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OLIVIER CRÉPIN-LEBLOND: Let's start the recording and start the webinar.

GISELLA GRUBER: Thank you very much, Olivier. I'll just start the recording if you could stay with me for a couple of seconds. The recordings have started. Good morning, good afternoon, and good evening to everyone. Welcome on today's At-Large briefing on the CCWG on accountability on Wednesday, the 29<sup>th</sup> of April at 13:00 UTC. We will not be doing a roll call, as this is a webinar. But if I could please remind you that we have Spanish and French interpretation, and if you could please state your names when speaking for transcript purposes, but also to allow the interpreters to identify you on the other language channel. If you could also speak at a reasonable pace to allow for accurate interpretation. And if you are on the phone bridge and on the Adobe Connect, please do mute your microphones. Thank you, and over to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Gisella. I'm just here as the host of this call today. We have a number of, should I call them panelists or participants who are going to take us through various aspects of the work of the cross-community working group on enhancing ICANN accountability.

As you know, this process runs in parallel with the cross-community working group on IANA stewardship transition, and a large segment or significant segment of the work of the cross-community working group on IANA stewardship transition is relying on the work of the working

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*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.*

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group on enhancing ICANN accountability. Might this all sound very complicated and complex? Well, hopefully this webinar here is going to help you look and have a good summary of what has gone on and where we are going.

We have Leon Sanchez who is one of the co-chairs of the cross-community working group. We have Alan Greenberg who is the chair of the ALAC and he is also a member of the cross-community working group. Cheryl Langdon-Orr is also a member of the working group, and Avri Doria is a participant in the cross-community working group and also an ATRT expert, and so is participating not only in this but I think that most of the participants here are also participating in the work on IANA stewardship transition and hopefully they can give you a good overview of where we are, as I said, and where we are going and what the issues are right now.

Let's start with our first panelist, and that's Leon Sanchez I believe, who is going to be speaking to us about the overall enhancing ICANN accountability. Leon, you have the floor, and I believe you probably have control of the slides as well.

LEON SANCHEZ:

Thank you very much, Olivier. I'll try to [inaudible] very brief overview of what the CCWG on enhancing ICANN accountability has done so far [inaudible] about how it's built and its composition, and of course a quick update on where we are at and our next steps.

This group was formed of course after the statement made by the NTIA in which they announced that they would be handing the stewardship

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over the IANA functions management to the Internet community. I believe I'm told that my audio is not the best, so I would like you to please confirm whether you can hear me all right or should I need to get a call back.

TIJANI BEN JEMAA: I hear you well.

GISELLA GRUBER: Leon, just to confirm that the interpreters have said that it is better now. I will let you know if it gets any worse, in which case we'll dial out to you. Thank you, and apologies for the inconvenience.

LEON SANCHEZ: Thank you very much, Gisella. I believe it's on my side, the problem. I always get this problem with this line, so no apologies needed. On the contrary. As I was saying, this group was convened after the NTIA announcement on its [inaudible] to hand stewardship on the IANA management functions to the Internet community. We first had the CWG and then of course someone got a word that enhancing accountability would also be something useful for this process.

Of course the scope of this work group, this cross-community working group, is to ensure that ICANN enhances its existing accountability. We do have many accountability measures in place, many accountability processes in place. But there's the feeling in the community that many of these mechanisms or these different processes do need improvement, do need to be enhanced. This is part of the scope of this

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working group, and of course also investigating accountability mechanisms regarding all the functions provided by ICANN, which of course comprises the IANA functions managing at this point, and of course deliver proposals that would enhance ICANN's accountability towards all stakeholders.

We need to remember that one of the conditions that the NTIA has said to approve any proposal that comes [inaudible] to carry on with the transition, have a requirement of being a multi-stakeholder and that of course foster or favor the multi-stakeholder model. So of course accountability is not only towards the ICANN community, but to some extent, to a wider community which of course includes all kinds of stakeholders.

So to organize our work with we began by dividing our objectives into two work streams. Work stream 1 is the one that we are working very hard on right now, and it refers to those measures or those mechanisms that must be in place or committed to within the timeframe of the IANA stewardship transition. This means that these are mechanisms or measures that need to be in place before the transition actually takes place. That is work stream 1.

Work stream 2 is focused on addressing the accountability topics for which we have a more flexible timeline and [inaudible] after the IANA stewardship transition has taken place. And it's not that it takes care of less important issues, but rather issues that need not be in place before the transition and can of course be addressed after we guarantee that those items in work stream 1 have in fact been committed or put in place so far.

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This is the initial division of the work into these two work streams. And just to give you a little sense of how the group is composed who are the different members and participants, we have documented some 161 people so far. We have 25 members and 136 participants and 38 mailing list servers.

The difference between members and participants is really something that's not very difficult to understand. Members, should there be a need to have a consensus call on any issue, the ones that would be able to vote on the consensus would be the members and participants would not have a vote in that process.

But other than that, the interaction between members, participants, and observers is exactly the same. Everyone is able to participate, raise points, questions, to contribute with any comments, etc. So we are on a very equal footing, let's say, between members and participants; and as I said, the only difference is that should there be the need to have a call for consensus on any topic, then the members would be the ones that of course would be voting on that consensus call.

Within these 25 members, the At-Large community through the ALAC have five representatives, one for each region, and we also have co-chairs which is myself [inaudible]. There's also two other co-chairs, one from GNSO (Thomas Rickert) and one from the ccNSO (Mathieu Weill).

With this structure, we have so far managed to work through weekly calls and we've also held a couple of face-to-face meetings. We held one face-to-face meeting in Frankfurt, and then we held another face meeting in Singapore, of course. A third face-to-face meeting so far has

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taken place in Istanbul. Our next face-to-face meeting will be happening in Buenos Aires right before the general meeting starts. This will be happening on June 19<sup>th</sup>. We will be working [at] a face-to-face session, and of course I will give you the proper updates if you wish to participate in that face-to-face session as well.

What we have here in our screens at the moment is a little summary, a graphical summary, of what the CCWG has done so far. What we did first, as I was saying previously, is that we had an inventory of the existing accountability mechanisms. There was a public comment process of the general concession scope in which the community provided feedback on how to enhance ICANN accountability.

So what we did is that we covered all those questions from the community and put them together into a single document, and we of course then classified these different accountability mechanisms so we could identify them as work stream 1 or work stream 2 issues. That is where we reviewed the input from the community [inaudible] second square in phase one.

After this, we defined some requirements, which were classified into contingencies and risks, and from there we began developing or designing principles that of course would enable community empowerment and provide with adequate [inaudible] mechanisms. So if we follow this logical path through the graphic of the presentation, I think it is pretty clear how we have so far managed to get to the point that we are at the moment, and that is of course having our first draft document to be submitted for public comment in a short time, and after this, we will of course after providing or getting the community

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feedback on this first draft, we will incorporate those comments to the solution or the different proposals that are put on the table at this moment.

This first draft is not a single proposal document. It has of course different aspects of the proposal that we are considering, and we want to, of course, get feedback from the community.

For example, if you go through this document, we are talking about maybe having ICANN's corporate structure modified, so we might have a membership model or a designator model. So this is something that might not seem really relevant, but it is in the end with regards to the legal implications that any way or any path that we follow will have in the end towards the community and towards how we can enforce the [inaudible] accountability mechanisms that we are envisioning at this point.

We put in this draft document the two options. We have signaled the [preferred] option by the CCWG, but this doesn't mean that the position has been taken already. This only means that through the work that we have been carrying out in the CCWG, we feel that the best mechanism or the best option to carry out with our objectives is either A or B, so we let the community know this and we will of course then receive the feedback and view it so we can of course have a better proposal after this period of public comment.

So after we reviewed and after we carried out this work, we came into some key components. Of course you can see a set of four key components here. The first one being the empowered community, the

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second one being the Board, the third one being the principles incorporated into the bylaws, and the fourth one being an independent appeal mechanism.

Think of it as – if we do an analogy, the empowered community would be the legislative power, the Board would be the executive power, the principles and bylaws would be the constitution, and the independent appeals mechanism would be the judiciary power.

So with these key components, we got into designing different mechanisms, which could be either triggered or non-triggered. For example, if we are talking about a triggered mechanism, this could be some action that the community might begin [inaudible] an event into which maybe staff or the Board could have acted in some way against the ICANN bylaws or against the policies applicable to any certain situation.

So it would trigger of course the mechanism that could bring different options to the community to enforce and make sure that ICANN – and by ICANN, I mean Board and staff – would act according to ICANN bylaws.

With regards to the non-triggered mechanisms, we could be thinking maybe about the ATRT reviews, which are already into our systems and they don't need to be triggered. They are an ongoing exercise that doesn't need to be started by any given community member or organization, but rather it's just already scheduled and it happens on an ongoing basis.



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So after we decided that, we came to these four key elements. We began designing some templates for the mechanisms. If you think of these templates as recipes into a recipe book in which we incorporated different criteria that would need to be taken into account, so any mechanism could of course be implemented and achieve a certain goal, being maybe a review mechanism, a [response] mechanism. Or maybe we're talking about some essential powers that we want to provide the community with, like for example maybe having to approve ICANN bylaws, maybe have the power to [inaudible] some changes into the bylaws, having ICANN speak to its mission, maybe having a last resort of [redress] as recalling the whole Board or maybe recalling individual Board members. So these are the different options that you can see and you will be able to review if it goes through the first draft document and of course the different documents that we have so far produced in the group.

And as I said, these are the four key issues and this proposal wouldn't of course be complete without stress-testing what we have so far put [up]. So we have had a very, very, very useful and important team that has run the stress tests on different situations. We have, if I'm not mistaken, 21 different situations in which we identified a stress test that needed to be carried out, and then they got classified into five different [inaudible] 26 stress tests were identified, and they were [inaudible] five divisions.

And the stress test team has developed these different stress tests and I am really sure that of course Cheryl when handed the floor will speak more about this, but this is also another requirement from the NTIA,

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that anything we propose, anything we come up to, should be stress-tested and of course approved by the community.

So if we just jump into a previous slide in which we have the storyboard of the CCWG, you can see that in phase three we have the envisioned solution. The solution would be stress tested, which is part of what the stress test is actually doing. And if it doesn't pass the stress test, then we would go back to our desks and include the solution so we can have another stress test run, and if it does pass, then we would have our recommendation submitted to the Board, and then the Board would in turn hand it to the NTIA.

So if you want to of course get involved with these activities, this is an open group, and you can follow what we are doing, our activities, our agenda meetings, documents, different sub-teams and groups within the CCWG on this URL that is on your screens at the moment. That is the Wiki space for the CCWG on enhancing ICANN accountability.

Our next steps is to finish our first draft proposal, to submit it for public comment or [inaudible] made for the Wiki. We will have a 30-day public comment period in which we will gather of course feedback from the community, and after we close that public comment period, we will review all input gathered or received from the community.

One of the things that we will focus in our Buenos Aires meeting will be of course incorporating the different feedback and comments that we will see through this public comment period, so we can have or build a second draft proposal. Maybe not by Buenos Aires, but just some days after Buenos Aires. So if we see the need of going through a second

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public comment, this would happen of course. And if the community has provided feedback in a way that a second public comment is not needed, well then this timeline could of course have variations, and of course we would also need to submit any proposal to the chartering organizations, so they can have their approval process run through its proper process, internal processes, and then hand it to or submit it to the Board, so that they can in turn of course hand it to the NTIA.

With this I would like to hand it back to Olivier, and I welcome any questions or comments that anyone may have on this. Thank you very much.

**OLIVIER CRÉPIN-LEBLOND:** Thank you very much, Leon, for this very comprehensive review of the cross-community working group on enhancing ICANN accountability. It sounds like an enormous amount of work. It actually is an enormous amount of work and in a very short length of time. We're going to take questions at the end of the presentations from the different participants we have listed here, so I'll hand the floor immediately then to Alan Greenberg next, who is the chair of the ALAC. Alan, you're a member in the process and the floor is yours.

**ALAN GREENBERG:** Thank you very much, and thank you Leon for the overview. I'm going to focus on a number of issues at this point, and those are the issues that are in my mind substantive issues that we have not firmly decided on. First of all, I'd like to review very quickly the powers that we're looking at giving the community, because I think this is the major substance

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from the community's point of view is what are we getting? In what way are we able to – I won't say control the Board, but influence what ICANN is doing? And depending on how we implement it, the level of control may be different.

The chart – and thank you whoever, Gisella or whoever put that up; that's exactly what I was looking for. Let me just scroll up enough so I can actually see what it says. All right. If you look along the top, there are five columns, and they're the main categories of things that we're looking at in phase 1 of these accountability projects. The first one is the ability to either force or encourage the Board to review things like budgets and operating plans and strategic plans. These are critical to the direction the organization is going, and if we see the Board going in a direction which is counter to what the community believes, we want some ability to control.

Now, when I say control, I'll go into in a little bit what kind of control it is. It might be absolute ability to say no, or it might be an ability to force reconsideration or perhaps go to an outside arbitrator to try to come to common ground or decide who is right.

The second thing is to require the approval of the community for bylaw changes. Bylaws clearly control what ICANN is doing and how it does it, and they are crucial parts of it.

The next column is what is called fundamental bylaws. These are bylaws which we have said are so important, and particularly important to the accountability process, that they must have approval of the community – and widespread approval – before they can be changed. The

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fundamental bylaws are the mechanism by which we make sure the Board can't change the bylaws and remove the accountability mechanisms, essentially.

The next one is the recalling of directors, either the whole Board or individual directors. This is not something that we really envision doing, but it could be done, number one; and number two, the threat of it is hopefully enough to encourage a Board, even if we don't have veto control over particular issues, to listen to the community. I think we're working in that mode right now. If you look at the amount of consultation that's going on on budget creation right now, the community has been empowered. But it's community empowered by a Board and staff that's willing to give that empowerment, and what we're looking to do is put this into the bylaws to make sure that in some future date this kind of level of interaction is maintained.

Those are the essential types of powers. If you scroll down a little bit until just the bottom of the first page, you will see something called relative voting power. This is the weighting that we're looking at giving the various ACs and SOs to make these decisions, and the current favored proposal is the first one, that is the ccNSO, the GNSO, the ASO, At-Large and the GAC each have the equivalent weight of five, that would allow us to do things regionally should we decide that that was appropriate. It will allow for GNSO to do one per stakeholder group, plus one for the council overall. The number 5 is a good number for many of us. It is talking about the SSAC and the RSSAC with a vote of 2 each.

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It's a little bit controversial in that you'll see the alternative was to not give the ALAC and GAC as many votes, and I think that's pretty well soundly been rejected by at least some parties, certainly by At-Large. The question is, is it appropriate to have some group that was a lower voting weight? That is currently being discussed, and in particular discussed with the SSAC and RSSAC, none of whom have any members on the group. So we need to be careful that we're not making decisions against some groups just because they're not present to talk about it.

One of the questions I've raised is the ASO is also a rather small group. Should they have 5 whereas some of the other "small" groups only have 2? It's an interesting question.

The next question – and Leon made reference to it – is the concept of members or designators. Under California law, not-for-profit law, there can be two ways the community has some level of control over a not-for-profit organization and over the board. One is with membership. If there are members, then the members essentially have very, very strong level of control over what the Board can do, and in fact gives the members effectively the ability to veto things like budgets.

The other concept is designators, in which case the Board designates specific people or specific legal people – entities – to act on its behalf. The powers are not as strong, because the Board still has the ultimate control, but you can give a fair amount of control. So you can't give a veto to designators, but you can give them some level of control. Currently, although we don't use the term, ICANN does use the designator model. Interestingly, designators for instance have the ability

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to appoint Board members. The ALAC appoints a Board member or At-Large appoints a Board member, as do the supporting organizations.

Under California law, to do that and to do that with the power of law behind you – in other words, you can sue if the Board refuses to accept your new director – you have to be a legal entity: a corporation, an association, or as we’re talking about right now, an unincorporated association. Currently we are not, within ICANN, and therefore although we have the power to appoint Board members, for instance, if the Board were to simply say to us, “No, we’re not accepting your new Board member,” we couldn’t do anything about it. Now, we’re not expecting the Board to do that and we’ve never had that situation in the past, but it’s an interesting thing that’s been discovered in the legal analysis of where we are right now.

The decision of whether to be members or designators, with designators as a lower level of power, needs to be made. There have been a number of concerns raised with the concept of membership. One of them, and it’s in my mind a critical one, is it has been suggested that many governments and government agencies, of which many ccTLDs are, could not join an association, and therefore there is the question of, could the ccNSO or the GAC exist if they had to be formally unincorporated associations? There is some question at this point about whether that’s a problem or not.

So that’s one of the decisions. The relative weighting of the groups is another decision, and the details on the removal of Board members is certainly something that’s going to require input from the community. One of the problems with the removal of the entire Board is, who runs

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the organization while you're going through the mechanism of reappointing a Board, which in ICANN normal context can take close to a year? There are certainly a lot of questions.

I'm going to turn it over to Cheryl now to talk about stress tests. I'd like to for a moment though try to define in simpler terms what a stress test is. A stress test is the identification of a bad thing happening, or a potential bad thing happening, and then verifying if the new controls we put in in fact stop it from happening or not. As you'll see from Cheryl's talk, in most cases we believe the new controls, new accountability mechanism we're putting in, will fix the problem. In a few cases it won't fix the problem and it's not clear we can do anything about it and may have to live with it. Bankruptcy is an example of that. It's not clear we can stop it. But we've identified it at least and put our collective minds to looking at whether there's any way of fixing it. So I'll turn it over to Cheryl right now.

CHERYL LANGDON-ORR:

Thank you very much, Alan. I'm very mindful of time, but I would like if possible, if we could just have the regional presentation that Leon went through put back up on screen and take us to the graphic which I think was on page 5 if not 6. I just do want to speak to that very briefly. Being mindful of time, I'm not going to go through all 26 of the stress tests that you will find outlined in the document when it goes out for public comment, I do want to remind you all that those of you (actually it's the next one, it is 6 – oh no, I'm wrong, it must be 7; obviously I'm crazy, I'm just going to have to look until I find it), the issues that were put



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forward to our group as of potential concern were in fact a larger number than what we're dealing with.

What we did is look at all sorts of hypotheticals, and Alan, thank you for giving a nice generic description of what a stress test in our context happens to be. It is a way of running a hypothetical that you can, through an intellectual exercise, test and analyze whether or not a system or process or mechanism you have in place is in fact robust enough, or does it in fact expose some form of risk liability concern or issue? If it does, then the stress test in itself does not come up with a solution to that. The solution to that is simply required by the fact that the stress testing has highlighted it or focused on in it.

In this graphic that is on the storyboard of the CCWG presentation, under our top 3 indigenous solutions, the solutions, mechanisms and community powers that we have for accountability are all going to be subject to stress testing. As Leon pointed out when he was looking at this slide, it is in fact highly recommended if not required of NTIA, at least for the proposed transition of IANA stewardship, that those issues are stress tested.

However, stress testing is something that some of you may be familiar with as being used in the financial industry. We are not doing exactly that sort of stress testing here. It is a more generic, hypothetical exercise, and as such, of the number of hypotheticals that we looked at and were presented to us as being likely worthwhile tests under accountability for us to look at, we were able to group them into basically 5 general categories. They are things such as failure to meet some accountability mechanisms, a situation where financial viability of

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ICANN is subject to concern, and all of that is outlined both in the Wiki page or the stress test working party of accountability. If staff could find that link and put it into the chat, that would be great. If not, I have in fact presented it before, so a simple search on the Wiki will find that for you.

But also that we haven't closed off our books for people to, even after our next public comment period, as this document on accountability has gone out, if you look at the 26 specific stress tests under the 5 different categories and you think that there is a test that we have not considered that is germane to our work, then please feel free to let us know. But recognize that many individual tests are probably very closely, if not exactly, run through in a hypothetical sense under one of the scenarios under one of the 5 categories, so we don't need to go too much into minutiae on these stress tests. They're generalized tools.

However, we have found, even running through the stress tests as we have since we started this accountability work and have come out with mechanisms and community powers, we run them against the current set of abilities and mechanisms that community has and accountability mechanisms that ICANN currently has attest to or in fact practice, and we have also got a set of and what we think the accountability cross-community working group may or may not come up with.

That's being refined week on week, month on month. During that process, we have in fact had the opportunity – and this is what this diagram particularly refers to – to go back to the work parties that are involved with specific mechanisms and say, "As we've stress-tested, as we've run through a particular hypothetical now, we don't think that we

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can see a mechanism of protection of power or whatever that is in fact showing a high degree of accountability or a high degree of [inaudible] that this risk is going to be as small as is possible.

In that case, that work has gone back and has been put into the work plan for either this immediate published document now or a later work stream to work in the future.

Have a look at the stress tests in your own time. Get back to us during the public comment period. If you think we absolutely positively missed something – we don't believe we have, by the way – but recognize that we're not trying to prevent things with stress testing. We're trying to analyze and focus on what may or may not be adequately addressed in terms of risks and likelihoods. With that, I'll stop there. There will of course be a quite detailed and very [inaudible] explanation on stress testing, how we apply it, and indeed some opportunity for you to run through some of your own thoughts on some of the things that you might think might be a good stress test and a little exercise opportunity for you in the document that will be going up for public comment shortly. With that, I'll stop here and pass on to Avri. Over to you, Avri.

AVRI DORIA:

Thank you. I will be very brief because [inaudible]. So I'll say very little about what I've been doing as a participant, but the one thing I'll say is I'm one of those that has been arguing for things like giving parity to all advising committees and not just a few of them, so that is the other side of the equation. But it is one of the two minority positions. The minority positions are those of us that want to treat everybody equally and those

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that want to really treat people unequally, and then there's sort of the middle ground of just some people get treated unequally.

Most of my focus has been on the ATRT issues and getting the AOC commitment into the bylaws. So going forward, there is not going to be the same degree of NTIA pressure or perhaps the ability to get the guarantee of accountability that they attempted to give through the AOC reviews, so it's incumbent on us in this accountability process to make sure that those guarantees are indeed incorporated in the bylaws as obligations.

Whether those bylaws end up as fundamental bylaws, that new class of bylaws that requires a higher threshold to change, or regular bylaws, remains to be seen. One of the issues on that is one of the potentials that has been added is the ability to change the reviews over time as new reviews are needed and old reviews aren't.

In addition to putting in the need for doing the reviews in the bylaws, we're also putting in at least one of the requirements that came out of the ATRT2, the last accountability and transparency review team, is a yearly review, a yearly statement, a yearly report, similar to some of the financial report, on the status of the work that came out of these reviews. So the status of accountability, status of transparency, but also status on all the work that's being done to meet the various recommendations that come out of the reviews.

The other thing that there's been an attempt to do is to somehow strengthen the recommendations that come out, and this is still very much an open issue. These days, the recommendations are by and large

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accepted by the Board, although in some cases – for example, the SSR and such, you know there's divided opinions on how much of it was actually accepted by the board – but basically, to put an obligation on them to truly consider these things, to get comments, and perhaps a way of dealing with the redress if they do not accept the reviews, especially when reviews are going to be about five years apart.

But there is an open discussion of to what extent should the Board have to accept the recommendations and such, so that's ongoing. But that's been really one of my focuses as the ATRT expert, even though there are many ATRT members from the past on the team who are also all experts at ATRT, though I do admit I have been reading and re-reading the reports over the course of the period just to make sure I knew what I was talking about. But with only five minutes left, I think I'll stop there.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Avri. That's an enormous amount of information we've had in the past hour. The floor now is open for everyone on the call to be able to ask questions on any aspect of the proposal, to any of our panelists. I see first, Tijani Ben Jemaa in the queue. So, Tijani, you have the floor.

TIJANI BEN JEMAA: Thank you, Olivier. I have some remarks as a member of the CCWG to communicate to the group. So first of all, as Alan said, to be member of the [inaudible] we have to become an unincorporated association, and this will make us able to sue and to be sued. This is something for me a little bit critical, because if we are sued, yes, the legal advisors said that

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we can take [root] in the bylaw [inaudible] that ICANN will [inaudible] a natural consequence of this. But what about the non-[inaudible] consequences? This is besides the fact that the ccNSO and perhaps the GAC couldn't be [this kind of registration].

Another point is about the composition of the community entity. As everyone said, as Alan said and Avri said, there is a preference for 5 times 5 plus 2 times 2, but I really support the fact that to have an equal power for each [inaudible], and my problem is that for the public comment perhaps we have only two proposals, 5 times 5 plus 2 times 2, or SOs having 5 votes of 5 members and the ACs having 2 members. I think this doesn't reflect the discussion inside the group, and at least we need to have the third possibility, which is a flat power for everyone.

Another point, and that is the rejection of the budget. Other than rejecting an approved budget and starting the year without a budget, there was a proposal inside the group that the powers which would be given to the community shouldn't be given to reject the budget but to control the budget, to approve the budget, beyond its adoption.

We have now a system of observation between the [final] department and the community, and this is not binding for the Board. The Board wanted to do it or the staff wanted to do it, and they do it. So if we make it binding, if we include it in the bylaws, it will be for me a better solution that is giving the power of rejection of the budget because [inaudible] not very comfortable for the organization.

Regarding [inaudible] members of the Board, at the beginning we decided inside the group that this will be in work stream 2, and now it is

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in work stream 1 and the reasons given [inaudible] but it is here now. I think that this issue – I have two concerns for this issue. The first one is that the appointing SO and AC will be recalling [inaudible], and this will make the Board director trying to satisfy the constituency from which he is coming more than trying to serve the organization as a whole, because he [inaudible] the organization that has appointed him has the power to recall him. This is the first [step].

The second point is that the NomCom, who also appointing members, should be an unincorporated organization to be able to recall people, to recall its appointees. I don't see how it can be this kind of organization because it is not representing any kind of the community. It is not represented any interests of the community, so I don't see how we can be in association as the other issue [inaudible] problem for this issue.

The last issue is about, and I spoke about it, recalling the whole board. [inaudible] how the organization will be run I absence of the Board when it is recalled. I proposed from the beginning that when we appoint members to the Board, we appoint a member and a substitute member. So the Board would be composed of the members, but when we have the Board recalled, the substitute can sit on the Board and continue the duty of the re-election or re-appointment of the new Board. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, Tijani. My goodness, that's quite a few points that you have made here. I wonder if any of our colleagues – Alan, Avri, Cheryl, Leon, do you have any response to any of the points that Tijani

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has made or adding to the points that Tijani has made on these? I see Alan Greenberg. Alan, you have the floor.

ALAN GREENBERG:

Thank you. I didn't take note of them, so I'm going to respond somewhat randomly. With regard to recalling directors being part of work stream 2 vs. work stream 1, yes, we did make that decision. It happened to be one I didn't agree with at the time. But I think it's the sign of a dynamic and working organization that we can look to the decisions we made and say yes, that wasn't quite right, let's rethink it. I don't view that as negative at all.

Certainly recalling the whole Board is an ominous thing to do and it's not clear we know how to do it properly – that is, how to make sure the organization keeps on running. The issue of directors having to just look at what their own organization wants I don't think is a particularly important one. I'll give that for a number of reasons. First of all, I think any rational organization – and most of us individuals may not be rational; organizations are more so in the ICANN context – is not going to withdraw a director that they selected, randomly. I think if a director appointed by At-Large or the GNSO or whatever is going to take action which quite clearly is not going to be appreciated by the organization that selected them, the onus is on that director to come talk and explain why.

When we select a director, we don't select a director just to be our servant. We select an intelligent, thoughtful person who we think understands the issues relevant to our community. Now, that being



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said, I'm told that already when you get near a renewal time, we have seen over the years directors abstaining from critical votes because they don't want to offend the community where they're trying to get reappointed. So it's already happening to some extent. I don't think it happens to a large extent. I think the directors we pick in general are mature enough to know that yes, they may not get reappointed if their views have diverged significantly from their appointing organization, and that's life. So I really don't think it's a major issue. I think it's more important to have the ability of recognizing that you did make a mistake in an appointment and fixing it. So that's addressing some of the issues. I think I'll stop talking.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. Tijani, your hand is still up. Is this a new hand?

TIJANI BEN JEMAA: It's an old hand. I'm sorry.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you. Any more questions from anybody on the topic? I had a question which I think Tijani touched on, the issue of flat voting. I wonder if we can turn to the slide that looks at the community powers, because I think that's probably one of the key sets of work that the working group has worked on. Gisella, do we have a chance to move to the community power slide, please?

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UNIDENTIFIED MALE: With the five columns. [inaudible]

OLIVIER CRÉPIN-LEBLOND: There you go, the magic is happening. And of course, Tijani mentioned flat voting. I'm not sure I quite understood – and thank you for this – what was at the bottom of that first page. Relative voting power? Somebody is moving things back and forth at the moment. I'll take this thing off and then everyone can move to this part. Why is this moving like this?

ALAN GREENBERG: If a presenter moves, it moves.

OLIVIER CRÉPIN-LEBLOND: I don't know what presenter is moving, or many two of them are trying to center it on their screen.

ALAN GREENBERG: I will move it to the right place. Don't anyone touch it.

OLIVIER CRÉPIN-LEBLOND: Okay. So we're not touching it. It's in the right place at the moment for me. Alan, I'm looking at the numbers here and ccNSO, GNSO, ASO, At-Large, GAC, 5. SSAC, RSSAC, 2. Does that mean that each one has one vote there? Is that the flat voting, or is that a different [inaudible]?

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ALAN GREENBERG: No, I think flat voting that Tijani was talking about – I'll let him correct me if I'm wrong – meant every group has the same number of votes, which is not either of the options that are there.

OLIVIER CRÉPIN-LEBLOND: Ah. Okay. So here, what it actually says is the ccNSO will have 5 votes, GNSO 5 votes, ASO 5 votes, At-Large 5 votes, GAC 5 votes, and then there would be two votes for SSAC and 2 votes for RSSAC. Or is the other system that's there?

ALAN GREENBERG: The first one, the one you just described, is what they are calling the reference model. It is the preferred option by the people who have participated in the discussion so far.

OLIVIER CRÉPIN-LEBLOND: Right, okay.

ALAN GREENBERG: The other one was preferred by a very small number of people. I'm not quite sure why it's still on the table, but it is. And there's a third one as a number of people have suggested, that everyone gets the same number of the weighted vote, and that one, even though it's been supported by probably a larger number of people than number 2, is not listed. We can ask a co-chair why that's the case, but so be it.

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By the way, one additional note. At one point there was the feeling that if the ALAC, for instance, has 5 votes, that they must all be cast uniformly. The current position is they could be divided, if that was appropriate, on any given decision. And the intent is to set the thresholds so that a single organization cannot veto. So for instance, if in the first scenario there are 29 votes, the threshold could not be set at 25 required to do something, because that means the 5 votes from any specific organization could veto a decision. It would have to be set at a lower number to be possible.

The other thing that is still up for grabs, up for discussion, is how do we handle abstentions? If you treat abstentions as a no, we may find that no decision can ever be made because the GAC always abstains. We're still talking about that. Abstentions probably will not count as no's, but then you have an issue that if enough people abstain, a decision could be made by a very small community, which we wouldn't want either. So there are still many questions to resolve, many details.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Alan. The next question is also related to the different processes that we have here. There are five processes in front of our eyes. They appear to have different time scales, though, to be effected. Is that being looked at by the working group as well? Because Tijani mentioned earlier, recalling the budget or rejecting the budget means then that ICANN would need to run without an approved budget or risks running without an approved budget. Certainly that's a very time-sensitive process at that point. That's just an example. Alan Greenberg, still your hand up?

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ALAN GREENBERG: Yes, thank you. On that issue, if you recall about two years ago, ICANN didn't approve its budget, which starts July 1<sup>st</sup>, until somewhere around the end of July. The way it was handled is we kept on running at the previous year's budget prorated for the next year. So that means new initiatives cannot be funded. It means increases you were hoping to have don't come into effect. But the basic budget keeps on working. That could be particularly onerous, however, if we were looking at a situation where the revenue had gone down significantly and last year's budget is far too lavish. But nevertheless, it does allow money to keep on being spent and checks to be written. Presumably, if we had a situation where it could be delayed not by the Board, as it was a few years ago, but by the community, that there would be similar provisions. So the organization would have to keep on running. IANA I particular would have to have reserve funds so that under no conditions could IANA stop running. There are again a number of details, but we don't suddenly run out of money. It's not like the US government which can't spend any money anymore. We would have to make sure that we have a provision to go forward.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Tijani Ben Jemaa is next.

TIJANI BEN JEMAA: Thank you, Olivier. Yes, Alan, you are right. We will not be out of money during the beginning of the fiscal year if the budget is not approved, but I think that it is not a comfortable situation for the organization.

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[inaudible] for some situations, and the best is not to have the power to reject the budget, is to have the power to approve the budget. The budget cannot be adopted by the Board if it is not approved by the community, and approved step-by-step as it is done now. I think it is a very safe way, because we will not have any delay. We will have the budget [on time] approved by the board. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Tijani. Are there any other questions or comments on the presentation today, or on indeed any aspect of the working group's work? I see Leon Sanchez has put his hand up, so Leon, you have the floor.

LEON SANCHEZ: Thank you very much for this, Olivier. I just have to make a quick follow-up on the budget approval. We are still looking into whether this process will be something carried out by the community. I mean, the budget should be submitted for community [covenant] approval before it goes to Board approval – or the other way around, which I think would be a little bit more problematic, in which the Board approves the budget and then we have community [inaudible] going through approval of this budget. So we still don't have a final formula for this, but certainly both options – either having the budget approved by the community first and then by the Board, or the other way around – those are two options that are on the table at the moment. Thank you.

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OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Leon. I was going to ask our panelists, or indeed anyone else on the call, I note that we have a few members of the working group on the call, if there are any aspects of the proposal or the work so far that hasn't been covered in this webinar so far. I see Sébastien Bachollet. Sébastien, you have the floor.

SÉBASTIEN BACHOLLET: Thank you very much. I just wanted to go back to an item that was of much importance to me, and that's about the number of At-Large members that would be included in the description. So I think there should be some specialist members designated, and I think we have members of At-Large that could perfectly fill that position. I'm very surprised to see that you propose to have a chapter that is the same that has defined in the past, and so whether there will be five or two representatives of ALAC, it's going to make a difference as to our influence in the Board.

So I think we should all know what the other is doing. The right hand has to be aware of what the left hand is doing, and there are two very important aspects to this. So I think what's important here is the selection of the people who are going to be issuing these positions. We should consider gender issues, for instance, and regions, because I have a feeling that the structure that you invented [inaudible] is going to perhaps limit sometimes our power. And yes, the intergovernmental structure has a situation which is different as ever, isn't it? So we shouldn't complicate the matter further with these new ideas of what they could potentially achieve and what we could never get to. So that's all I had to say. Thank you.

OLIVIER CRÉPIN-LEBLOND: All right. Thank you very much for this, Sébastien. Let's have Alan Greenberg with the response.

ALAN GREENBERG: Thank you. I'm not quite sure I fully understood Sébastien's comments. I think at the beginning he said he's surprised that we're willing to accept that the ALAC gets 2 and the other organizations get 5. I may have misunderstood him, but if that is what he said, then I think I've made it clear that I do not believe the ALAC would accept that, that I believe as a chartering organization we would refuse that ultimately. So I don't think that is an issue.

The issue of regional balance, we have tried to make sure that – the number originally proposed was four, and we have upped the number to five, largely based on the regional needs of the ALAC and perhaps the ccNSO as well or the GAC. But I'm the one who pushed for that.

And in terms of gender balance and things like that, we're at a continual set of odds on picking people for any given community if we insist that each organization picks their own people and no one is trying to balance things, then we're at a much worse situation with regard to balancing regions for those who don't pick by region, and balancing things like gender or other things. We can't have it both ways. We can encourage people to honor balance, but if we give them absolute control, as has generally been the wish of the community, then balance is one of those things that may get left out. It's a choice we have to make. Thank you.



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OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Alan. We still have about ten minutes in this webinar, so the floor is still open for questions on any aspect of this report. Perhaps one of the things, if we do have the time, was a repeat of what were the specific points, perhaps – since we have now a comment period coming up in a few weeks' time – what are the specific points that would touch At-Large Internet end users in this proposal? A proper answer is not everything. Obviously there might be some points which are more important than others. But what specific points should we look out for in formulating or perhaps in pitching our community – and I'm asking here of community members who are on the line that would be of particular importance to them. What does this mean for the person in this suite? Alan Greenberg.

ALAN GREENBERG: I think the things that are important to us right now is that we make sure that we have a voice that will be listening to. We're not going to win every argument if we're different from other people, but we want to make sure we have – be able to participate fairly in any process going forward. I think that's the key thing. Our views may be identical to those of another group, so it's not necessarily users, but should they differ, we need to be able to be heard. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. I was going to ask perhaps in any of the envisaged scenarios, whether that would actually affect the public interest or affect end users in a negative way. Thinking for example about the

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proposal of ICANN to turn into a membership organization, what would that mean, if anything? It might be that it doesn't mean anything at all. The way that it could be built would not affect end users at the end of the day. Just one of the example questions that I felt asking. I don't see anyone rush to put their hand up on this. Then I'll turn over to Leon to remind us – oh, I see Sébastien first. Let's have Sébastien and then just inclosing afterwards we'll have Leon reminding us of the deadlines that we have coming up and for us to be prepared with our fingers on the buzzer. Sébastien Bachollet, you have the floor.

SÉBASTIEN BACHOLLET:

Thank you. I would like to know the status of the current situation of the work that's been for the implementation of certain recommendations, and to see what the ICANN structure is to be, what the resolution was. So there might be an ICANN 4.0 as a new version, but I don't think that has been established yet. The structure hasn't been decided. That would be communicated to the community in general as soon as it is. So I think this would allow us to be in a better position for the IANA stewardship and the transition [inaudible], and we might in general have to act towards—

TRANSLATOR:

I'm sorry, but his sound was a bit choppy.

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OLIVIER CRÉPIN-LEBLOND: Okay, thanks very much for this. Thank you. I see Tijani Ben Jemaa has put his hand up, perhaps with a response or a reaction to Sébastien's points. Tijani, you have the floor.

TIJANI BEN JEMAA: Yes, thank you Olivier. It is not a response to Sébastien. It's only to say I wanted to inform the group that we worked very good 'til Istanbul [inaudible], but from Istanbul, the pace is very fast, and it has become more or less impossible for a lot of the group members to follow and contribute. This is for me a handicap for the group. The text prepared now doesn't reflect the point of view of the whole group, because some people follow, some people participate, and I don't find that there is a reason for that because, I repeat, I said, I repeat, we don't have a [desire]. They say because of the [inaudible] you need our input. No. We need their model so that we define the [inaudible] mechanisms adequate for their model. It is not the other way. We have to provide the accountability mechanisms before the transition, and we can do it with a normal pace, without speeding like this. So it is a problem. I tried to catch up. I had the problem at the moment, but I tried to catch up, but it would be much better if we didn't speed in this way, so that the results will be better. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for this, Tijani, and then for these points. I know some reaction in the chat, and to the points that you've made, certainly concerned or rather disturbing that the report didn't reflect the view of the whole group. That I guess might just be a temporary thing

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depending on how the progress is taking place. I notice Avri Doria has put her hand up. Avri, you have the floor.

AVRI DORIA:

Thank you. I guess I want to take exception with the comment that the report does not take into account the entire group, or at least the way I think it's being understood. I think that the report does take in the entire group that has been participating. I think what Tijani said is that [inaudible] with different opinions that may not have participated or may only be starting to participate now, and that catching up is very difficult. And so I think there's an obligation on the group to help get people up to speed, to understand what's been done, and to understand those places, if there are any, where the views of significant proportion of people haven't been taken into account.

Also, on the CWG model, on the transition model, at the moment that is now on the table. We know it's a new model, it's a compromised model. I know it's not the purpose of this webinar to discuss it, but it is now on the table and there has been a constant communication between the two groups on the cross-dependencies that the CWG had on the CCWG. I think it would be unfortunate to hold up work stream 1, and one of the things I think happens in the group is people try to put too many of their aspirations for what is called the [Tesla] of ICANN into work stream 1 as opposed to the longer effort, work stream 2. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Avri. Alan Greenberg is next.

ALAN GREENBERG:

Thank you, and I'm conscious we only have one minute left. Tijani is partly right, because I'm one of those people who have gotten lost, that the people who are working on each individual section have been very diligent but not necessarily – it's not clear the rest of the group is up to speed on some of these things, so there are things on the report that some of us have not consciously signed off on. That is correct. At this point I think we've done enough work that we need to vet what we've done with the community. As Leon pointed out, there may be one more draft coming out. There may be two more drafts coming out depending on how things go. It's time to get a larger body of people involved and I think it's time for all of us, including those members on the group who have focused on specific areas but not others, to read through the whole thing and say "What are the issues that are still current, that are still important?"

We've identified a number of things that certainly surprised me. We talked with the ccNSO perhaps not being able to be an unincorporated association. We also found out that under our current model, they should have been, to enable them to really have the powers that they are granted now, even though they're not enforceable. We have some interesting situations that we're going to have to resolve. It's not clear how we go forward, but it's time – I think it's a reasonable time to do a checkpoint.

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OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. We have started this webinar five minutes late, so thanks to our interpreters we have another five minutes to close this call in a neat way. I was going to call up on Leon to remind us then, what are the next steps not for the working group only but the next steps with regards to public comment period and what's coming up for us to be ready for? Leon? Are you still here?

LEON SANCHEZ: I am, Olivier.

OLIVIER CRÉPIN-LEBLOND: Fantastic. You have the floor.

LEON SANCHEZ: Thank you very much. Just as a reminder, we will be releasing the draft document for public comment on May the 4<sup>th</sup> if everything goes well. The public comment period will run from May 4<sup>th</sup> to June the [1<sup>st</sup>], and this will be of course the opportunity that not only the At-Large community but the wider ICANN and Internet community will have to comment on the draft proposal that will be submitted for [inaudible]. And after that, we will be reviewing the different input received by the community and try to incorporate it into a second draft proposal, which will be of course worked on in Buenos Aires as our face-to-face meeting.

After we do this, we will of course review the document and evaluate the need for a second public comment period, or if it's already everything in place, we will be submitting this proposal to the chartering organizations for approval. If they do approve that proposal would be

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handed to the board for submission to the NTIA. At this time, we don't have a fixed timeline because we of course are depending on whether we will be running a second public comment period or not, but the general timeline is as I just described. We would be looking at having a final proposal for approval of the Board by our meeting in Dublin, so you see that we are six months away from having this last proposal submitted to the Board and approved by it so it can then be submitted to the NTIA. So that would be of course the large overview of our [inaudible] at this stage, and we welcome any thoughts or comments on this first draft proposal and encourage everyone to comment. I think one very important part is the one that Cheryl [inaudible] and if you do have or you come to some situation which happens in already [inaudible], well we encourage you to come forward and make your contribution with regards to the stress test.

I see Rinalia is asking about a brief to the Board from the CCWG. We are working on this. We are, as you know, [inaudible] to the CCWG. We are working with Bruce, who [inaudible] which took both the [inaudible] and the co-chairs of the CCWG. So the co-chairs can brief report. I believe this will be happening in May. I don't know the exact date at this moment. We are working with Bruce to arrange this briefing. This will happen before Buenos Aires, of course, and it is desirable that [inaudible] a heads up on what we're doing before we get to our meeting in Buenos Aires.

Cheryl is signaling that of course any stress test contributions should be added and are welcome to be added to the Wiki page, and there is of course no need to include in the public comment replies, but feel free to

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add them to the Wiki page. With this I turn back to Olivier, and if there are any other questions I'm very happy to address them at this point.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Leon. Over to Cheryl. Yes, I heard you.

CHERYL LANGDON-ORR: Thank you. I specifically was suggesting that there wasn't any particular need to put stress test proposal scenarios into your public comments, because the stress test really ran once all the mechanisms and community empowerments are scheduled. The PCs are a way of getting to that end game. However, the stress tests are outlined in the public comment document, but please feel free to put comments about other ones you think might be relevant into the Wiki page. We will take those under consideration exactly the same way as we would anything that comes in through the PC. But if it comes in through the PC, it will only be dealt with in the [inaudible] of all comments from all things on all questions, and I would suggest the [inaudible] that's the most effective way to have him put on the stress test is to do it via the Wiki page. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Cheryl, for this. As far as At-Large is concerned, the next steps are to have a response, or to build the response, to this public comment, which I believed Leon mentioned starts on the 1<sup>st</sup> of May, which is only 48 hours away, so maybe it would be time to create a Wiki page in our policy development page system. May the 4<sup>th</sup>, oh. It



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gives us a few more days. But create that space already so that it's ready for it to be action. I think it is a very short public comment period as well again, so we will need every single day of that to be able to proceed with having some kind of an answer. And of course, on that page, it would be helpful to have a link to the present webinar's recording so that we can refer back to it.

With this, I'd like to thank everyone on the call, but in particular I would like to thank the interpreters, Sabrina on the Spanish channel and Claire and Camilla on the French channel, and also to Gisella who has been doing wonders again with preparation of this webinar. So thanks to Gisella in particular. And thanks to all of you for being on this excellent webinar. This call is now adjourned. Goodbye.

**[END OF TRANSCRIPTION]**