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TERRI AGNEW: Good morning, good afternoon, and good evening. This is the Joint Board Candidate Evaluation Committee (BCEC) and Board Member Selection Process Committee (BMSPC) Working Group call on Wednesday the 1<sup>st</sup> of October, 2014 at 21:00 UTC.

On the call today we have Tijani Ben Jemaa, Murray McKercher, Eduardo Diaz, Olivier Crepin-Leblond, Roberto Gaetano, and Alan Greenberg.

We have apologies from Fatimata Seye Sylla, Maureen Hilyard, Siranush Vardanyan, Carlos Aguirre, and Cheryl Langdon-Orr.

From staff, we have Kathy Schnitt; and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you, Tijani.

TIJANI BEN JEMAA: Thank you, Terri. Good morning, good afternoon, and good evening, everyone. We have the agenda on the Adobe Connect. We agree with this agenda. Do you want any modifications to the agenda? I don't see any hands, so I will suppose that the agenda is adopted. Now we will start.

First of all, you know that this call is a continuation of the other calls. We will continue the discussion. I have put all the content of the [inaudible] documents. You have the links on the agenda. They're

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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[inaudible] one single text that I sent you by e-mail today. So it is to make it easy for us to walk through it. I have put my comments in green, so they are my own comments. They are not the position of the BMSPC. We have to discuss everything. And today, normally at the end of this call, we would be ready to start writing the report.

So we'll go to item number 3: the discussion of those comments. If you don't mind, I will start working through those comments and we will try to reach consensus on everything.

So the first comment was done by Roberto regarding the replacement of the [inaudible] of the BCEC, and I added [DNS]. Roberto proposed that the process has to be defined to replace members of the BCEC who are inactive, who don't participate. What do you think about that? Do you think it is necessary to replace members who are [inactive] or perhaps we have to put a minimum number or perhaps a minimum number by region? If we don't have anyone from the region, yes, I think we have to replace. I think we have at least one – I don't know. I ask for your input.

I don't see any hands. Yes, please. Alan?

ALAN GREENBERG:

Sorry. I wasn't really planning on doing a lot of talking today. I would suggest you want to be careful about "there must be" because then you could find one region who simply isn't paying attention and stops your work altogether.

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I think you probably want to say you want to give them an opportunity to refill the place. It's up to you whether you trigger that when there's one person or if anyone – when there's no one or if there's anyone missing. But be careful about saying they must be present, because otherwise you're essentially giving, not a veto, but you may delay your work by a significant amount of time if a region doesn't respond. So just be cautious about that.

Whether you trigger it on one absent or two absent is clearly your call for your recommendation.

TIJANI BEN JEMAA:

Okay. Thank you, Alan. I think that it's very wise what you said. We can recommend that the committees has to ask the RALO to replace the member who is not participating. It is not a condition to the [inaudible] of the committee to work. This is the proposal of Alan and I find it wise. What do you think? Is there any view? Roberto, what do you think about that? Okay. Roberto is okay. So it [will be like] this.

Second point: starting earlier. Roberto proposed to start earlier. And Roberto proposed to start at the first ICANN meeting of the year before the transition, the year of the handover between the previous and the new selected [Board director].

I propose to do something the second meeting, but Roberto sent an e-mail today and he explained why he wanted it to start at the first meeting of the year before the year of the [nomination]. Frankly speaking, it's not a problem for me, but perhaps it is too early. That's all. What do you think about that?

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By the way, I understand very well that we have to begin earlier, but to what extent do we have to be early is the question. No comments? No comments.

So, Roberto, I am fine also with starting – yes, Roberto, please? Roberto?

ROBERTO GAETANO: Yes, I was just trying to unmute. I wanted just to be clear, because probably not everybody has [heard] my message, my [inaudible] message. I was just – yes. I’m not able to [inaudible] microphone. I’m just calling from a distance. [inaudible] is just to have been the chair appointed early so that they can really take knowledge of the process [inaudible]. And then for the [inaudible] group, Tijani’s proposal.

TIJANI BEN JEMAA: Alan?

ALAN GREENBERG: Just two comments. I think what Roberto just said is wise. Get the leaders in place and start forming the committee, not necessarily start actively doing the work other than getting yourself familiar with it. Again, the ALAC is going to have to take action on all of these, so anything can be refined.

But I think you’re wise not to mention meetings. Some years only have two meetings. We don’t know what the future is going to be for the number of ICANN meetings a year. So talk in terms of number of months. But I do like Roberto’s last intervention.

TIJANI BEN JEMAA:

Thank you very much, Alan. As for the meetings, it's the new strategy of the meetings of ICANN is [inaudible] and I think [inaudible] in LA. We seem to have three meetings per year. Roberto spoke about meetings because it is periods of the year, so we can speak about the first quarter, the second quarter, the third quarter, etc. So that way, you're going to speak about the meeting. Thank you, Alan.

And okay, Roberto. So the recommendation will be to start at the first quarter of the year, appointing the chairs. Okay. So no other comments. I can go to the next point, which is the confidentiality. It is also a recommendation from Roberto.

Roberto proposed that we have to decide on the confidentiality well before the process is started – what information will be protected and will have access to it. What [inaudible] and so on. It should be clear from the beginning who will have access to what. We [inaudible] 360 evaluation, etc. And he said a non-disclosure agreement has to be signed. Roberto also thinks that the criteria page of [director] selection has to be available to the general public.

So this is about confidentiality. I agree with him in general. I don't think that – I think that it is more or less [inaudible] explicit in the rules, but perhaps we have to make it more explicit.

As for the criteria, I think it is public. I don't think it is [inaudible]. Criteria for the selection is absolutely public. Am I wrong? Roberto?

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ROBERTO GAETANO: Hello? Can you hear me?

TIJANI BEN JEMAA: I hear you.

ROBERTO GAETANO: Maybe there is understanding on the issues. I think that – I have found that it is not clear what information will be collected and who has access to it.

Now, maybe if everybody else thinks that this is sufficient, then I'm fine. I think that we had a case in which there was a misunderstanding from somebody who submitted a statement of interest, but I cannot right away remember what was the case. So, [sorry] for this. Anyway, that was—

TIJANI BEN JEMAA: Okay. Roberto, I agree with you. We can ask, we can recommend, but it needs to be more clear. Try to make it more clear in the rules. But the point of the criteria for selection, I think it is [pretty clear] in the rules that it is available for everyone. And it was available.

ROBERTO GAETANO: Tijani, I don't remember exactly now the case, but there was one person that objected on the fact that there was some document that he thought was going to be confidential and then that was put public. I think that it was – now, off my memory, I think that the statement of

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interest was put on the website and therefore was made public and the person didn't like this.

What I'm just saying is that we have to make sure that what the process is is going to be extremely clear for everybody and that we are going to follow our rules. If [inaudible], I can recall the case, I will send a message to clarify.

But I think it's basically a minor point. The issue is we have to make sure that next time the rules related to confidentiality are known to everybody and not only to people who are indeed ALAC community, but also to outsiders, because sometimes we take for granted a few things that people that apply from outside the ICANN world are not aware of. That was the reason for making this point. Thank you.

TIJANI BEN JEMAA:

Thank you, Roberto. The case you are mentioning I remember very well and we will address it in the next point. Alan, please?

ALAN GREENBERG:

I was going to say I was told about the incident, not who it was. It was very much that the person did not know that the expression of interest, excluding the personal data, was going to be posted. That was at the very, very conscious decision of the original designers of this program and is documented very well.

Whether the calls for expressions of interest that went out made it clear enough, I don't know. I haven't gone back to look. And at some level, no matter how many times you tell someone or ask them to check off a box

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saying they read it, there are always going to be people who don't, so there's only so far you can go.

But I agree with Roberto that we need to make sure that all of these things are reasonably clear. I think that's part of putting in place the start of the structure – at least the chairs of the committees who will start gathering documents together – really early, because that I think is part of the process. When you try to do things in a rush, things always fall through the cracks.

TIJANI BEN JEMAA: Thank you, Alan. Murray? Murray McKercher, do you hear me? Perhaps you are muted. You cannot? Okay. Are you unmuted?

ALAN GREENBERG: Not if he's on the bridge.

TIJANI BEN JEMAA: Okay. So we'll come back to you when you are ready. I will go to the next point. It will be the case that Roberto mentioned.

Roberto proposed [inaudible] authorization for sharing the EOI. Roberto said that it should be [inaudible] will be sent to [inaudible] and explicit authorization before the process is started.

My point of view is that we don't need any authorization. We need to inform him clearly, officially, and he has to accept that his EOI is sent to [inaudible]. This is the point. So what do you think about that?



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Okay. So Roberto agrees with my point of view. No other hands. We can go to the next point. Murray, okay? Okay, very good.

So we go to the next point, which is 360 Evaluation. I know that Alan doesn't want this name, but we don't have any other name now and we will still call it [like this until we have] a better name.

Roberto said that an important piece of information is the 360 Evaluation of the [inaudible] Committee. If the Board is unable to provide this information in a timely manner, the evaluation of the previous year has to be provided instead.

My comment on this is that the 360 evaluation is not done each year. And more than that, Steve has already asked – Steve Crocker asked SO chairs and Olivier about a suitable date to receive the 360 Evaluation, which means that they will make it available according to the SO and ALAC replies.

I don't think that the proposal of Roberto is possible since the 360 Evaluation is not done each year. Is there any other point of view? Okay, Alan?

ALAN GREENBERG:

The BCEC may want to consider commenting on whether the evaluation – whether the decision to release the evaluation or not is something that should be...

TIJANI BEN JEMAA:

Good point.

ALAN GREENBERG: You may or may not choose to do that.

TIJANI BEN JEMAA: Very good point, Alan. Yes, you are right. [inaudible] I am sure that the Board has already taken this decision. [It said] that in the future it will be compulsory. But we will add it in our recommendations.

Olivier, please? Yes, Olivier, go ahead.

OLIVIER CRÉPIN-LEBLOND: Thank you, Tijani. Can you hear me?

TIJANI BEN JEMAA: Very well.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. This year was a little bit strange because indeed the evaluation, the 360, came in very late for our process. They were somehow delayed in the process. The Board did not start early enough. It was certainly the idea that they would start early, not that it took more time than expected.

And then of course there was this unknown unknown, which was the case of whether the evaluation should be transmitted to the SO or the AC on a compulsory basis or whether it was optional. I think that by the time we [must] have the same need and that's of course going to be at

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the end of Rinalia's period, first period. Then the Board will have really worked out all these quirks, and hopefully would be then able to provide us with the evaluation in time.

That said, I would highly recommend that we officially let the Board know by what time we would need the evaluation for and we would have to insist that we would see the evaluation by that time. Thank you.

TIJANI BEN JEMAA:

Thank you very much, Olivier. And you remember that we already sent to Steve under his request the suitable time to receive the 360 Evaluation. I will put it in the recommendation that the ALAC to send to the Board at the beginning of the process the suitable date to receive this evaluation. Thank you.

Okay. Going to the next point, which is the [referees]. Roberto said that [referee] is to provide references to only one candidate, and [inaudible] other roles in the process. For instance, participate to the 360 Evaluation. I think it is a very fair point.

Two points. First, the [referees] cannot give preference to more than one candidate. And second, they cannot be [referees] and also participate in the 360 Evaluation. What is your point of view of that? Would you agree? Alan, please?

ALAN GREENBERG:

I'm not speaking from a position of knowledge, but I do not believe it is necessarily disclosed which directors participate in evaluations. I believe it was either a random or a subset and that may not be made public. As

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it's worded exactly, it may not be enforceable, so you may want to word it in a more generic way.

TIJANI BEN JEMAA:

Yes. I will lay on you to give us a better formulation.

ALAN GREENBERG:

To be honest, I think it's quite sufficient that you say you're really concerned about conflict of [referees] who are evaluating more than one candidate in one way or another. We can then try to find the right words.

Remember, not all this has to be in the Rules of Procedure. The Rules of Procedure incorporate the adjunct document and we can put a lot of details in there that aren't rule-like, but give the next BCEC some guidance.

TIJANI BEN JEMAA:

Yes. We agreed the last call that we'll have guidelines to help the chair of the BCEC and the BMSPC for the next round of selection. But don't you think, Alan, that we can send to the Board a list of [referees] and say that those people cannot participate in the 360 Evaluation?

ALAN GREENBERG:

No, because I think it goes in the other direction. But if you have a guideline saying someone cannot participate, be a [referee] if they have participated in the evaluation process, you can certainly say that. You

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can't enforce it, but you can certainly say it. And there are a few directors who are going to put their reputations on the line by lying about this kind of thing.

TIJANI BEN JEMAA:

Okay, thank you. Thank you very much. Any other comments on this? I see that Murray is okay. So we'll go to the next point.

Roberto has suffered from technological problem. He said that this has to be addressed [inaudible] in advance and I agree with him. We can put it in the guidelines [inaudible]. And I think if there is problems identified by Roberto now they're to be listed and given to the ALAC staff so that they would try to solve them with the IT service and test them [inaudible] before the next round.

Roberto, can you please list them, list all the problems [faced]?

ALAN GREENBERG:

Tijani, do you mean here right now or sometime soon?

TIJANI BEN JEMAA:

No, no. Not now. But normally if you give the list, it can be addressed. Not now, but I say this period so that it can be tested and retested before the next round. Okay. Yes, Roberto, go ahead.

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ROBERTO GAETANO: Yes. I sent something [inaudible]. I will provide the list. Not tonight, but in LA. A complete list. And I will give it to staff and you will make it public, whatever.

TIJANI BEN JEMAA: Thank you very much. Thank you. Okay. The next point will be the voting methods. This is a very important point because we base, I will not say problems, but we have concern 2014 selection regarding the voting methods.

Alan explained that there are specific methods that has to be used for the first round and for the second round. I think that this has to be clearly mentioned in the guidelines. Perhaps even in an adjunct document to specify the method of voting for each phase, for each step, because there is a lot of steps.

This can be done, in my point of view, with consultation with people who had a lot of experience who are experts in this [inaudible]. This will help to have the best method for each step and it will be definitely mentioned in our rules so that in the future there is no choice. We don't have to choose between one method and another. We have to apply the right method for each step. What is your point of view? Alan?

ALAN GREENBERG: Thank you. I strongly support that. In fact, I don't think that's an adjunct document thing. I think that's a Rules of Procedure thing. And in the draft suggestions that Cheryl and I submitted, there was some more degree of clarity – hopefully enough.

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Certainly the ALAC can look at whether we want to revisit the processes again or simply revisit the documentation that was created last time when we called in experts. But there's no question that we need clarity. Yes.

TIJANI BEN JEMAA:

Okay. Thank you very much. Any other comments on that? I don't see any hands, so I will go to the next point. Publishing the intermittent results. This is a suggestion from Alan and Cheryl.

They say that publishing the intermittent results will benefit, will help, voters make their selection for the next round and also for transparency. So at this point we have to help [inaudible]. We need to have the recommendation reflecting our point of view, all of us. So what do we think about that?

Because there is two points of view. Some people said when you publish the intermittent results you may influence the results of the upcoming round. Others say when you publish the intermittent result you will make the voter more aware and perhaps they will make the best choice at the next round. What do you think about that? Alan, please?

ALAN GREENBERG:

I think your two options that you just gave are the same thing. In one case, you're putting a slant to it. But yes, the intent of the original proposal was both of those – that you give people an opportunity to understand what had happened, what the impact of their vote was, and they may change because of that.

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Whether that's a change for the better or worse is a judgment call for everyone, and I'm not sure we want to judge whether voters are making good choices or bad choices. Democracy allows them to make a choice.

I think both of your options are really the same thing, that it allows the voters to understand what is happening and understand the impact of their vote. That's why the whole process was not done in a single vote where they automatically select the top candidate, which technology can easily do. It was to give people an opportunity to reconsider.

TIJANI BEN JEMAA:

Okay. Next, Murray McKercher, please go ahead.

MURRAY MCKERCHER:

Just in my opinion on this particular item, I believe that the more information people have, the better, as far as making ongoing judgments. I'm always for more information than less – well, in most cases. Thank you.

TIJANI BEN JEMAA:

Okay, thank you. Thank you very much. And I saw that Roberto is okay with that. If I don't have any objection to this, to publishing the intermittent result, the BMSPC will make the recommendation to publish the intermittent results. I don't see any objection, so we'll go to the next point which is the tiebreaking.

So this is a concern for me, for Alan, and Cheryl. Alan and Cheryl think that the tiebreaking vote should be run for all candidates, including the



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[inaudible]. The Rules of Procedure says that the breaking vote can't be run more than once each step. That means that if the results don't change after the second vote, after a tiebreaking vote, we will go to the random tiebreaking. Is it [normal] that all candidates, including the non-tied ones, a random selection?

Okay. So Alan said he doesn't have any problem in removing the [only once] in the rules. But practically, it should be like this or perhaps [inaudible] because perhaps we will not have time to run it more. If you have always the same result, what can you do? Roberto?

ROBERTO GAETANO:

I just want to say something that is probably not very helpful. I would feel very uncomfortable if the ALAC director is going to be chosen by some sort of random method. I would like to, I don't know, have maybe a teleconference among the voters so that they can share opinions and maybe somebody can convince others or some sort of tie-breaking mechanism that [inaudible].

I would consider that really sad if we end up in a situation by which the ALAC director is going to be selected by the toss of a coin.

TIJANI BEN JEMAA:

Thank you, Roberto. I understand very well, but sometimes you are [obliged] because if you have always the same result, if you cannot convince the other people, you will have the same result. So you are [obliged] to random selection

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UNIDENTIFIED MALE: If I may add one thing. There was a case in the 16<sup>th</sup> century, if I get it correctly, where they got stuck for the election of a vote. The population of the [inaudible] where the selection was going to take place, they destroyed the roof of the building and they locked the voters inside and they said, “You cannot get out of that place until you have made a selection,” and the Pope was elected.

TIJANI BEN JEMAA: Okay, thank you. Alan?

ALAN GREENBERG: I like that last suggestion. I don’t think we quite have to do that, though. But a couple of things. The concept of a teleconference or an in-person meeting of the electors is quite fine. In fact, I believe the rules or maybe the adjunct document – I can’t remember which – say that between rounds there should be an opportunity for discussion.

Now, what form that discussion takes is up to the BMSPC, but clearly, if there’s a tie, you don’t want to hold it immediately again five seconds later, because you do want an opportunity for whether it’s negotiation, whether it’s discussion, whether it’s, I suppose, buying votes – I don’t know. You do want an opportunity for people to rethink it. So hopefully any BMSPC in the future which is faced with that will allow some opportunity for discussion regardless of what form it takes. And of course the details of whether you’re in the same city or not will influence what way it can take.

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But ultimately, as I think Cheryl pointed out, she's been on Boards where a tie is a tie and it doesn't change. At that point, you really have one of two choices. You have randomness or you give somebody you trust an extra vote. That last option was discussed a lot, and it was really felt that just as we don't want random, we really don't want one person making the decision either – and a known person. There don't seem to be a lot of other options.

But I agree with Roberto. Should you have a tie, you really want to try to exercise some opportunity to change the outcome of the next vote, not just immediately proceed into it without any delay. That of course is one of the issues of timing. How many times can you do this? That's why the original rule was put in of only once.

BMSPCs are going to be populated hopefully by intelligent people and they will make decisions. I will note that although we had a time [flag] hanging over us this time and we were almost a month early on the time, the NCSG and the Commercial Stakeholder Groups and the GNSO named their director four or five months late and he's seated.

TIJANI BEN JEMAA:

Sure, Alan. But this is not our concern. Our concern – we spoke about random selection because of the first concern which is the [inaudible] person. Should a [inaudible] person run the tie-breaking vote or not? This is the question.

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ALAN GREENBERG: Okay. I thought the question we were deciding here is whether it's once or more than once. Sorry. Maybe I misunderstood.

TIJANI BEN JEMAA: No, no. Our problem is the tie-breaking. You proposed that all the candidates has [inaudible], even those who are not tied. Yes, go ahead.

ALAN GREENBERG: The original intent – and again, I'm not saying what the words were written which may not have been written well – but the original intent was certainly to rerun the entire election with all of the candidates who were in the first vote. So that was certainly the intent and I think there are strong arguments why you would in fact want to do that. That can be debated.

TIJANI BEN JEMAA: This is why I asked the question, because for me, someone who is not tied is not subject to tie-breaking. It's not [inaudible] tie-breaking.

ALAN GREENBERG: The problem, Tijani, is you cannot exclude the electors who voted for the non-tied person, because you don't know who they are. You have to do it with all of the electors, and then you have a really serious problem of strategic voting, which can influence the outcome in a negative way.

TIJANI BEN JEMAA: What do others think about that? Olivier?

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OLIVIER CRÉPIN-LEBLOND: Thank you, Tijani. Can you hear me well?

TIJANI BEN JEMAA: Very well.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. On this occasion, we ran a tie-breaking vote just on the people that were tied. It did untie them and it worked. The concern, which Tijani has expressed and which I second, is the fact that we might just end up with another tied vote [inaudible] people will not move from one position to another between one vote and another.

I thought that a tie-breaking vote, just [inaudible] the two people that were tied was working, but I totally understand the point that you're making here, Alan. I wonder whether we could – these are just very wild ideas. I guess there are tie breakers on several levels. We actually manage to tie in the first round and then tie in the latter part.

TIJANI BEN JEMAA: Olivier, we lost you. Olivier? He's typing. Okay, [inaudible]. Terri, can you call him again?

TERRI AGNEW: Yes. And we'll try to get him back. It will be a moment.

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TIJANI BEN JEMAA: Okay. Thank you very much. So any other comments from the other members of the BMSPC and BCEC? Roberto, do you have any idea about that?

OLIVIER CRÉPIN-LEBLOND: I'm back.

TIJANI BEN JEMAA: Okay, Olivier, go ahead.

OLIVIER CRÉPIN-LEBLOND: Apologies for this. I mean, would it be worth looking at other options when you have a tie-breaking vote? Just doing the vote between the two people that are tied or the people that are tied or redoing the whole vote. There could be another way which is to just [inaudible]. Very wild guess, by the way. I guess some people might be against that and it might open a new can of worms as well.

The other thing was if we were tied when it came down to the last round, there could be a direct suffrage to all of the ALSes or there could be a preference from the Board itself. And I don't know what that [inaudible], whether that is just setting that precedent that they could be giving the last [inaudible] top-down, rather than bottom-up. I'm just brainstorming here, just thinking while suggesting. Thank you.

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TIJANI BEN JEMAA:

Thank you, Olivier. If I understood you well, because the voice wasn't that clear, you are proposing that for the last round, if we have a tie, we can ask the ALSes to vote to [inaudible] which one will be the Board member, or we can ask the Board for their preference. If it's just what you said, I disagree with you, especially asking the Board for their preference. The Board directors [inaudible] by At-Large [inaudible] by At-Large not by the Board. We have to [inaudible] and we have to find the consensus to break the tie by any means, but not come to the Board and ask them about their preference.

Olivier, you still have your hand up. Do you want to comment on that?

OLIVIER CRÉPIN-LEBLOND:

Thank you, Tijani. It is what I said, actually. As I said, I'm just brainstorming and making wild suggestions here. The other one, as I said, was the [inaudible] suffrage of the last round to actually have the ALSes choose. But I don't know if that's a good idea or if that's a bad idea. Whatever happens, the next thing is the person selected by the ALAC to go on the Board by having a draw would be a terrible thing. And also having the ALAC chair cast the deciding vote I think would be a terrible thing as well. [inaudible] choose the least bad option, basically. Thank you.

TIJANI BEN JEMAA:

Okay, thank you. Roberto, please?

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ROBERTO GAETANO: Yes. I just want to make a consideration. A vote among two candidates is a binary thing. But there is more to just yes or no or this or that. And I think that under the assumption that the voters don't have sort of an attitude it's either that person or [inaudible]. I think that a teleconference where you bring the voters in the same logical room and you have people explain their position. So why they are for a candidate or the other or whatever might move things around, because we are moving the – how can I say? – the interconnection among the people on a different level and a different dynamic can come up.

Of course, at that point in time, you will lose the confidentiality of the vote, but of course in an election there are always people who are outspokenly for one or the other candidate. And I think to create these sort of dynamics, to have the possibility of having teleconference as a sort of campaign for a candidate or the other might make somebody change their mind. At least this is something we can attempt before tossing the coin. Thank you.

TIJANI BEN JEMAA: Thank you, Roberto. Let me ask you a question, to understand what you say. You said that when we have a tie between two persons the best is not to run the tie-breaking voting the two persons but to have a teleconference or a meeting of the electors of the [inaudible], if you want, and to try to convince each other. Is it what you said?

ROBERTO GAETANO: Not exactly. I think that I'm fine with the tie-breaking mechanisms. I'm just saying the last resort before tossing the coin has to be – let's give



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another opportunity if every other step has proven not successfully to break the tie. Before going to some extreme solution like tossing the coin or asking an outside person to break the tie or whatever, let's try to have something that comes from the voters sort of interaction.

I would put that at the very end of the chain, but before tossing the coin. Thank you.

TIJANI BEN JEMAA:

Thank you very much. I understand very well. If I may, I may [inaudible] the proposal which is yours but slightly modified. Not to lose the confidentiality, we can [inaudible] and make them disclose their source and try to convince each other publicly. We can let them interact with each other and we go to people where they have confidence. We trust them and they can go and try to convince them. It might pose another problem after the election. People who said that it is better to vote to A and not B will be the enemies [inaudible]. The atmosphere inside the At-Large will be very bad. There will be enemies. That's why I prefer not to disclose publicly the choices, but do it with confidentiality. People between – with each other. It's not public. It's only between two persons, three persons, etc. It is my point of view.

So I go to Alan who is patiently waiting for the floor. Alan, please?

ALAN GREENBERG:

Thank you very much, Tijani. I think within the level that we can write rules today that will be followed three and six and nine years from now by completely different people, we're all saying the same thing. We are

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saying we should try with the utmost to avoid a tie that is going to be broken by a random choice. We've already decided to recommend – or you've already decided to recommend – that the restriction of one rerun only is there. So the BMSPC in the future will not be restricted to a single one.

So if I were to use Roberto's scenario, you run the election, there's a tie. You run it again, there's still a tie. At that point, one has to presume the BMSPC at that time will say, "Hey, we've got to do something." Now whether they hold a teleconference, whether they give people an opportunity to talk to each other, I don't think we can legislate that in the future.

Speaking from personal experience, I was a candidate this time. There were always people on the ALAC and chairs who will publicly say who they plant a vote for and why.

So yes, it's nominally a confidential vote, but there are always some people who are strong supporters of someone or another and will explain to everyone else why. So confidentiality may be broken voluntarily and is already on a regular basis. Most of our political elections, it's still a secret ballot, but all sorts of people come out and support someone.

I think we're all saying the same thing, that we really want to avoid random choice and we need to give the BMSPC at the time enough discretion and enough tools so that they can avoid it and they can find some other alternative.

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TIJANI BEN JEMAA: Thank you, Alan. Roberto?

ROBERTO GAETANO: I basically agree with Alan. I don't think we are going to solve the problem tonight. So maybe we can leave it open with the proposal of Alan. I think that maybe we can open to brainstorming for what the next BMSPC has as possibilities. We can think of a trusted third-party where the voters can submit a declaration of votes, the reasons why they prefer one candidate over the other and then the trusted third-party can compile those declarations and send them, obviously without the name of the people who provided those statements, just to see if that changes something in the voting.

Basically, I think that we need to leave tonight with a statement that we want to do something and we don't know exactly what, but we want to avoid toss of the coin.

TIJANI BEN JEMAA: Thank you, Roberto. I think that we all agree on that. There is no disagreement. Everyone wants to avoid random selection. But this wasn't the problem. The problem was we agree to make [inaudible] candidate to run the tie-breaking vote. This is the question. I have now two points of view. One says that, yes, all the candidates has to run again tie-breaking vote and another point of view says that we have to run the tie-breaking vote between the tied persons. So this is the point.

I want to have the point of view of the group. Now I have the point of view of Olivier, mine, and Alan. If others have a position, please speak

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up. If not, we will not make a recommendation. We will say that there is two points of view and ALAC will take the [right] position.

Okay. So I don't see any other hands. That means that the recommendation will not be for one choice of the other. It will be explained in the two points. Yes, Olivier, go ahead.

OLIVIER CRÉPIN-LEBLOND: Thank you, Tijani. Maybe we should get the ALAC to vote on this and if there is a tie, then we'll have to find a solution. I'm just kidding.

It is a problem. We have to try and think about this, because it wasn't easy to go through so many ties. For some reason, we're just unlucky – often unlucky with votes. We just need one [inaudible] to note vote, abstain, and you end up with an even number of voters; and therefore you end up with ties. Thank you.

TIJANI BEN JEMAA: Thank you, Olivier. This point will be [inaudible] of the two positions and ALAC will pick the right position.

The next point will be the proxy use, and this is a point raised by Alan and Cheryl. They think that the replacement of an electorate member will not [inaudible] and will not be able to vote should votes [enter] the direction of the replaced person. And I agree with that.

But I wanted to be clear – to clearly mention – to avoid that people think that we are speaking about replacement of a candidate who is at the same time an electorate member. Because in the second case, I

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don't agree at all. What do you think about that? I have Olivier and then Alan. Olivier?

OLIVIER CRÉPIN-LEBLOND: That was an old hand, Tijani. Sorry.

TIJANI BEN JEMAA: Okay, thank you. Alan?

ALAN GREENBERG: Since I was one of the people suggested, I'm not going to argue against it. I just think that we need to make sure the wording is clear, because when I read the line in blue – the first line – I missed the [inaudible] candidate and I thought we were talking about one of the RALO selected people to replace someone. We just need to make sure that we're really talking clarity. We're here. We're not talking about a replacement person. We are talking about a proxy because someone is in the hospital and doesn't have Internet connectivity or something like that. Not because someone is ineligible to [inaudible] candidate.

TIJANI BEN JEMAA: Okay. Very clear.

ALAN GREENBERG: We're all agreed. I think we're both agreeing. We just need to make sure that the wording in the final document is not misunderstood by someone.

TIJANI BEN JEMAA:

Okay, exactly. Thank you very much. Any other comments on that? If not, [inaudible] to the next point which is the replacement. This is a point that I made, because during the 2014 election faced a problem. One of the persons replaced for the vote, because he was dropped from the first round, this person asked to recover his right of voting. [inaudible] we had in the bylaw of ICANN something that said that people who were a candidate cannot recover. I don't have exactly the wording, but we find it and it was sufficient to convince the candidate that wanted to recover his right.

So now the proposal came here is that each replacement should be immediately specified to a voting member who is not able to vote. If the RALO is two select two replacements for two members, they have to specify each replacement for [who is] replacing whom. And also I think that the Rules of Procedure should specify whether a candidate who has been dropped from the [inaudible] can recover his [right to vote] or not. I [inaudible] clarification should be in harmony with the ICANN bylaws. Alan, please?

ALAN GREENBERG:

I'm agreeing with you 100%. I just suggest in the first line you change the word "able" to "allowed" because otherwise there's confusion about the note able to vote proxy and not able to vote in this one. Meaning someone who's not allowed to vote because they're a candidate, and you're proposing that we identify who the replacement

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is for each person so that if one of the candidates is eliminated they can get their vote back in following rounds.

As you point out, that may be against the bylaw. It may not be and we may be able to change the bylaw, but it's certainly a recommendation that you can make.

TIJANI BEN JEMAA: Okay, thank you. Any other comments on that? I don't see any hands, so I will go to the next point. So the next point is—

ALAN GREENBERG: Tijani, if you'll forgive me for a moment. Just for clarity for the other people who haven't read all the bylaws, the current bylaw says if you are a candidate you cannot vote until the director is selected, which is why regaining the vote cannot work right now but we might be able to finesse our way around that.

TIJANI BEN JEMAA: Okay, thank you. Thank you for the clarification. Roberto?

ROBERTO GAETANO: I don't know if we are discussing this point. I agree with your suggestion that we need to clearly [inaudible] replacement has to [inaudible] specify who they are replacing. I fully agree on this.

I personally have serious doubts about attempting to change the bylaws. If somebody is a candidate, I think it's better if the person stays

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away until the director is selected and not comes back into the voting process when the person has been dropped by earlier rounds.

And the reason why I'm saying this is that there might be things happening the moment that psychologically also when a person drops because of an earlier vote, there is this sort of resentment. There can be emotions and I would like the person that has dropped from a previous round not to get back into the vote. I think that the bylaws had a correct approach in this case. Thank you.

TIJANI BEN JEMAA:

Thank you very much, Roberto. So we are all in agreement. The next [inaudible] is a winner from the first round, and we all agree. Alan, Cheryl and me, we agree on this point. If we have a winner with more than 50% of votes in the first round, it is useless to continue a second round. We all agree on that, so if I don't have any objection, we'll make the recommendation on that. I don't see any hands, so I will go to the next point, the final one.

Communication between the candidate and the At-Large community. And [we] see the point that I rose. I think that we have to create the guideline document – we spoke about that – in which we have to include such kind of practical procedure that we make all the selection rounds [within] the same tools of communication. What happened in 2014 is that the BMSPC decided that we'll have [inaudible].

And the [inaudible] was angry because they wanted to have a [inaudible] and direction and a teleconference. Fortunately, we came



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back to the BMSPC and we got their agreement to have the teleconference.

So I think that we have to put it on our rules or our [inaudible] that in the future, candidates have the ability or the BMSPC has to organize a teleconference, has to organize wiki pages and perhaps a discussion list to make [inaudible] interaction between the candidate and the At-Large community [possible]. What is your point of view on that? Is there any objection to that? I don't see. I see that there is agreement from Roberto. Alan, go ahead.

ALAN GREENBERG:

I would object if you said that all future rounds have to use the same communication tools. The world changes around us. I would strongly support a statement saying we really need to make sure the electors are informed and the candidates have an opportunity to make their positions clear and give examples of the kinds of interactions that may be possible.

I'm not sure we could be more specific than that. We don't know exactly what the best communication tool is going to be three years from now or eight years or nine years from now.

TIJANI BEN JEMAA:

Yes. You're right, Alan. We say that all kinds of communication – all tools of communication – are allowed.

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ALAN GREENBERG: We should certainly give examples.

TIJANI BEN JEMAA: So that's the [inaudible]. Yes, we can give examples, but it is not [inaudible] examples. So yes, we'll not say that it will be the same tools for all the rounds, but we'll say that all the rounds will allow the use of any kind of communication tool; example, wiki; example, teleconferences; example, discussion list; etc.

Alan, your hand is still up.

ALAN GREENBERG: No, I put it up again. If you look at what happens in real-life elections and political elections, sometimes they use debates. I'm not saying we want one. We don't want one. I suspect any future BMSPC should interact with the candidates before a decision is made and find out what the tone of the room is, interact with the electors.

Now, hopefully since the BMSPC is made up of representatives from all of the regions, that interaction already is there. But clearly, this year it seems that it wasn't. So I think you've got lots of material for making strong recommendations to make sure we don't have the same problem. We're going to have a new problem next time, of course. But we can try to avoid the same problems again.

TIJANI BEN JEMAA: Any other comments? So I summarize the kind of recommendation we can make here. We can say that BMSPC has to interact with the

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candidate and [inaudible] kind of tool of communication they want to have with the community and all tools identified by the candidate are allowed use. Is this okay? I don't see any objection, so I will suppose that [inaudible].

So this is the final point. Is there any other comment or any other remark that I didn't address in this document? Alan?

ALAN GREENBERG:

I know you're getting really annoyed with me and I'm not going to add another comment. I'm just going to say I'm impressed with the diligence that you're going through this process with. Thank you.

TIJANI BEN JEMAA:

Thank you, Alan. You [inaudible] me at all. You helped us very, very good. And thank you very much. I really thank you. I thank you for all you did and I don't forget that you helped me [inaudible] when you [inaudible] bylaw that said a candidate cannot vote until the end of the selection. It was something that made me – [inaudible]. I didn't know what I have to do. So thank you very much. Thank you for all you did.

Thank you all for attending this meeting. Next steps now. I will try to draft a recommendation report that I will propose you, and then I will submit to the ALAC. This is, for me, the next steps. Do you have any comment on that? I don't see any [inaudible].

Okay. So thank you very much. Thank you for attending this small teleconference. I think it was [inaudible] and I hope it will help the process for the upcoming rounds. Thank you very much and bye-bye.

TERRI AGNEW:                      Once again, the meeting has been adjourned. Thank you very much for joining. Have a great rest of your day.

OLIVIER CRÉPIN-LEBLOND:      Thank you very much, Tijani. Thanks, everyone.

**[END OF TRANSCRIPTION]**