ICANN

Moderator: Brenda Brewer
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12:00 pm CT

Coordinator: The recordings have been started. Speakers you may begin.

Jordan Carter: Thank you. Good morning everyone. My name is Jordan. I'm your tired Rapporteur at 5:00 am on Saturday here in (Wilmington). But then good speaking with you. I see we've got a fairly smaller subset of us than usual on this call, which no doubt is due to the fact it's not in the regular time slot that we've been using. And I've also managed to crash Adobe a number of times this morning. (There it goes).

Thank you all for joining at whatever time it is to you morning, noon, night. We've got a pretty simple agenda today, which is to work through the second draft of the public (plan), which came through to you about ten hours ago. That is the main item for us.

And the main item is to work through the second draft of the comment. I want to have a chat about (the group) just to identify where (unintelligible) sits if anywhere and to have a quick look at our work plan and then the agenda for our call on Monday the 13th.

And so are there any other agenda items people think we need to deal with. All right. Morning.

Kavouss Arasteh: Hi Jordan. This is Kavouss (unintelligible).

Jordan Carter: Hi.

Kavouss Arasteh: Sorry. I'm not connected to Adobe. I'm just on the listening...

Jordan Carter: Yes.

Kavouss Arasteh: ...conditions. You know, if I cannot raise a hand, sorry, I have no access. Unfortunately I'm not in my hometown, Geneva. I'm sorry then. But anyway, I wish to listen to the discussions and take note of what is going on. And I have one small comment to make to draw your attention if you allow me to make (so).

Jordan Carter: Is it about the agenda or is it about a...

Kavouss Arasteh: No. It's about the work that I just would like to know whether you have considered the initial draft that the Sidley sent to the CWG in which there are many areas referred that these actions would be considered by CCWG. That there is a lot of overlaps with the work that we are doing.

I don't know whether you have seen that report. I'm not suggesting we do it tonight but I just want to draw your attention and attention of colleagues to have a look at that one to see to what extent we have to take into account this course of actions. Thank you.

Jordan Carter: Thanks Kavouss. I think that's a helpful comment. I think I've been reading the formal memo. What I haven't read yet is the set of consolidated responses to questions that Sidley put around on the CWG list maybe 20 hours ago or something like that.

And what I'm hoping is that since Sidley are also working for us that when we have their advice come through, which they say is due on Friday the 10th, but I don't know exactly when that will happen, that we will get the benefit of all of their thinking that they shared with the CWG transmitted directly to us.

So I agree with you in urging colleagues to read all the legal advice that's coming through including on the CWG list if they can. And I'm doing so and I'll be noticing I hope if anything is missing. Thanks Kavouss. That's a helpful point.

And I don't see any other hands up. So we'll proceed on the basis that - we'll proceed on the basis that the agenda is okay. And we'll start working through this paper.

We're not going to use the red line because it's impossibly and horribly complicated. And - but you've got the red line. So hopefully what that gives you is the chance to notice what's changed between versions and then be able to raise them in the discussion.

So that's what I'll be doing as I help steer us through. And I do want to thank Steve in particular for doing a lot of the heavy lifting on this draft (unintelligible) as easy as we expected.

And I think we will run this for up to 50 minutes, maybe an hour. The point is that we do have to take a serious look at the text this time. And but we also

need to keep the call within the 90 minutes that we said we would have for this call. And so (Adam) is (adjusting this) on the screen in the chat if you don't have it. And it was emailed out by me round about nine hours ago.

So we'll go ahead and with - if you could give everyone scroll control (Adam) on this document and so that people can work their way through it. Thank you. And then we'll start at the top of the second page if that's okay folks. The second page is the new text or updated text on the power to reject budget and strategies and operating plan.

And some of the key changes that happened either - we're now referring to plan - the plans that ICANN does. It's an operating plan, not a business plan. And we have absorbed as feedback from (Roloff) in terms of (anything) that we are rejecting such a plan with (this power). That is what it's doing.

And the other mechanisms being a little bit specified and it's - I would just point (while our) discussion is mentioned there. And we've added the - when we had our last version of this, we were saying that an issue could only be raised once.

Following the discussion the last call and the feedback we have changed that. I've changed that so that it says that you can't raise new issues each time you return it but you can reject an update if the Board hasn't really taken the concern into account and make the appropriate change.

And so I think whichever way we land on that topic it's going to be a topic of discussion at the CWG. But what I was thinking about is I thought that where we got in trouble last call (was not a place to be). And in (conversing the) feedback from some others - I think (Matthew) in particular is co-Chair.

(Suzanne), is - I'll try and speak up. Is this clearer? Yes. Thank you. It's also the fact that I was almost asleep. 'Cause I've been awake for about a half an hour. And had an all day Board meeting yesterday. But anyway, I'll try and be a bit more lively and a bit louder.

The last point is I did add a threshold for votes. And the way my thinking is going now based on the discussions that we've had - it seems like we've - whatever the community mechanism is we'll have folks involved in some way. If it's the membership then a designator type model that is coming out. So that's why it's a percentage.

And the idea seems to be that if you were going do a first rejection, you'd have a slightly lower threshold than for subsequent ones. So a simple majority proposed and then (50)%. So that next text haven't seen it.

I draw attention to (Matthew)'s comments on two points. That is there. The pushback on including and time in the planning and budgeting processes for this. I think it's not essential because we've clarified it through rejection. But if we can work time for this to happen in, we're going to be in a stronger position because then it will be less likely to be disrupted. And it should be very possible in everyone's budget (one of the trickiest).

And there was one other change (I was) going to draw attention to. There was a question about the standing to raise the questions. And I still think that it's going to be part of the normal planning process to ask. And that if within the community mechanism people raise it, I don't think we need to get so formal as an SO or an AC particularly raising this (to start) consideration of a challenge - a rejection. But that is my (unintelligible).

So I'd like to take to speaking (with us) on this first section. Are there any comments to be made? Steve, your hand is up. Please go ahead.

Steve DelBianco: Thanks Jordan. I wanted to ask whether we couple potentially recap the discussion of this very topic from Istanbul. Because it's possible we came away from Istanbul with different interpretations of what the discussion was.

And you may remember that this budget rejection - budget detail was the first one we covered before the lunch break and we went at it extensively. And so while you have certain items that are underlined and bold, some of them were discussed in Istanbul. Can you help to map this back to what we thought we concluded that morning? Thank you.

Jordan Carter: I could try to do that Steve. But I don't have my notes on that discussion handy. And I can't both convene the call and look for them. So that's not the world's most helpful response to you.

But the key thing I remember from the discussion in Istanbul was this thing described as a very complicated thing to include in the budget as process and that is why in the drafting there's points about saying that we would need to include time in those processes for it to happen.

The other thing I remember being raised in Istanbul was the challenge to - what would happen if the budget was rejected. And in terms of financial commitment the company might have entered into in the new budget period, which was for me another argument why we need to have it included in the process.

And now I'll ask you Steve if you got an additional or different recollection about where we landed in Istanbul on this question because from my memory

were - those were the two things that were pretty consistent. Are there any other - is there any other speakers on this part of the text?

And one of the things that we should decide -- I think I said this in the agenda -- is that when we've got parts of the text that we think are ready for reading in the CWG and we should really send it to them as soon as we can.

And doesn't mean we have to release them straight after this call and but if we think we are ready to, then we can recognizing that probably after CCWG discussions some further amendments might be needed. Robin, welcome to the call. I see you've joined in the chat.

And so just to recap for anyone else who might have joined us, we're just looking at the document on the screen, second page and the power to reject budget or so the operating plans. And I've briefed the call on the changes that have been made since the last version.

So Steve, I asked about the Istanbul discussion. We - he and I have agreed that it's pretty consistent in the chat. Are there any other people who would like to speak about this? Or does anyone have a view also about whether they think it's kind of nearly ready?

And the other question of course is if we can un-bold/underline - that if we are agreed on that text, then it would be good to reduce the amount that are bolded and underlined because those will be there to indicate to the CCWG we don't have consistency of that.

Kavouss Arasteh: Jordan, I'm sorry because (I'm not) connected to Adobe, I have a comment. If you allow me I can make it at any time that you wish.

Jordan Carter: Is it about this...

((Crosstalk))

Kavouss Arasteh: ...this budget, yes.

((Crosstalk))

Kavouss Arasteh: On the budget, yes. The section of the budget. I think we should make a difference between this issue of rejection of the budget and other issues such as modification or changes to the bylaw or any other thing.

Some of those may turn to the last resort that being recalling the Board. And this one should not get to that extent. The maximum would be that the new budget would not be accepted and they have to go with old budget or budget of the previous year.

So it should not be turned up to the call of the Board number because it is different from the modifications to the bylaw or some of those things, which have constitutional and fundamental impact. This one is not constitutional law fundamental. Is more or less functional and operational.

So I think that (we) should think of not to make it similar to that. I would not turn to the (recall) of the Board member. Sorry I am not connected to Adobe. And I'm very sorry. I apologize anyone else who was before me.

Jordan Carter: No, no. If there is - if there's a speaking list Kavouss, I will put you in it and tell you. So there were no hands up so...

Kavouss Arasteh: Thank you.

Jordan Carter: ...it's fine. One the substance of your point, what we haven't discussed is any kind of an escalation path to these powers. So as far as I'm aware, and this is a good assumption to tease out just briefly, we're creating these all standalone. And aside from there internally defines standing or prompting powers and initiation powers, (there's so much) relationship.

So whether - there wouldn't be anything said in the powers defining this budget veto about whether - about what the next step was, A. And B, because the removing Board members or removing the Board power it hasn't been drafted with in mind saying you can't use this if you've done that.

So the Board (drawing) power doesn't say you can't remove directors for an issue arising from a budget challenge that you didn't like. We've said quite clearly in that power that it can be used for any reason that's about the bylaws, the mission core values, clearly expectations and stuff.

So I would be - I would personally be wary of us interlinking the powers and creating a path that could or could not be followed because I don't think we've done the analysis of the set of functions together yet in a way that does that.

But I think finally -- long response to a relatively short point -- that we should raise that question in the CCWG. So it's a question of the interrelationship (of these) powers and the escalation powers between them.

Kavouss Arasteh: Thank you.

Jordan Carter: Just making a note on that and hopefully staff will make a note on that as well. Colleagues, if we took out, you know, I'm conscious that we've got a smaller group than usual. And we've talked about all these bold and underlined points.

We've talked about them a couple of times in different ways. The text has changed a bit.

How do you feel if we said that that first part about (serving time) not being bolded would be okay? Are we of the view that there should be time in these processes? Because I - I'm just - I haven't done this kind of drafting on some of these calls before. So I'm trying to work out the way to make this as un-painful as possible.

And I'm going to suggest we do delete it. And if anyone objects to that, can you say so now? By which I mean delete the bolding and underlining and won't be drawing specific attention. Agree in text would work as well. If you want to signal approval, you could do that. You want to signal disapproval, you could do that. But on a low threshold I would say that the first one is not bolded.

And I think we should keep the reference to - I think we can probably un-bold the second one, which is that if the Board is unable and willing to do so the (max) will be in place. Just a reminder that there are the powers that are available. So we can un-bold and un-underline that one and subject to the discussion we just talked about happening in CWG.

Steve DelBianco: Jordan.

Jordan Carter: Hi. Steve.

Steve DelBianco: Hey. It doesn't look like very many people are voting. And it would be helpful if we got some indication. Maybe it's a positive yes, a green checkmark or put up your red box. Should we assume that if people don't vote it's because they are fine with it?

And therefore we would only sort of take note if somebody puts their hand up, puts up a - signals a don't agree because we've got a lot of these little changes to get thorough. So to do it briskly everybody sort of has to follow along and quickly indicate if there's any objections to removing the bold underline.

And I think on a more substantive point, (Matthew)'s comment suggesting hey, here's where we're going to get pushback. I think that's an appropriate comment. But I don't believe it has to stay in the document. It's a good insight but it really doesn't inform the document. We either will or we won't get pushback and it's certainly not the only place in the document where we would. Thanks.

Jordan Carter: Thanks Steve. That's helpful. Thanks. It would be good if people could just offer when we ask a question. I'll try and frame around are you happy if we do X. So I'll try and make it a positive thing. Put you green check up if you can for yes, red for no. And then if there's a - (any) type of conversation. But I don't see any way to do this other than like that.

I also agree with you these comments are just for this call and I think after the call the comment bubbles that are here will vanish. So thanks Steve. And (Matthew), over on the second page of this section, we're working through the powers to reject budget or a strategic plan.

What I've asked is whether the bold and underline text in this document (was staff) where we wanted to clear these things off. That we hadn't come to a view that what was in that text was agreed either because it hasn't been seen before or suppose it's an issue of contention. So I've been asking if we can remove (unintelligible). Yes. Please keep muted if you're not talking.

So I'm asking now about that if the rest of these other powers. And I think that's reasonable to un-bold and underline. The question about - and I see some green text. So thank you for that.

And the next question is that towards the end the point about needing to lodge issues (unintelligible) and then can't be sent back again with new issues raised but can be rejected. I think we should keep that underlined and bold and because it's something that the CCWG hasn't looked at.

And then the - so we'll leave that one bolded unless anyone violently objects. And then the fourth one, the last point, and I think we (unintelligible) text to the (thresholds) that we're proposing. And I'm also realizing that this process is not running (unintelligible) isn't going to work for us.

So if no one else has any - speaking on this one. I propose we move along to the next section is the - on Page 3, the power (unintelligible). And so doing that, (6.5.3). The key changes in that from the previous version it's not very extensive and it's making the - change the language so that we are clearly rejecting, not accepting.

And we've added a threshold proposal, which has been bolded and underlined then to reject the proposed change. And then we've still got - we haven't changed the fact that there's no limit to the number of times you can send back a bylaws change.

So are there any comments to make about this one - about the substance of what's there? (Bethie) asked the question the call as to whether two-week window is enough. And answer your question; I don't know what the answer to that one is.

So my view is that if someone does have a view about that, they're going to raise it (at the) process and it doesn't matter whether that's between now and when this comment doc goes out or whether it's during the public comment period. So I don't think we need to worry about that unless we feel that it's not enough time. And I see a couple of hands up now. So Steve DelBianco, you're first.

Steve DelBianco: Thanks Jordan. It's entirely possible the Board would have batched together several bylaws changes and do them as a batch rather than one at a time. And if that's the case, it ought to be incumbent on us to explain which of the changes triggers the rejection as opposed to all of them.

I don't want to turn it into a line item detail but we have to be specific when we ask the community to vote. And we should be specific when the community tells the Board this is the bylaws change that's not going to work.

Now I make this point now but it occurred to me while we were discussing the budget that it's important to identify which part of the budget we are - we have an issue with.

And there's some of that in the text on the prior page. But it might well be that both these rejections - both these community detail powers ought to be - try to be as specific as we can when you have a batch of expenditures in a budget and a batch of bylaws changes. And we want to be as specific as we can when we ask the community to vote on it and that we convey to the Board which one needs to be changed.

Jordan Carter: Thank you Steve. I think we definitely have to be able to explain it. So when the mechanism does reject one of these documents it's going to have to be able to say why. And because if it's just silence where it's like no you can't do this

then they say why and we say well that's for you to work out then that's not an enhancement to accountability. It is a significant worsening of it. So...

Steve DelBianco: Yes. So Jordan, (Steve). Just to follow up, why don't own for ourselves - why don't we own the responsibility of explaining the rationale with specificity both in terms of the budget and in terms of the bylaws rejection. If we own that as if we think that'll be part of the community's obligation, maybe that'll cover this.

Jordan Carter: I think that's a good idea and would welcome - to me it seems common sense and implicit. So I think making it expletive is a very good idea. Do we have - can people just do a little bit of a green tick or red bar if they think that (unintelligible)? I'm seeing some green ticks and I'm seeing no red bars. So that's good. Okay. We'll add that language to both. Thank you. And the next person I'm seeing is Greg. Greg, go ahead.

Greg Shatan: Thank you Jordan. Greg Shatan for the record. Absolutely agree with what's just agreed to. If the Board, you know, puts out extensive - really extensive reasons for the resolutions for every motion that they consider, it would be incumbent on us to do at least as much if we're overturning something as important as a bylaw change.

Secondly, in terms of the 60%, I note that the Board in order to change and amend the bylaws has to vote it in by 2/3. Seems to me that our threshold to overrule the Board should be at least as high as that and that there's at least some argument for parallelism as well.

I'm not sure how the 60% was arrived at and whether there was any consideration of that versus the 2/3 that it takes to actually change a bylaw in the first place.

Jordan Carter: Thanks Greg. That's a useful comment. It was a little bit arbitrary in the 60. And I would be happy for us to start off with by saying 66% and then noting that that's the same as the majority required (in the) Board (to propose them). Is that a proposal? Avri has suggested 75%.

Greg Shatan: Yes. I think it should be at least as high as 2/3 and it's actually expressed as 2/3 in the bylaws. And I think it's an extraordinary remedy and one assumes that, you know, there were fair warnings before the bylaw change took place.

So one would hope that it wasn't quite so rogue as that but in any case, it really should be the will of the community and not just a - certainly not a - something over - a little over a majority of the community but kind of a strong pushback with it. At least 2/3 and I'd also think 75% would be - work well. Thanks.

Jordan Carter: Thanks Greg. I just want to - I want to start being - I'm being devil's advocate here is just to get us thinking properly about this. And the general posture with the bylaws for argument sake, let's say it should be quite conservative so they should be hard to change.

That's why the Board (sets) a high threshold to change them. So wouldn't that point you to a relatively low threshold to block those changes? If the whole package of controlling bylaws changes was meant to make them difficult, surely you would want a relatively low threshold to block them. I'm just offering that as a different logic (unintelligible).

Greg Shatan: Jordan, I don't think so. I think that, you know, this is - I think of this as - and it's an extraordinary remedy. And what you don't want to get into is having factions making changes. You know, this - we're talking here about reflecting

the will of the community and the lower the threshold goes, the less you reflect the will of the community and the more you reflect the will of a faction.

So I think that kind of having an open kind of battleground for accepting or rejecting bylaws is going to create - creates a mess. And I think that this should be something that is - if it's difficult to change, it should be difficult to change in either direction. Thanks.

Jordan Carter: Okay. Thanks Greg. The next person with their hand up is Avri.

Avri Doria: Hi. This is Avri. I pretty much agree with what Greg said and would only add a couple things in that first of all we will have participated in the process of commenting and before on these bylaws or on the budget as it were.

And we'll have had plenty of time (here). So if they have gone against the community's will, getting that 75% threshold shouldn't be hard. It in fact should be easy to get these high thresholds if it's the appropriate time for taking such drastic action. So I would basically add that to what Greg was saying. Thanks.

Jordan Carter: Okay. Thanks Avri. And what if we - so the last question I have is we'll need to come back and do a relativity scan between all these powers at some point in terms of the thresholds that are required. But in the meantime, can I propose one that's a little higher than 2/3 but a little less than recorded.

So I'd like to propose 70% as a - just a text to put in there and keep bold and then (unintelligible). And can people give a tick if they're happy with 70 at this point? And remember, this point means for discussion with the CCWG. It doesn't mean finalizing this text.

People, can you do a green tick for me if you're happy with (unintelligible) that and an angry red line if you're not? Not an angry red line -just a red one. Okay. There's two ticks there. So let's consider that one amended to 70. And I think we should note maybe in a footnote that the Board is 2/3 on this.

And I don't think that we should un-bold, underline any of these things except the first one where we say after they're adopted by the Board but before they come into effect. And I think that's - I think we can get away with not - not get away with. I think we don't need to draw particular attention to that part.

Are people happy with that proposal then? Can we move on to the next power? Yes. I'm - just on Steve's point I'm going to incorporate the language about the need to be specific about the reasons especially with the package of bylaws that were in effect for the budget in this one and the previous (path).

And okay. No hands up so we'll move on to the next one, 6.5.4, the power to approve changes to the fundamental bylaws. And in this one we made very few changes. The only change we made was to sort of expand the reference towards being protected away from just the powers and processes to make sure that the (corporate role) is mentioned just because we're not just the community's empowerment. Drafted as what's in the whole CCWG.

And are there any hands up on this one, the power to approve fundamental bylaws changes? Yes there is from Izumi. Izumi, please go ahead. Izumi, you might be muted or something because we can't hear you or at least I can't hear you. Okay. Your hand is not raised. There we go. It's not raised.

I don't want to rush us folks but if there are no - if there are no sort of questions there, we can move right on to the recall of individual directors,

which we will do; 6.5.5 is on the top of Page 4 of 16 in the document, recalling individual ICANN directors.

And in the draft that we've got now compared to the previous one, we've added a kind of reference that whereby there's suggestion that any Board member at the moment can be removed through a 75% vote of the Board and that there's no - there are no criteria. I had thought that it was only for breach of the code of conduct. But that's how the Board managed it. There's a footnote just explaining that (unintelligible).

The other change is to the language around the removal process. Just trying to clarify that it would be an internal process throughout those and (unintelligible) of that.

And the point was made that we should have the same threshold - same majority requirement whatever process is used, (internalize the OIC) process. And the tricky thing here is going to be what to do with people appointed by the Nominating Committee.

I think there's been a view that it shouldn't be the Nominating Committee itself. And (Roloff) just raised the question of why should the community nominate (some) but not - the other change I've made is that it was very hard to think about the way to do it with just a threshold in this.

And I've just realized I hadn't specified what the majority would be that was required. But the reason for that also is that we don't know the mechanism. And I think people would agree that within an appointment body needs to have a reasonably significant majority to remove a director. But that it should probably be lower. It should be lower for the removal of an individual director than it should be for a higher director.

This (limit) 20% and at the last paragraph - this is where I'm envisioning that we go down the membership groups rather (nor) the designator route for there'll be numbers of persons who have decisions for the community mechanism or within an SO/AC there'll be a decision body. And the question is how do you let them trigger this discussion?

So to my mind triggering it should have a relatively low threshold. Because you don't want - provide sort of a safety valve. For the threshold to trigger is too high, then there might be a relatively large but few set of voices who are making a lot of fuss around a director and undermining them. But it isn't enough to get the question tested.

So if you have a relatively low trigger threshold and then the relatively high decision threshold, if the question is asked and answered no we don't want to remove this director, then that will help to clarify the director does retain a member.

And that's (to get - saying their un-ruled), which is another question that's been raised. And I've been relatively silent on that. I think we have to put some ICANN wide basics around it but the details - the future rules I think should be less (unintelligible).

Anyway, there's a speaker list here. And Avri is first, then Robin, then (Jeffrey). So Avri, go ahead.

Avri Doria: Okay. Thanks. First just one that is purely an editorial. Does ALAC also select a Board member in the paragraph? We'll have to include them in the SO process to remove theirs because they're an AC, so that was just an editorial.

I think whatever number you pick, 66%, I prefer 75%, I believe it has to be harder to remove people. I think add the or equivalent because if you've ever taken a look at what 75% or super majority or 66% means in the complexity of GNSO voting, you would know it's difficult to use a fixed percentage.

So I'd recommend you put or equivalent and that sort of allows - so that sort of takes your ICANN wide, you know, parity but also says it's up to you guys to figure out what that means.

On the - I know I'm in a severe minority on this. But it's perhaps because of IETF pre-example. I believe it makes sense to define a process by which a special NomCom is appointed to remove or to review the removal.

The IETF process for NomComs that we derived ours from originally does have both a recall NomCom and an appointment NomCom. And when it's time for a recall, there's a set of mechanisms but it activates the naming of a NomCom specifically to review recall.

So just putting in that there is at least one negative voice on submitting this also to this, you know, big voting mechanisms that we're creating. I'm really sort of somewhat stressed about the amount of things we are subjecting to voting going forward in this but that's a different issue. Thanks.

Jordan Carter: Thanks Avri. I'll just remind us of a discussion that we had in our last call, which was that where we felt we should have options and we felt we should be able to do that. So what this might be an example of that where we could say to the community one option is to use the community mechanism for NomCom directors. The other is to use a special version of a NomCom empowered to deal with removal after a trigger.

So just - that's just a reminder because we have the option of option. And the next person on the speaker list is Robin. Robin, go ahead.

Robin Gross: Thank you. Can you hear me? This is Robin Gross.

Jordan Carter: Yes.

Robin Gross: Okay. Great. Yes. Well first let me just quickly say I liked Avri's suggestion about the NomCom removal mechanism building that into the process. And then the reason I actually raised my hand was I just wanted to go over the issue maybe one more time about do we - to what extent do we really want to be prescribing one size fits all rules for how the different SOs and ACs want to operate with their appointed selected Board members.

I think some SOs or ACs may want to tighter leash or a looser leash, if you will, with respect to how they operate. And I'm not sure that we want to - that it's our place to decide that they shouldn't be able to make that kind of a call themselves.

So I'm a little bit weary of setting percentages that are mandatory across to the whole organization. I'm not sure what - if that is really an advantage to allowing individual groups to have a level of - to have - to allow their Board members to have sort of the level of autonomy or that works best for that SO or AC. So I just wanted to raise that issue.

Jordan Carter: Thanks Robin. Could we - I just want to question this. People once they're on the Board aren't representing their appointing body per se. They're working on the whole good of the corporation as well as having that kind of representative perspective.

To me that's the logic behind having at least a common threshold for removal without specifying the process. But I guess the direct question to you is do you think we should resolve that or keep it bolded and then you can raise that point in the session of CCWG and we'll have that (unintelligible)?

Robin Gross: Yes. I think this is sort of an issue where we should continue to keep alive and say we're not really sure. There's some views on both directions. And continue to get some discussion going because I don't think we've had a lot of discussion on this and it's kind of an important topic. And so just getting some more views in I think would be pretty helpful.

Jordan Carter: Yes. We could definitely do that. I can add a - like I'll try and word that in the text in the next version that represents that point. Thank you. And next for our speakers is Tijani.

Tijani Jemaa: Thank you Jordan. Tijani speaking. Jordan, I - first of all I didn't attend the last call of the (Word document). So perhaps I am - I missed something. But I learned at the CCWG call there wasn't a consensus about (the removal) of a Board member.

One of the problems that colleagues (and leaders) (unintelligible) the point is (appointing entities). Is that normally a Board member is supposed to act in (unintelligible)? And supposed that one of the appointed parties heads a particular (unintelligible). And was the director to be (unintelligible).

And if the directors don't do and go to the public (unintelligible) rather than the particular (unintelligible) party, they can dismiss him. And this is a big problem for me.

So we said that this can be open (unintelligible). Perhaps I am - since I didn't attend the last call, I am out of the scope but I have a big problem with that. Thank you.

Jordan Carter: So Tijani, I missed maybe the crucial point. And if I just play it back to you I think what you're saying - are you sort of challenging the threshold or are you challenging any - the actual existence of an individual recall?

Tijani Jemaa: No. I am speaking about the principle - the fact of recalling - of the appointing body recalling the director.

Jordan Carter: Oh I see. Okay. Well I think that that question will be addressed in the legal advice the team of lawyers that are coming back with because they have said they're going to provide some comments on each of the powers by the close of - by Friday U.S. time. And in doing that I think given that their initial note had talked about fiduciary responsibilities and so on. I'm pretty sure they'll cover that.

The reason that it talks about appointing bodies being the removal ones is because in the California legislation that's the easies way to implement that power. So my suggestion is that you hold onto that thought, have a look at the legal advice and raise it again when we get to reading this in the CCWG. Are you happy with taking that approach?

Tijani Jemaa: Yes Jordan. But I said other thing. At first I said that during the CCWG call - the last CCWG call there wasn't a consensus about recalling and (unintelligible) Board members. There was other people - some people at least were objecting of the - about that. So that's why the whole issue I think shouldn't be approved today or in print today. Thank you.

Jordan Carter: Okay. And on that point I'm sure that the CCWG discussions will reserve to itself both the right to strike out whole powers or to draw specific questioning and attention from the community whether that power should be there and even to add new powers.

So I think that the presence of the text here should not - does not necessarily indicate total consensus around that power being present. And - but once again, I think that people will - when they work through this draft in the CCWG they'll raise that point. So we'll leave that one at that if we can unless you've got a specific proposal to remove this power or to add a note about it. We'll move on to Greg. Greg, it's your hand up.

Greg Shatan: Thanks. Greg Shatan for the record. Couple of points. One, I think that it may make sense to offer some flexibility to the individual -- we'll call them designators for the purpose of the conversation -- to remove their Board member.

But I think there should be guidelines, brackets, you know, no less than X and no more than Y or at least no less than X. I don't think we want a group to have the ability to remove a Board member if a minority of the group wants to do so.

There may be some groups that, you know, value stability and want to have a higher threshold. Or even those who believe that ICANN is a consensus driven organization whenever possible and believe it should be based on consensus however defined.

So I wouldn't - I would at least - I would build the floor under it. But I might at least consider allowing groups to move above that floor. And, you know,

the floor, you know, could be, you know, where we're at now or something a little different.

And a second point is that at least in some cases we may need to be more specific as the Board member is removed by essentially those that put it in place.

I'm thinking specifically of the GNSO where according to the bylaws there are two Board members appointed by the GNSO but the reality is that one Board member is appointed by the contracted parties, the registries and registrars stakeholder groups and the other one is appointed by the non- contracted parties, the CSG and NCSG.

It would - I'm not sure that it would make sense to either have that be a vote of the entire GNSO rather than just a vote of those who appoint them. So it seems to me it makes more sense for it to be parallel to that issue rather than have a different grouping for un-electing members - Board members as opposed to electing them.

Maybe the GNSO is the only group where it - where the de facto selection is not what's reflected or is made by a part of the group as a whole but (you wouldn't) if there are other groups that select multiple Board members.

They may also have their own internal mechanism by which one Board member represents one aspect and the other represents another aspect or at least it's chosen by recognizing that Board members don't merely serve a representative purpose.

Although I think there are some including our current Council who may think that the Jones Day view that the Board members are almost divorced from the

organizations that represent them once they get on the Board is a little bit
strong. Thank you.

Jordan Carter: Thanks Greg. So that was a good point. I think that we - I think on the call or
at least in the CCWG definitely we've got people from all of the groups. So
we should ask that question. I'm pretty sure in the ccNSO for the two directors
there aren't any requirements like that that were made by election of the whole
ccNSO.

And we could add a footnote that just explains that for the GNSO. It's the
appointing ones who do the removing. That's the general principle in the
California law.

And (Susan) the chat has raised a question about non-voting Board members.
I don't know anything about the appointment of non-voting liaison members
of the Boards and whether they can be removed or whether they have the
same term. So I had assumed that, you know, the general principle should be
the same. But I hadn't thought about the specifics.

The other - of course we would just need to check what we're imposing in
terms of these requirements and how they work. I think that's an action point
really. Can staff add that as an action and note please to - and check
interaction with Board liaison members?

And (Susan), on your question, I don't think we've had a discussion about
whether what's in this document on the (5.2 decision one). And so I think we
need to give that a bit more thought. And I - Greg's got his hand up to help.
Greg, go ahead.

Greg Shatan: I just wanted to point out that the current bylaws deal with the non-voting liaisons differently than they deal with removing directors, which directors as we know is currently reserved essentially to the Board. For non-voting liaisons there's one rule for the GAC liaison and another for everybody else.

                 For everybody else the non-voting liaison may be removed following notice to that liaison and their organization by 3/4 vote of the directors if the selecting organization fails to promptly remove that liaison following such notice. So it's a kind of...

Jordan Carter: (Okay).

Greg Shatan: ...force resignation and followed by a vote. And then GAC the Board requests the GAC to consider the replacement of the non-voting liaison if the Board determines by a 3/4 vote that such an action is appropriate. So it's a little bit gentler on the GAC liaison.

Jordan Carter: Okay. Thank you. That's helpful clarification. I want to come back to the thresholds question. I think we do need to have a high one for this. So (Josh) says 66. I've heard - I think I've heard a bit more - a few wanted a bit tougher than that.

                 So with the previous one we said - recalling the veto of the rejecting change of bylaws we said 70%. We go a bit higher than that. Should we replace that underline 66 with a 75 in this case? (Unintelligible) that? If you'd use your green checks and red (lines) and give a bit of an indication, 75% super majority at the end of the second to last paragraph.

                 And noting that as we mentioned or equivalent - let the (force be set). A little bit of green and we'll keep this on bold so it'll draw attention. And I'm not

seeing any red. So we'll go with the 75. And I think we probably have to leave the bold underline that - to draw attention to them that they're important.

And I've also seen a few comments. So 75% is also the threshold the Board needs to have. (Yes). And I see a few comments around the triggering threshold (unintelligible) consideration of it. Some people have said that the 20% is too low. And does anyone have - I think I saw a specific proposal in the chat that it should be 30 - 1/3 was (Matthew)'s suggestion.

I really would just keep that part of it quite low recognizing we can't land on what it is or what it looks like until we know exactly who's making the - are people - can we leave that at 20 for now? Is that all right? I see a hand up for Izumi.

Izumi Okutani: So I (think I'm) okay with using this to 20% while I feel it's a little bit lower but I can see the point here that of importance that making the barrier lower for people to be able to raise it and then higher threshold for approving recalling.

But maybe we want to make sure that different SOs and ACs should raise this recalling rather than having the same SO and AC representative. I don't know how we're going to compose this mechanism. So it might depend on that but I would prefer that it's not just the same single SO or single AC members (competitive) 20% and have it a bit balanced at least on different people from different SO and AC (rated). Thanks.

Jordan Carter: Thanks Izumi. I think that the balance here is - the balance for low threshold is if there is concern against. That was the disadvantages that might lead to directors being constantly distracted by people doing this.

I don't mind if we boost it a bit. A number of people are mentioning 33%. Why don't we shift it to 33% and just see how that flies with the CCWG? And can I take the - the other alternative of course would be to not - hang on. Avri, you want a - so a 50% plus threshold to even ask the question about a director - about an individual director and a 75% threshold to remove them. What are we - what are we going to have to vote removing a whole Board?

We can't have the same threshold for removing an individual director. No one's going to buy that in my opinion. And I'd be really uncomfortable going from 20% to 50% threshold to (unintelligible) majority personally. So the threshold I want to make it 33%.

You know, some - this is to start the discussion about removing a director that we're talking about. Talking about the decision threshold. Yes. I see another hand up from - Izumi, is that an old hand for you? Thanks Izumi. And Robin, your hand is up.

Robin Gross: Thank you very much. Yes. I'm concerned about making it so low. And I'm agreeing with Avri in the chat that I think it needs to be at least 50% because we don't want to go so far in the opposite direction than what we have now of no possibility of recall to the possibility of always being up for recall, constantly being in jeopardy of being recalled if you don't hop to the way your stakeholder group wants.

So I think that putting it so low will lead to abuse of the process, will lead to a - too much focus being on the concern on whether or not one is going to be recalled immediately than more of a longer standing long view and being willing to make an unpopular decision right now because you believe it's in the longer term best interest.

And so I think we don't - we really would be setting this up for abuse and for he community to really just attack the entire individual Board recall mechanism if we make it so low that it is just ripe for constant abuse. Thank you.

Jordan Carter: Okay. Thanks Robin. Steve, you're hand is up.

Steve DelBianco: Yes. I don't have a strong opinion as to whether 20, 33 or 50 is the right number. But I wanted to reveal something I know that - I think Jordan mentioned in Istanbul.

The mechanism we select for the community whether it's designator, members, permanent cross community working group, the character of that mechanism will end up influencing this initial threshold for a number of our powers.

And I say that because if the mechanism for the community is - it's a group of people that actually communicate. They know each other. They will have gotten together multiple times a year to consider questions whether it's a bylaw or budget.

Well then they can actually have the kind of conversations necessary to say one group feels really strongly about removing the director. Then we have to make sure (it's) known to the rest. There'd have to be conversations where that member goes back to their constituent organization and decides whether to bring it forward.

So it will be a social process to generate that threshold. So the more identifiable the people are, the individual, the easier it will be to achieve the higher threshold.

But it's instead there's no formal structure, not even a permanent cross community working group. And that will be incredibly challenging to muster something like 50% by having to do it all through email communications without any personal relationship among individuals who are at least for the time being designated as the member or the designator.

So I see a relationship there. It's a vague sense that some of what we come up with depends upon having a structure that accommodates it. I don't exactly know where that leads us in the conversation. But I wouldn't - I wanted to link the mechanism to the threshold because I think it - I think they're related. Thanks.

Jordan Carter: Thanks Steve. I agree. That's kind of what I said in the (pack) that there's - that we need to have some greater clarity around what the mechanism is. I certainly agree that we don't want to build a system, which is going to see individual Board members under siege. That's definitely not the idea.

But nor do I want to see us - so maybe we have to balance that with not seeing a system where people do want to have the question answered and are asking the question but there isn't the ability to actually get the matter resolved one way or the other.

So why don't we put it at 40 and add a little note that says suggestions range from 20% through to majority being applied to trigger this. So, you know, does that - will people wear that? Does that sound doable to you? Making the (list of note). Definitely stay bold and underlined. I'm not going to propose to remove any bolding and underlining in this section. So 40% and then note that the range is 33 to 50.

I think Robin, this question about whether we should have options - I think at the moment we should (refer) to the debate and in the CCWG discuss this and see if we get to options. And we should come back to it on Monday when we've got the legal advice from the law firm as well.

So at the moment can we can we turn it into a (note) and then talk about it with the lawyers on Monday if that's not in the range? Can you give us a green tick if you're happy with that? Forty percent; note range (unintelligible).

Robin Gross: This is Robin. Yes. I'm just really leery of calling this sort of agreed to. I think it's an important issue that we need to have wider discussion on. So if it's putting in options, putting in a range, putting in bold underlined text, something to indicate that there's not consensus on this point, that we need to think about this and the larger group needs to think about this a little bit more; I think that would be probably the best thing for this option.

Jordan Carter: Yes. Absolutely. I agree. Though, as I said, there's none of the bolding, underlining that's going to be removed here. So it will be (unintelligible). So agree. Okay. We can proceed on that basis then.

So there are no other items on this one. We can move to the recall of the entire ICANN Board, which starts on that Page 4 out of 16. And runs down across.

Now the thing I draw attention - the comments from (Roloff) I included there because my memory is that the consensus in Istanbul though was that whatever the mechanism was it needed an incredibly high majority. And that making that an even higher and harder majority did involve requiring everyone to participate in the decision. If they didn't, just say that should count as a no, not as a not participating.

And (Roloff)'s comment though does propose a different approach to this one at two voting rounds process where there's a quorum requirement in the first round. So that's there to think about.

The main changes in this one are kind of trying to clarify the language actually around the fact that the - there would be directed voting. But that is still going to remain bolded and underlined.

So that's kind of the picture. Haven't been a huge number of changes here. And I just after speaking with - I see that in some places I failed to underline the text but everything that's bold here is meant to be underlined as well. Are there any speakers here? Robin, your hand is up.

Robin Gross: Thank you. This is Robin. Yes. I just wanted to quibble a little bit with the way it's - the new text is bolded and underlined is currently worded because it is presuming that there's going to be representatives within the community mechanisms on how to vote.

And, you know, I'm still really interested in finding - looking at mechanisms that do not depend upon additional layers of representation where it is the community members themselves that make these determinations. So I think that we need to reword that such that it doesn't - such that it doesn't already sort of presume that the answer to that question one way or the other.

Jordan Carter: We could do that. I don't mind us doing that. And we should have a consistent treatment on that. And I think all of our other - I think all of our other content does not presume that.

Robin Gross: And then, you know, following up along the lines of that is that we wouldn't then necessarily need directed voting because we're not - at least from my

view we wouldn't be telling ourselves how to vote. We would just - we would all vote. And the outcome of our collective group is the final answer. We don't need to tell somebody how to vote on our behalf.

Jordan Carter: Yes. But you - that's the same thing you just said. So we need to...

Robin Gross: Right. So it says there's directive voting in there. And so I don't think we would necessarily have directed voting.

Jordan Carter: Yes. But you've - it's the same thing you've said.

Robin Gross: I know. I'm just saying it's worded in here two different ways that will need to be changed.

Jordan Carter: Yes. That's what I took from your first comment.

Robin Gross: Thank you.

Jordan Carter: So it does need to be adjusted in that way. And I - personally I think that the way that all this legal advice is coming across so far though is that there is going to be a designator of (infrastructure). So there will be both (specified).

Robin Gross: Well yes, that's true. But we currently have a designated structure now and we don't have necessarily have to create additional mechanism in order to elect - to designate our representatives to the Board or to possibly make other decisions. So...

Jordan Carter: But they're only acting within those designated circles. So that's why we don't...

Robin Gross: Pardon me.

Jordan Carter: They're only acting within those circles. That why we don't have to specify it. If we're going to apply a collective decision across the whole of ICANN, at some point there's going to need to be decisions about the relative power of each group.

Robin Gross: That's right. That's right. And that's true no matter what mechanism we ultimately decide. It's just a question of whether or not we need to create an additional layer of representation to carry out that particular weighted voting.

Jordan Carter: And we definitely do not want (judge that) in this (pack). So that's the point that I've taken that we'll need to amend this to effect that point.

Robin Gross: Thanks.

Jordan Carter: (Matthew), the community mechanism is holding text for whatever we decide the mechanism is. There's going to be something as to what it is. You know, we're getting legal advice on that. We're talking that with the lawyers on Monday.

And are there any other hands up in this one aside from the point that Robin has raised? And there's (Roloff)'s point on the thresholds. So are there any other contributions to this in the discussion?

I think we'll, all you'll see, we need to decide - I'm expecting the lawyers to be making us a proposal on the mechanism - hopefully one mechanism that can deliver all of these community powers (to us) in the material that they're giving us today and that if not today that they'll be ready to make that proposal to our call on Monday.

I don't see any more hands up. So with the - you'll see text revisions. I'll work with Robin on those respectfully. Talk to Robin.

Steve DelBianco: Jordan.

Jordan Carter: Yes.

Steve DelBianco: Hand up.

Jordan Carter: I can't see your hand because I can see your text, sorry Steve. But if your hand is up, go ahead.

Steve DelBianco: Thank you. This is Steve DelBianco. I wanted to ask what other groups - (Suzanne) mentioned this in the chat and I just wanted to bring it up verbally. What do other groups within the AC/SO structure do on an abstention? Is the decision not to be present or to abstain the same as a no in terms of determining whether most motions will pass in all the ACs and SOs? Does anybody have a good idea about that? Thank you.

Jordan Carter: I can only speak for the ccNSO. But no, an abstention in the Council isn't a no. It's an abstention. This came about in a discussion that I - memory serves Chris Disspain raised in Istanbul. And the point was people wanted to set a very high, very high threshold for this. That was the rationale that you had to achieve at least 75% of the - all of the available voting (rate) in favor of this.

So that was the rationale that you couldn't just - if half of the community abstains, getting 75% of that remaining half which is 37.5% of the community's voting rights to vote in favor should not be able to (throw) the whole Board. So that was the logic that came with that. So it's...

Steve DelBianco: And Jordan, it's Steve. Just to follow up. I remember a brief period of discussion in Istanbul where we asked should there be a requirement that each of the representatives of the community mechanism would have to vote yes or no. And we considered that for a while but suggest that they would have to vote one way or the other as opposed to no vote at all. And how did we come out on that?

Jordan Carter: I don't remember.

Steve DelBianco: And that some would be - would resent being forced to vote. That might not go over well. I don't think we backed it as an idea in Istanbul. But did when Chris Disspain made that point that it should be difficult, that is when you said something about the fact that the mechanism itself would determine whether they would all caucus in order to determine whether we could get to the right threshold before you even began to initiate something.

And that caucusing is hard to do if there's no individuals there. It's just a canvas of respective ACs and SOs and the SGs and they make up their own mind. I realize that there may not be an opportunity for people to get in a room, virtual or physical, and talk about it. But what did you think Chris Disspain conclusion was after he made the point that it ought to be difficult? Were we saying that abstentions are just like a no?

Jordan Carter: I don't remember proposing as abstentions being a no. I do recall something that (Suzanne) saying that the yeses have to be of the population of available yeses.

Steve DelBianco: Okay.

Jordan Carter: So I don't think it was a negative. And I - my personal view is that we don't need to resolve this unless we've suddenly got consensus emerging about something. I think we should leave it bolded and underlined and I'm sure it will draw attention in the full CCWG discussion where there may be more memories of that part of the discussion in Istanbul.

But given the time, oh God, the time has completely gotten away on me. I'm really sorry for it's 21 minutes past. And but that said, we have almost gotten our way through it.

And can we leave that one now? And just go on to the end of the paper because (that sort of powers). There's a proposal - there's the incorporating OSC and the ICANN bylaws material and just (flip down) do that. And the material in 6.6 has - it's been a little bit tweaked by adding in a table preserving ICANN (equipment) in the OSC.

We're not going to discuss that now because the content is a placeholder, as I understand it. And (Matthew) and (co) Avri, Steve is going to both complete this table by Sunday. But today it isn't complete so we are not going to discuss it.

And in terms of what comes after that there's a little bit more detail about the nature of the reviews taking the feedback into account from the call that we had at the last call.

And then there's an introduction of some language about the stress tests (unintelligible) changes to the stress tests there. Now with the caveat that I don't (unintelligible) and in the final document - like in the comment document and that's why the change is 6.X instead of 6.7. There's already I think a 6.7 allocated somewhere.

And the two that are there, the GAC advice consensus question and forcing the Board to respond to (unintelligible) advice and that's subject of the discussion. So my personal view is that we should leave that content all there and just take it to the CCWG and see what happens. And I've got a couple of hands up. (Matthew) and then Steve. So (Matthew), go ahead.

Matthew Shears: Yes. Thanks Jordan. Just if I may just come back to 6.6.1 and about the commitments from the Affirmation of Commitments.

So one of the questions that we had amongst those of us who are going to be providing this information on Sunday was whether or not it was most useful just to focus on those areas where we have identified commitments that could be moved into the core values or elsewhere in the bylaws or whether it would be useful for participants here and perhaps for the Board or community for us to actually list all of the Affirmation of Commitments and note why we have chose to leave some as they are and to identify others to take into other parts of the bylaws that we ask or whatever.

So really was an issue of how big do you want this table to be and how comprehensive.

Jordan Carter: Good question (Matthew). I thought - based on the discussion we had on Wednesday, I thought you were doing the bigger version. And that was because we needed to have a kind of an audit trail about what happens to everything in the AOC because without being able to demonstrate that, we couldn't - we'll just get - we'll get questions about like what happens to (that) and where does X go.

And if we've only talked about the bits that we have moved, then we're going to get those questions and (any of the other bit). But I haven't read the AOC. I don't know if I'm asking you to make a hundred page table. So if you said it's fine, I think that's good.

And I don't know if other people have a different view about that but I think the completeness here will be useful whether it ends up in the total comment document or not. Is that okay (Matthew)?

Matthew Shears: Yes. It's fine with me Jordan. I think it runs about 12 pages now. It's not 100 anyway. But Steve may have a view on this.

Jordan Carter: Okay. Thanks Matthew. Steve, your hand is up too.

Steve DelBianco: Thank you. Matthew and I have been discussing this both on list and in the chat. I feel very strongly we should only articulate the sections of the affirmation where ICANN is making commitments because those are the commitments that it is making to the community when you move them from a bilateral agreement with the U.S. Government into the bylaws because if you move them into the bylaws, it's ICANN's commitment to the community that it serves. And thereby we hold it to that.

The paragraphs that are excluded under the method that I put into the draft because I used the shorter method in the draft under 6.6.1, I included only the paragraphs which (Matthew), (Fiona) and I had discussed, Robin weighed in too, about five or six weeks ago.

These are the Paragraphs 3, 4, 7, 8 where ICANN makes commitments. The other Paragraphs 1, 2, 5 are commitments of the U.S. Government and general statements.

So commitments of the U.S. Government have no place, right, in a bylaw agreement. When you get to Paragraph 9, that's the reviews. They stand alone because they're covered in detail, each and every one of them.

And I knew that the co-Chairs and Rapporteurs had wanted to keep this document digestible. And that is why in the setup for 6.6.1, that is to say that 6.6 you'll see it's right at the top of Page 5 there. That we only are discussing preserving ICANN commitments from the AOC including Sections 3, 4, 7 and 8 and the Section 9 reviews.

So because of that I honestly believe that's enough to convey the items. If somebody has the question well what about Paragraphs 1 and 2 and 5 and 6, I'd be happy to add a sentence right there to say Sections 1 through 5 and 6 are introductory or convey commitments of the U.S. Government in a bilateral agreement and are therefore not appropriate for inclusion in the bylaws.

And I would hope that would get what we need to get to. And if some of us are worried that people haven't read the affirmations since 2009 or perhaps not at all, there's a hyperlink to it and with one click they can access the whole affirmation, which is not all that long.

So it's not just the length and focus that I'm worried about. I'm also worried about stirring up a debate about well what happens to this commitment that the U.S. is going to participate in the multi stakeholder model. There's no question the U.S. would remain a GAC member. But its unique role would disappear.

Jordan Carter: And also what we say in the ICANN bylaws can't (find) the USG. And...

Steve DelBianco: Exactly.

Jordan Carter: ...(I think so). So Steve, no, your point is well made. And all you are hearing is my ignorance about what's in the Affirmation of Commitments and the whole of the text. I think you make perfect sense. I don't think that the introductory text quite explains that in the way that you just have.

So I think if we could have an action for you to just make that explanation of the AOC maybe slightly clearer, that sentence that you talked about. And I'll have another look at it as well. That would be great. Because there is no point in adding extraneous material. I thought that there may have been commitments that weren't included.

Now I do - Avri says different points. And that there have been some ATRT recommendations that should be included in these bylaws changes. And that's really...

((Crosstalk))

Jordan Carter: Sorry. That's...

((Crosstalk))

Jordan Carter: Who is this?

Steve DelBianco: I'm sorry. Jordan, it was Steve. I've already given up the mic so I'm sorry.

Jordan Carter: Yes. So my point is that if there are ATRT recommendations, that should be included in these bylaws changes. The question is what do they relate to? Do

they relate to community powers or are do they fit somewhere else in the document?

And what are they is the other point? So I think it wouldn't be - given that the ATRT reviews have been about at least in part ICANN's accountability. If there are conclusions that have already been reached that should be (reported) into the work that we're doing in the CCWG.

I think that we should get those on the table. And whatever the source was, you know, doing that audit is frankly that's the reason why I'm a little bit scared about this time that we're running.

Now - so Avri, could you take a mic and could you - I have no idea...

Avri Doria: Yes. Sorry.

Jordan Carter: Go ahead.

Avri Doria: (Right). Some of these - some of these ATRT recommendations have to do with for example the requirements for transparency that we're entirely spelled out at the time of the AOC - responsibility for the - on the various status of it.

So I think - those are not big things but they're basically ICANN's obligations vis-à-vis that AOC statements. So I don't see us needing to only capture what was in the AOC. I think that we can sort of increase it slightly by the fact that there have been two ATRT reviews and that they made some recommendations on how to carry on those reviews going forward, et cetera. So that's the kind of thing I was thinking of.

Jordan Carter: Okay. And thank you. And Steve, I see your hand go up and I think you might
                   - given you drafted some of those reviews. You want to just comment here as
                   well?

Steve DelBianco: Yes. I actually think Avri's right because it's not what I typed in the chat but I
                   raced ahead to the section on the four affirmation reviews. And they are full of
                   improvements many of which were gathered from community comments over
                   the summer but a great deal of which also came from ATRT recommendations
                   from one and two.

                   And that's what's in the notes column. If any of you wish to do so, you can
                   scroll ahead to Page 10, 11, 12, 13 and 14 and you'll see that the affirmation
                   reviews that are brought in have a notes column and in many respects some of
                   those improvements are things that did arise from ATRT recommendations.

                   So they are in fact there. I understand that Avri. And I think that to understand
                   how Paragraphs 3, 4, 7 and 8 would be informed by ATRT recommendations.
                   As Jordan said, we sort of have to see those mapped to it.

                   And when you've given us this catalog of ATRT changes in the past, they
                   weren't really mapped to Affirmation of Commitments paragraphs, right.
                   They're just a list. And so Avri, I would ask is it possible to just re-circulate
                   the hyperlink to the document you gave us several weeks ago about ATRT
                   changes to the bylaws, which had not been implemented yet. Thanks.

Jordan Carter: I'm going to - and Avri would be able to re-circulate that link. So if...

Avri Doria: That's possibly one thing I could do. I thought we were just going to try and
                   get to some text at the moment that covered things and that seemed an extra,

you know, go gather some stones and pile them up from the exercise. But I suppose I could do that.

Jordan Carter: Well...

Steve DelBianco: No. That's not the intent at all. I mean it's direct and you have the text, send that instead. Okay?

Jordan Carter: I think the point that Steve was making is that he has tried to incorporate most of these measures in the AOC reviews text and that the start of the AOC where we do mention the AOC reviews here. And that's the point - that's .2 on Page 7 of the document in front of you.

And there is some high level summary of what's been included in the transparency stuff for example is there the community stakeholder group (deploying) members with these reviews is there as well.

Look people, I've kind of run us into our schedule that's (unintelligible) end of this call. And I'm a little bit in your hands about what to do. We haven't had discussion about my suggestion that we keep in for viewing with the CCWG the 5.0 changes specified stress tests.

So are there any kind of violent objections to that? I see a hand up from (Matthew). Is that your old hand (Matthew) or is that a new one? Old one. So if I don't see any objections, like we - it doesn't mean it's going to last here. It'll cause a discussion that needs to be caused in the CCWG.

And I think we probably need to - there have been quite extensive textual updates Steve to the AOC review text unless I've gone crazy. And I thought

this was material that we'd all seen before. But there are - are there substantive changes or is it more ordering changes? Can you just tell us that?

Steve DelBianco: Yes. Happy to explain. I simply put page breaks between each of the four affirmation reviews and made one text change in the upper right hand corner to try to indicate whether the commitment in the ATRT review for instance was reflected in the bylaws and core values. And so there were probably four words changed but in the red line it looks mostly red. And I think it's just because of the page breaks.

Jordan Carter: Okay. Thank you.

Steve DelBianco: Given that's there, in the Istanbul meeting I took full note and circulated a draft document that included this notion of an annual transparency report. But it didn't fit in the section where I was mapping the four reviews to the bylaws. So I'm open to suggestions about where to put that, which gets back to the question Avri asked earlier; where to put some of the other elements that arose form ATRT reviews that ought to make their way in.

For the sake of simplicity, we could make another section, you know, 6.7 and talk about previous ATRT recommendations for bylaws changes that have not yet been made. What about that?

Jordan Carter: I definitely think we should capture - if we're going to say that some recommendations have been made about the things that are not being dealt with by working parties, who have not been covered by the powers that (I've) already done.

I think we should do that. I thought that was the table that was being referred to that you were asking Avri to circulate the link to. That - having that...

Steve DelBianco: I am. But I didn't want that to come across as if we were just trying to park the issue. We actually tried to get it into the document in the right place.

Jordan Carter: Yes. Yes. That's definitely my view because...

Steve DelBianco: And it should be - and it should be bylaws changes just like Section 6.6 and 6.1 and 6.2. They're bylaws changes. This would be Section 6.7, further bylaw changes indicated by previously approved ATRT recommendations that have not yet been implemented. How about that?

Jordan Carter: Yes. Yes, yes. Yes. We can do that. Of course don't give it a number though. Call it .X .something. And...

Steve DelBianco: All right.

Jordan Carter: ...the other question. Just remember, remember, remember, we're trying to be economical of what we do Workstream 1 versus Workstream 2. So there's stuff may go in - needs to go through that filter. And we may need to decide what we're going to pull into the work we do towards the end of this year and the start of next year.

Steve DelBianco: Could you clarify then? Is this whole document's supposed to be Workstream 1 only or does the document even at this point includes some things that could go to two?

Jordan Carter: So what I recall - I haven't looked at it immediately. But if you go back and look at the structure for our comment document spreadsheet that (Matthew) circulated a week - two weeks ago out of which I copied and built my work plan, there is a section in that about things to come in Workstream 2.

And the idea for that is to give the community an idea about, you know, people are like oh, so that haven't thought about (splash). So if they can see that we're going to be thinking about (splash) in Workstream 2, so it isn't going to vanish given that we have to have a way to make sure our Workstream 2 stuff gets implemented. That will ease the comfort.

So just as we don't have to do it in one bite, we can represent what we're going to be doing in the second bite.

Steve DelBianco: All right. And Jordan, I realize we're out of time but 6.X, which we added is only...

Jordan Carter: Yes.

Steve DelBianco: ...two items right now. It's bylaws changes that were suggested by selected stress tests. One of them is the infamous Stress Test Number 18 with respect to ICANN being forced to respond to GAC advice. And another is 6.X.1, which came up many weeks ago in the stress testing but was highlighted on Wednesday Stress Test Work Team call.

It was the notion that how does one force the Board to take action and respond to advisory committee formal advice, not to implement it but to simply vote on it. And that's where Avri contributed ATRT 2's Item 9.1. It's right there on Page 8.

It fits exactly with what Avri was talking about earlier about a laundry list of ATRT recommendations that have not been implemented. But this one was called out in particular because of a stress test and the ability to provoke the

Board to take a vote such that we could have our mechanisms to challenge them on the vote they took.

Now some of this...

Jordan Carter: (Unintelligible).

Steve DelBianco: ...could go away - sorry, go ahead.

Jordan Carter: No, you go ahead.

Steve DelBianco: I was going to say that some of this could disappear if - I noted Robin Gross (unintelligible) on a draft so the reconsideration and it speaks about the ability to have a reconsideration over inaction. So if...

Jordan Carter: Yes.

Steve DelBianco: ...that all - if that all comes together in a solid way and the lawyers bless it, well then the inaction of the Board on SSAC advice might be subject to reconsideration just the way it is. You may not have to implement the ATRT 2 recommendation of forcing the Board to vote so that we can invoke an IRP on their vote.

A lot of this is intertangled and I understand a little bit complex. But all we've done here is include two changes to the bylaws. Each of them is one line long. And they are indicated by the stress tests as Workstream 1 items. Thank you.

Jordan Carter: Thanks Steve for that briefing on these items. And I - it's helpful. And they provide useful context. I can see no harm in us having them in here so that

they get discussed in the CCWG. We're not certain whether they'll end up in the part of this (unintelligible) or to (somewhere else).

And so I think if we can leave that at that. I think this has been a very useful run through. It's taken a bit longer than I had hoped. But thank you everyone for all of the contributions on this document. There are several drafting changes obviously required. And as a result, it's my hope that in - (if do it) on Sunday in the morning, I mean I understand that.

But Saturday afternoon, evening UTC unless anyone else is going to want to move on to reflect some of the stuff in the draft. And I think we'll go back - we'll set the Google Doc on comment mode for the public so that anything that people type into it becomes their suggestion for approval or otherwise. And we'll do the edits on that doc and re-circulate them on Saturday U.S. - on Sunday (at that time).

And I'm going to propose that we not deal with the other items on the agenda and that is to clarify that in the meeting on - we should be expecting some documents from the lawyers later today. And I can only implore you to read that when it comes.

And we are expecting the lawyers to be with us on our call on Monday to present that material and their views if it isn't in the written stuff on Friday about the mechanism that we should propose.

So the core item of business on that call on Monday will be not so much - like we should have a much simpler red line so we can go through the red line of the changes that we have agreed to on this call for the content. But the primary agenda items will need to be the lawyers dealing with the advice (making) together any changes arising and on the mechanisms.

And we will also need to at that point have a discussion about the balance among groups. And but in the meantime I think we'll call this call to a close unless there are any other items that we just want to raise.

Steve DelBianco: Jordan, I asked the question in the chat timing. I know that (Matthew), Avri, (Fiona) and I are trying to update that table as well as...

Jordan Carter: Yes.

Steve DelBianco: ...insert this other table with some of the items that Avri brought up. What's the UTC time that you wish to send this document to the full CCWG? Give us a deadline.

Jordan Carter: So I - the question there is whether we are going to send this to the - I don't think we're going to send this doc anymore to the full CCWG before we have had the call on Monday. I don't think we can. And so I think that question doesn't arise. It's more about when we're going to (sync) that to our (WQ1) again.

Steve DelBianco: Okay. Same question then.

Jordan Carter: Yes.

Steve DelBianco: When do you feel that (Matthew), Avri and I need to get (to you)?

Jordan Carter: Our next call is on Monday at - is it 20 hours UTC? I just need to check my calendar. Yes. Our next call is - no it's not. My diary is failing me. Our next call, yes, at 20 hours on Monday the 13th of April. That means that I need to

circulate material no later - look, if you can do it by midnight Sunday UTC, 2359 on the 12th, that will be fine.

Steve DelBianco: Okay. Thank you.

Jordan Carter: Okay. This is an horrific schedule of work. I just want to signal I guess first of all my thanks to you all for participating today. And secondly for the work that's all been - being done and going on.

(Keith), this is definitely not the right time to (unintelligible). The obligation on jurisdiction (remain) U.S. and I can only implore you to - we raised it so many times and it isn't being resolved. We need to do that at the CCWG level. And if you write the co-Chairs and the Rapporteurs, just do that. That would be helpful. And we've got lots CCWG time coming up in the next few weeks. (Lucky all us).

So I was just thanking you all I believe. And I was going to warn you that I'm sure we're going to need to schedule some more meetings of (a certain) Friday after our meeting on Monday.

At the moment we haven't got any. And so my - given that the Wednesday slot seems to work okay, we might need to schedule one for next Wednesday at 22 - 21 hours just to follow up from the CCWG discussion. But we also might not. I don't see how we're going to know what we need to do until we see what response our content gets CWG. So there'll be more to come.

So thanks everyone. Have a great Friday or Saturday depending on where you are. And we'll talk to you on Monday. Good weekend.

Woman: Good weekend to you too.

END