LEON SANCHEZ: Okay, recordings are started. Welcome to this webinar briefing on the second draft of the CCWG Accountability proposal. This is our third session on August 25th. This session will be recorded. Since it's a webinar, there will be no roll call, of course. We remind you to please mute your lines if you are not speaking. And of course, state your name when speaking for transcript and also interpretation purposes. We to have interpretation in this webinar. I believe we have Spanish, French, Russian, Chinese, Portuguese. We will have interpretation during the webinar. I believe that there will be some translation services that will not be available after 90 minutes, so if you happen to lose audio on the channel that you are in, please switch to the English channel, which will remain until the last moment in this webinar.

With no further delay, I would like to begin by walking you through the slide deck that we have prepared for you. Can staff help me by just – extremely, thank you very much.

As you know, we are in a two-track parallel process. After the NTIA's communication from last year announcing their intent to transition the stewardship of the IANA functions to the Internet community, it [convened] ICANN, so that ICANN could convene the different stakeholders and form a coordination group, which is the ICG. And after that work began, then the community realized that enhancing ICANN's accountability was also of the essence for the transition to take place. So a parallel track began after the naming community and the rest of the community, the protocol and numbers community, had began designing their respective proposals for the transition.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

The CCWG on accountability was formed on December last year. The charter was drafted since October last year. After that, we have had so far 50 meetings. Actually, today we held our 50th meeting. And we have released our first draft proposal and our second draft proposal. The third draft proposal was released earlier this month and will be open for public comment for 40 days. This second public comment period will close on September the 12th. We definitely encourage you to take a look at the document that we have set up for you and provide us with your feedback as this is very important for us to continue to do our work.

As you can see, the NTIA made the announcement with some criteria. It put ICANN in charge of [inaudible] the whole effort. And we have been working on building these proposals. When we get to our final version of the proposal, we will be sending this to the ICANN board, and the ICANN board will then in turn be forwarding this proposal to the NTIA. Can we go to the next slide, please?

The goal of this working group is to deliver a proposal, which actually enhances ICANN's accountability towards all its stakeholders. Not only its stakeholders, but also people from outside the ICANN community, as you will see with some enhancements that will be presented later in the slide deck.

This is the goal of the CCWG: to deliver a proposal that will enhance ICANN's accountability towards pretty much all stakeholders.

For this, we divided our work into two work streams. The first one being Work Stream 1, which focuses on the mechanisms on enhancing ICANN's accountability that must be in place or committed to within the

timeframe of the IANA stewardship transition. This means that everything that is being set up as Work Stream 1 should definitely be implemented, or at least committed to, before the transition takes place.

Then Work Stream 2 focuses on addressing accountability topics, for which a timeline for developing solutions and full implementation would definitely expand if [inaudible] IANA stewardship transition.

So these are not things or issues that are essential for the transition, but are issues that need to be worked upon and for which the timeline would definitely be extended even [inaudible] when the transition takes place.

So what we have here is a reminder of how the ICANN community is organized. Let's remember that we have supporting organizations. We have three supporting organizations and four advisory communities. We also have our Board of Directors and all our stakeholders that interact between them to carry on with ICANN's mission, and to develop different policy recommendations, and of course the advisory committees also make comments or advice, provide advice to the board on different policies that are being designed by the supporting organizations. Can we go to the next slide, please?

So what we have here is the current accountability framework. As you will see in your screen, the working group identified four building blocks. These four building blocks would be the cornerstones for forming any mechanisms that we came [out to], and these are the building blocks that were required to improve ICANN's accountability.

The first building block is the ICANN community. You can see the different SOs and ACs [as the] community. As I said, we have three supporting organizations and four advisory committees.

The second building block would be the ICANN board. The ICANN board being the [inaudible] to the executive power on a governance structure. The ICANN board has, of course, the ultimate authority to approve or reject policy recommendations developed by the SOs and ACs. And ACs formally advise the ICANN board on particular issue or policy areas. The board has, as things stand, the status quo at this point is that the board could actually modify the bylaws [unilaterally]. Of course they have a procedure for comments and for the community to provide feedback, but they have the ultimate authority to, in the end, undertake any changes to the bylaws.

The third building block will be the principles which would be seen as the bylaws. We have bylaws here and these would be the principles that guarantee the mission, the commitment, and core values of ICANN to its bylaws.

Then the fourth building block would be the independent appeals mechanism. This would [inaudible] powers to review and provide [redress] as needed.

We do have an independent appeals mechanism in place at this moment, but it certainly has some areas which need improvement and that the community has raised concerns with regards to actually having the current independent review process. So can we go to the next slide, please?

In this task of enhancing ICANN's accountability, the Cross-Community Working Group on Accountability. The Cross-Community Working Group on Accountability has recommended that while keeping the power that the US government will give up to the Internet community, it is also important to create escalation paths for these powers to be exercised in case that things are not working well. We should definitely have escalation paths to provide the community with different recourses, so if any substantial disagreement between the ICANN board and the ICANN community happens, then there would be of course different ways for the community to be heard and to exercise powers that we're trying to provide with this proposal.

Now, it's very important to emphasize that what we are looking at and what we have come up to, what we have designed, does not change or interfere with the day-to-day operations of ICANN. Nothing in the way we do things today would change what the proposal that you're about to be taken through. Additionally, the powers would not impact the status quo of how the community operates [today]. It wouldn't also introduce any new risk to the community. Pretty much how we do things would remain untouched.

Now I will turn to my co-chair, Thomas, for the next slide. I believe that Thomas might be on mute. I'm not sure if it's Thomas or Mathieu. Mathieu, could you be on mute? Okay, it seems that we've been experiencing some technical difficulties. Mathieu doesn't seem to have any sound, nor Thomas. So while we wait for them to solve the problem, I will carry on with presenting the next slide. Can we please continue the next slide? We have already the next slide.

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What we have here is the proposed enhanced accountability mechanisms that the Community Working Group has come up to. We have identified different enhancements that require those building blocks that [inaudible] accountability mechanisms required to improve ICANN's accountability.

When we look at the four building blocks, we have an empowered community instead of just the community as we saw it in the previous slide. This empowered community would of course be vested with powers that allow the community which is composed by the SOs and ACs to take action should ICANN breach the principles. If you look at in comparing to a state or country, this would be of course the people, the empowered community.

One of the powers that this community would have would be to review and reject the operations that the ICANN board would carry on. One being the budget, another one being the strategy and operations plan, and of course any changes to the bylaws. So the proposal actually includes some powers for the community to go through these different actions [inaudible] by the board and actually take action on them if those actions are against the community's interest and maybe against ICANN's mission, too. Can we please click on the slide?

MATHIEU WEILL: Can you hear me?

LEON SANCHEZ: Yes. We can hear you now, Mathieu.

MATHIEU WEILL: Excellent, thank you. Sorry for the mess.

LEON SANCHEZ: No problem. I'll turn it to you now.

MATHIEU WEILL: You finished slide six, right?

LEON SANCHEZ: No, we're in the middle of slide six.

MATHIEU WEILL: The next item, if I'm not mistaken, is the structural review, which is an item that has been added in the second public comment period. It's basically stressing that the empowered community has extended its responsibilities within the ICANN framework, and the proposal is that with the responsibilities come new duties and the board currently assessing the efficiency of the ACs and SOs.

We also direct studies on a regular basis to assess with the SOs and ACs themselves are acting in an accountable matter, accountable to their active members but also to the communities they need to represent. This is a very important part in what we describe as a mutual accountability model, where the ICANN board and the empowered community each hold each other accountable. It's important to stress that aspect of our proposal which is a balance of how [inaudible]

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instead of a model where ICANN as an organization would have a watcher, which would be another organization outside of ICANN.

The next item that we've been working on and will be describing further is the principles. That's the [inaudible] of ICANN. We will go further in detail in the next slide about the changes that we're proposing into these bylaws, including the creation of fundamental bylaws.

Finally, on the judiciary slide, the next slide, or the next animation, is a new independent review process with a panel of seven-plus members, but a standing panel. Once again, we'll describe in the coming slides the type of enhancements we're proposing and why. If we go to the next slide.

We're going to go through the different blocks, describe them, and as I think Leon said, then we'll go back to questions which are more section by section.

In terms of principles, there are three main things that we are recommending proposing. The first thing is to clarify, describe ICANN's mission statement, to describe precisely what's in and out of scope, and to be clear that ICANN can't do anything which isn't allowed by the bylaws.

There's been a lot of work as well on the core values to guide the decisions and actions at ICANN. We are proposing to incorporate some of the AOC principles into those bylaws and into those values, so that this important commitment that ICANN made to the community through his affirmation with the NTIA is also brought into the core [inaudible] of ICANN. Next slide, please.

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As I said earlier, we are proposing to create a new set of bylaws that we would call the fundamental bylaws. Those fundamental bylaws would get special protection so that the change of fundamental bylaws would be of a higher threshold and a higher [inaudible] of being changed. So the highest ability, obviously. And we would incorporate in the bylaws those fundamental bylaws, the new [account] with the new mechanisms, as well as the AOC review system, the ATRT review and other related reviews that are part of the AOC would be incorporated into the ICANN bylaws to [accommodate] with the transition of all of the NTIA.

The fundamental bylaws scope is well-defined. Basically, it is about those items of the bylaws that describe the four building blocks, item 1-5 on your list, as well as some specific requests for incorporation to fundamental bylaws that were formulated by the CWG as conditions to their recommendations, items 6 and 7 on your slide, about the IANA function review and the separation process, as well as the post-transition IANA governance and customer standing committee structures. Next slide, please.

Second building block is the judiciary, the independent review process enhancements. This is not a creation of a new process. These are enhancements to an existing process, [the IRP]. And a [core] of the recommendation is a standing panel. So it will be a fully independent [inaudible] function within ICANN, and each dispute will be handled by [inaudible] member review panel [drawn] from the standing panel. The standard of review would be extended to cover the determination whether ICANN has acted, or failed to act, in violation of its bylaws. The benefit of having a standing panel is that we [inaudible] constitute the

[inaudible] opportunity to create stability and consistency and predictability of [inaudible], for instance.

And [inaudible] selection of the panel. There's been a number of comments and changes lately to ensure that the process is driven by the community effort. The board would confirm the nomination, so we'd effectively have the ability to say no to the panelists, on [exception on grounds] obviously.

There is also a new edition that efforts should be made to achieve diversity amongst this panel with, for instance, no more than two panelists from an ICANN region. We'll come back to this later when there are obviously questions. Next slide, please, on the reconsideration process.

The request for reconsideration is another process that is existing within ICANN and where we are suggesting significant enhancements. That includes the expansion of the scope of permissible requests. So, just like the IRP, it covers places where actions or inactions contradict ICANN's mission, commitments, and core values.

The extension of the time for filling a request from 15 to 30 days. A [narrow] of the grounds for summary dismissal. The reinforcement of the role of the whole board to make determinations on all requests, not only to Board Governance Committee. And the fact that the substantive evaluation of the requests would no longer be only driven internally by the ICANN Legal, but by an extension of the role of the ombudsman and other enhancements which we can come back to later if there are questions.

I think that covers my second block and I will now turn to Thomas for the third very important block, which is empowered community. Thomas?

THOMAS RICKERT: Thanks very much, Mathieu. Welcome, everyone, to this third webinar of this group. I'm going to lead you through the next couple of slides. The first one is on the community mechanisms. Now, you might ask yourself what community mechanism is, and we thought that we would call it community mechanism, because that's a term that would be flexible enough to describe whatever concept we would come up with. Because we do need legal vehicle for the community to exercise certain powers, as you will remember, or at least those that have followed our discussion for a while, there [inaudible] that we have certain community powers that shall be exercised by the community, but the community needs legal personalities to do this. This is what we describe as the community mechanisms.

Now, let's compare the status quo to the proposed structure. What you have at the moment is the ICANN community, you have the board, and I'm looking at the lower-left box in the Adobe room. The community makes policy. The board takes decisions, or takes certain action. But if the community finds out that what the board decided or did was contradicting its policy making or was violating the bylaws, which would form our constitution for the organization, currently there is no possibility for the community to get recourse if there's such disagreement.

So we thought that in the absence of the historic relationships with the US government, we need to ensure that the community, and actually the stewardship of the US government is now transferred or in the process of being transferred to the global community. So the communities should get powers, be an empowered community and have the possibility to call the board to action if it is inactive or to ask the board to rectify its decisions where they are in violation of the bylaws.

And how do we do that? We do that with this cloud. I'm now looking at the lower-right box in the Adobe room. That is the community mechanism as a sole member.

The idea was that we find the legal vehicle that is the least invasive tweak to the organization, but still gets the community enforceability if need be [inaudible]. So we've been looking at various models during our deliberations. We looked at a membership model where each SO and AC would have sort of an avatar or alter-ego legal entity that they would use to exercise powers. We looked at a designator model. We looked at variations thereof. We looked at a voluntary model or a cooperative model. We weighed the pros and cons.

The feedback that we got during the first public comment period was vital in our group actually now coming up with the idea of the sole membership model. That makes the whole community, the SOs and ACs, a single member. The SOs and ACs would form the single member, which is the only member of the ICANN corporation. They could actually exercise the community powers, and you see 1-5 in this visualization and we will speak to these community powers in a few minutes.

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I guess that's important to note. This community mechanism allows the community to jointly exercise the powers. So it will not be possible for a single SO or AC to exercise a power, but they need to do that jointly. By doing that will remove some of the concerns that the community had voiced during the first public comment period, because they said, well, if each SO and AC has its own membership rights, they may be able to bypass community processes, consensus building processes, and exercise statutory powers or even start derivative law suits against the organization, which could lead to destabilization ICANN.

And since now the single member which constitutes or which is made out of the SOs and ACs can only jointly exercise those powers if certain voting thresholds are met, and we'll talk about those in a bit. Thereby, we eliminated the risk of an SO or AC going rogue and trying to paralyze ICANN by exercising certain powers.

This is what we will be using as a legal vehicle with enforceability of community powers, and the enforceability seemed to require to have the final say to ensure that we don't have to rely on the board doing what it's supposed to do. Let's not think about the current board, but let's think about the potential future rogue board that chooses ignore the community's wishes, and this model gives the power to the community to have certain community powers which are enumerated [enforced]. Let's move to the next slide, please.

Now, what are these community powers? During our group's work, we have aggregated a list of things that the community should be able to do. We grouped those issues that we found out ourselves, but also that we derived from a public comment period that ICANN has last year

where the community already provided us with feedback on what the community thinks is required to enhance ICANN's accountability. We took all that to heart, we analyzed all that, and we basically boiled it down to the five community powers which now you see in front of you.

That is, number one, the community power to ask the board to reconsider the budget, strategic plan, and operating plan or to reject it. A point to note that this would take place after the fact. So the board comes up a budget proposal after consulting with the community. The community feels that the board has ignored what the community had asked for, and then the community can choose according to a process that we will look at in a bit to reject the budget and ask the board to redo it and take into account what it has missed the first time around.

The second community would be to reconsider or to have the board reconsider or reject changes to ICANN's standard bylaws. So you will remember we have two different sets of bylaws, standard bylaws and fundamental bylaws. We wanted to make fundamental bylaws more robust than the standard bylaws, and therefore you find two different mechanisms or two different community powers attached to each of those groups.

So when it comes to standard bylaws, after going through a consultation process with the community, the ICANN board would adopt a change to the bylaws and publish that. And if the community finds that this is not what they had agreed upon, this is not what the community had discussed with the board, then these bylaw changes can be rejected after the fact. We will look at that process in a bit.

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It's different for fundamental bylaws, because if you will remember, these fundamental bylaws are those bylaws that we think are so important for ICANN, that there needs to be a higher threshold. There needs to be a higher hurdle for those fundamental bylaws to be changed.

One of those fundamental bylaws could be the mission, commitment, and core values. Let's just think for a moment that ICANN wants to enter into new territory. They want to deal with different things than they're doing at the moment. That would be considered mission creep by some and that's something that scares a lot of parts of the community. Therefore, we wanted to make sure that such changes can only be made if a very substantial part of the community wants that to happen. And we wanted to make sure that the community sees those changes and approves them before the board makes such decisions.

So standard bylaws can be [inaudible] after the fact, but fundamental bylaws need to be approved by the community before they are being adopted by the ICANN board.

The last two community powers deal with the ICANN Board of Directors. Let's assume the ICANN board, or parts thereof, go rogue. They do things that violate the bylaws and that raises concerns. Then there must be the community power to remove individual directors as a less invasive means to what's been called the nuclear option, i.e. to dismiss or to recall the entire board.

So those are the five community powers. Let's now look at how they are being operationalized. Next slide, please.

There is a consistent pattern or approach when it comes to exercising community powers. What you find on this slide is actually an abstract visualization of the different phases that we need to go through when it comes to exercising the community powers. After this slide, we'll give you examples of two community powers and illustrate how those would work.

What you will see when we go from left to right, there is cause for somebody wishing to invoke a community power, so there must be an issue. Our hope is that we will never, or almost never, see these community powers being exercised because the relationship between the board and the community is good and no action needs to be taken, unless, let's say, it comes to changes to ICANN's mission or other fundamental things that require a fundamental bylaw change.

But in the absence of that, we hope that the budget is agreed upon with the community and that there's no need for the community to take action.

But let's just assume that there is an issue, there is significant concern. Then a petition can be [fired]. And depending on the community power that's involved, it can be one SO or AC or we need more than one of those.

After the petition has been done successfully, after one or multiple SOs or ACs have said, "Well, we have an issue here," then they need to discuss. So they need to convene in what we call the community forum, which is an informal place. It's not a legal entity. It's just an idea of where the SOs and ACs convene to discuss things of this importance, to

make sure that everybody's on the same page, that everybody has the same information at their fingertips before making a decision.

And the decisions are made in phase three, where the SOs and ACs that have voting rights discuss how they want to cast their vote. And you will see that on one of the subsequent slides, but it's important to note already that we do not have voting representatives, individual people that would go to a community forum or a community mechanism, and cast their vote. No.

We have a certain number of votes allocated to SOs and ACs. The SOs and ACs would discuss how they want to cast their vote, and then they would announce preferably through the SO or AC chair to the community mechanism how their votes have been cast.

So those who are family with the European [inaudible] contest, they know that the votes or the points from the different countries are called for by [phone] and then the representative of the respective country would say, "We give 12 points to," let's say, "The U.K." Also, in that example, you don't have individual people casting their vote, but a group – in this case, an SO or AC – casting their vote. And they can have [strip] votes. They can have all those in favor or against.

So how the SO or AC comes up with its decision is up to them, and also how they want to exercise these voting powers is up to them.

After a decision is made, either the voting threshold that's required is not met, nothing would happen. But if the voting threshold is met, then there is an outcome and that could be that the ICANN board has to revisit the decision that it has previously made.

So, now after having looked at this in the abstract, let's look at the next slide. That is the example of the possibility for the community to reject changes to ICANN's standard bylaws. So we would have a cause. The community feels that the bylaw change that has been made and adopted by way of resolution by the ICANN board was not the right thing to do.

So then they would petition. Let's say in this case it's a petition of one SO or AC. It would after that discuss and convene in the community forum to get informed and prepare a decision. Then a decision is made, and only if two-thirds majority is achieved in the community mechanism, then the board that is the [outcome] would be forced to make a judgment to the decision that it has previously made. Next slide, please.

Recalling the ICANN board. For that, the mechanism looks a little bit different. We would have a cause. Let's say the board is going rogue. They're making decisions that are not acceptable to the community because the community feels that the decisions are violating ICANN's bylaws.

In this case, it's not sufficient for one SO or AC to file a petition, but we need at least two SOs or ACs and it must be at least one SO or AC. Then, again, we have a discussion phase and we have a decision. And in this case, it's not two-third, but it's 75% of the votes that are required for the motion to be carried.

Then the outcome would be that the board is dismissed, and an interim board is immediately seated, because we are suggesting that when it

comes to casting the vote, the SOs and ACs need to bring with them names of replacement candidates that would serve on an interim board. Next slide, please.

Now, this is just a very brief overview on who has what influence on the community mechanism. According to our second report, we would have five votes in the SOs and ACs, except for SSAC and RSSAC. They would get two votes. And the number five came up because we thought that it would allow for, let's say, the GAC or ALAC to have one vote per geographic region. So diversity requirements have played a role in coming up with that figure.

Just two quick takeaway messages for you, or maybe three. The community mechanism is not a separate thing. It will be almost invisible. It is just a [inaudible], as I like to call it, where the votes are cast. It is going to be described in the bylaws, but apart from that, it will go more or less unnoticed.

So the SOs and ACs would not meet as the member. So there would not be an extra club where people meet that might be perceived as more important or where others feel discriminated. That's not taking place.

Likewise, we're not going to have individuals that have voting rights. But it's the SOs and ACs, which we already know that would come together and cast votes in the unlikely case that a community power needs to be exercised. With that, I'd like to hand over to Mathieu to guide us through the next couple of slides.

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MATHIEU WEILL:	Thank you very much, Thomas. I hope everyone can hear me this time. I will be very quick, because you've been patient already and I know questions are the value of this. A big chunk of our report is providing a number of stress tests of the recommended accountability enhancements that's consistent with expectations that upfront in our charter we have available for any question on those stress tests and that has led to very minimal changes, but also to demonstrations of where the proposals actually enhance ICANN's accountability.

If we move to the next slide, a word about what happens after Work Stream 1. The current proposals are the Work Stream 1 proposals, but you also have clarity on what happens next in the agenda, and a key aspect is the elements that are currently considered for Work Stream 2 with a significant number of items, including some new ones based on feedback we've received in public comment number one. And I would draw your attention to the enhancements of SO/AC accountability, the capture of transparency within ICANN, the improvements to diversity as well as the modalities to integrate human rights into ICANN's operations, as long as [inaudible].

So that's the kind of topics we're working at for the next, after Work Steam 1. You see on the bottom of the slide the kind of timeframe we're considering. The idea after the public comment, which ends on September 12th is to finalize reports in time for consideration by the chartering organizations in Dublin, ICANN 54, and the Work Stream 2 would extend for at least an extra year in terms of [inaudible] implementation. That's answering some of the questions we've had about the timeframe. Next slide, please.

A very important aspect very present in our work has been the importance to meet the conditions that were listed by the CWG stewardship to their proposals. These conditions to us are largely met. We mentioned the fact that there is the ability for the community to reject a budget, to appoint and remove members of the board, as well as recall the entire board. We are totally ready to incorporate into the ICANN bylaws the various items recommended by the CWG and that's [cooperation] that is actually underway.

The mechanisms that I just mentioned will be in the fundamental bylaws as requested, and the Independent Review Panel will be made applicable to IANA functions and accessible to TLD managers.

So it is our assessment that we are meeting the CWG stewardship requirements and it was definitely part of our work to keep our excellent coordination going with the CWG stewardship.

I think this ends the description of our proposals, and I'm turning back to Thomas to introduce the question and answer session.

THOMAS RICKERT: Thank you very much, Mathieu. As indicated earlier, we will now go through the individual areas of our report and open it up for Q&A. We will discuss mission, commitment, core values first. Then we will get to fundamental bylaws. We will open it up for questions on the IRP, the request for reconsideration. We will discuss the community mechanism and the five community powers. And lastly, we will discuss stress tests as well as the CWG dependency.

I would really like to ask you to only ask questions that belong to the respective sections, because I think that will make it much easier for the whole group to follow.

First, we're going to discuss mission, commitments, and core values. And in order to make it easier for you to understand what changes are being proposed, I would like to hand it over for a very brief recap of what we did to Becky Burr who has been leading on that exercise in our sub-team.

BECKY BURR: Thank you very much, Mathieu. The most important work and goal of the mission, commitment, and core values was to clarify ICANN's mission and to provide a very clear set of commitments and core values. And taken together those are the heart of ICANN's accountability – against which ICANN's accountability is measured.

The mission is what ICANN is authorized to do and what it must stay within, and the commitments and care values are fundamental related to use of the multi-stakeholder process, bottom-up policy, development, security, stability, resiliency, interoperability, diversity, and decision-making, avoidance of over-regulatory constraints.

As I said, the biggest revisions there are really to clarify the mission. We have prepared a comparison to the existing bylaws language which will be circulated and posted very soon.

MATHIEU WEILL: Thanks very much, Becky. Any questions on mission, commitments, and core values? If you're not on the audio bridge, please do type your question into the chat and we will make sure that it's going to be answered.

I should add that the questions from previous webinars have been collected and answered in writing after the webinar, and you'll find all these in our wiki space on the ICANN website. Actually, the questions that you're asking will be beneficial to the whole community because everybody can see what the concern was and how we responded to it. Any questions on the mission, commitment, and core values?

We can go back to that point, if you have a question on that at a later stage, but for now, let's move to the fundamental bylaws, those bylaws that we make more robust than others, so that they can only be changed if the biggest portion of the community agrees to such change.

Do you have any questions on the fundamental bylaws?

By the way, if you think that what we did was a good idea, then you can say so in the chat as well. I guess confirmation or reassurance is also something that we can… Support is also much appreciated.

We have the first question. "Once the new bylaws are approved, can the community suggest amendments to standard bylaws or fundamental bylaws? If not, why?"

Becky, is this something that you would like to answer?

BECKY BURR:	I believe that the community can propose amendments to either standard or fundamental bylaws. I believe that's a specific provision. Jordan may be a better more particular choice for that.
MATHIEU WEILL:	Jordan, if you would like to chime in, please do.
JORDAN CARTER:	Just briefly. Hi, it's Jordan Carter here, .NZ and the rapporteur for Working Party 1. Yes, the community can propose changes to these bylaws just as it can today. Bylaws changes might come through a PDP or through a group of ICANN community participants suggesting the change.
	But as also is the case today, and a formal process to consult on the bylaws changes will happen after the board adopts them. These reserved powers, if you like, are about being able to veto any changes [in the case] of the standard bylaws, and a need to approve the changes in the case of the fundamental bylaws.
	So we're not proposing, for example, that SOs and ACs can off the top of their heads propose and implement a bylaw change. That isn't being proposed. I hope that helps.
MATHIEU WEILL:	Thanks very much, Jordan. We have three more questions in the chat. I'm willing to respond to the first one from Kavouss, and I'd like you,

Jordan, to look at the question raised by Scott. Then we will move to the question from Mark.

Kavouss asked, "If the community can do that, where that issue is reflected in the proposal?"

Actually, I guess the easiest answer, the simplest answer to that, is that it is not prohibited. So if the community sees the need for a further bylaw change after a bylaw change has been carried out, then certainly it can start the process all over again and go through another bylaw change together or in collaboration with the board which is certainly needed for that. So that goes for both fundamental bylaws as well as standard bylaws. The process of bylaw changing can be done multiple times.

The only question is that if it's on the same issue, how realistic it is for the community to touch the same piece of the bylaws multiple times around. I think that might be unlikely. But what's not prohibited in our report can certainly take place multiple times.

I should note that for some of the community powers, we have actually installed provisions so that the exercising of certain powers cannot be used in an abusive manner. So, Kavouss, I hope that answers the question.

The next question was from Scott. Let me read it out for the benefit of those that are only on the audio bridge. "Will the policy development processes be fundamental bylaws?" Jordan has responded, "Hi, Scott, no, that is not the proposal. They would remain standard bylaws. Thanks for the question."

However, we have spoken to the multi-stakeholder bottom-up policy making in the bylaws, so if the board, for example, chooses to ignore that, that could lead to successfully challenging board decisions.

Mark [Cavel] has asked a question on mission. "Is this setting in stone, and so a constraint on evolution on ICANN and the DNS?"

I think the straight answer to that is no. Our group was careful in making certain parts of the bylaws, i.e. the fundamental bylaws, specifically robust so that ICANN can't easily mission creep into other areas of life or technology or policy, to put it negatively. But we are cognizant that ICANN is working in a rapidly changing environment and that changes to ICANN might be needed so that ICANN can actually fulfill a potentially revised mission [inaudible] at a future point in time. The changing of the bylaws, including its mission, which is fundamental, can be done at a later stage by changing the fundamental bylaws, certainly bearing in mind the [high voting] threshold.

Let's see whether there are more questions. Kavouss said that he is not convinced with the answer that I gave. I suggest that we take this offline. Again, our system is more or less open. We are not dictating limits on the exercising of community powers unless in those cases where have explicitly stated that. So that is basically the same process is already there today, so even today the board can make one bylaw change after the other. The only difference to the future system that we're proposing is that the community does not have the possibility to chime in on that.

I guess I would need help from my colleagues whether I have omitted any question in the chat. If not, I think we should move to the next topic, which would be the independent review process. Any questions on the IRP?

Then let me ask whether there are any questions on the request for reconsideration process. And again, we can go back to these topics should you have a question on those at a later stage.

That allows us to go on to the next item, which is the community mechanism, the single membership model or the single member model, I should say. Do you have any questions on that?

And maybe just for clarification purposes, the community powers are different from the sole member model. So these are two distinct areas of our deliberations. So the community powers can be given to the community, and there is no need for whatever legal vehicle, just to put those powers in place.

The difference is whether the community wishes those community powers to be enforceable. If the board chooses to ignore the outcome of the community mechanism.

And let's say a decision by the community that they want a standard bylaw to be vetoed. The board could ignore that. Then the question is what escalation path can the community use? On that, legal vehicle is required and we've discussed different of those vehicles and we came up with the sole membership model as the model that prefers the requirement of our group and that would be least invasive and that would have no [spotted] unintended consequences.

So I see that there are questions coming up from [Brendan]. "To what extent is the sole members community mechanism dependent upon ICANN for resources?"

I'm not sure whether somebody else wants to take this question, but you would not even need resources for the SOs and ACs are convening today to have their meeting, so we could discuss theoretically the cost of a meeting room or remote participation facilities, but the single membership model or the community mechanism is just a place where votes are cast, so there is no additional overhead because we're not adding complexity. The SOs and ACs are meeting today already. There's a certain administrative burden and cost attached to that, and we think that will not change with the new model.

There was another question from [Carlos]. "Does it mean that the community powers are exercised in a different way, no voting?"

No, what I'm saying is the community can vote... So in all cases, the community would vote, but only in the case where enforceability is needed, a legal vehicle is needed, and we chose the single membership model as being the most adequate and most appropriate legal vehicle for our purposes.

Then we have another question from [Atim]. "From a legal point of view, who exactly is listed as the member?"

I have to say that the correct wording that's going to go into the bylaws, I can't tell. I think we would need to take that question offline and ask the external counsel that we're using. But my guess is that it will be a

description of what makes a sole member, i.e. a description of the SOs and ACs that would jointly form the single member of ICANN.

Do we have more questions? I see multiple attendees are typing, so I will pause for a second to wait for what they are asking.

"Which provision of the California code apply to the name sole member and set forth its obligations and responsibilities?"

I think it would be difficult to answer that question on the spot, but in our report, or to be precise, in one of the appendices to our report, we actually have a list of the statutory powers and how they are being dealt with according to our proposal. I would like staff to make this an action item for us co-chairs for you to take a look at. Actually, I see that co-chair Mathieu has already typed in the reference into the chat. You'll find that on page #175 of our report.

More questions? Mark: "If there is a public interest issue raised in the petition, could there be an obligation to seek GAC advice or a stability issue to obtain formal SSAC before going to a vote that those ACs would not participate in?"

I guess, Mark, the straight answer is that at the moment there is no [hard-coded] requirement to ask for such advice. In that sense, we would not change what's currently practiced in ICANN, i.e. the board would take decisions unless they get information from an advisory committee prior to taking a decision. But as you would find today, the advisory committees would chime in and present their advice. For example, the GAC would provide advice after a decision has been made,

and then it will be dealt with according to the procedure that is described in the bylaws.

I should say that the procedure requiring the board and the GAC to jointly try to find a solution will remain unaltered, even if our proposal is adopted and implemented.

[Ann] has answered an additional question, specified a question that is more about liability than about powers. I see Jordan has typed answers already. Most of the obligations and responsibilities will be set out in the ICANN [inaudible] bylaws, as the statutory rights will be restricted in the bylaws and articles, or require higher thresholds of the CMSM, the sole member community mechanism, together.

He also said members don't [take] liability for decisions [as] members and participants in the community mechanism as sole member [faces] no liability for their actions within it. Is the summary of what we have been advised – this is the summary of what we have been advised regarding liability. Hope this helps.

There seems to be a follow-up question from [Ann], but I suggest that we maybe take that offline. It might become too legal. We're going to have that clarified or responded to together with our external counsel, but to put it in a nutshell, we have been advised by legal counsel that there will be no more liability to whoever participates in ICANN than previously. So we're not making any changes or adding risks to those that become active participants of the ICANN community.

So we will post the answer to [Ann's] question in the updated Q&A. Unless there are more questions on the community mechanism, let us

now move to the community powers. My question is whether there are any questions from your side with respect to the first community power on budget, strategic plan, and operating plan.

There is a hand raised from Tijnani. Tijani, please.

TIJANI BEN JEMAA: Thank you, Thomas. It is a question about the community power in general, not especially for this specific power. You said, Thomas, that community forum is an informal structure, or it is not official.

I don't see it like this. I see it as an official structure of the community that doesn't have any decision-making power. It is a venue for discussion of the community, and we need it. It is necessary. So it is not informal. It means that we need to discuss in this forum, because it is the way that we [found] to solve some problems, you will remember very well.

I think that we cannot say it is informal. It must be well-managed, well-defined in our bylaws so that it will be effective.

Second point, also general. As you said very rightly, Thomas, there is three step for the [inaudible], community power [inaudible]. The petition, the discussion, and the decision-making.

There is a question that we can ask. Who coordinates this? Who will define the window of the petition? Who will receive the petition? Who will verify the validity of the petition? Then, who will notice or who will inform of the opening of the discussion window? Then, of the decision window? Who will collect the result of all this? Who will liaise with the

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board and the staff? I think that there is something missing here, someone who must coordinate all this.

And, one of the proposals that can be done is the chair of the community forum might be this coordinator. Thank you.

THOMAS RICKERT: Thanks very much, Tijani. Those are very good points, and actually they give me the opportunity to maybe specify and clarify a little bit. With respect to your first point, I think it's important to make a distinction between the community mechanism and the community forum.

So the community mechanism actually is the place, if you wish, where votes are cast. So it's nothing, no physical meeting or no extra body. It's just the vehicle where votes are being cast.

The community forum is a place where discussions take place. I was describing this as not being an additional entity or an informal place to have discussions, just to maybe take away anxieties that we might be setting up a parallel structure inside ICANN.

We remain throughout the community. The SOs and ACs will remain unaltered, and we will just – let's say there could be an agreement by the SO and AC chairs to meet on a Friday of the ICANN meeting and discuss an issue.

So it would not be an institutionalized body that could create additional complexities in legal or other times. Certainly a right, and that leads me to the second point that you were mentioning, the process we could certainly spell everything out, and maybe there is good reason to do

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that. So if there is sufficient traction inside the community requesting that we formalize everything, I think we can easily take on that task.

But remember, even today, even this very transition process, was kicked off by the SOs and ACs. The SO and AC chairs have come together as they do today already and they have formed a cross-community working group. So I would trust that even in the absence of everything being formalized that the SOs and ACs are capable of managing such a process.

So I think I should leave it there and open it up for other to chime in if they would like to add to that. Let me just see whether there are additional questions in the chat. There is one from Scott: "Regarding the empowered community powers, does the community have the power to remove the president individually?"

Let me see whether one of the rapporteurs – Jordan?

JORDAN CARTER: I can answer that if you like, and I did in the chat. The answer, Scott, is no. The community doesn't have the power to remove the president. I'm assuming by president you mean the president and CEO, currently Fadi. Neither the power to remove an individual director nor the power to remove the entire ICANN board would affect the president and CEO. That person is an employee. They sit on the board through their role as an employee and their status there is a matter for the board to decide as an employment issue. So [we're] specifically excluded them from coverage from either of those two powers.

THOMAS RICKERT: Thanks very much, Jordan. Before moving to Kavouss who has raised his hand, let me just add to what previously discussed. Tijani, my remark was not meant to take away any of the importance of the discussions taking place in the community forum. Just wanted to describe that there is no legal formalization or that there's no additional legal body that needs to be managd.

Kavouss? Kavouss, we can't hear you.

KAVOUSS ARASTEH: Do you hear me now?

THOMAS RICKERT: Yes, we can hear you now.

KAVOUSS ARASTEH: [inaudible] finish this part of your intervention. Once this [inaudible] finished, I would like to come back and make a follow-up question about the issue that I raised and the answer you had given was not convincing and you said it is offline. I believe that the issue is not offline. The issue is for the benefit of everybody. But I don't need to interrupt you now. Please go ahead with this and give me, once you finish that, the floor back. I will raise that question with reference to the second proposal. Thank you.

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THOMAS RICKERT: Thank you very much, Kavouss. Let me ask whether there are more questions on the [budget] strategic plan operating plan first. If there are no questions on that community power, Kavouss, please do make your follow-up comment.

KAVOUSS ARASTEH: Yes, sorry. The question asked to me was: does the community have the power to propose amendments – legal term, sub-modifications – amendment [inaudible] to the bylaws, either standard or fundamental?

I refer you to paragraphs 237 of the second proposal. It is stated. I quote, "The CCWG Accountability does not propose that the community gains the power to directly propose changes to the bylaws." This is what is number 237. Why this is [inaudible] power of the community mechanism a single member model [inaudible] subject to verify very high thresholds explained in section six?

There's an issue that if the bylaw, which is constitution of the whole process, does not belong to ICANN, it belongs to the community as well. So the community should clearly [inaudible] mention in the proposal that has the power and ability to propose changes to the bylaws, either the standard bylaws or to the fundamental bylaws. We should say that we would not propose. This is the [inaudible] that the CCWG does not propose that the community gain the power. Why? Why it does not propose that the community gain the power? Community should have the power to do that. This is the constitution of the whole process. It's [not only] ICANN. So community should have that power and it should be clearly mentioned in the second proposal that its power is also

reserved [inaudible] mission to the ICANN board [inaudible] to the community, they propose.

Suppose that ICANN does not propose anything, but community finds that the bylaws should be changed. The standard bylaws should be changed or the fundamental. Why the community should not have that power? In fact, why it is [inaudible]? What is the reason that [inaudible]? Thank you.

THOMAS RICKERT: Thanks very much, Kavouss. I'm virtually looking at…

JORDAN CARTER: Thomas, do you want me to answer that?

THOMAS RICKERT: Yes, please. I was waiting for you to chime in.

JORDAN CARTER: Okay, thanks. And thanks, Kavouss, for the question. Yes, to be clear, what we're not proposing is any new [methods] to raise bylaws changes. So we're not proposing to give the community mechanism the power to initiate and run a process that would lead to a bylaws change without support.

So all of the current ways that one could initiate a bylaws change, and I imagine that there are numerous informal ways to do that – whoever is

not talking and making a lot of noise, could you please push mute on your line? Someone is typing loudly. Okay, that stopped.

So no formal way to do that is being proposed. It's a matter of feedback to say that it should be available. Our view was that the current ways of proposing bylaws changes are workable and that there wasn't an [appetite] in the CCWG to add a new formal process that didn't involve the board. So that's where the proposal stands. If your feedback is for a different point of view, that should be taken into account with all of the other feedback from the community, but that's the logic behind where we [got to] so far.

THOMAS RICKERT: Thanks very much, Jordan. Do we have more questions? Let me pause for a moment. There are multiple individuals in the chat who are typing. Okay, by the way, I think we should maybe open it up so you can ask questions on all the different community powers, because you already started to ask about director remover. If you have questions on any of the five community powers, please do ask.

Mark has asked in the chat whether there will be more detail given in Dublin on how it will work. Any [appeals] to suggestion in paragraph 355. I suggest, Mark, that we take this offline and get back to you on the list. The group has not yet set the agenda for the Dublin meeting. What we're going to prioritize in explaining in Dublin, there will certainly be an engagement session, will be based on the feedback that we get during the second public comment period.

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So there's a discussion continuing in the chat between Kavouss and Jordan. I think we should follow-up on that. I think, to summarize for the benefit for the whole group, we did not want to change the way bylaw changes are initiated. We have not considered, or we did not want to prescribe or give an additional power to the community to initiate bylaw changes, but that does not prevent bylaw changes be they standard or be they fundamental to be kicked off by the board talking to the community and the board starting the process that is currently exercised when it comes to bylaw changes.

So do we have more questions on the community mechanism? And there's been the encouragement to discuss the community forum more, and I think that point is well-noted, so we will make sure that we put that on the agenda for one of our next calls to prepare.

Good. So there don't seem to be any further questions on the community powers. Let's now move to the stress tests. Do we have any questions on the stress tests?

These stress tests are designed to test whether ICANN is safeguarded against contingencies. So the sub-team has written up numerous scenarios which each fall into one of those five categories of contingencies. We've analyzed whether the current accountability architecture already provides a [sufficiency] robust response to a threat or a contingency. Where that wasn't the case, we have checked with the proposed amendment to the accountability architecture would be good enough to adequately respond to the contingency.

In our group's view, all the contingencies that we came up with and all the stress test scenarios that we spelled out we found that our responses were adequately countering contingencies. So do we have questions on the stress test?

There is a question from [Brendan], which I'm going to read out for you. "Some more questions for the community mechanism discussion to follow. Could ICANN simply ignore a decision of the sole member community mechanism? How would the sole member get them to comply, if the only option to remove the board?" Then [Brendan] [inaudible]. But let me defer to rapporteurs. If you would like to respond to the question, by all means do please chime in.

JORDAN CARTER:

I could answer [Brendan's]. question briefly. The question, for those who are just on the phone, is, "Could ICANN simply ignore a decision of the sole member community mechanism? How would [inaudible] get them to comply? Is the only option to remove the board?"

If the board wasn't going to comply with one of the other community powers being exercised, probably it would also not comply with itself being removed. The ultimate enforceability lies in the courts, and the community mechanism would be able to require its decisions to be complied with.

For instance, if the community mechanism resolved to remove the Board of Directors and installed new ones, those new directors would be able to enforce their rights in the court and the company and everyone else would ignore the [inaudible].

But no one I think is contemplating that being a likely scenario, but in the end, these powers are enforceable and that was a key logic behind the choice of some kind of [management based system].

THOMAS RICKERT: Thanks very much, Jordan. There's another question from James. Maybe it's just a clarification. "We had a memo I think that indicated that ICANN would also fund such actions…" Okay, that was not related to this.

[Ann] added, "Seems the community mechanism [inaudible] California person [inaudible]." And that is correct, although we should add that going to courts would not be the preferred option, to put it mildly. So we've put in additional safety nets so that there is no need to go to court.

[Brandon] raises another concern. He says that he understands that the community powers are enforceable, but he just wonders if the sole membership community mechanism is robust enough, [inaudible] has resorted to accomplish that.

I think it would be good to get more feedback on what you think is missing, because when it comes to resources, for example, we have [inaudible] related community powers. So actually if there was the need for additional resources for that mechanism, the community could overlook or oversee that adequate resources are being allocated to that area in its budget proposal. And if the board does not agree to that, then the budget related community mechanism could be invoked.

I guess I would give the same answer to [Ann] who said that the sole member may need financial reserves allocated out of the ICANN budget that could also be provided for with the allocation of funds in the budget and power of the community to chime in on that.

I apologize for coughing. I hope that wasn't too loud on your ear. Actually, the proposal from [Ann] supported by Jim, I understood it that the money should come out of the budget, but they want to set aside money outside the original ICANN budget, and I think that's something that we can take back to our group as a suggestion.

Anymore questions on that?

We discussed stress tests and the final area to discuss would be the dependencies with the CWG. And there's a question from Scott: "What is the status of the [inaudible] bylaw provision we got in Work Stream 2?" I'm not sure who wants to take that, [inaudible] at the rapporteurs and co-chairs.

MATHIEU WEILL: Thomas, I can do that.

THOMAS RICKERT: Please do.

MATHIEU WEILL: On page 120 of the report, there's a recommendation to adopt a transitional provision in the bylaws that would commit ICANN to

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implement CCWG Accountability recommendations, and [task the] group with creating further enhancements to ICANN's accountability, and that is still very much considered. That's the current status of this provision and I hope that's answering Scott's question. I'm just going to put that again. It's on page 121 of the report.

THOMAS RICKERT: Thanks very much, Mathieu. So we take note of the suggestions made by [Ann] and others, so we're going to [pull that] out of the chat. Any further questions?

There is a question from [inaudible]. "Apologies. Still a bit confused about how well the human rights issue will be addressed." Mathieu, would you like to respond to that, too?

Okay, let me say that we have [inaudible] from the community that the human rights topic should be prioritized in our work. We had a sub-team that has been set up recently that is now working on two things, one of which would be language to go into the bylaw to [enshrine] the idea of human rights. I'm trying to put this intentionally vaguely, because the group has not yet come up with consensus language for that. We had some draft wording, but none of these have been supported by consensus so far. So that's one thing.

The second thing would be rationale or a description on what work needs to be done when it comes to human rights. All that should hopefully be ready for inclusion of our final recommendations. That should be in the package that goes to the SOs and ACs prior to Dublin, while the real in-depth analysis of the impact of human rights in

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ICANN's policy making and the various areas where it might be concerned would be left for Work Stream #2.

There's a question for Mathieu. A question for the end, perhaps, but could you speak to what happens with respect to implementation in Work Stream #2?

I'm looking virtually at Mathieu. Yes, please, Mathieu.

MATHIEU WEILL: Can we move to slide 18, please? I think that's where the answer is. The implementation – the current timeframe is approval of Work Stream 1 final report by SO and ACs in Dublin. Work Stream 1 implementation would start right after that, and actually some implementation is already to start and we hope that some of it can start now. A lot of the implementation of Work Stream 1 is about bylaw drafting and we are currently launching the first steps of work on this.

At the same time, our Work Stream 1 implementation we would launch Work Stream 2 development, which we anticipate would include at least two 40-day public comments as well as two ICANN meetings, so that the finalization of the recommendations comes after a thorough discussion with the community. And Work Stream 2 implementation would take place after that. So I think that's where we stand right now on this question.

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THOMAS RICKERT: Thanks very much, Mathieu. Any further questions? So there's a question for Mathieu from [inaudible]. "What is the scope of the second bullet of elements considered for Work Stream #2?"

MATHIEU WEILL: Thank you. That's a very good question. I think I need to take that offline to make sure I'm not mixing things. I need to get back to the genesis of this, and it's not very clear in the report, I admit. We'll certainly provide an answer and discuss this.

THOMAS RICKERT: Thanks very much, Mathieu, and thanks [inaudible] for the question. We will get back on that and we will also post the answer to that question in the Q&A. Any further questions?

Good. There don't seem to be any. Should you have more questions after this webinar, please do send your questions to the co-chairs or to ICANN staff and we will make sure that they are answered and that the answer is being published for the benefit of the whole community in the Q&A document.

Also, it's important that we all understand what we're suggesting. Our group has done 50 calls, as you heard earlier. We've been in this knee-deep, but we do know that most of the community members did not follow our deliberations as closely as we did. So should you have any questions, please do let us know. We need to make sure that everybody understands and that there are no concerns against our suggestions based on a lack of information or misinformation.

So if you are unclear about what we are trying to achieve or what we're proposing, please do not hesitate to ask us. Also, if you or your organizations or your respective groups would like us to speak to you to explain more, let us know and we will try to make ourselves available. It's important that we get consensus on this. I think this has been crafted by humans. I think the humans that have been on this [task] have done a [inaudible] job to come up with an answer to a very challenging question in a very reasonable period of time. But certainly there might be areas where we have missed something, so we need your input on that.

Likewise, we don't only need to hear about concerns. We need to hear about support as well. So if you think what we did is good, please take a minute, file a public comment and say so.

So I think it's important that we get positive and negative feedback. If you have concerns, reach out to us and we will try to get things resolved. Dialogue is important and we look forward to having more dialogue face-to-face in Dublin. Again, we will have an engagement session in Dublin so that you can ask more questions. But ideally you would ask those questions earlier in the process so that we can make sure to take your concerns and comments to heart and maybe address them before we finalize our report.

So there is another question from [inaudible]. "Quick question on the IRP. Who decides whether a decision from the three-member panel merits [inaudible] to the full panel?"

I'm not sure whether Becky is still with us because she has been leading on that exercise, and as you will have noted, we try to defer questions on the respective topics to the penholders for the specific sections in our report. Becky, if you're still there maybe you could chime in. Okay, Becky is there, but she's not on the audio. I hope you will bear with us and wait for your answer to be publicized with the Q&A. We will not forget to provide you with a substantiated answer to your question.

Any final remarks or questions from your side? Otherwise, I think we can end this call. Let me thank our group, our excellent rapporteurs for tremendous work on this proposal. Thanks to ICANN staff. Thanks to the translators that help this multi-lingual webinar to be so effective. Thanks to all of you for your participation and your questions. I hope to see and hear you or read you in the next couple of days and weeks. Thanks, everyone, and bye-bye.

[END OF TRANSCRIPTION]