

BRENDA BREWER: Good day, everyone. Welcome to the IRP IoT plenary on 16 January 2024 at 18:00 UTC. Today's call is recorded. Please state your name before speaking and have your phones and microphones on mute when not speaking. Attendance is taken from Zoom participation. I have apologies from Scott Austin. And with that, I'll turn the meeting over to Susan Payne. Thank you.

SUSAN PAYNE: Lovely. Thanks very much, Brenda. Sorry, excuse me. And I'm just noting in the chat from Liz, Sam has sent apologies as well for today and Liz has to leave the meeting 15 minutes early. I don't see that as being a problem, Liz. I could be proved wrong, but I suspect we may run a bit short anyway. But we'll just keep an eye and make sure that we're still quorate if you do have to go.

Okay. Thanks, everyone. And happy New Year to those for whom this is the New Year. This is our first call of 2024. So let's kick off in the usual way by a quick review of the agenda and the updates to the SOIs. So in terms of the agenda, we had a couple of agenda items, sorry, action items, although they're kind of essentially the same one relating to me revising the draft introduction to reflect what we agreed and discussed on the last call and an agenda item for everyone to also review the introduction and suggest any proposed edits, particularly relating to issues that were raised as concerns about the introductory text on the last call, which I would say I don't think that I saw any additional edits from the group in the Google Doc, although obviously we had had edits prior to our last call.

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All right. Agenda item three is the main bulk of our call today, which is reviewing and finalizing that proposed introduction. Then item four, there'll be just an update on the kind of next steps on getting this out to public comment. And agenda item five is a sort of preview of ICANN 79, the meeting coming up at the very beginning of March. And then there's the usual placeholder for AOB. I'll just pause and see if anyone wants to add anything now to AOB before we go back up to the SOIs. OK, not seeing anything. All right. Back to the top of the agenda then. Does anyone have an update to their statement of interest that they want to flag? OK, again, I'm not seeing any, so I'm going to take that as everyone is up to date.

OK, agenda item two then, the action items. I touched on this already when I was quickly running through the agenda. There were action items essentially for final revisions on or insofar as possible final revisions on the draft introductory text. In particular, there were various suggestions that had been made on that we went through on our last call, which I've endeavored to reflect and accepted the amendments that we were in agreement on. And there were a couple where a bit of tweaking was looked like it would be beneficial to aid understanding. And so I have done that. And generally, there was a call for the group to make any further edits that they wanted to make, including Malcolm had indicated some reservations about how we were reflecting the time for filing in the introductory text. But having not seen any suggested edits from Malcolm, one of the things I did yesterday was attempted to try to reflect his concerns as I understand them. So with just a few sentences to try to refer in a little bit more detail to the time for filing issue, which is obviously expanded on in much more detail in the rule

four document itself. Okay, so we I think really our task is just to review that introduction now, which is agenda item three. And Brenda, would you be able to pull up the document? It doesn't really matter which one, either the Google Doc or the Word, whichever is easier for you.

Perfect. Thanks, Brenda. Oh, sorry, Liz.

LIZ LE:

Thanks, Susan, and Happy New Year, everyone. One action item when we last discussed the introduction and just the overall public comment the last time is there was an action item for Org to come back to the group in terms of discussing whether or not we would be going out to public comment on concepts versus proposed legal language. And there was a concern that we had expressed that if we could, we could go would go out with legal language to avoid another public comment process on legal language once we receive community input on the concepts itself. And so you had asked us to come back with proposed timing in terms of when we would be able to provide legal language. And so the balancing the idea of avoiding multiple public comment process, but also trying to get this out as soon as possible. And so we've been working with Jones Day in terms of preparing proposed legal language around the rules that the group has discussed. And we believe that we will be able to provide the language by the end of the month, the end of January for the group. And so I think on that, we really, again, really would emphasize that it would be, I think, much more efficient if we were to go out for public comment with legal language than just develop legal language just on the concepts alone. Thanks.

SUSAN PAYNE: Thanks, Liz. Becky.

BECKY BURR: I just wanted to second the notion that it makes much more sense to me to go out with legal language rather than concepts. We should know what people have in their heads or what information is there. So I strongly support the notion of waiting until we get the legal language going out with that.

SUSAN PAYNE: Thanks, Becky. Previously we'd kind of come to agreement that we would probably, we wanted to get something out as quickly as possible. And we didn't think that we would have time to wait for Org and Jones Day to draft the legal language. But this is obviously, the end of the month is actually very soon. I will just check that Liz did mean the end of January. And I'm seeing a bit of agreement with the idea of waiting on that. So, but also Kristina has her hand up. So, Kristina.

KRISTINA ROSETTE: Kristina Rosette for the recording. Happy New Year, everyone. I think what I would like to do before I kind of weigh in on Liz's proposal is if we could run through what the timeline then looks like. In other words, would the expectation be that we would all review that language before it is included in the public consultation? And if so, how much time would we need? At what point do we then run into whatever prohibition may exist regarding putting things out for public comment in close proximity

to an ICANN meeting, etc. Because depending upon what we're looking at timeline, I don't want to say yes, and then this doesn't go out for public comment until April. The other consideration I have is that while I certainly understand that there's some efficiency arguments, there's also the possibility that we could get some fairly strong negative pushback to what is currently proposed to go out. In which case, then we would have to go back to the drawing board twice on legal language as opposed to just getting that provided to us once. So, in any event, that's kind of where I am right now, thought-wise. Thanks. And if we could run through that timeline, I would appreciate that. Thanks.

SUSAN PAYNE:

Thanks, Kristina. David?

DAVID MCAULEY:

Thank you. Thanks, Susan and Kristina and Becky and Liz. I want to explain my comment in chat where I said I agree with Becky and Liz because I haven't always, I've sort of waffled on this a little bit to be self-deprecatingly fair about it. Originally, I thought we were actually drafting legal language ourselves. And when it became apparent that we were going to have someone else put this into legal text, I was a little bit surprised, but I thought, okay, that's fine. And so I went along with the notion of putting things out, but I was never really comfortable with it. And I think that Liz made a good point. I think the potential for confusion is higher if we don't put out the actual language that we intend to be the rule. So I just, I've really come back to the position I originally had. That's what I think we should do. And with respect to

Kristina's point about timing, etc., I think it's a fair point, but I think it takes second seat here. And in saying that, I want to also say there's nothing that prevents us members of the IOT from coming out with a blog to the community that says you haven't heard from us a while. There's a lot going on. This is complex. We are basically prepared to come out to you with rules, but we have to have some actual experts help us with the actual text. And while that's taking place, before we put those rules out, we are taking up work in other areas that we have responsibilities in. For instance, we have to work on limitations of appeals. We have to work on CEP, etc.. There's nothing to prevent us from saying to the community, there is work going on here and these are our plans. Do expect to look at the rules. We have discussed them in great depth. We're going to have an expert put the final touches on what actual text you'll see. And as that happens, we are moving on and continuing our work. So that's my thought on it. Thank you.

SUSAN PAYNE:

Thanks, David. Flip.

FLIP PETILLION:

Thank you, Susan. Hi, everybody. Happy New Year to everybody where it is in New Year. I'm frankly a bit shocked by the comments. Now we need experts. We need external experts. And on top of it, it's Jones Day who's going to do it. Frankly, I thought that the people around this table, this group, were the experts. And this is really new to me. Why have we been discussing this for years? And now all of a sudden, there would be language that would be ready in the next 15 days by another

firm. And not simply a firm, it's the firm that is always used by ICANN to defend its position in IRPs. For me, this is really not acceptable. This is really not how it should be done.

SUSAN PAYNE:

Okay. I'm a bit surprised at your surprise, Flip. But I'm going to go to Liz.

LIZ LE:

Thanks, Susan. So it's Liz Le with ICANN to work for the record. I think with all due respect to Flip's comment, this is consistent with how we've handled the past public comment processes where the group has developed and discussed the rules. And then before we went out for public comment, there was consultation with Jones Day. In the past, there was, I think, consultation with another firm that the IOT had looked to to develop the first set of comments, I believe. What we're trying to do is to be consistent with the process and to make sure that when we do go out for public comment, the phrasing and the language that we are proposing to the community and what they see is what they would expect to come back with and what they would expect to appear in the final interim procedures. And before going out for comment, to Kristina's point, the rules would be provided to the group to review. The proposed language would be provided to the group to review and that they would be comfortable with before it gets put out for public comment. And so this is really consistent with how we have handled the proceedings in the past. Thanks.

SUSAN PAYNE:

Thanks, Liz. And I would say that has been my understanding as well. That's certainly what I've been led to believe from the outset and also just from being outside of this IOT group but watching what was happening in its previous iterations. Now, obviously, there are a whole lot of lawyers on this group and in some cases we have effectively drafted and chances are that it will be a pretty small task for that to have a formal legal review for some of what we've drafted. But for some of what we've drafted, it's more in terms of kind of heads of terms rather than final version of the rules. And I thought it was the understanding of all of us that that was the case and that it wasn't our responsibility as a group of volunteers to be providing legal drafting services.

It's interesting what you say about the firm, Liz, and perhaps we need to have a conversation about that offline maybe. But I think in terms of it's difficult for me to say very clearly what the impact on the timing would be, but it does seem clear to me that if we have draft rules that have been through a legal review by the end of January, then we would, as a group, we would most certainly want to review and confirm for ourselves that what has been presented reflects what we feel we reached agreement on. And so there will be some time that is taken up. And I think realistically it probably does mean that this won't go out for public comment until after the Puerto Rico meeting, because that is at the very beginning of March. But if the feeling of the majority of this group is that that is preferable in terms of then maybe short-circuiting having to do a further public comment exercise, then we can most certainly do that. Greg?

GREG SHATAN:

Thanks. We've got a couple of overlapping issues here that we're discussing, kind of who, what, and when. You know, I think regardless of whether we went out with concepts and then almost certainly would have to come out again with legal language, or if we come out with legal language this time and potentially get comments that would result in a second round of public comment, but probably more limited, either way, it's going to kind of have an effect on the timeline. Probably doing the legal language could take a little bit longer to get out the door, but it does potentially avoid another round of comments, or at least it avoids an inevitable round of comments on the legal language for the first time. You know, it would be good to get kind of a comparison of the status quo timeline and then compare if we do not go out with a conceptual draft but go straight to a legal drafting output. It seems whenever you're having negotiations of any sort of a document, it's always a question of whether it's better to negotiate the concepts first and then the language will reflect your agreement, or whether you essentially negotiate the language and what you're agreeing kind of simultaneously, so somewhat by analogy to the current status. But it doesn't bother me doing it in this potentially more truncated fashion, or at least going out with real legal language, I think will be better for hopefully everyone.

As for the question of who, I don't know what we thought the who was going to be under the original approach. If we were going out with concepts and then we're going to have to come back with legal language anyway, did we not think it was going to be Jones Day? Did we think we were going to do it ourselves? Were we going to hire a third-party counsel, which we obviously haven't even started doing? I

understand Flip's wariness, but I think that it's incumbent on us all, especially those with legal background, which is nearly everybody, to review and approve and review with a fine-toothed comb what Jones Day comes back with, make sure they haven't left any Easter eggs or gotchas for themselves or for other, if you will, defense counsel. But hopefully if our concepts have been well expressed, there isn't that much wiggle room for a purpose that is to get into the legal language regardless of who they are or who's doing the drafting. So while admittedly imperfect, I think that I can live with Jones Day doing it, but not the idea that we're merely kind of reviewing it. I think we really need to be taking an active approval stance, precisely for the reason that Flip says, that there's if anything, I hate to say conflict of interest, but there's certainly an alignment of interest with Jones Day being in the position that it is. And I would hope that we can instruct them or they'll be instructed to essentially call balls and strikes and not to draft for org as client in getting this done because that will just, in the end, that will make this longer again. Thanks.

SUSAN PAYNE:

Thanks Greg. Flip.

FLIP PETILLION:

Thank you, Susan. May I remind everybody that Jones Day has been participating in these debates for many years. So there have been multiple occasions to suggest language and to correct language, to correct approaches. There's a problem of call it whatever you want, objectivity, neutrality, distance. And it's not because this was done in

the past that it's actually the right way to do it. I urge everybody to seriously consider to approach this differently. Thank you.

SUSAN PAYNE:

Okayl appreciate your concerns, Flip. There was a point that Liz made and it might be helpful if we could get a bit more clarity on that. You mentioned that previously for the first public consultation, which was effectively a fairly full redraft of the rules, I believe, that there was a different firm instructed. And I think perhaps there might be more comfort if that were the case, I guess. Is that something you can expand on?

LIZ LE:

Hi, Susan. I think—and I don't know how they were involved or to what extent, because I became involved later on past that first public comment period. But I believe that at some point, Sidley Austin was involved in reviewing part of the drafting as well. I believe that Jones Day provided input into the drafting and so did Sidley. So that's what I was alluding to. But honestly, maybe there are other people on this call that would have better background on that to the extent of their involvement. I don't know on that.

SUSAN PAYNE:

Okay. Thanks, Liz. I'm not seeing anyone with any further comments. Bernard.

BERNARD TURCOTTE: Okay, if we're talking about the 2016 redrafting of the bylaws, is that what you were referring to, Liz, just to be clear?

LIZ LE: No, I was referring to I thought that Sidley had involvement in drafting of the first set of public comment rules that went out for public comment. I know that they were involved in redrafting the bylaws, but I wasn't referring to that.

BERNARD TURCOTTE: Okay. Thanks.

SUSAN PAYNE: Okay. Thanks. All right. I think there's certainly not unanimous support for this, but there's a pretty high level of support for us trying to put out legal language rather than otherwise. I'm a little disappointed because I felt like we had this conversation in Hamburg and we'd reached an agreement on this. And so I feel like we seem to be backtracking just at the point now where we were about to actually go out to public comment. But I'm also conscious that Becky is here from the board and she's also expressing the view that it would be preferable to have the actual legal language. So I think perhaps this is inevitable. I'm encouraged by the fact that we can have that by the end of the month. And so we can then look to having our next call. We should be able to actually start on that review or at least we can start on that review when we receive the language. But we can spend our upcoming calls hopefully finalizing that language as quickly as we possibly can. I feel

that this definitely will push the public comment back. I don't see that we can get this done before the Cancun meeting, but we can always hope that that's the case. If the draft rules that are presented are ones which reflect the hope that Greg had expressed, that they're drafted neutrally and not from the perspective of one party over the other, then we have more chance of the work being progressed more quickly. But I am saying all this on the basis that there is that commitment from Liz and ICANN Legal that we will have that language by the end of the month. So I'm trusting that that's the case, Liz. I think if that's not the case, then it would be more than a disappointment. And we, I think, would have to revisit our position and get something out. I'm really conscious that we were at the end of last year or middle of last year, in fact, we were under quite a lot of encouragement from Becky on behalf of the board to get something out so that the community could see what we've been working on. And so it's unfortunate, I think, if we miss the Puerto Rico meeting, which had been one where the intent had been to be able to have a session for the community to talk them through the public comment that was already out and published. I'm not sure we can get any further on this particular call with that, but I think irrespective of that, we still do have text here to finalize on the introduction. Where we're referencing to the fact that we aren't putting out the final version of the rules, obviously, if we do actually have legal language, we'll need to tweak that. But I think we should review the introduction as it currently stands and at least have it in close to final form. And then we can take it from there.

I think, actually, just before we do that, can I just get a sense from the room, could you give a tick in the Zoom, if you're supporting that

approach, if we will go forward with legal language, rather than taking forward the current version, which is more based on principles, with some legal language still to be drafted? So if you're supportive of us perhaps being slower to get out to public comment, but having the legal language that we put out, can you put a tick in the Zoom room just so that I can get a sense of the level of support?

I'm seeing three ticks. Last call for support on that. Yeah, okay, Kristina's conditional support on receiving the legal language by the 31st of Jan. Yes, perhaps if you all could tick on that basis conditional on receiving the support by that date, and I can't see a tick from Becky, but I know she has already indicated that that's what she supports. Okay. Alright, thanks. David.

DAVID MCAULEY:

Thank you. Thanks Susan, and as ticked, I certainly support this. So if we hand this off to Jones Day to do this, my experience in dealing in the legal world is inevitably there's going to be a question or two. So should we have a meeting scheduled between here and there to answer questions if they come up or can we do that on list with Jones Day if that's the one? Maybe that's possible to do it on list. But if we handed something off and didn't have a question, I would probably be surprised. Thanks.

SUSAN PAYNE:

Thanks, David. We could certainly put a meeting in the calendar for next week if it would be helpful. And if there are some questions, and perhaps even one for the following week as well, but I think the end of

the month is actually pretty soon. So there's not that many opportunities. But it's a good suggestion. I think I'll ask Bernard if we could perhaps have a meeting next Tuesday as well. And ideally, we can deal with this over the list, but it's absolutely right that it would be useful to have a meeting in place if we need it.

BERNARD TURCOTTE:

Well, what's usually done in these cases is we'll schedule some tentative meetings, and if Liz comes back and says there is some material to be discussed and questions to be answered, then we will confirm the meeting, and if not, then we cancel them. So I guess we should schedule that for, if we look at the calendar, next week would make it the 23rd I believe, and then another tentative one on the 30th, so they can wrap up by the Wednesday, the 31st of January. Would that be agreeable to everyone?

SUSAN PAYNE:

I think from my perspective, that certainly makes sense. That sort of tentative meeting approach. Greg.

GREG SHATAN:

I support that approach. I also support this approach both for the larger purpose of making it, I wouldn't say, I'd like to say making it clear who Jones Day is working for, but I know, in fact, they're being paid by ICANN, but that in essence, this is the committee's legal, or the IOT's job to get this language out and not ICANN Legal. Obviously, ICANN Legal has to approve it. But again, the idea that to get away from even the

perception to the greatest possible amount that this is home cooking going on. So I think it's important to send a message to Jones Day that this doesn't get done without going through us and that they should be looking to us as, if not the client, a vector in getting the work done and who they need to satisfy. Thanks.

SUSAN PAYNE:

Thanks, Greg. Yeah. Well noted, I think. Okay, that's the approach then. We will look to having some tentative meetings if we can, if there are questions that we should answer or anything that we can immediately review. All right, then if we can turn now to the introduction. Just I wanted to flag a few items really. Given that we've been through this previously, I don't want to go through a full read through, but I wanted to flag some of the edits that I've made. As I said a little earlier, there were a number of suggestions from David and Kristina and Liz, a number of them were sort of tweaks and kind of improvements on language for readability and so on. A handful of them were a bit more substantive. But as we discussed on our last call, where we discussed it and were comfortable with those edits, I've accepted them. And then in a few cases, that itself led to some kind of follow-on amendments which I've then put as suggested text so that we can see the edits here.

I'll just sort of highlight the main points as we go through. And I think as we go into the background section, the first paragraph, there are some links throughout the document where I previously just put a placeholder that we needed to include links to the relevant web page or whatever. So I have picked those up. That's certainly not substantive. And you'll see that I've added a sentence at the end of that first paragraph that

just says the current version of the IRP supplementary procedures is the interim IRP supplementary procedures. And I think that that's also a hyperlink to the current interim version. And that is an edit that I've made just to try to reflect the point that Liz raised about there was a bit of inconsistency in the draft about which rules we were amending. And sort of there was a potential lack of clarity. And so just trying to make it clear that our task here is basically to come up with a new version of the IRP supplementary procedures. But we're working from what is the current version, which is the version that's called the interim rules or interim IRP supplementary procedures. And so just flagging that, and I think there's maybe another place or two where that kind of edit is reflected as well through the document, just to make it clear that we've worked off the version that's the current live rules.

In paragraph two, the original drafts had included a reference to the standing panel. And as Liz rightly pointed out, that wasn't really correct because these supplementary procedures do apply to an IRP, irrespective of whether the standing panel has been appointed or not. And so once I removed Liz's edit, that text at the very end of this paragraph where it says which should be the primary rules or the primary source of panelists for IRP once it is established, that was a reference back to the standing panel. And so that text just doesn't make sense anymore. So I took that out. And in terms of the supplementary procedures being the primary rules for the IRP, that concept already picked up in a previous paragraph. So it was just duplicative. So I deleted that and I hope that that's not at all controversial. I'll sort of pause from time to time in case anyone has anything they want to

question or comment on but as always, I'm keeping an eye on the hands so as always, put your hand up if you have anything to question or add.

And then just continuing down, I don't think we need to scroll, thanks Brenda. That paragraph three in this background section refers to the two different public consultations that have been held. When I was looking at this again, I realized I'd used different, I hadn't standardized the dates. On one of them I'd used the date when the consultation was commenced and on the other I'd used the date when the consultation closed. And actually the closing date is more helpful to the community because that's how these closed public comments are listed. If you look back on the ICANN website that's how you find them, by reference to the closure date rather than the opening one. So I clarified that in this paragraph for both of those.

And then we'd also had a discussion about access to the previous public comment input and the staff reports of the comments. And so you'll see in those two bullets, I've reflected the point that the page for the public consultations includes the links to all of the previous public comments. And in the case of the first one, it then includes a link as well to the staff prepared report of the comments.

In the case of the second one, and this is a point for perhaps some quick discussion, the second public comment exercise, which you'll all recall, was the consultation on specifically on the timing rule and time for filing and whether there should, well, it was the consultation which removed any kind of repose and asked the community for input on that. There is currently a staff report of the public comment input received. The public comments themselves can be found at that link and there are only nine

of them and I would say they're all relatively short because they are on this discrete issue, as opposed to the previous consultation, which was much more wide ranging.

So I think I'm looking for the thoughts on this, but my thoughts are that really it would be preferable if there was a formal report of those comments. It's something that I think fell through the cracks because the IOT was sort of reconvened with new participants. And if we are in any event having a slightly longer timeline into our public comment period because of the legal drafting, I think that gives even more, perhaps, more support for actually just having a quick report produced of those public comment input. It would be in the same sort of format as is always done in those reports of public comments. It will pick out particular submissions that are made in terms of the text that people have put in. And if for example, people were being asked two specific questions, so it will capture a summary of how many supported there being no repose versus if there was non-support for that concept. But I think in line with other reports, this is not intended to be something extremely lengthy, but very much a summary to just provide a bit of assistance to the community, but would never be a replacement for them looking at the actual comments themselves if they have mind to do so. And Bernard is volunteering there in the chat actually that he'll proceed with that. So I think unless there's feelings that that's not necessary, I think that would be what my proposal would be. And I'm not seeing any hands, so I think we can keep going down.

On paragraph four, which is just that one right at the bottom of the page that you can see, Liz again had made a few tweaks to this paragraph and although I think most of them have been accepted, we

did have a bit of discussion about this because there were some feelings that it was slightly confusing. And so the amendments that you can see in there regarding the interim rules, the purpose of the interim rules, were to align the rules with the bylaws as updated on the 1st of October 2016 in the event that an IRP was initiated, while the IoT continues to work on a final updated IRP supplementary procedures.

I think that hopefully addresses the slight confusion that there was with the previous language. But if anyone feels that this is still a bit unclear, this is the opportunity to make any further suggestions. And again, not seeing any hands, so I'm going to keep scrolling down.

In the section headed third public consultation, that's obviously the consultation we're going into now. I have flagged in here, again reflecting the comments that Liz had made about which rules are we amending, that we've used the interim IRP supplementary procedures, which is the current version of the rules, as our starting point for further edits. I think that might be a point that we'd previously made in some of the rule documents themselves, but it's helpful to have that here in the introduction. And then if we scroll down to the third paragraph, well, I'll just pause and say the second paragraph is the one that deals with the fact that as we were proposing at the time, we might not have final legal language. We'll need to make some edits to that if we do actually go out to public comment with legal language instead. But that's just there now for the moment as kind of the placeholder text that we had previously.

But if we scroll down to paragraph three, I have proposed a deletion there. The paragraph is now proposed to read, it is important to note

that the IRP IOT considered all the comments made in previous public consultations when working on this proposed update to the IRP supplementary procedures. Previously, the text had included the additional words and have included a number of these in the proposals presented here. But that was, I think, a bit unclear. It's a bit vague about what exactly we've included and what we haven't. And then given the concerns that Malcolm raised on the last call about rule four and the path that we've taken on that, in the interest of not being potentially perceived as misleading people, I thought actually the best thing is just simply to take that out. I don't think much turns on that text. So that's my proposal.

And then I think the next really sort of substantive point is down in paragraph five, which is just here at the top of the next page. And this is where, as I said, when we kicked off this call, I was looking to try to address the concerns that Malcolm had raised, that we were not sufficiently flagging, that there was sort of disagreement, if you like, on how we've handled Rule 4 and the time for filing and that there had been obviously public comment input and that there was certainly a degree of public comment input opposing the concept of a repose and we haven't followed that. We have come up with a compromise to try to balance. And so I'll just read that paragraph in whole of the proposed amendments that I've suggested that I hope reflect Malcolm's concern, but bearing in mind that this is a relatively short introduction and there's more information, in the document on Rule 4 itself.

So it now would say with respect to Rule 4, dealing with the time to file an IRP, the proposals are the result of substantial discussion amongst the members of the IRP IOT and compromise. There was substantial

opposition in the first public consultation input to the proposed 12-month repose, i.e. a 12-month time limit after which no IRP could be brought, irrespective of whether a cause of action had yet accrued. In the second public consultation, the IRP-IOT sought input on a proposal that there should be no repose, which received good but not unanimous support in the public comments received, with some respondents contending that a period of repose of longer than 12 months should be adopted. The proposals put forward in this public consultation do not reflect a full consensus of the IRP-IOT, but do reflect a compromise that a consensus of the group could agree to put out to public comment, and then more explanation is contained within the rule four document.

So as I say, I hope that that strikes the right balance and addresses Malcolm's concerns. Malcolm hadn't proposed any language himself and so that's my best attempt to addressing that. I'll pause and just see if anyone has any feedback or concerns about that. But I'm hoping that that is purely factual and hopefully not contentious.

Okay. I am not seeing any hands. And then I think the other amendments are really more in the nature of minor drafting tweaks. I don't think they need to be particularly flagged. So that's where we've got to with the introduction text. I think subject obviously to if we have to amend this to reflect our new approach on the public comment. Subject to that of course I think we're in a position, I hope, to finalize this. I've just had a message. I think Kavouss would like to speak, but his hand is not working. So Kavouss, please. Welcome. We're pleased to have you on the call.

KAVOUSS ARASTEH:

I would say that I agree with you, what you said. Thank you.

SUSAN PAYNE:

Super. Thank you very much. Apologies, I just put myself on mute. I think with that, we can put the introduction to bed for now and we may come back and have to make some final tweaks if we change the nature of what we put out to public comment. But otherwise, I think we are now good with the introductory text. So we can circle back to our next agenda item.

Okay, so our next agenda item was the update on the public comment next steps. Well, I have to say that that has been rather superseded by the discussion on this call today. So I was going to give you some of the timings by which sort of final versions of documents would come around and our anticipation that this would go out to public comment around about mid-February, but we now, I think, have had a fairly lengthy discussion earlier on on our call about our public comment next steps, and so the approach is potentially changing, but we will have those tentative calls in for the next couple of weeks and we will look to have the language from Liz and ICANN Legal by the end of the month.

In terms of agenda item 5, ICANN 79 meetings. Again, I think this has been a little superseded by events. We have two slots that have been requested and Brenda kindly added them to the agenda. So one is on the afternoon on the Saturday, 2nd of March, and the other on the Thursday, so the final day, just shortly after lunch. I think that I see no reason for us not to keep two sessions. I will give some thought to what we do with them. It may be that they become two working sessions, or

it may be that depending on where we have got to, it may still be appropriate to have some kind of a session for the community. So I certainly am not proposing that we cancel these at this point, but they're a little up in the air. David.

DAVID MCAULEY:

Thanks, Susan. Hi, everybody. Again, it's David McCollough speaking. I'm very surprised and pleased to see that we have two sessions. You know, in the past, I've been one pushing for sessions at the ICANN meetings, but I didn't this time just because we had a small turnout last time and for other reasons. But if we can have these sessions, I personally am quite pleased and thankful to ICANN for the resources that would go into it.

Now, back in Hamburg, I did up a PowerPoint presentation on issues not related to rules. You know, I just developed a PowerPoint presentation that we could use. I never sent it to you or to anybody on the IoT, but I had it ready to use if, in fact, we ran out of things to say and we had time available. I didn't want us to be wasting ICANN's resources. And so it was things about appeals, limitations on appeals, questions regarding appeals. And so I could certainly offer that to the group as a series of questions, as table setters, in case we find ourselves having time and not having an agenda yet. I don't think I proposed any particular point of view. I think it's really just a series of questions.

And I'd also note that on next things to do, if I recall Sam correctly, when we asked about that once, I was of the view that we should turn to appeals. I think Sam was of the view that we should turn to CEP. So I

don't want that to go unsaid. But in any event, I'd be happy to help create an agenda for a session if, in fact, we have these times. As I said, I'm very pleased that we might. Thank you.

SUSAN PAYNE:

Thanks, David. So I think I should clarify that I think we've put in for these sessions. I don't think they're confirmed yet, but obviously very hopeful that we'll get those two sessions. And I think we're a few weeks out yet from having to be committing on exactly what we'll be doing. But I think depending on where we are with this public comment, it may well be that we can do two really useful sessions where we review the legal language, for example, if we need them. If we don't need them, as you say, it may well be appropriate for us to whilst we're waiting for the public comment to get out and for the comment input to come back, it might well be worth us turning our attention to one of the other items that's on our slate, such as the CEP rules or appeals or something of that nature. So thanks for your suggestion and your offer. I think I'd probably at this point like to park that and not make a real commitment. I think we may well find that we need a couple of really useful working sessions face to face to bash out the final review of the rules, but we may not need that. So we can circle back to that in a few weeks' time.

I think it's probably at this point time for us to wrap up. I know Liz is going to have to drop, but I think we've also probably reached the end of what we can usefully do on this call. Just again, a final call for in case there's any other business that anyone wants to raise. Okay, I'm not seeing anything. Oh, Kristina.

KRISTINA ROSETTE: Could I just make a request that if it wasn't already planned to do so, that when we do receive the draft legal rules from Jones Day, could we receive them as a Google Doc so that we can edit and comment more easily? Thanks.

SUSAN PAYNE: Thanks, Kristina. Yeah, that's a really good suggestion. I think we might have lost Liz. I am noting that Kate's on here, so I hope that Kate can take that back, but maybe we can also reflect that comment to Liz as well. Bernard?

BERNARD TURCOTTE: As long as they get it to us, we'll transfer it into a Google Doc, whatever format it comes in.

SUSAN PAYNE: Perfect, that's great, thank you. All right, with that then, I will give you a few minutes back on your day. So thanks very much, everyone, for joining. And keep an eye out for the calendar invites for the possible tentative calls in the next couple of weeks. Thanks very much.

[END OF TRANSCRIPTION]