

ICANN

**Moderator: Brenda Brewer
March 24, 2015
1:00 pm CT**

Coordinator: This call is now being recorded. Thank you.

Leon Sanchez: Thank you very much. Welcome everyone to the Legal Sub Team Coordination call with legal - with the law firms that have been engaged to provide advice to the CCWG on enhancing ICANN accountability.

We are - well we're partially - some of the team is in Istanbul, some of the team is elsewhere in the world.

And I see in the Adobe Connect room we have Avri Doria, David McAuley, Greg Shatan, myself Leon Sanchez, Robin Gross, Samantha Eisner.

And here the room we have oh, Steven Meyer, Athina Fragkouli, Edward Morris, Mike sorry...

Woman: Clark.

Leon Sanchez: ...Clark, Mike Clark, Holly Gregory and Alice Jensen and of course Cheryl Langdon-Orr.

Cheryl Langdon-Orr: And of course.

((Crosstalk))

Cheryl Langdon-Orr: Hi darling. We haven't met but that's (unintelligible).

Woman: Nice to meet you.

Leon Sanchez: We are supposed to have also someone from the team of Adler & Colvin. I would expect that we would be...

(Stephanie): All of us are here.

Leon Sanchez: Oh so this is (Rosemary) or...

Greg Colvin: That was (Stephanie). This is Greg Colvin...

Robin Gross: (Rosemary)'s here.

Leon Sanchez: Excellent.

Greg Colvin: And (Stephanie)...

((Crosstalk))

Leon Sanchez: Excellent. Thank you very much for being here with us. I was unaware that you were already in the phone bridge but you're most welcome of course.

And the agenda is partly began. We have had our roll call and now I'd like to set a couple of ground rules for us to work together.

For starters I think that all communications should be public. We have set up mailing list which is a public archive mailing list.

I don't know if you have already have the chance to get the address for that mailing list. If that's not the case we'll make sure that Alice here will provide everyone in this call with the appropriate information for us to be able to post that mailing list.

This mailing list will be of course in some way moderated, not in the way that anything is going to decide what's going or what goes into the mailing list or doesn't.

But in the way that some of the people that are subscribed will have posted privileges and the rest will have only observing reading privileges.

This is meant for us to have a better way of managing conversations instead of having 160 people post to the mailing list.

And of course communicating with the law firms we would like to have as we discussed in our meeting today compact executive teams, let's call it that way that will be the ones that will be interacting with the law firms as decided in our meeting today.

And I think that practically all of the executive team of the legal sub team we might want to call it that way is either here in this room or in the Adobe Connect.

So for the law firms that are kindly enough to be here with us and joining remotely now you have the names. And well of course we'll make sure that you have the short list of names that we'll be addressing to you so you can identify the emails, the incoming emails easily.

And another ground rule that I would like to set is that of course all communications as I said should be made through the public mailing list in order to avoid any misunderstandings or communications with CCWG should be made through the public list.

We - will I will also like to call to abide to the ICANN expected rules of behavior. If you haven't gone through them I will make sure that you have them available.

These aren't complex rules. It's just a set of rules that is supposed to guide us to better communicate on this and of course (respective) ways of communicating amongst us.

The communications between the CCWG and the law firms should be carried out only through the legal sub team. This means as the engagement letter states that no individual outside the CCWG Legal Sub Team should address directly the law firms.

And if that should happen then we would like to be of course noticed that such communications are taking place and then we will of course take measures to see how we address.

((Crosstalk))

Leon Sanchez: One question that was raised before this call by Holly was that we are aware that the relationship between Adler and Colvin and Sidley Austin is an ongoing friendly relationship which is good for us.

Because since you guys have already had a history together in different aspects that should make it easier for us to coordinate the work between both law firms.

And as I said the question raised was if it was okay for them to have maybe private meetings between them to coordinate.

And while my experience as a practicing lawyer is that that would be desirable so you can of course fine-tune any advice that you will be giving us.

As I said in the chat today when you just throw away the problem to five years you get out with five solutions. And you get (unintelligible) thrown into five lawyers you get five different problems so...

Man: Or maybe ten.

((Crosstalk))

Leon Sanchez: I think (unintelligible) I'm a lawyer myself. So yes Holly?

Holly Gregory: If I may we're really looking forward to working with the firm. And I think it's wise to let us have some private communications so that we can key things up for you let a little bit more coordinated.

You don't want to hear two voices. You want to hear people speaking from the same, as they say, singing from the same hymnal.

Leon Sanchez: That is absolutely correct. And well of course we'll iron this out in our working methods following the scope of work.

And well I think those would be the basic ground rules to follow. I don't know if anyone from the Legal Sub Team would like to add any ground rules that I may be missing so far? If that is the case please speak now or how do you say?

Man: Forever hold your peace.

Leon Sanchez: Oh forever hold your peace.

((Crosstalk))

Leon Sanchez: I see, sorry Holly yes?

Holly Gregory: I just want to clarify one rule that we also understand is a really basic ground rule which is that even though we are getting paid through ICANN our advice is directed to the committee, our directions were taken directly from the committee full stop.

Leon Sanchez: That is correct Holly. Thank you for clarifying that. The engagement letters are drafted so that they address exactly what you say.

The - while ICANN is the client the client has instructed to receive only questions and refer only to the CCWG with advice that will of course allow us to go forward.

I see David McAuley's hand is up so please David could you take the floor?

David McAuley: Thank you very much Leon. And I in the chat speculated an answer to Robin's question about the action item inquiry about what does it mean the short list of names to be sent to the lawyers. And so I just wanted to confirm what exactly that is. Thanks very much.

Leon Sanchez: Thank you David for raising this and the short list is meant to be those who are present at this call right now, those are - that is the short list of names which is those members that have been already active in the Legal Sub Team as we discussed today in our meeting in the morning.

We have maybe some 26 members in the Legal Sub Team but we have only five or six of us that have been actually engaging and being active in the team.

So those five or six which I would say that are the ones that are present at this call are the short list that we would be sending to the lawyers so they can identify who's who and how we're going to interact with them.

Does that address your concern David and answer your question Robin?

David McAuley: It takes care of mine. Thanks Leon.

Leon Sanchez: Thanks. Excellent. So I see now Greg Shatan's hand is up. Could you please take the floor Greg?

Greg Shatan: Thank you Leon. It's Greg Shatan. Sorry I can't be in Istanbul with you but I'll be in Istanbul with or without you in about 24 hours or so.

In any case one other kind of working method or rules of engagement that we had set up for the CWG Client Committee and I think this group is already

honoring it but I wanted to mention it anyway is that all calls should take place in Adobe Connect unless it's one-on-one calls between say a single lawyer and a single member of the Client Committee.

And that calls should be recorded. You know, all the usual transparency tools should be used and that even when there are calls that are off Adobe Connect because there's a one-on-one there should be some kind of a record of what went on.

It doesn't need to be a transcript. But at least it could be, you know, equivalent to a timesheet entry of about least what went on who was on the call, you know, with one sentence at least about what happened just so that there's ongoing transparency.

We certainly had the transparency police out in force on our list and that - it's important to honor the classic tools.

One other point that's not a general tool but a specific thing and I think that we'll be trying to honor that in the CWG client committee is that all instructions or requests for a particular item of legal work should be in writing and on the client list or on the committee mail list, the Legal Sub Team mailing list.

That way there's kind of no confusion about whether or not a particular memo was asked for, a particular person showing up at a meeting was asked for. You know, there's a record of it that's I think's also just a good way to kind of keep track and even more important given that we have the - a more heterogeneous legal team to coordinate. Thanks.

Leon Sanchez: Thank you very much Greg for raising this. That's definitely one problem that we need to follow. And I wouldn't say that in ideal situations or if everything goes as planned there shouldn't be the need ever to have a one-on-one call.

I mean that would be extremely weird. And I would think that the only situation that I foresee that could lead us into a one to one call that wouldn't be recorded is just an extremely urgent matter.

So yes all calls should take place over the Adobe Connect and should be recorded. I definitely agree with that.

And let's see I don't see anyone else raising their hands.

I just want to raise what Robin is saying here yes and any follow-up clarifications to that request.

Yes one of the ground rules is exactly to have all communications through the public mailing list so I think that should address that.

So any other ground rules for any other questions with regards to the ground rules so far? No? Okay. I see Greg Colvin has his hand up. So Greg could you please take the floor?

Greg Colvin: Hello everybody. We are in no doubt the latest to join this grouping. And one of the things of course that we will need because as Holly said our responsibility, our legal relationship is with the CCWG which I gather is a larger group obviously than the Legal Sub Team.

And I'm sure the CCWG has a chair and so on.

It would be good for us to know what its composition is for at least the reason of being able to identify the players.

I understand that the Legal Sub Team correct me if I'm wrong, is a subset of the CCWG.

And at the beginning of the call I heard that there was a compact executive team of the Legal Sub Team which is I suppose an even smaller group.

We have communicated with Leon as the chair. I see him referred to as a co-chair.

In any case these particularities may be clear to all of you but we would benefit by having them clarified for us.

Leon Sanchez: Welcome to ICANN Greg.

Woman: Yes.

Woman: In love with that Greg.

((Crosstalk))

Leon Sanchez: No. I mean seriously you're right. CCWG is a larger group. Then we have a subset of persons which to give you an idea the CCWG is comprised of approximately 160 persons more or less.

Then we have this Legal Sub Team which is comprised of 20 something 26, 25 and then the Executive Team, Legal Sub Team if you may call it that way which are as I said previously six or seven persons that have been actively

engaged carrying on the discussions and drafting the legal scoping document that you have in hand. So that is more or less how we are organized.

Now to give you an idea of the profile for the landscape or the composition of the group you have people from the business side, from civil society, from technical community, from government.

You have people that have noncommercial interests. You have people that have of course commercial interests.

So it's very diverse group with very different backgrounds with very different cultural origins cultural origins, cultural...

((Crosstalk))

Leon Sanchez: I'm sorry?

Cheryl Langdon-Orr: Even Australians.

Leon Sanchez: You even have Australians yes.

Man: (Unintelligible).

Leon Sanchez: And so it's a very varied community, very wide-open community. So I think that's one of the challenge to address when thinking on solutions.

This - the answers to solutions put on the table should be able to address of course some cultural and diversity issues as well.

So I don't know if that's enough as an introductory note for you Greg?

Greg Colvin: Well that's an excellent start.

Leon Sanchez: Okay good. So I think David McAuley's hand is up. So David could you please take the floor?

David McAuley: Thank you Leon. I just would like a point of clarification. This isn't a request for a ground rule. But this call that we're on now is the exclamation point for some very long calls starting on Sunday.

And for I think Robin, Greg, Samantha and myself they're calls from a long distance.

I would like to ask Holly and Mike and Greg and (Rosemary) if they could set out how much of the meetings the firm was at, not both of them necessarily but were the entirety of the call on Monday and today covered and even going back to a Work Party 2 meeting that Becky led us on Sunday afternoon for several hours. Thank you.

Holly Gregory: So this is Holly. Mike Clark has attended the full set of meetings on Monday and Tuesday here in Istanbul in person.

I joined very late in the day today and I wish I could have gotten your earlier but I had a commitment in London.

I don't believe that we were on the call on Sunday Mike I think you are traveling and we were both in the air. So Monday and Tuesday we've - from the Sidley side.

David McAuley: Thank you.

Robin Gross: And from the Adler & Colvin side we were not aware of the Sunday meeting. And Monday I think we were on remotely for about the first hour and a half the first session.

And then we were directed to drop off so we did not remain on the rest of that. We were - it was not recommended that way attend last night or we would have.

David McAuley: And today (Rosemary), were you on today?

Greg Colvin: This is Greg. I was on this morning for about an hour. I even surreptitiously entered the chat room.

It was a fascinating discussion and while we did not witness the whole thing we certainly plan to have one or more members of our team review the entire recording that you have made.

David McAuley: Thank you. And that just helps us figure out what you - what background you might have. And that's really why was asking. So thanks very much.

Leon Sanchez: Thanks David. So any other comments so far today? Yes Mike please?

Mike Clark: And my thought Greg was that I could give you a bit of a download from my perspective when I get back on Thursday because the transcript looks like it will be a rather imposing document.

David McAuley: That would help Mike. I don't know if the rest of you know this but Mike and I have frequently talked about our international representation in the service

club area, Mike with Rotary and me with Toastmasters. So we are already conversant in many of the same bylaw type issues.

Leon Sanchez: Thanks. Here's a suggestion from Robin. She said that it would be worthwhile to recuse a meeting in its entirety in the AC room.

So one of the working methods we have here in ICANN is that we hold the meetings through these Adobe Connect rooms. And those meetings are recorded.

So there will of course be a set of URLs that we'll be letting you know. We'll be putting them handy to you so you can go to those URLs.

And in those URLs you will find each and every meeting that we hold. And in the placeholder for any meeting you should be able to see the transcript, the audio recording and also the Adobe Connect room recording. Am I right or am I missing something?

(Unintelligible).

Cheryl Langdon-Orr: I had my hand up, Cheryl-Langdon-Orr for the record. (Unintelligible) normally in many meetings the staff also capture the chat. And the chat really is a very important resource and tool because a lot happens in that channel.

Leon Sanchez: Excellent. So all those resources could be available to you of course if you decide to go to the meetings which is of course desirable and advisable.

And of course if you have questions with that which I'm pretty sure you will have feel free to reach out to the Legal Sub Team and we'll be glad to provide any guidance.

We say if we don't convince then we can't confuse you so that's another issue. So this is so far is a scrambled (unintelligible). Now I would like to dig into scope of work.

Since we are engaging with both law firms one of the things we would like to avoid is to have duplicate work.

So the structure we envision to have it working with both law firms is to have Adler Colvin provide the primary source of advice with regards to governance corporate governance and of course California non-profit law.

And if I'm misrepresenting transmitting any message from the Legal Sub Team please the members of the Legal Sub Team feel free to jump in and correct me.

Add so we would be working in this regard primarily with Adler Colvin but this doesn't mean that we wouldn't be going to Sidley Austin as well at some point just to double check on any matter that might sound awkward to us from the Adler Colvin side.

So we will be maybe or most likely also going to chart in many cases just to double check. And this is where these one-to-one meetings might be useful for the law firms to have just to fine-tune whichever advice is of course asked for you to come forward with.

And for the rest of the matters and for the rest of the matters I mean antitrust law, jurisdiction issues, which other asset we have said?

Man: International of any sort.

Leon Sanchez: International so pretty much anything other than California law, et cetera, et cetera, should be addressed to Sidley Austin.

So we recognize that you have many areas of expertise and that's why we decided to also engage with you.

Woman: Point of clarification.

Leon Sanchez: Yes?

Woman: You said at the outset primary advice on corporate governance in California not for profit. We'd understood that you wanted some of our corporate governance general expertise that transcends California law.

Leon Sanchez: We will be asking advice on what matters to you. So the message here is we will be reaching out to Adler & Colvin for this these issues.

But when we have a doubt or we require maybe another point of view that doesn't deal merely with California nonprofit we will reach out to you and we will ask for your advice on that matter.

Man: (Unintelligible).

Leon Sanchez: Okay so I see some...

Mike Clark: (Unintelligible).

Leon Sanchez: Yes of course Mike.

Mike Clark: And I think - well I don't know if Greg and (Rosemary) folks in California know but we have been working for another group within ICANN.

And some of the issues do indeed in that material involve California law. So I take it there is no objection to again having a flow of information between two law firms?

Leon Sanchez: No, no objection at all. I mean information should flow freely. That's what the Internet's about.

Mike Clark: I guess so.

Leon Sanchez: Okay. So yes...

Mike Clark: I just wanted to clarify.

Leon Sanchez: No, no I mean...

Mike Clark: I mean philosophically this is amazing after two days.

Leon Sanchez: So yes you can see the effect of (unintelligible).

So yes definitely information should flow freely between both law firms. I mean we are a team. We are not competing amongst ourselves so just feel free to have this exchange of information between you.

And I see some points here in the chat that I'd rather have - I don't know if someone was wants to go through reading the points or should we just rate them?

I see Samantha Eisner says or suggests that it should also be clear how the firms are expected to respond to requests that come from the - from those outside of the Legal Sub Team when they are participating on other calls?

Well this refers to someone from the general group in a call on the Adobe Connect room or maybe on a face to face meeting raising the legal question should the law firm be able to respond or should the law firm should address and reply directly to the CCWG?

While the primary channel or the main channel for communication between the law firms and the CCWG should be the Legal Sub Team.

When face-to-face meetings take place I would suggest that if there is any opposition please let me know.

I would suggest that when that happens of course the legal advice should come in real-time in reply to anyone who is raising a concern or asking a question. Yes Athina?

Athina Fragkouli: I think when it comes to like questions you can address immediately because the answer is very easy and it comes, you know, from the top of your head absolutely.

When the answer requires some more research and so on I would suggest that then it should rather come from us instead of committing to reply at length to a question that does not come from the (unintelligible).

Leon Sanchez: Yes Athina.

Athina Fragkouli: (Unintelligible).

Holly Gregory: I think all questions need to come through the Legal Sub Team.

Leon Sanchez: Yes.

Holly Gregory: I mean, of course in a meeting somebody might ask a short question and have a short response. But anything that's a serious legal advice needs to be something that you have directed that you want us to spend time on. Otherwise...

Leon Sanchez: We can put that out. I think it comes to our minds that method for addressing that would be just of course letting that person that wants to raise any concern or put some questions on the table of course voice them.

And we as Legal Sub Team would take note in place and formulate a formal request for advice in the matter right? So we can agree on that. And I see Greg Shatan's hand is up. So Greg could you please take the floor?

Greg Shatan: Thanks. Greg Shatan again, just wanted to point out as it was mentioned that there are two groups, two working groups that are working and that Sidley has already been working with the other group.

I am stupid enough to be a member of both groups or we say (unintelligible).

Leon Sanchez: Thank you Greg.

Greg Shatan: An official member of that group and a participant in this group which is a distinction that probably won't make much of a difference.

But certain people have been selected by their stakeholder organizations advisory committees to be representatives of particular groups or subgroups within them and other people are participating pretty much of their own initiative.

But the working method of both groups is not to make a distinction between those except when it comes time to have consensus calls or even more rarely votes.

So technically I'm a member of the other group and a member of the legal committee over there which we call the client committee for reasons that are lost in the midst of time.

So I'm also kind of helping to coordinate between the two groups and liaising a bit. And I certainly think that with regard to getting any additional depths of knowledge or, you know, a - on California law issues or nuances that come up that relate to the CWG's work rather than the CCWG's work I certainly have no objection to that taking place.

And indeed the work of the two groups overlaps and is inextricably intertwined. So the exercise of identifying where the work lies is really more a matter of where comes from not necessarily where the assignment kind of the substance of the assignment.

On the last point that was being discussed I think that, you know, if a question - I think I pretty much agree with what was said already which is that if a question comes up from the floor in a meeting that can and should be answered in a free-flowing, you know, high level way.

And so the - you know, just to clarify the other groups I'm talking about are the Cross Community Working Group on the IANA transition stewardship the IANA stewardship transition proposal which is a specific proposal about what to do with IANA oversight and accountability and working methods after the NTIA's historical stewardship and oversight goes away and then there's this group, the CCWG.

So I think that if somebody comes up with an assignment it - or something that sounds like an assignment, you know, certainly just don't take it, you know, over the transfer from all 160 people.

I think that there are times when it might be - it might seem a little bit stiff to say just, you know, bring that up to the client to the Legal Sub Team.

It may make some sense, you know, to be flexible and then for the lawyers to turn back to the Legal Sub Team and say do you want us to pursue this or not?

I guarantee at some point somebody will ask you about the origin of ICANN's authority to manage the root zone which sounds like a question that should come up in the IANA stewardship meetings but in fact it came up in the accountability thread. And somebody dug up a long paper that was written by the Department of Commerce general council on that subject a number of years ago.

I would not, you know, take the ball and run with it for instance. And it may not be a ball that needs to be taken with and run with ever.

But those are the kinds of things that one of the things you'll learn in ICANN there are a lot of people here with a lot of histories and a few people have pet

issues. And they're been waiting a long time to have a free lawyer to ask to run down those issues.

And so a note of caution while, you know, still supporting, you know, flexible working methods. Thanks.

Leon Sanchez: Yes Holly Gregory has her hand up...

Holly Gregory: Yes. From our earlier description around the protocol that we're going to work on I thought the direction was that the only communication to the law firms would come through the Legal Sub Team.

Leon Sanchez: That's correct.

Holly Gregory: And so that sort of takes care of the issue that we've been talking about for the last...

Leon Sanchez: That's correct. That is precisely to avoid individual...

Holly Gregory: Exactly.

Leon Sanchez: ...free lawyer - free-riding lawyers.

So Samantha Eisner has her hand up. I'm sorry for skipping you but Holly Gregory was so handy that I just couldn't resist.

But yes Sam could you please take the floor?

Samantha Eisner: I think that the conversation that we've had really is - has addressed my concerns. It was again about that I was trying to get a little bit clearer but I

think everyone touched on the issues of what happens if requests come up in places other than the client committee itself and how those would be handled. And I think that there's a really clear path forward.

I also just wanted to reiterate here because we have such a large client committee and then there's the executive sub team.

I know that one of the action items was to identify those people that the firms would be looking to give the official assignments quote unquote as clear as we can before them on that and make sure that there is agreement within the executive sub team that certain items are necessary for research I think that that's an obligation from the sub team side to have so that we can be really clear so that there's no question from the firm is this something I am supposed to look at or not.

Because sending someone down a path to research something that wasn't actually intended to be sent over as an assignment can be very costly.

So as clear as we can be as clear as you can be as to who that they would expect primarily in the first instance anytime for assignments to be sent over from, et cetera, I think would be really helpful.

Leon Sanchez: Thank you very much Sam. I see Greg Colvin has raised the question if all legal communications go through the Legal Sub Team is that the whole group of 25, 26 or the executive group of six or seven? And Robin has already addressed the question.

And yes communications should come I mean instructions would come from the compact team rather than that larger sub team.

And as we said previously if when face-to-face meeting or calls are taking place should there any questions, legal questions arise then what we would do as a Legal Sub Team we will take the note on that question.

And then formulate a formal request for advice of intent with regards to that question. Ed do you want to say something?

Edward Morris: No, that was an interesting question we want to take a look at.

Leon Sanchez: Oh, I'm sorry.

((Crosstalk))

So does this mean that an executive mailing list needs to be created? I don't think so. I don't think so. I'm not sure.

I mean I would like the thoughts on the rest of the team to see whether that's convenient. I - my thoughts are that having two different mailing lists might confuse people and it might be difficult for someone that wants to dig into the history of how we arrive to a certain decision to dig into the information that might be confusing.

So I would rather go with a single mailing list. And of course what we should maybe do in turn is to assign privileges posting privileges to just certain people rather than having a separate mailing list.

So if we agree, if we are in agreement I would suggest that those that are present in the call from the Legal Sub Team perspective would be the ones with posting privileges to the mailing list.

Yes Athina?

Athina Fragkouli: (Unintelligible) clarification. Does that mean that only - and always that are - the others that are subscribed to this mailing list will not have these privileges or would not be able to post in this mailing list? I mean they should be (unintelligible)?

Woman: (Unintelligible).

Athina Fragkouli: Oh, then maybe...

Leon Sanchez: Yes.

Athina Fragkouli: ...we should be informed then of this exchanges.

Leon Sanchez: No. We will definitely inform the larger group about this.

Athina Fragkouli: Yes.

Leon Sanchez: And I think this is something that has happened also in the CWG Client Committee.

They addressed this by of course designating a (unintelligible) team that will be able to post to the list.

And the rest of the subscribers will only have reading privileges. So I think we should go the same way but having just a single mailing list for transparency and (unintelligible).

So Alice could you please take the chair of that assign posting privileges just for those who are present in this call and we will of course notify the larger group about the suggest of the (ASPM).

Athina Fragkouli: Also a question Robin says is this only about posting? To many (unintelligible). So I - that's actually good point. And I would like to reflect on that because how would the lawyers know that there is actually requests like we are in agreement of the meeting and request?

Leon Sanchez: Okay. I would say that with posting privileges we would also be having request privileges because I mean the whole point of having posting privileges...

Athina Fragkouli: Yes.

Leon Sanchez: ...is precisely not to have a big volume of communications amongst different peoples but rather...

Athina Fragkouli: Right.

Leon Sanchez: ...only those communications that are indeed needed to reach out to the lawyers and request formal advice.

So if we agree I think that posting privileges should also carry with them request privileges. Do agree on that? I see Sabine has...

Sabine Meyer: Yes, I would just ask a follow-up question. So that would mean that we have to clearly stated in the email or something like I request advice on the following?

Leon Sanchez: That would be desirable in order to get...

((Crosstalk))

Sabine Meyer: (Unintelligible) subject...

Leon Sanchez: ...mark the difference between hi how are you and hi how are you from the legal point of view.

Sabine Meyer: Also before we - okay.

Leon Sanchez: Yes Holly?

Holly Gregory: I just want to make sure I understand. I thought we were going to be getting sort of direction and request from a group so that you've done some internal vetting and not have five or six people can all just pepper questions.

Woman: Yes, yes.

Holly Gregory: It's that can get very...

Woman: Yes.

Holly Gregory: ...kind of, you know, now frankly if you're connected to one another and all following the stream we found on the CWG it hasn't been an issue because we're having calls where a lot of the direction around what the team wants us to focus on come through.

We've also had specific documents sent to us with a list of questions where it's been vetted by the group and then focused.

Now from time to time in terms of clarifying someone might have a clarifying question. And I think that that can be some fair game to say could you be more clear about it?

Those have come through to us through email on which the client committee is all copied. And so it's very easy for us to know oh that's a request. It came through, everybody's copied.

So I know it sounds complex at the outset. It works pretty well once you get it going.

Woman: And also (unintelligible) I see Greg with his hand (unintelligible).

Man: Yes.

Leon Sanchez: Yes certainly. So Greg do you have your waving hand. Could you please take the floor?

Greg Shatan: Thanks. It's been waiting for a while so it wasn't necessarily on this point. But I agree with Holly that it shouldn't be kind of - we shouldn't have kind of individual assignment privileges if you will, those of us on the executive sub team.

I think it's they should be vetted. I think it should be a single person could put out a proposal if you will for a request on to the list and seek the ascent or comment and ascent of the other members of the executive team or at least, you know, a rough consensus of the group.

So that if I wanted to ask something I wouldn't just say hey Holly, you know, I'd like this 50 state survey. And...

Holly Gregory: The answer will be no.

Greg Shatan: Oh, and I'd like it by 9:00 AM Monday morning.

And so but and if but - and I were to say something like that, you know, then I would hear some, you know, Leon and Robin and David say, you know, some version of WTF with perhaps more letters in it.

And or if I propose something reasonable somebody would say sounds good to me or they'd say I agree but I think we should, you know, add or subtract or, you know, here's a refinement. And then, you know, we kind of a green light out of that process.

That can also happen, you know, as Holly mentioned we were having, we have weekly calls scheduled of the client committee.

And I think that this group as was suggested in I think this afternoon's full meeting should have at least weekly if not biweekly calls of present company to coordinate and move forward.

And those kinds of assignment refinements could be worked out on the phone. But one way or the other it's either worked out on the list or worked out on the phone.

But I think, you know, no one person should unilaterally be giving assignments without, you know, the authority of the executive group. It'll get messy that way.

So at the very least should be able to represent honestly that you have the buy in of a consensus of the executive sub team before you go off to Holly, or Greg or (Rosemary) or whomever and say, you know, this is something we think needs to happen.

On a related note on the mailing lists note I will note on the CWG side we gave observer rights to anybody in the entire Cross Community Working group which allows them to monitor the list without having to go to the archive so they can see what's being discussed on the list in real-time. They don't have posting privileges.

And I think 30 or 40 people in the Cross Community Working group on the IANA transition took advantage of the observer rights there.

I would suggest the same thing here which kind of begs the question then of what is the difference between everybody else and the nonexecutive members of the Legal Sub Team?

So I'm might suggest revisiting whether nonexecutive members of the Legal Sub Team can post to this list as long as everybody knows who the executive committee members are.

It might make sense to open up posting privileges to the entire Legal Sub Team. But I realize that that, you know, adds complexities. You know, and we may get more involved and perhaps more into the weeds on conversations and stuff will come up. So that's it's a suggestion. But I can see both sides of the suggestion. Thanks.

Leon Sanchez: Thanks Greg. I see David McCauley's hand is up. David could you please take the floor.

David McAuley: Thank you Leon. I probably should have taken it down because Greg just covered what I wanted to say. But let me just say - reiterate it briefly.

And that is I think it was Chris Despain that came up with the idea today on the meeting that there should be regular communication with the - with outside counsel once a week at least.

And I think it's a good idea that we touch base even if it's a phone call that lasts five minutes.

We have to be cautious on our side that we honor the transparency obligations that we have but in the nature of a traffic management discussion or touching base it would be good.

This is going to be an effort that takes the form of peaks and valleys of intensive effort. And as both firms have just joined the group you would certainly probably have already figured out we're entering a peak.

And another one there's another face-to-face happens and just before Buenos Aires it's going to be like that. And I think during those periods at least it would be good to touch base. Thank you Leon.

Leon Sanchez: Thanks David. So it occurs to me that the solution for identifying formal advise requests as opposed to having the mailing list confused that's being a request for advice we will of course be having or hopefully we're be having fruitful discussions through the mailing list.

But when we reach a point in which we identified that we need precise legal advice then I suggest that way draft a very small note, you know, maybe a voice document or a PDF.

And that document would be the instruction to get the legal advice. And that way we can give a very agile (fluence) to the conversation and we can also take care of documenting each and every question that we will be handling to the lawyers. Do you agree with that method?

Man: Sounds good.

Leon Sanchez: Okay. So we've got a (unintelligible) here.

And well with regards to calls Chris Despain suggested twice a week. I think that's for the time being a little bit too much since we're all juggling with our schedules and we have a lot of calls, everyone of course.

And I would suggest that we have one weekly call. That seems healthy. And the question would be which date and which hour?

As far as I can tell most of the executive team is in a time zone that is compatible with being in the American continent.

Woman: (Unintelligible).

Leon Sanchez: So I don't know who isn't in the American continent? You're not in the American continent Sabine?

((Crosstalk))

Leon Sanchez: You are not?

((Crosstalk))

Leon Sanchez: So I mean which should definitely share the pain of course. But I think we should find a slot at least a timeslot in which the pain won't be high for anyone just...

Man: You're probably morning specific afternoon East Coast with (unintelligible) probably would work for most people.

Leon Sanchez: Yes.

Man: Including the firms themselves.

Leon Sanchez: I was thinking about exactly that time span may be having our calls by let's say 8:00 Pacific would be...

Cheryl Langdon-Orr: Talk UTC.

Woman: Yes (unintelligible)...

((Crosstalk))

Woman: ...is the only time I understand.

Leon Sanchez: Okay. Okay so that would be...

((Crosstalk))

Woman: (Unintelligible).

Man: Or four after the time difference.

Woman: No 4 UTC.

Leon Sanchez: Fourteen UTC more or less.

((Crosstalk))

Leon Sanchez: Yes 14 - from let's say 14, 15 UTC that would be a timeslot that I think it would be suitable for most of us.

Woman: So what time is that in Pacific Time? Some is that...

((Crosstalk))

Woman: Somebody's got a...

Man: Fourteen would be 7:00 am.

Leon Sanchez: Fifteen UTC would be would be...

Man: About five hours.

Woman: Ten Eastern.

Woman: So 10:00 Eastern?

Leon Sanchez: More or less. I mean...

((Crosstalk))

Man: We have Time Zones changing.

Leon Sanchez: Exactly. We're shifting time zones?

((Crosstalk))

Woman: Yes.

Woman: It doesn't have to...

Man: It would be four to five hour difference.

Woman: Okay.

Leon Sanchez: Yes but more or less let's say 10:00 Eastern, 9:00 Central, 8:00 Pacific or 7:00 Pacific -- somewhere around there. And but we'll try to fine-tune this so...

Holly Gregory: So what days of the week, - what day of the week are you looking at because...

Leon Sanchez: That's exactly...

Holly Gregory: ...as you know we already have calls for the CWG set on a weekly basis. Just need to make sure we don't bump into that.

Leon Sanchez: Okay. So I see a comment here from Greg Colvin that says that if you want to be really precise about the legal request could be sequentially numbered in time.

Sometimes we might get an oral request during a call and we would summarize it in writing for you to assign a number to it.

That's - that can be done. I mean it would help us have some sequential order on any requirements Yes Cheryl?

Cheryl Langdon-Orr: Thank you. And thanks for indulging me to make a comment in. As you may know I'm a bit of a wiki fan in terms of archives.

And I just wondered whether you would be recording the - and I can support the contents of a request in an auditable form of (unintelligible) paperwork.

But if that could also be archived on the wiki and a response would then be able to be copied at a later day convenient to the wiki it does give the observers any (unintelligible) for looking back from a future point in time as we're tracking through what's happened. And I recommend that to you.

Leon Sanchez: Okay. So I'm thinking that...

Cheryl Langdon-Orr: Just more work for staff.

Leon Sanchez: I'm thinking that maybe a good day to call this weekly call could be Friday since we have...

Woman: (Unintelligible).

((Crosstalk))

Leon Sanchez: I'm just thinking out loud. It's not that I'm - I'm sorry?

Woman: That's difficult for me. I have a standing call.

Leon Sanchez: Friday's is difficult for you? Okay so then we need to find a date that's for everyone here.

So the reason for me to say Friday which of course can be Thursday I think is because we as co-chairs and rapporteurs have our prep meeting on Monday.

So it would be great to have whatever legal advice comes in or whatever legal discussion rises before our prep meeting so we can of course iron out the issues between the co-chairs of the rapporteurs so we can then further discussed in our meetings on Tuesday and have our debrief on Wednesday.

Man: How would Thursday be Holly for you?

Leon Sanchez: So Thursday...

Holly Gregory: I just need to know - I don't - I'm trying to figure out when the CWG meeting is. If Greg tells me it's okay we're okay. And Greg Shatan will know the answer to this.

Leon Sanchez: Greg do you have an answer for Holly?

Greg Shatan: Yes. It's a 1400 UTC on Thursdays which is now...

Holly Gregory: Yes.

Greg Shatan: ...now 10:00 AM Eastern Daylight Savings Time.

Holly Gregory: Yes.

Leon Sanchez: Okay. So and how long is your call scheduled?

Holly Gregory: One hour.

Leon Sanchez: Oh, an hour.

Greg Shatan: I think it's an hour.

Leon Sanchez: Okay. So maybe going for 15 UTC that would be a good answer. You'll hang up with the CWG and you'll immediately be logged into...

Holly Gregory: We love it.

((Crosstalk))

Holly Gregory: So Thursday?

Leon Sanchez: So does everybody agree with this day and time? We're talking about Thursday's 15 UTC?

((Crosstalk))

Cheryl Langdon-Orr: (Unintelligible) calendar.

Greg Shatan: I see Sam Eisner's note in the chat that ICANN staff as a standing call at 15 UTC on Thursday. So we need somebody to start the recording, do discussion notes we'll be in trouble.

Woman: (Unintelligible).

Leon Sanchez: So okay so maybe then...

Holly Gregory: What happens on Wednesday?

Leon Sanchez: So Sam how long is that call scheduled for ICANN staff?

Woman: On Thursday?

Leon Sanchez: On Thursday yes.

Woman: CWG call?

((Crosstalk))

Woman: It's between one to two hours depending on the week.

Leon Sanchez: Okay. So could we push our European members...

Cheryl Langdon-Orr: Seventeen hundred.

Leon Sanchez: Seventeen hundred, would that work also for our Australian members?

Cheryl Langdon-Orr: (Unintelligible) Australian (unintelligible).

Leon Sanchez: So would 1700 work for our European...

Woman: Would Wednesday be another time? Because I also see Robin's point that there are some working parties two meetings on Thursday?

Leon Sanchez: Yes. I think Wednesday could work too. I mean if everyone is okay with Wednesday...

Man: Yes WC 1 is going to be moving to Mondays. So that after next week. So I think Wednesday is now free at least for accountability.

Leon Sanchez: Okay. So maybe...

Holly Gregory: I like Wednesday.

Leon Sanchez: ...Wednesday just let me see because on Wednesday I have debrief calls with the co-chairs and rapporteurs.

((Crosstalk))

Leon Sanchez: And that is...

Cheryl Langdon-Orr: And everyone in the leadership team has (Chris) and debriefs so there is the (unintelligible).

Leon Sanchez: Yes. So our debrief call on Wednesday sets up from 1600. But I guess we could do 1500 on Wednesdays.

Does that sound reasonable?

Holly Gregory: Yes.

Leon Sanchez: For those in the Adobe Connect room does Wednesday 15 UTC work?

Could you signal us with a green tick or at least with voicing it out?

Okay David says it works for him. Robin says it works for her. I see (Chris) ticks from David and Sam Eisner as well.

Okay so the team from Adler Colvin are you able to join the call on Wednesday 15 UTC?

Man: They're typing.

Greg Colvin: Yes so this is Greg Colvin. We can do 1500 UTC on Wednesdays. Now I gather that when the rest of the world gets on Daylight Savings Time that will be adjusted back an hour...

((Crosstalk))

Leon Sanchez: Yes 15 - UTC doesn't change.

Man: Your time will change.

Holly Gregory: Your time changes but UTC doesn't.

Greg Colvin: Okay. So the effective time in the continental US would be an hour earlier after I think this coming weekend is that correct or next weekend?

Greg Shatan: No we've already - this is Greg Shatan. We've already switched so we're good until fall.

Leon Sanchez: Yes. I'm not sure about what time shifts in the different time zones but the good thing about UTC and having this embedded into the calendar invites is that when you accept invitation it will ultimately...

Holly Gregory: Go figure it out.

Leon Sanchez: ...accurate slot in your calendars.

((Crosstalk))

Leon Sanchez: So that would solve the confusion problem with time zones.

Okay so it's an agreement Wednesdays 1500 UTC. (Alex) could you please take note that we should...

(Alice): For one hour?

Leon Sanchez: Yes for one hour. Yes for one hour, hopefully less because we're getting billed for each hour so hopefully less.

And please could you send invites to both law firms as well as to the legal executive team, well, the legal sub team because they might as well want to join the calls.

So yes to the general legal sub team please. And well David McAuley is asking not tomorrow? Not definitely...

((Crosstalk))

Leon Sanchez: No, no we're beginning next week. We're beginning next week. Thank you for raising that (unintelligible).

((Crosstalk))

Leon Sanchez: Okay so I'm mindful of the time. We're already past the hour and I just want to - I would just want to go through an expected timeline.

Both law firms have already had the chance to go through the scoping document. And as you can see Mike in yesterday and today's meetings we have an urgent need for at least initial legal advice.

So my question and I think the Greg Colvin already answered that to me via email and I just want to put that on the record and double check with him which would be the expected timelines for both of you to come back to us with initial feedback of the legal scoping document.

Holly Gregory: You tell us when you want it we jump.

Leon Sanchez: Tomorrow? No, no, I mean...

Holly Gregory: So we have to go through the exercise with the other firm of deciding which ones are California law that they need to take a first stab at.

Leon Sanchez: Yes.

Holly Gregory: Do they want us to review it? Do we want to coordinate? We're happy to split it up anyway everybody thinks makes sense.

You know, we've been looking at that document. We've done work on that document already. If you told us you had to have something preliminarily, you know, tomorrow we would do what we had to do right folks?

Man: When we hear from Adler.

Leon Sanchez: Yes. Greg Colvin could you please tell us or give us a hint as to when we could be expecting initial reply to the document?

I know you told me via emails that we would be able to expect that initial feedback by the end of this week. I just want to double check with you?

Greg Colvin: Yes. That's still good.

Leon Sanchez: Okay excellent. So yes for example this is one of the situations in which I would ask to have a conversation between law firms so you can divide the work...

Holly Gregory: Yes. We've already...

((Crosstalk))

Holly Gregory: ...(unintelligible) questions to the other projects so it might be a way to jumpstart it.

Leon Sanchez: Yes. And I see a comment from Sam Eisner here to the firms that for cost purposes please make sure that the attendance on the weekly calls is limited to those who are necessary for attendance. Okay?

Holly Gregory: From the legal side?

Leon Sanchez: Yes.

Holly Gregory: So what we do as a policy is we decide who is necessary from a legal side of the people who attend and bill. We may have other lawyers listening in to keep informed but we won't bill for their time if they are not necessary.

Leon Sanchez: Okay. I see (Rob) has also raised also that the effect we might want to make the determination of which questions go to which firm. I think that's fair enough.

I think that on our side we should make this exercise of categorizing the different questions that are so far included in our legal scoping document and tag them either for Adler or Sidley.

Holly Gregory: When do you think you could do that though?

Leon Sanchez: We should definitely need to have that ready tomorrow.

Holly Gregory: Okay. But tomorrow's Wednesday and the end of the week's Friday so that...

Leon Sanchez: Or I don't know - well if you guys from the legal sub team I know that in America's still daylight and here in Istanbul we could have dinner discussing this. So if you're okay we could go through that document now after we finish the call and we can...

Man: Sure.

Leon Sanchez: ...get some answers to the law firms so...

Holly Gregory: Yes.

Leon Sanchez: ...we can categorize or tag the different questions.

Would our presence in America be okay with that?

Greg Colvin: Yes that's fine. But in order for us to make full use of the time Wednesday Thursday and to have it for you by Friday we would need to know Wednesday that is after you've gone through it today how you would split up questions between our firms so neither of us is, you know, wasting time working on the other's questions and so that we can begin to coordinate our answers.

Leon Sanchez: Okay, excellent Greg. So let's set the time straight. We would be providing each law form with the questions for them to answer.

Tonight is double time which is Tuesday night in Istanbul, Tuesday afternoon or evening in America. And we would expect the law firms to begin working on Wednesday so we can have initial approach for Friday. Is that okay?

Okay excellent. So I see Robin says we can send the recording of the conversation we have lunchtime that was far more helpful than (unintelligible) submission.

Man: The question on the chat is whether we should send the Jones Day memo from...

((Crosstalk))

Leon Sanchez: Oh I don't think so.

Man: ...from Singapore to the firms? No.

Leon Sanchez: I - I'm not sure.

Holly Gregory: I have already read it.

((Crosstalk))

Leon Sanchez: Yes.

Holly Gregory: I've read but I think that should...

((Crosstalk))

Leon Sanchez: That's pollute.

Man: Exactly.

Woman: Pollute? That's (unintelligible).

Leon Sanchez: Yes I mean...

Man: There's a reason were getting independent legal advice.

Leon Sanchez: Exactly. Exactly, exactly. I mean it's of course as Cheryl said it's a public document. You can go through it if you want.

But of course our intent would be for you to not go through the document before providing your initial advice so we can have fair (transitions) between

the different documents because I feel that if you go through the Jones Day document before providing us the legal advice then your answers might be directed or biased.

Man: Even unintentionally.

Leon Sanchez: Yes. Exactly so yes I will advise that you will provide us with the initial advice without going through the Jones Day document if we all agree on that. Are we in agreement with that?

Holly Gregory: I've read it already.

((Crosstalk))

Holly Gregory: We've read it.

Leon Sanchez: You're far ahead...

Holly Gregory: I'm not worried.

((Crosstalk))

Holly Gregory: I'm not worried about be tainted by the Jones Day advice.

Leon Sanchez: Okay. Excellent.

Man: Good.

Leon Sanchez: Good. Okay so if there are any other business that anyone here wants to raise is anything that I'm missing or that mis-clarification? Yes Ed?

Edward Morris: Yes no, no I wasn't...

Leon Sanchez: No? Okay. I see no one in the Adobe Connect raising their hand.

Okay I see (unintelligible) of any signal that he doesn't seem to be affected by - well his independence is not affected by any other terms of advice which is fair enough.

And okay so I don't think that there's anything else to raise in this call. So I'd like to thank you all for your time. We will be providing each law firm with the corresponding questions shortly. And by shortly I mean in the next two or three hours at the most. And we look forward to having a very fruitful interaction with you.

And I think everyone on the Adobe Connect. And safe travels for those who are catching up with us in Istanbul. Safe travels to those that are leaving to back to the US tomorrow.

And this call is now adjourned. Thank you very much.

Man: Thanks everybody.

Woman: Thank you.

Man: Thanks.

Coordinator: That concludes today's conference. Thank you for participating. You may now disconnect.

END