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Proposal – 27 August 2015

TERRI AGNEW: Good morning, good afternoon, and good evening. Welcome to the At-Large Briefing on the Draft ALAC Statement on the 2nd Draft CCWG Accountability Proposal. We will now be doing a roll call as it is a briefing. I'd like to please remind everyone on the phone bridge as well as computer to mute your speakers and microphones as well as state your name when speaking, not only for transcription purposes, but to allow our interpreters to identify you on the other language channels. We have English, Spanish, and French interpretation.

Thank you for joining. I'll now turn it over to Alan Greenberg, Chair of the ALAC and At-Large Representative of the CCWG for opening remarks. Alan?

ALAN GREENBERG: Thank you very much. I welcome you all. I'm delighted that we have a fair number of people here, and I'm proud of the fact that I think we have the longest title we've ever had for a Webinar. Goes almost three lines on the slide, and I think Terri had to breathe twice while reading it. We're doing well to start.

Terri will be turning slides, and can we have the first slide, please? Thank you. What you're seeing here is a work in progress. The drafting of the statement has been going on for about three weeks at this point. We have held, I believe, ten hours of teleconferences on the ad hoc working group that is creating this statement, and I and a number of other people have put an untold number of other hours into it.

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.

We've probably logged something in the order of 200-plus hours that have gone into this statement. It's not finished yet. We had a meeting this morning that went on for about a little over an hour and a half. There are substantive changes that came out of meeting that are not reflected in this presentation, and we will be having one to two more meetings next week, which will, again, enhance the statement.

Essentially, people are taking the time to go over it, to comment on it, and in fact, to go over the documents that we're working from, and see if there are any new things that have gone that have come up that we hadn't noticed the first time around. Next slide, please.

What we're commenting on is a proposal of the cross-community working group that is looking on ICANN Accountability. It has been working since late last year. We have had, I believe, as of yesterday, 50 formal meetings, plus three or four face-to-face meetings, which are not counted in that list.

I estimate about 10,000 person hours have gone into the creating this document. That's probably a low estimate because we can't measure how much work has gone on in small working groups than individuals, but it is a huge amount of work. If you want to try to take 10,000 hours and multiply it by a reasonable hourly rate, that's a very impressive volunteer contribution.

The document is available in a number of different languages, and there is a webinar that has been given in multiple languages that you can listen to and this slide deck is also available in multiple languages. So if you are listening to the webinar in some other language, you may well

want to pull up the slide deck that is in that corresponding language. Of course, on the webinar that we present, it is only the English slides, but the others are available for you to follow along with.

Lots of other briefing material that goes along with this. We are not going to be going into any great detail on the actual content of the proposal, although we will be mentioning parts of it as we critique it. But the focus here will be on comments that the ALAC has made. Next slide, please.

You'll see the title says this is a comment on the proposal for Work Stream 1. The overall accountability work has been divided into two sections. Work Stream 1 is the parts of the changes that are necessary to give ICANN community the power to control the destiny of ICANN, essentially. And Work Stream 2 will be redefining or refining specific powers and complete a lot of detail design, so the work is nowhere near over, but the really major changes to the overall structure of ICANN and how the community interacts with it are focused in Work Stream 1. Next slide, please.

All right, I think we need to talk about multi-stakeholderism. It's a work we use a lot. We believe in the concept of multi-stakeholderism. That is all the people who are involved and the groups that are involved in providing and using the Internet, and particularly the domain name system should be involved in deciding its destiny.

Now, we need multiple stakeholders, just like we talk about we want diversity, because we have different positions. If everyone thought alike, we wouldn't need everyone to be present at the table. We just

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take one person and say, "You make the decisions since we know we're going to agree with you." That isn't the way it works, and we often disagree with each other.

Therefore, the challenge is to find common ground that satisfies everyone to some extent, hopefully, reasonably. That's true in ICANN in general, it's true in the CCWG, which generated the proposal, and it's true in the At-Large statement.

We are not likely to agree on everything. Some people will disagree vehemently and, at times in the statement, then we try to present all of the views. On the other hand, to the extent that we can give a unified view, we're likely to have more impact on where the overall CCWG is going. Next slide, please.

Now, because of that, we have statements within our – or comments within the statement that have various different impacts or intended to. There are a few things where we believe if a change cannot be made, this is really important. As one of the chartering groups of the CCWG, the ALAC could, in theory, refuse to ratify the outcome. It's not clear that would stop it from going forward, but it would certainly be a cause for deep concern if one of the major groups within ICANN cannot live with what is being proposed. So we do have a few of those.

Now, how we will react if, indeed, the changes don't get made, or if changes are made to something we feel very important in, that are very important, we're going to have to decide at that point whether we actually refuse to ratify and,perhaps, stop the whole process and the

IANA transition from going forward, or if we can decide we can live with it.

But, nevertheless, there are some items we feel very strongly of. Other ones, we believe, have to be raised, and we hope that they will impact the direction of that the CCWG goes in. And there are a few where we are [raised] practical to know we're not going to change the direction, but we feel it's important to go on record of saying we object to something, even though we can live with it. We do not feel the wise way to go forward. Next slide, please. Okay.

Overall, we support the proposal that is being made. It's not what we would have preferred. Generally, with At-Large, we would have liked to see legal enforcement, more goodwill, less complex structure, and because – aside from having it as a philosophy, which I think many of us believe in, that ICANN works pretty well right now without a lot of laws that are – or rules that are legally enforceable, we believe the same mechanisms which deliberately, in the proposal, make it difficult to override the Board, also may make it difficult for us to change as the Internet evolves and the world evolves.

The same mechanisms whereby moderately small part of the community can stop changes may also stop changes that we think are necessary. So it's a two-edged sword and it's not where we would have preferred to go, but it's something that, in general, we can live in. Next slide, please.

All right, we're now going to go into the substance, and some of you have seen these slides before, some of the slides before. They're

extracted from the CCWG webinars that have been given a number of times now, describing the process. And I'm just using them as an introduction.

So the first part that we're looking at are ICANN's mission, commitment, and values, and patiently core values. And there are number of changes there that we feel are not appropriate. First, next slide.

The first one is the core value 3. Now you'll see in left and right the current statement in the bylaws and what is being proposed. This core value has to do with the delegation and looking at other bodies to set policy. Because, in general, the Board, for instance, and all of ICANN does not set policy. We ask certain groups to do it. The GNSO, for instance, for gTLD policy.

The current statement says we will give the responsibility to those groups where it's feasible and appropriate. The proposed statement removes the feasible and appropriate, and also includes bodies outside of ICANN. And our general feeling is, and there's some disagreement on this, that the concept of delegating without having judging it to be reasonable is a potentially dangerous thing to do.

That is, we are giving responsibility to other entities or to sub-entities within ICANN or outside of ICANN, but not adding judgment afterwards as to whether we should be following them or not. So we think there's some danger in that. And, as I said, in many of these things, not everyone agrees. There are some people who say this is a perfectly fine statement. Next slide, please.

This one is, again, the major removal is that we're concerned about is the where feasible and appropriate. Currently, the statement says we will depend on market mechanisms in the free market, but we will consider whether, in fact, there are issues where the free market should not be and cannot reasonably address, and the proposed statement drops that.

We feel that is at odds with the overriding requirement in ICANN that we serve the public interest. The public interest, there's many, many times one can show in the world where the interest of the free market and open market and individual corporations are not necessarily in the public interest. So we feel that this is of particular concern. Next slide, please.

Fundamental bylaws. If you remember from the briefings, fundamental bylaws are the bylaws which are so crucial to these accountability mechanisms that we believe they should be very hard to change, and require, explicitly, the approval of the community to change. The regular bylaws can be changed by the Board and then vetoed by the community, but fundamental bylaws require the community to act in order to change them.

Along with the bylaws are Articles of Incorporation. The Articles of Incorporation are, essentially, super bylaws. They typically can only be changed by applying to the state or jurisdiction where you're incorporated, and they normally have pretty high thresholds.

The intent, I believe, was that – next slide, please – that the Articles of Incorporation have similar thresholds to that of the fundamental

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bylaws. In fact, because of the way things are written, they don't, and we're raising the issue that, we believe, the Articles of Incorporation should have similar or identical thresholds to the fundamental bylaws.

Now, there are some issues with laws in California, and they may, in fact, designate what the thresholds are for the Articles of Incorporation. So it may be possible that we can't get things identical, but we're simply identifying that there are a number of places where either the thresholds are different or the wording is such that it may not be clear what the thresholds are. And for something as crucial, we believe that you really need clarity.

As an example, for most Board votes, it is simply a percentage – to pass is a percentage, 50 plus 1 or 2/3 of the people who are voting. To change bylaws, it's a different set of wording. It says, "A certain percentage of the entire sitting Board, even if they're not at the meeting." And that may make a significant difference at any given time and, therefore, we really need clarity, [which is]. Next slide, please.

The next thing that ALAC is looking at is the Independent Review Panel, Independent Review Process. Now, the Independent Review Process is essentially an external group of wise people. There is a standing panel of seven of them picked, or at least seven, and for any given dispute, each side in the dispute picks one of the panelists, and those panelists pick the third one, and then they look at the issue.

And, essentially, in most of the cases we're concerned about, what they are doing is not deciding whether a decision was right or wrong, but deciding whether it was made in accordance with the bylaws. In other

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words, was a decision made that follow the due process and that obeyed all of the restrictions and caveats that go along the way in a process? Next slide, please.

What we are particularly looking at is what kind of decisions this group can make. The wording in the proposal implies that this group will decide whether ICANN followed its bylaws or not. But the wording is not extremely clear, and we have had similar panels in the past, which have not only decided that we have violated our bylaws, but have said what the remedy should be.

And we in at At-Large feel quite strongly that external bodies should not be saying what ICANN should do. They should identify if, indeed, we did something in violation and remand the problems back to the Board or the appropriate body to come up with the right solution, taking into account that the last one did violate some precept that we're not allowed to violate. And, essentially, that is what we're commenting on. The next slide, please.

So we want to make sure that if a decision say we're not in accordance with the bylaws, it is important that it's not try to set the remedy. Because an outside body, no matter how wise they are, may not actually understand all of the subtleties that go into the correct decision. They can decide we didn't follow a law, but actually, coming up with the right solution in a particular situation should be left to ICANN itself.

The other point we're making is there was a change made relatively late in the CCWG process that gave the IRP, the Independent Review Panel,

the right to look at decisions from other expert panels where they conflicted. As an example, in the new gTLD process, we had a number of expert panels that made decisions which conflicted with each other.

One expert panel said that the string .com and .cam are confusingly similar. Another expert panel looked at the same two strings and said they weren't similar. Now, you can't have both of those, and the question is, "How do you resolve them?" And currently, we have no process by which we can resolve such things. So this was added as a requirement for the IRP, but we never went back and listed in the possible outcomes how the IRP could respond to such a thing. So we've identified that as a potential problem that the CCWG needs to look at. Next slide, please.

Here, we come into how does the community get involved. Well, ICANN will become a membership organization, but only one member, and the member is the community. And we have, we are, essential, putting in place rules for how this community will exercise its rights. And the parts of the community that can do this are the ACs (the advisory committees) and the SOs (the supporting organizations). Next slide, please.

And you'll see in the report itself, we are saying that the three SOs (the Address Supporting Organization, Generic Names Supporting Organization, and the Country Code Names Supporting Organization) get five votes each. Five was the number that covered most cases and allowed for five different regions, if the unit uses such a distinction, to

have one vote each. That doesn't say how they get exercised; it simply is a nice number that seemed to fit a lot of the structures.

Also included in these five votes each are the Governmental Advisory Committee, and the At-Large Advisory Community, and two votes each to the SSAC, Security and Stability Advisory Committee, and the Roost Server System Advisory Committee. Now, it is not clear that the last three are planning to use their votes, but we are talking about allocating the votes should they plan to, and that's a decision that they have to make. The last four – sorry, the last three is correct. No, not the – I'm confused.

The ones that may not exercise their votes at this point are the Governmental Advisory Committee and the SSAC and the RSSAC. The ALAC, there's no question we plan to exercise our vote. Next slide, please.

Now, in addition to that five times five plus two times two, there are other alternatives that have been presented and are listed in the report. One of them is to give everyone five votes. The reason the SSAC and the RSSAC do not have five votes right now is a combination of things.

First of all, they are the only groups that do not represent a community. They represent, in the case of SSAC, they represent themselves. They are experts who are named to the committee. In the case of the RSSAC, they represent a very special community, that is the root servers, and there is one person per root server of the 13 root servers who is on the committee. And in both cases, they are appointed by the Board.

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It is generally felt that it is inappropriate for a group that is appointed by the Board to, essentially, to be then passing judgment on the Board. It creates a conflict of interest, it puts these people who are there at the grace of the Board to criticize the Board or remove them, and conceivably, the Board could remove the whole SSAC just before the vote to make sure they didn't vote one way or another, for instance. So, although that isn't likely to happen, there is a significant concern for giving them a significant voting threshold. Next slide, please.

The ALAC has come out strongly for the first option because we believe it's the one that is likely to be adopted, and we can live with that. We do, however, have added a proviso that should the SSAC ever not be Board-appointed, that they should be given the full five votes. Given the importance of security and stability in the Internet, we believe that this will be quite appropriate.

We can also readily live, and many of us support strongly alternative one. It is not likely to be the successful one at this point, but should it be the successful or should there be more interest in the community, we would certainly support that. And I think the alternative, too, that is where all ACs get half the number of votes of an SO. I believe that is an issue that we would refuse to ratify, if that ended up in the final report. It may be the only one that we can say with some level of assurance we would refuse to ratify, but we feel pretty strongly about that. Next slide, please.

Of the community powers, there are a number that we have some concerns. The first one is the ability to reject budgets. The same power

gives the community the ability to reject strategic and operating plans. To be honest, those aren't of much interest. Those are certainly strategic plans, are longer-term efforts, and we don't believe that that is a major issue one way or another. The budgets, however, do concern us for a number of reasons. Next slide, please.

First of all, if you go back a few slides and look at the voting rates, there are some people in the community who feel advisory committees, and particularly the ALAC, should definitely not be on the same grounds as the SOs. That is, we have the right to advise, but that's it. And it's a minimal responsibility and it's not nearly as important to ICANN as the SOs.

Given that kind of attitude, we have a fair concern that budget approval, budget veto, might be used as a tool to try to control ACs and to control what it is we can do simply by limiting how much money we have, the money we have access to, and we do have some concern on those grounds.

We also feel that vetoing a budget should be a last-ditch effort. Currently, in the planning process and the budgeting process, there is a fair amount of community involvement, but that's recent. This year is perhaps the first year that the comments the community made on the budget actually got factored in and caused a revision of the budget. That has not happened in general in the past.

We believe that must be made part of the structure of ICANN, that we must use a process like that, and we must have an interactive budget process that will make sure that we are listened to way before it's time

to veto a final budget. The current plan is that much of that work be done in Work Stream 2, and it's going to be enough work that we agree it should be done in Work Stream 2, but we believe it needs a little bit more specificity, a little bit more definition at this point, to make sure that when we go into Work Stream 2, the outcomes that will come out of it will satisfy the need. So we want more of a focus on the process that leads to the budget than just vetoing it. Next slide.

The removal of directors is one of the strongest tolls that the community has. That is, if the Board, and particularly some of the board, is not moving in a direction that we, the overall community, believe is right, this gives the ability to remove those directors. Now, that doesn't necessarily mean we do it. The threat of doing it is a very strong tool. And our hope certainly would be that the knowledge that we could do it is an incentive for people to listen to the community and not simply think they know best. Next slide, please.

In general, we support that. Where we are somewhat divided is for directors appointed by the SOs or by At-Large, because At-Large is the only advisory committee group that has a director, an appointed director. The current proposal is that the individual AC and SO can remove that director. There are some conditions, it must be done following public hearing, so there is an opportunity to discuss it within the overall community, but nevertheless, the final vote is of that community alone and not the other ACs and SOs within the organization. There are some people who believe that that should, in fact, be a community action.

The second point we're making, and there's a typo in the sentence, should say, "Regardless a removed director," not a [roads] director, must not be able to claim unfair treatment or have legal recourse. The process that we have put together says that we must, in a public forum, identify what the problems are and give the director an opportunity to state their side as it were, or give an explanation.

That leaves us open, potentially, to that director, if they are removed, or even if they are not removed, to claim that they have been defamed, that their ability to earn a living or whatever may be harmed, and there is the potential for real and significant lawsuits because we have identified what we think is wrong.

California statute allows a director to be removed with no cause given whatsoever, in any public forum. And, in that case, they definitely have no recourse. But since we are looking at being far more specific, we feel that it's really important that we only be able to do this if we can be sure we're not going to be sued for it. Because, otherwise, it's a power, which will simply never be used because people will simply always be afraid that if they use them, there can be retaliation and personal retaliation at a potentially very high expense. So the two have to go together. Next slide.

The recall of the entire Board is another one of those issues that are somewhat controversial. Next slide.

We have very strong concerns. The concept of removing the whole Board, it's hard to imagine a more nuclear option that, suddenly, the whole Board disappears, and you have to replace it temporarily with a

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few people, and then you have to go through the process of replacing them all.

Now, it's not only that this will be an earth-shattering process within ICANN, you have to consider how is this going to look to everyone outside of ICANN. If we ended up having put in place through community processes… Because, remember, these directors are selected by the community, either directed by the ACs or SOs or by a community-based set of nominating committees. If we are so dissatisfied that the people we picked that we have to remove them on that, how viable is the organization?

And so we think that the whole thing is a nuclear option, we would have been better off not doing it, and if it's going to be there, we simply have to go on record as saying, "This is something that really should not be there." there is also, if it does go ahead as a requirement that all members of the Board be replaced within four months, and we suspect that is not going to be possible given the processes that are in place within some of the ACs, SOs, and for that matter, the Nominating Committee.

Lastly, there is a minority position that says any AC or SO, and particularly the GNSO and ccNSO, should simply be able to remove the whole Board on their own without any support from the other groups. And, not surprisingly, we categorically refused to agree with that. Next slide.

Diversity is one of the issues that has been raised. Along with accountability of the Board itself, the question is raised is what about

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accountability of the users? What about accountability of the stakeholders? Are we reasonably representing the worldwide Internet community? And the answer, of course, is no.

If you look at the pool of people within ICANN, there are just too many places where they are not geographically diverse, they are not necessarily gender diverse, skin color diverse, background diverse. There's many, many diversities, and we fail on almost all of them. And so we really have to make sure that we're doing better as we go forward, and it's going to take a lot of work. And there's a lot of disagreement on how proactive it should be on whether we should have quotas, how important are skills compared to diversity? There's many things to be discussed.

One of them is that we should be reporting on diversity on a regular basis, and the ALAC supports that highly. Problematic, however, in the minds of some of us is that the recommendation in the proposal is that a specific review committee that is the Accountability and Transparency Review Committee, be the home for that diversity review. And some of us feel that would be a mistake for a number of reasons.

The Accountability and Transparency Review Group has a lot of work on its plate, and that's only going to grow. And moreover, that group may not have the right skills to do the work on diversity, and the Accountability and Transparency Review in the new version has the discretion to ignore certain aspects of its work in any given review year.

So we feel that that may not be the right place to do that. There are others within the community who feel it is exactly the right place, and the statement will reflect that. Next slide.

We're getting near the end, by the way, and we have lots of time for questions. The currently ICANN, ICANN, over the last decade and a half, has operated a variety of instruments between it and the US Government. The current one we are operating on is the Affirmation of Commitments. It includes a number of statements of what we must do. It also includes a number of reviews that must be carried out on a regular basis.

The AOC, however, can be terminated unilaterally by either the US Government or by ICANN. Now, we're not likely do it right now, but it can. And, therefore, it is not a permanent vehicle and it was felt that it is important to incorporate the crucial aspects of the AOC into the ICANN bylaws and other instruments governing ICANN, and that is being done. There are number of things, however, in the detailed implementation that we have a problem with. The next slide, please.

The first one, and it's the largest one – and it's the largest one – is the current review on WHOIS. That is, the directory services associated with gTLDs that currently describe who owns every gTLD. The current WHOIS rules say you must document that information, and it must be publicly available.

In the sense of what it implied when it was first written, WHOIS is supposed to have the names of the actual owners. Today, you also have privacy and proxy services that can mask some of the information. But

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nevertheless, the words written into the AOC regarding WHOIS were probably inappropriate in 2009, and they're certainly inappropriate now.

To say that there must be universal access to some of this information, we know is in direct violation of some country laws. So to cast those words into the current ICANN bylaws does not seem appropriate. And, therefore, we are recommending that the wording be changed to make sure that it reflects more closely what is legal today and where we think we're going, and to coach in general enough terms so we don't have to rewrite the bylaws every couple of years.

The second related thing is that the incorporation into the bylaws says that these reviews can be changed, but they have to be changed by the ATRT, the Accountability and Transparency Review Team. We feel that that's completely inappropriate. The ATRT are not going to be experts on WHOIS or consumer confidence, or security and stability of the Internet. That each of the review teams should be given the mandate to recommend to the Board. They can't change things themselves, but to recommend to the Board and to ICANN where changes are necessary because the world has changed and the words are no longer appropriate in the bylaws. Next slide.

And that's the end of the details. This just reinforces pointing to the wiki. The wiki is the place where we're collecting the information that people want to feed into the statement, and where revised drafts of the statement are posted. The mailing list, the group that is called the IANA Issues Group, which in fact, is the IANA Transition and Accountability

Group, we didn't change the name even though we repurposed the group as we moved forward, has a mailing list. So you can still join that mailing list, you can still participate in the next couple of weeks of work. The work isn't finished yet.

And there's the wiki where the documents for the CCWG itself can be found, including the draft proposal and the slide deck in the multiple languages, as I mentioned. The presentation is linked to the agenda, so if you know where the agenda is, you can download your own copy of this presentation. And I now open it up for questions. Next slide.

Surely, I can't have been that clear that no one has anything to say.

CHERYL LANGDON-ORR: Actually, I think you were very clear. I think it's extremely, extremely well covered and presented, including managing to integrate in the most recent stuff that we only did a few hours ago, so [inaudible]. Other than the fact that I'd like to know what a roads—

ALAN GREENBERG: I think there's anything in the slides that we just did, some of my words [inaudible].

CHERYL LANGDON-ORR: You referred to, yes. I would like to know what we a roads director. I think you meant to remove director, but I'm happy [inaudible] individual directors if need be.

ALAN GREENBERG: I did say that, Cheryl. You weren't listening. I said it was a typo and it should be removed, and it will be corrected on the version that you download if you wait a little while.

CHERYL LANGDON-ORR: Thank you, Alan.

ALAN GREENBERG: Thank you for the comments in the chat. Can't believe there isn't something someone wants to ask. Well, I'll speak for another minute or so, giving people time to think about questions. As I said, there were a number of issues raised on the calls today, particularly there are a number of core values that we're also looking at that that there were changes proposed. So anyone who wants to look at that part of it, maybe you can second guess what we're going to be looking at.

There are certainly a number of issues that some people have raised that there's not enough interest in that have not made their way into the statement. I started off saying everyone has different positions, and I won't claim that what we're saying here is fully supported by everyone. But to a large extent, it has buy-in from most people, and I see Avri's hand is up. And Avri is one of the people who objected to a few of those things we're saying. So I turn it over to you, Avri. That may not be why you want to talk.

AVRI DORIA: Thank you. No. that's exactly why. Actually, it was —- I made a comment in the chat [inaudible] that an ALAC position denigrating the capabilities of ATRT would be a bad thing, and Wolf asked me to try and explain why I thought that was the case. And as opposed to typing it, I, therefore, raised my hand. There are other things that I disagreed with along the way in the group, but none of them concern me the way this one does.

We all admit that diversity is one of the most important aspects of accountability, and to say that the accountability and transparency review mechanism is not capable of reviewing the essential bits of accountability basically undercuts its whole structure and process. I agree with you that instead of working eight months, like they've been doing, they need to work at least a full 12; that, indeed, it does not make as much sense as it should for them to go delving deeply into the WHOIS review, but just check are things being met. It dives into those too deeply.

If you were to make a claim that only half or 1/3 of the people in the ATRT are busting their humps doing work, and that if more of them worked, it might be able to do more in a more rigorous and quick manner, I would probably agree with that. You didn't say it; I did I'll say that.

So it's working methods need improvement, it's only been two or three cycles. Hopefully, going into a third cycle real soon now. But, yes, ATRT needs improvement, it needs efficiency, what have you. But diversity needs to be one of the touchstones of accountability, and to say that it's

too much work for the ATRT to deal with accountability in its completeness strikes me as a dangerous trend to initiate.

So I'm kind of hoping you don't do that. Thanks.

ALAN GREENBERG: Okay. Thank you, Avri. I guess I'll make a comment. Avri and I were both on the same ATRT, so we are speaking, to some extent, with different positions based on similar experience. And I agree completely with Avri that if everyone in the group worked or put the same amount of effort in, then we'd probably have different results and, certainly, as part of that ATRT, the second one, we've tried to make sure that the future ones will, in fact, have 12 months of work instead of 8 months of time to do the work.

All of those things I think would help, but, certainly, from my perspective, I think diversity will end up getting short tripped, will end up being cheated by being wrapped into the same review as a lot of other things where the priorities may vary depending on the interest of the people at the time and the skills. I personally feel it would not only be difficult for the ATRT to do a good job, but there would be opportunities to allow it to almost skip the job or not treat it as seriously.

We are changing the ATRT mandate a little bit to not be as prescriptive and give the ATRT some flexibility as to exactly what it's looking at, at every meeting, at every review, which happens every three or five years, depending on which version we look at. And I personally think it's

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important that the diversity not be able to be skipped, that it be focused on and, in fact, maybe it needs a much smaller review, much oftener than the five years we're talking about on the ATRT.

Five years is probably far too long to go between someone looking at how we're doing in that business. Certainly, if you look at diversity in government, or in some organizations, they make marvelous statement, and when they come back five years later, they found nothing has been done. And I don't think we can afford that kind of situation.

So I'm explaining why I think it is important to put it somewhere else. Obviously, the decision is not purely ours regardless. Avri?

AVRI DORIA: Thank you. Yeah. Just wanted to take a chance to respond to a couple of the things you just mentioned. First, it sort of almost indicates that like you're viewing ATRT as something other than all of the people and the organizations and the comment periods and the decisions that go into it, so the notion of an ATRT being able to give it short shrift is more difficult for me to accept.

I agree with you that there needs to be more work done than once every five years, but what I'm assuming comes out of an initiative like this are projects in At-Large, projects in the GNSO after a first review of diversity that there are issues that have to get looked about. Just like ATRT after one meeting of recommending transparency, notice the transparency wasn't getting quickly fixed enough, so then started mandating yearly reports as part of the yearly report on transparency.

So there are mechanisms that it has to do improvement projects and, as I said, I think the reasons you give are almost an acceptance of the ATRT's inability, and that's a problem. Thanks.

ALAN GREENBERG: Thank you, Avri. I agree, it is a problem, but I think it's a reality. But we may choose to differ on that. Any other issues that people want to discuss? Still have another half hour allocated. Anyone else from the either members of the CCWG or people who have been active in the Ad-Hoc group creating the statement? Anyone else would like to add anything I left out or make any other statements or comments?

I see Cheryl, Olivier. Who else do we have here?

CHERYL LANGDON-ORR: I'm fine, so I think we're happy with this presentation. I think it's [inaudible] a great deal. Thank you.

ALAN GREENBERG: Thank you. In that case, I will adjourn this meeting early and give everyone a whole half hour of your life back. And Sebastien has something to say, though. Go ahead, Sebastien.

SEBASTIEN BACHOLLET: Alan, can you hear me?

ALAN GREENBERG: We can.

SEBASTIEN BACHOLLET: I don't know if I have the right capability. Okay. Thank you for the presentation. I just wanted to raise issue already raised by Avri, but the other place where we don't have an agreement [and that's okay]. You explained at the beginning whether the multi-stakeholder, that even within At-Large, we don't have [inaudible] I think we need to find a way to [inaudible] without jeopardizing our ability of ALAC to have things move in the future, from now on in the future with the report and with the organization of ICANN.

I really think that the question of diversity must be [inaudible] position here and we may wish to have them in our point of view. What is important at the end, that the report talk about that and we, as At-Large, but generally ICANN, do something of the community, do something in the direction of a real diversity. It's not just the diversity. It's not just a question of the review; it's a lot of different things we must be done at each level of the organization.

Then it's also important to note that this question will be embedded, also, in the review of each and every SO, AC, or even at the lower levels. It's a bigger project and must be also handled by staff in one way or another. And it's not just a question of [inaudible].

Another point where we have different point of view is the question of the recall of the Board or… It's really an important question. I have the feeling that what is [proposed] today, it's unworkable solution, and it's

why I was listening to another solution or supporting another solution made by AFRALO.

We have to think if we want to have something where everybody agrees, but that's working or if we want to have something really that we can use in the future. If we don't care, we will not use it, and we are writing something for just as a [inaudible] how to be… It shows that everybody agrees on.

And why I don't disagree with the fact that the [inaudible] by an SO or At-Large that we have an election in three years, [it's short-term]. And I don't see it[inaudible] really bad. We have today a possibility [inaudible] [inaudible] Board member, it is something. And they can do something on our [behalf], we can ask them.

We are always trying to find new way to do things, and we have the single members and this forum of [inaudible] is a forum for the community. But the Board is elected by us and we need to also take the power they have – and you have the example where the voice of the participant are community SO [inaudible] that the Board decide not to act in the way that we're thinking to do. Then this power is still exist. It's why, also, I think where we say At-Large that we don't think we need all those possibilities.

ALAN GREENBERG: Have we lost Sebastien? We seemed to have lost Sebastien. All right.

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TERRI AGNEW:	Alan?
ALAN GREENBERG:	Yes, go ahead.
TERRI AGNEW:	We have a question from Garth Graham, as well. He is asking, "Where does the CCWG draft define community?"
ALAN GREENBERG:	Okay. Just to go on with what Sebastien was talking about for a moment, it's clear there are differences in the group, and I don't think there is any single point that everyone uniformly agrees on. And the challenge in this kind of statement is to put as many things as strongly as we can to influence the outcome.

To the extent that we present three different views, we're not likely to have any real input on where it's going. So that's the challenge and I don't think there's any perfect solution in going forward. We're not all going to agree on everything. And I think most of us agree, if you go back to the first statement, we started off with the premise that At-Large would prefer to have not seen a lot of these powers. We could have easily lived without any of these powers and, certainly, without many of them, perhaps, other than removal of Board members, which is a threat that we would never plan to use, but that threat might cause other things to happen.

So we're starting off a situation where this is not our envisioned perfect outcome, but it's something that we're trying to influence to be as practical and as stabilizing as possible. So there simply are issues that we have to agree to disagree on, to some extent.

Garth's question is, "Where do we define community?" I think Avri, in the chat, pointed out to us specific place. I think one of the issues is we use the term community in ICANN in many different ways. So we'll talk about the At-Large community, we'll talk about the community in general. Sometimes, most of the time, we mean the community that participates actively in ICANN. Occasionally, we mean a wider community where it's not only the people participating, but those they are speaking on behalf of, whether they officially have that mandate or simply have personally assumed the mandate to speak on behalf of all intellectual property lawyers or businesses or users, in our case.

Clearly, we don't represent all users, we don't have contact with all 3 billion of them, but hopefully, we are representing the interest and needs of the users because of the diverse contributions that we have through the various people who actively participate in ICANN in At-Large.

So I'm not sure if there is a formal single definition, and I think the term is flexible. One of the questions we were asked by some of our outside experts is how accountable are we not to the people who participate in ICANN, but to the larger community that we nominally are here through protecting the interest of, and I think that's a very valid question, and something that all of the groups, as we go forward, and I believe it's

going to be recommended that it be incorporated in the individual reviews that, as groups are reviewed, we look at just how representative are they, and how accountable are they to the real needs not only of the people who are coming to meetings, as it were, but to those who aren't, and those we don't even know how to spell ICANN.

Really good questions. Garth, I'm not quite sure if that answered the question fully, but if not, please speak up. I see a hand from Olivier.

OLIVIER CREPIN-LEBLOND: Thank you very much, Alan. You mentioned the relevance over regarding the overall community beyond the ICANN community. I wondered how that would like to relate to any political component in the United States because, ultimately, the work from Work Stream 1 will feed into the work of the CWG feeds into the ICG process, the IANA Coordination Group, and we have this transition of stewardship coming up.

How do you see this all come together? And do you see any component parts of this proposal and of our response to it helping one way or another with the transition going through the US political system?

ALAN GREENBERG: Well, I'll give my opinion, and I'm certainly not an expert. The US Government and NTIA basically set some criteria, which said, "You need to come up and demonstrate that you are accountable," without being very specific to whom. And that the process you're going to end up with

or the end result is something that will work. And the ICANN Board of Directors in a recent comment said one of the things they're looking at in their review of the CCWG is, "Are we going to end up with something better or are we going to end up with a disaster?" That's not the quite the words they used, but equivalent to that.

I think those are very valid questions. We have attempted, in our various stress tests, to identify disaster scenarios that could happen, and will what we're putting in place stop them from happening? In some cases, they do. In other cases, there's probably nothing you can put in place which will stop them, and we simply have to accept that go forward with that knowledge.

I think we have done a moderately good job if we've identified a number of things, including vetoing a budget and removal of boards, that, in our wisdom, whatever that's worth, we think these weren't the best ways to go through. Is it something we can live with? Well, we're saying, as I said in the intro, that overall we are supporting the proposal. Not what we imagined it should be, but we believe it is workable. So I guess we're presuming that the US Congress and the various people there will agree with us. Otherwise, we're rather foolish to be pushing this forward at all. We should just say, "Scrap it and give up the transition and walk away, and give our time back to our families."

So I'm hoping it is something which meets the political needs in the US so that this can go forward. I don't pretend to have the wisdom to know how that will play out. And back to you, Olivier.

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OLIVIER CREPIN-LEBLOND:	Thanks very much, Alan. Thanks for this extensive answer. I think you're quite right and, of course, these are big question. One other question that I have on this matter is whether any of our own members or ALSes might have any role to play in following up once this whole process is through with what will play up in the US Congress, etc. afterwards.
	And here, we're dealing with wider matters of Internet governance and the forthcoming IGF and everything that will take place before Congress is due to look at this whole thing and to say yay or nay.
ALAN GREENBERG:	Well, I don't know if we have a role, a specific role, to play. Obviously, there's a multi-bodied event that happens that all of us have some role to play. Certainly, if we had not come up with a viable proposal, or if we fail to come up with a viable accountability proposal, then that will be a signal that the multi-stakeholder process is not working as well as it could be, and that could, when the UN General Assembly reconvenes in September, and the issue of funding for the IGF comes up, that could be well impact it.
	Certainly, the success of the multi-stakeholder model is something that is on trial right now. There are people who believe we are not representative of sufficient number of people, or if we are representative, then we're not able to really respond to things in the public interest. And if, indeed, these accusations are correct, then we may have a difficult time going forward both in the transition and in things like the IGF, which are also a multi-stakeholder process. So there's a lot at stake here, and it's not just ICANN and the transition.

	Alberto's hand is up, and I see Avri made a comment in the chat. Yeah, sorry. Renewal of the IGF, not its funding, but yes. The two are somewhat tied together, however. If it doesn't get renewed, whether it has funding or not, is rather moot. Alberto. Go ahead.
ALBERTO SOTO:	Thank you very much. I agree with what you have been saying recently with respect to the danger that we are showing of whether the multi-stakeholder model does or does not work. So here's my thought. I believe we've been working very nicely, and the disagreement that we've been having should not prevent that from completing or should not really prevent the finalization of the transition.
	We need to analyze what we can do in the future once everything has been approved because it is true we are putting the multi-stakeholder model in danger, perhaps with issues that can be modified after the transition. Thank you.
ALAN GREENBERG:	Thank you, Alberto. I don't really have an answer. We will go forward, the decisions are not necessarily ours, and all we can do is put forward something that we believe addresses the needs of the politicians who will, ultimately, have to make these decisions. Politicians, be at in the US Government or in the UN General Assembly.
	Other comments? Seeing no comments on the chat. No hands up. Last opportunity for someone to raise their hand, or shout out. I see some

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typing going on. All right. I'm guessing there is nothing else at this point, and I thank everyone for attending. I thank our interpreters for doing a yeoman job, and appreciate the effort that has gone into all of this.

Thank you for staff, who have been running this. And I call this meeting to an end. Thank you.

CHERYL LANGDON-ORR: Thanks, Alan. Thanks, everyone. Bye, for now.

UNIDENTIFIED FEMALE: Thank you. Bye-bye.

UNIDENTIFIED FEMALE: Once again, the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines, and have a wonderful rest of your day.

[END OF TRANSCRIPTION]