

ICANN

**Moderator: Gisella Gruber-White
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8:00 am CT**

Coordinator: The recordings have started.

Grace Abuhamad: Thank you, okay. Welcome to the RFP 3 call. It is 1409 UTC. I will pass it over to Greg. We'll do the - sorry, we'll do roll call based on the Adobe Connect room. Is there anyone who's only on audio? Okay, I think we're all set. Greg, over to you.

Greg Shatan: Thank you, Grace. And good morning, good afternoon, good evening all. Sorry for the long lead time here at the beginning. In any case we have two items of substance on the call today. The first is to take a deeper dive into the independent appeals panel which I think is really the only part of our draft proposal framework that we have not tried to really flesh out in these RFP 3 calls.

As well to look at at least one of the alternative proposals that has been suggested in our work which we'll get to a second, which is circulated yesterday on the list, the RFP 3 list, which is a - I'll call it an external trust proposal. All of these terms are, you know, more meaningless as - more than -

uses signs really than are as actual deeply meaningful names. But in any case let's turn to the IAP.

Tried a little bit different format for this analysis than for the prior one to try to get us to some of the points of convergence and then to the points of divergence. And then the details are second, you know, in the document so that we, you know, don't necessarily get, you know, mucked up in dealing with a single smaller detail first.

So these are points that have been pulled from our prior work both public comment, the survey and, you know, general - hopefully a sense of the list or sense of the room but nonetheless, not going to take anything, you know, entirely for granted so please feel free to put a hand up if something is identified as strong agreement but you don't believe there is strong agreement.

Obviously if any one person or representative disagrees that doesn't necessarily mean there isn't strong agreement but nonetheless want to try to be mindful here of trying to, you know, build consensus rather than assume it.

So first point, for which there seemed to be strong agreement is that there is strong support for an independent appeals panel and that it needs to be independent and that its decisions need to be binding or at least it has to have the possibility of binding decisions, which may not be exactly the same thing. But I think that generally speaking the feeling is that its decisions should always be binding.

Second thing that came out quite a bit is that there should be some differences in the rules or in the types of cases or the standing to bring an appeal between gTLDs and ccTLDs. And I'd like to get to that in more depth a little bit further down the page when we get to the key issues and open questions section.

Third, that the grounds for an appeal should be limited to whether or not relevant policy was followed; that this shouldn't be a forum for reopening policy itself once it's been adopted but rather for implementation of policy or, more specifically, for specific actions under implemented policy or that signify the implementation of a policy.

Fourth, that gTLD registry operators should have standing to appeal delegation and redelegation decisions to which they are a party, that they believe are contrary to approved gTLD policy. So it would need to be essentially their TLD that was being delegated or redelegated.

Same thing with ccTLD registry operators that they should have standing to appeal delegation and redelegation decisions to which they are a party that they believe are contrary to applicable laws and/or applicable approved ccTLD policy.

I would note, and we can get to this again a little further down, I don't think there's quite as strong support for this point as for the one above with gTLD operators.

Third - or next is actually sixth among these dots as a whole - the ccNSO should have standing to appeal any implementation of approved policies relating to delegation or redelegation of ccTLDs that it believes is inconsistent with those policies.

And here I've put in a question which would like to see if we can explore a little bit now as to whether this is limited to appeals from the particular application of an implemented rule, in other words, is this intended to be an appeal from a delegation or redelegation or a decision not to delegate or

redelegate or can this be challenged - used to challenge an implementation generally, in other words, a rule that has been put in place based on policy but which is not policy, in other words, which is implementation but hasn't yet been actually put in place or used to - in any particular delegation or redelegation.

Bernie Turcotte.

Bernard Turcotte: Thank you, Greg. I note that Steve has said that delegation and redelegation decisions, especially for ccTLDs are very sensitive issues. And I think the whole issue of challenging specific ccTLD delegations and redelegations, as a minimum, will be something that will be for the ccNSO to consider. I think - if there are official ccTLDs here they can bring in their point of view. But really it's not something for this group to get into, I don't think.

Greg Shatan: Thanks, Bernie. Are there any others from the CC community or who have a view on this, whether or not they're a part of the CC community, who'd like to come to the phone? Paul Kane. Paul, you may be on mute. Paul Kane. Paul Kane says he'll be back. Apparently some issues there - technical issues. One day we'll be able to use technology as well as we hope the rest of the world will.

I see Steve in the chat as well saying that - or Martin Boyle and Staffan Jonson agreeing with Steve and Paul, who say that only a few ccTLDs fall within ICANN's purview. I don't know if it's worth exploring which ccTLDs are those. Probably not. But I guess if anybody here represents those and thinks that those should be dealt with differently or not differently from those people who are saying should be outside that would be helpful.

Steve Crocker just again in the chat, "It's indeed vital that there be reliable, transparent processes for making the delegation and redelegation decisions. And there needs to be a proper venue for those decisions. But it's fundamental that they are not - that these are not within the scope of the IANA function. The IANA function is to publish information that has been created, decided elsewhere."

Well I guess if we followed that line of thinking we would end up with no appeals panel, at least no appeals of any delegations or redelegations but really only appeals from execution issues that fall within the IANA function itself. And I don't believe that's what was intended when we looked at the independent appeals panel.

I see we have a queue forming. First I'll see if Paul Kane is back. Let's turn to Martin Boyle.

Martin Boyle: Thanks Greg. Martin Boyle here. Yeah, I'm afraid that I do not easily see how an independent appeals panel coming in without a proper understanding of the national environment is going to be able to come in and do a binding decision. And essentially I think my concern is that it brings in a third-party into a decision-making process that, you know, a third-party will not have the skills and expertise to do.

The important thing about the process that leads up to a delegation or redelegation is to try to get people to come to an agreement that's certainly to have a good basis for the final decision.

And my understanding is that the people in the team that tried to assess these produce, at the end of the day, a checklist that goes through various criteria and try to show how they have met those criteria.

And therefore the appeals process really does come down to being did these people do their job in the way they're supposed to? In other words, how they gone through the various checks and documented against each of those different checks.

And that if there is any doubt as to exactly what they did, in other words they haven't explained their decision, they haven't shared the documentation, then I think there is justification to going back on that issue.

But the idea of, you know, sort of a panel certainly coming up and trying to do something that might have taken the assessment months to get through with I think is setting them up for a fail. So I think we should be looking at the IAP role here is really quite a limited role more as policy followed, or rather was the process followed, and was the documentation made available so that people can then verify that later and understand why. Thank you.

Greg Shatan: Thank you, Martin. To follow up on that, do you believe there should be a forum for challenging the delegation, redelegation decision, in essence, on its merits as opposed to us for a failure of process at any place? Should that be at the national level or should it be in a specialized panel?

Martin Boyle: I think one of the concerns I have with an independent appeals panel is that you'll end up going through and if somebody doesn't win in the first case then they come back and they appeal and they go through it again and then they go through it again bringing into play quite a lot of delay on what are quite often very difficult decisions.

My concern is here that you are putting somebody or some organization into that process that will not have the full understanding. Now when it comes to

who would make the appeal I think that that appeal could be one of two things; it could be one of the parties, i.e. you know, the two people who were contesting - the two organizations that were contesting a delegation.

That the decision has to be made using whatever is the relevant forum for them to result that, in other words, for most registries based in the country it would be how they were responding to the needs of that country. The IAP could look at the areas of process.

And there is perhaps then subsequently a role to do an ex-post assessment as to whether what was coming out from the decisions were in fact correct. And then I think it loops back into that bullet with the ccNSO should have standing where you're looking at how implementation is actually happening, is it consistent or not? And if it's not consistent then there perhaps is a concern with the understanding of the policy and that needs to be addressed. Thank you.

Greg Shatan: Thank you, Martin. I see that Paul Kane has returned so I'll turn to Paul.

Paul Kane: Thank you very much. I'm sorry, I'm dialing in now. I apologize for the slight techy issues. I would just like to stand back for a second and try and simplify the process.

I recognize that where a gTLD has an agreement with ICANN it possibly needs an appeals process outside of ICANN to determine whether the ICANN Board or the ICANN processes have been correctly applied. So that's almost a given.

And obviously I assume that they would be correctly applied. But I understand from a gTLD perspective there is possibly a need to have an appeals mechanism.

When one starts dealing with ccTLDs the domain, pardon the pun, is significantly more complicated because within that ccTLD community there is great diversity. And the thing that CCs care passionately about is making sure that the policies that the CC registry applies best serve the registrants within that ccTLD.

And they do that through having a contract - the registry has a contract with the registrants. But the registry alone makes sure that the policies of the registry are applicable to the way in which it runs its operation.

So if there is a dispute the contract is already - already specifies a jurisdiction that is applicable to the way in which the registry functions. And therefore, the benefit of an external appeals panel, outside of the jurisdiction in which the contract of the registry is based - registry with its registrants primarily - is the jurisdiction that is most applicable.

The IANA should only be recording what the incumbent registry is requiring; namely if a judge of competent jurisdiction says, "Kane, you're no longer a CC registry manager of X." Then they will also say, within a time period, "Kane, thou shalt make a transfer to Party Y."

And it would be inappropriate to - for any third party to interfere. Kane can subsequently go off and appeal a decision within the same jurisdiction with which it has a contract. But unless one reverts to law then the registrants within that ccTLD could deem that the registry operator did not act to safeguard their interests.

Because once a transfer happens the new registry operator may be really bad at operating registries, may decide to clean out the name space and so people have paid the incumbent or the previous registry operator a fee that has not been delivered. But if it's been operated in accordance with the requirements of the court, of competent jurisdiction, then proper process has been followed.

So the highlight is I recognize with gTLDs there is a possibly a need for an appeals process but the ccTLDs, because of the diversity of the community, I think it's going very complicated.

And many parties do not have a relationship with ICANN, nor wish to be subject to ICANN dictate and so it's outside of ICANN's purview anyway. So that's the point I wanted to make.

Greg Shatan: Thank you, Paul. I would take a couple of things away from that for myself or for the group. You know, one is I think that appealing a decision of a national court, or for that matter any, you know, court that's been, you know, set up under the laws of a particular jurisdiction, would seem to me to be out of scope for an appeals panel.

It would be rather presumptuous for us to say, you know, to any or all of the countries of the world that, you know, once your legal process is exhausted - say the US Supreme Court came down with a decision after, you know, multiple appeals within the United States and came up with a decision, unlikely though that may be, I doubt that it would be well regarded if people said well, okay we have a Supreme Court decision; now we appeal it to ICANN's independent appeals panel and they have the ability to overrule the US Supreme Court.

So I think that's, you know, that's one of the issues is that, you know, if something that takes place in a, you know, court of competent jurisdiction in a country I think that brings it outside the IAP.

Paul Kane: Indeed, the point I'm trying to make is that your US Supreme Court, or whatever it is, is not a court of competent jurisdiction to make a determination relating to a ccTLD. It might be a competent jurisdiction to rule over ICANN but ICANN does not, should not, have any involvement in how a CC is operated.

Greg Shatan: For the - for purposes of my hypothetical I was actually thinking about dotUS and that being the court of competent jurisdiction for a delegation or...

((Crosstalk))

Paul Kane: Okay well that's fine. I'm obviously thinking about countries outside of the US.

Greg Shatan: Yeah.

Paul Kane: But the point I'm making if the automated tools are implemented, and I think we all want to see them implemented - I don't know why it's taking so long to bring them to the floor, if those are available to the registry managers then CCs, it's a local matter and appeals process happens within the local jurisdiction.

There does need to be some technical evaluation to make sure the new party is capable of running a registry and that, unfortunately, in the past has not been the case where delegations or reassignments of a TLD have occurred. But

that's a nice to have. The court needs to be convinced that the new party is not capable of running it.

So I'm just worried that this appeals panel process is making what should be a very simple transition quite complicated. And we need to break it down into constituent parts. I'll hang up now but I'll listen to the rest of it.

Greg Shatan: Thanks, Paul. Well let's turn to Alan Greenberg.

Alan Greenberg: Thank you very much. I have absolutely no personal position on much of this. But I'm a little bit confused or I'm actually a lot confused. Number 1, my recollection is from Frankfurt that it was the ccTLDs present at the meeting that essentially said we need an IAP. I believe that's where the idea came from. So that's Point Number 1.

Point Number 2, my understanding is who decides on redelegation is beyond our remit? There have been untold discussions in the ccNSO and other locations on that and I'm not sure why we're having that debate here.

You know, yes, Paul Kane says the national courts in the country should decide. Other people have said we cannot allow national courts to decide because there are countries where they don't really obey any rule of law.

It's not in our remit; let's get out of that. If there is something to appeal we can have an IAP. If there's nothing that worth appealing then we don't need it. I think we need to go back to why we brought this component in to begin with. And if those people who brought it in longer want it then so be it. Thank you.

Greg Shatan: Thank you, Alan. I think that, you know, certainly, you know, point well taken. Need to make sure that we have cases that people - or appeals that

people will want to bring in. And the question is, you know, what is it an appeal from? I think that, again, you know, I agree with Paul to the extent that we - it's probably beyond ICANN's remit to overrule courts of various countries. This is not a, you know, a formal body in - at the same level as a court.

So there would be some difficulties as a matter of law or international law with that. So - but there may also be delegation and redelegations that, you know, are not challenged in court. The question is I think it has to be taken back a step further which is that could a delegation or redelegation or some other some other action of - within the IANA functions - could that be challenged directly as the IANA - as the IAP rather than at the court level?

So that, to my mind, is the issue. Once something is in court pretty hard to get it out of court or overrule a court no matter how incompetent it may be. But, Staffan Jonson.

Staffan Jonson: Thank you. Yes, I understand that Alan is confused; so am I. But that is probably because the variety of types of ccTLDs in the world. So, yes, this is confusing. And it will always be. And as many types of TLDs as there actually are with different terms, etcetera, there are also very many types of jurisdictions. Not all are Anglo-Saxon and based on court decisions but rather on national law or not national law.

So I try to introduce the difference between hard law and soft law specifically pointing out that hard law is something different. It's really difficult to challenge hard law. But soft law is something else. So I think - and appeals panel could actually give support to a local Internet community as I tried to outline in the chat.

So, yes, there is a need for an appeals process. But, no, it may not even be that strong. And according to my belief it can never challenge hard law or national laws. So both is right. I'm sorry, but I think that's the complexity of the world and the CC world at least. So it varies, I'm sorry. Thank you.

Greg Shatan: Thank you, Staffan. It seems to me this may not be - well, I've got a couple more folks in the queue then I'll close the queue after Jonathan. Martin Boyle.

Martin Boyle: Thanks, Greg. Martin Boyle here. Sorry to come back again. But I can see a role for an appeals body but not the level of - the remit to the appeals body are that it has become as we've moved forward. As I said earlier, you know, I think there is perhaps a - while the process was not followed this was, in fact, an arbitrary decision.

This was not properly documented. I can see that as being a possibility. I would expect and actually hope that that was so rare that we could almost discount it but you'd put this into place just in case it was needed.

And the other one - the other area where I think appeals might be quite reasonably justified is where the operator makes a mistake and believes that they are right. So bearing in mind that this is predominantly a technical function, predominantly a clerical function, that what they have done is not right. And they're not willing to change. There might then be a need for an appeal at that stage.

Again, I would expect that to be really unlikely and therefore with luck any sort of very lightweight, very administrative-based appeals process is hardly ever, if ever, used. And that's exactly where I think - where I think it should be.

I think I might take a bit (unintelligible) to Staffan's line in that I think the IANA functions operator, getting involved in areas where there is a dispute in-country, is actually a slippery slope. I would be very, very concerned if an organization in California or Delaware or wherever in the US starts deciding it can make decisions on behalf of the United Kingdom. And I think that is very clearly a redline and one not to be crossed. Thank you.

Greg Shatan: Thank you, Martin. I take the point that a - something that is definitely a process problem within the IANA functions operator role currently, you know, taking place let's say at the Elise Garrick and down level, or there's just a mistake that needs to be cleared up and the individual registry operator and the MRT, CSC, MRT are unable to convince the IANA functions operator that they're incorrect, that there should be a - that this is where, you know, an appeals panel makes sense. You know, maybe makes it sound a little too grand to call it an appeals panel.

And I see Mary Uduma in the chat has noted also appeals for delays on delegation and redelegation process - delays - well this - I take that this in the process of deciding about a delegation or redelegation. You know, typically one, you know, appeals from a final adverse decision, although of course there can be a kind of appeals along the way in court systems.

But getting into what are called interlocutory appeals in a system like this may be way beyond. I think that goes back to Steve's distinction, which I think Martin is also consistent with, that there's a difference between the process of delegating and redelegating and then the process of actually - the IANA functions themselves once the delegation and redelegation decision has been taken.

I'll turn to Jonathan and then close this point with a final thought.

Jonathan Robinson: Thanks, Greg. I'll be very brief. I think I'm with the train of thinking not getting involved in the CCs which I'm less experienced or able to do although I've heard those points. But in terms of the train of thought that - let's call the thought that keeps this simple, focused and specific to the IANA function, which I think I understand to be the thought coming from Steve, from Martin, and others. That to me seems where the remit to this particular entity should be.

And thereafter we should be relying on the work of the Accountability group, to me. Hopefully we will hear from them very shortly and that may assist here as well as to, you know, where they see their scope relative to our work on the IAP. Thanks, Greg.

Greg Shatan: Thank you, Jonathan. And my final thought on this point, before we move on, is that, you know, as Jonathan says, you know, being from the GNSO side as am I, we may not have, you know, all of the experience and nuance and history to really, you know, comment with great, you know, substance on this issue.

And I think it's - it may be a good place for the ccTLD community, or at least for the ccTLD representatives and participants to perhaps caucus and see if there's something that the - parameters that the ccTLD community could find convergence on. Not saying that that would be the decision the, you know, (maker) by itself but clearly it would be odd for the - for us to come up with an independent appeals process for ccTLDs that the ccTLD community roundly disagreed with.

So might ask for, you know, those who are on this call perhaps to, you know, get together offline - or online but not this line - to see if there is a kind of consistent position there that we can come up with.

So, Jonathan, is that a new hand or an old hand? It being an old hand.

Let's turn to the next point and go over to the GNSO side. The GNSO should have standing to appeal any implementation of approved policies relating to delegation and redelegation of gTLDs that it believes is inconsistent with those policies.

And I've asked here, "Is this limited to appeals from a particular application of an implementation rule or can this be used to challenge essentially an implementation rule itself?" As policy turns into implementation can this be used to kind of say you don't have the implementation right.

And given that this is the GNSO, which is supposed to be the policy development body for gTLDs, this is a particular issue. And I'll note here separately that the Policy and Implementation Working Group, which has a draft report out for public comment right now, has proposed three lightweight processes or lighter weight than a PDP, processes to deal with questions like this more generally with the question of whether an implementation is diverging from the policy it purports to implement.

So I'd like some thoughts here. First, in going back to the thought that Steve Crocker has in the chat that none of the proposed mechanisms here should touch the redelegation or delegation processes. And that's not part of IANA. IANA, you know, is supposed to properly execute the instructions it receives from above essentially.

And that they have - the issue is only whether they act on those instructions accurately and perhaps in a timely fashion as well so that the decision - the delegation and redelegation decision itself is not open for review by the appeals panel. Is that what - where people think this should be or should there be a chance to say that this gTLD should not be delegated and challenge the actual decision to delegate either on the process by which that delegation decision was made or even on the merits.

I think the merits are probably a step too far for just about anybody but there is the question of whether the process was followed. I see Alan Greenberg's hand is up.

Alan Greenberg: A couple of points, and again I'm not going to comment on the - on how decisions should be made. Number 1, in the absence of IANA - sorry, in the absence of the NTIA, doesn't our work have to effectively tell - we keep on saying that IANA needs to listen to the proper authorities. Don't we need to tell IANA who the proper authorities are or a process by which it can determine that?

Otherwise it doesn't know who it should be listening to. And as we've heard, there are multiple opinions in some cases. So that, I think, is within our remit. I don't know how we answer it but I think that is within our remit. There is no one else if the NTIA isn't there anymore. That's Number 1.

Number 2, on the GNSO - the redelegations we know in that case are done by ICANN based on the contractual terms and the contracts already have an independent - a binding arbitration clause in them. So I'm not sure we need yet another phase, you know, other than to complain that IANA didn't follow the instructions they got from ICANN.

So we seem to be getting into a huge discussion here and sidestepping all of the really important questions. So I'm - confused is no longer the word; I'm beyond that. Thank you.

Greg Shatan: I'd like to pull you back to merely confused. I think that one of the reasons we got here is that, you know, based on polls and surveys and comments and the proposal that we had there seemed to be support for appealing implementation of approved policies relating to delegation and redelegation.

And that may have been, for the registry operators, we also had the idea that they could appeal the delegation and redelegation decision itself. Now maybe, since these are drafts and we're trying to refine those, maybe one or both of those are incorrect and we need to rethink those.

So I don't think that's necessarily avoiding big issues. I think maybe these issues are - these are really gating issues of what can be appealed. So - and, you know, putting aside where these can be appealed, if they're outside of the IANA context maybe that is again, you know, something for the Accountability group.

Martin Boyle says, "Wouldn't they appeal within the ICANN appeals process?" Well I guess there are those who feel the ICANN appeals process lacks certain things such as the ability to make binding decisions and are also, you know, what can be appealed there is only - our only process whether a process has been followed.

Alan Greenberg: That's a new hand, Greg.

Greg Shatan: Okay, Alan, I will come back to you.

Alan Greenberg: Thank you. Number 1, the review process that is only about process is a review of Board decisions. GTLD redelegations or changes in gTLD delegations, because I'm not sure they're really a redelegation, I believe are based on the contractual terms. And there is binding arbitration that is typically associated with the registry contracts, if I remember correctly. So that's Number 1.

Number 2, yes, we did have surveys on the IAP because that's because we added it to the mix to begin with. And I'll ask the question I asked much earlier, who asked for the IAP to begin with? And if that really was a mistake on their part, let's pull it back. Otherwise we're trying to find a use for this thing that many people seem to claim we don't need.

So, again, confusion reigns in my mind. I'm not sure why we're having this discussion. And all we can do is appeal processes, you know, within this context. We can appeal things that IANA does which is relatively mechanical. I'm fine with having an appeal process that they messed up. I would like to think it's easier to correct mistakes than a formal appeal process.

On the policy issue are they implementing policy correctly? I'll point out that having standing does not necessarily mean you can do anything about it if you're also not funded and little things like that. Thank you.

Greg Shatan: Thank you, Alan. I'm trying to recall - and I believe that this - the IAP came out of our exercise in Frankfurt where we tried to identify what we believed were the functions that the NTIA currently performs and that there was a belief that they, you know, provide a kind of - the ability to make a complaint of last resort regarding significant issues with ICANN or, you know, and particularly under the IANA contract.

But I haven't gone back and looked at the notes from Frankfurt or the development of the document. So it seems to me then that we have, I think, a lack of clarity on the types of issues that can be appealed. It seems that maybe we have some clarity or a good deal of clarity on the ability to appeal a failure or a mistake that can't be corrected through less significant processes by the IANA functions operator itself or in its role as the IANA functions operator.

It seems like we have much less clarity about whether there should be any ability to appeal delegation and redelegation decisions on any basis before those at the step above and before the instructions are given to the IANA functions operator to take the steps that ultimately modify the root. So that's where I think we stand on this.

Although I'm, you know, from the GNSO side of the house, I don't think I have, you know, any final say on this by any stretch of the imagination. So it may be sensible, you know, again for those involved in the gTLD policy or business to kind of caucus or talk amongst ourselves as to where we think an appeal is needed beyond the appeal from just an unsolved problem with IANA functions implementation itself. So if there's nothing further on this point we can move on.

Maybe back - now we're back to the key issues and open questions. And this brings us to a variation of the questions discussed already so maybe we don't need to spend too much time on it. The question is how should treatment of ccTLD appeals differ from gTLD appeals?

There have been, you know, various statements made that they should be different. But in many cases how they should be different has not been really clarified. So it seems to me that at the level of the actual IANA functions

operator getting instructions right and executing on them in a timely fashion there is no difference between a ccTLD appeal and a gTLD appeal.

And then the question of what's different may be getting into areas where at least some people say there shouldn't be any appeals at all at least on the ccNSO side.

And maybe that's the difference is that because ccNSOs or ccTLDs, rather, their relationship, you know, to ICANN - not IANA - is different than the relationship of the gTLDs to non-IANA functions or the functions outside of the IANA functions group itself at ICANN. So hope that hasn't confused the point. But I would appreciate any thoughts here on that point. Seem to have ground things to a halt.

Well perhaps I will leave with what I stated before which is that there is - that appealing from an actual error within - an error within the IANA functions operation itself, you know, should be appealable assuming it can't get solved any - at any lesser level than that by either the operator involved, the registry operator involved, the CSC or the MRT.

I think - not sure if it was Martin or whomever said that we should be only getting to the appeals panel very rarely on things like that and that we will have different - above that we may have different treatments for Gs and Cs.

So I think maybe what we do is kind of take these questions, you know, back to our subgroups of (Cs and Gs) and consider these so that we can try to, you know, come up with a statement and a process that makes sense.

The next point, again, maybe a variation of this, and these may all be variations on the same thing, but let me know if you see anything in particular that raises a new or different question or that seems wrong-headed.

Local laws, ccTLDs and the IAP. "Since delegation and redelegation of ccTLD can be an extremely delicate international relations issue does the CWG need to obtain knowledgeable advice on the subject of an appeals panel versus local laws from experts or from the GAC? What questions should be asked? What kind of expertise is needed?"

This seems to be a variation on a theme. Next point similar although not tied only to ccTLDs, "The notion of a binding appeals panel or binding appeals mechanism, which could potentially undelegate or unredelegate a TLD is a critical issue which could have drastic consequences for the IANA functions operator and the user community."

What if anything should the CWG do further in response to this kind of point? Do we need legal advice for this or is this just a kind of underlying - these are maybe just kind of statements of the underlying issues that we have been discussing of, you know, how far one can go with appeals at different levels.

And then the last question which I think goes back to something that Steve Crocker said in the chat, "Are delegation and redelegation decisions really IANA function decisions? And if they are not are they just out of scope for the CWG?"

You know, and I guess a corollary to this is shouldn't the appeals function be dealt with at the level after the decision has been made, not to challenge the decision itself but just to challenge an inaccurate application of the decision.

So I think that brings us through that list of issues. Any comments on those generally of having taken the discussion we already had earlier I think these questions are, to some extent, just rehashing some of the underlying points we've touched on.

So I see a discussion in the chat going back and forth. Trying to figure out how to bring that up into discussion on the phone. So Paul Kane is saying, "If IANA has done something wrong then the incorrect change needs to be reversed in real time."

Well, you have to bring an appeal or it's, again, probably starting with a complaint about that that's below the appeals process. And it's only if you can't get satisfaction at a level below an appeals panel that you would need to kind of move along with an appeals panel.

But the issue that Paul raises here is any challenge needs to happen before IANA makes the change, brings up a number of issues as to whether, you know, how long is there between the time that IANA is instructed to make a change and IANA in fact makes the change. And is that enough time to - for a challenge to take place.

Another concern that people have is that these delegations, redelegations and other changes are time critical. So there seems to be a balancing act there. But, again, I think it's helpful if we could get some - from each community, the Gs and the Cs, a clearer sense of what types - maybe a list of things that they believe should be able to be challenged or redressed through an appeals process that, you know, sits on top of the CSC and the MRT and sits on top of at least the IANA functions as a arbitral body of last resort.

So why don't we move along from that point? We've really covered the first point I think fairly completely, although I think we still need to come to more of a decision on that but I think that really needs to come back from the communities on the differences between gTLDs and ccTLDs.

And I think this goes back to - then we have the grounds for appeal. What we had in the draft proposal was that all decisions and actions, including the deliberate inaction of the IANA functions operator that affect the root zone or root zone Whois database, should be appealable.

And any policy implementation actions that affect the execution of changes to the root zone file or root zone Whois should also be appealable. This next one seems to be a rather broader definition since we're going into affecting the execution of changes. Some of this depends on the interpretation.

And disputes - third is disputes as to the implementation of IANA related policy. I think each of these kind of gets to the issue of whether what we're dealing with is really an IANA functions operator problem or whether it's something above that and whether we should have this appeals panel be able to touch those types of decisions or is it really only the execution that needs to be appealed from - execution or failure to execute. Any thoughts on that?

Moving quickly through the rest of this, from the survey there was strong support for limiting appeals to whether relevant policy was followed and also to whether established policies had been properly appealed, applied or adhered to by the IANA functions operator.

The next one's a repeat of the first one. And then a less strong agreement that all decisions and actions of the IANA functions operator should be subject to an independent appeals process. Seemed to be more discomfort with that.

And as for standing, as we've discussed, there should - on standing alone, not what can be appealed, seems to be a fairly strong agreement that registry operators should be able to appeal something but maybe it's only actions of the IANA functions operator itself and that the ccNSO and GNSO should each have the ability to appeal implementation of policies related to delegations or redelegations that they believe are inconsistent with those policies.

From this call I'm not so sure and we had strong agreement on this point from the survey, but I'm not so sure we have strong agreement on this call. If there are any who disagree with this statement, it'd be useful to kind of come back to to hearing why. And a stunned silence. Well Jonathan.

Jonathan Robinson: Look I guess my one concern is that the - and I'm hesitant to say this because of course one presumes that it is clearly understood. But it's possible the survey question wasn't understood in quite the same way, and therefore that explains the apparent difference in what you're seeing from the survey and here.

That's really my immediate thought at explaining why you might see a difference.

Greg Shatan: I think that's a good thought Jonathan. Clearly the survey questions, you know, were kind of in - published in the - in a vacuum or they were, you know, short questions and here we are kind of having a more in depth discussion and, you know, what an implementation of improved policy relating to delegations means.

Does that mean it's challenging a delegation or redelegation? It's better to talk kind of in concrete terms and if it means challenging a redelegation or delegation that, you know, should be clearly stated as the goal of this process.

But again I think we need to go back and determine whether we really want this appeals panel to say, "No this delegation decision was incorrect. You know, policies they were supposed to be followed to come to a decision were not properly followed and therefore the result is void."

And either - and then the question becomes should that just - should at that point it be sent back to that body for a decision consistent with policy, or should the arbitral body be able to actually in essence reverse the decision and - or make a different decision of its own based on implementing policy?

It seems to me once you get to reopening delegation and redelegation decisions per se that you're getting into some complicated and nuanced areas. And I think we have a fundamental decision to make, which is whether delegation and redelegation decisions themselves should be within the scope of this independent appeals panel for - either for gTLDs or for ccTLDs or whether they should be out of scope.

I see Steve in the chat saying, "There should definitely be appropriate paths for reviewing, challenging, et cetera delegation and redelegation decisions. The critical point is that these are not IANA issues and should not be framed in terms of appealing IANA decisions or IANA actions."

So I think the question is, you know, are we comfortable putting together an appeals policy for delegation and redelegation decisions? Do we have - and do we have a good model for doing so and is that going to be applied only to gTLDs?

Or will it apply to ccTLDs as well so that the - there could be a - in essence a choice of forum for a - an appeal from a ccTLD decision and so long as that decision was not a decision that was made in a court?

I see Steve as well saying, "It's okay for this group to consider this as long as it's framed as a separate matter from IANA decisions per se." In any case moving through other standing points there is - there was also discussion of whether governments should have standing to appeal a ccTLD - the delegation or redelegation decision where that country's ccTLD is involved.

We had 75% agree, 25% disagree but there were a lot of no responses or just is acceptable, which is kind of okay either way. So that's not really - there was not really a major agreement on that point.

So I think that's a - an issue that really we can't move forward on unless people feel strongly that, you know, we need to try to, you know, bring that issue back as to whether the governments should have a chance to appeal a decision about a ccTLD that is, you know, their country code but it is not a government asset.

Moving on to the next point and quickly there on - by the binding nature of decision there was strong agreement that it should be binding on the IANA functions operator, although there was some poll answers that questioned that.

But, you know, by and large they were either evenly split or by and large disagreed with some of the limiting language so binding nature of the decision seems to be fairly strongly supported.

Sorry about the wild scrolling here. My scroll control seems to have gone out of whack. There wasn't much disagreement on structure and process. So just to wind through it quickly, not set up in a permanent body but that there would be either a standing list of qualified panelists assembled by ICANN or by, you know, some method or that we would contract with the independent arbitration organization, use their procedural rules for these arbitrations, that they take place before a three person panel with each party choosing one panelists and the two panelists choosing a third.

One of the things I think we have learned from the various objection processes that took place under the new gTLD process was that setting up the rules to be applied, not the substantive rules but the actual kind of what's right and what's wrong, the substantive rules as opposed to procedural rules, is actually quite difficult and that sometimes, you know, giving an arbitrator who may be a perfectly good arbitrator a kind of a law that has - or rule that has never really been tested before and for which no clear appeals process has been designed you may get results that seem puzzling to some.

I think anybody who's ever tried to set up a - new laws in a country - I'm not one of those people but I have colleagues who have - probably have the same issues which is, you know, essentially creating something new for a judge and an arbitrator to deal with is an issue.

So that's something to keep in mind in any of this - these arbitral processes. The better the arbitrator has - the better substantive rules and regulations it has in front of it to decide whether they've been followed or not, the more likely we'll have a consistent set of results.

I just put these in here. We don't really need to cover it. The existence of the IAP was supported by 78% of the public comment respondents, and there was

strong agreement in the poll that an appeals mechanism is needed and that it's crucial and would be beneficial for Internet stakeholders and consumers.

Also, and I think this goes back to a lot of what we've discussed, we had 100% agreement on the statement that there should be standard procedures for catching IANA process errors before resorting to an appeals process.

It would be ideal if the appeals process was never used in that if there were mistakes or errors made they could always be resolved either between the parties or through using the - a - lower level resolution tools of the CSC and the MRT.

I think that brings us to the end of this decision, so I think there are some things here that should be brought back to, you know, the relevant CNG communities to try to figure out where the limitations on appeals beyond I think absolute just procedure foul ups or execution foul ups by the IANA functions operator itself - see how far those should go.

I think the who can challenge or the standing issue is not so knotty but it's really the grounds for appeal issue that's - I still think's, you know, quite knotty.

So I'd encourage all of you and probably not individually but in caucuses to try to come back to this group and ultimately the CWG to try to come up with a definition of the parameters for what can be appealed and what can't.

With that I'd like to turn to the other agenda item, which is what I'll call the alternative trust model, and if we could get that up on the screen that would be great.

Here it comes. That's large. Okay now it's a good size. There are a lot of variables in this but just to go through it raises the form of a question but it's really a proposal.

Could Contract Co. - could or should Contract Co. take the form of a trust established under U.S. law and then registered with a state court in order to ensure that the terms of the trust will at all times in the future be met?

And then that's the first kind of set of elements. Then next, that the trust would have a board of trustees, which would be incorporated in the same state where the trust is registered.

And then that board would be selected from and represent the global multi-stakeholder community. The trust would - and that's kind of the second element.

The trust would receive an assignment or conveyance from the U.S. government from the NTIA of all the U.S. government's rights and duties included within its stewardship role over the Internet and DNS, whether they're under existing contracts, so it's ICANN or VeriSign or otherwise, and further that the trust would have its primary purpose and duty to ensure the continuous operation of a free, open, secure and stable global Internet DNS including the Internet Root Zone by select - by the selection of an IANA functions operator, which is presently ICANN and Internet Root Zone maintainer, presently VeriSign, each for a term of years subject to termination for cause and such other terms, conditions and covenants necessary or convenient such as limitation of registration slash renewal fees charged by a market dominant gTLD Registry operator -- I'm not sure who that might be -- in order to carry out the purpose of the trust and the duty of the trustees

thereof to act at all times in the wider public interest of the global multi-stakeholder community.

I think - so boiling this down a little bit the proposals seems to me to be to have instead of Contract Co. a trust, which would issue the IANA functions contract and that the trust would be governed by a board of trustees, which would represent the global multi-stakeholder community so maybe somewhat like the MRT or the guardian under the other trust proposal, and that the trust would hold the rights and duties to act as the IANA functions operator or to - really to select the IANA functions operator at each time.

So now - and a number of things here but I'd like any comments that we have on this generally or any questions. You know, this was put forth initially by John Poole who is on - I see he is in Adobe so I don't know if - oh I see.

I can let Alan - and then John can speak for himself but Alan Greenberg is the first hand.

Alan Greenberg: I want to ask a question. Perhaps Paul can or John can answer it. I don't understand the concept of incorporating a board of trustees. Normally a board of trustees rules over some organization but is not a standalone entity in its own right.

So I'm not quite sure what the corporation is in relation to this board of trustees. Thank you.

Greg Shatan: John would you like to take a stab at that?

John Poole: I will answer Alan's question. Can you hear me?

Greg Shatan: Yes loud and clear.

John Poole: Okay. First of all the board of trustees does not need to be incorporated but probably would choose to be incorporated to avoid personal liability to any of the trustees.

If you will read the case that I've cited there, which is the New York Court of Appeals case in the America's Cup Trust, which is a trust that has existed for over 150 years that deals with international incorporated entities, each yacht club that engages in the America's Cup has to be an entity licensed or incorporated under the nation or forward a national authority in which they are located.

If you read that case which is very interesting because you see how a court would look at a trust document and enforce terms that require the Internet to be operated in a free, open, stable and secure method.

In the America's Cup case just to show you how international situations can be dealt with, the trustee in America's Cup - always the holder of the cup - whoever is the defender of the cup.

And in the case of the America's Cup Australia has been the trustee. When they won the America's Cup they were the trustee of the America's Cup Trust.

Even though it's registered in Manhattan New York Supreme Court they were the trustee by the terms of the trust. New Zealand became the trustee of the America's Cup Trust when they won the trust.

Trust law is very, very interesting and we do not have time to go through it. What we do need is qualified independent counsel to advise us as to the options that are available for this.

And I believe this is a very viable option because it gives assurance to all those who are watching this process that somehow the Internet is going to lose the protection of being a free, open, stable and secure system.

NTIA has had an historic stewardship role. I come to the process - and I want to thank all of you for your work and the opportunity to even present this.

But when I come to this I look at NTIA's announcement last March. I looked at NTIA's questions and answers that they posted on their Web site following that announcement.

What that announcement tells me - and I'm just coming to this as a domain name Registrant. I'm not an ICANN insider. I have no other interest in this whole process other than from a viewpoint of a Registrant.

What the NTIA announcement tells me is what they want to do and what they're asking this process to do is develop a proposal to transition NTIA out of its role period.

And they go - and further in those two documents, the announcement and the question and answers, they define what is the NTIA role. They say, number one, they are the historic steward over the DNS.

They say, number two, that they are the external contractual counterparty to ICANN as the IANA functions operator. They say, three, that they are the

external contractual counterparty to the Root Zone - independent Root Zone maintainer, which is VeriSign.

Now they also say they have a small procedural role but they go on and further say, "We do not have an operational role in the day-to-day functions. We enter into the contract with ICANN.

We enter into the contract with VeriSign and we have overall stewardship role to protect the Internet DNS. But we want a proposal to transition the NTIA out of its role."

What this does is it doesn't do what your draft proposal proposes and it doesn't do what the internal solution proposes. The way I look at this is that the internal solution is to abolish the role of NTIA.

The draft proposal is to expand the role of NTIA. I don't think you should do either of those. I think you should replace the role that NTIA has been played. You just replace NTIA with this trust.

Everything - now this whole idea can - you - this committee can take and modify/develop however you want. The reason I put this forward is I just want it in the legal scope document.

You know, you're going to independent legal counsel. I wanted it to be clear. "Here's an option. Is this viable?" That's all - that was the only thing I sent with my email.

However in looking over and in develop this and listening to Larry Strickling earlier in the week I sent - the same email that I sent to the mailing list I sent

to Larry Strickling a couple of days ago and I copied Penny Pritzker with it also - back yet.

But what I pointed out is the domain name Registrants have always looked to NTIA as a protector of their interest. When the VeriSign Dot Com contract came up the domain name Registrants, you know, we - they all went to the Department of Commerce, said, "You can't let them just take the Dot Com.

It's market dominant and arbitrarily increase the renewal rates." And they came up with Amendment 32 to the VeriSign contract. That's why I think this whole process needs to be looked at holistically.

You need to look at the role of NTIA and its role as it has defined itself is a role in regard to ICANN, it's a role in regard to VeriSign as the Root Zone maintainer and it is a role of historic stewardship.

You also have a global multi-stakeholder community out there beyond the U.S. who wants some way to be able to have a play in this. But they feel left out from ICANN for one or more reasons or they don't trust ICANN or what have you.

What I want to say to the group is you've done a lot of work but I've been following CCWG, and they have a wonderful group of people over there and they are doing some fantastic work.

I hope they come up with a - with good solutions to everything. But the process to transition NTIA out of its role - when I look at the documents I don't see anywhere where it says, "Fix ICANN."

You know, yes ICANN has its issues and they - ICANN should be, you know, maybe there needs to be changes. But to me I'm looking more at well what is the function of NTIA because it's external?

So it brings me to - the final thing is you've got a three-legged stool here that runs the Internet: ICANN, VeriSign and NTIA in their respective roles. If you take one leg out of that three-legged stool, you know, you're in a balancing act.

So then we get to the stress test and I'll be brief here. I could go on but I'll be brief. What's the worst-case scenario if you abolish the role of NTIA? You know, assume you just take NTIA out of the picture but the role that they're playing, the independent contractual role - you abolish that role.

There is no external contract going forward. There is no external accountability within NTIA that exists. Their role has been abolished. What is the ultimate stress test, the worst-case scenario?

Well I'll give you one worst-case scenario and that is a judgment is rendered against ICANN whether it's under antitrust law or otherwise for more money - multimillion dollars that ICANN cannot pay.

You have a problem ladies and gentlemen and you haven't even thought about it. I haven't seen that question raised anywhere. What are you going to do?

And I will further say as a Registrant of both ccTLD and gTLD, from the ccTLD perspective they've got to be thinking of that because they want this Internet to continue, and they don't want to hear that ICANN got hit with a judgment because of its policymaking in the gTLD area that they had nothing to do with.

Greg Shatan: Thank you John.

John Poole: So that's all I'll say right now. If there's any questions I'll be glad to answer them.

Greg Shatan: Thank you. I'd like to answer in a slightly more lawyerly or narrow fashion, and it was Alan's question about the incorporation of the board of trustees. I did a little bit of reading up on this and it appears to me that again trusts are sometimes legal entities unto themselves but more often not, and that if the trust itself is not a legal entity then the trustee typically act as the legal entity as it does in the internal model - the internal trust model.

ICANN is a legal entity and I - and the trustee there acts as the legal entity involved in the trust model or you've got a board of trustees. And oddly the term board of trustees is more - much more often used in relationship to non-trust entities.

Mostly universities and the like have boards of trustees but there's no actual trust involved. But where you - it is possible to have a - multiple trustees in a board of trustees as opposed to a single trustee.

But at that point you no longer have a legal entity as a single trustee would be, so you - at that point you kind of have to incorporate the board of trustees if the entity itself doesn't qualify as a legal entity.

That may be oversimplified and as with any of these things there may be exceptions that I'm not bringing up or not aware of but, you know, that's why typically it seems to me you incorporate a board of trustees of a trust so that's that point. Avri Doria.

Avri Doria: Thanks. This is Avri speaking. I think that, you know, one of the things I think you yourself mentioned that - in a previous context was the whole notion of an association could be incorporated.

And that the membership or the delegates to that association and, as I said, obviously I'm not a lawyer. Would - could be, for example, representatives from other organizations.

And I think, if I understood what John was saying correctly. That's kind of the model that they had at the yacht clubs - were the ones that delegated to the board.

If I misunderstood that, please correct me. And similarly, you know, both internal, ICANN, the ACSO and external to ICANN appropriate associations could be the ones that participated in such an association.

So from what I understand from things, that I know naively from before this and things that have been said. It seems that that incorporation of an association can serve as the board of trustees of this.

And could follow through with the model that, you know, the trust is, you know, originally invested in ICANN. But would use notions of reassigning the trust if need be, perhaps not quite a race but something analogous, the RFP.

I mean I spoke long ago about trust. I'm very happy to see this brought in as a proposal. And I think it offers a viable path. And I think that if the notion of association were explored - - the multi stakeholder notion of that.

That this kind of model, in one way, providing that third leg of the stool but it also comes closest to being a hybrid where you can still keep a lot of it attached closely to ICANN.

And that's - that the people making the policy that is implemented in IANA that is deployed in IANA are a major part of the board of trustees. And yet external in that it can be reassigned to a different operator other than ICANN.

Preserving the ICANN policy making model while giving it, you know, some say over what happens to the trust of the function. So as I say, I appreciate the model, thanks.

Man: Thank you Avri. I thought I saw John Poole's hand up. But now it's down. So we'll turn to Alan Greenberg.

Alan Greenberg: Thank you very much. If I understood John properly, this whole thing revolves around the sanctity of the trust as enforceable by the courts. That is the rules that are associated with the trust - are enforceable.

And the trustee cannot unilaterally change them. As such, I really don't see the difference between this and what was proposed as the quote, "Internal trust."

They would both be trust. They would both be and for - would have the rules enforceable by a court. And I'm not sure I really follow the subtle difference between the two of them, thank you.

Man: Thank you Alan. And I would note. And I see John's hand is up. And I'll turn it over to him as well - that in the internal model, ICANN is the trustee.

In this model the trustee or the board of trustee is a global multi stakeholder group - not ICANN. And here there is a contract unlike under the internal model.

And there's a contract that would be issued by or on behalf of the trust to ICANN. So that it would be essentially in the same role it is today as being at the contractor end of a contract - to perform the IANA function.

Where there's - of course there's no contract under the internal trust model - at least the one that's being currently discussed in RFP3B - where the right to be the - to perform the IANA functions is essentially an inherent right of ICANN held in trust but an inherent right of ICANN that can be removed by the guardian for various causes.

So I think the lack of a contract and the lack of - and having ICANN not serve in a trust role are two significant differences to me in this model. There may be others, as well.

But those two jump out at me - Alan.

Alan Greenberg: Thank you. I think we have (unintelligible) problem here. And I'm certainly not the expert on it. I want to phrase it properly.

I don't recall whether in the last model presented by (Ada) that ICANN was the trustee.

I know there was terms of guardian being used which is not a term normally used in North America that I'm familiar with - which would be something a kin to the MRT that we've been talking about.

And that would be the body that actually enforces the trust not ICANN as the corporation. So, you know, I don't see any difference between the MRT like body in the outer model and for the board of trustees here.

But they seem to have the same function. And as John said, he believes that the board of trustees would be incorporated just to protect them from liability not because they're, you know, not to provide them with any different preview.

So I stand by what I said. I'm getting more and more confused. And I think we need to get some counsel who understands what they're talking about instead of us playing lawyer here - no offense to you Greg.

Greg Shatan: Thank you Alan. And I think you may want to go back and look at the outer proposal. Because it is clear there that IANA - that ICANN rather is the trustee.

And that the trustee is in charge of the day to day administration of the trust assets which would be the right to perform the IANA function and that the guardian - which is a Korean - not a common North American concept.

It seem where that concept exist in the trust world, it's called the trust protector in the U.S. But basically it is a body or a person superior to the trustee that will discipline the trustee when it gets out of hand and doesn't properly administer the trust.

So the guardian role is almost an appeals or higher of level of role. As long as the trustee is doing its job correctly, the guardian doesn't have to come in to play.

So, again, you know, here. And let's remember that putting aside whether a trust itself is ever a legal entity - which it is sometimes.

That the basic issue is that a trust is a relationship whereby somebody who is the trustee maybe the legal holder of an asset but hold that asset in trust for a beneficiary or beneficiaries.

However in this case, you know, could - for the sake of argument, are being defined as the global multi stakeholder community. And that includes, I think you know, registrants and users and not just registries and registrars and the like.

So I think there are - I don't think it's all that unclear what's going on here. And I think the differences are significant. I don't disagree.

As a matter of fact, I have to get off this call at the top of the hour to get on a call about getting legal counsel set up.

And I don't disagree that we need it. But I think it's not to the point where we just can't understand what's put in front of us - John Poole.

John Poole: Greg thanks for your comments in answer to Alan. I could go on. But there's no sense in doing that. The reason I sent my email earlier in the week, it was in the legal scope document.

It read to me as it was to confused as to what we were talking about an internal trust which was part of the internal solution or an external solution which this is - which takes the form of a trust.

I will also add that for my perspective, MRT, CSC, IAP could all be moved internally per (Bernie Tricot)'s presentation over in a week to RFB3B.

He had a very interesting presentation he made earlier in the week that I think everybody should look at - which was taking the CSC, MRT and essentially, I guess, the IAP and moving it internal to ICANN.

You could still do that and have this external trust. Because LI this does is replace the role played by NTIA. Or you can add on and keep MRT, CSC, IAP externally, which is expanding the role of NTIA.

Personally, you know, I'm not heavily invested in whether the MRT, IAP, CSC should be internal/eternal. The only thing I want to point out is we (unintelligible) in this poll.

Or you could the MRT's, CSC, IAP all internal to ICANN which you still have a stewardship. You still have an external accountability.

You still have an external contractual counterparty to ICANN (Vera) signed in representing the global multi stakeholder community.

And to me, that is a real distinctive difference from any internal solution - which in effect, abolishes that role which NTI has fulfilled up to this point. And that to me, is a very radical step to take in looking forward. Where do we go?

The beautiful thing about this solution is it doesn't change any of the relationships. It just replaces NTIA with a trust of the global multi stakeholder community.

That's all it does. It doesn't change the relationships. The relationships stay the same. You just slip out NTIA. And you put in the trust with the board of trustees - exercise by the board of trustees.

All of the interests of the NTIA, all of the contracts, there are conveyed to the global multi stakeholder community to be held in trust by the board of trustees who are governed by the terms of the trust which can be enforced in the state court where the trust is registered.

To me, that provides a lot of checks and balances and a lot of the advantages of having something replace the role NTIA for the benefit of the global multi stakeholder community. That's all I've got, thanks.

Greg Shatan: Thank you John. I very much appreciate it and appreciate your being on line to, you know, give us the benefit of your thinking behind putting together this proposal.

It can provide an interesting counterpoint to both the internal trust proposal and the Contract Co external proposal - seeing that it's now 10:52, if we have any last comments from the floor on this trust proposal.

And one comment that I have is just, I think with regard to the CSC and the MRT we were trying to replicate functions that we saw the NTIA taking on or at least having the ability to take on under the contract.

So here again, if the contract is being issued by the trustee on behalf of the trust, there's a role.

The MRT and CSC, you know, role could be taken on by the trustee itself or by - so the MRT and CSC could continue to exist either as committees of the

board of trustees, if you will or could even be working groups within ICANN under - along the line that (Bernie) brought up.

But if - any last comments on this on the floor and then I have one more question for the group maybe they'll take away and think about over the weekend - Avri.

Avri Doria: Yes thank you. I just put this in in the chat. But I've also been told - because there are people on the phone wants you to say things.

I think in this model I think that I see a large sort of parallel between the MRT and that board of trustees - which I think is possibly what you just said.

And even (Ahu) in the CSC being something that hung under that. I think if there is an independent, you know, IAP, whether it's an independent appeals panel or an independent arbitration panel or what have you.

I think that independent would possibly want to remove it from either being within ICANN. ICANN will have its own appeals mechanisms that deal with things that are within ICANN's policy preview.

And for the minimal number of things that perhaps are appropriate for an IANA based appeal. You know, for example, making mistakes that they didn't fix or taking the authority from the wrong speaker.

That that kind of appeal or arbitration would be best off being independent of either ICANN or this trust model, thanks.

Greg Shatan: Thank you Avri, good thought, good point, good model for using the - for organizing the pieces here.

Now it's five before the hour. We have one more RFP3 call before Singapore on Monday at 21:00 hours to allow our folks on the West Coast of the U.S. to actually have a call that is - takes place after they're supposed to wake up. I realize for other people that puts it at more inconvenient time.

But having all the calls at the same time was not sharing the pain equally enough - so some thoughts, just think about over the weekend and maybe put on the list any thoughts that you have about how you'd like to use that last call. I have my own ideas.

But, you know, try a little crowd sources on this one. You know, clearly we haven't. As we might once have hoped - brought together a new and improved transition proposal, you know, toward a second graph.

We, I think, continue to converge on a number of things but still have a number of areas that are significant diversion of rapid clarity.

Some of that is, you know, obviously due to the fact that we need legal counsel just to, you know, maybe throw out some ideas, fix some others and say some - forget other perhaps. You know, that works.

But putting aside that the mechanics coming in to do that but to, you know, have some thought about how to use that last call to kind of tighten up any thoughts we may have or to perhaps pose questions that we need to deal with in Singapore.

As we're going to have, both, a public hearing and a working session, as well as being in the hallway and probably being button hold by many who would

like to talk about their view of the IANA transition or the working of this group.

So it's not necessarily going to be a free for all call on Monday. But opened to thoughts about how some of the time on that call could be used to advance the work of this group and to prepare for Singapore.

With that, it's 10:58. And I will bring this call to a close. Operator can you please stop the recording. I'll say good bye to all of you, look forward to seeing many of you in Singapore.

I'll see many of you on the call on Monday and to a continuation of our fruitful work, thank you all and good bye.

END