ICANN

Moderator: Grace Abuhamad
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12:00 pm CT

Coordinator: The recordings are started. You may proceed.

Grace Abuhamad: Hi, everyone. Welcome to the CWG Stewardship meeting Number 64. It is the 10th of September and it's 1702 UTC.

We have Alan Greenberg, Holly Gregory and Chuck Gomes on audio at the moment. And...

Woman: Holly has stepped away momentarily.

Grace Abuhamad: Okay, thank you. Holly has stepped away momentarily but would be on audio only. And Lise will chair the call today so I will turn it over to her.

Lise Fuhr: Thank you, Grace. Hello everyone. It's Lise Fuhr as one of the two co-chairs I will chair the call today. Jonathan Robinson, my co-chair, will chair some of the issues but I will do the opening remarks and start with the SLE.

We have two main objects or subjects to discuss at this meeting. One is the SLE and the other one is the comments to the CCWG proposal. So that is

actually why we have only set this meeting to last for an hour, we usually have two hour calls that we think and we hope that we will be able to finish these issues within an hour.

And our aim of this meeting is to have a second reading of the service level agreement. You have the first one last week. And we have to decide on the way forward regarding the service level expectations.

Furthermore, we need to finalize the comments to the accountability proposal where the public comment period ends this Saturday. You also get a brief update on the legal work. As you might know, as we have sent it to the group, the chairs decided to actually send in some comments on September 8 two the ICG public comment period. And it's not new comments, it's actually our position -- the CWG position on the IANA IPR which we have agreed on earlier as a group.

We thought it would be helpful to actually make this submission to the ICG as we found those remarks were important and would be helpful to have as part of the public comments to the ICG proposal.

And those were the opening remarks. Any questions or comments to this? No. I will move fast forward to our second reading of the SLE Working Group output.

And we have an updated document that was sent to the group as per last week's edits. And the procedure is that this SLE Working Group has prepared a proposal for the CWG to decide upon. And we have received some comments on the list and I know Paul Kane has recently sent some edits as a response to those comments to the CWG list.

We have to review these changes as part of our final reading and approval. And I know Paul Kane is on the call and, Paul, could you give us a walk-through of the changes then we can have a discussion on these.

Paul Kane: Yes, gladly. Thank you very much, Lise. So I'm now in the office so last week I apologize I was very much on the go. So to make sure that we are looking at the latest and most pertinent document (unintelligible) the document is IANA service level expectations - agreed - Rev 1 - final, with a small letter A dot PDF. That is the version I propose to go through this evening.

There was some confusion with respect to the use -- our use -- inappropriate use of i.e. and e.g. and I have updated that to e.g. as requested in the specific areas. I'm just going to scroll down. So I'll just go through if I may other relevant pages. It is redlined so it's easy to see.

So Page 8 was relating more to transferring the ccTLD from one registry to another. It's basically just capturing, which is a very valid point, that's currently there was a process to make sure that the new registry operator successfully transferred the data from old to new so that there is no disruption of service to registrants.

Scrolling on to the more pertinent issue, Page 11 (unintelligible) appears. If you remember last week a very valid concern was raised by Martin in respect to who was reviewing the request for the change. And there was language there that possibly was a little - there was some ambiguity and so what I've started to do is for those registries that have a contract with ICANN obviously the appropriate party to review that is the ICANN Board of Directors.

But for others, primarily ccTLDs, although there are some CCs that have a contract with ICANN, it is the ccTLD when making a change that has to

authorize the change request. And so to avoid any ambiguity the proposed new wording is, “Or other relevant verification parties,” no longer independent parties independent of ICANN or of ICANN or IANA. But the proposed wording now is, “Or other relevant verification parties.”

That is now in all of the relevant pages, I believe. And just scrolling now through. There was a change just to follow through on Page 15, the change on Page 16 and I thought I missed one further down. But anyway let me just take the change that's happened on Page 17.

Again, the point was raised which is equally valid, is the - we have not in this SLE sought to define a matrix or emergency changes. That was due to - that was due to basically the work being done by a different working group. I think its Working Group F.

But also for this work because there are so few emergency updates that occur and it was difficult for us within the envisaged timeline of three months, for - or two to three months for ICANN to capture the data once this agreement - once this document is agreed it was decided that we should place a reference in the document that the CSC will review with IANA a possible SLE for updates once they have the data in place. And unfortunately they have had to do emergency updates.

But until that time stick with what is currently in the NTIA contract namely the 12 hours. From analysis we did from the initial work that I presented in Istanbul when we went through the significant amount of data points, ICANN has frequently - or has always met and exceeded the 12 hour update time, in other words have done it quicker than the target time. It is a target time, it's not mandated but certainly they have been very efficient based on past performance.

The next - and so just to highlight and emphasize the importance of the CSC doing that, there was a suggestion to remove the prefix entitled “Note” and that is been done. And it's also to highlight that as with the whole document, which will be reviewed by the CSC that this specific item does need to be addressed by the CSC if and when it is formed.

And I think that concludes -- yes there is another update to other relevant verification parties on Page 23. And this was just a little finicky on Page 25. Normalization obviously by reference tend to indicate that it is a standardization of processing but it was felt when we had the call that it may be helpful to add additional verbiage which says standardization which in any event shall never detrimentally impact the update.

There was some concern that one needs to be careful if there is to be normalization that no impact should be had on the change request. Again, I don't think it's particularly significant but it is - was asked to be included.

And that concludes the updates to the document that was presented to the CWG last week. We have had a design team review -- working group review of this and it's been approved by the working group members but also we have consulted with ICANN and they are happy, they understand with this version Rev 1 final small A PDF. Thank you very much.

Lise Fuhr: Thank you, Paul. Any objections to these changes or any comments? Martin Boyle, go ahead.

Martin Boyle: Thanks, Lise. And, yeah, it’s Martin Boyle here. And I guess you were expecting me to raise some comments. Firstly, thank you, Paul, for the modifications that you've made in particular the wording related that brings in

relevance. I think that's actually very important and probably does help me for the comments and modifications that I suggested earlier today.

Unfortunately I still do have one or two problems with the text. I don't know whether it would be easier for me to do them one by one and hear your response on them or whether I should just do with you've just done and whip through the whole lot and leave it for discussion. Have you any preferences, Lise?

Lise Fuhr: Well, some of them are like - some of them are -- so let's do them one by one and some you can kind of put into the batch. Okay?

Martin Boyle: Yes. Okay good. Thank you very much. Firstly is on Page 8 under Category 4. And I still have problems with the word “externally” because that gives no idea of where the external review will come from.

So I certainly would prefer the deletion of the word “externally” because then we're just saying the report will be reviewed and that will then be picked up later on in the text.

At the moment I think there is a distinct -- there is I think still a need for us somewhere in this process to discuss whether the PTI board or the ICANN board will be the board that we do essentially the supervision of the operations of the IANA team.

My personal preference would be as it is now it is the board that has general oversight of the IANA functions operator. It also means that by doing that the board that's making the decision is not the board that is involved in the policymaking process. And I think that that is quite an important separation to have. But I'm sure that the people will have different views, I would just like

to have that discussion at some stage. So I pass it over to you, Paul, as to your comments particularly on the word "externally".

Paul Kane: So if I may just address the second one first. I want to emphasize that this is a technical performance document comment not a policy document. And I semi-concur with you that at some point it may be appropriate to discuss in the CWG where oversight occurs. But I want to emphasize that this is simply trying to have a framework for performance rather than a framework for policy. This is not a policy document per se, it is very much one trying to focus on thresholds, how long a particular task should take.

With regard to "externally" to be candid, I don't have a strong view whether externally is in or out and I would welcome other views. But the reason for having I think "externally" included, and as I've mentioned I'm happy for "externally" to come out. But there was a desire to make sure that if the process was being slowed down for whatever reason, has been inefficient for whatever reason, that the - ICANN internally or IANA internally didn't try and shortcuts the proper process by just trying to ratify something internally and therefore get itself back onto the timeline.

So it was really trying to make sure that the process was always followed correctly rather than having the option for ICANN - sorry, IANA staff - to possibly take some shortcuts. But that's the reason why it was in. I would prefer it was is just because this document has been approved by the working group and ICANN and IANA. But am I going to die in a ditch over it? No, I'm not.

Lise Fuhr: Okay, any other thoughts Martin? Yeah, Martin, go ahead. Martin, if you're speaking you're on mute.

Martin Boyle: I am indeed on mute, a problem of having more than one place where a mute my speaker. Thanks, Lise. It's Martin Boyle here. And thank you, Paul, for that clarification.

I welcome what you say about this is not about policy but I think many of us have seen how frequently the actual operational and the policy sides tend to get confused and certainly have done in the past. And I would certainly -- and that is one of my reasons for preferring to have be essentially check on whether the operation has been carried out following due process in the PTI board because the PTI board is responsible for the effective operation of the IANA team.

So that then goes back to your other point about the external and the risk of the IANA functions team shortcutting processes. I think that is part of my reason for wanting us to be very clear on defining who is the person that checks or what is the group, what is the body that checks to make sure that due process is being followed and presses the button. And only that person, that group, would be allowed to do it.

And my concern about "externally" is that essentially I don't know what externally means. Yes I've heard you before explained that externally in this case would mean the ICANN Board and that essentially would mean that through the service level expectations we have decided that that responsibility for checking whether the IANA team has carried out its job isn't the relevant board but rather the parent company's board and that's the point where I think we need to have a discussion about the benefits and disadvantages of that particular (unintelligible). Thank you.

Lise Fuhr: Thank you, Martin. And Paul Kane doesn't have a strong view. So if - okay, I see Jonathan's hand is up. Jonathan, go ahead.

Jonathan Robinson: Lise I'm happy to defer to you if you think there's something that we can get to the conclusion relatively easily that's okay. I was just wondering if there was a really practical suggestion that was being made here to try and resolve this.

Lise Fuhr: But I see Paul Kane is happy to delete “externally” and if that's the case then I think we should grab that chance and move on. Alan. Alan Greenberg, your hand is up.

Alan Greenberg: Sorry, I was unmuting and the operator was telling me I was not in silent mode but I couldn’t hear you speaking. In my mind it's a no-brainer and maybe I'm missing something. The board of PTI is responsible for the operation of the entity under it. Now the ICANN Board has responsibility for perhaps potentially severing the relationship but it's not supposed to be doing operational monitoring of what PTI is doing.

Yes it would handle exceptions and complaints. So I think it has to be the PTI board that ultimately put something in place to make sure that its employees are doing what its employees are supposed to be doing. Now how carefully it monitors that and at what level is up to it to a large extent and presumably will do that with some advice from the CSC. But I don’t think it's a real contentious issue. Thank you.

Lise Fuhr: Thank you, Alan. So I guess I didn't hear any objections to deleting the word “externally” and I see Martin Boyle is saying we still need to discuss ICANN versus PTI board role. And while I agree with this, I'm not sure this discussion belongs to the actual SLE document that should be more a part of the discussion at a later stage.

Okay, so if there is no objections we're going to delete “externally” and move on to the next issue that Martin raised. I'm very much aware that we are 26 minutes into the call and we would like to keep it to an hour. We still have the comments to the accountability to discuss. And this is has got a hard deadline because the deadline is on Saturday. Martin Boyle, go ahead.

Martin Boyle: Thanks, Lise. Martin Boyle. Yes, I think the next few existing red lines have got the same problem for me and that is the reference to third-party review. I'm happy with the rest of the suggestion on Page 11 so the - I think it is the review of request by and then we've got the first time that it becomes quite clear where the problem is. I think ICANN/PTI should be in brackets before the word “board” or other relevant verification parties. So two simple changes. And I think would certainly help me.

The first is removing the third party elements and the second is to recognize that we shouldn’t be, at this stage, saying ICANN board but rather leaving for some decision out in the future as to whether it is either the ICANN or the PTI board. Thank you.

Lise Fuhr: Okay. Paul Kane.

Paul Kane: I am really really sorry that this is going through at a granular detail stuff that I am not happy to change and that what we have sought to do the current process that happens today, not something in the future but the current process. That's what we were tasked with doing. And I'm not happy to change their party review. Currently that’s what happens, that's what we've documented and we are asked to clarify who third party was and we have done so to encompass everyone.

So I'm really sorry, Martin, but I don't think that's - I mean, even the earlier one, and I take Jonathan's point, the point I was making on the earlier one with respect to external, it is only in the event of specific things. It's whether create or transfer a ccTLD and you're keeping everything within the organization.

I have a slight problem, not the mega problem, but I have a significant problem with removing the ability for the relevant verification parties to verify before the action occurs. And I think it's vitally important in the interest of stability.

Lise Fuhr: Thank you, Paul. Any other...

Paul Kane: And I pick up on what Grace says. Grace says, this changes the document significantly and that's why I'm not happy.

Lise Fuhr: Grace is mentioning that it will be Page 11, 15, 16 and Page 23. But I must say that I don't find that not -- or other relevant verification parties that could also include the PTI board for your concern, Martin. For me it's open enough to include that one. Martin, go ahead.

Martin Boyle: Thanks, Lise. Yes, I accept that it is open enough to include the PTI board but my concern is that we are specifically here putting in a reference to the ICANN Board which might be the case now but in the future when the IANA team is within the PTI I think we need to consider where this world is actually carried out. And by putting “by ICANN board of directors” here you rather see that you're choosing one board over the other.

I tend to agree with Alan's comment earlier that seems to me to be a no-brainer that is the PTI board that takes responsibility for the performance of the PTI and not the ICANN Board. Thank you.

Lise Fuhr: Okay.

((Crosstalk))

Paul Kane: I want to come back to the point. So all I'm wanting to do is get this document one, approved so ICAN today or in the next month and start capturing times before the transition occurs. The CSC, at a later date, can change the status quo that we were tasked with capturing the status quo not thinking about post-transition, capturing the status quo. Post-transition we can then refine via the CSC who will review this whole document.

But the problem I have is delay is really impacting IANA and ICANN's ability to facilitate the transition. Transition can only occur when an SLE or an SLA is in place. The only SLA that is in place at the moment is NTIA. And if we don't have an agreement in place all but components are not there so transition is deferred. We're trying to capture what happens today.

Lise Fuhr: Thank you, Paul. I saw Greg's hand was up but now it's down. If you still wanted to say something, Greg you should have the chance now otherwise I'll go to David.

Greg Shatan: Thanks.

Lise Fuhr: Okay. David, go ahead.

David Conrad: Yeah, just wanted to clarify one thing. The SLAs as defined within that document do require code changes to occur and process changes to occur within IANA and that's it's unlikely that we would begin -- be able to begin actually recording times in the next month as Paul had indicated. We have to

make modifications to the RZM system and deploy the RZM system and that takes significant amounts of time in addition to getting NTIA's signoff and all that stuff.

We're in the process right now of scoping the actual work that needs to be done. That is an ongoing effort. We hope to have something within the next couple of weeks to identify the amount of work that needs to be done to enable the recording of times that we can then put into the SLA document that can then be approved.

Lise Fuhr: Thank you, for that clarification, David. Jonathan, your hand is up.

Jonathan Robinson: Lise, I'm looking at this time for third party's point - time for third party review and so it feels to me like it's resolved so I'm not quite sure I understand the problem anymore because this is not about -- this is not stating -- when it said "i.e." that is by the ICANN Board of Directors, that presupposed it was the ICANN Directors.

Now it says this is the time, the metric is actually the time -- time taken, that's what's being measured, time taken for third party review of (unintelligible) in one example. And then it goes on to say, "For example, by the ICANN Board of Directors or other relevant verification parties." So it seems to be dealt with. I'll were measuring here is the time. We're not presupposing it is the ICANN Board of Directors.

It says for example if that happened to be the third party but the metric is all about the time taken. So it feels to me like by having reworded it or modified it, taking out i.e. and replacing for e.g. and making sure that that e.g. it extended to not just one example that to any other relevant third party that was

taking the time to do it, it seems to me you've got your fix here already. Thanks.

Lise Fuhr: Thank you. That's a good point. Martin, do you still - do you agree? Go ahead.

Martin Boyle: Yes, well thank you, Jonathan. Sorry, it's Martin Boyle here. Thank you, Jonathan. Yes I do see and accept that point that we're talking about the time for the review. As I said, I've got two problems.

Firstly, I actually think that the people who were reviewing are not third parties in this particular case but they're actually directly interested organizations.

And now I guess this actually depends on who the - this paper is going to be destined for, whether it is going to be the contractual relationship between ICANN and PTI or whether it is going to be PTI's commitment to the ICANN customers - sorry the IANA customers.

So that I suppose gives me a sort of a little bit of concern. I don't see where third party really brings anything to this sentence. But my biggest concern is this continual - and it's - this is a point that comes on Page 15, on Page 16 and so on and so forth, (unintelligible) already documented the locations. That we're actually specifying the ICANN board.

And as I said earlier, I don't think that this has been agreed this should be the ICANN board. I think we should actually put in the ICANN/PTI in square brackets to remind us that at some stage as we're moving forward, we need to have a thought about where that review might take place. Thank you.

Lise Fuhr: Thank you, Martin. Sorry, I was slow, I was on mute. So one solution could be to add the slash PTI board. How would you feel about that, Paul? It shouldn't be but - is there any objections to actually add...

Paul Kane: I'm trying to be as laid back as I can. The point is - I'm just simply making - or other relevant verification parties covers PTI, XYZ, whomever, and so the point is we've tried to make it as future-proof as possible but recognizing it's a document today.

So if you want by ICANN Board of Directors comma PTI in square brackets or relevant verification parties, very happy to do it. Very happy. I just - think we're, you know, we've got however many people on this call listening to us dance around a pin head and I apologize. I just want to get this done.

Lise Fuhr: Okay. So we put in the square brackets with the PTI unless other objections are being raised. Okay mindful of time, its running. Jonathan. Go ahead.

Jonathan Robinson: Sorry, Lise, but it's (unintelligible) language to say. I mean, you can fix it by just saying if you really want to, I mean, I happen to agree with Paul. I think "or other relevant verification parties" is future-proof. It covers PTI. So I would say you either leave it as is, e.g. by ICANN Board of Directors or other relevant verification parties," or you put, "By ICANN Board of Directors, PTI or other relevant - PTI Board or other relevant verification parties."

Square bracket it doesn't - it's clumsy, it doesn't explain anything. So it's an example. The ICANN board is there as an example. Put another example in there if that's helpful. Comma PTI Board or other relevant verification parties. And that's...

((Crosstalk))

Lise Fuhr: I think, yeah, and I see Martin Boyle says its fine and I think that's very good idea. So instead of the square brackets, Grace, please put in comma, PTI Board or other relevant verification parties. Thank you.

Okay was that the last one, Martin, or do you have any more? Martin, go ahead.

Martin Boyle: Thanks, Lise. No, I'm just quickly checking through. I have one more and that is on the transaction time for emergency changes. And I still don't properly understand - I don't understand at all why something where we have an existing target does not appear in the table. My concern is that we will go through this process and for me the most crucial of the SLEs could well end up getting forgotten as it did before.

So I would prefer to see that going into the table rather than just sitting all loose by itself where it is. Thank you.

Lise Fuhr: Paul, any comments...

((Crosstalk))

Paul Kane: Very, very briefly on this. The reason why the group felt unable to put it into the table at this point is there have been very few are likely to be no emergency updates in the data sampling, data capturing period that ICANN IANA are going to undertake for us. And so the field would be blank but also the system is somewhat prescriptive.

Emergencies, by their very nature can occur, you know, whether it's a DS record update or a name server record update, ICANN have historically -

IANA have historically performed much faster than the target time. And so by effectively - I'm not going to say skipping a phase but making sure that the update is optimized as possible. And VeriSign have been equally efficient.

And so it's difficult for us at this juncture without any evidence within the window or the prescribed window for data collection without any real metric going forward to put in data because we don't have the data to put it in.

That said, if and when data is available gladly we could revisit it. But we don't have anything there on which to define what the SLE should be.

Lise Fuhr: Thank you, Paul. Martin. Can't we keep the existing...

((Crosstalk))

Lise Fuhr: Yeah.

Martin Boyle: Yeah. We have already got something defined and therefore I fail to understand why we would then lose that from the document.

Lise Fuhr: Paul, the reason for not keeping the existing?

Paul Kane: I'm sorry, the - there is an existing target time of 12 hours. We've captured the existing timeframe within the NTIA contract and that is the 12 hours. We've captured as much as we can but I think Martin's point is a valid point. At some point in the future there should be an SLE for emergency updates but in order to ascertain what is a reasonable SLE we need data. And we do not have that data.

There have been so few emergencies fortunately that we don't have it which is why we have this umbrella target time of 12 hours. But we are as a group unable at this juncture to do it.

Lise Fuhr: So what I hear you saying, Paul, is actually that we're keeping the existing. So, Martin, if we're keeping the existing I guess there's no issue then. Jonathan, go ahead.

Jonathan Robinson: I mean, I think I can see it both ways here. I mean, I can see - and to me the fix here seems to be that - I think Martin's concern is, to some extent, valid, is this floating out there. But I understand why it's not in the table at this stage. Paul's rationalized that.

So isn't it logical therefore to put a (E) in front of it, it had originally note (unintelligible) and put the whole thing in bold. And so it's really clear that this is an overarching and important point because the danger is its seen as kind of note rather than as something significant.

Whereas if it's put as - if it's emphasized in that way it's at least clear that this is a fundamental point within this SLA which is I think what - perhaps goes some way to satisfying Martin's requirement that it doesn't float and get lost. This is a key important point.

Lise Fuhr: Thank you, Jonathan. I think that's a very good idea. And I see Martin says he wouldn't die in the ditch on this. So I think bold. And I see bold is done. And Martin acknowledged. So okay any other comments to the SLE? Jonathan, your hand is still up. Do you have any more to say or is that an old hand? Old hand, okay.

So with those changes can we conclude that the second reading has been finalized and the document as it stands now is approved by the group? Any objections to this? I see some green checkmarks. Okay. And thank you for some very helpful changes and additions and a good discussion.

We will then quickly discuss how to go forward with this document. And I saw Keith had a discussion on the list on how to bring it on to the ICG. Actually we had in our proposal stated that the SLE would be ongoing in parallel with the actual ICG work. So we were to send it in at a later stage.

Fortunately, as Keith stated in his email, the ICG public comment are still receiving comments a couple of days more. So it could fit neatly into a part of our comments to the ICG that we have concluded on the SLEs. And passed the document as we have agreed on to the ICG by tomorrow. Any objections to this?

Seeing none we will make sure that this document is passed on to the ICG as part of their public comment tomorrow.

Okay, this took a little more than we anticipated. It's been almost - we're 50 minutes into the call. We have extended the call for half an hour more. I'm sorry that we couldn't make the time as promised or keep the time. But I will pass on to Jonathan to give an update on the legal work. Jonathan, go ahead.

Jonathan Robinson: I can be brief on this point. We met last Tuesday I think it was, the 2nd of September as the client committee. And that actually predated the Thursday 3rd meeting of the CWG. So you pretty much should be aware of most of what happened.

But just to be clear there, we confirmed the instruction with Sidley on the work on the CCWG comment, which you've now seen the output form. And we deferred confirming the instruction to be the primary authors on the bylaws until such time as we'd had our coordination call with ICANN Legal and the CCWG chairs last Friday the 4th of September.

But having had that call and generally been satisfied that we were going to be properly coordinated the client committee then went ahead and undertook the instruction that this group had asked us and Sidley to essentially hold the pen for the first draft of the bylaws as they pertain to the work of the CWG. So that work has been done.

And it is in a sense being tracked by the document you see in front of you, the sort of matrix or table of bylaws work. And that will be used as a coordination document between ICANN Legal, Sidley and I guess the chairs are keeping an eye on this and the client committee. And that's where we're at with that.

So I think the substance of what we want to really talk about is the output from the instruction given back a little over a week ago to assist this group professionally with our view and comment of the CCWG's work and we'll come to that in the next item.

So at this point I'll simply pause and see if here's any comment, question, on the relation of the work of the client committee. And thereafter we can go to the substantial document, which is this draft public comment on CCWG.

Okay seeing no hands I'll go straight onto that. And, you know, this is work being done professionally and rigorously by our colleagues from Sidley. And so we are fortunate to have Sharon and I think Holly is on the call to cover this. So I think I'll hand over to Sharon right away to just give a sort of high

level point as to the objectives of the document and we can take any - and the sort of the rationale that they went through in preparing it and then we can take it from there. Over to you.

Sharon Flanagan: Thanks, Jonathan. Just to clarify, did you want to talk about the bylaws matrix that's up on the screen or instead the comment letter?

Jonathan Robinson: I think we're onto Item 4 please, Sharon, the comment letter. And I'm sure that'll come up on the screen now.

Sharon Flanagan: Okay, good.

Jonathan Robinson: Thanks. Thanks for checking.

Sharon Flanagan: Okay terrific. Okay good well hopefully you've all had a chance to look at the comment letter that we circulated. Given that we don't have a lot of time what I thought maybe I'd do here is just talk at a very high level with key takeaways as we go through it and then pause if there are comments or questions as we go along.

So the goal here was to go through all of the dependencies that CWG has articulated in its final proposal and identify specifically whether the CCWG draft proposal meets those requirements.

And so there are a few areas for discussion/consideration here and some where I don't think any discussion will be warranted. So the first item is on the budget. The key takeaway here is it's one that's already been discussed by the group which is that there is this - the question of is veto of the budget sufficient rather than approval?

And we understood that the group was comfortable with the veto right and so the result would be a comment back to CCWG that the budget is both necessary and sufficient. It meets the requirements, it's adequate and that nothing further would need to be done there.

We did note that there is still an expectation that the CWG or a successor or implementation group would be doing more work on the IANA specific budget review and that could include a consultation with, you know, customers and also potentially the creation of some kind of caretaker budget that would be the default if after the first year of transition there were a veto of the IANA budget.

So we did acknowledge that open item but basically say to the CCWG that the CWG is satisfied with this dependency. Any comments there?

Chuck Gomes: Yeah, this is Chuck.

((Crosstalk))

Chuck Gomes: Yeah, and I just wanted to comment, and this is strictly a personal comment, not speaking for anyone else, but I actually think that the veto is better than the approval because I think putting an approval into a process that's already very long and stretched for time would be very challenging. So I certainly think the CCWG approach is fine. But I actually think it's the better approach as well. Thanks.

Sharon Flanagan: Thanks, Chuck, for that. Seeing no other hands I'll move on to the next item which is the community empowerment mechanism. And we put forward the requirements of CWG and then in the comment note that the CWG believes that the draft proposal from CCWG meets the CWG requirements including

by ensuring that the powers that have been specified in the CWG proposal are legally enforceable so that one is a meet expectations.

Number - I'll pause there. Any comments? Okay seeing none I'll move on to Number 3 which is the IFR. And that one, again, we articulate what the requirement was then we talk a little bit about what the accountability draft provides.

Similar to budget there is a difference here between whether there is an approval right of the community or whether it is a veto right. The CCWG proposal contemplates, again, an ability to veto a board decision.

So, you know, we believe this is more procedural than substantive. We think it gets you to the same place which is that the community has a say on the final decision. It's done through a veto process but gets you to the same outcome.

One thing we would clarify though, here, as its noted in the budget process, the veto could be exercised an unlimited number of times and we think it's appropriate to have that in the IFR section as well that it's an unlimited veto. And that ensures that it's operating as a true veto rather than something that's just a - potentially just prolonging a process but not allowing you to ultimately say no to an approach.

So that is the IFR/Special IFR. Any questions, comments there? Okay I'll move on to Number 4, this I the CSC. Really nothing to note there just to say other that it meets the requirements and is sufficient. Comments there? Okay.

Number 5 in the memo is PTI. There is language in the CCWG proposal that acknowledges that governance provisions related to PTI need to be created and reflected in the ICANN bylaws. And there's also an acknowledgement

that CWG will be taking the lead in that process and would have direct input. So that - we thought that one also met the CWG requirements.

Jonathan.

Jonathan Robinson: Thanks, Sharon. I just think it's important for the group to recognize, as I do, and just to sort of explicitly recognize that this is the second reference in this document, as you pointed out previously, in addition, where we make reference to this group or a successor implementation group having quite an important role in that - the implementation is done correctly and with the relevant detail.

So it's - I don't propose a change. I think it's helpful but I think we need to recognize that we're picking a form of ongoing responsibility here to do that or to pass the baton on to the successor group. So I think you've written it well. And I think it's important. But just wanted this group to remain a piece of work that we'll pick up a as a group shortly as to what our role and the scope and substance of our role in implementation will be. So I'm just - highlight. Thanks, Sharon.

Sharon Flanagan: Thanks, Jonathan. And with respect to the PTI aspect of the ICANN bylaws that will be part of the work we're doing now on the bylaw implementation. So we will be, you know, we're, you know, be drafting those now.

There will be another work stream which is the articles and bylaws of PTI and that's - that probably is one that's more, you know, forward looking and not something that's happening immediately necessarily. But I did want to note that the current bylaws project will include Number 5.

Okay so then moving on to Number 6, this is the separation process. And in terms of the CCWG's proposal they contemplate all of the components of the separation process that CWG requires including the formation of the SCWG and the special IFR.

Similar to what I mentioned on the separation IFR, there is this difference between a veto versus an approval. The CCWG contemplates the ability to veto ICANN board decisions relating to any special IFR recommendations or SDWG recommendations.

Again, we think that the difference is not significant in either scenario. The community will have a say on the final decision. But again we would note here that this should be a veto that can be exercised an unlimited number of times. Any comments there? Okay.

Okay so then the last item - or actually second to last item, Number 7 is the appeals mechanism. This is the process through which for CWG anyway, the issues relating to IANA functions would be subject to some kind of an appeals mechanism with the exception at least immediately of the ccTLD delegation and redelegation process.

And so on this one, you know, we've had some discussion, the CWG has had some discussion on this and this would be one place where we would note in the comment letter, if everyone agrees, that the CCWG proposal, because it does not specifically and explicitly talk about the IRP covering actions or inactions of PTI, that that would need to be addressed by CCWG. Jonathan.

Jonathan Robinson: Thanks, Sharon. I think I just really wanted to make the - it's really a matter of checking with you I suppose. Where you make this bracketed reference to with the exception of ccTLD delegation and redelegations I

realize it doesn't have to be covered in this document but do you envisage that the bylaws will be drafted such that as and when the policy is developed it simply becomes enshrined in linked in. There won't have to be a further piece of work done on bylaws in the future.

So it's more a work but just making sure that we're - as its mentioned here that will be covered in that way.

Sharon Flanagan: Yes, Jonathan, that's right. I think the goal would be that - because the expectation is that a process will be undertaken that would develop some kind of appeal mechanism for these delegations and redelegations the ideally that - once that's done its implemented automatically into the governance documents and that the current governance documents contemplate that.

I don't think the details of that have been worked through as to how exactly that would happen but we understand that that's the goal. The goal is for it to be as automatic as possible so that there doesn't need to be, you know, a whole new process undertaken just in terms of trying to get those pulled into the governance documents. But we haven't gone through that in any detail.

Jonathan Robinson: Okay great, but that's envisaged so that's fine. Thank you.

Sharon Flanagan: Alan.

Alan Greenberg: Thank you. This is something I raised last time or one of the previous times. Our document says there's an appeal process; it doesn't say it's to the IRP because the IRP didn't really necessarily exist there. Are we really sure the IRP, now that we understand what it is, is really the best vehicle?

From my perspective an ICANN board reconsideration to reconsider what PTI has done, which is almost equivalent to the board reconsidering what staff has done, which is within the board reconsideration process, sounds like a much more logical and timely way to address a PTI - an IANA PTI decision than the external IRP. So I just want to make sure that if we're going ahead with this and asking the CCWG to do this it's what we really want. Certainly it's not what I would really want if I was writing the document solely so I raise the issue for the consideration of the group. Thank you.

Sharon Flanagan: Chuck, did you want to comment?

((Crosstalk))

Chuck Gomes: I did. Please. Thanks. This is Chuck. From a point of view of a registry, yes, I think the IRP is the right way to go there. I don't have any problem with a reconsideration process as well. But the - a binding IRP is needed here.

Sharon Flanagan: Alan, is that an old hand?

Alan Greenberg: No, that's a new hand. I just wanted to get positive confirmation. Last time Chuck and I had this interchange it - he was talking explicitly about a gTLD redelegation decision and that is not an IANA PTI decision, that's an ICANN decision and is subject to all of the regular processes.

And I presume, however, even if we were to use the board reconsideration the board reconsideration action is then subject to an IRP because it is a board action. So ultimately it would. It just - the kinds of decisions that IANA makes the only one that has been raised that it seems relevant, and it is a relevant one, is IANA deciding that someone does not have standing to make a request and therefore refuses it.

And using an IRP sounds, which can take a year to go through, sounds like a heavy handed way to try to address that kind of operational problem. Thank you.

Chuck Gomes: Thanks, Alan. This is Chuck. You know, I think it - I'd like to think it would be highly unlikely that it would ever need to go to an IRP and that PTI would do anything inappropriate. But as a safety valve I, as a direct customer, feel much more comfortable with the IRP especially considering the history of reconsideration requests.

Sharon Flanagan: Greg, did you want to comment?

Greg Shatan: Yes, thanks. Greg Shatan for the record. And let's keep in mind that here the IRP would be invoked as an appeal mechanism expressly and really as a last resort after the hierarchy of other mechanisms for dealing with an issue are exhausted. So it is not a first resort mechanism, which would be very unwieldy, you know, the trying to, you know, it would be way out of proportion. But at this point, you know, we are talking about last resorts and about a third party arbitration.

And, you know, one of the reasons that IRPs take the time they do has to do with the, you know, complexity of the issues in front of them. So it may be that with a more constrained issue it would take less time to deal with an IRP based on an IANA action or inaction. Obviously I can't guarantee that but it seems to me that again we are talking about what is at the end of the road.

And a reconsideration as the last resort, which is basically repeating to whom I guess, the ICANN Board or the PTI Board or to whom is really not going to be satisfactory and may not even be correct, you know, what's ultimately, you

know, the idea here is a neutral arbiter will get a hold of this and sort these things out.

So, you know, hopefully, again, I think we - the goal would be for these sorts of things to be resolved well before the IRP but if there is a party that, you know, really truly feels that they have been thwarted at every turn and that they're right and everybody else is wrong and every other attempt to resolve this has come out incorrectly this is in essence their day in court.

So if we want to take that away we have to replace it with something. You know, and maybe down the road it could be a more streamlined sort of thing but it's ultimately we need this day in court. Thanks. And by court I mean an IRP, I don't actually mean California court or - but on the other hand if it is an enforceable IRP and it needs to be enforced if in spite of a win the complainants actions are not taken then they would have the ability to enforce that. Thanks.

Sharon Flanagan: Alan, do you want to comment again?

Alan Greenberg: Yeah, I just want to make sure, again, if we specify the IRP that we say exactly what we're looking for. The design of the IRP is to essentially say whether ICANN has followed its bylaws. Here we're complaining about something that is not done under the ICANN bylaws but done within PTI. And I just want to make sure we have clarity since I sit on the CCWG what is it we're being asked to do? And I'm not sure. Thank you.

Sharon Flanagan: Greg.

Greg Shatan: Thanks. I think Alan has a good point which is that the IRP as it's currently drafted, you know, doesn't adequately contemplate this particular turn of

events. And so what is needed is an amendment essentially to the IRP's kind of, you know, causes of action and who has standing to deal with, you know, an issue. So the IRP is not - as-is is not the solution, it is a standing panel from which arbitrators could be drawn but we don't have in essence the right enabling language to enable the IRP to serve this need.

And, you know, whether we have a different IRP process for PTI or have the same IRP panel empowered to have control over PTI Board actions or inactions or rather we're actually talking about IANA team actions or inactions, you know, refinements we need to deal with. Frankly, I don't think we're dealing with board-level issues here when we get to actual IANA problems.

So casting it as a bylaw violation I think, you know, does miss the mark as Alan points out. But that doesn't mean that we're just done; it means that there's a solution that needs to be offered in terms of - I think we need to offer actual language as to how the IRP panel could be given essentially jurisdiction over the set of events that would - that are needed by the appeals mechanism. Thanks.

Sharon Flanagan: Jonathan.

Jonathan Robinson: I think that it's a helpful point that's been flushed out. And I would say that for me the takeaway then is that we need to make sure that the IRP, you know, is as being developed by the CCWG. We just need to reemphasize that point that it needs to be fit for purposes. We're saying we'd rely on it and that's fine as far as this comment is concerned. But I think separately as part of our coordination with the CCWG it feels to me like we've got to make sure that the IRP is fit for purpose and meets this requirement.

Sharon Flanagan: Okay well...

Jonathan Robinson: So - no go ahead.

Sharon Flanagan: What I was going to ask is, you know, are people comfortable that the comment is, you know, the comment can be drafted - it's already a bit drafted this way but in a general way which is that there needs to be - maybe we say (unintelligible) but there needs to be an IRP process with respect to actions or inactions of PTI. We don't have to get specific on whether that sits at ICANN, whether that sits at PTI. But it sounds like there's relative consensus that the process should be available for PTI conduct as well.

Holly?

Jonathan Robinson: I think that's right, Sharon. I see Holly (unintelligible).

Sharon Flanagan: Holly, did you want to comment? We're having some audio issues I think, Holly.

Greg Shatan: Holly is typing apparently.

Sharon Flanagan: Yeah, okay.

Jonathan Robinson: The question, Sharon, for us is then do we - does this - because this is - we're on a tight timeframe as you know is do we modify this text at all and if so how so to make sure that it both does what we intend it to do here but (unintelligible) that there may be some more detail work to be done on making that IRP fit for purpose as far as this group is concerned.

Sharon Flanagan: Yeah, maybe what we do is...

((Crosstalk))

Jonathan Robinson: And it maybe that we can - and I...

Sharon Flanagan: Jonathan, I was just going to say we can acknowledge - we can put in the comment about the IRP needing to be expanded. And then we acknowledge that the CWG will provide additional detail on, you know, specifics on what would be contemplated. But I think we at least need to put a pin in the issue that there is more that needs to be under IRP.

Jonathan Robinson: Just conscious that we've got to be very careful we don't - we've got to be careful we don't do more harm than good by making this issue become a wide open problem for the CCWG as well. I mean, the - what they need from us is to say - I mean, the whole purpose of (unintelligible) is to say - is to give them the comfort that they have met our requirements and so we need to do that and be very specific on where they haven't or what might need to be changed in order to do that. So I guess that's the challenge in the short time available.

Sharon Flanagan: Greg, did you want to comment again?

Greg Shatan: Yeah, just briefly, I think it seemed like we're coming to sort of a middle ground where we don't do the CCWG's work for it in the sense of providing new language but we need to I think provide enough clarity as to the shortcoming of the appeals mechanism when it comes to PTI or IANA appeals and essentially, you know, some basic specifications about what a change would look like.

We don't have time to draft it before this thing is due. And it's an ongoing process. So I think we need to say enough so that we're explicit about what

the shortcoming is. So I guess what we need is kind of a pin but with a note attached to it in it so to speak.

Jonathan Robinson: Maybe that note is almost covered by Avri's point in the chat or I see - you know, I must say I'm slightly - I'm less familiar with this particular area so, I mean, people like Avri, Greg and Holly who are very close to it - how this document that we have in front of us now could be tweaked to achieve the desired effect.

And at face value I thought Avri's suggestion simply just states explicitly that it needs to meet our requirements was helpful. So let me defer to the queue now.

Sharon Flanagan: Greg.

Greg Shatan: Yeah, I think we just need to state, I mean, just a little bit more than that which is that it needs to be able to hear and resolve claims that PTI - that are not based on the - ICANN bylaws and but rather on - either on PTI bylaws or on SLEs or something. So, I mean, maybe just need to say a little bit more than that it needs to cover the PTI issues, you know, we know that the problem is, as Alan pointed out, that it's based on the ICANN articles of incorporation or bylaws which are not going to be relevant to this claim.

So there needs to be essentially, you know, a cause of action if you will stated in that regard. So I don't think it's saying much more than what Avri said but maybe just a little bit more about what needs to be changed because we've had this discussion now so we should convey kind of our conclusion as to what is the - what the shortcoming is. Thanks.

Sharon Flanagan: Holly, are you back on?

Holly Gregory: Yeah, I am back on. So, look, I think there are any number of ways that we can go here. And I've got my hat on of trying to find sort of the simpler path at this time given having listened to all of the discussion and debate at CCWG about what the IRP is and is not intended to be and the notion that it would be fairly well circumscribed to concerns about non-compliance with ICANN articles and bylaws and a way for the community, if you will, to make sure that its powers were being respected.

I think when we talk about the appeal mechanisms for PTI decisions it's a very different set of kind - set of decisions, if you will. And therefore maybe what the answer to this should be at this point is that there needs to be an appeal mechanism for PTI that needs to be worked out.

It could be the IRP but it could be a separate kind of appeal mechanism. But I think that there's some value in not assuming that it's the IRP.

Sharon Flanagan: Chuck.

Chuck Gomes: Yeah, and this is along a little different line. But if I understand the - some of the latest input received on the IRP with regard to the CCWG efforts there's been a suggestion that the IRP be moved to the - to Work Stream 2 and the questions been asked what does IRP have to do with the IANA transition.

So I think the discussion we're having right now is really pertinent and I'm really supportive of whatever language we decide on being put in there for clarity for the CCWG.

Sharon Flanagan: Okay so it sounds like what I'm hearing is we need to be - say a little bit more. We've said that the draft proposal doesn't meet the CWG expectations

because it doesn't cover claims relating to actions or inactions of PTI. But perhaps we would also say that it need - there needs to be an appeal mechanism, it need not be the IRP but just more pointing out that the ultimate results is there needs to be some mechanism, some appeals mechanism through which actions or inactions of PTI can be challenged.

It sounds to me like there's still more work needs to be done perhaps by CWG, maybe its CCWG, on what that mechanism will be, whether it will just tuck into the detailed IRP that exists at CCWG, albeit expanded because CCWG is only contemplating articles and bylaws of ICANN, or whether it would be something else completely.

Jonathan Robinson: So, Sharon, its Jonathan. I think there may be a way to do this. And the way to handle it will be for you, I think in this draft comment, to find a form of words that says that the CWG - and I'm just going to speak colloquially here - but the CWG requires an independent review process. We seem to be broadly in agreement on that.

To the extent that the IRP can meet that requirement the dependency is met. However, if for any reason the IRP is unable to meet that requirement further work will need to be done to ensure that the - that there is appeals mechanism available with respect to PTI actions or inactions.

So I think we can probably cover it by saying that we believe it is met but if for whatever reason it's not met it is a fundamental requirement that this independent appeals capability exists. And maybe that's the way to fix it.

Sharon Flanagan: Yeah, thanks Jonathan. I think we probably need to go a little further in terms of - I don't know that we can say that it's been met because I think the proposal is pretty narrow and doesn't specifically call out PTI. But I think the

rest of what you said I think makes sense and seems consistent with what folks have been saying with just that one tweak.

And I can go back to the queue. It looks like Alan and Greg both wanted to comment. Alan.

Alan Greenberg: Yeah, I just wanted clarity. If we use the word "independent" we have to say independent of whom. It's a PTI decision we are looking for a review of so are we saying independent of PTI or independent of PTI and ICANN? Again, just looking for clarity.

Sharon Flanagan: Thanks, Alan. Greg.

Greg Shatan: Thanks. Maybe I'm echoing what was just said earlier but I think we can't currently say that the IRP meets our dependency because there's no cause of action or jurisdiction, if you will, no ability to bring a PTI or IANA related problem to the IRP. But I think that could be done in a paragraph.

You know, the - if you look at A, at the bottom of Page 5 about hearing and resolving claims that ICANN through its board or staff blah, blah, blah, you could almost just duplicate and revise that paragraph to create a cause of action by which the IRP could be invoked as a last resort and meet the needs that are stated in our proposal. We can offer that alternately.

A different mechanism could be created rather than using the IRP. But I - as Avri says, and I say too, you know, let's - tasking them with creating a new mechanism is really a much bigger problem than telling them to add another, you know, kind of jurisdiction or complaint to the list of complaints and complainants that can go to the IRP.

That just seems to me to be the path of least resistance right now. And obviously, you know, none of this is grave and in stone. If people don't like, you know, having the IRP at the end of the road of appeals in two or three or five years or whatever that can be changed. But I think right now we take one paragraph, four or five lines, and say change the IRP thusly so that it meets our needs and move on. That's my thought. Thank you.

Sharon Flanagan: Thanks, Greg. Alan, is that a new hand?

Greg Shatan: It was ahead of my hand so it was probably an old hand.

Alan Greenberg: Sorry.

Sharon Flanagan: Okay. I see Holly raises the question of all PTI-related claims, what standards. I think that's probably the additional work that'll need to be done. I don't know that that's something that can be covered in this comment letter.

Jonathan Robinson: Okay so a question, Sharon, do you feel that you have enough here to shape - to slightly reshape this given the - and just to recognize this point about the fact that IRP isn't quite fit for purpose at this stage.

Sharon Flanagan: Yeah, I think I do. I think I have enough to go on. And we can update the comment letter and recirculate that and people can take a look at it.

Jonathan Robinson: We need to, I mean, this - we need to keep it as tight as possible because we've obviously got a tight time constraint. So this sounds like something - but it feels to me like we've aired the issue pretty well. You've got a clear opportunity to work with what you've heard.

And between you and Holly you're familiar with both sides of the equation so I think - and as Greg says elements can be dealt with in the implementation (unintelligible) is to what we can't afford to do is say that, you know, unless there was a really substantial reason to do so that the CCWG at this point is not meeting our criteria say for as we've already discussed here and just to try and keep this on track.

Okay, Sharon, so I suggest we agree that there'll be some rewording of 7 and we should encourage you to go on to Section 8 then.

Sharon Flanagan: Okay will do. Section 8 is the fundamental bylaws. This one is very straightforward which is that CWG had requirements on fundamental bylaws and that requirement has been met by the CCWG proposal.

With that I think that's the comment letter. We've got the, you know, two changes. One is the one I mentioned about the unlimited veto and the other is the language that we're going to add to Number 7 on the appeals mechanism.

Jonathan Robinson: Okay, thanks Sharon. And then obviously the notes to the CWG will come out. Chuck had suggested removing the comment component that he found slightly less - didn't help clarity. Lise and I discussed it and I think we're on balance to keep it. So much as I agreed with Chuck on his personal comment on the veto side earlier, I think we'll probably want to keep that comment because it highlights - and I found the stylistic - that useful. It highlights where we're actually commenting as opposed to the background material. But I suspect that - go ahead, Chuck.

Chuck Gomes: Thanks, Jonathan. Well I guess what are we - I thought all three paragraphs in each of the eight sections were comments. What does that comment/statement - how is that differentiating from the others? The first paragraph in each case

was a comment on what our requirements are. The second one is a comment on what we see the CCWG approach. And then finally the third and most important comment is the conclusion as to whether it meets the requirements. What does that comment header say that I'm totally missing?

Sharon Flanagan: Chuck, this is Sharon. I think it's just what you said which is it kind of walks people through. This is what CWG asked for and now let's analyze the CCWG proposal against that requirement. So the beginning is just the CWG, then the comment is how does the CCWG proposal stack up against that. And finally yes or no, does it meet the requirement.

So we thought it might - it's just helpful to kind of walk through how you get there, how have they met the requirement.

Chuck Gomes: Okay. I mean, I can live with it. It threw me off but it's probably just me.

Jonathan Robinson: Does anyone else feel strongly about it? Because I must say I don't feel very strongly, this is a very minor sort of stylistic point that could live with or live without. And any other comments? I see Greg prefers to keep it. All right well let's - we can make a decision on that without seemingly troubling anyone too much. Let's make sure that that's not a material or substantial point.

The key is to make the changes that Sharon suggested and get that back to us as soon as possible so that we can then be in a position to transmit this as part of the public comment period before it closes on Saturday.

All right, I think with that then Sidley, have you - your sort of your requirements to update recirculate the document in as short order as possible and I'll hand back to Lise to sort of try and wrap up.

Lise Fuhr: Thank you, Jonathan. And thank you to Sharon for giving this very nice walk-through of the comments. We have under AOB very quickly, because we're two minutes past the half hour, we're going to cancel next week's meeting so you all can focus on the ICG meeting that's on Thursday. Then we propose to restart the two week rotation on the 24th with a call at 1100 UTC.

Good. Any objections or thoughts on this? We don't see any so we're just going to change the shift so next time we're going to have a call is on the 24th of September.

Okay and if I just do a quick walk through of what has been agreed today we have decided on the SLEs, the (chairs) is to send the approved SLE to the ICG. Furthermore, we have Sidley do - they will rewrite the draft comments with the changes that has been discussed and Sharon confirms that she can do that - deliver that to the group today.

And then we will give it 24 hours to approve within the CWG and then we need to send it at the latest to the CCWG by Saturday at 2300 or midnight Saturday. So that will be the process going on for now.

I'll do the closing remarks very briefly and say thank you so much for attending this call. I think we have reached some very good conclusions and we finalized the SLE work, that's very good.

On the next - well the next issues are going to be the role of the CWG on the implementation and then - and if we have a role what is the scope of our role.

So thank you very much for participating. I'm sorry that we got a little late on ending this call. But take care wherever you are and enjoy the morning, evening, wherever. And bye.

Avri Doria: Thanks, Lise. Bye.

END