

ICANN

Moderator: Brenda Brewer
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Thomas Rickert: Good morning, good afternoon, good evening everyone. My name is Thomas Rickert and I'm one of the co-chairs of the Cross Community on Enhancing ICANN's Accountability.

Welcome to this first session of the CCWG in the ICANN 53 meeting in Buenos Aires. And first of all I would like to do a roll call. And the suggestion is that we conduct the roll call as we usually do by taking the list from the Adobe room so I think we should give it another three or four minutes for people to join the Adobe. But that's the way that we are going about with that. Can those who are just on the audio line participating remotely please make themselves heard so that we can add them to the list?

And for those who are not making their way into the Adobe please send us an email or raise your hand sometime later and then we will manually add you to the list.

Second thing for me to do in terms of housekeeping is ask whether there are any updates to Statements of Interest.

((Crosstalk))

Alan Greenberg: That was my Statement of Interest also. I would really like to (unintelligible) the address.

Thomas Rickert: Yeah, so we're going to capture the roll call in a few minutes to give everybody the opportunity to get into the Adobe. But any updates to Statements of Interest? There don't seem to be any.

Then I think we can continue discussing a little bit how we're going to go about with this very morning. As you will recall we have recently closed the first public comment period of work. And since then the sub teams in particular have done a tremendous job in analyzing public comments and writing up the report detailing responses or suggested responses that we as the whole CCWG could publish.

And I guess that's an important reminder for us that in terms of process we have started the analysis of public comments by putting all the comments into what we call the public comment review tool so the comments that we received have been sliced and added to the respective parts of our report so that we would have all the comments relating to a specific question in one place.

And the group has gone through this report and taken a look at it. We had a three-hour session remotely to discuss public comments we received. And then we deferred the actual work to sub teams to prepare a written response and today we're going to hear reports from the rapporteurs on what their findings were when analyzing public comments.

And it is our intent to agree with this group if possible on the way to proceed with analyzing the public comments. So you should, after having heard from the rapporteurs you should make yourself heard if you have any objections or concerns with the outcome of the analysis. But then the detail of how we're going to finalize our report will again be done by the sub teams.

So we think that it would not be the best use of our time going through all the cells of the spreadsheet, going through all the written reports in detail line by line as a group. But we will just agree on how we will proceed, agree on the general principles that we have derived from the analysis of the public comment and then dive into the substantive discussion on the major questions that we took away after having consulted with the community.

So I would like to pause a moment and, you know, even though it's very early in the morning can we just give a round of applause to the hard working rapporteurs and the individuals on the working party?

So I'm still trying to find out if and when we can have the Adobe room maybe displayed up here and maybe staff could bring up the mind map from the Frankfurt meeting. You know, obviously what I think is a true statement to make is that we got quite some support from the community with what we're doing. Still there's a lot of work to be done.

But I guess it's, you know, before we go into the detailed responses prepared by the rapporteurs we should take pride in what we've done so far. You know, we couldn't take for granted that what we have previously agreed on would get such positive feedback. And I think we should convey that throughout the week.

You know, certainly there are questions, we received a lot of questions from the board and from others. And those questions need our attention and we need to explain what we're doing because we're in the subject so deep as we can't - anybody else in the community to be. So we - let's not only focus on what we still have to do but let's focus on what we've achieved so far.

And I know that Jonathan was quite eager to make a little statement with respect to this very mind map. So, Jonathan, I'm more than happy to give you the floor for that.

Jonathan Zuck: Yes, good morning everyone. Jonathan Zuck from ACT for the record. I guess I have to say that I've been - as difficult of a process this has been, I've been very excited by this whole process because I think that it has afforded us an opportunity to really take ICANN to the next step in a way. And there's a whole announcement by NTIA, whatever its motivation was, the politics behind it I think is really inconsequential to the opportunity that it has presented us with.

And I think that's something about which I've been most excited. I think sometimes when we're frustrated with the board, for example, we fail to look at our own responsibility in delivering the wrong kinds of work to the board, by failing to reach consensus ourselves we end up turning the board into an arbiter and then we end up lobbying the board instead of continuing to negotiate with each other and finding consensus and thereby minimizing the role of the board, right? And I - so we need to take some responsibility.

And so one of the most exciting things about this entire process was the level of consensus that we brought to the table when this transition was announced that we needed to do this accountability process and we were all speaking with one voice and that gave me chills, right, because we spent so much time

fighting about things in the normal course of operations but on this we came together and spoke with one voice and that was so powerful.

And when we were going through this process early on of trying to figure out what would be the idea expression of the kind of empowerment we wanted for the community, what would that mean in reality, what kind of powers, where does the community have interest versus things that the board ought to just be doing on its own for its fiduciary responsibility. Again, there was this consensus around it and that was exciting, right?

There was this - no one is shaking their head and wondering why are we going through this process? There's a universal recognition that there's another stage to which the organization needs to get. And I think that's reflected in the public comments as well.

When they were looking at the bylaws changes, when they were looking at the notion of fundamental bylaws, when they were looking at changes to the mechanisms for redress and reconsideration and when they were looking at the fundamental powers that we wanted to imbue the community with, there was almost complete consensus. There's little bits of fussing here and there about details, etcetera, but if you look at the comments as a whole the community as a whole agreed with us about, you know, what it is we wanted to accomplish.

You know, when, you know, this is very American kind of reference, and I apologize but, you know, when President Kennedy said, "We're going to put a man on the moon," it was just a very aspirational thing and no one had any idea how to go about doing it. But it began with a universal aspiration and then a bunch of really smart people were tasked with trying to actually bring that about.

And I feel like we have similar aspirations here which is to turn this into a more mature and therefore more hardened organization against capture and all the other things that we fear, right, that maturation is so essential to ICANN's next phase and its, you know, next 16 years of life.

And so I'm very excited that we're engaged in this process, very excited that down the line in terms of what we aspire to do there's almost complete consensus in the community. And I think that's what's most exciting.

So let's figure out the details, let's figure out how to actually put a man on the moon. But I think it's so incredibly exciting that we all agree that that's what we're setting out to do.

((Crosstalk))

Thomas Rickert: Thanks, Jonathan. I think that, you know, nicely sets the tone for our discussion. And this is going to be a long week. We're going to have a lot of interesting and engaged conversations I guess both inside this group as well as with the wider community and just because I think everybody is interested in that.

We will have discussions how we're going to prep for the community engagement that will take place later this afternoon. As you will have seen there is a session on Sunday as well as there is a lot more community engagement. There has been a blog post published by Larry Strickling so we're going to discuss that because we think that we need to sort of have an answer as a group that we can convey because certainly Larry's blog post has gotten a lot of attention.

With respect to the session on Sunday there have been some questions for us as co-chairs because we are participating in that session and we would like to just clarify that when the request came for us to join the session on Sunday it was announced as a session on the history of accountability in ICANN. So at that time, and it's unfortunate that it hasn't been added to the calendar of events, which I'm sure staff will do, at the time we were not aware of the blog post nor of Larry's participation in that session.

So we thought we would just update the group at the outset of this week on where we are to then, you know, facilitate entry into the town hall discussion that we have on Monday.

So it's likely that the discussion on Sunday will be characterized by the blog post and just rest assured that we will discuss with you what messages to convey in that discussion. So we're not going to do that ourselves but we're going to work on that this afternoon.

Also, this morning what we're going to do is we're going to hear from the rapporteurs specifically on how we analyze the public comments and hopefully we will get agreement on the next steps that need to be taken by the sub teams again so that we can then take stock and say what the major questions are that we as a group should be discussing in the sessions throughout the week.

After having done that, we think that it's very likely that we will need to have an in depth discussion of the various proposals and the various models on the table. Just to be sure, our report specified a reference model but the reference model wasn't a done deal. We've made very clear that this is the current status of our deliberations.

Since we received public comment and since all of us have put some more thought into this since we've all engaged with our peers and our groups that we're representing, we are now in a much better position to reopen that conversation.

And as you will remember in our last phone call, we have suggested that individuals that are in favor of a specific model should take the opportunity here to present what their ideal vision of a model for implementation of the community powers would be.

So I would like to encourage those that want to speak to just raise their hand. It's going to be a five-minute sales pitch, more or less, for the model where, you know, don't talk about concerns that you have, don't talk about negative aspects with other models that you see; present the model that you would like to see implemented in ICANN in the best possible fashion to convince the whole group that your model is the way to do it. Right?

So we're going to have a five-minute interventions from all those that want to speak. We're going to have no questions, except for the questions for understanding if something is unclear maybe, but we're going to hear all the presentations one by one so that they stand for themselves, but they are not mitigated by concerns or difficult questions. And after we've heard all the implementation models we're going to discuss them. Right?

And this discussion is likely going to take place in the afternoon. So by the time we break for lunch we would like to conclude the two items mentioned i.e. analysis of the public comments, number two, listening to all of the presentation/sales pitches, five minute elevator pitches for the different models.

So can I please get a show of hands of those you want to take the opportunity to present their ideal implementation of the accountability infrastructure? Alan is number one. Sebastien you had already volunteered in the call. Becky. Avri.

So we're going to hear you in the order that we're just noting. We're not going to rearrange this, right, so there's no priority in the order of speakers. Jordan. Don't be afraid of maybe duplicating - Greg - duplicating with variations of what others have said. Sam. We want to get unfiltered ideal visions of where to go.

Because I think we need to get all - we need to understand the best of all worlds and then this afternoon go and discuss the model, flesh out all the pros and cons and try to take stock of what common ground is to then get into a creative phase of designing something that everybody can live with. But it is our impression as co-chairs that in calls, and with written communication, we might not be able to fully grasp the idea and the benefits of the different models that are suggested.

So should one or the other of you decide to chime in please don't be shy, approach us. But for the time being I think we have six or seven speakers that we're going to hear.

((Crosstalk))

Mathieu Weill: Here's the list I have because I think I missed Jordan and I don't know where he is so I have Alan, Sebastien, Becky, Avri, Sam, Jordan - I don't know at what point you appeared in this list. After Sam?

((Crosstalk))

Mathieu Weill: After Avri. And anyone else I forgot?

Thomas Rickert: Greg.

Mathieu Weill: Greg. Greg was somehow in the list at the end. Last. It's going to be - so in terms of timing we're thinking three minutes, five minutes maximum. And we will be holding the clock so just -- so you can prepare.

Thomas Rickert: Okay, there is a queue forming. We're going to hear the queue but maybe I can ask Becky to join us here to be the first one to present the outcome of the report. Sebastien, please.

Sebastien Bachollet: With the last topic may I suggest that you organize (unintelligible) like that. May I suggest and then you can disagree but so why it's - I don't think - either I am the first one as I was already candidate since one week, either I am somewhere else. But it's not the way you are doing it. And my suggestion is to do a draw. The second point, and I would like to ask my colleagues member of this group if I heard well the list of people I would like very much a new voice came into its place their proposal and their concern.

It's too much and I am sorry for the one who will talk - too much oriented with the same people coming from the same place and we need diversity. And diversity must come from the participants. And I hope that it's not because somebody told you that you need to do a sales pitch, that you can't talk and because it will be in English that it will be a barrier in answering this discussion.

My second point is that you are - it seems to be that everything is going well then maybe we can finish the meeting now because everything is good. I am not sure that this is a case. We have a lot of talk and discussion to have and

find the (unintelligible). It's not because people will say again and again we have done our best and that's where we are today. We have not (unintelligible) this document, we have a document. And the discussion need to be going around the discussion.

My last point during the previous meeting I asked for call for confirming or asking for new chair or how you call it as of the working groups and I was hoping that you will be at the same time reopening the membership of those group. It is (unintelligible) - it's a bit difficult when you answer a new face that the possibility of entry is not get again and granted for everybody. Thank you.

Thomas Rickert: Thank you, Sebastien. With respect to the last point membership certainly is open for some teams or for the group as such so this is not a closed club. With respect to the leadership team, certainly we are always eager to hear volunteers that want to take a more active role but it is my understanding that the current group of co-chairs and rapporteurs is willing to stay on and continue with the challenge ahead.

And that is also to say that we are certainly cognizant that there is a lot of work to be done and certainly we are not yet there. But we shouldn't forget where we came from. And had you asked me whether we would get this far like six months ago I think I would have been optimistic in public and crying at home.

((Crosstalk))

Thomas Rickert: No I think we - and we will see when we hear the report from the rapporteurs that there are certainly issues and very fundamental issues that we still have to resolve. But if you look at where we came from and what we have - what

we've done and the level of support for the general ideas, for the general architecture that we've suggested I think that's more or less overwhelming. And I wouldn't have expected that level of backing from the community so far.

With respect to new voices that we would like to hear, I think there is full consensus on that. So again let me extend the invitation to those that are not yet on the list to make themselves heard and speak up, present their models. And you are certainly more than welcome (unintelligible) only go for the ones that are present in this room but certainly also for the remote participants.

There was another hand up from Wolfgang.

Wolfgang Kleinwachter: Yes, but discussion moved in a different direction. I wanted just to make a brief comment to Jonathan in respect to one point. Can I do it? Okay. Yes, Jonathan, I think the, you know, same very positive development. And I make the statement as a member of the community and as a individual member of the board.

And I compare this with the big reform process we had after 201 and 202 and 203. If you compare this this reform process was much less transparent, much less open. This was really a top down process. The community was more or less excluded when, you know, a small number of mainly board members created the GNSO and the ccNSO and, you know, abolished the peers.

And all this was more or less behind closed doors. And you have to see this differences and you have to see how far we have gone with this ICANN. It's not yet perfect but, you know, and we have to move forward. But I think we have to realize that we are on the right track, we are moving forward. We have still a long way to go.

But, you know, one final point I want to make because you said we are lobbying the board and the board is this and that. The board is part of the community so the members - I was a chair of the Nomination Committee. The Nomination Committee is composed by members of the community where the community itself selects its leaders and sends them to the board.

And it's a difference - I myself made the experience, if you are a member of the GNSO and you are fighting for a special constituency or if you have to - fair responsibility for ICANN as a whole. And so far, you know, the role of a board member is certainly different from other members of the community. But I think one thing should be really clear, the board is part of the community and the individual member of the board are also part of the community.

It would be not good to have the community here and the board there. So we are sitting in the same boat. Thank you.

Thomas Rickert: Thanks, Wolfgang. Alan.

Alan Greenberg: Thank you. With regard to speaking order, if Sebastien had his hand up a week ago then he should be before me and I don't see any real need to do anything as far as a draw if flipping that order fixes that.

I'm a little confused as to when these things are happening. The agenda we have for the meeting is many sections of drafting response to the public. I don't know when these sales pitches - by the way, I find that term offensive - are going to happen, nor the reports from the rapporteurs. Can we have a little clarity about what we're doing today or at least what order those items are going in? Thank you.

Thomas Rickert: Yes, Alan. The point that was on the agenda just before lunch break is the one where we're going to have this presentations of different models and perspectives. Okay? Does that clarify?

Alan Greenberg: It does...

((Crosstalk))

Alan Greenberg: It doesn't quite sound like a debate to me but yes, thank you.

Thomas Rickert: No, it's not meant to be a debate. Okay, unless there are more questions on how we're going to proceed this morning I think we can now dive into substance of the response to the public comment report. Becky, you are the first.

Becky Burr: Thank you very much. And I want to thank all of the people in Work Party 2 who worked so hard to put these documents together. It was an enormous amount of work. We started from the premise that we didn't want to get directly to, you know, sort of summarizing, we really wanted to go through the comments on by one and identify the major issues that came out of them including any new issues that came out of it. So you will see in the WP2 work stream the format is a little bit different than the tool and it is designed specifically to get the themes out on the table, the themes that were identified.

You know, as a beginning point, I think that there was general support for clarifying the mission, having - articulating commitments and core values in a clear way and creating fundamental bylaws. A couple of topics emerged where we're going to have to do some thinking and refining.

One was the sort of concept of defined powers, ICANN's powers being defined and those that are not in the - enumerated or listed are not ICANN's powers.

There were some questions from a number of commenters about human rights issues and so we have a subgroup working on specifically analyzing the comments and coming up with some proposals on the general notion that ICANN's commitments and core values should include preservation of a variety of human rights. There were some issues with some suggestions that contract compliance should be part of the defined powers.

There were quite a lot of comments on the balancing core values test that is proposed in the language. And I think that is something that will need further work as that's an open issue for us.

There were - and I think that was a substantive issue that we're going to need to address. This is just the change from the test that is in the current bylaws about balancing core values with each other with the proposed new language so that is - I would identify that as one substantive work stream along with the understanding of the human rights proposals that are there.

We got quite a few comments on the language that is included and has been included in the bylaws since day one, which is the private sector led. And some I think people suggesting clarification that this term has always meant nongovernment as opposed to commercial or anything like that. So that is something I think that is clearly intended but we need to see if we need that.

A lot of agreement on the general commitments and core values except that there was a significant amount of discussion in the comments about the way

the consumer choice and competition core values are phrased and that's another area where I think we need to put our - sharpen our pencils.

Strong support for the language regarding multistakeholderism that's in there. Request that we think more clearly about public good and public interest concepts that are in there. You will maybe recall that we basically, in a couple of - tried to in one place suggest that, you know, multistakeholderism is a critical piece of identifying what the public - the global public interest is and there were some requests for clarification on that.

We got a couple of comments on things that were missing and a couple of comments on other ideas (unintelligible) and will surpass those summarized. But as I said, I think that the critical issues from the mission and core values discussion is making sure that we get the balancing right, talking about whether the defined powers are sufficiently inclusive when it comes to human rights issues.

And then some - the - in particular the competition issue. Now obviously that's not a completely comprehensive, just meant to be a high level summary of that.

In terms of the notion of having fundamental bylaws - a couple of major themes appeared in the discussion. There was some strong support having fundamental bylaws, there was pretty strong support for the bylaws that we have identified - proposed to identify as fundamental although not, you know, there was clearly some suggestions about - I'm thinking about other bylaws in that category.

Requests for sort of clarification on who can change the fundamental bylaws and how they might be changed. And I think that that's something that we necessarily will be getting into.

And obviously there was some question about is the wording in the language sufficiently flexible to meet ICANN's needs. Questions about whether we have included properly accounted for the IANA reviews provisions coming out of the CWG. And then finally there was quite a bit of discussion about the - what the ICANN's place of incorporation and headquarters should be.

On both sides of that issue there were opinions as to whether it should or should not be a fundamental bylaw and what the position we should be taking given that it's sort of in Work Stream 2 as opposed Work Stream 1 on this.

Again, I don't think that there are any irreconcilable differences in the comments that we received there but of course an overarching topic of interest for this group is the headquarters issue.

The independent review we got very - quite a lot of comments on this. General support from - for the c concept that the outcomes of this should be binding, general support for the concept that the community should have the ability to bring, you know, in appropriately balanced situations to bring independent review.

Support for the kinds of funding proposals that we've suggested to make this more accessible. Support for the concept of a standing panel although there were comments about whether the size that we've proposed is correct so whether it is adequate for the number of independent reviews that are going on.

Some important questions were raised by governments with respect to independent review. And I think we will have to address those. I had sort of forgotten but I am pretty sure it's the case that governments have trouble agreeing to be bound by binding arbitration. And the government of France raised that. I think that is a completely legitimate point that we have to deal with. As I recall from my days in the US government the US government also couldn't agree to be bound by binding arbitration.

There's one - there are a couple of sort of disruptive proposals in terms of really thinking more closely about focusing, you know, focusing down tighter on the mission as the focus of what can be in the independent review.

Let me just go through it. Also I think that there were quite a few comments on the diversity issue and a desire to strengthen the commitment with respect to how we ensure the panel is diverse. You look confused, (Suzanne). Are you confused?

The only other - the only other question I want to point - sort of focus on is something I think that we need to explain to the community better is how - and a panel that is a standing panel that is compensated by ICANN can be independent.

And I think that part of that is just a discussion. But there were - obviously were people who thought that having this standing panel and having it compensated by ICANN would compromise the independence so we have to make sure that we have through - carefully through the independent safeguards that are in there because on the one hand there was strong support for the standing committee, on the other hand there was concern about independence so those two things interplay. And I think that will be someplace we want to work to - selection, yes.

Yeah, there were quite a few comments on different - the different selection proposals that are out there.

Okay going on to reconsideration, several themes emerged. One was the - what's the role of the ombudsman in the reconsideration process; how you deal with the board reviewing its own actions and whether there were conflict of interest issues; whether there should be some rules that said that, you know, board members who had participated in one decision shouldn't be on the panel reviewing. I think that discussion is my own personal opinion is a byproduct of the new gTLD - the nature of the new gTLD policy committee and reconsideration going to that and whether there was some mechanism outside of that - I think there's some - the ombudsman has issued a report recently on that.

There were a number of suggestions about the standard of review and standing, questions for - suggestions to both expand the filing deadline to decrease the decision timeline. Then there were quite a number of comments on transparency in the reconsideration process whether the document release policy is adequate and the need for more documentation with respect to a dismissal by the - here in this case it was by the board governance committee in the reconsideration comments.

Other general comments about frivolous and vexation reconsideration requests and dealing with as we will I think have to deal with in both the independent review and the reconsideration sort of blocking nuisance filings and abuse of the process.

So that's - again, I think there's some more work to be done on the reconsideration issue. There's also a question of sort of understanding what

the reconsideration is and what the limits are and, I mean, it is the board reconsidering its own actions.

Some people have suggested that there's a need for an intermediate process that is not the board reconsidering its own actions, although I think that's something that we will be talking about in the independent review in terms of reform of the constructive engagement or whatever it's called process.

That's my report.

Thomas Rickert: Are there any questions for Becky? So obviously, Becky, you've done a sterling job in summarizing and responding to the public comments. I guess the question for this group is what we do as a next step. And it is our impression that the reports we got on IRP and reconsideration are such that speak to details of the implementation of the two.

So we are inclined to actually take this to the next level. You will remember that we've discussed (unintelligible) an iterative consensus finding. So we think that this is one of the areas IRP and reconsideration where we could do a consensus call of what we have and establish a sub team on working on implementation.

So let me just throw this out there and hear your views on this. We really need to make sure that we document progress on the basis of what we've got. But we found the level of support from the community very encouraging, certainly there need to be details to be fleshed out more but I think we should try to take stock of what we have and take it to the next level and the next level would actually be taking this to the implementation stage. Like to add?

Man: Just a quick addition. The intent is not to make any consensus call right now, it is just throwing the idea around that we think the maturity of the community feedback we're getting would enable to go one step further and that's something we'll have to consider in our further deliberations this week and of course welcome any initial comments on that assessment. But it's pretty good to be seeing that the list of open issues which are still to be dealt with within our group which will need to build some consensus on are a handful of them one very substantial proposal so it's a very good sign or worth looking at.

Thomas Rickert: Queue forming. Kavouss was first and then Paul. Yeah, please go ahead.

((Foreign Language Spoken))

Kavouss Arasteh: Good morning everybody. I think even though we need not to make a big changes we need to see whether there are some fundamental questions which could be at least substance or clarify. And if there is any problems perhaps the possibility to resolve the problems.

As I have read to the extent that I was able to read still there are some issues about the binding nature, still there are issues about number of the panel, there are issues about the way they are selected in the short list or the entities select them in a short list, i.e. ICANN. And the issue of divergency from the geographical location point of view, in that category, the binding nature is the first one, the second is number, the third one is the way they are selected and the geographical distributions.

And there was one comment about the reasons why international arbitrators - some comments to see whether we can (unintelligible), whether we can (unintelligible) or whether we can remove that. But that is one of the main issue, not only for the CCWG but it is direct impact on CWG and has direct -

indirect impact on the activities of ICG that we discussed yesterday in (unintelligible). So I don't go further than that one. And I just leave it to you to see to what extent these views are shared. Thank you.

Thomas Rickert: Thanks very much, Kavouss. That's well noted. Let's hear Paul now.

Paul: Thanks for that. And I'd like to congratulate everybody who's been involved in the working party, particularly for this session we've heard from Becky. I've got one general observation for today's discussions. And it has a subset relationship to the independent review panel. And because you're talking about moving to implementation discussions I feel I should raise it now because I wonder whether it's the right time for implementation.

But it really comes around to the feedback you received, Becky, about diversity of the members of the IRP. And if I can just make my sort of more general observation if I may in the consideration around ICANN accountability?

One of the challenges I think all of the international multi-stakeholder bodies have is that they inherently come from a regional technical community background and then reflect the certain values that emerge out of that and the people who are participating in it and also for that matter the cultural comfort of debating in English in a pretty robust sort of way.

The consequence of that if you look at it in terms of board participation and all the multi-stakeholder bodies, etcetera, is that we have a big predominance of North Americans or frankly a big predominance of Anglo Saxons and Northern Europeans.

And if we look around the room today with one or two exceptions we have the same - we have that same combination.

When one starts to look at the accountability of ICANN and some of the models we're talking about when you talk about sort of basically nominees from community members being the ultimate power, again, I worry about what it looks like is the same - I'm going to use a term just to sort of be a bit proactive, the same cabal of an activist group from North America and Europe.

Now I make that point partly because I spend a lot of time in China at the moment. And if you look at this from the perspective of the country with the largest number of Internet users in the world, it - this thing doesn't look international.

Now I've got lots of criticisms of Chinese participation and trying to get engaged more Chinese people to participate. We could talk about that as well. So my real question - I'm raising one issue first to consider generally in terms of the model of accountability around the board, which we'll come to later today.

But the first part of my question to Becky is this issue of looking sufficiently international particularly for communities of a people who are not naturally going to participate in these sorts of models but have to be more invited to participate. How do you see that issue in terms of the feedback? And have we thought about that sufficiently to be ready to go forward for planning implementation?

Becky Burr: So you are quite correct that the diversity of the panel was a major substantive issue. And I hope I noted that going in but that is clearly something that people have strong feelings about.

You know, there were some comments that - to the effect that it's hard to achieve and there needs to be flexibility, I think there were more comments to the fact that we had to ensure ultimately that we did have the kind of diversity that would make people feel comfortable actually using the tool on the notion that there were arbitrators available to participate on the panel that would understand where they were coming from both culturally and from a business perspective and all of those things.

So I think on balance the thrust of the comments was to go to a more mandated diversity than aspirational diversity. I totally agree that that is not something that we'll get necessarily by issuing a request for expressions of interest that we will have to affirmatively go out and seek out these people.

Now there is no doubt in my mind that there are people with the skill sets we need in every part of the world but it will be a critical task to go out and affirmatively engage those people and bring them into the process and ensure that they're available.

And just on this point I think the diversity actually goes to the legitimacy of the process and we can't miss that. If the people who have, you know, who need to use this tool don't feel that their perspectives are going to be understood by the panel it's not going to be legitimate. So I mean, I guess I think that it's implementation in terms of the how you go out and actually identify those people and bring them in. And I think that the balance of the comments are very strongly in favor of doing everything we can to make - to ensure that there is the diversity.

So from a consensus perspective I would say that that is something that emerged, that the focus on diversity has to be very real and very concrete and very outcome-oriented.

Paul: Mr. Chairman, just to say that if that was then included in implementation - if that proactive approach was included in implementation I would be comfortable with your proposition of moving forward with IRP for implementation planning.

Thomas Rickert: Thanks, Paul. I guess that's an excellent suggestion. I think there is huge agreement on the need for diversity; the devil is in the detail on how you achieve it. But I think that we all - or I have seen nobody disputing the fact that we need to make the request for diversity more robust. But if we make that part of the plan for the implementation I think we will be good to go. So it needs to be there as a feature as well as the points that Kavouss thankfully raised .So all these remaining questions are not being swept under the carpet but they're on the plate once we refine and flesh out for operationalizing this.

Again, we're not going to make a discussion today. We have two more speakers in the queue. After those speakers I'd like to end the queue and move on to the next subject. First is Greg, please.

Greg Shatan: Thanks. Greg Shatan for the record. First I'd like to note that's the first time in my life I've been referred to as an Anglo Saxon, my (bubba) and (zeta) would be so proud. Secondly I think that we shouldn't get too hung up on the term "implementation." As an active member of the Policy and Implementation Working Group I encourage us not to.

I think what's important in talking about consensus is trying to gather where we are up to a point and come to consensus we're at that point and then work on things that are beyond that point and not go back again over the things that we've agreed to.

So it's essentially I look at it as putting a stake in the ground that says we've gotten to this point and the work we'll do from this point on is based on what's taken place before, whether we call that next level of work implementation or not I think is beside the point but we know that in this community the word "implementation" can cause an entire group of people to get together weekly for 14 months and so let's not have that happen.

Lastly, if we are listing things that need to be dealt with on the IRP point I'll just briefly mention that the issue of - and I hate to use another word that will cause us to talk - enforceability, you know, is whether an IRP is enforceable in court and whether there perhaps are some IRPs that are and some that aren't.

That was the subject of a discussion between Malcolm Hutto and myself and some others, which has not yet been certified to our Council for a discussion in our Council. I know outside Council are being very judicious in making sure that they don't jump the gun on questions no matter how interesting they may be. Thanks.

Thomas Rickert: Steve.

Steve DelBianco: Thank you. Becky, with - Becky, with respect to the questions about IRP and reconsideration, I too felt like we were on the right track. But the comments that came in, the questions, the impact testing that came in from the board last night contains an additional 23 questions on the IRP, nine additional questions on the reconsideration request.

And most of the questions are loaded with presumptions of significant concern about potentially bad things that could happen, costs that could be incurred, compromising the board's fiduciary duties. And they're loaded with careful legal analysis that we've seen before from ICANN legal. I mean, so it's undoubtedly a lot of work went into that and a lot of preparation.

And it's unfortunate that is arrived just after we'd done the work of going through this because we're going to need to practically start over on IRP and reconsideration, as an example, to cover those 30 questions.

I really would encourage ICANN legal, who composed the questions, to share with us what their view would be. Because I have a feeling that of those questions ICANN legal probably has an answer in mind for not only what they believe we should do...

((Crosstalk))

Becky Burr: ...guess what it is.

Steve DelBianco: Yeah, we can guess. And they're very thoughtful questions. I'm not being critical of what the questions are but I believe that introducing them as they have after we've analyzed public comments, puts us at significant risk of prolonging the date by which we're going to get our second round out and playing ping pong or tennis with ICANN legal is not going to be a game any of us are going to enjoy.

It's far better for us to ask them to put those cards on the table, tell us what answers they have in mind or what solutions they would want to do. Does the board have a view as to what it thinks the IRP should look like? I mean, is

there a parallel process where the board already knows what it thinks the improvements are?

Let's not play this game back and forth; let's hear that now and have an explanation that we can then shape into our second draft for public comment. And so I appreciate all the work that went into that but I'm absolutely positive there's more than meets the eye in those questions so show us the rest of it.

Thomas Rickert: Thanks, Steve. I'd like to make two points before moving to Chris who has raised his hand. One on policy and implementation that Greg mentioned, so this is sort of an advertisement for the GNSO Council session because we have the report from the Policy and Implementation Group so if you're interested in that subject.

And I'd like to point out that when the policy/implementation work in the GNSO Council or in the working group started, it was tagged policy versus implementation. Now we're saying policy and implementation. So these go hand in hand.

And as we've previously said, even when we start operationalizing our recommendations, not to use the word implementation, we still need oversight from our group to ensure that the operationalization is done in the spirit of our recommendations.

So I think this is - this can be taken for granted. But at the same time, you know, we need to make a determination as a group at what point in time we hand the task over for a different resource to be fleshing out all the details to make it work, right? And that's why we are asking the group to consider capturing what we have as consensus to then put it in the hands of experts or other team to be working on to operationalize.

When it comes to the questions from the board, and it's a little bit unfortunate that Bruce Tonkin, who is our board liaison, is not with us today, but I have very vivid memory of what Wolfgang just said, the board being part of the community.

So if the board takes the liberty of sending us a long list of questions after the close of the public comment period, that begs the question of why the board - if it feels so much as being part of the community - requests or demands this special treatment.

So I think I'd like to have an answer maybe Chris can enlighten us on why we - you know, I'm just speaking in my personal capacity now but, you know, we have discussed the process, we have discussed stages to be further advanced for the Dublin meeting. And with these a lot of questions coming in late we actually need to revisit a lot of things we've thought we could close during this meeting. And I find this unfortunate to say the least.

Chris Disspain: Well thank you for setting that up so nicely so that I can - so that I can respond. I'm frankly amazed, we said in our public comment that we would be sending a list of questions that would go to an impact analysis that we thought would be being done by the CCWG.

I'm also - I can also tell you categorically that there is no hidden document here. The board doesn't have answers to the questions, the board only saw the questions itself a couple of days ago so that we could check through them and make sure that we were comfortable asking them in the first place.

I apologize if you think that us sending them is some sort of breach of process but actually we're trying to be - and I'm speaking as a board member now as

opposed to personally - trying to be helpful and provide a list of questions that we think are important.

And if you're seriously suggesting that had we provided those questions two weeks ago, you know, in the public - as part of the public comment, you know, that that is a point that you want to raise and nut out in this group.

We said in our public comment we're working on a series - we think you should do an impact analysis of the recommendations that they end up. And by the way, we're working on some questions. And in fact on the list a couple of people posted saying we note that the board has said that we're going to be sending some questions, hope they'll come soon. Which is exactly what we've done.

So if you want to ignore them, go ahead, ignore them. But frankly, they are intended to be helpful. They are certainly - and I resent the characterization, which I may have misunderstood but it sounded pretty much to me like a characterization, that there is some hidden agenda here and that of course we've already got the answers and we know what shape we'd like the IRP to be in. Frankly that is, to use a quaint English term, bollocks.

We have absolutely no clue - we are part of this process as a board, and I'm more than happy to formally apologize on behalf of the board if you genuinely believe that by not sending these comments - these questions part of the public comment period that that's in some way offensive or intended to derail the process. It is not.

And quite frankly the sooner we all of us, stop drawing a dividing line between the board as this strange ogre that sits in a closed room and is out to get us all as a community and acknowledge that the board is just as much a

part of this community as the rest of us are, I'm put onto this board as a representative of the ccNSO and I spend most of my time working with my colleagues in the ccTLD community to ensure that their interests are looked after on the board despite the fact that everybody seems to think that I'm now allowed to do that because I'm supposed to look after the corporation.

So I'm sorry if I'm going on too long but I'm actually personally offended that you would imagine that I, and the rest of my board colleagues, would have got some kind of weird hidden agenda going on here to try and force an outcome that we think is the right outcome. That is not correct and we try to be as helpful as we can as a board never mind about as individuals. Thank you.

Thomas Rickert: Thanks, Chris. Maybe a minor point of clarification. I was not asking for an apology but for clarification. And it was (unintelligible) so I think you will not have heard from me any allegation or suspicion of conspiracy. But you might wish to check the...

Chris Disspain: I was talking to the room, Thomas, not to you.

Thomas Rickert: But I would suggest that we do discuss how we best go about with this in the session that we're going to have with the board. I think that's the right place for us to have that discussion. And certainly it is not our intention and I guess not the intention of the CCWG as such to ignore the questions that you raised but if we're going to work on them. Mathieu, you wanted to add to that?

Mathieu Weill: No just - very much in line with what you said, there's no intention to ignore any set of input from anyone in the community nor give any privileged treatment to any of the contribution from the community. However, I think part of the reaction is based on the sheer number of questions. There are 88

questions in the 10-page document all are open questions. While we were asking for feedback regarding our proposals. And so that puts us in a very difficult situation in terms of timing of how we plan to address this.

So I would very much welcome and we'll have this discussion further to discuss with the group how we interact with the board about how we - I mean, the kind of interactions we can have in a productive manner and in a manner that's not create any further delay or undue burden either on the volunteers or on ICANN fees. I mean, imagine if we forwarded these questions to the legal advisors, I can tell you we're talking about millions.

So that's the kind of concern I think we have and we need to clarify this with the board in the later session probably on Sunday.

Chris Disspain: Mathieu, can I try and just - just to help you can I just say this? I think - I don't think that these are intended to be a series of questions from the board that the board says you - answer these questions to our satisfaction. The intention here is for us to simply say to you have you asked these questions? Do you think you should consider these?

If you decide not to or you think that some of them are irrelevant or you don't think, you know, whatever, that's fine. But all it was was a sincere attempt to say have you looked at it from this point of view? And what do you think the responses are? So it's not about getting legal advice, it's not about, etcetera, it's an attempt to say have you looked at it in these particular ways?

So I'm not going to say any more about it and I'll happily discuss it when we meet the board and the CCWG meets. But if there's anything I can do - and I'm sure I speak for my fellow board members - to help in any way, to clarify what we said and why we said it, happy to do that.

Thomas Rickert: Thanks, Chris. There are a couple of hands raised that I assume are from individuals that want to speak to this very question. You will remember that I had closed the queue. I think that for this agenda item we're trying to discuss the outcome of the public comment period. Can we - can I ask for your permission to have this discussion when we meet the board? Is that okay? So I would really like us not to be sidetracked now with this board CCWG interaction but focus on the response to the public comments.

Not happy with that approach, Steve? Then I'm afraid we have to go through the queue. Some of you have thankfully lowered your hands but then let's hear Alan, Kavouss had raised his hand, then Steve. And if I could ask you to keep it brief please?

Alan Greenberg: My comment is very brief. Just a clarification, what I heard was not that we - that people think the board has answers to these questions, but the words were, I believe, that they believe ICANN legal may already have some suggested answers and if so they should be shared.

Thomas Rickert: Thanks, Alan. Kavouss.

Kavouss Arasteh: Kavouss. Could you kindly clarify, you are still deciding or we are deciding to raise these questions to the board to get answer from them? What is the issue of the board getting answers from the board or from the legal part of the board? And the participation of the board in public comment, you are raising several questions that are (unintelligible). What is your next action proposing with respect to this summary document of comments in regard with the board?

Thomas Rickert: With respect to the board, we should have a discussion with the board. We have a session scheduled and we will bring that list of questions up when we

meet with them. But I would suggest that this group continues discussing the achievements of the sub teams and analyzing public comment.

And we are not going to focus on the board questions now. But we will do that in the discussions with the board and separately as a CCWG or sub teams.
Steve.

Steve DelBianco: Thank you. Steve DelBianco. Just a quick follow up. Chris, there was never any implication of hidden agenda but there is certainly, in these questions, further concerns when the board document - when ICANN legal asks, have you considered, etcetera, etcetera, more than likely ICANN legal has considered it. And I would love to learn what the rest of their considerations are. And there are going to be several questions where I would turn to ICANN legal who wrote the document and say what do you think is the right path?

Because what this - what you said earlier, Chris, is that you just saw the questions. So it's abundantly clear, the board didn't write these questions, ICANN legal did. These are employees of the corporation and the board has a fiduciary duty to the corporation as well as duties to the community.

But in this case the board has stamped ICANN legal's questions and called them the board's questions. That's your prerogative to do that, I understand. And perhaps the board added a little something to it. But it does create something we've talked about over and over again is the difference between - I mean, Wolfgang talked about the board is the community. Well in this case I don't really think it is. In this case the board stamped the corporation's legal department's questions and said they're the board's question...

((Crosstalk))

Steve DelBianco: So I don't know why we would then probe - it's not a problem, it's just that we don't really - it wouldn't be productive to have that dialogue with the board over these questions, the board didn't write these questions, ICANN legal did. They're in the room, they're here all week. We could have some rather productive sit-down sessions with ICANN legal and the individuals who wrote it. And I believe we'll learn a lot more than we will in asking the board. The board is in between the community and the corporation and has split duties but its ICANN legal whose questions are in front of us now. Thank you.

Thomas Rickert: Thanks, Steve. I saw that more of you have raised hands. We really have to draw a line here. Let's discuss this when we meet the board, I think that's an important discussion to have with them on process as well as on substance. I would like to invite Jordan to the table. And the next part of this session is going to be chaired by Leon.

Leon Sanchez: Thank you very much, Thomas. So Jordan, could you join us please?

((Crosstalk))

Leon Sanchez: And thank you very much, Becky, for this update and the great work that the work party that you're leading has done. So next Jordan will provide us a walk through what the working party has done with regards to public comment, so, Jordan, could you please?

Jordan Carter: Hopefully a little bit quicker than a walk, maybe a skip. On the screen could we have the summary document that we did from Work Party 1? The first thing I'd like to do is publicly thank all the volunteers in Work Party 1 who did the actual analysis. I hope I don't miss anyone out but Fiona and Matthew

and Roelof and Steve, did you do some - and Avri and there are probably more volunteers - yeah, Fiona. Thank you all for doing the analysis.

The second thing is that the overall - at the very highest level the community feedback was positive on the questions that we're going to work through. The third thing, digging into a little bit more detail, is that the responses on the community mechanism were confusing or complicated to draw out because of our failure to actually have all the questions on the web page until right at the end of the public consultation.

And so I'm going to come back to the community mechanism thing where we did a more analytic take on the comments that was a little bit more like what Becky and the Work Party 2 did. So if I come back to Question 7 and if we just quickly sort of jaunt through Questions 8 onwards. All I'm going to do is kind of talk at the headline and re-raise the main issue or issues that came up in the public feedback.

So under the heading for Question 8 that was in front of us, can we scroll down to that one, Alice? Which was on the budget - rejection of the budget or strategic and operating plans.

The main - the kind of main theme that came through, if you like, was that this power, if it was going to be implemented, needed to be done in a way that didn't impact negatively on ICANN's operational effectiveness. And that people wanted to see amendments to the planning and budgeting process that meant that feedback was taken on board before these plans were finalized so that it was less likely that they would be vetoed.

Now there are already extensive community input systems for the planning process, there are working parties, there are public comment periods and so

on. And we've identified I think as a Work Stream 2 issue further improvements to those. So some of that feedback has already been taken into account.

And I think the, you know, there was sort of reasonably sort of favorable commentary here and the concerns were not against the powers making it workable. So our responsibility if you like, as a CCWG, is to make sure that in the next chapter of our proposal we've addressed those effectiveness concerns.

If you scroll down to the power to reject changes to the standards bylaws, which is in front of you on the screen, which is good. The main issues or concerns that came up was the desire on some for more time for the community review process. There were quite a few comments along those lines. And once again the impact on operational effectiveness, if the bylaws change was implemented and then reversed by the community.

On the time thing I think when we do our next version of our report it will be helpful to set out the whole flow of bylaws changes because bylaws changes don't suddenly magically appear and then the community would only have two weeks as per this model to say no. They come at the end of quite an involved process and a 40-day public comment period.

So if we set out the full picture of the process it may be that people will see that they've already had weeks and weeks and weeks of consideration for any bylaws change and that the chance at the end of the process to say it isn't supported can require less time. But it was a pretty solid view.

So that analysis that I'm offering you might be wrong. It may be that we need to draw out the process. You know, some were suggesting 60 days, some were

suggesting until the next ICANN meeting. So it's a topic for further discussion.

If we can scroll down to the summary for Question 10, the fundamental bylaws. People were, again, in favor of this and the similar queries were on the impact on ICANN's operational effectiveness. It's a little bit hard to judge given that we don't have fundamental bylaws at the moment but of the 22 comments 21 were in favor broadly and four noted concern so those are set out for you to read.

If we flick down to removing individual ICANN directors, once again these - pretty favorable. The summary presented says that the main issues or concerns are dealing with the NomComm and we know we need to deal with the NomComm removal process.

And the other kind of theme that came through was that there needs to be some equality of process or treatment between the various SOs and ACs to make sure that some board members are not sort of uniquely exposed to removal I guess through lower thresholds.

If we flick down to the next one recalling the entire board, there was, once again, pretty high - so all of these powers had very high levels of support - high levels of support there. And there was a suggestion of a higher threshold for board removal and that stands on its own as a comment.

In terms of the AOC incorporation to the bylaws, once again there was broad agreement to this. The main issues or concerns that came through here was the issue of the location of incorporation in the fundamental bylaws or not. The question of what happens to the AOC, so it's a bilateral agreement between the United States and ICANN. If we do proceed as recommended and as the

public comment support to incorporate these commitments into ICANN's bylaws and the reviews and so on. It may be time to go to a more sort of concrete proposal that the AOC itself should come to an end as part of the transition.

And the third sort of theme that came through from Avri and Steve's summary of this was the composition of the various groups and how is full diversity of the community handled. And I'm pretty sure that that refers to the AOC reviews that it set out.

So if we can go back up to the top - to the community mechanism. This was where the broader set of comments came through. There is pretty broad support for most ingredients of the model that the CCWG proposed. And kind of fundamentally alternative proposals in terms of embodying the global multi-stakeholder community with this array of powers was not received. People generally support the direction.

And there, you know, but the comments do show the need for some clear decisions around enforceability and what this model is that we're talking about, the word "membership" conjures up concerns in some parts of the community and that's clear.

So we did this - we did this as a kind of two-step. We did the analysis of the comments and that was - I don't think it actually ended up making it into the document that was circulated in the same place but the analysis of the comments was done along the lines that Work Party 2 did and it's please go and have a look at it on this. You know, it's available, it's important to sort of test out the analysis.

In terms of the model that was presented broadly, people seem to feel that the SOs and ACs was a reasonable representation of the community for embedding the accountability powers. Where people made comments about the question membership was preferred as an approach to designators or to neither so that came through quite clearly in the public comments.

Concerns centered mainly on the implementation details of that model and a range of concerns that we've talked about quite extensively were listed there at the bottom of the first page of the summary. And more detail was a reasonably common call here.

In terms of the voting weights that we had proposed for the SOs and ACs, opinion was kind of split, you know, about 10 people commented in favor of it, around 11 wanted changes.

The changes some were seeking more influence for the GNSO and sometimes that was just more influence for the GNSO. Other times it was the GNSO is broad and diverse and so we need more representation to be able to reflect that diversity.

And the other set of comments was a range of comments around the role of the GAC, RSAC and SSAC where the RSAC and SSAC do not want to be members according to their comments; they wish to retain their advisory role and to have influence through the quality of their analysis and advice, not through casting votes or exercising these powers.

And in one way if we follow their wishes in this regard, it would mean that whatever the other array of SOs and ACs that end up with votes our proposal says they would all have the same equality of influence, which is a point to note.

If you look at the enforceability of community powers it seemed to come through in the comments that people understood that our membership base model would deliver enforceability. So that mirrors our own discussion, people understand I think that that model gives that power.

This is where the responses and the comments were difficult to sort of count, if you like, because, you know, there was one count was 10 people explicitly saying that they have a preference for enforceable, four people clearly saying that they don't support them.

There are - as Roelof has remarked and I think it's there highlighted in yellow, there are a range of other comments around this or around the implementation of it, the membership model, that we need to come back and discuss.

In terms of the actual mechanism itself the idea of having a community mechanism, there was general support for that. And one point was that it still isn't clear I think in our minds or in the community's mind whether what we're trying to do is to have an assembly that casts these votes where people deliberate or whether it's simply weighted votes that the SOs and ACs do individually. So I think that's something that we need to tease out further.

And there were - just I want to finally mention some overall or general themes. And some of this stuff came through from our advisors that were part of this process.

The importance of avoiding insider capture of ICANN or its accountability mechanisms, whether the SO AC system is itself a broad enough linkage to the global multi-stakeholder community or whether we need to take a more fundamental look at that, the need - and this didn't only come from states

though mostly it did - for effective government involvement in ICANN especially on public policy matters and not compromising this through the changes that we are proposing.

The idea that as well as linear accountability, so which creates our - who watches the watchers issue that there has to be some mutuality of accountability, that part of accountability is holding each other to account, asking questions, answering questions in public fora and stuff that's where the mutual accountability forum suggestion is worth picking up.

Because in the end, we have to watch each other, right? There's no oracle outside the ICANN system who can we just say please solve this problem for us, at least in my opinion.

There was a desire for courts to not be the arbiters of ICANN policy decisions. And I can't imagine there's anyone in the room who disagrees with that. And there were a number of comments about improving and safeguarding diversity of participation.

And the last point I'll make, and I was only reflecting on this when I was cut off from email while in the planes really, and not having the stuff flowing at you all the time, is that there's a need to, you know, be really - we've got to disentangle what the community's concerns are with ICANN's general work and how to improve that so the policymaking processes and the substantive work of the ICANN system and this kind of quite narrow and specified set of accountability processes.

There's a lot of the comments that were made on those general themes, especially by the diversity stuff, are kind of supportive of ICANN improving its engagement with the Internet community broadly read and making sure

that it gets all of the input that it needs to do its policy job right. And that sort of feels to me like that's a little bit beyond our remit, that's not our problem to solve. So it's a helpful to just bear that in mind when you're reading some of the comments.

That's kind of the quick run through of the summary, Leon, and, you know, the material is there to read and one of the things we'll need to decide is how to go about this funding to it if we're doing anything in writing.

Leon Sanchez: Thank you very much for this quick run through, Jordan. And thank you for all the work that the working party has done so far. I'd like to open the floor for questions or comments with regards to what we've just heard from Jordan. I see that we already have a hand up by Steve DelBianco, is that - Steve, is that an old hand or a new hand?

Steve DelBianco: Old hand.

Leon Sanchez: All right so are there any questions or comments with regards to what we just heard from Jordan? Kavouss.

Kavouss Arasteh: Thank you very much. Yesterday we in ICG discussed the process which is before us and one of the element of that process is compilations of the proposals from the three operational communities in particular the area of the CWG (unintelligible) naming community.

In that discussion I and Keith Drazek submitted a very brief review of activities of CCWG which might have impact on ICG activities and is referred to the five area that CWG asked CCWG to include the community empowerment with respect to that.

When we came to various options (unintelligible) of that in particular of the membership model, and the (unintelligible) there was a lot of questions raised and we said that this issue is not yet quite clear how to be implemented within each SO and AC.

Until the time that this question is not properly answered, the output of the CWG would face difficult to be considered and included in the report of the ICG to IANA or INTA, sorry, INTA, not to ICANN because these are report directly to NTIA.

So I think there are a lot of questions - unanswered questions about the membership model, about a designator model, about the unincorporated association and about the independent review panels which all these connected directly to the five area that CWG wish to be empowered in order that the proposal that has been made with respect to the naming community functions. So we too were entrusted or assigned to raise this issue with you in the course of today or some other days, possibly as soon as possible, in order to have feedback to the - to the ICG. And in fact a volunteer group was established to further enforce these connections. Still I and Keith Drazek are liaisons but we have few others helping us. So for us in ICG the issue of membership model is not clear and the issue of designator model is not clear and also the new notion of voluntary model as well. So we need to have some clarification.

And I saw here there were many questions about unincorporated association. Apart from that, in some particular AC it might be difficult to take any of these approaches because of the nature of that particular AC. So the question was raised that if that AC would not wish to be member at all could it continue to be a designator and exercise its power with respect to and in

conjunctions with the others who will be the member? And how it works. Do they need to have unincorporated associations with them?

And the last question was briefly discussed that delegation of authority that a particular AC delegate his authority to one or two or three person within that AC. And from viewpoint of some entities in some of the AC it may not difficult to delegate that authority if it goes to the binding issue and it goes to the court. These are the questions. But still the issue of the three models and unincorporated association is not clear and in fact if you remember distinguish law, I have asked tabular form in that tabular form all seven AC and SO are on vertical side and on horizontal side we have various models and we have various powers. And we want to know which of the AC and OC is able to exercise its power under each of these versions being member, being designator, being voluntary member and with respect to the six or seven areas.

Previously we had six areas but now recently implicitly another area has been added to that apart from the bylaw 2, apart from the budget and the strategic plan and apart from the removal of the board individual, they have another one, review of the IANA functions, that has been another area. So we would like have a picture of a tabular form to see who at what condition and under what model is able to exercise what power. This is not clear and until is not clear the ICG will be in a serious difficulty to include the report of the CWG into these combined or consolidated report, send it to the NTIA and it has direct impact on our timing. At NTIA like CCWG, wrote a letter to ICG and asked time for implementation. And at this time we have no idea about that. Sorry to making this but that is a mission was given to us. And Keith could also (continue) that, thank you.

Leon Sanchez: Thank you very much, Kavouss, for your comments. They are duly noted and we will of course include the discussion in the agenda items for our working

sessions this week. And maybe, Jordan, would you want to add anything to that?

Jordan Carter: Just two points. I'm aware that the co-chairs are meeting with the ICG chair sometime in the next five or six days. The other point is that all of these aspects of adding clarity come from the fact that we've had our - only one public comment and we haven't kind of finalized our proposal yet. So all of those details have to be resolved and answers as part of the work that we are doing. So we will get there on it. Yeah.

Leon Sanchez: Thank you very much. Next in the queue I have Paul.

Paul: Thank you, Chairman. And following on from my previous comment, first of all, Jordan, to you and all the colleagues who've worked on this, congratulations on what's been an intense piece of work. I take my hat off to all the effort that's gone on.

I have been a participant, like many have by the number of emails. And at the beginning of this process have thought that what was emerging from my experience at the organization and the community was somewhat natural. This was the sort of thing that would emerge.

I have to say now I've - I would just pose the following questions that worry me now increasingly and they are unintended consequence questions. It strikes me with all due respect to Larry and Fiona behind me, that over the last 15-20 years, the community's view of accountability at some level with reasonably the United States government, was a series of American companies and more advanced civil society actors thinking that if they could - I'm exaggerating to make a point - if they couldn't get what they wanted at ICANN they could always go to the US government or to the congress.

And as you know, for, you know, at least some public form of accountability; wouldn't necessarily get an answer but there'd be some public way of going - they thought there was a two part process. And some governments I think thought the same thing.

Now if we're moving now away from that and saying there is an accountability, you know, more to the community and that's - people feel that's being replaced, the - with the GAC clearly saying it won't put up nominees of some sort, with the CCs clearly not being very clear what they want but being uncomfortable, the question I'm worrying about now is whatever nominee model it is out of the three does it start to look like those are only motivated around - who are clearly motivated to have certain types of outcomes and who come, again, for a very narrow community.

Looking from outside, when the perspective is who is ICANN accountable to? And people do analysis of who is ICANN accountable when they take all these legalistic mechanism to its Nth degree, does it end up being the same 8 and 10 people? Right?

And so instead of this being more accountable from an outside perspective it looks less and less accountable. It looks more and more in we're dealing of a certain community. I don't know the answer to this.

But I just wanted to share it because it's - as I've watched the process emerge I've been getting to worry that that may be the practical outcome of other people's analysis and it could end up with a devaluing in the international arena of the ICANN model, that it's not an international multi-stakeholder, etcetera, etcetera, when you really go through the analysis it's these same eight people or these same eight positions. So I'm sorry it's not very

optimistic but I aim to see how we sort of can avoid that sort of analysis anyway.

Leon Sanchez: Thank you very much, Paul. Next in the queue I have Mathieu. You want to - do you want to...

Mathieu Weill: If I could just respond to Paul, that's a really important question and it kind of fundamentally has to be answered by this process. If we're creating a system that makes it worse, if you like, if we're replacing the US government link with an internally defined system of mutual and linear accountability is pursued broadly to make ICANN's accountability worse then we need to do what auDA said in its submission which is, "start again."

Now that isn't what the community feedback that we've had suggests. And I know you said you didn't have an answer. I wish you did. But I think my hope and intention certainly I think shared by many here is that the model that we do end up sort of settling on or trying to come to consensus around is going to involve at least the kind of - the ICANN set of stakeholder - not really fair to say stakeholder groups but almost like stakeholder envelopes or stakeholder organizing.

And by creating a sort of more separated set of powers within the ICANN system that by itself should help the corporation be more accountable. I can't really go any further than that though other than to suggest that the concern that you're raising, if we can't come up with a convincing way of doing it, you know, it does put the transition at risk.

Leon Sanchez: Thank you, Jordan. Did you want to react to that, Paul?

Paul: I think that's a good answer and I'm happy to contribute in any way I can to help have a solution. And I just wanted to clarify simply because I happen to sit next to Disspain I've got no association with auDA.

Leon Sanchez: Okay okay so next in the queue I have Mathieu.

Mathieu Weill: Yeah, and I think it is - it's kind of a follow up to this discussion and a reminder when we're discussing about replacing of course the ultimate accountability mechanism that may have been perceived as being the NTIA the community mechanism, whatever it is, is not the only mechanism we're setting up.

The IRP is the key mechanism for accountability to any stakeholder who is affected. And this is the crown jewel as we've said already. And this is the key accountability mechanisms for stakeholders that are outside ICANN and hopefully we can bring them in. So that's one aspect.

Second aspect is I think we're starting to see through these concerns we're receiving how important it is that the community mechanism however we define it, ensures diversity of representation of the SOs and ACs but also of other criteria which we still have to work on.

And of course that the SO ACs themselves need to be applied the same accountability principles that we've been discussing from the start for ICANN, transparency, a certain level of consultation, some independence criteria, checks and balances and so on. And we have been building our proposals on a mutual accountability principle and we need to make sure all the sides obviously are accountable to each other and not to an external body which is certainly the fundamental approach we are taking and that's getting a lot of support.

And I'm really struck when looking at the comments on Work Party 1 and the community powers and the community mechanism how much on the powers themselves we're very close - we're very, very close. There are some details to be worked out just the NomComm director removal aspect which we know we're not very mature on but the rest is a lot about details of how we're making this work. And most of our discussion obviously needs to be on the model discussion and that's what we're about to have after the break.

I'm hopeful we can move to the speech sessions after the break. And, Paul, if you ever have ideas by them you're welcome to join the speech session to share your view. I think that would be extremely valuable.

Leon Sanchez: Thank you, Mathieu. I have many people in the queue but I don't know - I saw Kavouss, did you want to react to what Mathieu just said? Yes? Okay go ahead.

Kavouss Arasteh: I apologize to ask for the floor for the second time but I have another point to discuss. CWG has sent its output to four chartering organizations. Expect receiving reply from these four chartering organization by 25 of June, 2015 here.

These chartering organizations, which are discussing - hopefully they have read fully what was the report, they would mention that, yes, possibly. We understand that the procedures is good in place but it would like to know about if implementability, not the time of implementation, its implementability.

The reply would be yes, their implementability depends on some other things which is not clear like membership model or designator model, UA, ARP, IRP

and so on so forth. Then it would be very difficult for that chartering organization to give a clear reply to CWG when it does not know whether whatever has been produced or suggested even if everything is okay is or is not implementable. Thank you.

Leon Sanchez: Thank you very much, Kavouss. So next here I have Matthew Shears. Matthew.

Matthew Shears: Yes, thanks. Matthew Shears for the record. I just wanted to just encourage everyone to go into the actual comments and the analysis that we did of those comments as Jordan recommended. What isn't - what doesn't come through in that summary is the diversity of questions and the need for greater detail.

And this is an obvious statement and Kavouss has mentioned this, but we do need to really spend some time looking at how we detail out the proposals so that the - so somebody who is outside of this group understands exactly what we're talking about because those questions pointed to a lack of comprehension, understandably so, of these models because of their complexity.

And we need to be absolutely clear, very practical delineation of what the powers are, how they're implemented, how you form a UA, how you deal with the membership. And this is just a different approach we need to take in the next round. Thanks.

Leon Sanchez: Thank you very much, Matthew. And, Jordan.

Jordan Carter: Can I just say I completely agree with you, Matthew. And if I've got one kind of fear or reflection on this process I'm something of a perfectionist myself and I'm a little bit terrified at the pace at which we're being required to work. I

think that if we had taken the time to do what you say for the first version of our proposal we would have saved ourselves a lot of time, a lot of partake, a lot of unnecessary concern.

And I can't really say more than that. We have to take the time to make sure that whatever consensus we come to on the next version of the proposal is presented in a way that is less dense and less kind of insider legible and outsider obscure. So that's - I think that's the test we have to set ourselves.

Leon Sanchez: Thank you, Jordan. Next in the queue I have Alan Greenberg.

Alan Greenberg: Thank you. Part of what I'm going to say is I guess extracted from my spiel, my sales pitch, but it's very relevant to this current discussion. We've been talking about which ACs and SOs will actually participate if we go the UA route or something like that. We've seen a message from the SSAC saying they really want to stay an advisory committee and do not want to sign up for this kind of thing.

But it's a very different analysis one makes now and if we were in crisis mode. If the community was at great - had great difficulty with the direction of the board and we were really in a mode where we're not sure that ICANN is viable the SSAC is going to be really interested because the lack of viability of ICANN puts the security and stability of the DNS at great risk.

So what would play out in a crisis mode situation is different from today sitting and talking about the theoretical one. And their interest in participating might be very different and the same goes for the other groups at that time than this - than it is now. Requiring action on their part now to become one of the owners, as it were, of the process, is very different from their ability - their

desire to want to intervene in the strongest possible way at a later time. So it's something we have to think about.

Leon Sanchez: Thank you very much, Alan. Jordan.

Jordan Carter: I think it's - intuitively I agree with you, Alan, but I think we can't do the thinking for people. So one hopes that the SSAC itself thought that through in making its comment. And it might be a specific kind of - we're going to be talking with them here - it might also be a specific question that's worth asking as part of our second public comment. You know, do you have any - have you thought about how this framework would work in a time of great trial for the ICANN system, just to make sure that we've prompted people to think along those lines.

Leon Sanchez: Thanks, Jordan. And we're closing the queue with Avri so next I have Willie Currie then Tijani, Sebastien and Avri. So, Willie.

Willie Currie: Hi everyone. Willie Currie. Thinking about this discussion and perhaps paraphrasing Winston Churchill to the effect that community empowerment is the worst form of government except for all those other forms that have been tried from time to time.

And I think maybe when one looks at Larry Strickling's comments about that the draft proposal focuses on a membership model for community empowerment and asks the question have other possible models been thoroughly examined, detailed and documented, that it may be that a useful exercise would be to take a number of these other models so that one can throw into relief the particular community empowerment model being proposed here.

For example, one of the other advisors, Roberto Viscione, pointed towards the international labor organization. Now that might be something that this group should analyze because it does have a kind of multi-stakeholder model of governments, employers and unions. So we should perhaps look at that and see what its applicability might be.

Obviously the villainous structure in terms of private international organizations is FIFA which is privately corporated into Switzerland which is a possible negative example. And it may be that there are other forms that we could look at which throw into relief this ongoing question about well who is the global multi-stakeholder community to which this accountability power is being transferred from the NTIA.

For example, one can imagine the situation where one says, all right, let's get the IGF to set up a bunch of Internet citizen panels, let's empower them in a particular way to review the strategic plan to have some kind of accountability function, let's structure them on the various UN continental regions so we have 10 people randomly selected from each of the major continents and try and dig in using that kind of scenario to well what would it mean to try and construct some form of global public interest and how viable is that.

And then perhaps look more closely then at the current community empowerment model as a form of (unintelligible) community and not as something which is going to somehow be accountable to an imaginary global citizenship when in fact there is no such global citizenship possible at this time of history. There's no world government, there's no possibility of being a citizen of the planet.

So in that sense that I'm saying is that perhaps if one only has one proposal on the table and you don't have the other alternative then people tend to pick into

this proposal in a very negative way whereas if we throw it into relief against well what are the realistic practical other alternatives it might not look so bad. Thanks.

Leon Sanchez: Thank you, Willie. Let's just remember that the proposal in the document is just the - a reference proposal but not the only proposal that's been discussed so far. And we of course will continue to discuss the many models through the week. So next in the queue I have Tijani. Tijani.

Tijani Ben Jemaa: Thank you, Leon. It is a reaction to what Mathieu said that we are very close to an agreement about all the powers proposed. It is not the case especially for the - regarding the individual - recalling the individual members of the board without reason by the appointing parties. When I objected to that I was told that it is a requirement of the California jurisdiction. If it is that means that it is here now. So why it is in our report?

We are asked to come up with mechanisms that enhance accountability. So if they are there - it is there it will not enhance accountability if it is considered that it will enhance accountability and I don't think so.

Recalling individual members for a serious reason by the whole community is something that I will strongly support. And this I consider will enhance accountability. Thank you.

Leon Sanchez: Thank you very much. Okay. So we're back. Next in the queue I have Sebastien Bachollet. Sebastien.

Sebastien Bachollet: Thank you very much. We have, you know, just one proposal on the table, even if it's one is more important than the two other. And we can also of course open to discussion about become an intergovernmental associational I

think it was out of the game by the proposal the request coming from the NTIA to try to get that through the multi-stakeholder community.

We are not citizen of the world. Yes, but hopefully we are user of Internet and there is one Internet, one global Internet and in fact I consider myself as citizen of Internet than citizen of one global resource of this world. It is the same? No, maybe not, but we need to figure out how we can be better to express this voice in this discussion today.

And one of the - that we can't just put the number of comments we get to know if it's a right balance because if not, except that I have no time and so on but I can write down reports and say I agree, I agree, I agree. And be careful with the fact that there are just only two who are against because it's sometimes a tiny voice who are more important than the strong voice. And where we are today I would like very much that you - we as a group consider all the alternative as viable alternative and then we discuss in depth.

Since the beginning of this morning I heard a lot of people agreeing with the fact that we are make a huge step and we are in the right direction and we agree on and we agree on and we agree on. Maybe. But please, you don't need to repeat that. I really would like to go to the end of this work.

And when we will be at the end of this work we will see if we are where you hope that you are. I am not sure that we are already there. And I hope that you will consider all the inputs who are in contradiction of what the so called majority. It's not to destroy the job, it's not to destroy the work of this group, it's not to have - to push or to be against the IANA stewardship transition and to keep the role of the US government. It's all the reverse is that we need to do that well. And to do that well it's not because somebody came with a

proposal, the first day, that they are right or he is right and that we need really to have this discussion in depth.

And I hope that the next part of the discussion will allow some more balance exchanged of idea and try to find out what could be a good compromise. I understand the point of the other. I hope that you will understand the point of the people against, with brackets, and specifically my proposal when I (unintelligible) today, thank you.

Leon Sanchez: Thank you very much, Sebastien. Next in the queue I have Avri Doria. Avri.

Avri Doria: Thank you. Avri Doria speaking. I want to go back to the point that Kavouss brought up about the chartering organizations, reviewing CWG and seeing us not have a complete proposal may make it difficult for them to decide. I find that approach somewhat problematic in that, yes, we are still quibbling over a lot of the details and the shape of the model. We are not in disagreement about the improvement of the accountability, the improvement of the reconsideration, the improvement of the IPR. We have just got, you know, details that we are arguing about, lots of them.

So I - perhaps it's because I'm not a perfectionist and I'm quite comfortable living with a certain amount of insecurity in life always. I don't know, maybe it's my life. But it's - I see that we should have actually put enough on the table.

Now in terms of Matt's issue of well perhaps the proposal could have been more complete, perhaps it could have been explained better. I think what we're engaged in is a stepwise refinement. We put something on the table, we are now seeing where do we need to tune? Where do we need to answer better? Where do we need to fix?

And so I really don't think we should, you know, rend ourselves with doubt because people have comments and questions but basically sort of see it as the menu of what's ahead of us.

And, you know, at the risk of offending Sebastien, I'm not saying oh we're doing great and I was kind of bemused when we started the day by patting ourselves on the back. But, you know, it's - we are in a process, we are, you know, progressing towards a goal. And to go back to my first topic, is when people look at the CWG I think they have to look at the intention and the direction the CCWG proposal is taking and not its have all details been decided yet. So that's what I'd like to ask. Thanks.

Leon Sanchez: Thank you very much, Avri. Thank you very much, Jordan, of course for taking us through this thoughtful review of the comments. And it's now time for a break so we'll have a 20 minute break and we'll reconvene at 10:30 please. Thank you.

Hello, everybody. I'm sorry to burst your bubble but we're already running 10 minutes late so I would kindly ask you to reconvene. Thank you very much to those who have taken their seats. Thank you to those that are trying.

((Crosstalk))

Leon Sanchez: Thank you very much. So let's log back onto the Adobe Connect room. Well, thank you all. We're back on our session. And I see two hands up already, Sebastien and Avri so okay so now to the next agenda item I would like to hand it to my co-chair, Mathieu Weill so, Mathieu.

Mathieu Weill: Thanks, Leon. What I do now with less than two updates from Work Party 2 and Work Party 1. I'll now do a very short summary of the input we received from - on the questions regarding Work Stream 2. And very quickly basically the comments are supportive of the approach we are taking with the transitional article. There are some refinements on the wording being asked for. And obviously a request for a clearer timeframe of Work Stream 2 which (unintelligible) voiced.

We've received a number of comments stressing the importance of addressing the jurisdiction issue. And certainly that's an area where we could do a better job explaining our position and where we stand. And I think that's going to be for us to take on further in the next version of our documents there's a need to work that further. But that's a point to be taken into account.

We - regarding the list of Work Stream 2 items, there were some views expressed asking for some reconsideration of some items being pushed up to Work Stream 1, that includes DIDP for the community information disclosures, security audits and ombudsman review so we'll have to check as a group whether this small number of comments are valued on the merits or whether we keep the - them in Work Stream 2.

Based on the definition we had agreed on for Work Stream 1 items to be those who are strictly necessary to enforce the various requirements in the future because future timing considerations I think we must be careful not to overload Work Stream 1 which is already challenging.

And in terms of items that we had not considered in Work Stream 2 but are being suggested, we've received some comments suggesting the inclusion of a new item which goal would be to assess the efficiency the Work Stream 1 proposal as part of Work Stream 2. So that's sort of a check on the whole

process. And that's probably a discussion we'll have to undertake in this group whether we think that's part of our mandate or whether it's part of a future ATRT review mandate to assess.

And we've also received some comments - I think two comments suggesting to add a bylaw which would require ICANN to disclose government contracts in terms of transparency. And that was an item that could be addressed in Work Stream 2 so we'll have to discuss about this particular suggestion as well.

And in reviewing the list of Work Stream 2 items I think it's fair to say we also will have to discuss how we plan to address the SO AC accountability discussions we've touched upon earlier whether it's Work Stream 1, Work Stream 2, whether there's a part of it which is Work Stream 1 and a part of it which might be Work Stream 2. And I think that is all for the report on the comments on Work Stream 2.

And so we can definitely take questions on that if any. I am seeing none. So I will now turn to Thomas for the summary of the general comments and (unintelligible) questions which provide a nice conclusion for our review of the public comments.

Thomas Rickert: Thanks very much, Mathieu. I would like to briefly speak to two chapters of our report on general remarks as well as the methodology. And I hope that we'll be able to access the Adobe room again shortly because the management abstract for the general comments section I think or we think, is a decisive part in our communication with the community. So it's just 10, 12 lines and I would like to read that out to you but I will do so once we get back into the Adobe.

It is worthwhile noting that the vast majority of comments that we received for the general section were supportive of what we're doing. The commenters said that the recommendations that we are working on are seen to be improving ICANN's accountability substantially. So there's a lot of support there.

The language that is used there is partially repetitive to what the commenters also said in the respective sections of the report so I'm not going to dwell on that for much longer. Noteworthy we have two commenters that have been opposed to what we're doing as such so Roberto Viscione, one of the advisors, is asking us to take a completely different view at things particularly stemming from the jurisdiction question.

And it is our recommendation or the recommendation that I've put as an action item in there that we provide a clearer rationale where we're not taking the root of completely reorganizing ICANN but while we are doing what we are doing as can be found in the report.

And also there is a comment, criticism from dotNA written by Eberhard Lisse that challenges overall what we're doing. But apart from that it's more or less requesting us to continue what we're doing but also to flesh out more details that are required to make this a complete proposal.

With respect to the methodology, we got some criticism for having truncated the public comment period. Some commenters thought that this was an undue limitation of their possibility to chime in and make themselves heard. I guess our group's response, and this is what we've discussed on our call previously, is that there will be another public comment period so other than for other projects in ICANN this is not the only possibility for the community to chime in, rather this was the first opportunity for the community to let us know

whether we are navigating into the right direction and then they will certainly have the opportunity but during the second comment period which will last for the full 40 days to comment.

It is also noteworthy that some commenters have asked us to be more - for us to be more specific on the term of public interest. So while our group has already done substantial work it's something that we need to deliberate on further.

There has been a request to be clearer than we currently are and also to be more transparent with our messaging and with the language that we're using for particularly the non-English speaking audience to fully absorb and understand what we're doing to be truly inclusive.

Talk about inclusiveness, the theme that we've discussed earlier this morning on how we can engage with the global Internet community has been raised. I think that's well in our radar so that there is no specific additional action required but we just have to be more vocal on that in our responses.

So the final point that I'd like to make is the comment from the board asking for an impact analysis. We've already acknowledged in our previous call that we will take a look into that. We've received a plethora of questions on that and we will further work on that.

So I guess that's a brief summary of where we are. As you will hopefully agree the substantive questions are primarily being dealt with in the respective sections of the report so there was not so much substance, these were more general comments and questions on process.

With respect to the abstract, I still - I still haven't managed to get back into the Adobe room. And to be quite honest I can't read that out to you at this distance. Can you move to the general remark section and the - yeah, no that's methodology. Move it up please. There is another box where the management abstract - here.

And maybe, Adam, you can help out by reading that for the whole group because I guess that's the - one of the key messages documenting the overall support and we should make sure that we're all fine with that message to be conveyed - or Mathieu, maybe you can...

Adam Peake: Then I'll begin. It's Adam Peake for the record. The abstract from the General says that, "The majority of the comments received were supportive of the general approach taken by the CCWG whereby ICANN's accountability architecture should be based on four building blocks, i.e. an empowered community, the board, the bylaws and the independent review process."

"Most comments regarding the suggestions that have been made as improvements. Most comments regarded the suggestions that have been made as improvements." And that's the end of the abstract.

Thomas Rickert: So unless there are requests to revise or augment that I would like open it up for questions on this brief report on general remarks and methodology. There don't seem to be any. I can't see whether there are hands raised in the Adobe. There don't seem to be any.

So with that I think we can conclude this part of the agenda and move to the section of the agenda where we discuss the different models on the table. And my superstar co-chair, Mathieu, has actually prepared ballots so we're going to have a draw. And with that I'd like to hand over to him.

Mathieu Weill: Thank you so much, Thomas. So the idea to - of this section is really to understand each other's perspective. I want to stress this very much. It's not about a debate, it's about understanding.

Just a reminder of the context, we need, as a CCWG, to prepare a proposal to enhance ICANN's accountability that brings ICANN's accountability to a level that is sufficient for the NTIA transition to take place. And we need a proposal and we need this proposal to reach consensus. That is two conditions.

And it's not majority, it's consensus. It can be raw consensus but we cannot be satisfied with any proposal whereby a significant portion of the community would not feel comfortable with. So we need to work this out so that everyone is reasonably dissatisfied with the proposal and equally unhappy as Cheryl is saying. And, I mean, that's the basis for what we are standing for in the multi-stakeholder model is finding common ground.

So Step 1 to this process is making sure we understand where everyone is coming from, what are the underlying assumptions that we're making and what are the requirements that we have when we state that we have a concern or are in disagreement with certain proposals.

So we'll - the session here is going to be about some pitch whatever you call them, a level to pitch or short presentations of how some of the participants or members here view the community mechanism options, the models. So I would set two rules for those presentations.

One is timing, make it short. If you think you're making short, make it shorter, three to five minutes is very short. So please be aware of this. If we want to

have this discussion we need these short discussions, otherwise it's going to absorb everything. So we'll be using a timer.

Second is try as much as possible to be factual about how you see things so avoid slogans, as we were discussing last Tuesday, and try and explain the concrete aspects of what you're trying to achieve or what you're trying to avoid in terms of situation and maybe providing examples is better. So those are the two very simple rules.

Currently on the speaking list, and in the ballots, I have, with no particular order, Jordan, Avri, Becky, Greg, Sam and then Sebastien. One, two, three, four - correct?

((Crosstalk))

Mathieu Weill: No, no, no it wasn't. It wasn't. I randomized it using a very elaborate algorithm which I am not able to disclose for security reasons. Does anyone else want to join the list? Roelof, excellent.

((Crosstalk))

Mathieu Weill: Not on the Adobe.

Thomas Rickert: (Unintelligible).

((Crosstalk))

Mathieu Weill: So I see questions but...

((Crosstalk))

Mathieu Weill: Avri is first on the...

((Crosstalk))

Thomas Rickert: ...added Robin?

Mathieu Weill: I haven't added Robin yet.

Thomas Rickert: So we can't do the draw without having Robin in it.

((Crosstalk))

Alan Greenberg: Let's spend a half an hour doing this.

Avri Doria: Only half an hour?

Mathieu Weill: No, what I want to make sure is we have clarity on what we're doing...

((Crosstalk))

Mathieu Weill: So I want this particular set of questions to be what are we doing about and obviously if anyone wants to join and make their presentation it's - this exercise is about giving everyone stand if they want to. So, Avri.

Avri Doria: I just wanted to - excuse me, Avri speaking. I just wanted to ask a quick clarifying question about slogans. I find that taking phrases that people have perhaps used before and all of a sudden branding them as slogans to be very problematic.

I think that in these bits of discussion where people are - I have no idea whether I've got a slogan or not in what I'm - in what's going to come out of my mouth. If I've used the words before it may be a slogan. If anybody else has repeated what I said before it's even more likely to be a slogan. So I think this prejudice we're developing against things it's kind of like all of a sudden anything that comes out of someone's mouth that they don't agree with, that's a slogan. And I would really like to stay away from the slogan that people are using slogans.

Mathieu Weill: Be as fact-based as possible. I know, it's not as easy as just saying this and depends on everyone's perspective. But I think everyone gets the idea that we need to clarify things...

((Crosstalk))

Mathieu Weill: Roelof, you're next.

Roelof Meijer: It's difficult to have a discussion if we all have to state facts, that's just an exchange of facts. So I think we should be allowed to have phrases, to utter phrases that start with, "I think." Well...

((Crosstalk))

Roelof Meijer: And for that's a disclaimer that I'm not - or probably not or maybe not stating a fact.

Mathieu Weill: Okay, let's close this. You got a point. I would argue that I think that is already a fact because it's factual that you're thinking. But anyway.

((Crosstalk))

Mathieu Weill: Let's stop this. Let's try to be as illustrative - we need to make this understood by the audience. That's the point. Make sure your presentation impresses the audience and that the audience can understand what you're talking about. You can add anything you want, Thomas.

Thomas Rickert: Yeah, I guess this, you know, Sebastien made a very good point earlier this morning when you said that in our report we have different models but a decision is not yet made. And you were concerned that too much weight is given to what we call the reference model.

This is actually to give everybody on equal footing the opportunity to explain to this whole group the benefits of their preferred option to then have a discussion this afternoon as to what the group thinks.

I think during our last week's deliberations we have moved too quickly from somebody making a proposal to immediately criticizing it or finding its weaknesses. This is why this session is reserved to everybody having the opportunity to do the best to explain the model in the most shining manner that they can.

And I think you should just take the three to five minutes to do the best possible job in order to get traction with your proposal inside this group. You know, that's - this actually to give everybody a fair chance so that nobody can complain at a later stage but this group has started the discussion in a bias fashion. Over to you, Mathieu.

Mathieu Weill: Yeah, and just a last point of clarification, we won't take questions after the presentations, after each but only at the end we'll try to wrap up and debate

and discuss around the overall presentations we've heard. And with that,
Thomas, would you?

Thomas Rickert: We need a drum roll. Greg Shatan.

Mathieu Weill: Ladies and gentlemen, Greg Shatan. Would you like to do it here? I think it's
best if you come?

((Crosstalk))

Greg Shatan: Water?

Mathieu Weill: Greg. Up to you.

Greg Shatan: I hadn't expected to speak first. Merci beaucoup. In any case I had expected to
be speaking later so. I think that what we're looking at is really a fundamental
difference among models in where we see the judgment or control or authority
sitting whether it's with the community or with the board.

Having worked with nonprofit organizations myself, both with members and
without members, an organization who has members is in a sense member-
centric and an organization that is without members is essentially board-
centric or management-centric. So if we're trying to put power and authority
and judgment ultimately into the hands of the community membership is a
natural tool to do it within the tools that are available to us.

Anything that doesn't do that is essentially less empowering. So when I look
at what tool I would want to use to accomplish what we're trying not
accomplish that's where my hand would naturally go in the tool chest and

trying to use a rubber mallet where I would want to use a saw we're just not going to get through the process as well as possible.

Also speaking as a member of the CWG, where I represent the CSG, the change in our model between our first draft and second draft, puts greater reliance on the result of this organization, this working group's ability to give authority and accountability ultimately to the hands of the global multi-stakeholder community.

In our first iteration in that group we had Contract Co, which was intended to be an external accountability mechanism. There is no more Contract Co, there is no more external accountability mechanism. Accountability in that mechanism flows through ICANN.

Therefore, we have to make sure that it flows through ICANN to the community. And in my view, the model that uses the right tools, that has the right legal heft to it, is the model that uses members.

And so I hesitate to call it the membership model because that almost becomes a slogan in the sense that some people have said I would never support that. But I think that ultimately it is the tool that provides the community with a real basis in corporate organization and in governance to exercise and more importantly to obtain the ultimate judgment that we believe the community should have. And if we don't then maybe the issue is that we don't sufficiently trust the community.

And that's a whole separate issue that we may want to grapple with. But frankly I don't think that if we don't - if we don't trust the community then I don't think any of our models ultimately will yield the result that we want.

Given that I think we should choose a model that best yields the ultimate results that we want and then try to solve the issues and implementation details that will come with it because every one of our models will have implementation details in any event. I haven't been timing myself but I think I'll stop now. There. I yield the last minute and eight seconds of my time.

Mathieu Weill: Excellent. Thank you so much, Greg. Thank you so much.

((Crosstalk))

Mathieu Weill: He set up a great example of meeting the expectations for that, laying out the concerns and requirements. Next is...

Thomas Rickert: Alan.

Mathieu Weill: And next is Alan Greenberg.

Alan Greenberg: I love the advance notice when (unintelligible) here.

Mathieu Weill: After you.

Alan Greenberg: Up until now we have been working with a set of bylaws which the lawyers now tell us probably shouldn't have existed to begin with. We appoint directors by ACs and by SOs and now one AC. The NomComm appoints directors. All of those things are something that don't really follow any pattern in nonprofit associations in California, but it works and it's worked for whatever reason.

I'm proposing that we continue with essentially the same model that is we put the powers we want in the bylaws and assume that they are going to be honored. I'm not finished yet, however.

The only one I believe we can't do is prior approval of the budget, but I believe we can cover that with a mechanism by which any group that has an objection to the budget can formally file it and require under the bylaws certain consideration similar to what we do with GAC advice.

It all hinges - now that's been described as a non-enforceable model. I do not believe that is the case. Enforceability that I'm proposing is that we have the ability to remove one or more board directors. The process would have to follow agreed processes and I'm not debating right now whether an AC or an SO removes their own director or it's the community. But we have the ability of removing some or all of the board.

That threat is a big stick. And I believe it's an effective enough stick to make sure that the board either works with the community and comes to closure on what the community needs and what the board can do or the board goes away. And I believe that's something which will give us the accountability we want.

And the only question is how do you remove the board without individuals members and I believe the lawyers have given us a mechanism by which board members sign an irrevocable letter before they take place that essentially agrees they will resign on the wish of the community.

We can make that enforceable because they can agree that this is enforceable on a rule of law, perhaps by the ombudsman, perhaps by other mechanisms, so that we do have a mechanism to take them to court if they refuse to step down

and honor the letter they've signed. And I think this gives us pretty much everything we want.

The threat of removal should give us everything that we need. And it really comes down to that. I'll point out that there's two other benefits over the other models. We've talked a lot about in this last meeting, in this last hour or so, about ACs - particularly ACs but possibly even some SOs who could not participate in a membership model or who chose not - would choose not to.

If you start looking at whose left we have a very small part of the community that is now calling all the shots. I think the optics of that are going to look really, really bad. Moreover as I pointed out earlier, there are parts of the community that might not want to sign up and be a member, might not want an unincorporated association. But if we ever got into crisis mode they really would want to be involved. And doing what I'm suggesting now does not make them sign a release now saying I'm not going to participate later. As an AC or SO they have the right to participate later.

And lastly, something that I hadn't even thought about is we've been talking a lot about jurisdiction and saying that maybe sometime in the future we need to consider the ability to move somewhere else. Tying our entire governance structure to California law I think puts us in a position where we may never be able to move or even consider moving. Now some people might be encouraged by that but I'm not sure that serves us well in the overall world market.

And lastly, I think what we're proposing here is a minimalist view which may - we may actually be able to do in the very tight timeframe we have. And the timeframe is tight. We probably have to have the bylaws in place by the end

of the year if we're going to make this transition. And I don't see how we're going to do it on the more complex ones. Thank you.

Mathieu Weill: Thank you, Alan. You met the timing as well. Good job. And next is Robin.

Robin Gross: I was all the way in the back. Extra minute.

Mathieu Weill: No, no, no it hasn't started, Robin. Thank you, Robin that was very efficient. Well done.

((Crosstalk))

Mathieu Weill: I want to say there's no intention whatsoever, there's no agenda behind this. And you have your five minutes, go ahead.

Robin Gross: Thanks. Okay, okay there we go. So I'm going to do a quick pitch for the empowered designator model. So we talked about the six powers that we want the community to have. And I think we're all pretty much in agreement these are important powers and we want the community to have them. So the lawyers came back and said, well, with respect to the empowered designator model, four of those powers you can have and two of them are going to present challenges. And those two, as you all know, are the strategic plan and the budget approval issues.

I think that those two issues are not enough to sort of cause all the sort of upheaval and the kind of great change that we're going to have to go through if we're going to actually switch to a membership model. I think it is a lot more difficult. There's going to be a lot more issues that will be in conflict that will have to be resolved before we can actually get there to the membership model.

So I think that considering these - are only two things that we can't get entirely the way we want under the empowered designator model, I don't think it's enough to push us in the other direction. I think rather we should try to focus on ways we can beef up the empowered designator model.

We can have strategic plans and budgets that are much more heavily involved with the community in terms of their formulation and development. Perhaps they don't even go to the board for their final approval until the community has signed off on them. There are ways that we can require the two to work together to try to come closer to agreement before there's a final decision.

I understand the board's going to have the final say on that. However, they will also have the knowledge that they're going to be kicked out if they don't do what we want. So I think that that provides a very strong incentive.

I think that the membership model may work for many people in this room and many people in the ICANN community but it doesn't work for those outside of the ICANN community. The problems that they have are that ICANN is a - the problems that they currently have are that ICANN is a California corporation and they really don't like that.

And so for us to say well now we're going to be a California membership corporation, it doesn't address their problems. In fact it further entrenches exactly what they have a problem with. So I think that the empowered designator model can be more open, can allow for more participation particularly from governments and people outside of the traditional ICANN community.

So I think there's just too much work to be done to switch to a membership model and not enough time, not enough time to do it right. And so we really risk making terrible mistakes and that we're stuck with. So I think we're better off just really working to try to beef up the empowered designator model and get the kinds of powers that we need that way. Thank you.

Mathieu Weill: Thank you very much, Robin. And the next speaker is Jordan. And I have a request by Malcolm to join the queue so I'll suggest we add him in the bowl so that he does not unduly benefit from the privilege of speaking last. But of course the request is honored. Jordan.

Jordan Carter: Thanks, Mathieu. I just wanted to - you know, I've been involved with this work, as we all have. I don't want to reiterate a particular model. I want to reflect on why we got to where we got and a fundamental understanding that that shows about the nature of human societies and human communities.

When we have something that's important in a political community, and one way of looking at ICANN is that, a very common thing that we organize is a separation of powers. We say that when you want to avoid having to rely on the goodness or badness, the trustworthiness or the untrustworthiness of a particular set of actors you don't leave them alone with single powers, you distribute power, you share power, you divide authority, you make sure that no single point can be a point of failure.

And if you look back to some of the founding political revolution, the American Revolution or the French Revolution, you see that thread that we recognize our fallibility as people, we recognize that we do not get things right all of the time, and we take steps to protect ourselves in our organizations and our communities by distributing power, by making sure no one has a single

point of authority, that no one has the ability to break our communities or our systems.

This is a constitutional discussion for ICANN. This is a constitutional moment. And what we are proposing in our model that we've - to ask the community about is to say we will share power more broadly, we will distribute authority away from a single point of the community, the board of directors, and we will distribute it more broadly through our SO and AC structure, our open multi-stakeholder structure.

And that is what the model that we're calling membership for our horrible shorthand, does. It forever changes where authority lies in the ICANN environment away from the board of directors and it embeds that authority in the whole community. And that's why it's a fundamentally important shift. That's what makes ICANN as a community trustable. That's why a stewardship transition can and should happen because what the model says is we're not going to create a problem in the future that we can't fix.

We're not going to sort of tie our hands behind our backs and make sure that we are going to rely on someone always getting it right. We're kind of acknowledging our own fallibility as a group. We're saying that we don't want to just have to trust a particular set of actors but that we should embed in what works quite well, the multi-stakeholder policymaking body, the authority that it needs to be able to adjust with the time as the Internet changes, as the DNS changes and to implement its narrowly focused mission in the right way.

So that's why I support the kind of fundamental basis, whether you call it - whether it's membership, whether it's designator, it's membership fits most cleanly with that approach. It most honestly says to the global Internet

communities, the global public, we're not going to rely on a high priesthood of people sitting around the ICANN board table.

We're going to rely on all of you who choose to participate in this model and we're going to imbue you, structured through your SOs and ACs, you can come as an outlier user, you can come along as a ccTLD manager, we're going to trust you over time to work together to make ICANN work. That is the underpinning logic for the model that we've proposed. That's what the membership model is for, that's what it does and that's why I support it. Thank you.

Mathieu Weill: Thank you very much, Jordan. Roelof is next. I noticed a fair amount of slogans there.

((Crosstalk))

Mathieu Weill: I'll be looking at the transcript and it's really good slogans actually. I liked it. Empty handed, I'm not surprised.

Roelof Meijer: In fact I do come empty handed, slightly, or somehow, because I don't really have a model that I want to defend because I think that model is not yet there. Adam said a lot of things that I think he knows that I support. Sorry - Alan.

I think it's very clear that most of us and most of the community agree to the powers that we foresee. But making sure that we can use those powers I think in that process we're looking too much at things that already exist, that we have seen working that the lawyers can explain to us of which we think we can predict the outcome.

And what surprises me a bit is that this industry or this sector, the Internet, has become what it is not because of all the legal processes that we created around it but I think very often because of the lack of all kinds of legal processes around it.

So I think we have to be careful with too quickly thinking that this situation might not happen but we need to protect ourselves and this is the best protection that we can think of and then look at things that we know that already exist. I think we can be a bit more creative and think of a few ways that maybe we don't know and we haven't seen before but it might work and will work.

So that would be my plea. Let's not - yes the membership model with its legal enforceability is something that would probably work if everybody would agree to it. My worry is that we won't get enough people and organizations and structures that will agree with it and that will make us end up empty handed like I came to this table. Thank you.

Mathieu Weill: Well excellent conclusions - wow, the rhetoric of this were excellent. I'm afraid we don't have video so we won't make videos out of them but that would have been good. Sam, you're next.

Sam Eisner: Hi, everyone. Sam Eisner from ICANN. And revisiting an earlier conversation that we have, I don't come here with the answers. We don't have the answers. We don't have a model that's already laid out that we want to spring on you at the last minute. We're working through this proposal along with you and have questions. And so - and I'm hearing that some of the other colleagues in the room have questions as well.

And so what I come here to say is my vision is that we have certain characteristics of a model and it could be membership, it could be designator, it could be Alan's alternative model, it could be the creative model that Roelof was just asking for as well.

But then I think it's important that that model have certain things that are inherent within it. One of those is that it doesn't pose a challenge to ICANN's not for profit status and the development of it. I think the fact of ICANN as a not for profit is very important. And we have to make sure particularly as we look holistically at the proposal that we anticipate coming out of the ICG that incorporates the new post-transition ICANN - or IANA function operator that will be a separate entity coming out of the CWG, if that proceeds to the ICG proposal.

But looking at the changes that happen with both of those in mind don't do something combined that requires us to then - if we move to a membership model have to redefend ICANN's position as a not for profit organization as we move there. I don't know if that will happen but I do know that there have been recent concerns of organizations seeking not for profit status from the IRS about not for profit status when they're a membership organization.

It doesn't mean it's impossible, doesn't mean that it's a road that we can't go down but I think that we need to have certain characteristics that we hold as very important. Its question we need to look at.

I think that there should be some further looking. If we're moving down the path of a membership model that we understand that it's an appropriate model to use when it's a collection of potentially disparate interests. We have a very robust model within ICANN that we all come here because we have one

fundamental interest in mind and that is we support the continued operation of a secure, stable, reliable, globally interoperable Internet.

But we come at that from many different perspectives. If we all agreed we wouldn't be sitting here today after months and months of conversation and many different working groups. And it's not clear to me, and again I don't have the answer, that the membership model that's been proposed makes sense in an organization of disparate interests instead of those who come at it with very clear cohesive interests on a range of issues as opposed to holding one that fundamental item above all.

I think that any model that we go to needs to maintain open pathways to new participants. The membership model we need to really look and see what does it mean to be someone new who comes into the system. Do you have a voice? Do you have a pathway? Do you need to immediately associate yourself with an AC or SO in order to be able to meaningfully participate in the community empowerment models that are being developed?

Are there easier pathways to assure that people still have access to come into ICANN and have voices when they walk into the organization itself without having to immediately align themselves with a group?

And most importantly, that we have a model that's tested and has the concerns raised and considered. And I've heard the hesitation come from other people as well. We need to make sure that we have an organization that we're not going to unknown territory, that we're holding up the value of stability of certain parts of the organization when we're entering into a new territory of a transition of stewardship, that it's the same place that we need to hold out to the global community that we're a stable organization and we understand how to work together.

Does this mean that membership should be totally off the table? No. There are still questions that we can answer within it. I think that we could also think about a path towards membership if there are lesser changes that wind up not giving the results that the community wishes to happen.

Mathieu Weill: Thank you very much, Sam that was very well put. And Sebastien is the next speaker.

Sebastien Bachollet: Thank you. I was never trying to write the book but I used to do demonstration in France when I was student and I have a lot of slogans and I'm sorry about that. Maybe it's because I am all for revolution within ICANN but not just between the so called constituency and the board, it's - will need to be a holistic review.

I am very puzzled at the fact that the third option didn't have a name. We try, Alan proposal XY. I will not give you the one you will take. But just to give you one proposal, for an ICANN accountable - it's a slogan - for an ICANN accountable, diverse, open, transparent, multi-equal stakeholder who gives confidence. And I take all the first letter I put them together and in French it's done (meycadou) and I will translate it in English, it's MYGIFT to the community.

That is important it's that wherever we go we be sure that we don't put any legal characteristic or legal bodies in between the relationship between any groups of ICANN, any groups of ICANN. We don't need the legal to be involved - legal jurisdiction, sorry, US legal jurisdiction of California want to be involved in setting discussion between any groups including the board within ICANN.

We have to remember that all those group are us and even the board is us one way or another. And that's important. It's - if we ask accountability for the board I am all for that but I want us also at our level to be accountable. And it's remained to be seen.

We need to have trust as a model. We need to trust each other even if we disagree, we can trust that you came with a best idea with the best wish for the organization. Maybe it will not be true at the end but if we don't come up in mind with the end - empty with no weapons, we want to talk and find a solution and that's important.

And I don't think that creating new structure will allow this open discussion and enhance confidence. It's important also that we find a solution where we can leave this organization open to all. And open not just to the one who know where they want to go, how they want to go but open and eventually also open to create new structure or to merge structure or whatever. And if we are too solidified then we already too solidified in the structure of the organization it's hard to come and to say hey guys, I have this topic and I would like to take into this topic - be taken into account within the organization.

Multi-stakeholder for all and by all it's important also because - thank you - next time I will do it in French and in three minutes. It's really a - the same point as it's must be open. The current model is with different stakeholders. We don't know what will be the future, maybe we will have - I don't know user of Internet of object who would like to come and to be new constituency and new SO, new AC, whatever, and we need to be open to that discussion.

But the question it's how we can create it, who can create it, who gives the agreement and so on and so forth. My last point is that diversity it's an absolute need and when I say diversity its real diversity, it's not just okay we

have five region, we have people for five region, it's much more than that. It's also the question of, yeah, I heard that I am - it's also the question of culture, the gender of age and any and a lot of others, diversity. It is difficult to take into account but if we don't have that in mind when we choose we will not solve the necessity of this.

And I - just one last point, we talk about the headquarter in US and I put in my comments that maybe one way to solve - to help to solve this diversity to have a president from another region, the chair of the board (unintelligible) from another region and so on and so forth, that will ensure better diversity than just to take say okay the headquarter must not be in US.

And I will stop here. I have a lot of other things to tell you but it's better to have this five minutes than no minutes at all. Thank you very much for listening.

Mathieu Weill: Merci Sebastien. Next is Avri. And while Avri is joining, Erika, would you - were you asking to be added to the list or...

Erica Mann: (Unintelligible).

Mathieu Weill: Okay.

Thomas Rickert: So then we have Malcolm, Becky and then Erika.

Avri Doria: Okay so I've come to supporting what has been called the voluntary model. And I tend to think of it more as the multi-stakeholder cooperative democratic model. It's the same model that the Internet has been created on; it's the same model that we've been living with for a very long time. It's the same one that we're using to find the solutions for transition and for accountability. So my

first assumption if it's good enough to get us this far perhaps we shouldn't quite abandon it.

It has been a successful model, albeit not perfect. But like all models - I don't know of any that are perfect, but like all models it's one that benefits from constant refinement, constant improvement. And in fact that's what we've been doing. Whether it was the ATRTs that have reinforced it, and renewed it each couple years, and in fact we have another one of those that we're about to go into.

We've now spent a year - a little bit more than a year refining it and improving it. If we get the reconsideration request improvements, and we get to fix the IRP and we have a means of removing recalcitrant directors, then, you know, whether it's singly or in a group, then we have improved it, we have reinforced it; we have made that model better. And so we will have then taken the ICANN model and reinforced it and made it better just as we had done before.

And I believe in that notion of stepwise refinement and a perpetual process of stepwise refinement. And I guess closing I'd like to say that I think that the court of multi-stakeholder community opinion is by far the strongest enforceability mechanism we can find. If we are not being accountable we will be told, we will have the world pressing on our doors. And by remaining open, by constantly doing outreach into the model we've got, we've got a much better chance. Thank you.

And I really did do it all upside down.

Mathieu Weill: That's really amazing. I don't know how you do this and in two...

((Crosstalk))

Avri Doria: ...across the table.

Mathieu Weill: ...in less than 2 minutes and 30 seconds. Just (unintelligible) out. Next is Malcolm, then Becky and then Erika.

Malcolm Hutty: Thank you, everyone. And my apologies to everyone for not being here at the beginning, I've just literally got off the airplane.

Chairman, you introduced this session by saying that its purpose was to introduce new things that have been overlooked or passed over too swiftly. And what we have - what we've heard - a lot of what we've heard so far has been actually pitches for the relative perspectives that have been pretty well aired.

I would like to actually bring up a variation on the model that hasn't really been discussed, briefly mentioned, and very quickly passed over and I think it is worthy of further exploration.

We have really, you know, essentially two camps here. We've got a group of people that think enforcement is fundamental to this process and that if we don't achieve enforceability this process is dead. Now if you don't agree or prefer or whatever, you can at least see that for that group of people it's going to be very hard to build consensus with them if you don't actually have something that achieves that quality.

And those people have been told that the only way that you get ultimate enforceability is through the ability to go to court which only applies if you are a member. And they've also been told that the board don't even have a

duty to honor the bylaws ahead of their own belief of what's the best for the organization as a whole unless you have a membership organization. So that leads to a strong commitment to some form of membership model in that group.

But it doesn't necessarily have to be the membership model that we've looked at. The criticism that's been given to the membership model that we've proposed is that the creation of unincorporated associations is very complicated; it creates new structures that we don't understand with all sorts of opportunities for unforeseen consequences and potentially the possibility of (unintelligible) regress in the question of accountability.

That's a serious criticism that those of us - and I am on the side of enforceability here - need to reach out to and address. So my suggestion is this, let's have membership for everybody. Let's have tens of thousands of members, why not? What is the harm? Certainly then you would have - under that model there'd be no accountability of those members to anyone else, they'd do exactly what they wanted. So what?

Let's look at what the powers that members have. Firstly, the board have the duty to their interests. Let's make the whole world members. That would be fine. They would have the ability to go to court and say ICANN has broken its own rules, we've gone through the process and the bylaws for approaching this and it has still defied it, please enforce this against them.

If the whole world had the ability to do that, great. And then there may be some other statutory powers, and there are some other statutory powers and we would need to look at that. Many of these are things like the right to have access to certain types of statutory information. Again, I see no harm in making that available to the world at large.

And then if there were some others that make it difficult to apply this I think we owe it to ourselves to spend some time to see whether or not that could be resolved by some other mechanism. It has been suggested that a membership agreement is a means by which members can control how they act with each other, how they exercise these powers, that can't be applied through the bylaws.

Which would mean at the point at which you applied to become a member you would sign up to something that then accepted that the IRP had to be used first before you went to court. It's accepted that we don't get to wind up a company unless there is 99% agreement or whatever it might be.

The membership agreement of all the members could be applied for thousands of members and could have them all agreeing to apply the processes that we create. But it would give us the opportunity to get past this concern about creating new structures and complication and have the simple ability to say that ICANN is here for everyone and that it is responsible to everyone and everyone ultimately has the right to hold it to its commitments.

So I think we should add to the list of things that we consider what floors have not been considered in this and how they might be addressed rather than quickly dismissing it because oh I haven't thought of one thing or another is there something that could be done to solve that and make this alternative membership model that addresses the concerns of the anti-membership critics, something that would be a viable way forward. Thank you for your attention.

Mathieu Weill: Thank you very much, Malcolm. There's no reaction to - we'll have - after we've heard everyone there's going to be an open mic session for questions. Do you want to add your vision to - oh I see you're clever, you're using the

last moments to make sure you have the last word. You've been there before, right?

((Crosstalk))

Becky Burr: Was that Paul Twomey who just did that?

Mathieu Weill: Yeah,

Becky Burr: Figures. Okay. I'd like to talk a little bit about the empowered SO and AC model. But before I start I want to just reiterate something that Jonathan Zuck reminded us of this morning. More than a year ago or a little more than a year ago the US government called on this community to develop a consensus proposal for transitioning responsibility for IANA to the global Internet community.

At the time the request that came from the US government and the board's response to that was very much focused on the technical and operational aspects of ICANN's provisioning of IANA services, not on accountability issues. And in fact accountability issues were viewed as potentially distracting and diverting.

In a moment that I think all of us will remember, all of the GNSO folks and the Byron Holland and everybody, standing up at the podium at the microphone this community came together and said no, we insist that the accountability issues be addressed as a condition precedent to this technical transition.

We've heard - we've just gone through this comment period, we've heard from the community. Those concerns are real and they are persistent. But we

are hearing some objections and concerns that I think, and this is my humble opinion, reflect some renewed concerns about the potential for the accountability work stream to delay or impede the ICANN - the IANA transition.

Nobody that I know and nobody that I've talked to in this group wants that to happen. That's a serious thing and we need to be worried about it. But those concerns should not lead us to check out, you know, to compromise on our fundamental and shared determination to address and resolve the gaps in ICANN's accountability. We can do both.

It should lead us to check our dug-in conclusions, sorry maybe slogans, at the door to listen hard to each other and to attempt to bridge the gaps between and among what I think are all legitimate perspectives that we're bringing to this table, this very important table.

So a number of us have been thinking hard in the last couple of days about how to address the concerns that we've heard about - two in particular. One, that the membership model is - feels like a fundamental change in ICANN's structure and that it's elaborate and complicated. And, two, also very legitimate question about who watches the watchers in that.

And so we've come up with something that we are calling the empowered SO AC model. And this is what it entails. Essentially we are comfortable with ICANN's SO and AC structure. We know it, we love it, let's keep it. But let's empower those existing bodies to be the guardians of ICANN's accountability by giving them the authority - by giving the SOs and ACs directly the authority and responsibility contemplated in the draft report.

Under this approach that authority would be granted to the SOs and ACs. It doesn't involve creating any new entities that raise accountability issues. In fact, to accomplish this the only thing that needs to happen is that the SOs and ACs articulate the status quo that they intend and have, for years, been coming together to collaborate, to exercise the powers and authorities bestowed on the relevant body in the ICANN bylaws, not only those powers and authorities that are bestowed right now but the new powers and authorities that Work Party 2 worked out.

This intention can be expressed in the standard operating procedure of each SO and AC. It's a resolution if that works, it can be expressed tomorrow, it can be expressed next month, it can be expressed in six months whenever the organization is ready. The critical piece is the intention to collaborate and associate with each other and work together to accomplish the goals and carry out those duties. So that's the proposal. That's the empowered SO AC model.

I know this doesn't solve the concerns that we've heard about dispute resolution and contentiousness but let's sit down and talk through those. I think that there are practical and simple solutions to these concerns and I'm pretty sure that there are some that I haven't thought of. But that is an implementation issue. Let's resolve to really, you know, get to the point where we're talking about the complicated implementation issues. Did I make it?

Mathieu Weill: Almost, Becky, that was perfect. Thank you. Next is Erika.

Erika Mann: Thank you so much. I have - I want to approach this from a little bit different angle because I don't want to talk so much about models. I like the most recent one which I heard from Becky but that is a very personal statement and I think she's right to differentiate between the models we choose and the

implementations and the principles which we have to apply because they will have to apply probably in all models whatever we choose.

But I have one other point which I think we should pay maybe a little bit more attention and I'm just saying this because I hear this again and again and again and this is the idea that there is somehow the right legal model or the right headquarter and this idea of finding the right headquarter will solve all our problems. I'm just not believing in this.

I think California it's maybe not the most ideal but it's a good location. It is a place which gives us stability which we know it has a history. I know that some governments have concerns about it. But you always have to - and I'm saying this, I mean, I'm European, there is no alternative that's the problem. So even if you look for alternatives you will always have to look for a location with the exception you would go to international waters and we go on a cruise and stay on international waters.

((Crosstalk))

Erika Mann: There is always the location. Now there are location like Geneva you can think about but I think it's just taking us away from what we really have to fulfill which is the - to find a best model for the current status and these model whichever we choose and the headquarter in California as well will always have to fulfill these principles, will have to be global by nature and has to fulfill the global public interest.

So these are the guiding principles. And don't be confused - or I'm saying this because I, you know, because I think it's, you know, when you go somewhere else it would be better, it would - it will not be better. It can't - because governments in finding the right models how the Internet will work in many

locations have difficulties in identifying the best way forward or when you look into the legal intervention which we see sometimes in which some of you might be concerned about.

You see them coming from all locations in the moment. So it's not just from the US but you see it from many other locations as well. So my plea is just let us ignore this at this stage and let's not confuse it with the principles and the models we have to find. That's okay? Two minutes?

Mathieu Weill: Perfect.

Erika Mann: Wonderful. I'm well trained European parliament.

Mathieu Weill: A skill that you might consider sharing with the wider group within ICANN. I'm not speaking of this group.

((Crosstalk))

Mathieu Weill: Okay, next is Paul Twomey.

Paul Twomey: It is a little. So this is the - I'd like to (unintelligible) it does have a slogan, reinforce the founding multi-stakeholder principles model. And with apologies, Malcolm, it's something in response to yours.

I would basically like to reinforce the model of Alan and Becky combination of the ASOs and the supporting organizations, the supporting organization and the others, perhaps with enforced diversity requirements. Some have clearer diversity requirements, others do not and tend to produce the same result year in, year out, decade, decade out and I think that should be reviewed.

More power for faster turnover at the board is actually at the heart of all of this discussion. And if he looks at the history of the ICANN board the community hasn't done a bad job in changing people from certain decisions if trouble I think what people are affecting is it's taken two or three years to achieve that.

So at the heart of this, coming to Alan's perspective, is potential circumstances we're under some contractual arrangement a supporting organization or some combination could actually move to change a board member midterm. I think that seems to be the key thing that would be the third.

I think a more effective and perceived legitimate independent review panel that is being I think perceived is an important part. This model strongly stands against a broader membership model which put ICANN not at risk of political manipulation of a broad set of members by any combination of ethnic, national or fixed interests. And I stress that broad - that membership is not the same thing as participation.

I would finalize it by one example, we tried this a little while ago in terms of voting into membership and in one part of the world we had board members elected with 300 votes and with 400 votes and another part of the world we had 60,000 from one country, followed a week later by 120,000 quickly mobilized in the second country, and the third country which could have mobilized tens of millions just came late to the game. That's the sort of thing I'm particularly fearful of for a broad membership base.

Mathieu Weill: Thank you, Paul. And now we have Jonathan. Jonathan, you sort of opened the morning and now you're closing the - this - almost closing this session.

Jonathan Zuck: Thank you very much. I guess I began with a little bit of a bright and cheery Pollyanna-ish view of our work and I want to return to the real politic side of it as well. I guess what I want to share is just my experience, and I've only been around for half of the life of ICANN, but what I perceived is an almost institutional resistance to accountability.

And I think that has shown itself in many, many different aspects and from the failure to set measurable objectives and then measure whether or not they were achieved and, you know, objectives like well we're going to hire two more people to deal with that problem and then at the end of the year saying well, well succeeded in hiring two more people to deal with that problem.

And that method of dealing with accountability and with problems and a desire to drive policy through anecdote rather than data is also persistent within the organization. And if we look at the areas in which we've seen incredible revelations of the community swaying the board, I think if we look very careful at them there also instances in which there was exceeding high leverage in the hands of the community.

So we got ATRT reviews started as part of the Affirmation of Commitments, which part of getting an agreement to make the US have less of a sort of oversight role as they did with the memorandums of understanding and the joint project agreements that preceded the AOC.

If we look at the most recent revelation of the - of coming and resisting what was an incredible resistance to the community desiring to have accountability be part of this process, there was incredible resistance and delay to that process and we shouldn't forget that when talking about how well this model has worked in the past.

It was the fact that there was a deep embedded desire to make that transition happen that gave the community that leverage to sway the board and to change the course that the organization was taking around the transition.

And so the model that I want to propose as unfriendly and as harsh as it may sound is one of leverage and that the bottom line is that if we want to empower the community, the overall community of ICANN, instead of the organization that's ICANN - and I certainly don't mean to suggest the board are not part of the community, they are, but there is an institution that has arisen and a method of operation that has evolved with that institution that needs to be tested and leveraged from time to time by the community as a whole.

And I don't believe that it's all goodwill that will get that done, that it is leverage that will get that done. And that's why I'm supportive of a model, and there are several, in which there's leverage put in the hands of the community on the time to time - from time to time when it's necessary to get the job done. So I just wanted to share those observations. Thank you.

Mathieu Weill: Thank you very much, Jonathan. It was a very, very useful set of statements. I think I took plenty of notes of various requirements which were I think laid out very clearly by every speaker. So first of all I want to thank all the speakers, not for managing their times properly, although I'm very grateful for that, but essentially to provide the substance around their positions that gives us greater understanding and knowledge about where they're coming from, what they're aiming at and I think that's going to prove extremely valuable in the next steps of our debates.

Thomas wanted to make a quick intervention.

Thomas Rickert: Yes, just very briefly. I had reached out to Holly and Rosemary to ask them whether there have been any statements in the presentations that made it obvious that the speakers had based their proposals on inaccurate legal understanding so that we shouldn't be misled by something that potentially couldn't be operationalized. And you will certainly correct me if I'm misrepresenting what you were stating.

But they said if we look into the detail they can make pretty much everything work. But a lot of the - or some statements that have been made are not entirely correct so we would actually need to look at the implementation model behind the suggestions that we have made and look at that in more detail. So just a little bit word of caution, you know, that not every single word that has been said can be taken for granted and we would need to further dig into that.

Holly, you would like to add to that?

Holly Gregory: Yeah, just to confirm, I think without knowing the details on which everyone who is speaking is making their position statements known it's difficult for us to comment on any underlying assumptions because the underlying assumptions are not always stated, that's what I meant. I didn't mean to point out that there were any particular errors.

I think broadly from what we heard all of the different models that are under discussion are workable in some fashion. And again, devil is always in the details. Thank you.

Mathieu Weill: Thank you, Holly. I think on the one side the devil is in the details and on the other the power is on our group to decide on the balance of requirements that are going to be in front of us.

And that should definitely drive our work further not rushing to the details too early but also make sure we understand upon which requirements we are advancing when we're advancing on the particular model so that we can actually explain why we're making those choices to the overall community.

I will now turn to Kavouss in a couple seconds just we'll take a short round of clarifying questions if there are any about the overall discussion that took place. Then we'll break for lunch. I see everything is ready.

So just for people who want to ask questions be mindful you're standing between the group and lunch. And lunch will enable us to chew this up...

((Crosstalk))

Mathieu Weill: And obviously we'll come back to the next steps after lunch. So in terms of questions I assume Erika and Paul are old hands in the AC room. Don't want to be misinterpreted here. And so I have Kavouss and then I'll go to James and Alan. Kavouss.

Kavouss Arasteh: Yes, I don't want to speak on any model but I just asking whether we have consider a hybrid of various models from AC obviously taking model.

Mathieu Weill: That's...

((Crosstalk))

Mathieu Weill: There might be some hybrids.

Kavouss Arasteh: Yeah, hybrids. Have we considered that?

Mathieu Weill: Somewhere. We have no - so the statement is there is no assumption that we have looked at all models. There is no assumption that a new model might not spring out of our further discussions, we can call it hybrid, we can call it creative model. This discussion is not over so - and that's precisely the point of this exchange so a very direct response is no we haven't considered all hybrid models yet. That might be the case if that's where the discussion takes us.

Next in the queue is James.

James Bladel: Hi, thanks. James speaking. And my question is for Alan or directed perhaps at Alan's description of - it's going to sound like I'm criticizing it but I'm actually kind of intrigued by it so just bear with me a little bit. But in the instance I think you mentioned there would be a letter from board members that would uphold their or enshrine their commitment to representing the interests of the community.

I'm curious as to how we would - and I'm trying - deliberately trying not to say "enforce" - but how we would hold them to those commitments because it strikes me as the kind of person that would perhaps be subject to the use of that letter would be the kind of person that would disagree with whether or not they'd upheld those commitments.

And so is there another stress test in the works here or how would you possibly resolve that paradox where the person that is no longer responsive to the interest of the community is still going to honor their commitments in that letter?

Mathieu Weill: Thanks, James. I - so that's the resignation letter kind of..

James Bladel: Right. And I don't know if that's a question directly at Alan or if it's just something that we need to put on the to-do list, you know, to flesh out that model.

Mathieu Weill: If we move on with that model and that particular implementation model definitely we'd need to be very clear about what that looks like. The next is Alan. Oh that's (unintelligible).

Alan Greenberg: And I will choose to answer that question if you don't mind? This was an idea that came out of the legal counsel saying that it is quite possible to have a irrevocable letter signed before to - requiring an irrevocable letter to be signed saying that they will step down if certain circumstances are met.

I am presuming that that effectively is a contract that it can be made enforceable and we need to identify who has the standing to enforce it. And I made some suggestions in my written document. I am not a lawyer and I'm not trying to write that document but I believe it is enforceable. So that would give the things.

And I'm not convinced by the way, that whoever we would - the community would ask to step down is a recalcitrant person, it's just someone who we don't agree with and, you know, to use the divorce phrase or slogan, irreconcilable differences; does not mean they're recalcitrant, just means we think differently.

The issue I wanted to raise or I put my hand up is two of the speakers said things that I think are at odds with my understanding of reality. One of them was Robin who was suggesting the empowered designator model. My understanding of the designator model is it also requires an unincorporated

association or some legal persona which is the sticking block on the member model. So I think that one has the same problem and therefore that would have to be resolved.

And then this leads to my second comment to Jordan's comment that he said the membership model puts the power in the community where it belongs. And that's what we thought but we have since found out that there's a whole bunch of parts of the community who have said they can't participate or won't participate and therefore it doesn't put it in the hands of the whole community but a very potentially small subset of the community and that's one of the problems I have with that. Thank you.

Mathieu Weill: Thank you, Alan. Next is Robin and I would close the queue after Jordan. Robin.

Robin Gross: Thank you. First I just wanted to quickly address Alan's point. I actually was assuming we would have UAs in the empowered designator model so I just wanted to make that correction to your statement.

And then I have a question, I'd like a clarification if somebody could help me out here. What is the difference between the empowered designator model and the empowered SO AC model since the SOs and the ACs are the designators could somebody tell me what the difference is between these two proposals? Thank you.

Mathieu Weill: I don't know - Becky was one of the proponent of this. A quick follow up. And an appropriate answer may be oh, we don't know, we would have to actually talk this further to define whether there are difference...

((Crosstalk))

Robin Gross: Well it sounds like we're talking about the same thing so if we are that's great but if there are deferment goals...

((Crosstalk))

Robin Gross: ...I'd like to know what they are.

Mathieu Weill: There might be a difference into whether we need a legal person.

Robin Gross: I don't think there is. I'm assuming we need a legal person.

((Crosstalk))

Robin Gross: I'm assuming we need UAs under empowered designator so...

Mathieu Weill: Yes, that's what I understand from you. Becky.

Becky Burr: So first of all I am not a legal expert on this. And what I said is we are recognizing and empowering, giving the powers essentially the powers that members would have to the SOs and ACs. And by articulating their intention to come together to exercise those powers the - it essentially creates the entity that you need for enforcing those.

So it - there's no requirement that anybody file an unincorporated association or anything like that, although I don't actually think there's any requirement under Robin's proposal that anybody file an unincorporated association. They could do designation by the same model which is the - whoever the SOs and ACs. But what I'm proposing is to get rid of the middle man and the question of who watches the watchers and go directly to the SOs and ACs.

Mathieu Weill: Thank you, Becky.

Robin Gross: This is great because it sounds like we're talking about exactly the same thing. The SOs and the ACs, themselves would have these powers. Whether you, you know, whether you call them designators or not I don't think is important. So it sounds like we're talking about the same thing.

Mathieu Weill: Wolfgang is next. Please consider lowering your hands when you've spoken. Thank you.

Wolfgang Kleinwachter: Yeah, thank you. You know, for all the proponents for a membership model I recommend to remember the history ICANN has with the discussion of members. In the first bylaws of ICANN there was an entity (unintelligible) two which (unintelligible) member and then in brackets to be defined by the membership advisory committee. I think this report from the membership advisory committee, which was done by the (Birkman) Center in the background, is an interesting document if you read it with today's eyes.

Then later it was revised and we had the recommendation by the (Bilt) Group and (Karl Bilt) when he recommended membership should be reduced to domain name holders only. So we have 250 million domain name holders. This is quite a lot. But it means if you move forward with the membership question please be very careful how you define a member. This is really important. And otherwise you end it in a (unintelligible) Paul Twomey has made some good points. So this opens the door for all kinds of manipulations and captures.

Mathieu Weill: Thank you, Wolfgang. I think just a point of clarification, most of the membership model talks here were about a model, the reference model from

the group, where the SOs and ACs are the members. And I want to be very clear on that because I've heard a lot of confusion in the community discussion about this about the risk of getting millions of members.

That is not possible under the reference model. And yet Malcolm is suggesting this so it's also not off the table at all. But let's not confuse an open membership model with a model where the members is just a legal tool, a slight legal tool we're adding to the SO and ACs. And with all the discussion that's taking place on this. So I just want to make this point of clarification to avoid the confusion is spread across the wider community on this topic.

And, Jordan, you're the next speaker and then we'll break for lunch.

Jordan Carter: Thank you, Mathieu. I kind of wanted to respond to Alan's point but I think that's already kind of been dealt with. The kind of empowered SO AC model that Becky was talking about gets sort of the kind of middleman, the separate UA thing that creates all these kind of vertical or linear accountability concerns.

And even when we had those in place this idea seems to have taken hold somehow that you had to join these UAs to be able to have a say in them. And that was never a part of the proposal. So it's even better if that just stops becoming an issue altogether.

But no one - this idea that the model would block anyone out of participating in anything has never been on the table. And so it would never have affected any of the powers and roles that SOs and ACs have today. It won't tomorrow either. So wherever we go I think we have to be really clear that in building accountability tools for ICANN the general principle should be - that I support

anyway - is that everyone who can participate can do so without any joining of things being required.

In other words that participation remains as procedurally free of any encumbrance, of any obligation as it is today. And I would be very - I would be surprised if anyone disagreed with that as kind of founding principle to the approach that we're taking.

Mathieu Weill: Thank you, Jordan. I think with this initial remarks we will break for lunch. I think how much time was - I think we have an hour for lunch that will also give us time as co-chair to convene and think about the next steps because we've made good progress this morning. We reviewed the whole output from the public comments and the work parties. Kavouss, I acknowledge your hand. And have this very useful discussion. And so another question for us is going to be how we make the best use of our valuable face to face time to move this further while we're here.

So, Kavouss, you have a...

Kavouss Arasteh: It's a short question.

Mathieu Weill: ...last question.

Kavouss Arasteh: Do you provide some overview of some of the discussions? Because people are talking of different terms without going to the details saying it empowering the SO and AC empowering on what (unintelligible), empowering on what standing. So just we're talking could you have a possibility of a summary of the discussion? Because...

((Crosstalk))

Mathieu Weill: I think you're talking about our last lunch here. But, yeah.

((Crosstalk))

Mathieu Weill: I'm afraid that's going to be our main course for the lunch to come and hopefully we can share something after that. Thank you very much, Kavouss. That's called food for thought.

Thomas Rickert: Good session, everybody. Thanks.

END