills and experience. It's a lack of capacity for another reason. That was the point I was raising.

SUSAN PAYNE: So maybe it's due to lack of capacity due to other IRP commitments.

MALCOLM HUTTY: Or any other reason.

SUSAN PAYNE: Now I need to double check what the bylaws say. Let's have a quick look at what the bylaws say. They may be just say lack of capacity. And I think I had the bylaws.

MALCOLM HUTTY: Yeah. Maybe we could just say that. Just if the bylaws say lack of capacity without anything, then just say that. If it does not have the lack of capacity then.

SUSAN PAYNE: Oh, no. It does say does not have capacity due to other IRP commitments or the requisite skill of thing in me of diversity. I still don't necessarily see that that's--

MALCOLM HUTTY: Well, it would mean that in the case when the reason for a lack of capacity was due to recusal, then this paragraph will not apply.

SUSAN PAYNE: All right. In which case, we need to keep the bylaws language, but also add in otherwise unavailable due to conflict of interest.

MALCOLM HUTTY: There might be other reasons why they're unavailable that we haven't contemplated as well. We don't know what's a comprehensive list here.

SUSAN PAYNE: No. I know. Okay. I'm open to suggestions.

MALCOLM HUTTY: The simpler thing would be to just leave it at lack of capacity and delete the rest entirely.

SUSAN PAYNE: I mean, I'm not unhappy with that, but I don't know that that will be a shared view of the group.

MALCOLM HUTTY: It'd be the parsimonious approach.

SUSAN PAYNE: Yeah. So, if we were just to refer to not having lack of capacity, but removal of due to other IRP commitments.

MALCOLM HUTTY: Or the requisite. Diversity of skills and experience needed for a particular proceeding. Remove all of that and just say, if the panel is in place, but does not have capacity, the claimant and ICANN shall select. If you look at the words on the screen here, where it says, "but does not have capacity", delete the bit due until the end, which isn't supposed to

be a full stop anyway, because this is a gating criteria. It's "unless the standing panel is not in place when the IRP panel must be convened, or is in place, but does not have capacity, the claimant and ICANN shall".

SUSAN PAYNE: Okay. I think what I'll do is I will subject to-- I'm not seeing any opposition. I suspect all of us probably want to go away and ponder on this. So, I need to make a proposed amendment to 3, subsection 3 anyway. I'll make that suggested change to do, and we'll put it to the list. Thank you. Yeah.

MALCOLM HUTTY: Thank you.

SUSAN PAYNE: Okay. All right. Yeah. Yay. Who would have thought--

DAVID MCAULEY: Well, they were the easy ones.

SUSAN PAYNE: I was going to say who would have thought Rule 3 was the challenge? I thought this one was the simple one. Yeah.

DAVID MCAULEY: Can I make just a real quick comment? I think that's a good solution, but just so I don't act like a sandbag. When I come on the list, I'm

thinking of whether that lack of capacity should somehow be tied to the bylaws, like lack of capacity in accordance with the bylaws or something like that. So, I may make that comment. I just don't want to spring it when the list comes out. That's all I'm saying. I'm thinking about it. I honestly don't know what I'm going to say, but I just didn't want to not make that comment. Thank you.

SUSAN PAYNE:

Okay. Thanks. Thanks, David. All right. Then we can come to Rule 4 then please, Devan. This is the Rule 4 text with the rationale. Thank you. Yeah. Okay. Gosh. Something strange happens in the Zoom room, doesn't it? Okay. So as previously mentioned by-- I think, Bernard circulated, and we probably talked on one of our previous calls. This text looks slightly different to when we were talking about the Rule 4 because we've moved the principles of agreement that we reached on initiation of an IRP into this Rule 4.

It could sit somewhere else, but it seemed to sit fairly comfortably in with the parts of the rules that deal with the timing, because it's related again to initiation. So, there's now a section for a-- Sorry. I've lost Rule 4. There it is. Within the whole Rule 4, we now have 4A about initiation of the IRP, and then we have 4B, which is—I'm just sorry, scrolling down in my own copy—4B is about the time to file, the general time to file. Rule 4C is now called timing considerations for a claimant to file an IRP following a request for reconsideration. That was previously the-- I can't remember what it was called. But it was the-- Yeah. It's gone.

And then 4C, I seem to have lost a name, but is what was previously the safety valve language for allowing a situation to-- Oh, hang on. Exactly.

Yeah. Exceptional circumstances. That's the one. Oh, I thought right. Yes. Sorry. I'm looking at the draft, and I'm getting confused. And then, yes, 4D is the limited circumstances for requesting permission to file after the 24-month limit. That was what we were previously calling our safety valve language. So, the text hasn't changed. It's just some of the headings have changed. And so, this section 4 is now quite large, again, because it does include some principles on initiation at the beginning and so on.

In terms of that, if we look at that first section 4A, as it says, there's an explanation here because actually this 4a in particular is not actual draft rule text. What we reached agreement on was more of a set of principles, and we hadn't taken that to the stage of actually having ICANN legal or John Day perform the actual legal drafting. So, we just we are capturing here the set of principles.

And actually, when we agreed those principles, we did have some rationale already in that argument, where it seemed appropriate has been picked up and carried over into here. In some cases, it's been fleshed out a little bit more because we're presenting this to the wider community. And so, there's in some cases, it's what was previously in the rationale, but expanded. And I think as previously, I know it was circulated more recently than the previous versions, but I hope you've all had an opportunity to at least start to look at it.

Again, I'm open to you what you prefer. If people have specific parts of the rationale where they feel warrant discussion, either don't agree with what it says in the rationale or perhaps think it needs expanding and covering more of the detail of the kind of discussions that we had.

Really, this is the opportunity for us to start having that conversation. If you'd like, if the group here would like to, we can definitely go through each of the sections, but I don't want to do that, as we did previously on Monday, I don't want to do that if it's not needed. So I prefer rather we actually go-- if there's a where someone has something they want to say, I'd rather we jump to that section and have that discussion. So, I'm pausing here, really, to see if there are any comments. Flip.

FLIP PETILLION:

Thank you, Susan. A comment that you will not expect, I guess. This 4 has a multilevel list, which is completely baloney. 4A and then you have little one, then you have (i). This is really not how it should be, I think. I think we should stick to multi-level lists predefined by Microsoft, which is very, very, very useful. And later on, definitely, within a couple of years, man, we will have to need to refer to this tactic, that's going to be very much more helpful. Thank you.

SUSAN PAYNE:

So, you're thinking more of like 1 and then 1a and 1b? Yeah. Yeah.

MALCOLM HUTTY:

My understanding maybe I misread this, but I read 4a, 4b, 4c, and 4d as being not subsidiary parts of Rule 4, but four new clauses on the top level that would when it went into the full thing would actually be renumbered. So, it would be 4 4, 5, 6, and 7. And then existing Rule 5 would become Rule 8. Is that what was intended or?

MALCOLM HUTTY: Before we finalize, let's have a general renumbering so that the whole thing is consistent. But the proper hierarchy that Flip is referring to. Absolutely.

SUSAN PAYNE: Yeah. That's a task for a junior lawyer, I think, who gets the really nice task of making sure that all the numbering, where there's a cross-reference between clauses. They've got the right clause number and have-- Because it is a way that you build an error, and I didn't particularly want to build that error in at this point. Okay.

MALCOLM HUTTY: The important thing is, as Flip says, is to be clear as to what is meant to be subsidiary to what. And if you're not clear about that, then you will absolutely make errors. Yeah.

SUSAN PAYNE: Liz.

ELIZABETH LE: Thanks. Yeah. I think one of the things that we wanted to ensure as part of having make sure that we do an overall read before this goes to public comment is for this very reason. To make sure that there's a uniformity in the numbering and the way that things are laid out and we're referencing the right sections and that it also it's laid out in a way that will be usable to reference in the future for IRPs. Thanks.

SUSAN PAYNE: Thanks, Liz. Okay. Back to the actual rationale document then. And again, I appreciate you haven't had huge amount of time to read it. Just if there are any immediate reactions, any immediate concerns about any of the sections, things that are missing or shouldn't be there because you think they're there and they shouldn't be. David.

DAVID MCAULEY: Thank you, Susan. So, this is a very basic question, but the rationale sections are just for the public comment. My suggestion would be that we put those in a different color font or do something to set them apart. I mean, I know that they're italicized on. So, what I'm getting at is this the instructions to the public when they make public comment is that the bold black is the rule or something like that, but I would just be careful about that. Thank you.

MALCOLM HUTTY: But the bold black is not the rule. The bold black is only a set of general principles that they were forming instructions to draftsman. Yeah.

SUSAN PAYNE: Yeah. And we talked about last time, didn't we, also needing some kind of overarching introductory text that reminds people that will also say that. But yes, I agree. Thanks for the suggestion. I think anything we can do to make sure people understand the rationale is the bit that's explaining it for them at this point, but that's not staying in the final version of the rules. Yeah.

All right. Well, I'm not hearing any other suggestions at the moment. Again, as with the others, my proposal is that we have a couple of weeks now before we have our next meeting. I'm not actually sure whether I we have a meeting scheduled. But we almost certainly won't, I think we won't have a meeting next week. The week after an ICANN meeting is usually the time for everyone to recover. And so, we will be reconvening in two to three weeks depending on when this gets scheduled. And so, we have until then, we will have until then to do a further read through.

And again, I'm going to ask for if there are suggestions for additional text or suggestions for removal of text or whatever or general other revisions to be put as suggestions in the Google Doc, and in advance of our next call so that we go into our next call ready to discuss the suggestions that have been made. We're not picking up new suggestions at that point. Because we are quite keen obviously to get this out to public comment as soon as we can. Bernard's got a hand up, I think, about our next call, and I think Malcolm's got a hand up to you. But, Bernard, do you want to--?

BERNARD TURCOTTE: No.

SUSAN PAYNE: Malcolm?

MALCOLM HUTTY: I will I was just going to identify that the previous point that you made at the end of the last discussion needs to happen before we can go out

to public comment. That introductory text that sets this out for the community needs to be drafted and agreed by the group before we can - We can't put it out in this form. This is not digestible by the community. Yeah. It has to be framed within something.

SUSAN PAYNE: Absolutely. Absolutely. But we're working towards finalizing the text. Just because we have another section still to work on. I don't want that to mean that that we can't put some of this to bed.

MALCOLM HUTTY: That's fine with me.

SUSAN PAYNE: David now as well. David.

DAVID MCAULEY: Thank you, Susan. David McAuley speaking. I have a recommendation, and that is when we next meet, that maybe we could set aside 30 minutes just to talk about the process, to circle back to what Flip asked about at the beginning. I mean, to talk about the process and to alert people on the list that are active here, but don't show up all the time. That we are closing in on closing for public comment. At least that they can see that their chance to speak up is coming. It's on the near horizon. And maybe we could amongst ourselves, say, okay, we're getting ready for public comment on the rules, what will follow. It's almost an organizational kind of session. Just so we know exactly where we

stand, how close we are to finishing, how we'll finish, just close this down. There are things we have to move onto, like CEP and appeals, things like that. Thank you.

SUSAN PAYNE: Thanks, David. Should I put you in the queue first? I have Bernard in the queue. And then yeah.

BERNARD TURCOTTE: Yeah. I would just like to schedule the next meeting, either 7th or 14th of November. Both seem open.

MALCOLM HUTTY: Bernie, you said, what, 7 or 14?

FLIP PETILLION: I think the next meeting the attendance at the next meeting is very important. And I really would like to be there. And if possible, those who are not here now could attend as well, that would be great. So, I would make it within three weeks rather to give that opportunity to the people to attend as much as possible. On 7th, I cannot because I'm in Geneva for WIPO. And maybe others will as well. I don't know. And three weeks gives us time to prepare. Because I see that as a very important meeting for our group. And I'm willing to have a longer meeting than one and half hour meeting. Or if you want to split into two consecutive meetings, Susan, for example, one on 14th, and another

one on the 21st, that is also conceivable. I don't know. I'm just thinking loud here.

SUSAN PAYNE:

I mean, I think, obviously, I'm keen to have people who've been very active be there. And so, I don't particularly want to schedule it for a time that I know you won't make. But also, I do actually think the 7th is better for me just because of other calls, but I can work around that. And 14th does allow people plenty of time to have read the documents and to have made their comments, and a bit of time for me or you and I to maybe have done the introductory text as well.

BERNARD TURCOTTE:

14 it is?

SUSAN PAYNE:

Yeah. David.

DAVID MCAULEY:

7th works for me. 14th, I will do my best to be there. My wife and I will be off in Europe, and I'll do my best to show up for the meeting. I don't know where we'll be right now, but I'll just do my best. I believe I can make it work. We'll see. Have to talk to see who must be obeyed.

SUSAN PAYNE:

I'm sorry to eat into your holiday. Yeah. Okay. Okay.

BERNARD TURCOTTE: And 7th is some sort of holiday in the US. I don't know if it's in Europe.
Yeah. Election day?

DAVID MCAULEY: No. No. I don't think so. So, I don't know. I know that Thanksgiving is
the fourth Thursday for the US in in November. I

SUSAN PAYNE: It's which Thursday?

DAVID MCAULEY: 4th. Oh, there is a veteran's day, I know. But it's not widely observed. I
mean, it's nice, but it's not a day that people take off.

SUSAN PAYNE: Okay. So, we're all right on 14th, though. We're not anywhere close to
Thanksgiving.

DAVID MCAULEY: I don't think 14th is a US holiday.

MALCOLM HUTTY: No. It's 23rd is US Thanksgiving.

SUSAN PAYNE: Oh, okay.

MALCOLM HUTTY: And apologies to Liz. I was just speaking up [CROSSTALK]. Right up to a point when you said on the by 14th, you could have a first draft of that introductory rubric. At which point, I'm thinking, well, if you're offering to do that, my preference has definitely been 14th then because I think getting that for the next meeting would be wonderful. So, if you're able to achieve that, that'd be brilliant.

SUSAN PAYNE: I think we'll endeavor. And now that I've said I'm going to achieve it, I guess I have to try and achieve it.

MALCOLM HUTTY: That'd be a real step forward. Yeah. Give us a real sense of forward momentum.

SUSAN PAYNE: Devan is telling us that Veterans Day is the 10th of November. Is that one that people--No? Oh, sorry. Flip.

FLIP PETILLION: Just thinking of something coming back to the numbering. If we change the main numbering, we have to think of correlation table. If we make so drastic changes that we don't find our way anymore in the document compared to the old document, then we need a correlation table.

Previously, number x is now number y, etcetera. So, yeah, but we have to be prepared do that.

MALCOLM HUTTY: Isn't that the sort of thing that we can absolutely rely on the external lawyers for?

FLIP PETILLION: Yes. But I'm pointing out that that is, something to look at and that the junior does necessarily see. Thank you.

SUSAN PAYNE: Certainly, that would be another reason why I would rather, going into the public comment, that we don't start changing rule numbers for people. If we add some 4As and 4Bs in, at least they know it's something that's new rather than you previously, we talked to you about timing Rule 4, but now we're calling it Rule 7. I don't mind if we change it by the time that we've got a final version of the rules, but it seems easier to me to be asking people about the same. Bernard?

BERNARD TURCOTTE: Yeah. As we're talking about getting to a final document, what's the feeling? Do we just put in the sections that where we have changes, or do we introduce those into the full supplementary procedures? So, we have all the elements that we did not change in the supplementary procedures and the elements that we did change.

SUSAN PAYNE: So, my feeling on that is that we provide people as a separate document or a separate link with the current supplementary procedures, but we don't start inserting this text in there because although we haven't changed the others, I think we have talked about this as a kind of interim. Let's get something out to the public to show them what we've been working on and to start getting input back. And whilst I really hope that there's not much we have to do in any of the other rules, I wouldn't want to be presenting them as we think these ones are all done because we haven't really had that discussion. And it's possible that some of the other rules do need work.

FLIP PETILLION: For presentation to public, I think it's important that least take it to the opportunity to see the full picture. Even if there are parts that are unchanged, it's important for them to see what is changed and not and to see the full context. When you have not been participating to this, and we've been busy for quite a while, then you may be lost if you only see the sections where there are changes. And then you have to go back to another text. And, yeah, it makes it difficult for-- And you give the impression that you don't the full picture, whereas there is no intent not to give the full picture. It's always important to give us as to be as transparent as possible, I think.

SUSAN PAYNE: Malcolm.

MALCOLM HUTTY: I would agree with you, Susan, that at this stage, on this consultation, we're consulting on these discrete things. We're not even producing the final text. We're just producing some principles. We're consulting on those. Trying to consolidate that into the full document is unnecessary at this stage.

When we come towards finalization, when we've got the actual text back from the lawyers, we will show the entire thing in its entirety and in its completeness so that people will be able to see how the entire thing works as a whole thing, and they'll be able to compare that against not all the things that we've discussed along the way, but against the existing document. And that's the time for that kind of consolidation exercise. Well, clearly there will need to be such a consultation. So, let's not overburden ourselves now with that kind of consolidation work.

SUSAN PAYNE: Okay. Yeah. That's certainly my preference. I think we need to show people, they clearly have to add the full several. But okay. And then we had a couple of sort of AOB. Well, Flip, your AOB item was around timing, really, wasn't it?

FLIP PETILLION: Yes.

SUSAN PAYNE: Yeah. I mean, our intent is to get the text that we've got to go out to public comment out to comment as soon as we can. I'm hoping that

we, as I say, by our next call, will be in a position to sort of say the rationale text for those particular rules that we've been talking about is put to bed. Rule 3 is a little bit influx, but in only a couple of minor elements. So, it's close to being finished. They'll need to be the wrapper that goes around this, but at that point, we there'll be an opportunity again, I think, for everyone to see the whole thing in a few weeks for a final call for comments from the group.

And remembering, of course, if people in the group have got comments on the specific rule text, we are going into a public comment, and I'm quite sure that that you and your groups will be putting comments in as well. So, I mean, we're still looking. I don't know if there's a cutoff point at the end of the year, whereby we can't go out to public comment if we get past a certain date. I don't know. Bernard may have some thoughts on this.

BERNARD TURCOTTE:

I don't think there's really a hard and fast rule, but the reality is that if you haven't gotten it in after the first week of December, it's going to be really hard to make sure that that's up. That's the first point. And the second point we have to consider is for all intents and purposes, there's the end of year calendar year where everyone disappears for a while. Now in some groups, people like that because they have a break, and they can look at the documents more easily. Some people really hate that because they don't want to work during that break.

And so, if we do get it published for public consultation before the end of year holidays, we probably will want to consider to make the period longer than the minimum. So that's the 42 days. But if you're going to

remove 14 days from that or even three weeks, in my experience because things don't really start up until January 15th. So, between December 17th and January 15th, really, you're not getting a lot of traction on anything anywhere. So that's just the reality.

So, either we wait until after January to publish, but then the danger is everyone's trying to empty their mailboxes and they're going to lose a week or two catching up on real life. So, if we can publish before the Christmas break, those that want to read it during the holidays can, and we just have an extended period. I'm just suggesting this as information.

SUSAN PAYNE:

Come on. Never say never. Well, let's try and work towards that, but we'll recognize that we can't drop it on the community on 17th of December, and not give them an extended period because then the perception will be we're trying to hide this thing. And that's not what this is about.

MALCOLM HUTTY:

I don't see the point in dropping it on 17th of December anyway, even if we do give them an extended period. It will still get lost, and there'll still be the sense that this was just slipped out before Christmas. If we're not going to get it out before the beginning of December, and I very much doubt it. I would suggest they make targeting something like the 7th of January.

DAVID MCAULEY: I would second that.

SUSAN PAYNE: Okay. Oh, we're at top of the hour. Was there another piece of AOB, or is this-- I mean, Liz, we've sort of talked about yours, but in the sense of there needs to be time for an overview and a cross-referencing and so on, even amongst our text. And I think that's appreciated. Yeah. And all of which I probably does go to Malcolm's point that we may not make before Christmas. Okay. All right. It is the top of the hour, and it's time to wrap up. So, thank you very much, everyone. And we will reconvene shortly after ICANN78. Thank you.

DEVAN REED: Thank you. Please stop the recording.

[END OF TRANSCRIPTION]