

ICANN

**Moderator: Brenda Brewer
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12:00 pm CT**

Coordinator: The recording has now started.

Grace Abuhamad: Thank you. Let me just make sure it's set up in the Adobe Connect room. One minute please. Great. Thank you. All right it's the 21st of April, 1703 UTC. And Lise will be doing the opening remarks today so I'll turn it over to her. But right before I do that anyone who's on audio only at this time we'll do the rest of attendance through Adobe Connect. Is anyone on audio only? Okay, all right I will turn it over to Lise for opening remarks. Thank you.

Lise Fuhr: Thank you, Grace. And welcome, everyone to another CWG meeting, the last before we send out our public - our draft for public comments. My name is Lise Fuhr, I'm one of the two co-chairs. And I will chair part of this meeting together with my other co-chair, Jonathan Robinson so we will do a co-chairing together today.

Well, as you know, our overall aim is to have a proposal ready to send to the chartering organization by early June to have this discussed in Buenos Aires, to have their sign-off and to have the proposal sent for the ICG. Well, in order to get there we will send out a draft proposal for public comments tomorrow.

And last week was very productive; we had two very intensive working days in the group. And furthermore, many DTs worked really hard to reach the target of delivering a proposal for last Friday. And we know you worked very hard and we know we're still pushing you very hard to meet the deadline of sending the proposal out for public comment tomorrow.

But we think we have succeeded very well and well we came out of last week with one proposal for structure. We have Sidley that provided us with a summary on the structure and you have all sent in a lot of questions. We have seen there is a lot of email activity on the list regarding a lot of issues.

So today we'd really like to conclude on the last DTs, the last design team. And the rest of the outstanding issues we have. Doing this we really need to find a balance of what details are needed in our proposal. And we need to have the conditions in place for our refinements to the CCWG. We have asked Sidley to help us on this since we find that they're giving advice to both groups. They have a very good overview of what both groups are working with. And we think it's very helpful to have their help on this so that's been done in the summary too.

Finally, we as a group need to agree on the structure on the public comments and how we ensure that as many as possible are sending in their comments. And this is - since this is the last public comment it's going to be important to have as many input as possible and we will count on you as members of this group and participants on helping us in reaching as much as possible on this.

But I'll hand over to Jonathan to kick off Item 2 and that's the draft proposal 3.4. So, Jonathan.

Jonathan Robinson: Yeah, thanks Lise. I've got an open mic. Thanks. Hello to everyone. I'm sure (unintelligible) a little weary by now and I guess many of you are from all the various sessions.

As Lise said, this is - we're going to try and do a final push to tidy up so the key items on the proposal, it's called 3.4 because there is a further version which is just being uploaded which is the tentative take into account much of the recent traffic and effort.

Now to date we haven't done any sort of CWG-wide walk through so this is both practically challenging as well as demanding so we'll hopefully be able to make good progress on this.

The item is structured where you'll see under 2A, B and C it says to be resolved by design teams, to be resolved by the CWG or to be resolved during public comment. I think in many ways we put that there as a sort of aid, memoir, to be saying well think about it in this way. Can this be resolved now? Or generally by the full CWG and should it be? Or should it be referred back to the design teams for detail work?

And if so, clearly that's not any - that kind of work should ideally be not material work but work that can be worked on in parallel with the public comment and really flushing out a detail that's not necessarily going to materially impact or derail the substance of the proposal.

And then in addition under Item C it's worth thinking about what if anything do we want to call out specifically for resolution during the public comment. And clearly we'll come back to that in 3 as we talk a little bit more about public comment.

But in Item 3 we really are talking about the practicalities of the public comment and it seems to make more sense to be thinking about what if anything should be called out during the public comment period as part of that public comment structure as we walk through the document in Item 2.

So I think that's how we are going to attempt to deal with this via a walk through and looking for - calling for key open items. I'd like to ask the design team leads to be particularly vigilant as we go through this because it may well be that you feel you need to flag something from your design team or teams that is not yet sufficiently resolved such that it needs the CWG's input on it and we need to attempt to resolve that now or alternatively it needs to be resolved through some details work of the design team whilst the public comment runs or indeed it's something to be called out for a particular comment or input during the public comments.

In a moment I'm going to ask Sidley to make a couple of opening remarks before we do this. But before doing so I see Marika, your hand is up so please come in and make your point.

Marika Konings: Thank you, Jonathan. So this is Marika. I just want to clarify that the version that you currently see up on your screen is version 3.4 and in this one I've tried to incorporate the comments that were received following the circulation of yesterday's versions by Chuck, Donna, Jaap, Avri as well as Sidley's comments.

There are still some comments that, you know, we're working through or trying to come to resolution to but I'm hoping that most of what was said to the list could have been captured here. So, you know, people may already want to, you know, look through that as well and see if there's anything that

we missed or any other items. But I just wanted to clarify which version you're currently seeing on the screen.

Jonathan Robinson: Yeah, thanks, Marika for that. I believe we should have independent scrolling ability. And so to make sure that you're aware of that you should be able to scroll the document yourself. And in case I forget to do it elsewhere thank you to you and your colleagues for the tremendous high speed turnaround (unintelligible) to edit the document as rapidly as possible (unintelligible) all of the inputs.

So let me ask Sidley if you would like to - and I realize there's more than one representative of Sidley on the call so I won't presume who will speak. But let me ask you to come in and make any comments you have about absolutely overarching issues or points at which we are in the process before we do a walk through. And I see a hand up from both Holly - okay, Sharon, why don't you go ahead then, please do, Sharon.

Sharon Flanagan: Thanks, Jonathan. So we've looked at the most recent draft and our comments fall in two categories. One is comments around the review function, the periodic or the off cycle review function, who exactly will be authorized to trigger the off cycle review and that's I think one thing we wanted to maybe get some consistency in the document on.

And then the second thing is the new Annex L that is - what triggers a separation. On that document there is - there are some triggering points but I think our view is we need to put a little more detail around that and what that would mean exactly since we assume this is something that will be a focus of the public comment period and probably will raise a lot of questions if more detail isn't provided. So those are the two categories of items and then we have some more minor comments that flow throughout the document. \

Jonathan Robinson: Sharon that's helpful. A remark on those two, it feels to me like the first one, the (PRF) or the review function, I think we moved on to even calling it an IANA review function, but in any event the review function and the off cycle trigger, I note you had minor points in the document as well about ensuring that the five year was specific and so that's something we'll need to deal with.

But in terms of the off cycle trigger it's something we've discussed as a group before so I hope that will be more of a clarification but let's see where we get to on that. With respect to Annex L, that hasn't really been discussed by the group as a whole so I should - to the best of my knowledge that's more - in a more sort of law format if you like, an unreviewed format. So maybe, Avri, your hand is up to comment specifically on that. Let's hear from you. But that's my take on it that we...

((Crosstalk))

Avri Doria: Yeah, this is...

Jonathan Robinson: ...more refined format or point.

Avri Doria: Yeah. This is Avri. Just a quick point on it and that's in this latest version try to take the Sidley comments into account. Hopefully it's more consistent now. And even - and it was basically (F&L) trying to get them consistent and trying to get the front text consistent. Don't know if it got to the level of detail that we wanted. And, yes, (L) has it's still purely, you know, drafting team - I mean, design team and others.

And I've taken in, you know, and the group has discussed sort of the comments we've gotten on the list and in the conversations but this group has yet to discuss it. Thanks.

Jonathan Robinson: Okay so thanks, Avri, that's helpful. And so let's come to that and see whether that is then evolved and whether, you know, what remaining issues consists there and people may have concerns or contributions to make there. I note Eduardo's point about the abbreviation, (PRF).

So, Eduardo, it's my understanding that this document has been or ideally will be - and maybe staff can comment on this - reviewed by a third party who is not - who hasn't been substantially involved in the content. And the offering of the document, you know, I would describe that as an editorial function to work through it from a consistency and presentation point of view. So I'm hoping that there will be an editorial review of this document going on in parallel as well to capture that kind of thing.

Okay so let's turn to the document. Now this is a challenge. I guess I can talk us through making sure we're on the right page since we have independent screening, that may be sensible. I'm just looking at the view that I can make here. If I explode the view I can't see the queue so I'll work with it on the current screen size and hopefully - I note that Marika - (unintelligible).

Is anyone else got a problem with my audio? If you could just make a comment in the chat rather than all speak at once. Okay thanks (unintelligible). Yes, it appears that my gliding in and out of mute may not be an issue for everyone. All right good.

So let's go down to Section 3 which is where the principle substance of the comments go. I'm open to suggest as to if there's a particular area in addition

that anyone needs to do but I will talk you through the various points and pages where we are and Marika, thanks that's helpful to note (unintelligible)
17. At least you're more familiar with the document than I am.

All right so Section 17 I see no comments that are currently outstanding at this point. I'll encourage you to walk through and just raise your hand if - I'm going to pick out the comments but if anyone wants to pick up on a point that I inadvertently go past please just raise your hand and we'll come to that point ideally in sequence.

So first probably we are asked on Page 18 there's a comment from Sidley - this is not particularly material suggesting that we clarify that the CWG model has an affiliate in this role. And I'm just trying to understand that point. Bottom of - towards Paragraph 1 below the bottom of Page 18. Sharon, go ahead.

Alan Greenberg: Sharon withdrew that comment on the chat.

Jonathan Robinson: Thanks, Alan. And I see that now. All right so top of Page 19 then we have additional insulation between operational and policy making and protections for the IANA functions operator. Read that a transition proposal would require the following elements, and we make reference in Bullet 3 to protections. And the question is what are those protections, is that apparent.

Sharon I see your hand but I don't hear you.

Sharon Flanagan: Oh, thanks Jonathan. The comment here was to clarify what protections were contemplated. Now if this is simply meant to recap what was decided at a prior time, and this is what the language was and I think we would just leave it as it is. It's a little open ended.

Jonathan Robinson: Anyone else comment or can remember the origin of the insertion of that and - perhaps, I mean, is it necessary to have protections in there? I mean, or is it sufficiently problematic. I don't want to go through too much of a tight word by word edits here but, Bernie?

Bernard Turcotte: Thank you, Jonathan. We were simply looking at trying to phrase something that caught the - some of the advantages listed in the Sidley document which included stronger protection in case of bankruptcy from ICANN and such things. That was the origin.

Jonathan Robinson: That's helpful. Sharon.

Sharon Flanagan: Thanks, Jonathan. I would delete it in that case.

Jonathan Robinson: Okay I'm just going to assume - and I got a suggestion like that we will delete it. How do we - is staff okay with that on the fly edit? Has one of you got a document - a separate document open that you can edit as we go? I know we won't be able to edit in screen but, Marika.

Marika Konings: Yeah, this is Marika. That's correct. I'm following on my own screen so you won't see the changes in the document on the screen but I'll be following along.

Jonathan Robinson: Perfect. Thanks, Marika. All right so I'm going to accept that deletion unless I get objections and try and work (unintelligible). Moving on to Page 20 now. A 1b, bottom of Page 20, obviously support here, the stand scope of the PTI board, and yet with all of that traffic we do seem to be settling in a reasonable place.

I would be loathe, even though at one point I personally contemplated the fact that this could be something we could (unintelligible). The concern with doing that is that it throws it wide open without an appropriate understanding of the rest of the structure.

My view is that we shouldn't flag this specifically as an item for public comment. Of course anyone is welcome to comment. Currently (unintelligible) or the functions that are required. But frankly my temptation is to leave the wording as it is. And Chuck, I see you are okay with that. So unless anyone else comments it feels to me like we're doing good work on list and are getting to a reasonable place. So I would tend to leave it as is.

And next we come to a point which actually I think I may be the origin of the language here. Bottom of Page 21, the IANA function review, the IFR should occur no less often than every five years. Now I think I'm - maybe responsible for putting that in with the objective of ensuring that it wasn't put off and therefore was absolutely no more than five years. But that's not the best language. I'm not wedded to that by any means. Sharon.

Sharon Flanagan: Thanks, Jonathan. I would then simply say the review should occur every five years full stop because otherwise we leave it open ended and then there's...

((Crosstalk))

Jonathan Robinson: Yeah and I've seen your comment to that effect and I have no objection to changing it to that and I see support for similar in the chat so I think we're good with that one. As I say at some point in a later iteration we may want to ensure that it - that that is somehow guaranteed but I think it is guaranteed by (unintelligible) language for the moment and that's fine.

Right, apologies, I think I was on mute and I thought I was commenting.
We're at top of page 22 and we have a comment on other operational communities and the question is DTN to clarify would include several liaisons to the IFR team and do we need from other operational communities or could we have something differently there, what does the design team N mean.

Paul, if you're responding to this go ahead.

Paul Kane: So I think I'm on Page 21 but I have to say I'm running on a very small machine so I apologize. It's in connection with a recommendation by a super majority of the ccNSO after escalation by the CSC, that paragraph, I'm not sure which page that is on.

Chuck Gomes: I think that's Page 22.

Avri Doria: Yeah.

Paul Kane: Oh good. Thank you for the clarification.

Avri Doria: Looks like 21 to me.

Paul Kane: It's either 21 or 22 that is the issue I'm having. One...

Avri Doria: Yeah, and that's wrong.

Paul Kane: Yes, thank you. So...

Chuck Gomes: We're all three thinking of the same thing.

Paul Kane: Okay so I'm struggling to actually read it because it's such a small screen so I'd welcome your input, colleagues. But I have a problem with that bearing in mind the significant number of ccTLDs on nothing - or have nothing to do with the ccNSO are certainly not members of it. So I welcome thoughts on it.

Jonathan Robinson: Okay so we've - the comment and suggestions in and around that point, (unintelligible) two on Page 22 and this is about the - which is the point that Sidley raised actually as well, it's the off cycle triggering of a performance review. And under what circumstances (unintelligible) in Annex F as well I guess.

Avri Doria: Yeah, this is Avri speaking. Somehow (unintelligible) on the first one first of all the other operational communities that was a deletion that should have been made because later in F based on comments from Andrew the other operational communities were - so that was a deletion that I missed doing.

But in this last sentence I thought that what I had edited into the document, and I'll have to go back and check, I'm having trouble with my computer, was of the ccNSO and the GNSO. So that doesn't answer Paul's issue but it was not supposed to be just of the ccNSO, it was supposed to be of the ccNSO and the GNSO by the CSC.

And there was not another recommended path at this point, there was just that one recommended path for the special instantiation. Thanks.

Jonathan Robinson: Thanks, Avri. And Marika, if you could, you know, if you feel in any way that this is going to be a challenge to track since we're not seeing the live edits if you feel you need clarification on what's being said at any point please do shout and in particular Avri mentioned that she had read a deletion up above that wasn't...

((Crosstalk))

Avri Doria: That was a deletion I think I forgot to make. I think I made a mistake in terms of editing the unclean version as opposed to editing the clean version so it was probably a Marika to find my edits. So I apologize for that.

Jonathan Robinson: Okay, Avri, just before I move on the queue then, which is now formed to deal with the next point, can you just clarify how that should read that up above, supporting organization and advisory committees and...

Avri Doria: Sorry forgot to unmute. So that first one would be - would be selected by supporting organization and advisory committees. Period.

Jonathan Robinson: Thank you. All right, Chuck, go ahead to deal with the next one.

Chuck Gomes: Thanks, Jonathan. And thanks, Avri, for catching my first point. As you might guess I saw just the ccNSO and was concerned. But that's already been caught. But - and, Donna, let me give you warning, I'm going to probably need your help here just to make sure my understanding is correct.

But if I understand the - and I'm talking about the next paragraph, Jonathan, so it's the one that starts out, "While the IANA function review will normally be scheduled," and it's really the second sentence that I'm concerned with.

It says, "It may also be initiated by the CSC in the event of a recommendation by the ccNSO, GNSO after escalation by the CSC." Now my understanding, and I could very well be wrong, Donna, and if you can help here that would be great. I understood, maybe incorrectly, that the CSC would turn it over to the

ccNSO and/or GNSO and then the ccNSO and GNSO would have the option of escalating it further to the independent functions review team.

But this is worded so that it looks like the ccNSO GNSO do their review and then they give it back to the CSC. I don't know how terribly significant that is but I want to make sure that I understand the process correctly and that we communicate it correctly here.

So I don't know, Jonathan, if it's okay to let Donna respond to that if she can because I think we ought to get the - this is one of the things when I did the review yesterday that I saw there were some disconnects in the escalation process in the way it actually worked so it's important that we get that straight.

Jonathan Robinson: So it feels like there's two issues to me. One is a kind of pure practical point of if it's accurately worded and the second is are we satisfied with the process which involves bringing, for example, GNSO and ccNSO in here. I know there's a very large queue but Chuck, you asked if Donna could speak to this given that she was involved here in this escalation process. So, Donna, before I go to the others in the queue I'll defer to you if you would like to respond. Go ahead.

Donna Austin: Thanks, Jonathan. Donna Austin. So, Chuck, my understanding is the same as yours so the CSC would - if their remediation process had not resulted in problems being fixed then the CSC would hand it off to the ccNSO and GNSO to decide more or less whether it goes to the - I'm thinking (PRF) but I'm not sure whether that's the right acronym. So it would be the ccNSO and GNSO that will push that up. But it would not come back to the CSC, you know, once the CSC has handed it off then it runs across but does not come back to the CSC.

Chuck Gomes: Jonathan, this is Chuck...

((Crosstalk))

Chuck Gomes: If I could just suggest something here? I think what I did in the edits I gave yesterday, they're not shown here, but I just cut and pasted the language in the problem management escalation process for this particular step. And it seemed to work in terms of covering I but I'll just throw that out as an idea.

Jonathan Robinson: Okay so that appears to resolve the sort of hierarchical or sequential escalation point that is here but what it doesn't deal with is, you know, the introduction of the ccNSO and the GNSO in here. And I know this - so I would just like one other clarifying question before we go to the queue.

Perhaps it can be asked like this: why would the CSC not simply escalate it to the review function without going via the ccNSO and GNSO? What is the added value or is that a kind of check and balance that's envisaged by the ccNSO GNSO step? So, Donna, if you could - or Chuck or someone from that DT could just indicate why that step was in place and then we can go to the queue to sort of deal with it further.

Chuck Gomes: This is Chuck. Donna, I think it's best that you answer it but so go ahead if you're willing.

Jonathan Robinson: Go ahead, Donna.

Chuck Gomes: Jonathan, this is Chuck. While we're waiting for Donna, in the call we had to try and work out the resolution on this, and hopefully Donna can jump in here shortly, it was really a concern in terms of limiting the CSC to a very narrow role as why this happened as I understood it. And I was fine with that as long

as we had a, you know, a body that would take up that. And their suggestion was the ccNSO and GNSO and if I can jump ahead to Paul's concern, the understanding was that the ccNSO and GNSO in processes like these would include members that aren't part of ICANN and so forth just like we have done on this cross community working group.

I don't know that we say that anywhere but that was the understanding that I had. And I don't know if Donna is able to speak now or not. But I'll be quiet so she can.

Jonathan Robinson: Okay so it's been clarified by a combination of Chuck's point and those in the chat that - and in fact I did - this was certainly colored on part of that remediated design team C, M and N call that there was - there was a clear drive for some time, as many of you will know, to keep the design team C to a very tight remit for a variety of reasons that we don't need to go into now.

The question is is that satisfactory to a have that ccNSO GNSO step in there given that the (unintelligible) necessary to have something between the CSC and the review function. So the queue has been patient, let's see what comments there are to try and help resolve this.

(Chris).

Chris Disspain: Thank you, Jonathan. I just - I'm fine with the changes that we've discussed, I just wanted to address Paul Kane's point. There's a couple of steps to this, the first is it's important to remember that if it's an individual ccTLD that's having a problem whether they're a member of the ccNSO or not they're going to be able to rely on service level expectations or agreements and they're going to be able to rely on all of the escalation processes to take them up to arbitration and so on.

So what we're talking about here is a - something - is a review that - out of step review, out of five year cycle review that is likely to be because there have been systemic issues. And whilst I acknowledge that the - technically speaking the ccNSO, ccNSO vote would be the members of the ccNSO historically right from the very beginning and continuing up until now ccNSO is always, A, welcome to non members, B, listened to and heard non members and, C, taken their views into account.

So whilst - unless we wanted to build a ccNSO for non members of the ccNSO it's a little difficult to see how we can do much more than we've done. But I would recommend to Paul that if he's still uncomfortable the place to have the discussion is with the leadership of the ccNSO and see if we can fashion some sort of methodology within the ccNSO to deal with that, it's not necessarily something that needs to go to this document.

Jonathan Robinson: Thanks, that's helpful, (Chris). It seemed implicit, and I don't want to take this but maybe others might comment because that you accept that additional step in there. So it's really a question of do we accept that additional step as recommended to us and compromised and carefully worked out by the different design teams and if so we accept this...

Chris Disspain: So yes I do, Jonathan, to answer your - yes I do to answer that specific question, Jonathan.

Jonathan Robinson: Thanks, (Chris). Lise.

Lise Fuhr: I was just getting back to what Paul raised regarding the non-ccNSO members because while I agree it's something that we should discuss with the ccNSO I also think it's important to state it in this document that it needs to take into

account the non-ccNSO members because we are having a lot of non-ccNSO members that are going to read this document and if we don't address it in this document or in the annex well, people will not know it's been solved and they will not know that there is taken care of non-ccNSO members. So I think it's important to put in and have it addressed. Thank you.

Jonathan Robinson: And I'll note that there is some discussion about the threshold here following with a super majority is to (unintelligible) so that's worth thinking about whether this is majority or super majority that needs to confirm this. On the other hand, while I suppose this is simply an out of band review it's not presuming any outcomes from the out of band review so perhaps contributes to think of that when thinking about any view on the threshold. And, Brenden.

Brenden Kuerbis: Thanks, Jonathan. I don't want to disrupt the flow here but I did want to raise an issue that I had submitted to the list but did not make it into this draft. It's on 3.a. And I just wanted to put a placeholder in for that, do we want to discuss that now or do you want me to hold off until (unintelligible) item?

Jonathan Robinson: Let's try and close this, Brenden, so if you could drop your hand and put it up again and then we'll close the queue I think after Paul since it feels to me like we're getting relatively close here assuming a closure. But I do need to keep us moving so, yeah, reraise your hand now, Brenden, and we'll come to that. Avri.

Avri Doria: Yeah, hi. Thanks. And I'm just going back to the original and want to point people to Page 51 though it may be 52 in Annex F. So there it said a special review may be initiated upon recommendation by super majority of both GNSO and ccNSO following escalation by CSC. Putting in that initiated was indeed an issue.

True, it is initiated by CSC but that - and that point also lists the sets that they've gone through, you know, remedial action procedures are exhausted, defined escalation procedures are exhausted, defined accountability mechanisms are exhausted. Then the decision to separate process supported by majority.

Now it was obvious that (unintelligible) did not want to take the role, at least that was what I was understanding, the role of initiating on its own. What I wasn't crystal clear on, and I don't think anybody else in F was crystal clear on, though probably Stephanie was closest, was whether they wanted to make a recommendation of that to the GNSO and ccNSO or just wanted to say we haven't been able to resolve, the problem is yours and then the GNSO and ccNSO decide what to do one of the possibilities being an IFR, IANA function review.

So that's why - there is still a little bit of ambiguity even in what I think was clearer in F having to do with is the CSC recommending to the GNSO ccNSO we need an IFR or is it just saying we tried everything we could and so it is your problem now. Thanks.

Jonathan Robinson: Okay that's a further wrinkle on the point. Let's just hear from Staffan and Paul and then try and pull it together. Staffan.

Staffan Jonson: Thank you. Well I can understand the issue of forcing non-ccNSO members into the ccNSO in this process even though I don't represent that but it is an issue and it's not an appetizing one. But as you mentioned also, Jonathan, this is a wrinkled one so maybe we just by practical reason should list these three lines out of the text right now and leave it out because the current wording will create more uproar than constructive solutions. So (unintelligible) is to take away these three lines right now at least for this proposal. Thank you.

Jonathan Robinson: Thanks, Staffan. I appreciate that suggestion. The problem is it's in here in more than one place. It's in the diagram as well and, you know, the ccNSO and GNSO is - does exist in this proposed structure so although it would seem to be an elegant thing to remove it here it's kind of explicit elsewhere as well so I don't think we can - and I don't think we can remove it so it's really a question of whether there is an additional step which there seems to be support for.

Whether that step is undertaken by the ccNSO and GNSO and if so how do we accommodate non ccNSO members. But there in mind, when you comment, and I'll come to Paul now, that this group is not doing anything other than evaluating the need for a faction to result in a review. It's not so the - that's the point. Paul, go ahead.

Paul Kane: So thank you for allowing this topic to take so much time. I don't wish to spend any much longer or much longer on it. I think it would be sensible for the Cc members of this group to take this offline and to come back with suitable wording and that would meet their concerns.

Certainly super majority is far too high for the ccNSO in any event. But one needs to address how non-ccNSO members will be able to have equal standing in this platform. But I suggest we don't spend much longer or any longer on this and I invite you via the chair for the CC members to go away, come back with appropriate wording that meets their concerns.

Jonathan Robinson: So it - the question is is there - what language do we work with now. And really it feels like we've got to work with something along the lines of while the IANA function review will normally be scheduled on a regular five year cycle it may also be initiated by the CSC through a combination - and this is

provisional language - of the GNSO, the ccNSO and other CCs included in the process, something along those lines feels like what we're saying.

Avri Doria: Yeah, I was going to recommend something similar but I was going to recommend more like a footnote on ccNSO saying, you know, an open question or a question that is currently being worked on is how to include non ccNSO ccTLDs in this issue. And as opposed to trying to word smith sentence too much. So that's what I was going to recommend so similar but just indicating it's an open issue that's being discussed.

Jonathan Robinson: Thanks, Avri. And I have noticed but then I leapt in without coming to it with the chair and it helpfully provided some language in the chat so I see your hand is up, Marika, go ahead.

Marika Konings: Yes, this is Marika. I just wanted to indeed point out because I know the chat has been going very fast and may have moved up but I think Sharon suggested some language that seems to I think cover the general point but still leaves enough room, you know, to work out some of the issues on, you know, what road or how non ccNSO members participate.

So I think it would read then, "While IANA function review will normally be scheduled based on a regular five-year cycle with other ICANN reviews a special review may also be initiated by the ccNSO and GNSO on a recommendation by the CSC."

Jonathan Robinson: Would still require some form of footnote to recognize the inclusion and Paul can work on perhaps suggesting the language to that. So this really needs a (unintelligible) of accommodating others in that process. Chuck.

Chuck Gomes: Thanks. And the one concern I have - and it's really not my concern, I think it's more of a concern of what I understood from the team and that is that I don't know that the CSC intended to make a recommendation that it be escalated. They would make a decision to escalate to the ccNSO or the GNSO or both and then the SOs would decide whether to do it. But unless I - I'm okay if the CSC wants to make a recommendation but I didn't understand that they were actually making a recommendation.

My understanding is like I just said, they were deciding to escalate it to the ccNSO and GNSO. I'm not sure that would - that would include a recommendation of any sort. But that's really an answer for those on the CSC team and not me.

Jonathan Robinson: Thanks, Chuck. And that point was - a variation on that point was made earlier so thanks for capturing that, an escalation rather than necessarily a recommended course of action. Okay I'm going to move us on because the clock is ticking fast. And so there are - I think we've worked on that point and I hope covered it satisfactorily now.

We have 3.8.2 looking for consistency of the language here. I don't know how big a deal it is. The mission of the CSC is to ensure continued satisfactory performance of the IANA function. The primary customers of the name - domain name level registry operators, top of root server operator, also direct customers. We need to make this as consistent with the charter.

Milton.

Milton Mueller: Yeah, I'm just picking up Brenden's placeholder. This would be in relation to Section 3A. I think it's confusing to people to talk about on the one hand say that ICANN is basically transferring the IANA functions operator capabilities

to PTI. And at the same time say that ICANN is continuing to operate to serve the IANA functions operator. I think if we're looking for broader public comment a lot of people will be very confused by this.

And then we need a clearer statement to read that, you know, it is indeed transferring the operations to a separate legal entity. And so I would ask for the rewording of that first bullet point along the lines Brenden suggested.

And I know that Greg is going to say the legally it's accurate but I think again, looking at this as someone who's looking at how the broader community is going to evaluate this I think it's going to be very confusing.

Jonathan Robinson: Okay so, Milton, a couple of points, I mean, there was a note from Marika in the chat responding to this that there had been some objections so it didn't appear that it was kind agreed language. But notwithstanding that, and we'll let Greg respond to it since he was apparently one of the objectors, I'd just like a clear reference of which point we're talking about, is this which bullet on which page or...

Milton Mueller: Page 17, I'm sorry about that. Page 17 Section 3.a first bullet point.

Jonathan Robinson: (Unintelligible) controlled by ICANN.

Milton Mueller: Right, I just don't understand why you don't just say ICANN is going to create a separate legal entity to serve as the IANA functions operator. I think that's much clearer description of what's going on.

Jonathan Robinson: Greg.

Greg Shatan: Thank you, Jonathan. Greg Shatan for the record. I don't think that's quite accurate in the sense that PTI is only serving as the IANA functions operator under contract from ICANN. So it's right to serve as the IANA functions operator is - or perform the duties of the IANA functions operator is really only so long as it holds that agreement.

So what's being transferred there really are the operations by which the IANA functions operator performs but the right to perform is not being transferred but to that entity but merely licensed to that entity. Not quite sure how that translates into language. And I do agree that the language is a little bit awkward.

Milton Mueller: Well I'll just jump in here. The way Greg described it sounds fine. It's - what we want to make clear is that ICANN is contracting this two separate IANA functions operator. And I agree it would be incorrect to presume that the PTI is always going to be the IANA functions operator. But I think the words that "to continue" add the IANA functions operator is clearly just (unintelligible) way of describing it.

Jonathan Robinson: Okay, I just for how we - I think it feels like one we should have - this is a lawyer's language really. It feels to me to just accurately describe what is going on. That's why and Sharon offers to suggest language. So I think this is precisely where we should get help from Sidley rather than word smith it ourselves.

So I'm going to move on and seek suggested language to accurately describe what's happening from Sidley.

Greg Shatan: Jonathan, before we leave this point, the second bullet point needs some minor word smithing but because I don't think we're referring to this elsewhere as a

service level agreement or it's being referred to in a variety of different ways.

Also I think after PTI should be the word "as."

Jonathan Robinson: Not sure I understood the point about service level agreement.

Greg Shatan: Well we're talking about establishment of a service level agreement. And I understand that term can be used a lot of different ways by a lot of different people but I think that the agreement between ICANN and PTI is more than just a service level agreement although I recognize people use the term service level agreement very loosely.

To me any agreement that somehow has service levels in it even if it covers a whole lot of other stuff. So I don't want to over-burden this but we should see - look later and see how this document is being referred to and decide whether we really think it should be characterized in this introduction as a service level agreement.

Jonathan Robinson: Agreement to include service levels...

((Crosstalk))

Greg Shatan: Just the establishment of an agreement.

Jonathan Robinson: Okay. That sounds fine. All right I'm going to keep pushing because we have - we're an hour into the call already and I think the next point is on Page 18 - oh no we're beyond that now. I think might need a nudge here or some help but we've gone past that point on 18.

Chris Disspain: Jonathan, you were in the middle of comment 12 which was Chuck's comment on Page 22 which I don't think we finished with yet.

Jonathan Robinson: Thanks, (Matthew). Just hard to...

Chris Disspain: Actually it's (Chris) but you can call me Matthew any time.

((Crosstalk))

Marika Konings: Jonathan, this is Marika. I think actually the...

((Crosstalk))

Marika Konings: Jonathan, this is Marika. I think actually that edits in this section were made by Chuck to address...

((Crosstalk))

Jonathan Robinson: Marika, could you start again please?

Marika Konings: Yeah, so this is Marika. I think in relation to the comments at the bottom of Page 22 I think the edits that were made in there were intended to address Chuck's comments, I believe so this may have already been...

((Crosstalk))

Jonathan Robinson: Great, so you would - I guess that's already dealt with. I'll let someone pull be back if it's not and I'll note that Paul's got his hand up. Paul.

Paul Kane: I was going to help him, Mr. Chairman. I believe we are now on my screen it says 3 and we're going to be moving on to discuss 3A 2B if I'm correct.

((Crosstalk))

Jonathan Robinson: That's right, Paul. And that may be something that you want to comment on.

Paul Kane: That's what I was thinking. Thank you. So we've had - if you remember in Istanbul we presented our first document which we had drafted having consulted with ICANN. It's been brought to our attention that our document is not complete in certain areas, specifically relating to those parties that prefer to interact with IANA using fax machines and telephones.

And so what we have asked as many of you are already aware is actually for an up to date current work flow diagram so we understand the current process. ICANN IANA are very kindly putting that together. We had an email from Elise yesterday advising us that they are working hard to put the portfolio of documents together and they'll get it to us as soon as possible.

No submission to my knowledge has been made to NTIA as yet to allow the document to - or portfolio to be released. But rest assured once the portfolio of documents is available I'm assuming that they will then ask NTIA for approval to release the pack and then we'll be able to conclude our work.

So my suggestion for this item is we put a placeholder in there advising the community of the state of play and picking up on your earlier point I believe that to be 2A so the matters are yet to be resolved by the design team. So it's work in progress. I hope once we have the documentation to be able to complete our document that we have presented in Istanbul but until we have the current work flow process documents we are (unintelligible).

So I'm suggesting we have a placeholder which I'm happy to draft in consultation with ICANN IANA staff and the design team group.

Jonathan Robinson: So, Paul, that's helpful. I do think we need to be quite specific here on creating that placeholder so that the common expectations are there. And it would be great if you could do that together with the group and together with IANA staff ideally on the design team list so it's transparent. And I think that's what's going on anyway. But that would be useful. Obviously that's urgent in order to get the appropriate language into the document.

Chuck.

Chuck Gomes: Thanks, Jonathan. And thanks, Paul. But depending on what's meant by a placeholder, I may have some concerns. And I said this in the edits I provided in the document where I provided the edits yesterday. This is such an important area to registries, I assume Cs and Gs, that I'm really hesitant to just leave a placeholder that doesn't say anything except that it's still being worked.

I really think that, you know, enough work's been done on this that it would be much better to put what is available now in terms of the SLEs and just highlight those where work is still being done rather than just saying it's still being done. Again, I think this is too important to miss in the public comment period.

Jonathan Robinson: Thanks, Chuck. And I see support from Martin there and (Chris). So, you know, there is a recognition that we need more than simply a work in progress type statement. This needs to make reasonable reference to the work that has been done to date also recognize that that work has not settled so the question is what exactly goes in to the document. And do we put the SLEs as currently

drafted and indicate that this is still work in progress to refine the details or some details of them.

Any suggestions to what actually go in the document other than the benign work in progress type statement? I see a comment from (Chris) in the chat that that sounds about right. So conditional on receiving other comments it sounds to me like we may reference the fact that significant work has been done to date on service level expectations. These are not yet agreed between the parties.

But the proposed service level expectations are listed as they have been. And perhaps also an opportunity to flag any that are the source of particular concern to IANA staff or to, you know, something where there's significant discussion.

Yeah and Chuck suggests in the chat something perhaps for which could the SLEs as drafted and note the areas which are still work in progress. Paul, if you could lower your hand if you don't have an additional point to make and then I'll go to (Chris).

Chris Disspain: Thank you, Jonathan. Just want to be - I'm not sure at what level we're at with any - in the document itself which I presume the SLEs - I presume to be an annex with any pushback we may have had from IANA staff saying that won't work or this won't work.

So I think it's important that we do make sure that what we publish does have some comment on it even if it's just a, you know, a note that says still in discussion with IANA staff on the individual points where we've had pushback because I don't want to give people the impression that, you know, all of this is in principle agreed. It would be unfair I think on everybody

concerned if, you know, after the public comment or during the public comment we, you know, IANA says well you know we can't do that and here's why.

So my understanding is that they have made some comments, I don't know if they're official or not on some of the things that have been said in the SLEs and therefore we should make sure that not necessarily the detail of those is noted but the fact that they have made comment is noted. Thanks.

Jonathan Robinson: Yes so that's consistent with highlighting those that are of the subject of particular discussion or, you know ongoing discussion. Do the drafters feel like they've got enough to work with on this point?

Man: We certainly hear but you want this by tomorrow don't you? I'm in Italy.

Jonathan Robinson: I'm really asking Marika and (Grace) if they feel like they've - and ICANN staff in general who are working on drafting this if they feel they've got sufficient information to capture A that there has been a substantial amount of work done to date, B that there is a table of SLEs in place and C that not all of these are agreed. And ideally that we're able to highlight where there's particular concerns. Marika.

Marika Konings: Yes this is Marika. I'm not really sure if we're going to be able, you know, for the fly in because I know those are ongoing conversations.

So I'm not really sure if we would be in a position to, you know, flag what is still open, what is not agreed what is agreed.

So I'm a little bit hesitant to commit to be able to do that as it seems that we're not completely clear on where it sits and where there is agreement or where there isn't.

Jonathan Robinson: So that seems to be the challenge is highlighting where in that document there is no - there is substantial discussion going on or potential lack of agreement. Chris?

Chris Disspain: Yes Jonathan maybe just in that case and I appreciate the difficulty maybe in that case an overarching statement that says, you know, these service levels have been suggested by design team whatever and are apparently in discussion, you know, currently discussions taking place with IANA.

And we are sending them out for public comment, you know, for comment but they shouldn't be taken as necessarily feasible, something like that. I'd be happy with something like that.

But just makes it clear to people that, you know, there are issues here that the need to be dealt with even if we can't be specific about what they are.

Jonathan Robinson: I think that may be where we're at is recording that the design team has suggested these that are subject of ongoing discussion. And we would expect them to be finalized in a final proposal.

Alan I note your point in the chat that we have another call conflicting call coming up 49 minutes from now.

And so we'll work as hard as we can. And we'll have to pick up to deal with open items in a follow on meeting if necessary.

(Unintelligible) the document looking for other substantial comments. And here we flag under 3A 2-D which is Page 24 of the separation mechanism.

I propose we don't go into this now but we deal with this under - with the Annex L which is what this is really referring to.

A comment on page - bear with me 25. It's just that it works on 25 if help is needed here. Bullet 6 looks for once develop the full transition to success IANA operator plan should be reviewed every - and it's a question of by whom.

Well I would think that that's - and they could be a DSD option but - and potentially work. So that's an interesting one.

I'm not sure who that should be reviewed by. It's a good point CSC I see a suggestion from (Chris) had a hand up from (Matthew). It feels like a CSC function.

Matthew Shears: Jonathan it's (Matt) here. Just to say that we did not specify who it should be reviewed when working a design team because we weren't quite sure how it was going to be forming up.

But the one thing -- so we obviously do need to address this -- but the one thing to bear in mind is that this particular issue also needs to be seen in the context of business continuity.

So it's not only an issue for a particular community to review but also an issue for the operator itself to review on a regular basis.

Jonathan Robinson: That's a really good point. So it's CSC in conjunction with IANA staff?
Alan.

Alan Greenberg: Yes. I would've actually said just the reverse. It's IANA staff in conjunction with the CSC or with the community. I think it's a business continuity issue for all intents and purposes. That makes it a staff function.

Jonathan Robinson: Yes. I have no objection to that. I don't know if anyone else does. I'm sure I'll hear if you do. We're at the bottom of Page 25. I'm not sure I understand this comment from...

Alan Greenberg: Yes it's Alan. That comment actually belongs -Section 4 later on. It was misplaced.

Jonathan Robinson: Thank you Alan. I'll pass it over it then. And then we go to Page 27. We have Point D ETI must support IANA's capability to investigate, develop and deploy backup root zone (unintelligible) required.

A comment from (Mark) not clear who is funding who? This is a detailed budget point. I just I'm not sure how important this is at this stage. Martin this is your comment here. I mean would you like to come in and...

Alan Greenberg: It's Alan. Could I speak please?

Jonathan Robinson: Please do Alan. Sorry I didn't realize it wasn't an old hand. Go ahead
Alan.

Alan Greenberg: Yes. I responded to all these comments in email. Marika missed it unfortunately. Didn't see it till after this was done but I can - on it.

In this case Martin it may not - who Martin assumes is funding is correct but that's irrelevant. The statement that the design team has made was funding must be allowed.

If in some future world the funding comes from somewhere else other than ICANN it's still a true statement.

Jonathan Robinson: Okay (Greg).

Greg Shatan: I think Alan took most of what is going to say. I think we do probably should be dealing with the budget item at least presently now.

I think that maybe subsumed in the contracted ICANN will fund will be funding the PTI in a short run unless we think that agreements with other communities are somehow going to fund it which I doubt.

So I assume that there needs to be some reference. And I'm not sure that there isn't too ICANN committing to fund to appropriate levels.

But I agree with Alan that this point needs to be generic because it needs to not just be tied to ICANN in its current role. Thanks.

Alan Greenberg: Yes Jonathan it's Alan. The reason it was raised is it's easy to get caught up in looking at the annual budgets.

And when the next DNSSEC comes along or something like that which could be - could result in a very significant expenditure in studying and development there needs to be provision for it even if it's something that only happens once every six years and is off the radar in the annual budgeting. And that was the reason that the comment was inserted here as a critical issue of transition.

Jonathan Robinson: So this is a provision for appropriate levels of R&D funding is the essence of what this is talking about.

Alan Greenberg: That's correct.

Jonathan Robinson: That's a question of how - is it necessary to capture that further in the proposal or isn't it just satisfactory to say that there is an expectation that funding will go beyond operational funding and cover necessary R&D funding.

Alan Greenberg: Yes. It certainly one can certainly reword it. But in the absence of big brother, you know, coming down from on top and saying we need to do something about it. And ICANN you better get your act together and fund it we felt this needed to be said somewhere.

It's not clear. It doesn't need to be said in this paragraph. But it needs to be said somewhere and captured in the document for the corporate history.

Jonathan Robinson: Okay. So let's make a note of that, that there needs to be a recognition explicit recognition of appropriate levels of R&D funding in addition to operational funding.

That makes the point that that's really to cover a new (unintelligible) of technologies. I kind of meant that by an overarching umbrella for R&D funding but that may be further detailed as well.

So on to four which is the issues around the principal regarding a single entity on this. Alan that's a new hand.

Alan Greenberg: Yes it is.

Jonathan Robinson: (Unintelligible) remove your hand.

Alan Greenberg: I did - in light of the various comments that were made I did propose some new wording. And I could paste it into the chat or maybe Marika can from the email I sent out.

However at the time this paragraph was originally created there was some disagreement in the design team about exactly what it should say and why we were saying it.

Post this being sent to Marika for inclusion in the document there's been a lot of discussion. And it became clear that the positions are quite widely far apart.

And my preference at this point would be to delete number four altogether. I didn't feel it was my prerogative as chairing the design team to simply unilaterally make that decision.

So I am - I have provided revised wording which tries to clarify the situation and still asks the community the question.

But if we were this far divided prior to actually submitting the document I don't think it would have been there at all.

So I'm - I guess I'm asking for the wisdom of the overall group. D we include the revised wording which I can paste in the chat or do we eliminate it altogether?

Jonathan Robinson: Why don't I take that as a proposal? I hope I'm reading that correctly to delete Item 4. Chuck?

Chuck Gomes: Thanks Jonathan and thanks Alan. Should we ask the community to comment on that issue though? I don't have any problem with deleting the language because I think Alan's right that we - go ahead.

Alan Greenberg: I wonder - yes Chuck one of the problems is that are - there are so many different views on exactly what we're asking the community.

And I'll - I'm not sure how well this is going to come out because things tend to get run together. Now this is a title and two paragraphs. And you can't see the difference here.

But what I've done is I've changed the title to control of root control of root zone control that's obviously redundant at this point.

Root control of root zone management is what it should say. And I've defined it so people who don't know exactly how IANA operates it's a little bit clearer.

The problem we have right now is there are people who say that yes perhaps we need a division of power but it shouldn't be this division. It should be something different.

Other people as I think Andrew Sullivan commented that nothing we do here is really cast in stone in saying it's a principal.

In the future it could be reevaluated and a decision made differently. So what is the point of having a principal at this point where the details of the principle are vague and it could be changed anyway? And I'll put my hand down now.

Jonathan Robinson: Thanks Alan. (Chris)?

Chris Disspain: Yes Jonathan I'm just wondering if there's anything wrong with that clearly there's a lot more discussion to be had on this.

I'm not sure that putting just a series of several different reviews out in this document is helpful but I hope it might be.

But I wonder whether in principle there's anything wrong with us continuing to work on something and putting out at a later stage, you know, an addition, an addendum, a separate piece that actually, you know, shows the results of the continuing discussions on matters yet to be resolved in this group? I just suggest that it might be helpful (unintelligible).

Jonathan Robinson: That's - that is both helpful and in a sense unhelpful. Let me explain what I mean by that. I think it's we have to recognize that there are elements of this proposal that are not finally honed.

Therefore not everything can make it into the public comment in such finely honed form. What we have to be careful of is that there aren't material aspects that are left out such that people could then say well you - it's such a material modification that this absolutely needs to go for a further public comment.

Our intention here is to not have to do that now. How we handle something like this - the way we could handle this perhaps is to say the design team did not reach an agreement regarding the issue of a single entity or not.

And with the subject of some discussion this will be the subject of further work and further discussion. And encourage participation in that discussion along those lines.

Man: Yes.

Jonathan Robinson: It's challenging though (unintelligible).

Chris Disspain: I'm leaning towards - thank you Jonathan. This is (Chris). I just finish off I'm leaning towards what's being said in the chat room right now which is I think (Greg)'s put it pretty well is this a future issue it's not a transition issue per se? And I think we - I think we should on that basis we can take it out. And that's just my view.

Jonathan Robinson: Take that as a proposal. It was in a sense a proposal from Alan as well or at least a possibility. Are there any objections to that? Alan.

Alan Greenberg: Yes no objection. Just to be clear the design team was exceedingly unanimous in that we are not proposing anything to be done right now.

And I dare say should sometime in the future we contemplate changing the relationship between IANA and the root zone maintainer either eliminating them, combining them, changing responsibilities that's going to be subject to a significant amount of community discussion.

So I, you know, this is not a transition issue. This is attempting to protect something in the future. And if any time in the future it needs protecting I don't think it's going to be something that's slipped under the rug. So I support...

Jonathan Robinson: That's a really good point Alan.

Alan Greenberg: ...eliminating it.

Jonathan Robinson: Okay. So you support eliminating it. Don't forget all the other opportunities there are for review and escalation that are coming down the pipe so to speak. Martin.

Martin Boyle: Thanks Jonathan. I think I got lost somewhere but it sounded to me like the proposal is to remove entirely the paragraph four.

And I think that would actually give me some cause for concern. I think that we should maintain it at the point of transition which is what this report is about.

So we would then say in the one, two, three, the third line the CWG stewardship recommends that these two functions should remain separate subject to further study.

So in other words we're actually throwing it into a task that is done after transition but that for the period of transition we are actually keeping the two functions separate rather than actually addressing it now.

It just seems to me that as soon as we remove that then we're not saying anything about it at all. And therefore we might well then just forget later on and start going down drafting producing something different. Thanks.

Jonathan Robinson: In a sense you've got a proposal to slightly modify it and have no change at the point of transition subject to future review as appropriate. So if you could comment on that Milton.

Milton Mueller: Yes. The problem here is that there is an element of the transition here it's just one that we're not in control of the NTIA is in control of it.

And I don't see the problem with granted we all agree that it's separate now but once the - changes its role with VeriSign in a cooperative agreement the two things could in principle be merged.

For example we've already heard some CEO of ICANN that he has been talking to VeriSign about the potential contractual relationship between the two in the future.

Now if we don't have a principal in there that says they should be separate what would prevent ICANN from contracting with either VeriSign or taking over the function itself immediately post transition if it felt like doing that.

So I sort of agree with maybe a modified a little bit stronger version of what Martin just said which is that we should positively state that we're not changing that and perhaps also that it shouldn't be changed without some kind of a consideration of the reasons why we might want it to (unintelligible).

Jonathan Robinson: Okay I'm very mindful of time. And we've got a proposal from Martin slightly modified by Milton. The question is, is that I'm...

Alan Greenberg: Jonathan.

Jonathan Robinson: Alan, go ahead.

Alan Greenberg: Yes. I basically support what we're talking about. And I can provide a redress that essentially says there is nothing contemplated right now by the CWG.

Should there ever be a change it should be - it should be subject to widespread community consultation.

As Milton points out we have no control over the process. Should NTIA in its wisdom simply say we're canceling the cooperative agreement and given the responsibility to ICANN.

We don't really have - and I'm not proposing - I'm not suggesting that's going to happen. But should they do that we don't really have full control over it. All we can say is what the CWG is recommending.

And I think I can capture readily what both Milton and Martin have said. I'll send it to the list shortly after the accounting meeting today.

Jonathan Robinson: Yes. Thank you very much. Yes and Chuck suggests in the interest of time well Chuck let me tell you and others where I think we are.

We're on Page 27 obviously moving on to 28 which is almost done as far as Section 3 is concerned. So we're close to getting through Section 3.

In my mind what we then have to deal with is Design Team L. And then spend some time on the public comment. So it's not doable in the time permitted but its past.

Marika did I say something other than an Annex L? I said Design Team L probably intentionally go to Annex L.

So are there any comments or concerns of substance on Page 28 that anyone would like to raise? And then Chuck points out that we need to focus on F. Is that Annex F Chuck or...

Chuck Gomes: Yes Annex F.

Jonathan Robinson: Thanks. So Annex F and L are where we will hold next. Alan.

Alan Greenberg: Sorry that was an old hand.

Jonathan Robinson: A comment that needs to be dealt with on Page 28. So move us then to F. What page is F? Can I get a suggestion for page F?

Chuck Gomes: The pages I had comments on were 46 and 47.

Jonathan Robinson: Let's go to 46 then. Chuck go ahead and talk to us about 46 and 47.

Chuck Gomes: I'm sorry, you know, the page numbers I gave you were not correct because I was looking at a version I was using yesterday.

So I think - here we go it goes down starts on what looks like Page 47. So I s wasn't far off. Let me just share and really...

Jonathan Robinson: Okay.

Chuck Gomes: ...this is Chuck speaking.

This may be a question for Avri because I know they've done some more recent work on this. And I just had time to just kind of review it very quickly this morning for me.

So my concern and the - communicated yesterday in the edits I put forward was is I'm not sure that this section adequately covers the systemic problem function that could occur with regard to the reviews and the special reviews in particular.

The section this section in my opinion does a really good job of covering periodic reviews. I'm not sure whether or not we may need to address special reviews a little bit more.

I don't know. I'm throwing that out. But the bigger question in my mind is -- and this is really a question for Avri -- and she - they may have already fixed it in the latest work they did and that's fine if that's happened.

But obviously the escalation process the problem management escalation process in Annex J the very last thing talks about systemic problems and throws it over to the IANA review function for that.

So my question Avri to you -- sorry to put you on the spot -- but do you think that's adequately covered in Annex F or do we need to add something at least a little bit more than what we have right now?

Jonathan Robinson: Thanks Chuck. Go ahead Avri.

Avri Doria: Yes. This is Avri speaking. I think in one sense I think this is covered in that - I'm echoing -- in what the IANA function (unintelligible) are keep they change so often I have trouble remembering them.

The IFR does is goes through all the reports through everything it's gotten from CSC. The CSC reports which assumes that it would include anything that was systemic. It looks at all of that. It looks at comments.

It's, you know, the goals of the group is it evaluates performance and any related it evaluates respect to responsibilities.

It considers and assesses any changes since the last, It identifies areas for improvement of the performance and associated mechanisms.

So but I said yes and no. So I think it's in there. I think it would be brought in. It is not stated explicitly.

So since you don't see it there and you don't feel it there it's probably worth adding a bullet that makes it explicit.

I think it gets there because it - the description is fairly explicit about gathering information from everywhere including the CSC, its reports, and all the interim year's reports that may or may not have come out.

That the recommendations that may have been made to the PTI about things they need to improve and what's been done. So it's an omnibus review which would include that but it isn't specific. Thanks.

Chuck Gomes: Jonathan, Chuck again. Thanks Avri that's helpful. I think that would be helpful. A couple other comments I put in my red line yesterday but I wonder if you - if the special review should be added to the table. Obviously it doesn't have a specific frequency.

But and whether anything else with regard to composition is the composition the same as a periodic review or is it site specific?

I don't think we need a lot of detail. I just think we need the connection between the escalation process and where that role for the IANA Review Team comes in with regard to the escalation process and this particular section. Thanks.

Jonathan Robinson: So Avri would you care to respond or are you happy to perhaps just provide some - it sounds like these are relatively noncontroversial points. It's getting those points to a little bit more explicit than they currently are but - yes go ahead.

Avri Doria: Okay. Okay we may need to be more specific about one of the decisions the IFR can make is to recommend the (unintelligible). But I think that's in there.

In the table the tables been made specific so that in the frequency column it now says can also be triggered by the ICANN community.

So it didn't get into the specific measures in that table slot. Those are discussed elsewhere. But basically - and at the moment the way the L is set up it's only the only trigger that's there at the moment is the IFR, you know, recommending it for the special.

I - there - in the discussions that came out while there were lots of ideas and some ideas were discussed in DTN about other mechanisms really - that seemed easy was that it was initiated.

Now in terms of making them different our notion had been no to keep it the same. That it used - that everything was the same except for how it got

triggered that it wasn't triggered by calendar it was triggered by, you know, at the moment the CSC, you know, having sent an issue to the SOs and naming SOs decided that there should be an IFR. Thanks.

Jonathan Robinson: So as you described it Avri, that's consistent with my understanding that there is one, that we didn't restrict the scope of what the review teams might recommend; two, that a special review could be triggered outside of the timing. And currently we have only the one mechanism.

But that could be something we ask for public comment on if there are any other basis on which or mechanism by which a special review might be initiated.

We have the capability of a special review, and if the special review mimics or mirrors that opaque (sic) periodic review, then the question is how might that be the mechanism by which that might be initiated and what are the thresholds for that. That's something we could potentially seek input in as part of the comment.

Avri?

Avri Doria: This is Avri. If I can add something it's that I think it's necessary that we have at least one trigger. And one of the concerns I had is that everything must have one trigger and everything must have at least one recipient. And if we don't have that, then we have a problem in our system design.

But having put in at least one, since - it's a very large discussion as to what other triggers might be acceptable for people. I think waiting for comment on, you know, this should be triggered by this or that or the other thing, it's a very

wide field of possible triggers. I think we wanted to make sure that there's at least one. Thanks.

Jonathan Robinson: I understand, otherwise you have an open loop problem.

All right, let me push us on. I'm very mindful we have 20 minutes to go. We have to try and cover off probably around - we have to try and cover off Design Team - sorry, Annex L and also the structure of the Public Comment. So that's a lot in a short space of time.

Can someone point me to the page for Annex L?

Avri Doria: Fifty-one or fifty-two, or not? No, no, sorry.

Woman: Sixty-nine or seventy.

Avri Doria: Yes, 69/70; right.

Jonathan Robinson: All right so we're moving to 69/70. All right 70 really, it starts at the top of 70 at this stage in this version.

What - I'm going to need some help here. What - we've touched on this in previous discussions.

Sharon, go ahead.

Sharon Flanagan: I have one overarching question which is this seems to contemplate there are lots of different ways to trigger a separation. Remember we talked about there's the who, there's the what and then there's the how. And this addresses in a very general way what, and maybe in some cases who.

My overarching question though is is the separation mechanism or should the Separation Mechanism always be preceded by a Review Function? So the first step is a special review to say what is going on, what needs to happen, how we can we fix it.

And then one of the outputs of that review function could be we recommend a separation. And then that goes up to the ICANN Board and then ultimately up to the multistakeholder community.

So my question for the group is should we think about or should you think about separation as always a step after the Review Function and a recommendation of the Review Function?

Jonathan Robinson: Let me let Avri answer without stepping in. Go ahead Avri; (unintelligible).

Avri Doria: Yes, this is Avri speaking. Indeed that is the approach that was taken is that there had to be an IFR to recommend it. That basically the separation - it's kind of like a two-part trial where one, you decide, you know, what is the case, and the second part you decide what you do about it.

So the review is doing a review. If it's a special review or a regular - if it's a special review then perhaps it's more likely to end up in ISR but not necessarily.

But yes, (unintelligible) to it is certainly the recommendation that's on the table at the moment. And that's why the stuff that has been in there before about the CSC escalation to the IFR, first of all that seems terribly inappropriate given, you know, that the CSC's perspective of how far it took

things. So it didn't even quite take things to the IFR let alone to a separation mechanism.

And so basically between the two that we have at the moment is that the IFRs are the regular or CSC after escalation fails, plus GNSO, ccNSO, takes it to IFR. IFR has the ability to recommend the activation of the Separation Mechanism and kept it fairly simple and linear. Thanks.

Jonathan Robinson: Avri, I'll note that there were a couple of comments for that kind of format.

Sharon Flanagan: Thanks Jonathan. I think that's a very important distinction to make in the proposal because I would assume that separation, that is a major, major step and that people will want to understand what happens before separation if it ever does happen.

So I think we should be explicit in this document that first, it's a review process either special or periodic, and then coming out of that review process, potentially a recommendation for separation. And then the separation would occur. I think that's very important to be clear about in Annex L.

The second point I wanted to raise is it appears from this document that there is potentially a new step that would be the approval of the supporting organizations. So that potentially there is the review, whether a periodic or special review, and then a recommendation could come out of that review function to do a separation.

And then it appears, at least from this document, there is some additional approval from the supporting organizations before that recommendation would get put up to the ICANN Board.

So let me pause there for people to comment whether that additional step of going up to the SOs was intended.

Jonathan Robinson: Avri, go ahead.

Avri Doria: I do not believe it was intentional, certainly in the CSC escalation to the SOs it was intentional to get to IFR.

The IFR, which is a review that is AOC like, is something that has been reviewed throughout the process, and the communities are part of it. But it goes to the Board like any other AOC-like review.

And I do not believe that any mechanism was put in for the L other than it behaves like, you know, a normal function where it goes to the Board.

But you're right in that L has not gotten specific into how it functions, how it operates, how it does open reviews. And it took a very blind stab at filling it by just saying, you know, a quick stake in the ground of five people from every AC/SO, which I'm sure is something that ultimately will not be acceptable to some.

You're right in terms of how L works is still very unspecified. It's just that it is there as a mechanism, but it's internal has not been specified yet.

Jonathan Robinson: So it seems almost dangerous to have something that is poorly specified than (unintelligible) at all. And I'm just wondering, let me see what others have got to say here because this is - I mean adding another step in the concern.

(Chris), go ahead.

Chris Disspain: Thanks Jonathan. Look, I'm very comfortable having the mechanisms triggered to a Review Team and having the Review Team do a review and make a recommendation that there should be separation of the function.

But I'm not comfortable having a Review Team making a recommend - sorry, making the decision. I think the Review Team needs to make the recommendation to someone, and that someone is the community. And the community is represented by the SOs and ACs, and it's they who should vote on the recommendation. And then once that happens, the Board acts.

So I'm very much in favor of that additional step. Thanks.

Jonathan Robinson: So that's one option, and a variation is that the Review Team simply makes the recommendation to the Board. It never makes the decision; it either makes the recommendation by the community that (unintelligible) Board or directly to the Board. And then somehow...

Chris Disspain: But Jonathan, how would they make - if they make the recommendation to the Board, isn't this supposed to be binding on the Board? Isn't the idea that the Board is bound to make the separation? Making a recommendation to the Board is not forcing the Board, it's making a recommendation.

Whereas if the SOs and ACs resume (sic) to the bylaws, make - don't make a recommendation; make the decision. The Board is bound to follow it.

Jonathan Robinson: I won't intervene. I'll hear from Sharon who has had her hand up and then Avri and then (Unintelligible).

Sharon Flanagan: Yes, this is Sharon. So (Chris), from the governance standpoint, I think it still would be a recommendation.

So I think if it goes back to the SOs and ACs, then they would make a recommendation to the Board because it's still ultimately the Board's decision. But then that decision would go up to the stakeholder community in the way the ccWG is exploring as to whether it's a reconsideration right or whether it's an actual ability to veto. So I think maybe that's a little more semantic.

But let me ask one clarification then. If there's agreement, and I don't know that there is, but if there's agreement that there should be a step between the Review Function and the ICANN Board, and that that step is the SOs and the ACs, is that a review by those organizations of all recommendations of the Review Function, or only the extreme recommendation of separation?

((Crosstalk))

Chris Disspain: Just to answer your question and then I'll shut up. It would have to be - sorry Jonathan; you go ahead. I apologize.

Jonathan Robinson: Yes, thanks. I'd quite like to give a perspective here is because the question I'd like to understand is if we in our position where we think that the Review Function could make a recommendation and/or SOs and ACs can make a recommendation, then in any event it ends up with the Board, I question the need for the SOs and ACs to have that step in between given the nature of the multistakeholder nature of the Review Function.

And then, as Sharon intimated a moment ago, if the Board (unintelligible) in the community's view in some way unsatisfactorily on whatever the

recommendations of the Review Team, the multistakeholder community is empowered to intervene at that point.

So I just think it feels a little clumsy. That's what I would question of that additional step.

Avri, and then (Chris) bring your hand up if you'd like to add something.

Avri Doria: Yes Jonathan, I think you've actually (unintelligible) is remembering that these are ICANN actions and ICANN actions.

Now in terms of as if (sic) it was definitive, it's a review that's had multistakeholder comment and participation in the review committee. And as with all review committees, at the end of the day it sends it to the Board, the Board does its public comment, and then there's all the escalation mechanisms for what a Board doesn't do, what's been recommended by an AOC-like review team.

So that all falls into the ccWG's work on how the Board and the Accountability Mechanisms work. And (unintelligible) mechanisms, the IFR is one of those review mechanisms and has that same Board mechanism.

Now in terms of L, which at the moment can only be initiated by a review of the IFR that has been through the Board and its processes, if what is (unintelligible) is L is the separation mechanism and the Board doesn't accept that, then you're into those Accountability escalation mechanisms that ccWG will be recommending.

(Unintelligible) for L itself, and that's where it was in terms of describing how it worked, it was described that it would work according to the general

mechanisms used for cross-community working group like this one, like the ccWG.

And so that in essence I can see why Sharon is seeing an explicit in here that's to the chartering organizations from that normal ICANN manner.

Now who is chartering? If it's being chartered by the Board, its recommendations go directly to the Board. If it's being chartered by the SOs, which I don't think is the case, then it would go to the SOs.

So putting this into sort of normal ICANN functional basket, this would be possibly (sic) working group as chartered by the Board because the review (unintelligible).

And so I'm not sure (unintelligible) go the SOs/ACs, but (unintelligible) I see no problem in putting in that extra step, but I don't think that it's necessary.

Jonathan Robinson: Avri, just a quick comment on that. I mean one point, that sounds complicated. Two, there's just some practical issues that - I mean we'd be tight for time. But if you do come in again, your sound is coming in and out and it sounds like there's background noise so it makes it more (unintelligible) challenging to hear.

Chris Disspain: Jonathan, you're cutting out.

Jonathan Robinson: (Chris), go ahead.

Chris Disspain: Thanks Jonathan; I'll be quick.

I'm fine with that if that's the way we want to go. I had thought that the separation of the function was lifted up to the level of something that we wanted to bind the Board to do, and that we would do that separately from as sort of an IANA-based nuclear option for want of a better term. And we would be able to do that without having to go through a Board's spill mechanism and then have the new Board separate the function.

So in my head, I had seen that as a separate track because it was very IANA specific and as a result of the review recommendation would be made and so on. I'm fine just to stick with what Avri's got. I'm just making the point that that was my thinking and that's why I said what I said.

And I just wanted to very quickly or so acknowledge that when we said ccNSO and GNSO we do need to remember that they are external parties that will need to be - to the C's and the G's that will need to be included. Thanks Jonathan.

Jonathan Robinson: I must say I don't feel comfortable I can capture this. I guess I feel that we've got a lot of it sorted out. I'm just wondering if we could get some help from Sidley to try and capture this mechanism; I'm not sure how else we do this.

I'm very conscience of time and we need to go on to Item 4, but I just wonder how clear we are on this mechanism.

Sharon?

Sharon Flanagan: Thanks Jonathan. If there's agreement that there is a need for this interim step to go to the SOs and ACs, we can propose some language to insert in Annex L that would address that.

It does sound like there's agreement that this is only after a review function has occurred whether it's a periodic review function or a special review function, so that's the first step.

Then potentially the second step of going to the SOs and the ACs, and then in any case, the third step, which is going to the ICANN Board.

Now just for purposes of completeness for the group as to what the binding effect of the community vote or veto or approval on that is, that will very much depend on the work of the ccWG and whether or not ICANN is constituted as a member organization or a designator organization.

And if it's a member organization, then powers can be reserved to members. And so there could be this type of a veto right.

If however it remains as a designator organization, then all that could be instituted we would be some kind of reconsideration right. But ultimately, the power is in the ability of the designators to recall the Board. So that really does depend on the ultimately outcome at ccWG.

But for purposes of the proposal, we can certainly suggest some language to add to Annex L that would address these steps and the fact that there is this potentially interim step at the SO/AC level.

Jonathan Robinson: All right, I have two practical points then Sharon. I think all of that is helpful and I think it's clear the point you made, and we ultimately would depend on (unintelligible).

I would like to suggest that that step is somehow crafted, the SO/AC step, is somehow included, that craft (sic) is perhaps an optional step or something for consideration as to its necessity.

So I think we can have it in there, but we should probably discuss further, and we it may even be something we want public comment on the necessity of that step. Because it feels to me like potentially a step too far, and I just don't mind to really tee it out and deal with it now.

So that's a very helpful suggestion and that feels like a way we could work at this point.

We hit the top of the hour. There's a ccWG call now and I think we could probably switch - we could probably spend a very short time talking about the structure of the public comment which I think we absolutely need to do to give this group an up-to-date and have any feedback on that. So I would quite like to switch to that and have a moment where we consider that.

Lise is gone to present some input to the ccWG. But if you could bear with us I think five or ten minutes on public comment and public comment structure, it could be very useful.

So here is a very rough draft of what the format. And we are expecting to manage the public comment by virtue of a format rather than having a free-form public comment, we intend to produce a public comment form and format that mimics the (unintelligible). There is an opportunity for comment on all aspects of the document, but the comments are very much directed by the form.

The question is (unintelligible) mandate, that that is the only basis on which comments, should we expect that. And that the public comment is put in this pre-formatted way, or do we accept free-form public comments?

Let me tell you what the dynamic is. The challenge here with having is that we put a very tight time to process the public comment after we receive them. And in order to then turn around a final iteration of the proposal ahead of the Buenos Aires meeting.

So the more we open up for free-form public comment, the more different that will be to do so. It doesn't restrict areas you can comment on.

So Avri says in the Chat that we could put out the form but we have to accept free-form comment.

Can I have any other feedback or direction on what other members or participants feel about how firm we are on structuring a public comment bearing in mind that the drive to do this is not to restrict public comment but to structure the input.

Chuck, go ahead.

Chuck Gomes: Yes, thanks Jonathan. I think there's another key reason for structuring it besides the fact that it makes analysis and review and response afterwards much much easier, and that's a big reason especially considering the short time we will have.

But also it directs people to really provide feedback on what we need feedback on especially. So I just want to bring that up.

Now with regard to the template that's on the screen, I would suggest providing a little bit more than just the section number; maybe the title of the section or something like that. So just I think a minor suggestion. Thanks.

Jonathan Robinson: Chuck, I'm not sure if in making the comment you had paged down. I mean this is not just a single page that one can page through and see those highlights of the particular section.

Chuck Gomes: Well regardless Jonathan - this is Chuck - if you look at Question 5, it just says Section 1A. Okay, I'm just saying put at least the title of Section 1A there as a little bit of context there. But I had not paged down.

Jonathan Robinson: Yes, okay. So this is a very rough draft, and Marika, I suspect you'll say that. Go ahead.

Marika Konings: Yes this is Marika. So basically, we kept it very general as the document was still in flux and didn't really want to recreate work for ourselves with headings changing, so we can definitely do that.

So indeed the ideas is - and you know, it's too short of a timeframe to, you know, go into more detail or questions. That would probably, you know, require as well working group conversation.

Our proposal is to keep it, you know, very general, very high-level, basically saying, you know, "Section 1A, do you have any specific comments or input you would like to provide? Yes or no? And if yes, here is the box where you can hopefully provide input."

But of course as well at the end of the document have a clear section that says, you know, "Any other comments that you would like to share?" You could

even include a kind of general comment that says something like, you know, “Are you in support of the general direction the report has taken taking into account the comments you have provided?” If we do want to get a sense of, you know, agreement or support for the proposal or not.

But hopefully, that will provide enough room for, you know, those that want to go section by section as well as those that want to provide more general comments as we will of course leave space for that as well.

Jonathan Robinson: Yes, so I think just to answer and comment on some of the points. This isn't database driven; this is a mechanism of structuring where the comments comes in terms of linking to the proposal. But it doesn't seek to restrict what parts of the proposal or indeed whether the comment can be made on the proposal as a whole.

So you'll see in the Chat that in addition to the use of this form and structuring the way in which the input is captured, it's (unintelligible) that there'll be both the chairs forward commenting and leading into the whole document, that there will be an updated and developed version of the explained handout from Istanbul, and that as we've discussed on many occasions, the substance of the document will be pushed into the annexes of significant substance -- not the substance, significant substance -- will be pushed into the annexes so that this can be readily compared and set alongside as a community proposal.

We have put in the agenda that this will (sic) under 3C, we've looked at the role of the CWG members. That was really a placeholder to make a remark that we would be leaning on and expecting contributions from CWG members to ensure that their groups were aware of the comments, were aware of the comment period, were aware of the timeframe, and in particular were aware of the overall time scale that the group was working to and that the members

who have responsibility very seriously of engaging their groups with this and assisting them to respond.

Again there is a comment in the Annex - in the Chat from Andrew noting that the form doesn't permit the comment on the Annexes. Again, I think this is a sketch rather than the form. This is intended to give you a flavor for what was coming; it was put together in very short order to try and have an illustrative document not to be complete.

I think we'll publish the timeline to the list which includes webinars, communications, timeframe for public comment, and the entire run-up to Buenos Aires.

So I realize we've run through a long document and quite some speed; pushed this group very hard at numerous points including this one. We hit AOB on the agenda.

Are there any other comments or overarching points that anyone would like to make at this point? I'll note there is some chat running on about the nature of the form of the public comments.

All right, we'll recognizing that we've run about ten minutes past the hour, I think I'm going to have to suggest we call this to a halt now. We're going to work hard over the next 24 hours or so to bring this document into a final form including leading on Staff very heavily and some help from Sidley. And no doubt some of the other discussions will run, and our work isn't done at this point by any means.

Let me just check if there's anything else anyone would like to say at this point.

Okay, well thank you for your attendance and contribution here again. We'll push on with careful systems of Staff to produce another version of the draft and hopefully capture a significant amount of what's been discussed here and pick things up on the list over the next 24 hours or so as we work towards the deadline.

Thanks again everyone.

END