

ICANN

**Moderator: Brenda Brewer
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5:00 pm CT**

Steve Crocker: Thank you very much for arranging this. We are eagerly looking forward to listening to you and we are equally looking forward to or engaging in I think 48 hours time to give you some of our feedback. And the floor is now yours.

Thomas Rickert: Thank you very much, Steve. Thank you, Fadi, thanks to the whole board and staff as well as thank you to the community members - or the CCWG members that have dialed into this call and joined the Adobe room. I'm not sure whether we have participants that are only on the audio bridge but not in the Adobe room so if you want to make yourself heard please just do speak up.

Otherwise, in terms of housekeeping what we suggest doing is running you through a set of approximately 15 slides that encapsulate the main ideas of our (unintelligible) report. And we would like to do that first and afterwards we go through all the individual chapters in our report and open it up for questions. But we think -- and we'd use this format for three more webinars that we've done with translations into all the UN languages before so that's sort of a proven concept that it's good for everyone to hear everything and then revisit everything and open it up for questions.

Having said that, if you have clarifying questions with respect to something that has been said or if you don't understand a certain terminology please do make yourself heard.

When we get to the discussion and respond to your questions if you are not on the audio bridge and if you're not speaking on the phone but if you want to ask questions in the chat please do make sure that you mark those questions with a Q or practice them with the word "question" so that we can clearly identify your point as questions.

Also what's happening often in calls like this is that people go all over the place with their chats. And I would or we would really like to urge you to stick to where the discussion on the audio is at the moment and not have parallel discussions because that will make it a very hard for everyone to follow.

Before we start with our little presentation I'd like to let you know that we have the other two co-chairs, Leon Sanchez and Mathieu Weill on the call as well as we have the rapporteurs and subteam leaders. So we have those that have been instrumental in writing this report with us and we will include them when it comes to your questions.

Also, we have invited our external counsel to this call because we want to make sure that everyone obtains the same information when we enter into a dialogue. We really see this as the starting point of an even more intense phase of collaboration, constructive dialogue between the CCWG and the board.

And we anticipate that there are some concerns by the board members and that there are legal opinions that have been obtained by both groups but we really do want to avoid that we have this become an exchange of expertise from lawyers or between lawyers and the two groups so we would rather like to see us as a joint group regardless of whether you're a board member or a community member, in fact community members and orders they all belong to the same community. Let's make sure that we as a team try to make sure that we get this pulled off and that we get the best legal expertise to inform our discussions and the community's decision-making.

And so we take your reaching out to external counsel as a very positive signal to inform the board. We will also review or we are in the process of reviewing the legal advice that you get. And now let's make sure that we put all the loose ends together so that we can make sure that we smooth out the wrinkles and that we come to a joint view on this proposal and that we clarify questions that there might be and that we resolve remaining issues.

Let's move now to the...

((Crosstalk))

Fadi Chehadé: Thomas? Thomas, if I could - this is Fadi. Steve, if I could, with your permission just quickly make a comment to Thomas's comment. If that's okay?

Steve Crocker: Sure.

((Crosstalk))

Fadi Chehadé: So, Thomas, first of all many, many thanks for this very, very constructive and helpful introduction and I think the spirit with which you kicked off this call is absolutely the right spirit and I thank you and Mathieu and Leon for leading this very, very critical effort and helping the whole community, including us, to work with you so we can advance together towards the right area. So thank you for this very constructive approach to all things.

I think too also be very, very clear how committed we are to that constructive approach. I think we started last week and intense face-to-face meeting of several board members to start understanding the details of your proposal, in that we invoked multiple experts as I shared with all of you and we shared with you in the blog, experts on governance from the CCWG list of chairs - list of experts. We spoke to you briefly. We spoke to our advisors in Washington. We spoke to NTIA. We spoke to everyone we can speak to so we can start I think being as helpful as possible to your process.

And tomorrow the board has a full meeting to actually come together and finalize how we will be as helpful as possible to finish together with you this important work. And today is the quote unquote kind of final piece that for the board's listening phase where we are - we need to hear you directly integrate members of the CCWG explained to us how you arrived to this proposal so that tomorrow we can form an opinion.

And I know we will meet again with you on Wednesday so we can start conveying to you where we head. That doesn't mean today we can't have a dialogue about I want to assure you that this is part of our listening and the board is committed to that and we are immensely heartened by both the spirit that you opened this call would and also by the fact that over the weekend you and Mathieu and Leon were gracious enough to have our legal counsel start asking and communicating questions directly to Sidley.

And I think we've reached out already to them to see if we could meet today or tomorrow as soon as possible so that dialogue happens in a very constructive way as well. But I just wanted to give this - of course I have a big question about in the Adobe room we see your first slide, how did you come to the consensus of picking this font? But I'll leave that to the end. Otherwise we're good to go here.

Thomas Rickert: Thanks very much, Fadi. That's much appreciated. And I should also say, you know, we didn't reach consensus on the font but what we're going to present to you in the next couple of minutes is actually the work product which is, in most parts, has received overwhelming consensus in our group. The work product of various inputs that we got because we thought that while we have an excellent team, the CCWG, with more than 150 individuals is an excellent team with very diverse expertise but also with very diverse background.

And that has helped the group a great deal to look at all the questions in front of us from multiple angles. But we also thought that it wouldn't be appropriate just for the group to work in isolation but what we did at the outset of our work is actually create an inventory of ICANN's existing accountability mechanisms to ensure that we best build on what is there and not reinvent or duplicate where we already have solutions.

We then analyzed thoroughly the input received from the community following the first public comment period that was opened up after the announcement was made and all that went into our first report which is the report that primarily, you know, in wide part already had the group's consensus but where we wanted to get feedback from the community. And the community and in particular the board, at the time, gave us feedback saying where the reference model that you suggested this is complicated.

And there seems to be the risk or there is the risk of the members even though the original model was the model where SOs and ACs would have let's say voting avatars as they have in fact that would exercise voting rights and that statutory rights could be exercised and that there was the risk of derivative lawsuits.

So we listened to the board at the time and our group took those concerns that were raised to heart today and come up with a new mechanism which is the single membership model which we're going to speak to a moment.

But that is to say that we very much appreciate constructive criticism. There is no intention whatsoever in our group to destabilize the organization. We want to improve the accountability but we do not want to destabilize or open up ICANN or other vulnerabilities such as capture or other contingencies that ICANN might be facing.

That now let's work through the sides. I guess we're going to be much faster as of now. This process you do know better than most people because you are in there. So we've been working in parallel with the technical groups that have been working. And let me only highlight here that are group works on accountability as the CWG had some accountability topics on its table.

So we wanted to make sure that there is no duplication or no friction between the accountability requirements of these two groups and therefore we've worked very closely with the CWG to take on their request, which are going to see a little bit later on the slides, and to ensure that we address what they now made conditionalities.

So in our report we tried to respond to the CWG requests. And we need to maintain these points because, as you know, the approval from the chartering organizations for the CWG proposal was building on us delivering on the CWG dependencies. So that's what we did. And that's to be borne in mind because whatever we're going to do in our final report we have to ensure that we don't run the risk of failing to meet the CWG requirements and thereby jeopardizing the chartering organizations approval.

Next slide please. This you also know. But I guess it's important to highlight that NTIA has informed us that we would conduct our work into work streams. And I guess, or we think that sometimes there is some confusion between Work Stream 1 and Work Stream 2.

But just to be very clear, Work Stream 1 means that accountability enhancements must either be in place or committed to. And that's something that we've built into our work plan that we would either have areas where we can sign off and finalize them according to our work plan. While in other areas, still within Work Stream 1, we set the foundation by spelling out basic principles and basic pillars for accountability enhancements.

But it's perfectly within our plan that the details for these enhancements would be further work done. That's still a Work Stream 1 item. Yet that's something that we didn't plan to include in our final report to be agreed upon in Dublin, according to plan. So that's something which we think sometimes has been spotted as a potential gap in our work but actually that's something that we fully see in line with the Work Stream 1 definition issued by NTIA.

While Work Stream 2, and I should say that both Work Streams - that's not a demarcation in terms of importance of the issues at hand but it's a demarcation

in terms of timing. And we've also identified Work Stream 2 items that will be dealt with subsequently.

Next slide please. Now what you see here are the basic pillars of ICANN's accountability at the moment. So we have the community, we have the ICANN Board, we have the ICANN bylaws, which enshrine some of the basic principles for the organization. And we have an independent appeals mechanism. And we're going to use all of these four building blocks. We are not inventing any new blocks. But we keep those four building blocks and we just enhance their interaction and we enhance how they work to come up with an improved ICANN accountability infrastructure if you wish.

Now next slide please. What's important to note is that we took great effort in analyzing different models, different approaches. We looked at them with all their pros and cons, compared them and match them against the accountability requirements that have been established by our group which reached consensus in our group.

And we said okay, we need to be as little invasive to ICANN's existing structure as possible but at the same time we need to make sure that the model that we come up with response to all the requirements that we've established.

And we took great care to ensure that ICANN can work as it does today, i.e. on the consensus base model. So the SOs and ACs developed part of this issue advice according to their current methods of operation. So nothing will change there. So there is no interference with ICANN's day-to-day operations.

Unless, to give you one example, it comes to fundamental bylaw changes where, as you will remember there is the need for the community to approve before the fact.

So the other community powers, if everything goes smoothly, if there is good interaction between the board and the community, let's say when it comes to setting up a budget, when the community liaises with the board on that needs and on the plans, and the board would adopt a budget. And you will never notice that this new accountability system has ever been put in place.

It would only be in the case where let's say the board, a future board, a rogue board, chooses to ignore the wish of the community stemming from the deliberations between the community and the board that the community can then come together and decide according to a process that we're going to explain to you a little later on that the board needs to redo the decision. But again, if everything works smoothly being you should not know there shouldn't be any impact on ICANN's day-to-day operations.

Next slide please. So that basically leads us to the new structure if you wish. And this is the slide that you see a very rough overview. And I'd like to ask staff to move it forward to its last stage of evolution because that's the dynamic slide.

So basically what you see here are again the four building blocks. But now we have the main ideas of the accountability enhancements visualized here. So the SOs and ACs, they would make the empowered community. As you will remember, it was the task of our group to ensure that the historic relationship with the governments, which has often been called the backstop, but this is replaced by something else.

And we thought it would be a good idea to get the power that the US government had in being able to tell ICANN, well, we're going to go somewhere else if you don't play by the rules. We're giving this power to the

community through the - to the SOs and ACs who can review and reject the budget, strategic and operating plan, who can review or can ask the board to review and reject standard - changes made to standard bylaws. We can have the community power to remove individual directors or recall the entire board.

Then in return, because there's a need for the community also to be accountable, there are structural reviews taking place on a regular basis. We're also working on other areas where the community and its accountability needs enhancements.

We then have the enhanced IRP which would be sort of the judiciary, if you compare this to a state. And we would have the revised bylaws which consist of several components such as fundamental bylaws, the new mechanisms and parts of the AOC.

Again, going back to the analogy of the state, we tried to copy an accountability system that has proven to be efficient for centuries basically with checks and balances in place, with the sharing of powers in place. So you would have the empowered community being the legislative, you have the board the executive, the IRP being the independent judiciary and you have the principles which would sort of form the constitution of the organization.

We're now going to move on in the slides and I'm going to hand over to Mathieu to present those to you. But let me conclude by saying that what we've reached so far is the consensus position of our group based on the various situations that I presented to you.

We have, though, a few minority statements which have been added to the report and I recommend that you also go through these in order to get a

comprehensive picture of the work that has been conducted so far. So over to you, Mathieu. Thank you.

Mathieu Weill: Thank you very much, Thomas. This is Mathieu Weill speaking. I'm the ccNSO-appointed co-chair of the cross community working group. And I will now move into a very short presentation of the various building blocks in more details before we can come back to the question and answer session, which obviously is going to be the highest value of this called.

So the first block to describe is what we call the principles so it's ICANN's mission, ICANN's core values and the addition of commitments, which is a new category. What we are suggesting in terms of change in this part of the accountability framework is to slightly amend the scope of ICANN's organizational activities, the mission to better describe what's in and out of the scope.

We think by removing some ambiguity in we are actually lowering the level of potential ambiguities and misinterpretations in the future. Some of the core values and commitments are brought in from the Affirmation of Commitments. And the other thing we are suggesting to incorporate into ICANN's bylaws is the AOC review process such as the ATRT so that even without the involvement of NTIA this system remains a key continuity - continuous improvement system within ICANN.

Now if we can move to the next slide. Another enhancement we suggest is to introduce the concept of fundamental bylaws, so those fundamental bylaws would be bylaws that have a higher threshold to be changed than the standard bylaws, as we will discuss later it would require prior approval by the community instead of just having the community - providing the community with a (unintelligible) over the change.

And we are suggesting that the scope of this fundamental bylaws is basically the four building blocks, the principles, the mission, commitment and core values, the judicial, the independent review process, of course the manner in which the bylaws can be amended, the community mechanism and the various powers.

And Number 6 and 7 in this list are very important because there also conditions that were set by the cross community working group on the naming function for the IANA transition. And so they did require that the IANA function review and the separation process are part of the fundamental bylaws as well as the PTI, the Post Transition IANA governance, and the Customer Standing Committee. So that's our proposal for the principles.

Next slide please. Moving to the appeals mechanism, which is the judicial function in the accountability framework. A key recommendation from our group is to enhance the IRP. And so we would use really -- it's really based on the current IRP. And the enhancements we are suggesting are that it becomes a standing panel; that it's the standard of review is enhanced to really look at whether ICANN's as acted or failed to act in violation of its bylaws. So there's a lot of relationship between this and the changes in the ICANN bylaws obviously.

And reconcile conflicting decisions in some process specific expert panels. And here's some of the claims involving right of the sole member in order to avoid resolution in front of a court but rather in an internal system.

A very important aspect of this enhancements of the IRP is of course that its decisions would be binding on the board. But it is also worth mentioning, because there's been some misunderstandings about this, that the only

decisions that would be an outcome of the IRP panels would be either confirmation or cancellation of board decisions.

So in no way could this panel actually redo the policy or override the multistakeholder process in a policymaking or other instances. So I think this is extremely important to stress. It only has the power to cancel a decision, another redo, and not has any ability to do the multistakeholder model to come over the multistakeholder model and just skip it. I think it's important.

If we go to the next slide. We're also suggesting strong enhancements to the request for reconsideration process expanding its scope, adjusting the time for finding requests and a number of other things which we can come back to if you want - if you want into nature of discussion.

And I think with that I'm through with the first two blocks. And I will pass on to Leon for the community powers. Leon.

Leon Sanchez: Thank you very much, Mathieu. Can we please go to next slide. Okay so we here we have the community mechanism as sole member. This is the legal vehicle that that community working group has come up to after analyzing different models.

You would remember, as Thomas highlighted in the opening remarks, that we started with a different model from this one. Then we heard the feedback from the community in the first public comments. We heard feedback from the board as well. And so we analyzed with our external counsel other alternatives that could deliver the underlying objectives of the community of having enforceable powers should the need to be for actually enforcing powers.

So we - after discussing with the community, a larger group and our external counsel, we thought of this community mechanism as sole member as the legal vehicle that would avoid a big complexity and implementation but would also, as I said, deliver the underlying objective of providing the community with the powers that ultimately could be enforceable through different means.

So as you can see on your screen we have the current model is of course a model in which we have the board. The board makes a decision or takes an action. And if the community disagrees then we would not have any recourse. So this is how we currently have.

And the proposed model, which is as I said, that community mechanism as sole member model, it provides some powers to that community therefore we would have empowered community so that if the board takes a decision or takes an action by which the community disagrees then the community would be effectively exercising their rights or their powers through this community mechanism as sole member model.

And the reason we came to this model is that because this model avoids many of the concerns raised by the board in its June letter to the CCWG. For example, when I think enough statutory rights for specific SOs ACs this community mechanism as sole member model would be addressing that concern, which we of course thought it was very important to take care of.

So can we go to the next slide please. So with the empowered community's power we are thinking of providing the community with five different powers. The first power being to reconsider or reject the budget or strategic operating plan. And of course this power would give the community the ability to make the board reconsider or maybe reject that strategic plans or the budget after

they have been approved by the board but before they come into effect. And the community could actually reject them.

Of course there is a very detailed process for this in our large document, in our proposal. So the details are in there and also the different mechanics that would be in place for actually taking the budget or the strategic plan into reconsideration or rejection.

Then the second power would be to have the ability to reconsider or reject any changes to be ICANN standard bylaws. Today, the board has the ability to unilaterally modify ICANN bylaws. And, well, they do have a procedure in which they call for comments and they get the feedback from the community.

But if the community does not agree with these changes well, as I said in the previous slide, the community would have no recourse. So with this new power that community would have the actual power to reject any standard bylaws change that does not comply with the community's concerns or is not in line with let's say ICANN mission or ICANN core values or their commitments.

So just one little - one detail that I missed when speaking on reconsidering budget or strategic plan we have of course, as I said, in our larger document provided the details on continuity for budget or, for example, when we see the power on board recall. We have also thought on the different mechanisms that would allow ICANN to continue operating without falling into instability. And we have taken care of those measures in our larger document.

So the third power would be to approve changes to fundamental bylaws as the co-chairs explained. The fundamental bylaws would be a new category of bylaws that would require a higher threshold to be modified and not only a

higher threshold to be modified but also they would need community approval to actually come into any kind of modification.

So this power would form part of the process, for agreeing any changes of the fundamental bylaws. And it requires that the community would have to give positive assent to any change. And this could - this would be kind of a co-decision process between the board and the community so that changes would require a higher vote.

And the fourth power would be the removal of individual ICANN board directors. In this case the community organization that appointed any given director could end that director's term. And this would trigger of course a replacement process. The general approach is consistent with the law. And the general principle is that the appointing body would be the removing body. We of course have more details, as I said in our full document.

And mainly the criteria for removing individual ICANN board of directors would need to fall into the different SOs and ACs. But we of course would also be looking at some for cause removal as we have to take in the bylaws by the ICANN Board.

And then the fifth power would be the recall of the entire ICANN Board. And this would be of course the last resort if they community feels that the board would be acting in violation of ICANN bylaws, ICANN mission and the new commitments.

And his power would allow the community to cause the removal of the entire ICANN Board. And, as I said, it would be extremely or highly unlikely that this power would be used by the community.

So can we go to the next slide please. So this is an overview, and overall view of how the community would be exercising their new powers do they community mechanism as sole member model. And here we have charts which shows us the different steps that the community would be undertaking when trying to exercise powers.

So the first would be the cause of course in which let's say an ICANN board or board member action would cause a significant concern to members of the community. This would trigger a petition by at least one SO or AC, depending on the power of course, we will see more details in the next slide. And this would start a formal discussion on whether there needs to be some kind of exercise of a community power or not.

Then there would be a discussion in which the different SOs and ACs, through the community mechanism are they community Council if you want to call it that way, then these SOs and ACs would discuss the issue and propose whether they would actually trigger or not the exercise of this power.

The discussion period would last for 15 days. And if the decision comes so that the community mechanism needs to exercise some kind of power - I would kindly ask you to meet your mics if you're not talking please. So the SOs and ACs reach a decision, then they would have to vote on whether actually using the powers or not. This decision period would last for 15 days. And this would start after the date of conclusion of discussion.

As you see, this is of course an escalation path. And this is not a change to regular - to the regular way that ICANN conducts its business. There would be no change on how we do things on a day-to-day basis. This would only come into effect and would only - and would only function if the community felt

that there would be a cause to actually trigger this procedure for exercising the powers.

So if that community decided that there should be a need to actually exercise the power then the outcome would be that the ICANN Board should act in accordance to the community decision. But this of course depends on the different powers that we're talking about.

So this is the overall procedure for exercising the powers. And I would like to jump now into a more specific example and baby just go through one or two so we can have more time for questions and comments from the board members. So can we please go to the next slide.

So here is an example of how the community would actually go through the process of reconsidering or rejecting changes to ICANN's standard bylaws. Here are the cause would be that the Board amends the standard bylaws in ways that the community does not support.

This would trigger the petition from a given SO or AC. And in this case this petition would need to be signed by either an SO or AC which has gone through an approval process, and internal approval process. And this internal approval process has enough votes from the SO or AC to exceed the 50% required to sign the petition.

Then went this petition this would be forwarded to the community council, to the community mechanism. And the whole committee would discuss whether the proposed use of the power is needed or not. And in this case the discussion would be carried out in a mixture of formal and informal discussions. Of course there would be advice and consideration within the formal - I mean, within the - formally within the SOs and ACs. And then after the discussion

ends the community would need to actually make a decision and cast their votes on whether the power should be exercised or not.

And this power of course being to send the proposed bylaw for reconsideration or actually reject any change to the bylaws. To succeed in this case a veto or a rejection of the budget - sorry for the bad choice of words - the rejection of the bylaw change would require a 2/3 level of support in the community mechanism. So this would then lead to the board absorbing the feedback, making a judgment and propose a new set of amendments to the bylaws after it usual process.

And this is very important because, as you see, this doesn't change the way we do things as we do them now. Today the board proposes an amendment to the bylaws, it opens up for public comment, the community provides feedback and then the difference is that if the board doesn't take into account the comments provided by the community well then they community would have a recourse in case of the board approving certain standard bylaws that wasn't in this period of the community feedback.

So this would be the only change. But the overall process would remain exactly the same. And this would not create any new kind of process or bureaucracy around changing the bylaws as we do it today.

Can we go to the next slide please? So this is the example for recalling the entire board. And here we have the cause, which would be a set of problems that have become so entrenched that they community wishes to signal its lack of confidence into the board.

So this petition would be signed by at least two of the SOs or ACs, and at least one being one as SO. And this is a little different, as you can see from our

previous example. In this example there would be the need to have a joint petition not only by two bodies but also one being an SO and the other one being an AC or another SO of course.

And then this would trigger the discussion in which the whole community, by this I mean all the SOs and ACs, would discuss the proposed use of the power. And this would be carried exactly in the same way that any issue is discussed within ICANN which would be a mixture of this formal and informal meetings.

And then after this discussion ends than the community mechanism, the different SOs and ACs, would cast their votes and decide whether the power would be used or not. And in this case the chair of each SO and AC would be responsible for communicating the votes of the SO and AC to the ICANN board.

So here we have that the requirement for actually having a successful vote for recalling the entire board would require 75% of all the votes available within the community mechanism as sole member and who have to be cast in favor of recall for the recall to be effected.

So what happens if we do actually come to tragic outcome of having to recall the entire board, while we would be looking for an interim board to replace the ICANN Board, except for the president of course, which is the CEO. And we have also looked into this process in our detailed document.

So can we move to the next slide please. So here is a diagram that explains the influence in the community mechanism. We have considered the weight indecision of the various indecision of the various parts of the community. We have gone through different exercises evaluating how to avoid capture from

the community mechanism as sole member. We have gone through different exercises in the spirit of being able to capture an acceptable influence by the different SOs and ACs in this community mechanism as sole member.

And as you could see - as you can see in your screen now the proposed weakening for each of the SOs and ACs is on the table on the right. And we would be assigning by votes to each SO and also to the should they GAC and the ALAC, should they choose of course to exercise this power. And we would be assigning to votes for the SSAC and the RSAC.

So as I said in the previous slide, what this would mean is that the representatives from the different SOs and ACs within the community mechanism would need to go back to their correspondent SOs and ACs, consult with their votes should go into one or other direction.

And the only role that these representatives would be playing in the community mechanism would be to actually communicate the will of the SO and AC to the community mechanism so their votes are cast in the weight that their communities or their constituencies have instructed them to vote. So as you can see this is also very similar to the way we do things today within the ICANN community. So can we move to the next slide please.

So stress test is another important part of our proposal. And for this I would like to hand it over to my co-chair, Mathieu Weil. Mathieu.

Mathieu Weill: Thank you, Leon. Very quickly for stages of our report, a good part of our report is composed of a significant number of stress tests where we have tried to assess what would happen currently as well as with the recommended accountability enhancements in terms of potential contingencies. And I really encourage you to have a look at this part of the report because that's where

you will see the potential enhancements and actually quite we are proposing some of the enhancements of accountability.

Going to the next slide. We have also made an effort at being more details about the next steps. It's important to stress, and Thomas said that earlier, That the Work Stream 1 proposal that will be considered in Dublin are in a way to detailed terms of reference for the accountability enhancements of Work Stream 1.

They will remain to be implemented. And we are hoping that this implementation can start as fast as possible. And actually we have suggested and we wrote to ICANN Legal to start the bylaw drafting, which is an implementation measure of some of these Work Stream 1 proposals for specific part, which is the incorporation of the AOC reviews into the bylaws, which is stable, was getting consensus very widely. So we hope we can start this fast.

But what's going to be considered in Dublin by the terms of reference for Work Stream 1. There will remain some implementation work. And there will be Work Stream 2 items which will be discussed. Their outcome is obviously not defined yet but will be discussed and finalized in terms of terms of reference probably it will take a small probably 9 to 12 months. And then we will have to implement them. And that's another cycle of accountability enhancements.

But the report is focusing on the Work Stream 1 proposals in terms of as the level of terms of reference and requirements and obviously some of the implementation remains to be done and that's certainly going to be an effort that we need to drive jointly with staff and the board to be efficient.

And you have on this slide the list of elements that are being considered for Work Stream 2 which includes the rather interesting topic to be further discussed.

And final slide of our presentation, I know you're impatient to go to questions, is the linkage with the CWG stewardship. It's been paramount in our minds that we are part of a global process for the IANA stewardship transition. And the CWG stewardship report was -- approval was conditional upon some of our recommendations. We're confident we have covered all of these requirements.

And it's quite important because it's also something that means that these particular items need to be part of Work Stream 1. And that's I think something to keep in mind.

And with that I think I will go back to Thomas to start the question-and-answer session. Thomas.

((Crosstalk))

Thomas Rickert: Thank you very much, Mathieu.

Steve Crocker: Let me jump in for just a second that I might?

Thomas Rickert: Please do.

Steve Crocker: This is Steve Crocker. Yeah, just I want to thank you guys very much. This is excellent and very much appreciated. We agree with many elements of the proposal, no question about that. We're still conferring on various suggestions and we look forward to engaging with you very much.

With respect to the point you just raised about the CWG and the linkage, we have that very clearly in mind and we anticipate that that will not be a problem, that we thought about that as well. And so without let me turn it back over to you for questions.

And the comments to everybody on our side, this is a time for clarifying questions. We will engage rather more thoroughly in today's time I think it is after we've had some time to process internally. And then we have a kind of link the call, I think three hours scheduled 48 hours from when we started this call.

Thomas Rickert: Thanks very much, Steve. I see Chris's hand is up so please. Please, Chris.

Chris Disspain: Thank you, Thomas. I've got a number of questions for clarification but I'll just start with one and see where we go after that. Well two actually. First of all, just to go back to the beginning, Thomas, did you say - I think it was you, I just wanted to make sure I understood you correctly. Did you say that you were expecting the details to be filled in before Dublin or it wasn't part of your plan the details would be filled in before Dublin.

Thomas Rickert: It was not part of the plan before Dublin. The Work Stream 1 definition says either implemented or committed to. So both of that...

Chris Disspain: Right.

Thomas Rickert: ...would be good enough to fulfill Work Stream 1 or the Work Stream 1 definition or requirement to buy NTIA and therefore we focused on getting the principals together and have a commitment from the board so varies part that can be implemented by the time the chartering organizations adopt. But I

would both be Work Stream Number 1. But, you know, there are questions certainly when it comes to the community mechanism how exactly the procedure is - how votes are cast and all these procedural niceties.

You know, those need to be worked on and flushed out. But we think that it's more important...

Chris Disspain: Yeah.

Thomas Rickert: ...for us to get the gist, the basic principles of the accountability enhancements first.

Chris Disspain: So can I, if I may, if I may follow up. And I know we don't want this to become a dialogue. But have you considered how you would bring the community to agreement on what those details would be? And what you would do if you couldn't get consensus? And how the US NTIA would be able to deal with the proposal if it lacked that detail so that they could see the shape of the community forum, for example?

Surely that's something that we have to get in shape before we go forward to them.

Thomas Rickert: Well that's a very broad question, Chris. I think that well at least and it is still our understanding that NTIA was not waiting for a fully implemented solution. We get signals that NTIA understands that some of the tasks, and actually we're working on a huge task as you know, will need further work. But I guess what we have delivered is a set of recommendations and a set of principles that's an outline of the various procedures that are invoked to exercise the community powers that is sufficiently detailed to understand what the implementation should look like.

Chris Disspain: Okay.

Thomas Rickert: So the operational details I think would be dealt with by this group or by other implementation teams under the oversight of this group. So we also plan for implementation oversight. But, you know, we think it's an implementable solution but it's not fully implemented.

Chris Disspain: Okay. I have one more specific question if I may which is on Slide 14. If it would be possible to get Slide 14 up on the screen. It says that the petition must come from an SO - it's one SO and one AC. Is that right? So one SO or one AC and petition for reconsideration request, not two, one.

Thomas Rickert: That is correct.

Chris Disspain: Okay.

Thomas Rickert: If we had different petition thresholds for the various powers, so for the board recall you would need more than that.

Chris Disspain: Right, but just for clarity so I'm clear, the lowest standard, and that's not intended to be a criticism, the lowest standard to start a ball rolling on any of these community powers is a petition from one of the SOs or ACs?

Thomas Rickert: That is correct. That's just to invoke the process. That does not...

Chris Disspain: Right.

Thomas Rickert: ...say that the vote will actually be cast in favor of the petition.

Chris Disspain: Right. And did I see something somewhere that said there was something where there has to be at least one SO and at least one AC or did I...

((Crosstalk))

Thomas Rickert: ...when it comes to board recall.

Chris Disspain: Okay so there is a place there where it says there must be at least one SO and one AC. Have you considered - do you have to be part of the membership to be that AC that triggers? Because if you do then it's possible that it could only be the ALAC, is it not? And have you thought through what that would mean?

I mean, it could be that you don't have to be a part of the membership to do that. But I'm not clear on that. And I think it's important that when we're shaping there's we show which way around it's going to be.

Mathieu Weill: I can answer if you want.

Chris Disspain: And I'm going to shut up after that.

Thomas Rickert: No worries, Chris. Mathieu, you can take that.

Mathieu Weill: Yeah.

Thomas Rickert: I also wanted to encourage Jordan to get ready to respond and add to that if he feels like. So, Mathieu.

Mathieu Weill: So I think, Chris, your assumption was that at some point in our report there was a necessity for one SO and one AC to introduce a petition but that was part of the first report and it's no longer the case.

Chris Disspain: Thank you.

Mathieu Weill: There is no place now into reports where one AC is required. In the board recall, if we go to Slide Number 15, you will see it's two SO or ACs necessary including at least one SO. If we go to Slide 15.

Chris Disspain: Yes. Thank you, Mathieu.

Mathieu Weill: So I think -- you're welcome.

Thomas Rickert: Excuse me. Jordan, would you like to add to that or can we move to Wolfgang?

Jordan Carter: Just one really quick point to add, in any of these triggering processes, Chris, you asked whether it makes a difference if the SO or AC is participating in the community mechanism as single member, no it is not.

Chris Disspain: Yes.

Jordan Carter: Because we didn't want to include nonparticipating SOs and ACs to be able to trigger a discussion without the use of the powers.

Chris Disspain: Right so the triggering of the process is open to any SO or AC subject to the numbers required. But once you get into the voting at the other end of it that is limited to those that have chosen to be part of the voting mechanism is that right?

Jordan Carter: That is absolute correct. Yeah.

Chris Disspain: Good. Thank you.

Thomas Rickert: Thanks very much, Chris, for these questions. Wolfgang is next.

Wolfgang Kleinwachter: Thank you, Thomas. Chris has already asked some questions, you know, I wanted to ask. You know, I have also some clarification questions. The first thing is exactly what is needed for Work Stream 1 on this sole membership model? Is this really needed from Work Stream 1? Is this a bridge between Work Stream 1 and Work Stream 2? Or should this be related to Work Stream 2?

Because what I see is while we have a consensus on the - what (unintelligible) community empowerment I see a lot of open questions with the concrete implementation. And, Thomas, you have said this is implementable. But, you know, how the implementation can be realized in concrete details. Here I have a lot of - see a lot of open questions. And I also did not yet hear a good stress test, you know, how this could work.

So I have a very concrete questions about future development and needed flexibility. So what will happen if new advisory committees emerge? Now we have four advisory committees, five votes for the At Large Advisory Committee and probably for the Governmental Advisory Committee but two votes for the RSAC and the SSAC. So that means is there any - it's inconsistent in my eyes. And so that means if we get new advisory committees - a business advisory committee, a human rights advisory committee whatsoever, there are a lot of discussions in the community.

And if the community wants to create a new committee then how this is added. So I think here a lot of more work has to be done. And so for my

question is, you know, how much you pack into Work Stream 1 and how much will be in Work Stream 2? Thank you.

Thomas Rickert: Wolfgang, first of all when it comes to new entries into the ICANN ecosystem that would require a bylaw change because the SOs and ACs are described and rooted in the bylaws. So whenever there is a new entry there would need to be a recalibration anyway. So it is perfectly possible. The system is flexible and open for new entries but that impact on the relative weight of votes will be assessed at that time.

When it comes to Work Stream 1 versus Work Stream Number 2, we have showed on one slide the areas that we reserved for Work Stream Number 2. And apart from that what we presented to you was perceived as required for Work Stream 1 by our group.

But having said that, again, we read or we took to heart the definition as proposed by NTIA that even in Work Stream 1 it's either completed or committed to. So we might need to consider a transitional phase. Maybe we should use a different term for that how the various areas are being dealt with in the time between that commitment and the full implementation. And I suggest that we take this point off line for now and we will get back to the board with a more detailed answer when we have our longer discussion.

I hope this is acceptable. So we are not going to suppress the question but we're just going to shelve it for the moment because I think we should take more questions on the call. Renalia had asked a few questions in the chat, which I'm going to read out for the benefit of those that are not in the Adobe room.

“What is the time period between - time periods were seen for budget vetoes to take place? And how many vetoes can that time period accommodate without paralyzing certain aspects of ICANN operations? Let's assume for this question that using past year's budget will not suffice with some aspects of ICANN's operations.”

Jordan Carter is the rapporteur who's been working on that specific question - on that community power. Jordan, would you be okay with responding to that?

Jordan Carter: Yes, that's fine Thomas. Hi, everyone, it's Jordan here. Thank you for the question, Renalia. I provided some response back in the chat. The longest period of time it could take for a veto from the time the draft budget is proposed is 45 days, a 15 day window (unintelligible), 15 days for deliberation and then 15 days (unintelligible) cast their vote.

We've suggested working in a 40-day...

Chris Disspain: Jordan, Jordan, Jordan, Jordan, there's a huge amount of background noise. Is there any way people could mute please?

Jordan Carter: Is that any better from my end?

Chris Disspain: That's much better now. Much better.

Jordan Carter: (Unintelligible) the microphone. So we've suggested in the report on Paragraph 385 that there should be a 40-day period added to that - the budget and operating plan planning process. And we've noted if that can't be (unintelligible) with respect to (unintelligible) of the budget process the effect is that the previous year's budget continues will the deliberation happens.

But we very much see this as a reserve power which isn't going to be used. What it does the effective intent is to see the likelihood that the budget that has been proposed, all the open consultation that has been developed so well in the last few years, is going to render this power moot. It's a last reserve power in case a different kind of ICANN board (unintelligible) project that would the community really objected to.

So I think the chance of it being used are unlikely. But part of making that unlikely is making the need to (unintelligible). And if a situation has arisen where the (unintelligible) can't function based on the previous year's budget it would be because the (unintelligible) change in the environment which will then subject a lot of discussion. So I think I should draw that to a close there. I hope that's helpful.

Thomas Rickert: Thanks very much, Jordan. That's very helpful indeed. Let's move to Renalia's other question. She had two more questions. "What is the CCWG assessment analysis on the potential impact of the board director removal processes on the independence of individual directors?" And thirdly, "What is the CCWG's assessment on whether the inclusion of a voting GAC in the community mechanism would be acceptable to the US government?"

And I got word that Mathieu volunteers to respond to those. Mathieu.

Mathieu Weill: Thank you very much, Thomas. And thank you, Renalia. So the first question is about the potential impact of the board director removal on the independence of individual directors. And I think it's been a source of some discussion within our group about the balance between the need for directors to feel sufficiently empowered to conduct the affairs of ICANN as directors and accountable to the communities that were appointing them.

And I think we've - the balance we struck in the proposal is, number one, to ensure that no board director removal process would take place without this discussion phase that you see on the slide here which is not limited to a particular SO or AC.

And secondly, one of the items we are going to work further on in Work Stream 2 is going to be about the clarification of the understanding of the fiduciary duties of board directors and the related expectations concerning director behavior for the board, which is a way to clarify what can be expected from a director when balancing the need for this director to bring to the board a particular perspective of a specific part of the community when it selected by an SO or AC, and as well as its fiduciary duties.

And what we've found is that this has been a cause for concerns, debate in the past. And we think with these two checks and balances we have an appropriate balance here. And I would also note that the notion of independence of individual directors would certainly need to be further refined because if you take the word "independence" it might mean an absence of conflict of interest or an absence of interest.

And obviously when you're an SO or AC-appointed member to the board you have an interest in ICANN before joining the board. So I think what's important is the ability for the board directors to feel empowered to act as board members. And that's the balance we are very much aware of.

The next question was about whether we had an assessment on the inclusion of the voting GAC in the community mechanism and whether it would be acceptable to the US government.

I think it's not our place to answer for the NTIA nor for the US government or the US Congress. What I can say for the CCWG is that we are very much aware of the five NTIA criteria and trying to assess our proposals against those criteria. We are also very much aware of the discussions that are currently taking place within the GAC on this very question.

So I think it is a bit premature to give a definitive answer on this. But we do not think that it's definitely crossing the red line per se if the GAC opted to be part of the voting mechanism. But obviously it would have to be looked at as a whole and not just on a particular set of the system. So sorry for the mixed answer here but I think there's still a lot of discussions to be had with the GAC.

And with that for the next question I am turning back to my fellow co-chairs. I don't know if Leon wants to take over or Thomas.

Leon Sanchez: Thank you very much, Thomas. This is Leon. I'm sorry, Thomas.

Thomas Rickert: Leon will continue.

Leon Sanchez: Thank you.

Thomas Rickert: Go ahead, Leon. Sorry.

Leon Sanchez: I see a couple of questions by Asha in the chat box. I would address the second question. I have already replied in the chat box. The second question is, "What has been your feedback so far on the Jones Day impact analysis?"

As Mathieu said on the chat box earlier, our external counsel is reviewing Jones Day impact analysis. We have reviewed this ourselves but we are still

missing this last piece in the puzzle which is a document that we will be getting from our external counsel to provide an overall and holistic opinion on Jones Day impact analysis.

And I also see that you have another question, which is, "How would checks and balances on the committee model, a single member, would be implemented?" And I think that maybe Jordan could help us answer this question. Jordan, could you please reply to this?

Jordan Carter: I can do that really briefly. And I hope that my microphone is a little bit louder this time. Asha, the - if you could tease out the sorts of checks and balances you were thinking about there are some procedural ones over there and some practical ones. The procedural ones that are very limited, array of powers than it has other than the powers that were sent out in this forum.

All of the other powers that a member of a California corporation would have under their law are intended to be placed mostly out of reach for the community by such high thresholds to their use and it's very unlikely that community mechanism whatever try to exercise them. I can't remember the paragraph reference but that is set out in the report.

And so the other check and balances, the fact was inspired (unintelligible) decision within the SOs and ACs to make use of all of these powers, so aside from that general if there are specific checks and balances you are looking for either to the process of the mechanism, which basically is simply a vote counting mechanism. It doesn't exist as a committee, it doesn't have meetings, it doesn't do that kind of stuff. It would be really helpful to grab them and if you've got specific issues you think that need to be headed off that would be useful as well. Thank you.

Leon Sanchez: Thank you very much, Jordan. I see a couple of questions from Fadi in the chat box. And I also see Wolfgang and his up so I will go to Wolfgang and then I will read out -- I would read out loud Fadi's questions in the chat box. Wolfgang.

Wolfgang Kleinwachter: No sorry, this was my hand from my previous question. Thank you very much. Go to Fadi.

Leon Sanchez: Okay thank you, Wolfgang. So the questions from Fadi are, "Why is a single member model required to obtain the five community powers?" I believe that Thomas has already answered this but however I will read out Thomas's replied. And he's replying to Fadi that the community model as a single member is not needed for the community powers per se but it is needed to make the community powers enforceable. Sell enforceability is the only reason for proposing the single member model as a legal vehicle should meet before the community to actually enforce these powers.

Then the next question from Fadi is, "Have you concluded you would not be able to enforce those powers under our current model?" And what I think that yes we have had through discussions on whether this would be the only way to enforce the powers. We have been discussing this from the very beginning of our work within the working group. And the legal vehicle for actually enforcing the powers would be to have either a membership model or we have also discussed other models like the designator or the delegate model.

But those other models were lacking a full -- the full set of powers that the community has required the CCWG to provide it with. So the single member model would be the most effective and so far we think the only way to provide the community with this capability of actually enforcing the powers in a court of law should the need be for this.

So I don't see any other questions in the chat box nor I don't see any other hands raised. So I would now turn back to my co-chair, Thomas, should you want to further comments on what we have been discussing?

Thomas Rickert: Thank you very much, Leon. I think what we should do, and basically you've come up with questions so quickly that we didn't really follow the close structure. But we want to make sure that we do not omit addressing any of the areas of our report which is why I will now ask you whether you have any questions specifically on the mission, core values and commitments?

Steve Crocker: Thank you. This is Steve Crocker. I think we're pretty much aligned with the mission and core values. You know, I think we're all on the same page there.

Thomas Rickert: That's good to hear. Thank you for that, Steve. Do you have any questions with respect to the concept of fundamental bylaws, the bylaws that we would make more robust (unintelligible) change?

Steve Crocker: Yeah, I think we're consistent on that. I want to be careful - we need to go through some process. But as best I can tell you first of all, you know, if one looks backwards we've been very careful in making bylaws changes anyway. So although I understand the argument that in principle the board could make it changed rather abruptly that has not been our style, we have tried to be quite careful about it.

But stopping short of making an unequivocal statement, it does not appear that that - there would be any concern. And, you know, we try to be quite conservative about making changes anyway.

Thomas Rickert: Thanks, Steve. Any questions with respect to the IRP reforms that we are suggesting?

Steve Crocker: So there things are - I want to send back one notch. I think we are in very strong agreement that we want to see, just as you do a stronger judicial function. And we understand the proposal about the IRP. There are certainly details there that need to be ironed out. And I don't want to say anything more about that at the moment.

Thomas Rickert: Thanks for that. Let me turn to Becky, whether she wants to provide any or offer any additional explanations to the enhanced IRP.

Becky Burr: Yes, thank you.

Thomas Rickert: We had Jordan speaking to his area of work so, Becky, you should also get the opportunity to speak. Please.

Becky Burr: Thank you. And I want to acknowledge that Steve is correct, as the second draft proposal clearly stated, there is work to do on the independent review. And it's critical to get it right which is why, in the draft report, we suggested that we should now be moving into a real working exchange with ICANN and ICANN's lawyers and the CCWG subgroup and our outside counsel and some experts to make sure that we do get these details right because it is quite important to get them right. And there are a lot of them.

That said, I do have - I just want to respond at a very high level to some of the Jones Day stuff because there are two things that concern me that I think are misunderstandings. First, I think it's worth noting that the proposal does move us into a more sort of constitutional model where the legislative authority of the community in the form of policy development and the executive authority

of the Board and staff is balanced with an independent judiciary. And that's a very conscious decision.

And when you're talking about a constitutional court, the sort of reference to the business judgment rule, if you're looking at sort of the specific and narrow did you violate the bylaws, in this case the constitution, or not, is not directly applicable. So we had very good reason for it departing from that standard.

There are two things that I think that our pretty important for you to understand. First of all, we are proposing a very narrow scope. I'm going to put aside the full member enforcement issues, which we've heard the communities say they wanted an alternative to a court.

I'm also going to put aside for the moment the sort of resolution of conflicting decisions by expert panels. That's something we heard from the community that there was interest in. And when I look at the list of IRP pendings, right now that conflicting results of those panels do seem to be a problem that maybe we could house with.

However, there is no proposal to change the definition, the standing requirement, the definition of material harm. That's just not correct. We did have a draft bylaw that we were circulating and that staff has, prior to issuing the second draft proposal. It wasn't quite ready for prime time so it's not included. But the material harm standard that is an aspect of concern in the Jones Day matrix is not being changed, it is not being changed at all.

Second of all, on the issue of their fiduciary concerns about the fiduciary responsibilities of the board, the proposal is quite clear that the IRP is meant to be binding to the extent permitted by law and that would mean to the extent

that it impinges on the boards obligations with respect to fiduciary obligations it would not be binding.

Second of all, there is a misapprehension that the IRP could tell the board to do something or not to do something. And again, that's incorrect. The IRP would be limited to saying whether an action or inaction was consistent with ICANN's bylaws or not consistent with ICANN's bylaws. And ICANN, the board, and with whatever requirements for community input would be relevant in a particular matter it would be up to ICANN to resolve that matter.

And then the final thing that I want to mention is we've heard a lot of concerns about whether - how the IRP would overrule GAC advice. I just want to be really clear, the IRP has nothing whatsoever to say about GAC advice. The GAC can give whatever kind of advice that wants. The GAC, there is no such thing as GAC advice violating the bylaws.

The only thing that IRP has, you know, authority over is actions or inaction of ICANN. So the standard, as I believe everybody would agree right now, is that when implementing GAC advice ICANN has an obligation to do it in a way that is not inconsistent with its bylaws. And we propose -- we do not propose to change anything about that. The GAC advice is completely outside of and untouched by the IRP.

Thomas Rickert: Thanks very much, Becky, for those helpful clarifications. We have reached the end of our session. I think we have received questions on the other areas of our report. We just wanted to make sure to have covered everything. If you have more questions, which I'm sure you do, please give us a headset by email so that we can prepare properly for the next session with you.

I'm not going to make lengthy concluding remarks but let me just thank you for your availability, for your time, for your commitment to this process. And I'd like to hand it over to you, Fadi or Steve, for concluding remarks if any. Thank you so much.

Steve Crocker: This is Steve. Thank you all very much. We recognize, as we always do, the enormous amount of work that everyone has put into this. We look forward to further engagement. And Becky took us into an area where I had a feeling we were all getting a second wind and could go on for another hour and I'm glad we're not doing that now. But I recognize that there's a lot of vigorous conversation to have there. So again, thank you all and we look forward to re-engaging with you shortly.

Fadi Chehadé: Thank you.

Thomas Rickert: Thanks, everyone.

((Crosstalk))

Leon Sanchez: Thanks, everyone.

Steve Crocker: Good night, good morning, good day.

END