Coordinator: Yes, hi. This is the Operator. Recording has been started. You may begin.

Steve DelBianco: Thanks, everyone. This is Steve DelBianco, one of the participants in the Stress Test Work Party Team. Our rapporteur, Cheryl Langdon-Orr, is traveling this morning and asked me to fill in.

We have a limited agenda which is really just to review the updated stress test section of the document which I sent around last night for the purpose of being able to present it in two days when we’re in Paris.

This will be the first read-through, although our last week’s meeting we went through the Chris Disspain comment, we went through the Kehl and Post comments. And what I did over the weekend as promised was to turn those discussions and notes into actual stress test format, the three column format that should be in the document.

We went further to pick up all of the stress test changes from public comment. I also sent those around yesterday. And that leaves us in very good shape for the next draft of our document on stress tests.
Now I say that with one caveat. If the work we do in Paris and the weeks after indicated - well, a significantly different set of community powers or community powers that aren’t enforceable but only advisory, that will force us to have a session where we go through all of the stress tests again and edit them to reflect what the proposed measures either do or don’t do.

I actually don’t think that that will be too difficult since it is a common theme of assuming that things are enforceable and there might be a phrase we’d use to indicate that it is or is not enforceable anymore.

What staff is loading now is a copy of the document I circulated last night which is the updated Section 8. When I circulated it I included an email to everyone on the Stress Test Work Party indicating the nine things that were changed in this document from what we circulated on May 3.

So I think that - happy to take a queue on other suggestions. But if there are none we’ll quickly go through the edits that were done to the document with the intent of having this group give me comments that we can then relay, Avri and I for sure, can relay when we’re together in Paris in two days.

Avri. Yes, your point about enforceability and degree we require is definitely going to be something we could discuss but it would be probably after the CCWG has decided upon the enforceability model, if any. And that won’t happen until sometime after Paris.

((Crosstalk))

Avri Doria: Indeed, I meant that as part of the work we would have to do.
Steve DelBianco: You're absolutely right. You’re absolutely right. Okay, Grace, thank you for loading the doc. We’ll work through this one. You should all have individual control. You can zoom in to make it easier to read. And you’ll note that the beginning of this document is really the same as the version we published on May 3. No changes to the first few pages. Now I just lost the ability to share.

Grace, you want to put the document back up?

Grace Abuhamad: Hey, Steve, I’m just reloading it. I fixed the margin issue.

Steve DelBianco: Okay. Thank you. Thanks, Grace. Good work. And if you could give us each individual control. Perfect, okay. All right the first thing we would probably want to do is to zip to the end where we start to add the new stress tests, Pages 25 and 26 where those begin.

At the top of Page 25 we introduce the notion that after publication the draft, we got new stress tests, and the first two here, 27 and 28, on Pages 25 and 26, not to confuse things here, are the ones that Chris Disspain had presented to us with an intent - right in the middle of May where Chris was worried the California courts would have the opportunity to interpret the mission statement and bylaws of ICANN and put them in the position of where the community should be.

And actually we went through a conversation with Chris. I think he agreed that as anticipated the way the IRP works that wasn’t going to be a risk. And all I’ve done here is to write up Chris’s scenarios along with present accountability measures and propose to come up with a conclusion.
So you’ve all seen this since Sunday. We don’t have to spend too much time on it. Are there any objections or questions or comments on the way I presented Number 27? Fantastic.

Okay, let’s go to the next page. Number 28 is a very closely related stress test. It’s also from Chris Disspain. And it would have said that what if the board followed the community recommendation coming out of the review team but then it was reversed by IRP? Chris was worried that someone with legal status like a member could then sue ICANN and drag it into California courts.

And what this solution is supposed to suggest is that we would be able to constrain the so called member or designator if that’s what we use, that IRP is the path they have to take and that it’s binding, not unlike what happened in the dotAfrica situation with the new gTLDs.

So that places it in the hands of the IRP. The IRP panel only looks at the standards that are in the bylaws. And the courts that would enforce this would be any court in the world that accepts international arbitration results. And we did verify that that court, whatever that is, does not look at the underlying bylaws to determine whether the panel made the right decisions, it only looks as to whether the panel executed its process properly and was within its rights to issue the decision.

So the way I understand it, and I’m no lawyer, the courts do not - particularly California courts - would not be in a position of interpreting the mission statement of ICANN. I believe that Chris Disspain was the one the raised this concern was satisfied that we had that covered. Okay let’s go - any other comments on Number 28 - 28? Great, thank you.
Let’s go to 29 on the next page. This was one of two stress tests that were suggested by David Post and Danielle Kehl, the New America Foundation. Danielle had tested alongside me in the Congressional Commerce hearing in May.

And they are very concerned that the new gTLD program registry agreement and registrar accreditation agreement include flow-down provisions that require registrars to investigate and respond to reports of abuse. And there’s a distinct list of abuse that includes malware, bots and zombies, fraud, deception, trademark or copyright abuse.

So their concern would be, well, what would happen if ICANN insisted that legacy gTLD operators adopt the new provisions on renewal? They were worried about terminating name registrations, that is to say registrants of domain names. And their decision was this would drag ICANN into being a regulator, conduct and content on actual registrant websites.

So in both cases under existing and proposed GNSO can do a PDP to define what the obligations are and within the picket fence of consensus policy that would apply to registry contracts and RAA. So I repeated that in both columns.

Under the existing accountability measures, registrants can file comments on the contract renewals. A lot of us have filed comments on the renewals of dotCat, dotPro, dotTravel recently because they included the rapid takedown.

And then third, the existing accountability measures say that registrants and users, while they might be able to use an IRP but under the current rules my understanding is that you have no standing to challenge an ICANN decision
because you’re not a party to the decision to sign a registry contract. You're not a party to the decision to enforce registrar obligations.

So my view was you have to turn to the proposed measures and there we end up right back to the IRP with the aggrieved party, let’s say it’s a domain owner who was distributing let’s say copied movies on their Website. The registrar received a complaint from a movie studio. They took down my Website, I now have standing as an aggrieved party. I file an IRP.

And I would challenge the RAA provision and the enforcement decision because it wasn’t the result of consensus policy and that it would therefore violate the mission statement of core values. And if that were the case the IRP might well issue a binding decision that invalidates that enforcement. It might invalidate the entire section, who knows.

Okay. I’ll take a queue on that one. Do we think we have captured this right? All right seeing none looks like we're good on that. And I think that you'll be quickly able to go through the next one, Number 30.

Number 30 is on Page 28 of the document in front of you. And we added this in the interest of completeness but we’d already had two stress tests existing that were pretty close, Number 23 and of course the 29 that we just added. Post and Kehl, in this version of their stress tests - and they requested these specifically in their public comment the they filed.

In this case they’re saying that ICANN when it starts terminating the registrars and I guess by extension the resellers because they’d not been responding adequately or sufficiently when reports of copyright abuse came in. And, again, this sort of presumes that you're talking about Section 3.17 of the RAA.
And it presumes that those registrars have not been investigating and taking action, they haven’t been taking down, they haven’t been satisfying the complainants and now the complainants have escalated and they want ICANN compliance to start terminating those registrars for breach of contract.

And if that happened under the existing and proposed measures I’ve repeated the point about we the community could initiate PDPs and that would become consensus policy that could resolve the issue to the community’s satisfaction. Registrars, since they are parties to contract, they could challenge ICANN’s termination decisions. But under the current reconsideration and IRP the standard of review is only whether ICANN followed the process.

It would not be a substantive look as to whether this was a properly formed policy. It would only say it’s in the contract that ICANN follow the rules of enforcing the contract. And under that scenario I don't see how they could prevail. And, again, registrars and users, if they're affected by terminating registrars they have no standing at all.

So under the proposed measures it’s similar to what we said earlier in Number 29 that it’s all about the IRP here being able to challenge and overturn the decision to terminate certain registrars.

Looking for hands. It’s going smoothly this morning. Everyone must be exhausted. All right, at the bottom of the page I wrote a note. And, Avri, I don’t remember if it was you or somebody, maybe it was Cheryl, who said, you know, while we’re at it maybe we do a scenario where the RAA 3.17 enforcement is to relax where they’re not doing enough and then would that result in a challenge? Challenge from law enforcement, somebody suffering from fraud, a trademark or copyright owner.
Is there a sentiment here among the few participants we have this morning to add another stress test for the flip side? Avri - Avri said certainly wasn’t me. I can see that. It was probably Cheryl. Where we do the flip side, the mirror image of this stress test. I’ll look for hands.

All right seeing none I’ll recheck with Cheryl to see where she thinks that came from. But I didn’t do it yet because I didn’t feel it was sufficient demand. And God knows we had enough to do. Why don’t we proceed to the very next one, Stress Test 31. This was on Page 29 of the document.

Okay so Stress Test 31 was this notion of rogue voting. If you recall this was on everyone’s mind a month ago when we thought we had to have an unincorporated association or avatar stood between an AC SO and its member or designator persona and that there were risks perceived that this person might not follow the instructions of the AC SO. Our goal is to empower the AC SO and we don’t want anything getting in the way of the exercise of that power.

So it’s possible this one has been overcome by events and we wouldn’t have had such a concern if we move away from a member designator towards just empowered AC SOs or the AC and SO itself casts the vote in the community powers.

But it still left us with a scenario, a risk that the actual person who communicates the vote, you know, whether orally or in writing, hitting the send button on an email that that person doesn’t communicate the votes faithfully and per the direct instructions of the AC or SO they’re in, we’ve got a problem.
And I guess to solve the problem what we’re proposing here, under Proposed Accountability Measures, is that somebody in the AC SO would have to be aware that their communicator miscommunicated the vote, that means it has to be transparent, Number 1.

They would have to have a standing - well I wouldn’t call it standing - they would simply raise the alarm with the community council mechanism that their vote from the their AC or SO was cast improperly. And our notion here is that that would put the vote results to be set aside. This would all have to be done rather publicly and transparently. You would suspend the voting. Let’s suppose it was voting on a bylaws change. You’d have to suspend that vote pending the correction of the problem.

And the correction of the problem entirely lies with the AC or SO who identified that they had a miscommunication problem and they might decide to clarify their intent so their communication person is much more clear on what to say, they might replace that person in the role. Sort of up to them, not up to us.

And when they're done they would suggest that the officer or the AC or SO says here’s the proper communication of our voting on this particular bylaws change, here’s what our community power vote is. That vote would then get folded into the votes that were cast by others. And I think that we would have solved whatever risk there was of rogue voting. Any suggestions on this one? Great, thank you. Let’s go to the next page, Page 30 please.

Now we embark on a series of four stress tests, new one, four stress tests that were requested by Assistant Secretary Larry Strickling. The 16th of June he sent a letter just before we went to Buenos Aires and it included in the text four specific stress tests that NTIA had asked us to perform.
So we have. The first one was Number 32. The idea here is that what would happen in the multi-stakeholder model if individual AC SOs opted out of having votes? And, you know, this is not a stretch. We already know that the RSAC and SSAC have, for the time being, said they don’t want to vote. We don’t yet know what the GAC will decide. So I’ll give you guys some time if you haven’t read this already to scan what’s on the screen in front of you. This is Stress Test 32 on Page 30.

In the proposed measures we reiterated what we’ve said since last December in that we wanted to offer the community powers to multi-equal stakeholders and that’s why everyone was included. I don’t suppose at the time we suspected that a few might not exercise their vote. But we now know that a few may not.

So the second paragraph in the third column, the first thing I noted was that SSAC and RSAC, this was something that Malcolm Hutty advised us last week in our call, that even though they may not vote in a community power on whether to approve a bylaw, they are still part of the multi-stakeholder process and would still be giving advice on security, stability matters to the board and to the community.

And I also noted that any of the rest of us before we cast a vote would be allowed to ask RSAC and SSAC for advice before we voted our own votes in the community power. Avri, your hand is up.

Avri Doria: Yeah, thanks. Avri speaking. The one question I had was at the very last line of the proposed accountability measures. And do we really mean an “or” GNSO, ccNSO or ALAC?
Steve DelBianco: I meant “and” you’re right.

Avri Doria: That makes it - and we may want to include ASO but we may also want to include and or some phrasing that says maybe you don’t need all three but I think at this point it really - if we don’t have at least three or actually four then we may not have a solution there. You know, if we have any more dropping out. So to say that one of them would be enough would certainly be wrong. Thanks.

Steve DelBianco: And you're absolutely right. Typo on my part, Avri. We’ll both change the “or” to an “and” and add ASO. Thank you. And then in the notes please, whether it’s Alice, Brenda or Grace, in the notes just put “change or to and in last line.” Thank you.

Any other comments on this? And the conclusion in the bottom line I think is consistent with the corrected version. And you are paying attention, thank you, Avri.

All right let’s go to the next page, Page 31, Stress Test Number 33. This is about internal capture, not external capture but internal capture, something that’s come up a lot of times.

And I’ve tried to put a little meat on the bones of capture by saying that they’d need the participants in a given AC or SO, let’s say it were the contract parties in the GNSO, and they arranged to have over-representation by flooding the number of members in a working group, electing officers from their group or when it came to a vote if it came to a vote within their AC or SO they could somehow acquire a greater number of votes by having a lot more people join.
For both existing and proposed measures the first two paragraphs are the same. And that is that we already have periodic structural - we call them structural reviews of each AC and SO. And presumably that is where ICANN internal and experts from the outside evaluate situations inside of ACs and SOs and those evaluations would presumably identify capture opportunities and make recommendations to insulate the AC or SO from that and presumably those would be adopted.

The second paragraph, which covers them both, is that we ourselves, that our own ACs and SOs, we can revise our charters if we see a need to protect against capture. And I certainly know that’s the case at the constituency level but Avri and others, what does it take for the GNSO at the SO level to revise a charter? Avri.

Avri Doria: At the moment it takes the board concurrence. And I mean, because it’s - well to - because its charter is partly bylaws and partly operating procedures. Operating procedures it can change to a certain amount on its own accord with board, you know, acceptance and, you know, open comment period and all of that. Anything that’s bylaws-related would need full board concurrence.

But this is one of the issues that I’ve got with the first paragraph there which was the reason why I re-raised my hand after briefly taking it down, is I think this is true now. The board has a fair amount of control I guess, over the charts of SOs and within GNSO over the SGs and their charters.

And I question though whether that is the same in all models and in some of the stronger versions of the members model we have to question whether the board would have the authority to change the members’ charters and such with the degree of power that it has now.
And so this may be another one where we need a note to come back to the issue once there has been a decision on which model we’re going with because I think the model we go with may have an effect on the board’s - the board’s powers in that first paragraph. Thanks.

Steve DelBianco: Thanks, Avri. I think you mentioned that on our last call. And I had it in mind when I wrote these up. And I went back and checked and we're not proposing any revisions to this section of the bylaws calling for these structural periodic reviews for the board’s power that’s articulated in the bylaws.

But I take your point. If the enforceability model, which is yet to be determined, if the enforceability model creates sort of legal rights to resist those board-imposed restructuring then you’re absolutely right, we’d have to take note of that and it would mean that we’d lose that sort of oversight mechanism to avoid internal capture.

So I’ll make a note that the structural reviews would they still - would this still be true even after our enforceability model is adopted? And we'll apply that to the first paragraph in the upper right hand column.

Avri, to your other point, which you brought up is that if ACs and SOs can revise their charters and operating procedures - I’ll add that - the charters and operating procedures if they see the need to protect against internal capture. I could add that charter changes require board approval, probably could add that line.

And then I wrote that capture, however, could inhibit the adoption of an AC and SO charter amendment if an AC like the GNSO were captured by contract parties then it’s not likely that we’d get a majority of that SO to vote for the new operating procedure.
Avri Doria: That’s true. But it really depends on how your charter is written because, for example, you know, the NCSG charter is written so that, you know, 10 members could put something like that on - up for a vote and that vote is something that would go to the board. So charters can be written such that a minority has the right to escalate a position so - or even a majority, you know, but so there are ways to mitigate that in the charters but we may have to do some of that at some point. So some charters do mitigate it, some don’t.

Steve DelBianco: And you’re thinking that if you were to send me a copy of the CSG - the NCSG charter it’d give me an idea of what you mean by that.

Avri Doria: Sure. I’ll just send you the URL and tell you what paragraph.

Steve DelBianco: Perfect. Thanks, Avri. All right if a - third paragraph down is where they’re different. If a - under the existing accountability measures if a captured AC and SO then went on to submit policy advice to the board, policy or advice, you know, if you’re an AC you’re sending advice, if you’re an SO you’ve created policy, it’s not at all clear how the other members of that underlying AC and SO, the ones who felt themselves disenfranchised by the capture, how do they challenge the board decision? How do they raise their hand if they don’t accept that advice? That policy was the result of a captured AC SO.

I don’t know how that happens other than just making noise. But on the proposed measures a decision of the board to implement that advice or policy could be challenged by an IRP and we do have a requirement in the current draft of the core values that quote, all policies are, quote, developed through a bottom-up, consensus-based, multi-stakeholder process.
So the presumption here is that the IRP panel, these experienced individuals, would be presented with evidence that the capture that occurred defeated the requirement or violated the requirement through a consensus-based, multi-stakeholder process in that particular AC or SO.

That’s the best I could come up with on this one to say that the IRP adds some teeth to being able to kill a decision to accept advice from a captured AC or SO. How do all of you feel about that? All right, great, no objection to that but there are a couple of key corrections that I just got from Avri and a note for later on once we determine our enforceability model to test whether the structural periodic reviews of the board - of each AC and SO will still have teeth.

Great. Next one, Page 32, the third from NTIA - Page 32, Stress Test 34. This is about Larry Strickling’s concern that barriers to entry for new participants - someone decides it’s time to start paying attention to the DNS and they try to join a particular ICANN meeting, they try to figure out how to get into the GNSO or the ccNSO, join the ALAC, the ASO and they can’t get in.

If those barriers had been erected to prevent them from getting in you’ve got to have an answer for that, that’s the stress test. Okay, the first two paragraphs, again, are pretty much the same. The first requires the periodic reviews, so, Avri, the upper right hand corner paragraph I’m just going to put your name next to it, Avri’s Test, after we determine our enforceability model to make sure that the periodic reviews will still be in the bylaws and still have the force they do today. Okay?

Second paragraph down is under the AOC reviews which we are bringing into the bylaws, the ATRT - and Avri’s been on both of them - have an
enumerated list of things that the ATRT is supposed to look at. Oh, thank you, Avri, that’s the section...

((Crosstalk))

Avri Doria: I’ve only been on the second ATRT, I was not on the first.

Steve DelBianco: Okay, thank you. And Item D on that list of things in the ATRT - and we preserved all that because we brought them into the bylaws with the exact same list. It says that the ATRT is supposed to assess the extent to which ICANN’s decisions are embraced and supported and accepted by the public and the Internet community.

So the public and the Internet community is the key phrase because that is a little bit broader, well no it’s a lot broader than saying that are supported and accepted by ACs and SOs. No, the point here is to look outside of the internal folks at ICANN and try to understand whether or not what ICANN is doing is embraced, supported and accepted by the public and the Internet community.

So hopefully the ATRT team would look hard at that and determine whether in fact there have been barriers to entry for somebody from the public and the Internet community at getting it to an ICANN AC or SO to help their voice to be heard through official channels. So that’s the same in both existing and proposed.

Okay, the ombudsman is also there as somebody who might be able to help a new entrant join an AC and SO but I don’t know enough about the ombudsman to understand if that’s effective. It hasn’t been in my experience, I’m sorry, but I’ve only had one instance. It hasn’t been effective. And I don’t honestly know if the proposal in Work Stream 1 will do anything to increase
or sharpen the effectiveness of the ombudsman. Does anybody have any insights on the ombudsman you could add to this?

Okay, and then let’s look at the lower right hand corner paragraph. There I went to the new bylaws that we’re proposing. We have a new core value. And this phrase borrows from some things that are in the Affirmation of Commitments and some things that were in the existing bylaws so it requires ICANN to have open, transparent, bottom-up, private sector-led, multi-stakeholder policy development process that seek input from the public for whose benefit ICANN shall in all events act.

So there we have in the core values, and that becomes the standard of review for an IRP so that if anyone in the outside became aware of a decision that ICANN made where public benefit was not fulfilled I think this gives them the hook to do an IRP challenge. Now it’s expensive, an IRP challenge. And unless they got the community to back them they’re going to be out of pocket for the - paying for the panelists. So there are legal fees as well.

So I don’t want to suggest that this will be an easy answer for a member of the public who feels they can’t penetrate the world of ICANN. But at least there is a actionable and binding and enforceable way of getting it done as part of our new IRP. Any objections or suggestions on this one?

All right, fantastic, one left. One left. Page 33, Stress Test Number 35. This is the fourth of the NTIA requested stress tests. It is the unintended consequences of operationalizing a group that has been advisory in nature so far and specifically they called out the GAC.
So I wrote this about the GAC, I suggested that today advisory committees, like the GAC, have no community powers or voting rights so you can’t really analyze that.

But I did note in the second paragraph of the middle column that we have plenty of evidence, it’s self-evident, that ICANN has given significant deference to GAC advice, particularly in the new gTLD program, and so for Larry Strickling to suggest that they're not operationalized today is a bit subject to challenge. I would challenge his assumption there. It strikes me that GAC is quite operationalized today when it comes to the new gTLD program.

And that being said, let’s just turn to the new measures. Now this set of new measures, a few of you have seen this before, I’ve talked about this on Capitol Hill here in Washington. And I surfaced it two days ago on Work Party 3.

This is a way in which I try to present a balanced set of powers when it comes to the GAC. It’s true that we wanted to invite GAC in to exercise their voting powers as a multi-equal stakeholder among the community. Now whether they not they exercise that remains to be seen.

But in addition to that increase in the GAC’s ability to operationalize, we did come up with several ways which we felt we needed to produce government’s ability to effect ICANN operation. And these measures are on the table whether or not the GAC decides to take advantage of its voting powers. I don’t think this is some quid pro quo where if the GAC decided they didn’t want to exercise any of their community votes that we would be able to take any of these off the table particularly not Stress Test 18.

So I listed in here five ways, Stress Test 18, which doesn’t change anything from the status quo or the last 12 years of ICANN, it says just like the GAC
has always done they use consensus to determine their advice. We simply add the word “consensus” to the bylaws in case the GAC in some future day decides to move away from consensus when it comes up with advice and goes to something like majority.

And then the core values we have private sector-led, we restrict ICANN’s scope of activities so that they couldn’t be easily dragged into content regulation or some other preference of law enforcement if it didn’t fit within the core values and limited mission.

Another one is a relatively minor one, the notion that in the Affirmation of Commitments reviews the GAC Chair is no longer sitting alongside ICANN’s Board chair approving or appointing the members of the review teams.

And then finally something that has gotten the attention of several GAC members is that the new IRP with the standard of review of the mission and core values means that an aggrieved party or the community could challenge the board’s decision to accept GAC advice. So while the GAC may have operationalized itself as 1/5 of the votes on a given bylaw change, that’s because they're multi-equal stakeholder.

But the point is that their ability to effect the operations of ICANN will be diminished from what it is today. And that’s true, there isn’t the standard like this today that would allow the community or an aggrieved party to overturn a board decision to accept GAC advice on let’s say dotAmazon as an example.

And I know we’re not supposed to re-litigate the past. I’m a big advocate of that. But it’s true that when you look at these five ways in which were diminishing the GAC’s operational power that some of them were driven, some things that happened in the past. Avri.
Avri Doria: Yeah, I wanted to come back to the - thanks, its Avri speaking - to the ambiguity of consensus and wondering whether we need a few extra words when we discuss consensus in relation to the GAC. We speak always of ICANN’s consensus as just consensus, we’re not constantly saying ICANN consensus so we speak of ICANN consensus and that is not - is defined as not being full consensus. When we want full consensus we say full consensus.

Now it may - and so my first instinct was well maybe we should say full consensus but at that point it would rub wrong because then we’d be telling the GAC how to deal with consensus in some sense. And I expect some would find that problematic.

So we may want to add extra words like to the extent is consensus as it is currently defined in the (back) or something like that just to make sure that there is no ambiguity in this about ICANN consensus versus UN style consensus. Thanks.

Steve DelBianco: Thank you, Avri. Avri, Stress Test 18 has its own little chapter in our proposal.

Avri Doria: I understand that and I remember that but in a sense each of the stress tests stands alone. In other words...

((Crosstalk))

Steve DelBianco: It is but I don’t want to reflect - yeah, you're right but what I wrote in this paragraph is per Stress Test 18 so I’m referring back to what we have in Stress Test 18. And let me just refresh the memory of the others on the call. Early December January we were saying that in answer to Stress Test 18 that we
wanted to change the bylaws so that the GAC had to use their current definition forever. And their current definition was the absence of an objection.

The absence of an objection is what the GAC uses today - it’s written into their operating procedures. So for a while we were trying to freeze that in place. We had such pushback from Thomas Schneider and a few - two other governments, that we decided to move it, to be more flexible and just use the word “consensus” leaving it to the AC and SO to define what its consensus is because that’s what we do with the...

Avri Doria: Right.

Steve DelBianco: ...other ACs and SOs, right, Avri?

Avri Doria: Right.

((Crosstalk))

Avri Doria: And that’s why I’m suggesting that this test though - we’re talking about the test, we’re not talking about a constraint we’re putting on the GAC, what we’re saying is this test works so long as that holds. We’re not saying they must hold it, but we’re saying that the stress test would fail if that somehow changed.

Steve DelBianco: We agree.

Avri Doria: So that’s the only...

((Crosstalk))
Steve DelBianco: We agree. So maybe what I should say is right after that sentence, per Stress Test 18 GAC advice gets no special deference unless it is consensus advice. Then I would add a sentence to say if it were not consensus advice - finish this sentence for me. Would you want to add something right there, Avri? Because I can’t put the word “full consensus” or it makes it look like we’re trying to change what’s in our proposal with a single word...

((Crosstalk))

Avri Doria: All I was trying to say - right - is per Test 18 GAC advice gets no special deference unless its consensus advice as currently defined.

Steve DelBianco: But if I said “as currently defined” - currently defined meaning today...

Avri Doria: Oh right, I see what you’re saying. You want to say if the definition of consensus changes this test may fail.

Steve DelBianco: Okay, good line, good caveat. I got that one. Good caveat. I’ll put that in. Any other comments? Okay, you all have been very patient. We’ve been able to do this in 47 minutes. And the last page contains two subs for future work not for today.

But I went through the 156 questions with the help of Adam Peake from ICANN staff, 156 questions the board legal - the board and legal department sent us on the 20th of June.

The word “stress” shows up just twice but Adam points out there are many other places where the language might be suggesting other stress tests. But at least we know that the legal department and the board want us to do two kinds
of stress tests, particularly on the membership or enforceability model. And again this was written in the middle of June when we had a reference model of membership that is something we're going to work on next week and in the next two days.

So I have put in here that we'll take this up after the CCWG at large has adopted a new enforcement mechanism which may or may not involve membership so nothing to be done on it right now.

I’ll point out that the document I sent around yesterday afternoon was where I went through the public comments that we received and I responded to about a dozen public comments referring to the stress tests. I relied upon notes I’d taken on a call we had a month ago when I did that so it shouldn’t be unfamiliar to any of you. But please don’t let that email go unread because it’s been published as part of the reading list for tonight and it’s going to make its way into the public comment tool that’ll be published to the community once we come up with our new draft.

Avri.

Avri Doria: Old hand, sorry.

Steve DelBianco: Okay. So that’s all I had for today. Is there any other business that the Stress Test Work Party wants to take on today? All right seeing none let me thank you and thank staff for your support on this today. I think we - the Stress Test Team will be in good shape when we present on Friday in Paris. And let’s just hope that we don't get handed a whole pile of new stress tests to work on. Thanks, everyone.

Avri Doria: Good travels to those traveling.
Steve DelBianco: Thank you, staff. We can terminate the call.

END