

ICANN

**Moderator: Brenda Brewer
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1:00 am CT**

Leon Sanchez: So welcome, everyone, to this Cross Community Working Group on Enhancing ICANN's Accountability Meeting Number 53 on September 15, 2015.

And we will be doing the roll call, as usual, with those attending the call on the Adobe Connect room. And I would also like to ask for anyone that is on the phone bridge, is not in the Adobe Connect room, to please state your name at this point so we can add you to the roll call. Is there anyone at this point that is not in the Adobe Connect room but it is in the phone bridge?

Mathieu Weill: Leon, this is Mathieu Weill, I will join shortly the AC room but I'm on the audio only.

Leon Sanchez: Thank you very much, Mathieu. Your attendance is noted of course. Anyone else besides Mathieu that is in the phone bridge and not in the Adobe Connect room? Okay so having no one else I would like to remind all of you to fill in your statement of interest if you haven't done so by this time. Please approach staff so they can help you to either configure your account or the wiki and

help you with any questions that you might have with filling your statement of interest.

So one is called we have light attendance. And as we are not listening to our rooster friend I assume that the rooster is not located in Europe so we will do an experiment next call to find out if the rooster is in America. So with no further delay I would like to turn to agenda item number two and for that I will give the floor to my co-chair, Mathieu.

Thomas Rickert: Hello, everyone, this is Thomas and not Mathieu actually. Since Mathieu is stuck in public transportation we just decided that we would do a swap of agenda items number four and agenda item number two. So before we turn to them public comments that we received let us please discuss the preparations for the LA face-to-face meeting.

And the agenda item reads, draft agenda for LA face-to-face meeting. And that is maybe not an accurate reflection of what we can do today. Actually this is a little bit broader. The question is rather how we approach the face-to-face meeting. And the first piece of news that I would like to share with you is that we've been offered five additional travel slots to be funded by ICANN. And the question was how to best allocate them.

As you know, five members plus liaisons are already funded by ICANN so there is room to fund an additional person, you know, mathematically by chartering organization. And that is exactly the way that we are planning to go about with this. We will reach out to the leadership of the chartering organizations today and offer these additional slots to them. So I'm afraid the onus is on the chartering organization leadership to allocate that additional travel slots. But the good news is that we do have some more funding

available and you can reach out to your leadership teams to discuss with them how to best allocate that slot. So that's one.

The second point that we wanted to touch upon briefly is to give some additional information on why we chose to go for LA as a location. There have been questions on the list. So basically there are pragmatic reasons for that. One is that the organization of the meeting will be relatively easy for us if we do it there but more importantly even though we do not give special attendance, if you wish, to the board's comments still the board is the group that we are going to submit our recommendations to to be passed on to NTIA and therefore dialogue with the board within our CCWG deliberations will be important.

And as you know there is a board meeting around those dates so it did make a lot of sense to facilitate participation of board members as they have participated previously so that our discussions can be hopefully expedited and the discussion of board comments that will surely continue during the face-to-face meeting can be facilitated by getting first-hand information. So that's sort of the opening part of this agenda item.

With respect to what we're going to discuss or what we've plans to discuss during the face-to-face meeting an exact agenda on what topics are going to be discussed is still outstanding and we will likely only be able to confirm that as we move on with the analysis of the comments received.

You might remember that when we announce the face-to-face meeting we spelled out four items that should form the basis for an agenda for the two-day face-to-face meeting and that is the continuation of analysis of comments and subteams' work on finalization of our consensus recommendations, advancing the documentation and writing up the rationale for our recommendations and

to confirm the messaging and the presentation of our recommendations so that they can be understood more easily.

And we also said that we're planning to have communications experts as well as graphical experts on site. And that confirmation is in progress. But if you look at those four components of the agenda I think we can or we should briefly speak to those and open it up for your comments.

Now when we say that we're going to continue the analysis of comments and subteams and working towards finalizing our consensus recommendations we think that now is the time to discuss with the whole group that potentially the passing on of a set of consensus recommendations to the chartering organizations to be adopted in Dublin is unrealistic.

We have received a lot of comments, a lot of comments that are quite substantial, comments that deserve that we give them the attendance that they need to be digested and incorporated into our thinking. And as you will remember the time plan that we established was made, you know, that was more or less a best case scenario assuming that we do not have to administer major tweaks to our recommendations. But we were hoping that we would get more or less confirmation of the recommendations that we put out with our second report.

Now since we received multiple comments suggesting that we take another look at key component or sub parts thereof of our recommendations we think of these can't be done or finalized in a rush. I mean, we can still be positively surprised but we think that thorough analysis, thorough discussion is required and we'd rather spend a few more weeks, not months but few more weeks on those rather than rushing into Dublin with something that is not fully thought out.

So, you know, we will likely or we will almost certainly have to revisit our time plan. And we will need to establish a new time plan by the LA meeting at latest. We are now in the process of finding out how much wiggle room we have so that the overall deadlines of the transition plan can still be met. We will keep you updated on that and continue to discuss this with you.

Now having said that, even if we take a few more weeks' time to finalize our recommendations and to reconcile the differences in the community to come up with consensus recommendations that is not that we can tear down or take a break. Just the opposite is the case. We have a lot to do and we really need to keep up the momentum and work on the different topics in front of us full throttle.

As you will have noticed, and we can't emphasize this enough, NTIA has made it more than clear that we're still light on documenting our work so not only do we need to refine our recommendations to adopt consensus recommendations that also do we have to work on documenting more and messaging.

Now if we talk about these three points for a second, the finalization of the consensus recommendations, the documentation and then the messaging, with respect to the comments we will hear from Mathieu and staff a summary of what we get from the community and suggested way forward in analyzing those. But what is apparent is that we will likely need to task the subteams, the current subteams with doing an analysis of the various reports received.

They will have to do any prioritization job as well so there are recommendations that are relatively easy to take on board. There are others

that are a little bit more challenging and that need groups deliberations ideally face-to-face when we meet in Los Angeles. So that's the first thing.

So I would like or we would like to encourage all of you to be part of that, to engage in the subteams to help us look at the high number of comments that we received, analyze those and take the best out of that in order to advance our proposed accountability enhancements.

You will have seen the notes that we passed on from Ira Magaziner, and he's not the only one but he was just the most recent individuals to congratulate us on what we got so far. And, you know, when we were on the phone with him I think he was generally impressed with what this group had put together in a very short period of time, how well thought out it was, how much it would advance and enhance ICANN's accountability.

So let's not be disappointed with what may be perceived as pushback. Let's just take this as good-faith effort by many many commenters to help us yet take our recommendations to another level. I think we are on exactly the right way. I think we've done a splendid job. We're getting positive messages from everywhere despite the criticism. But if you look at the criticism almost everyone comes up with alternative suggestions.

So people from all around the world took the trouble of writing up comments after having studied what we did. And I think this deserves applause. I think our group should take this as a sincere recognition of our achievements. And we should continue to take this to the next level. And I think we will be fine. Remember, Ira said we have achieved 90%. So the remaining 10% are always the hardest as you know, from all areas of life. But let's keep up the energy. Let's keep up the momentum. Let's make this happen.

And I'm sure we will be fine and we will have a good party not at the time we planned in Dublin but we have other places in the world where you can have a good party and we will have that. So let's continue working on the comments in subteams.

Let me just stick to the three points. You know, we've spoken about the comments. So we will amalgamate all of the preparatory work in subteams, what needs to be discussed face-to-face. So you can expect a huge portion of our time in Los Angeles to be reserved to the tough questions, to the more challenging questions remaining from the public comment analysis.

Then let's talk about documentation. We need to document more. We need to document better what we did. And we need to get that job done. Also we need to work on our messaging. Ira made it very clear, we need to focus more on how we strengthen the multi-stakeholder model, how we take the multi-stakeholder model to the next level in the post-transition era how we maintain what makes ICANN rather than changing it.

Because at the moment I guess a lot of the criticism that we received is due to the fact that we did not do and as good job as we would have loved to in communicating that all the community powers or most parts of it are meant to be part of an escalation path and that ICANN's day-to-day operations would not be so much influenced by what we're doing. But that we are more or less just replacing the backstop provided by the US government with a new backstop provided by an empowered community.

And in order to help that I have to -- I'd like to -- I'd like you to go to your inboxes and take a look at another e-mail that I sent to the list yesterday where I made an attempt of describing what we did in a more positive spirit. So that

would -- that messaging more focuses on what we kept that we don't destroy consensus building and replace it with voting.

Because I think there are some who really do think that we throw consensus making overboard. But the opposite is the case, we maintain ICANN's current operations in their core bits. All the policymaking that ICANN does will be unaltered. GAC advice will be unaltered, right. And there are many other areas that remain unaltered. So we're just taking a look at some of the areas where we think we need to make ICANN better, not necessarily different.

So I'd really like to encourage you to take a look at that very document. It's not perfect but I hope that you can -- that you will get a sense from it how we can maybe tweak the messaging and at the same time incorporate providing a rationale and what we did, why we did it and why we're doing it now for all the components of our recommendations.

So the initial part of our -- of this narrative that I wrote is to explain what we are doing and then there would be additional parts where we can fill in what we have done. And I think that our final piece of documentation should not only speak to the improvements from the first report to the second report. So that's not a document meant to be read by insiders but actually it should be a document that can be understood, standalone. All the benefits of our proposal that would still have all the glorious detail preferably in the appendices where those who want more documentation can find it.

So I think that should be a discussion starter. Comment analysis documentation messaging, and we have offered with these documents or with a combination of this initial document and what you're going to hear from Mathieu and staff the foundation for actually writing up a meaningful agenda subsequently. So do you have any questions or comments on this?

So that's been a lot of information I understand this. But I think if we - Greg, your hand is up. Happy New Year to you, Greg.

Greg Shatan: Thank you. Greg Shatan for the record. The question about the narrative, which I read briefly comment need to read more carefully. What would be our working method and moving that forward? Would we put that into a Google doc, a Word doc, something else so that we could kind of move that forward. Thanks.

Thomas Rickert: Thanks very much, Greg. Anyone else? Okay, I mean, if you have more questions we can get back to this point later during this call. But this was just meant to set the atmosphere for the face-to-face meeting and more importantly also set the tone for some additional time that we will need to complete our work.

So with that I'd like to hand over to Leon to give us a brief update on the human rights discussion.

Leon Sanchez: Thank you very much, Thomas. This is Leon again. And well we have had some calls in Working Party 4, which is the working party that's addressing or trying to address the issue on human rights.

We had agreed to come with a document that establishes high level wording to be included in the bylaws. We have had a couple of documents drafted by the different members in the working party. We have discussed those documents mainly regarding the framework of the definitions between human rights and fundamental rights and the different documents that encompass these rights and international recognized level so to speak of the Universal Declaration of Human Rights and other conventions.

And we are also working on providing after we get to a consensus on which would be this language that we would be proposing to be included in the bylaws. We will be also working on providing a rationale for an explanation on how we achieved this proposal and why we are proposing this language. And of course this rationale and the explanation or exported for a notes would have the intent of guiding anyone that takes a look at this language in the future to of course interpreted in the way that it was meant to be delivered by not only the working party but also by the larger Cross Community Working Group on Enhancing ICANN Accountability.

And even though we have done some progress on this we have not come to a final version of a document yet. We will be having another call later this week. And I believe that it will take us maybe a couple of calls more to reach these agreement on whether or not whether but which would be the final wording to be proposed to be clear in the bylaws.

We are aiming to concentrate our efforts on the two proposals that were already published for public comment in our second draft proposal. And of course it is now useful for us that the public comment period has ended because we will also be looking at the comments received on the second public comment period with regards to the human rights issue. And we will be trying to of course address then take into account those new comments in whatever wording we come up to and we propose in the next version of our document.

So this is where we're standing now. And of course I would welcome any comments or any questions from the group. And if there is anybody from of course the working party that wants to add anything to this update please feel free to chime in.

Okay so I see no comments and no questions at this point with regards to this update. So if I am not mistaken I would be turning to Mathieu at this point, am I right? So, Mathieu.

Mathieu Weill: You're right, Leon. I was just coming off mute. So apologies to everyone for joining the AC room late. This is Mathieu Weill speaking. So the first thing I'd like to do about this agenda item, which is about public comments we've received, is to congratulate staff who have been working around the clock since the close of the public comment period to be able to provide us with a very quick overview of the trends in the public comments.

And with no further ado, turn back to -- I don't know whether it's going to be Alice or Grace. Grace hand is up so probably Grace is going to take over.
Grace.

Grace Abuhamad: Thank you, Mathieu. Hi everyone. This is Grace Abuhamad speaking. We're going to do a quick presentation on the trends that we've seen so far in our analysis of the public comments. We'd like to note that this is a draft because we have done an initial pass but we want some additional time to go through some of the more nuance issues and make sure we can do a double check on addressing all the comments, etcetera. So we will provide you with a draft analysis presentation today and then we will follow up with a dash on the next call or on the mailing list.

I will go through the presentation and you can ask questions as we go through or you can wait to the end, either way. Like I said, it's an initial presentation so please bear with us.

All right, first thing is just the breakdown of comments by region. We had 88 comments overall. The comments generally were very supportive of the work of the CCWG and appreciative of the goals that the CCWG is working towards.

We had a large majority of comments from North America but the breakdown is on the screen. And we still got a range of comments from around the world including the SO ACs and other sort of global organizations that we categorized separately on the bottom right.

To answer Jordan's questions in the chat, there is a place on the wiki where all the comments are posted and easy to download. And I think Brenda or Alice will post the link to that page for you in the chat.

On the second slide we've got the stakeholder distribution. This is just our assessment just to give you an idea of the types of comments received. We've got 13 governments commented, six ccTLDs, four advisers. We have seven advisers in total and four of them submitted comments so that's the majority of the advisers. We have quite a few chartering organizations or sub parts of chartering organizations that submitted comments.

The CWG Stewardship submitted comments to assess the requirements. And some organizations in the technical community also submitted comments. We have a good range there.

Our overall assessment so far is that we have broad support for the request for reconsideration, the fundamental bylaws, the powers in general but specifically the standard bylaws and the power to remove individual board directors. The power to remove the entire board and the power to veto the budget, operating and strategic plans, require further detail or clarification so

while people may have been supportive of the powers or the goals the powers needed more clarification and detail there. There was broad support for the diversity work and for the items identified as part of Work Stream 2.

The IRP, the sole member model and the human rights questions all received comments that sort of indicated further clarification or detail and we will get into those in the next few slides.

On the IRP generally comments were supportive of the goal to enhance the IRP. And there was a request for further detail on process elements such as the scope, the timing, the standard of review. We are still going through the nuances and the detail of the IRP. The IRP was one of the biggest areas of comment so we have just two bullets for you right now but we will provide more analysis as we make our way through in more detail.

On the sole member model, there was support for the enforceability goal. There was also preference expressed for simplicity. There was a lack of consensus on the voting allocations which was also the case within the CCWG so it may not be too much of a surprise in this case here. And there was also some concern about the composition of the community within the model so whether the advisory committee -- what the role of the advisory committees would be.

There was some concern over the duality of the governmental role. We broke that out specifically. So what we did for the sole member model and what we're still working on, just so that you have an idea, is we have an overall assessment of the sole member model, comments on the model in general. And then we are trying to break that out a little bit and get more detail specifically on the voting and the forum part and then detail on the role of the GAC and or governments in general. So that way we can try to get into more

detail there and we will provide you with that detail once we -- we're finished assessing it.

As I said, there is some further detail around the community forum. And in general the comments seem to indicate that they wouldn't be able to determine full support or even determine a position in some cases until further detail was achieved or clarified. And there were a few comments that actually requested -- they had some concerns about the timeline and if significant changes were to be made that they may request additional time to consider the comments the proposal. So we will get into the timeline details as we processed the comments.

On the human rights language we also brought about. I know it's not a specific chapter in the proposal but we thought it was important to break this section out. We note that general support for inclusion of some human rights language that there's lack of consensus on what version of the language to include, what the source of the language should be and whether or not that's a Work Stream 1 issue or Work Stream 2 issue.

And again this is one of the areas where we're still going through the nuances and analyzing that area so we will have more feedback for you as we finalize the analysis.

On the stress test generally the stress tests receive support. There were a lot of comments on Stress Test 18. And we won't get into the details now about but we are still working on some of the analysis for Stress Test 18. The other stress tests that received comments were Stress Test 29 and 30. Then we're going to get into the three questions so if you remember at the -- when we launched the public comment we ask the community three specific questions.

The first one was, "Do you agree that the CCWG proposal enhances ICANN's accountability?" So we only received 27 responses out of the 88 comments but of the responses received there was general agreement that the proposal that enhance ICANN's accountability.

The second question was, "Are there elements of the proposal that would prevent you from approving the transmission to chartering organizations?" Again, we only received 30 responses but of those responses comments seems to support the forwarding or the transmission of the proposal should the details -- the outstanding details and issues that they had mentioned be addressed. And those we've discussed in the previous slide.

The third question was, "Does this proposal meet the requirements set forth by the CWG?" And again, only 27 responses but of the responses there was consensus that the CCWG had met the CWG requirements. And in particular the CWG Stewardship provided a response, a very detailed response, with some clarifications but in general agreement and support for the CCWG proposal.

So I'm open to questions if you have any. This is just our general overview. And I will unsync the slides so that you can click through them as well.

Mathieu Weill: Thank you very much, Grace and Alice and Bernie, I know you've been working very hard to produce that in time for this meeting. And I think the first thing is really congratulations on putting this together in such a short timeframe.

Are there any questions for Grace or any other on what was presented here? I'm seeing none. So the first thing I think is to welcome all the substantial thoughtful elaborate concerns - comments, sorry, that we received. It's a very

substantial effort. And it's not -- of course the board input is a huge piece of work but there's also GAC consensus input which is certainly something that is highly unusual.

When we have comments from all around the community, which is extremely encouraging, and I think this speaks to how important and how the importance of our work is recognized all around. And the high level of consideration or proposal has been met with is certainly a testament of the importance of what we've been doing so far.

Among the non-respondents are two advisory committees, SSAC and RSAC, which I believe we would gain value from reaching out to because obviously their position on the sole member mechanism was expected or at least would've been useful. So I think that's also -- it's always good to look at who has not responded and SSAC and RSAC probably our two organizations where I suggest we reach out to them to see if something is still in the making or if it was intentional not to answer.

I don't know if we have the SSAC representative, I know (Julie) said she couldn't make it to this call. (Lyman), I'm not sure if he's on the call either. No, we don't have him right now. So I would suggest we reach out to SSAC and RSAC to get informal input at least.

I think our group can be prepared. It has been a regular practice from NTIA to communicate publicly and so I wouldn't be surprised if we get some input from NTIA in another way. But I know they've been part of the GAC discussions. And so we will have to work on the basis of these inputs. And it's a very substantial input to digest.

As Thomas said earlier, our proposal is obviously to rely on the work parties to prepare the work while the key discussions definitely need to take place in the full CCWG and the Los Angeles meeting is certainly appropriate for that.

That key priorities that have been highlighted by Grace seemed to be the discussion on the model obviously and a discussion on the budget community power. Some discussions in the mission and core value including the human rights and Leon updated us on this. But also I've noted a number of concerns about contract enforcement that will need to be addressed.

The refinements of the IRP are certainly drawing a lot of attention and need our further work. And of course the stress tests including the famous Stress Test 18 certainly are part of the priority. So I think there is work for each work party. And what I'd like to get a sense of during this call is whether this group thinks there are other key items that need to be addressed quickly or if those are the items we task the work parties to refine the assessment of public comments and provide an update in Los Angeles.

Any disagreement on that? No disagreement so I think work party members and rapporteurs can now put down their jackets, roll up their sleeves and good luck. There's a lot to digest but staff input is going to be repaired to facilitate your work and it's going to be delivered to you soon.

A final point -- a final point about -- was raised on the comments of the board. As you know the board comment included a suggestion for an alternate enforceability implementation plan. And so the multi-stakeholder enforcement model, or I think the acronym is MEM.

The initial questions on the list have shown there might be value in certifying -- asking our independent lawyers a number of questions. So those questions

would turn around the idea that we need to assess how the different models do meet our requirements. That was noisy. Okay. So how the models do meet our requirements.

And so it seems to us interesting to ask whether lawyers can identify areas of differences between the MEM model and the CMSM model, the single member model. Ideally it would be great for our group to benefit from a matrix of the CCWG requirements explaining how these requirements are met in each model or if there are any significant differences.

And we've also noted on the list and questions about the feasibility of the MEM model and whether the board could actually submit to the -- this arbitration outcome even if the underlying topic is directly within its fiduciary duties. There has been a question raised on the list I think it was by Jordan.

And whether decisions from this panel would be enforceable by the communities, that's been a claim from the board input and certainly there would be value in ensuring that it's -- this claim is confirmed by our own lawyers and especially whether the issue group, which is one of the groups created by this model, could have legal standing recognized in front of the courts.

I think the idea behind this is really to assess how the requirements are met in both models so that we can have a discussion within our group that is not based -- that is not actually on whether things are legally feasible or not or but rather on the requirements and how we are meeting our requirements to enhance ICANN's accountability.

And I would also add that I think there would be value if ICANN allowed for this and we did as well for our lawyers to engage directly with ICANN's

lawyers so that the input that we received already benefits from any clarifying question that might remain while reading the input from the board and so we have a final product in time for the Los Angeles meeting.

Answer the intent here is to check whether these questions seem appropriate to the group before we certify them in writing to the lawyers. I know Holly and Rosemary are on the call. If you have specific comments on the questions and how you think they could be more productive please chime in.

Tab I see a comment from (Fadanyh) whether any other comments suggested a new model. My personal reading -- I haven't seen any significant new model proposed. There have been discussions about models that we had considered before like the designator models that have been mentioned several times but not a fully new model.

And Holly if you want, please take the floor.

Holly Gregory: Certainly, good morning everyone, or good morning from the US. I think a list of questions was very good. I think the underlying theme is a better understanding of the differences between the model that's been proposed in the second proposal and the model that's being proposed by the board. I don't know that we need to drill down on the whole list of potential questions about how they might vary but if we do a good analysis of where the distinctions are we should answer the questions. And we will certainly do it in a matrix form I think rather than a memo form if you agree.

Mathieu Weill: Thank you, Holly. Indeed I think that would be extremely useful. I assume you have implicitly confirmed that it would be feasible before the Los Angeles meeting?

Holly Gregory: I think it should be feasible. It's a lot of work and so then the question is the level of detail. But certainly it's feasible that we will have something by Los Angeles and hopefully a couple of days ahead of time so that people can see it before we get there. That's our goal.

Mathieu Weill: Thank you, Holly. I think with that I'm seeing no further hands raised. We will recap this based on the notes of this meeting for the various working parties to have a clear path laid out in front of them and as well as the certification of the request for lawyers. And as I said, we have to roll up our sleeves and look at these very thoughtful comments and give them the deference they definitely deserve because a lot of thought has gone into this.

And with that I think I will close this agenda item and move to the next one which will be chaired by Leon about that community forum.

Leon Sanchez: Thank you very much, Mathieu. This is Leon. And, well, some of the comments and of course from hearing - listening to the board in the call we had with them it was of course becoming apparent that there was the need to flesh out the details on the community forum how many of the parts of the puzzle would feed into our proposal.

So Working Party 1 has been very active in fleshing out these details. And I would like to ask Jordan if he could update us on the progress that Work Party 1 has had on detailing how the community forum would work. So, Jordan, could you please take the floor?

Jordan Carter: I can, Leon. Thanks. It's Jordan Carter here, dotNZ. Can you hear me/

Leon Sanchez: We do listen to you.

Jordan Carter: Great, thanks. Very active might be a slight overstatement to be honest with you. We had a call this morning because we knew that the community forum would be one area that could do with more detail and more fleshing out.

Work Party 1 had already prepared more detail earlier and pulled it back out of the final version of the second draft proposal. So we've got some of that thought.

And what really happened on the call this morning was a sort of exploration of the importance of the forum and the importance of the dialogue process and the exercise for many of these community powers. It is in a way a form that isn't there in the ICANN community at the moment and so really the outcome of the discussion this morning wasn't a revised text or anything, it's too soon to do that, but I think a greater shared understanding among those who did participate on the call about what we're trying to get out of this thing and a range of specific suggestions about how it can be improved.

Pretty sure I sent the link to the Google doc around on the CCWG lists of people can look at the doc if they like. I'm going to come back to the list and ask for some specific volunteer assistance if anyone wants to do a bit of close work in translating that into a bylaw, three or four page draft that looks a bit more sensible.

One of the things to note I think is that there was a forming view, it's not a consensus view at the work party yet, that wherever we go with the model better dialogue and discussion around accountability is something that the ICANN community needs. And so we're going to try and frame this as not being dependent on any future choice about the community mechanism or the member - the enforcement thing that the board has proposed.

And I think it's quite an important principle because it hopefully will make it a bit less difficult to get some wins on the board in terms of flushing that concept out. So we didn't have a firm end point in mind about this. But we did have a good discussion about it this morning. So I think that's the only thing I'd offer as a quick report back, Leon.

Leon Sanchez: Thank you very much for this, Jordan. And at this point I would like to open the floor for any comments or questions with regards to what Jordan has updated on Work Party 1. Are there any comments or any questions to what we just heard? Okay so having no other questions with regards to this update that Jordan kindly provided us I would now turn back to Mathieu for an update on bylaws drafting. Mathieu.

Mathieu Weill: Thank you very much, Leon. As you know, we had discussed a process for starting the bylaw drafts at a point where we were on the very tight timeline and as well with the impression which is now confirmed that some of our inputs were reaching a level of consensus that enable to move forward. That was over the summer.

The conclusion was that we would experiment a process where ICANN Legal would initiate a draft for the incorporation of the AOC reviews into the bylaws. And we would test this to see whether it was a productive approach.

We have not received a bylaw draft at this point although we are aware that the project for bylaw drafting is getting more and more attention within ICANN and it's getting organized, a plan is supposed to be provided very soon.

But I think we need, based on the input we've received in this public comment period, and especially the boards, it can easily be understood that we cannot

task ICANN Legal with drafting a bylaws that are consistent with our current proposal while at the same time the board is advocating a different approach and ICANN Legal obviously reports to the board. So it's putting them in a very awkward position.

And our proposal today is to acknowledge this and draw the only appropriate conclusion, which is that we need to revisit the approach and probably in terms of bylaw drafting, if we think it's a priority at this point, move to an approach that would be where the first draft would be provided by our independent lawyers. Probably certainly keeping the block by block approach that we had in mind because it's going to be easier to deliver on time (unintelligible) if you want.

And so we would like to suggest that for the work that would need to provide more detailed bylaw approaches we would move to an approach that would be - where the drafting would be led by our lawyers under supervision obviously from our group and with ICANN Legal involved in reviewing this draft obviously because there's no intention whatsoever to avoid this.

So we had promised last week to come back to you with an update on this bylaw drafting. We also need to discuss whether it's a priority right now to move forward on this fast. I think the priorities have shifted slightly and our focus should be on the assessment of the public comments rather than the drafting of the bylaws.

But at least we - I think it's - if there's a need to move forward on more details, as was discussed last week for the IRP, for instance, then I think it's good if we are clear on the way we would proceed. And that's the update. And it's obviously up for discussion.

And there were some discussion in the chat but I haven't been able to follow this. So Chris Disspain is raising a question about whether there's an benefit on working on bylaws for things that have not reached consensus yet. And obviously, Chris, we are in full agreement here.

There is no value unless we have reached a certain level of consensus and that's what we thought we had achieved for - as far as the incorporation of the AOC reviews into ICANN's bylaws was concerned. We'll certainly need to assess that it's still the case in the second round of public comments. But as I said, I think we probably need to focus first on analyzing these comments. And I hope that answers your question.

Any other comments, questions on this? I think this is not the most interactive call we've had so far but Thomas is trying to make it more interactive. Go ahead, Thomas.

Thomas Rickert: Thank you, Mathieu. Just to add to your point with respect to the bylaw drafting, it is my impression that a lot of confusion or concerns stem from the fact that people don't read how this would actually be operationalized. And I think, you know, we are working on a most important project.

We've already spent quite a lot of money and I think that even if we did commission some bylaw drafting that would need to be ultimately altered to reflect final recommendations would still be a worthwhile exercise because it would make it easier not only for this group but for the wider community to follow how the implementation of our recommendations would actually work out in practice.

Mathieu Weill: Thank you, Thomas. I think that's a fair point. We are faced with some comments that people need more details and often those details need to be put

into the bylaws for everyone to be comfortable enough to make a decision.

Chris.

Chris Disspain: Thank you, Mathieu. Well I never thought I'd hear people arguing that writing explanations in the legalese that is necessary to be put into bylaws would be helpful in making the community understand the basis upon which suggestions are being made.

The language used in bylaws tends to be very specific to the jurisdiction, there are phrases that mean certain things in certain jurisdictions and so on. But it strikes me I don't want to get into an argument about who should do the drafting. I don't think that's necessary or particularly useful at this point.

I can tell you that as it's been - speaking the next couple of sentences as a board member, it's to me irrelevant that the - I will not sign off on them as a director of an organization unless the lawyers who represent the organization confirm that the bylaws do what they say they're supposed to do.

I think there's an awful lot of weight being given to who holds the pen to draft these bylaws unnecessarily. And I think Holly has said the same thing on numerous occasions. I'm much more concerned about wasting time and effort. And it seems to me that starting to draft any sort of bylaws at this stage on stuff that -- anything other than stuff that we are very clear that we have consensus on is a waste of time.

I would far rather spend time and effort having explained or us to very simple straightforward - us being the community - simple straightforward explanations of what it is that we're trying to say rather than having the lawyers do it. I don't think that's the lawyers' best skill to explain things to people in words that they can understand.

And finally, my goal would be that those sets of lawyers worked together to come up with drafting bylaws once we have reached consensus on various matters. And if we believe - if the CCWG believes that we have already reached that stage in respect to certain matters then let's send the lawyers off into a room somewhere and have them draft it together.

Mathieu Weill: Thank you, Chris. I see Avri's hand is raised. Avri.

Avri Doria: Thank you. Avri speaking. (Unintelligible) than Chris does. And I did put a note in the chat on that. One of the parts of so many of the participants in these groups and in those that are looking at them are lawyers, are legalistic and do bring up legal specific questions when doing that. So starting to work on the wording of things in the reference implementation and in the alternate suggestions, you know, and to actually see how they are different I think is useful. Of course I understand that elective board members would certainly want their own lawyers to vet anything before they signed off on it as directors, that makes perfect sense.

I think whether they're originally written by the lawyers that have been working with us and have explained it to all of us and have been (unintelligible) the discussion. By the way I would note that on lettering the boys have it, I think most of our lawyers are not necessarily all boys. But anyway, you know, and going forward on that.

Also I think any analysis is showing that - and I'm reading - is showing that - that many of the things that need bylaws like the fundamental bylaws related to AOC, you know, reviews and such though of course there are questions within that - are ready for that serious work. And if we still intend to try and meet the - not necessarily the Dublin schedule but the new one-year out

schedule, you know, we need to start taking some of these things in parallel so there's a prayer of making it.

So I think working on the bylaws does make sense both for those that seem to already have a large degree of consensus and for those where a consensus is still building. Thanks.

Mathieu Weill: Thank you, Avri. Next in line is Jordan.

Jordan Carter: Thanks, Mathieu. I think it might - maybe we should sort of think about these in different phases because one of the - I think if memory serves one of the things we said we'd do in the bylaw drafting process was to make sure that the requirements for the bylaw drafting are very clear. And so it may be helpful, like if there is an area where there is apparently a lot of consensus even getting a full draft of bylaws then probably makes sense.

If here's areas where we still think it's not clear getting - because let me back up for a minute. Our report almost falls into a valley between two mountains. One is the mountain of perfect detail and comprehensiveness and the one is the mountain of very clear easy to understand messages. I fear that we've tried to solve both and delivered neither in the way that we've structured our second draft proposal. And as a very blunt way of characterizing it, you know, and possibly slightly unfair.

So if we can do some work with the lawyers on the requirements side and even draft bylaws I don't think that's a problem. I understand and sympathize Chris's points about the board would need to have its lawyers be certain around the bylaws. That's natural and expected I think.

But there's another side to it which is that if the external firms are drafting the bylaws for the CWG's proposal there's probably a lot of benefit in having the same team doing the CCWG as well to make sure it's all integrated.

So my personal view is the more detail that we've got earlier the better. And that there's plenty of stuff where some starts can be made. And if we're going to have a final proposal by the 9th of October or even just shortly afterwards all that will need to be done now and hopefully out of Los Angeles we'll understand whether the, you know, what I would argue are extensive changes to almost all of our proposal are required if we adopt the board's core enforcement stuff.

And if I'm wrong on that then we should be even more relaxed about doing lots of drafting because nothing much will change. Thanks.

Mathieu Weill: Thank you, Jordan. Greg. Greg, you might be on mute.

Greg Shatan: Thank you. I was on mute. Greg Shatan again. I think it seems like we're clearing up some of the confusions here. Clearly nobody was expecting the board to vote on much less accept the first draft of any bylaws prepared by our counsel. Anything that any bylaw drafting process will be collaborative or at least ping pong between the lawyer sets. I do think that, you know, it is high time we move forward on the bylaws drafting. You know, we can certainly prioritize those which are more firmly set but I think we can, you know, still - we can look at all the bylaws.

And while on the one hand, you know, who holds the pen first is not, you know, be all and end all. I think that since we're the ones specifying what the bylaws should be makes sense for us to hold the pen first. We've had this discussion before, I think I recall having it in Buenos Aires hopefully we

won't keep having it. But whoever holds the pen first ultimately everyone will get their chance probably a couple of times.

I do agree with Steve that while the - to an extent I think the bylaws do help with communication on one level but I also agree with Chris and kind of with Steve's implication that for many people we're communicating with draft bylaws will not be the most illuminating or most pithy way that we can communicate with them.

We're communicating with different communities or different sectors. I think some will gain a lot from the bylaws and some won't. So we do need, as we have been doing so far, to leave those very, you know, detailed and some extent dry and then on the other hand short pithy statements with explanatory explained drawings have been great so we should, you know, keep up the dual types of communications. Thanks.

Mathieu Weill: Thanks, Greg. I think what I'm taking from this discussion, and as you said we shouldn't make it too long, is that we will as co-chairs, turn back to the CWG and the team at ICANN that is coordinating the bylaw drafting. The change of our approach actually means that we'll have the same - similar approach to the CWG bylaw drafting experience. And we'll try and sync on this project with similar approaches, bearing in mind obviously that no bylaws are going to be approved without due diligence obviously and thorough analysis by ICANN's lawyers, that's perfectly natural.

And - but at least we are now in sync with the CWG on the approach and I think that will actually streamline the process because we have a need to deliver this fully fledged proposals soon so as soon as we get to the required level of consensus on an item I think we can move forward on the bylaw drafting. And the AOC reviews incorporation is definitely our first candidate.

So we'll go back to the CWG chairs as well as the ICANN team in charge of this and update on when we can start on this with this new approach. And with that I'll turn to Thomas for the last point of our agenda. Thomas.

Thomas Rickert: Yes and this actually might be quick and easy point, it's AOB. So let me ask you whether you have any other business to discuss today. And I'm not sure whether that's an old or a new hand, Greg. Fire away.

So that was an old hand. Anything else? Okay so with that we can end this call early. Thanks, everyone, for your attendance. Let's continue the dialogue on list. And let's keep up the momentum. Take care and bye-bye.

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