

**ICANN**

**Moderator: Jordan Carter  
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4:00 pm CT**

Coordinator: The recording has started.

Jordan Carter: Okay, thank you. Let's kick off. Good morning, good afternoon and good evening everyone wherever you are. This is Call Number 6 for CCWG Work Party 1 on Community Empowerment.

We've got - this is our first meeting since the Istanbul events. And we've got a lot of work to do in a short period of time. So our agenda is in front of you in the chat part of the Adobe room. And the first thing that we've got on our agenda is the agenda review.

Does anyone have anything that they would like to suggest adding to the agenda besides what is already on it? And if so could you raise your hand and suggest it? That would be handy. Let's give a few seconds for that to happen.

Okay I see no hands are up. And I'm sorry, I just have to walk while holding my laptop while talking for a moment but I'll see how well I can multitask. The next item is our work plan for the next sprint. And as you (unintelligible) there is a lot of work to do in a relatively short period of time.

The nature of that short period of time relates to the fact that at Istanbul we decided that we would try to finish our - we would try and finish our work for the complete proposal that we're doing by the 20th of April. And as we all know the CWG/CCWG has agreed that when it's doing agreement of proposals it will read everything twice.

So the co-chairs and the rapporteurs are in a discussion at the moment about how to manage that. And you can rely on the fact there will be proposals for additional meetings that aren't yet scheduled (unintelligible). At the moment there are only six hours of calls between now and the 20th and that isn't going to give us time to complete the proposal.

So to get our work done in time to allow the stress test working party to stress test our work we're actually going to have to proceed really quickly. And the way that I'm proposing that we do that in this work plan is to get some drafts ready quite quickly - the bulk of the powers stuff through this weekend and to have calls on the 8th and 10th for us to have a first look at content in our first reading column, to make any changes that we do and then to confirm it at a following meeting.

And to break our section of the report into two to do that. The kind of powers that we're talking about in the first set so a first draft of that can be done over this weekend. I've set some time aside to pull the content that we've already written together into a doc. And then as you can see from the document in front of you down the bottom there are two items, 6.5.1 and 6.6 which just happen a little bit later.

It's the - we think it's too early I think to really finalize a call out - the mechanism because they're going to need some more legal advice. And the

reason I've pushed the AOC stuff a little bit off is because I just didn't want to try and do all of the concentration and drafting in one piece.

So on this time table we would have meetings on the 8th of April, on the 10th of April and on the 13th of April. So unless I've completely confused myself that would involve meetings on Wednesday the 8 and Friday the 10th and Monday the 13th.

Now there is no good way to do this. We can do Doodle polls to find times where this is workable but I recognize it's a sprint. And then my basic perspective is that the sooner we're actually reading and talking about the text that will go in our report, the better.

I have to say that there's some uncertainty with the discussion with the CCWG co-chairs and the other rapporteurs. I've gotten in - since the first of the working parties to propose the work plan like this. Hopefully that counts as something. And don't see how we could possibly give content any earlier than this.

But we may need to do some later work if there's any further development that comes out of those CCWG calls when they're scheduled. So the basic structure or approach that would arise from that is that I've been looking for a few volunteers; my basic intention is to do the drafting of this in a Google document which my proposal is that whoever is interested in doing some detailed review, helping tweak language, helping make sure that the concepts are faithfully represented from what we've done, because this is a summary drafting task, this isn't an inventive drafting task, can volunteer themselves and I can include them in the Google doc over this Easter holiday weekend in New Zealand and some other places.

We can finalize a draft piece of content by close of 5:00 UTC on the 6th - Monday the 6th. And then send it out to the working party for review and discussion at a call on Wednesday.

And so the volunteers for that part - I don't think we need to do any other signed down volunteer work. But after we've got the draft call content there may be a need for the specific drafters to pick up bits and improve it, to - or if we have in our discussions views that require revising we may need to broaden that team out.

But the main piece of work for the whole working party will be to review the text, make sure it's safe for the discussions we've had, to make sure it sets out the options as clearly as possible. So that's our focus now.

I'm sure I've seen on an email list a volunteer for helping do that first drafting job. And it is, it's Keith Drazek who's already said they will do that. The question then I guess is two questions, do people - does anyone want to comment on what's in front of you on the screen and what I've described? And are there any sort of fundamental difficulties with this approach or different ones proposed? So that's the first question.

So the next question I'd ask is there anyone else on the call tonight who was - or this morning or whatever time - who would like to sit in some intensive review and drafting work over the next four or five days. The two volunteers that I've got at the moment are Keith Drazek and Robin Gross. And don't feel obliged to this if you're just interested in keeping an eye on it because you'll get access to all of the content in - on Monday, you won't have to watch the painful process of the origination of it.

If you want to volunteer, if you want to think about it then decide it's completely open. It doesn't harm anyone to add more people to the Google doc. So my advice would be to just let me know about it and I'll add you. I'm not going to form the Google doc until tomorrow so at least 24 hours away.

Are there any other comments about the work plan then or shall we move on to the next agenda item? A few secs to put up a hand if you've got something to add. And if you - while you're doing that I'll just say that I will keep talking with the co-chairs about the schedule, about when they expect work from us if there's something that comes up in the broader CCWG's work planning that affects our time table. I'll let you know as soon as possible.

And I'll ask the ICANN staff to organize some Doodle polls as quickly as possible for those meeting slots certainly for the Friday UTC one we would aim for early in the day UTC so as not to disrupt people's social commitments and weekend commitments.

And I don't see any hands up so we will move on to the next item. And this is a challenging thing to discuss, I put it on the agenda in terms of the mechanism because it would be helpful if in starting to do some drafting work for this report we can have a sense of any (unintelligible) in the group about where to focus our development work and on where to ask for further legal advice.

I think the initial memo from Adler is - does propose a different sort of mechanism which is a very large board of directors for ICANN with a smaller Executive Committee and a lot of the powers being vested in those boards I don't know we're going to go with the development of that.

Maybe someone on this call now who was on the legal - second legal call, which finished a few minutes ago, who could give us some context about where the legal advice is going on this before we get into the detail of the question about where people are feeling.

Keith, Edward I think I have a feeling for some reason that both of you might have been on that call. Is there anyone who could volunteer to give us a little update on that if there is because you put your hand up. Greg, of course was on it is first in - Greg, you give us that talk.

Greg Shatan: Well I think the - first to be fair, the second legal call primarily dealt with process rather than substance in terms of how we are going to work with the lawyers going forward and how the lawyers are going to work with each other in order for us to get the best advantage out of the expertise of each firm. So we didn't really discuss, you know, which proposal or which, you know, community empowerment mechanism would be preferable.

And I think the lawyers would probably tell us that they're all viable and that we need to figure out, you know, ideally with - in concert with the lawyers how - which one kind of best fits ICANN's way of working, that fits the multistakeholder mentality and offers, you know, the right tools and working methods going forward.

One of the things we discussed on the call is to get the lawyers closer to the working parties. So, you know, initially there had been kind of an emphasis on written questions being gathered and sent on to the legal committee who would kind of rationalize them and send them on to the lawyers who would then return answers. That's - we've progressed beyond that thinking and the idea is to try to get the lawyers onto some of the working party calls, get the

lawyers the actual templates that are being worked on, the actual documents where the decisions are being made.

So I think the idea is to get the lawyers more involved and also as between the two firms trying to find the right balance in terms of, you know, how they'll collaborate and how we'll interface with them. And I think that Sidley Austin is going to take kind of the coordinating role as between the Council. You know, both firms will have the ability to give full voice, you know, from their respective experiences and expertise but ultimately, you know, Sidley will kind of make sure that things get arranged correctly.

So that's a long way of saying that there's no answer to your question but also that there is I think a better path forward for getting an answer to that question. So one of the things that's incumbent on this working party to do is to put together whatever packet of document or documents should go back to the lawyers. It could be with a company in question, that's the other thing.

The questions were kind of becoming free-floating and not really attached to particular proposals or events or discussions. They lost context and therefore they were, you know, more difficult to answer because they were so - they had become abstract. The questions need to be brought back to the templates and back to the work of the working party.

You guys, us guys, are really the client. And the coordinating - the rapporteur is in essence the lead client or the coordinating client with the client - the legal sub team providing the conduit.

So again need to think of what do we want to get the lawyers and how do we want to get the lawyers or a lawyer from the lawyers onto one of these calls to actually thrash these things out. You know, it's a collaborative even intimate

process of working with the lawyers. And it's not going to be done by mail order. Thanks.

Jordan Carter: Okay, thanks Greg. I think that's good to hear. I've not paid a lot of attention to the list of questions precisely because it did seem so detached from what we were trying to do. That leaves me thinking that the best approach for us is actually to simply concretize our proposals as much as we can and then get the lawyers to come on the call and describe any issues that they have with where we've got to and to propose fixes or changes if they think those are advisable. And, you know, having that close a relationship is really important.

So we can move then on I think to the substance of the question here which is that we've got kind of three classes of mechanisms that we've been talking about for exercising these powers. One is a group of people organized within the bylaws; the other is some kind of group of people organized within the California law requirements for members or delegates; and the third is not to have a group of people but simply to have processes that flow.

My - I'm happy to say what my personal preference is which is that we do have a group of people. I think it would be terrible for our overall accountability if we said that overall calls about big questions are simply being discussed individually in the SOs and ACs and decisions made that way.

And because I'm a slight conservative in terms of the organization and the degree of changes that we should be pitching for in Work Stream 1, my instinct is that something along the lines of the permanent CCWG or community council is easier to do and so that's my kind of not very strongly held preference between that and the membership/delegate model.



Recognizing that we don't have, yet, but we'll have to have in the next week or two for the legal perspectives on that. So my personal preference is that as we work up our report and remember, I'm not suggesting we get draft text out on this for almost another week, that we do go for the - some kind of mechanism like that.

So having stuck my neck out there, ready for my head to be chopped off, I would ask other people what their perspectives is on this. We need to test whether we have a common view or different views or no consensus at all in the - in any case we'll then work out how to play.

So if you'd like to add something to that either in the chat or verbally I would welcome you to do so. And, Greg, I see that your hand is still up; I don't know if it's still up or if it's newly up. It's oddly up.

Robin says in the chat that she thinks we need legal advice and some understanding of it before we have a draft text. I have to say for the record that I don't agree with that, I think we need to have some idea of what we want and then test those ideas with the lawyers rather than asking the lawyers to generally canvas the pros and cons of all of these options and then come back to us for the recommendation. I'd rather the two moved in parallel personally.

Greg, a new hand. Greg, you go and then Robin is next.

Greg Shatan: Yeah, I understand Robin's concern. I think this is a chicken and egg kind of question. And it's an iterative process. But I think that, you know, given where we are and how long we've been working I think that we should concretize our proposal. I think we should - make sure that the lawyers understand kind

of what the variables are and even the big alternatives that we're working with.

I think it's still - would be a good idea to have something to put in front of them rather than, you know, in whatever shape it's in rather than, you know, but at the same time I wouldn't go too far. So there's really a balancing act here.

So I don't think we just kind of put down our pens and schedule a call with the lawyers but yet we don't kind of try to work things too finely or completely without going to the lawyers because they may start, you know, making significant changes in our thinking or helping us come to significant changes in our own thinking based on what they're telling us.

So I'm not inside the work of this team enough to know exactly where that magic balance point is between having an ill-defined mass that's too unformed to show the lawyers and having an overly-worked mass where there's going to be a lot of wasted effort because the lawyers should have been called earlier. But it's that - we have to look for that tipping point wherever it is. Thanks.

Jordan Carter: Can I just also add that if you take another look at what's on the screen in front of you in terms of what we need to do for the mechanism we're kind of restricted to a two or three paragraph intro of purpose mechanism, summary of the recommendations and key design features. So let's be really clear here that what we aren't going to need to do because, remember that we've agreed that this first consultation isn't going to be the only one, that we're going to do two consultations with the community.

And so we don't need to come up with things like the exhaustive detail about how any of these models would work. And I don't think we need to feel that

we can't put up more than one option. But in the drafting sense I'm just trying to avoid drafting up those paragraphs about all three, about the SO AC processes, about members, delegates and so on. So having rudely interrupted Robin you've got your hand up so please go ahead. You're on mute or something, Robin. We can't hear you. We still can't hear you, Robin. I don't know that's on with your audio. Okay, Robin, you keep trying and when we hear you we'll flick back to you.

Keith has made the point in the chat that we need - we're good about the powers, we need to really develop the most effective, efficient and simple way to implement them. A few people have said plus (unintelligible) to that. And Ed has made some comments.

I think that Greg's noted the Council not contemplated under CA law. I think the thing is that a lot of the innovations in the ICANN bylaws aren't necessarily contemplated under California law but they work and they are there now.

Look, it would be perfectly reasonable for us to say, given that we have suggested staggered drafting for this mechanism, I'm cool if the consensus of us here now is that we don't have enough information to make a call about this today, that we should focus our drafting work on getting those powers set out in the first draft and then to organize a conversation with the lawyers on that 8 of April call where the specific item is hey you've got the powers that we need and you're a better cross where the other parts of this work are up to, do you have any more of an instinct now about the best way to do that?

And that would then save me the time to do much drafting on this. Are people happy with that as an approach? Still haven't heard a whisper out of Robin. People seem pretty happy with that approach anyhow. So it doesn't

compromise anything, it doesn't risk anything so I think we'll just - trying to find out why we can't hear Robin.

Does anyone have anything else to add on this point because people seem pretty content there. I see one of the staff is writing notes so. Robin, are you happy with this? Can you give us a chat indication one way or the other, because we can move on to the next agenda item if we're happy to not make a call about this. Okay, thank you. And good luck joining the audio for what's coming up.

Right but then I'm just going to sum up the consensus there that in this first chance of drafting we're not going to be focusing on the mechanism that the working party doesn't think it has the information to come to a consensus. And we would like to have a lawyer on the call on the 8th to have that as the lead item of the discussion.

And we will - on that basis, move on to the next agenda item. If Robin has something to add burning on this one when she gets on the audio we'll come back to it.

The next item on the agenda, turning to Item 4 is the stress test 18 paper. And I'm just going to try and bring it up in front of me. Steve is not able to be on the call today, he's stuck on a plane which is unfortunate.

You'll recall that this item came out of discussions of stress tests around governments influence in ICANN and the impact that that might have on the transition. And we've (unintelligible) indications from NTIA that that will be an issue in terms of the process.

Sorry, Mathew, I'm just going to respond to your question in the chat. The process in terms of getting to the point we want legal advice is to do the drafting work that we've already agreed to do on fleshing out what the powers are in terms of language for this consultation. And then asking the lawyers for a conversation on Wednesday about the best mechanism to deliver that. And they already have access to the powers documentation that's there.

They'll have a refined version of the text and maybe some greater understanding of the various models that we've proposed. So I will - I will write to the lawyers after this call and sometime in the next 24 hours outlining our desire for them to be on that call and what we would need from them there and what they should look at in prepping for it.

So if we come back to what's in front of us the - and staff could note that as an action point for me so I - to write to the lawyers with a request for their input on the 8th of April call that would be good because I'm not going to remember.

So back to the document that's in front of us. Steve has put that out. It sort of goes through the stress tests which I think many of us are familiar with. There have been some adjustments to the proposed wording compared with the powers template that I had done earlier on. And if you scroll to the top of Page 2 of this paper from Steve you can see that it - that it adds a sentence to the bylaw or phrase so as to say where GAC advice is supported by consensus.

So in all of these matters no one has suggested changing the way GAC decides how it operates. No one is trying to preclude the GAC deciding in some point in the future to change how it defines consensus. But people are saying that if they were to choose to make - give advice that wasn't any way related to consensus but was only by for instance majority voting that the part

of Bylaw K, the end of Bylaw J and K, as on the screen, the needs to try and find a mutually acceptable solution to disagreements would only apply to consensus advice.

Now the co-chairs have asked for feedback from GAC on that. And that feedback is individual from Thomas Schneider and it's set out in the document. The Danish GAC and Spanish GAC reps inputs are documented there. And the NTIA one is there in that document.

So if you scroll down to the last page Steve does propose a path forward. It is important I think to note that we need to come to a judgment about how to deal with the stress tests on its merits. And being really clear that we're then - as with any other proposed power or change that we're doing we are creating a package for the CCWG to look at and endorse or not endorse.

We are not trying to ask individual SOs and ACs to approve and detail each recommendation or to not approve each recommendation. So we still need at this point to be focused on the merits of the question. So Steve's recommendation or path forward is - is that we do go ahead with proposing that.

So the first question is assuming that everyone has read this proposal and paper and has thought about this issue is to just test what people's views are because I would be comfortable for us - I don't think any (unintelligible) community powers but it is useful to have discussed it here. And based on whatever conclusion that we come to I'm happy to write to the CCWG and just summarize that for the ongoing conversation.

So I'll take a speaking list. Does anyone want to offer an opinion or a view about this? Well this is an excited speaking list. I just am so flooded with

hands I don't know what to do. For the transcript that's said in an ironic tone of voice because there is no speaking list.

I can offer my opinion if you like? If that might get some debate going. I could offer my opinion if I was - I don't have a firm view on this first of all. Second of all for my view is that this is a useful clarification to put in mind because related to the transition or not. I know that none of the other SOs and ACs through changes to their internal procedure can change their level of influence in ICANN decision making.

I think that the concerns that have been expressed to me about GAC - by GAC members in respect of wanting to avoid any single country being able to impose a veto on GAC advice is actually not foreclosed by the wording that Steve has proposed because it doesn't define the first draft of this amendment that I did imported the language from the GAC operating principles. But this proposal at the top of Page 2 doesn't define consensus the same way as GAC currently does.

So if the GAC had a rough consensus approach it would arguably still be bound to cause this process for the board to follow. That would deal with the veto problem.

Having had an indication from the NTIA that this needs to be tackled I don't think we should ignore that, well of course not trying to argue or say in any way that the NTIA should be able to veto or require us to stick mechanisms here.

I'm comfortable with the proposal and I think that in - we should keep discussing it in the CWG personally. I don't know if that was a very good pump priming. Oh there's a hand up. Greg, go ahead.

Greg Shatan: Thanks. Greg Shatan for the record. I think this is a classic stress test and there's absolutely no - and it's unavoidable. And the issue here has nothing to do with interfering with the GAC's ability to change its consensus level or create a different kind of advice that's based on simple majority or random groupings of countries making statements. The point is what happens then? How does that fit in with the current bylaw?

And does the bylaw offer the flexibility for the board to react differently to different pieces of GAC communication. And right now the way it's drafted I tend to say no it doesn't. It kind of presupposes that the GAC will make its decision, you know, based on GAC consensus and that therefore it will be in essence worthy of the board's deference. But there's - there's no kind of if A then B sort of - there's only a single stream of how the board can react to the GAC.

So it does not differentiate. So this is really not about the GAC at all, it's about how the rest of the world deals with the GAC doing things differently. And I think - I thought the US GAC reps, Suzanne Radell, had also weighed in in some way on this or was going to.

But I think that this is, you know, absolutely key and it's only I think by a misunderstanding that there's been any real friction with the GAC on this, maybe a misunderstanding about what we were saying. We're not tying the GAC's hands, we're just saying to the GAC that if you serve us steak we'll react differently than if you serve us hamburger and that's completely logical.

We're not actually saying that, they're just saying that we may need to contemplate that and we may need to change that. So that's the beginning of a



stress test but it also right now I think we failed that stress test based on the current bylaw.

So yeah, I'd seen Keith, you know, big A advice, little A advice, miniscule A advice, you know, could all be there. But only big A advice should get the current level of deference that's in the bylaws. Thanks.

Jordan Carter: Thanks, Greg. I mean, I've had a chat with our local GAC rep about this as well and she raised a scenario where there's a piece of public policy advice that the GAC wants to give on a very - like a regional issue or something. And where that happens most people don't - most GAC members don't care. At the moment the, you know, a couple of GAC members might care, some advice might be issued that most aren't engaged with, no one objects to and that's fine.

And that should be taken as GAC consensus advice today, would be taken as GAC consensus advice tomorrow and the reconciliation process would work. Our change wouldn't affect that.

It's just there's a big contentious issue and the GAC was seriously split, I think, that that's the kind of situation which today the GAC wouldn't offer any advice on. And if at any point in the future its processes changed so that it did that would be the kind of situation where this would happen.

But I really think, as (unintelligible) has noted, there hasn't been a GAC discussion on this topic yet. And we are not, you know, representing final proposals for the community to endorse until after Buenos Aires for the ICANN meeting in Dublin to sign off on so there's plenty of time for this discussion to happen.

So everyone seems to agree in the chat and discussions so far with the general approach that's being suggested of, A, we're not saying we should take this off the table so we think it should be advanced in discussion. And we're pretty comfortable with the notion that it's about making sure that when the board has to do the reconciliation process it's based on a consensus advice from the GAC.

So if I can leave that summary there on the table and ask if anyone has a radically different agreement or view? Greg, your hand I think is your old hand so I'm going to assume that you don't have a radically different view of the one you just expressed moments ago.

I think we can probably move on then to the next agenda item. And I'll write to CWG - CCWG and just sort of outline where we got to on that. No, you can't change your mind now, Greg. You have to wait for the next call for that.

Okay our next agenda then is Item 5 which is on the matter of individual board member recall. Now the reason that I put this on the agenda was that we had discussions - when I first drafted the template about board recall it talked about doing both individual board members and the whole board.

We got focused on the whole board as a core accountability mechanism but anyone who participated in the discussions in Istanbul and has read all the legal advice presented to the CWG and the CCWG, does get the sense I think that individual board member recall is a more normal way to deal with board failure, in other words that if the only way to deal with a problematic director or decisions that are disagreed with is to remove the whole board that isn't a very effective accountability mechanism.

So given that we had done some work on the recall of individual board members what I was really seeking with this agenda item is the discussion about whether we should re-incorporate the removal of individual board members into a set of powers that we're recommending at this point.

I've been of the view that we could either leave it or take it. Personally I'm - if we can do things in Work Stream 1 I would prefer that we did. I notice that Robin has just said that on the call - on the chat and so has Matthew. Not because we don't think we should do - have an option for the whole board being recalled but because individual control is important.

So if we were going to proceed on that, and I'm not taking that for granted yet, we'll have a discussion in a minute. The way that I was thinking of kind of wording that would be that at the moment I think a majority of our ICANN directors are appointed by SOs and ACs and so on. And so the recall power would be an individual one for them, in other words, that we'd need to develop a process for the appointing bodies to remove the directors that had been appointed.

The slightly more complicated situation is what to do about directors appointed by the NomComm. And the one immediate response might be that people who should be able to remove NomComm directors is the NomComm. And that would make the NomComm into a NomComm and a de-NomComm which I don't think was contemplated in the creation of the NomComm or anything like that.

So (unintelligible) has pointed out helpfully that my numbers are slightly wrong; seven ICANN directors appointed by SOs, ACs, eight by the NomComm and the CEO is a director as well appointed by the board.

So do people - one of the things we could ask the lawyers - oh Edward asks should we assume there will be a NomComm given there have been no proposals to not have a NomComm, Edward, I think we should assume that but I'm open to hearing other points of view.

So could we just do a speaking list on this subject? You might want to focus on whether we should have this power here at all. At the moment I haven't seen anyone said that we shouldn't try and do this in Work Stream 1. Secondly, if you have a different view about SO AC appointments being versed by anyone other than the SO ACs; thirdly what your view is about how to deal with NomComm appointees.

So speaking list, anyone like to put their hands up among the magnificent 16 of you? Now I don't mind if people don't talk if they just want to say things in the chat. But the option is there to put up your hand and make a verbal comment as well. I do notice that Cheryl is on the call and Cheryl is - has been involved with the NomComm for some time.

And just in the interest of sparking up some discussion, Cheryl, I wonder if you've got a perspective on the question about if one was going to have a removal process the NomComm selected directors what role the NomComm might have in that. Have you got an opinion on that?

Greg has got his hand up. Greg, why don't you talk to us while we see if Cheryl will talk to us?

Greg Shatan: I will not attempt to imitate Cheryl. That'd just be a pale shallow replacement or substitute. In any case I think, you know, clearly to my mind the NomComm are kind of like, you know, free, you know, non - non appointed

in a sense, they're not representative and therefore they're not kind of tied to a specific designator as the SO AC seats are.

So you could either do one of two things, one of which I think is ludicrous, one is to say that the NomComm can spill the NomComm related folks but I don't think that's the way the NomComm is even constituted properly to do such a thing.

So I think that since they are there kind of for the community as a whole they should be in essence fair game for a spillage or a recall or to put them in the tumbrel and wheel them toward the guillotine based on super majority rule. I'll throw that out for consideration. And, yes, I would assume there's going to be a NomComm.

Jordan Carter: Okay, thank you Greg. So I think if I was to paraphrase or slightly reword your proposal it would be that NomComm appointees wouldn't be removed by the NomComm but could be removed by the community mechanism short of removing the whole board so that would be a power that the whole community had, is that - is that...

((Crosstalk))

Greg Shatan: I'm not so much thinking about having the NomComm appointees removed en masse, I don't think they act en masse but rather whether you could remove a NomComm appointee. I mean, so, you know, I would not want the Non Contracted Party's House appointees removed by the Contracted Party's House or by the ALAC. That seems a little bit - that could get insanely political.

So I think if you're a designated board member I have real concerns about you being - about any removal of rights to anything other than the designators for

that board member. And but as for the NomComm reps, you know, either singly or much more rarely en masse, you know, should be removed by community mechanism.

I mean, I don't know what other mechanisms there are under proposal other than having them removed by the NomComm itself. Clearly they can't be removed by some small minority mechanism otherwise we'd just - it'd just be fair game on board members if any small minority could remove, you know, just about any board member. So interested in other's thoughts.

Jordan Carter: Okay thanks for that clarification. Thanks, Greg. Phil, next.

Phil Corwin: Yeah, Phil Corwin for the record. Just want to chime in. While they may be selected by a different process once the NomComm selected board member joins the board they no longer are there to represent whatever SO or AC they came from, they get the same - I don't want to say indoctrination, they get the same briefing from ICANN legal staff about their duties and their responsibilities when they join the board and about their primary duty being to ICANN the organization rather than the community so I don't see any reason why a board member selected by the NomComm shouldn't be subject to the same potential removal mechanism as any other board member.

Jordan Carter: Can I just clarify that? I think - so we're contemplating two things here, one is that the community mechanism would be able to spill the whole board setting aside what that community mechanism is. And I don't think anyone is arguing with that power being implemented.

The second thing is what to do about individual directors. And one option for those appointed by the NomComm is that you could make the community mechanism able to remove them because the purpose of their appointment

through the NomComm is to work for ICANN on behalf of the whole community, not to represent any SO AC.

The alternative - an alternative to that for the whole community mechanism would be for the NomComm itself to be able to remove members that it appointed but I think that there are some difficulties with that model.

And then the next question is what do you about directors who are appointed by SOs ACs. They are indeed told that once they're appointed that they have the whole corporation's responsibilities at risk. The legal advice, my reading of it, it suggests that where a director has been appointed by (unintelligible) designators, which is essentially what happens today, that it's those people who can most easily remove them.

So I hadn't heard any particular controversy about that up until this point. There's another question which is whether the whole community mechanism should also be able to remove directors appointed by SO ACs. And that isn't yet entirely clear. I haven't heard anyone suggest that so far.

So let's keep talking on this. Who else has got a view here? The silence is silent. Okay well I think there's definitely consensus that individual removal is important. I think there's consensus that individual removal of any type of director, presumably excluding the CEO and president, should be available. I think that we don't yet have consensus about whether the - about who should be able to remove NomComm appointed directors.

And I'd like to suggest that we have consensus or at least initial draft view that the only group that should be able to remove SO AC appointed directors is the appointing SO AC. So if I could test that consensus; only SO ACs can remove SO ACs, we want individual removal of NomComm but we don't know how.

Are people comfortable with that as a writing brief for me to write up the detail? And can staff make sure that's reflected in the notes please?

Okay Greg's hand is up. Yeah, fire away, Greg.

Greg Shatan: Greg Shatan again. Not to get too down into the details but we have to - for the GNSO we have to go below the SO AC level to the house level because there are four - I believe it's four representatives, two are appointed by the Contracted Party's House which is the registries and the registrars; and two are appointed by the Non Contracted Party's House, those jolly Siamese twins, the Commercial Stakeholders Group and the Non Commercial Stakeholders Group.

So we wouldn't want the Non Contracted Party's House trying to spill the Contracted Party's House board member. That would be against the spirit of this - though it would be jolly good fun. Thank you.

Jordan Carter: Okay, yeah, I could have added SC to my words before. Okay, that gives us some guidance for going ahead with and remember as with all these things it isn't final decisions that are being made here. Greg, I'm assuming that one's the old hand that you just spoke from so I'm going to propose that we move on to the next agenda item which is the AOC reviews update.

Now I know that Steve had circulated an updated document from - regarding SO ACs. And I'm just trying to find it but maybe the staff have it and could put it on the screen. Yes, yes, this is the right paper. Now I'm a naughty rapporteur, I haven't absorbed the content of this paper yet. But this is an evolution of the work that was done before Istanbul and is now updated with the feedback that happened there.



So I've got a question and the question is is there anyone on the call who participated in the preparation of this who would like to speak to it? Matthew says he does not - doe anyone else have the ability to speak to this? I'm not seeing any hands raising up here. So I'm going to - yeah, I apologize for not having read through it myself.

As I scroll through the paper on the screen I'm not immediately seeing any particular recommendations that leap out at me. But as I recall there was an issue - what I mean is I don't see - saying I recommend that we adopt what's in this paper, I don't mean that there aren't recommendations in it.

To be honest, folks, I don't know exactly how we should deal with this. I'm tempted to say that we should just hold fire on it and on our next call when Steve is back we would be able to discuss this in more depth and that in terms of the drafting stuff, the AOC things I wasn't proposing to get draft text out in the first tranche but in the second one anyway. So we have time to take that approach. Are people happy with doing so?

Greg, your hand is up.

Greg Shatan: First a question, when you say first tranche, what are your tranches, Jordan? And, secondly, one issue that has been pretty - that has been batted around a bit with regard to specific AOC is I think it's Section 8 which relates to the jurisdiction of ICANN being in the United States and some discussions about whether one could put in some sort of aspirational statement about the ideal nature of the jurisdiction of ICANN.

And I think that question is being certified to the lawyers. My personal and personal/professional opinion is that's not appropriate stuff for bylaws especially since the articles of incorporation select the jurisdiction for the

organization which doesn't mean that it can't stay in the Affirmation of Commitments. It's one of the overarching questions here and I'm not sure that I have the answer.

When we talk about moving AOC commitments in is there going to be a leftover AOC that consists of all the things that haven't made it into the bylaw? I've been kind of assuming yes. And question, you know, what that kind of document should look like and who should be agreeing to that.

But if the rest of the AOC is just dying off then that, you know, is kind of a different kettle of fish. But in any case I think that, you know, Affirmation of Commitments Number 8 probably, to avoid further controversy, doesn't really need to be moved in to the - into the bylaws. You know, they could just stay in the AOC. That's, you know, my two cents. Thanks.

Jordan Carter: Okay and thanks, Greg. If I could just say on the point about whether the AOC is going to vanish I don't - I haven't heard anyone say that ICANN or the NTIA plan to bring it to an end. I think that we're responding to is the fact that either party can (unintelligible) in the 30 days notice and so there may be aspects of the AOC either in the principles/values side of things which Becky's working party is dealing with or in terms of the reviews that it requires that people feel should be moved away from a discussion agreement and into the bylaws.

How that interacts with the ongoing existence of the AOC is the question. The proposals that some have made over the years that ICANN should sign a (unintelligible) with more governments is a different issue too. I don't think that that has been fully canvassed.

So I missed a little bit of what you said at the beginning as well, Greg, my apologies for that. Keith, go ahead.

Keith Drazek: Thank you, Jordan. Keith Drazek. So just wanted to respond to Greg's comment about Affirmation of Commitment Number 8, the location of ICANN headquarters. And at the risk of sounding like a broken record, you know, I'm going to reiterate what I said in Istanbul and what I said on the list and email back on March 5.

And I think I may have said something again on the recent call is that during Fadi's February 25 testimony before the Senate committee he went out of his way to tell Senator Thune in response - and this was in response to the letter that Thune and Rubio had sent to Steve Crocker back in July 2014, that he fully expected that the jurisdictional question and that the Affirmation of Commitment obligations would be incorporated into the bylaws.

So that expectation has been set. And I'm concerned that if we, as a group, as a work party or as a CCWG, decide that that's not in our scope then we risk leaving something out that could become an obstacle to a successful transition down the road.

At the end of this process, you know, NTIA and Fadi and others are going to have to go and present this to congress and to sell it and to defend it. And if this is missing at that point I think we're in big trouble. And so I - you know, I understand the political sensitivities of, you know, incorporating or importing that AOC obligation into the bylaws at this time. I know that there are folks who are uncomfortable with that. But the fact is is that that expectation has been set and I think it is something that the CCWG needs to deal with in Work Stream 1.

How it's addressed is certainly still an open question. But I really do think that we need to make sure that we're not missing this or, you know, intentionally saying that it should be part of Work Stream 2 if that's not the political reality. So apologies again for reiterating this again and again. Thanks.

Jordan Carter: Thank you, Keith. Can someone do me a favor and just point me where in the document in front of us this item is? Is it in this document in front of us? And if so where it is? Just having (unintelligible) is going to be easier. If no one can help on that front then that's fine. Page 4. No look, look this discussion did get picked up in the CCWG in terms of the jurisdiction location commitments and questions.

I'm going to - I'm going to call a pass on that one for the purposes of this call and suggest that we need to keep that discussion going in the CCWG because it is a core question about how to reconcile those two conflicting desires. Thanks, Phil, see you later.

So I realize that's a bit of a (unintelligible) pass but I don't see any other way for us to deal with that at this point. We do need a group wide consensus on the CCWG about how to (unintelligible) this.

I see some hands up. Keith, this is an old hand I think. And if that is the case we'll have Matthew. If Keith's is a new hand - yeah, there you go, Matthew, go ahead.

Matthew Shears: Yeah, Jordan, can you hear me?

Jordan Carter: Very quietly.

Matthew Shears: Okay I just wanted to note, as I did in the chat, that this discussion of jurisdiction came up on the call - the CCWG call. And I wasn't on that call but the notes from that call show the discussion.

And it seems to me that the conclusion, which I am happy to read out says, "Discussion on whether to incorporate Article 8 from the AOC still generates questions, still in agreement that our goal is to enhance ICANN's accountability and therefore the topic of jurisdiction comes into scope when a requirement we have for accountability cannot be achieved within California jurisdiction. Based on potential requirements that could not be achieved in Work Stream 1 the jurisdiction issue might be pursued within Work Stream 2." But you can read the (unintelligible) notes on that email.

Jordan Carter: Okay. And thanks for that, Matthew. Okay so it being discussed in the CCWG. It will continue to do so. I don't think we need to act on it other than if the drafting that I do to summarize all this up I will - I can identify it as a specific issue for future discussion in that and put a box around it so that attention is very clearly drawn to it.

And that probably suffices for working out how to deal with that I think because the point is to make sure we don't lose it. And I don't think we need to make a decision about that matter. And so as Matthew says, notice under discussion the CCWG and we can refer to that conversation.

All righty, so if people are happy to we'll leave that agenda item there. I'm assuming that's an old hand from you, Matthew. Which takes us a little bit ahead of time to our last item which is next call.

As was discussed in the spreadsheet we do need to have some more calls on this evil sprint that we're doing from here through to the end of getting the

proposal out. I wonder if the staff could just pop the work plan item back up on the screen, the one that we - the chart that we had at the start of this call? As you'll see there we've had meeting mentioned for the 8th, 10th and 13th. I think these don't clash any proposed or current meetings of the CCWG.

And so my proposal is that on Wednesday the 8th of April - it's not Wednesday is it - yeah it is, on Wednesday the 8th of April, we proceed at our normal time at 2100 UTC. And my proposal is that on the 10th we do a Doodle poll for some time early on Friday the 10th UTC and just get as much consensus as we can about when that would be.

And that we do the same thing for a meeting on the 13th so that would be 2100 UTC for 90 minutes on Wednesday the 8th of April and then we would do Doodle polls for the two subsequent meetings on the Friday the 10th and Monday the 13th making sure that they were early UTC for the Friday 10th and late UTC for Monday the 13th. And they would both be 90 minute calls as well. I feel like that that will be enough given this is dealing with the wording of summaries of material, it's not originating thinking.

But that we might put - do people think we should dive in for two hours but aim for them to be 90 minutes just in case we need the extra time? Are there any views on that? Personally I'd rather block out the time and then not need it then try and scramble for extra time later. Does anyone have a view about that? Matthew says that we should plan on extra time with the legal advisors. I think that's a reasonable point.

If on that Wednesday the 8th meeting we're dealing with legal advisors and looking at our drafts and text in the first cut, yeah, I'd like to propose actually that that Wednesday the 8th of April call is two hours and that we aim to be 90 minutes for the other two.

And so if the staff could take an action to just check in with me about time availability for the two latter meetings and we can work out a number of options on those dates that might work. And we'll get that Doodle poll out hopefully before the Easter break begins. If there are any objections to that course of action please raise hands.

Otherwise, we've come to our any other business agenda item. Are there any other matters to raise on this call? No hands are up. No one is typing in the - oh, Greg, there you go.

Greg Shatan: Just an interesting thing that occurred to me, and I'll leave people to think about it or not. The other two communities that are involved in the - the IANA transition process have submitted proposals of course. And while their proposals are fairly high level at this point I think one or both of them contemplate possible ICANN bylaws changes.

So it may be that we're going to have to rationalize or harmonize potential changes that we might propose with potential changes the other communities might propose. Just something to keep an eye on and that, you know, even though the CCWG isn't as completely, you know, a creature of the IANA transition as the CWG is that for, you know, much of this Work Stream 1 type of work we are not the only group contemplating changes to the same thing.

Jordan Carter: And thanks, Greg. I think that's useful for us to keep in mind with all of our work that as the ICG does some work on unifying and the proposals from all three communities there may be more stuff the come through. I'm relying on the members of the CCWG from those communities, you know, I know that we've got reps from the protocols - from the numbers folks here and I'm

hoping we've got some protocols (unintelligible) or some outreach but it is an important thing to keep in mind.

Matthew mentions in the chat that we need to make a recommendation on the AOC and whether or not it's - by which he means I think the current agreement between NTIA and ICANN will remain in place in some form or whether we're trying to totally remove the need for it through our bylaw changes. I think that is a topic for us to discuss at some point in the future - in the near future.

Okay if there are no other items to general business we will wrap this call now a little bit early along with thanks to everyone for your participation today. And I'm looking forward to getting (unintelligible) with some text drafting and having something out to you all to look at by the close of (unintelligible) on Monday. And on we go with our work and our lives. So thanks everyone and we'll call the call closed. See you later.

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

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