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TERRI AGNEW: The first of September, 2015, at 15:00 UTC. On the English channel, we have Alan Greenberg, Gordon Chillcott, Allan Skuce, Cheryl Langdon-Orr, Olivier Crépin-Leblond, Tijani Ben Jemaa, Eduardo Diaz, Sébastien Bachollet, and Louis Houle.

On the Spanish channel, we have Alberto Soto.

We have apologies from Fátima Cambronero, Leon Sanchez, Thomas Lowenhaupt, Seun Ojedeji, and Heidi Ullrich.

From staff we have myself, Terri Agnew.

Our Spanish interpreters today are Veronica and David.

I would like to remind all participants to please state your name before speaking, not only for transcription purposes, but also for the Spanish interpreters. Thank you very much, and back over to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Terri. Have we missed anyone in the roll call by any chance? Hearing no names, the roll call is complete. Now we have to adopt the agenda, which today is going to consist of looking at both statements that have been drafted, one for the CCWG Accountability public comment period and the other one for the IANA Coordination Group public comment period. Are there any additions to the agenda beyond those two topics? I don't hear anyone wishing to add to the agenda.

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

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There is one more thing under the CWG IANA, maybe just a couple of minutes to look at the IANA Service Level Expectations document which has been recently sent. I see the agenda is adopted, so we can move swiftly to agenda item #2. That's the review of our action items. There was only one that was for the Doodle, so we're off to agenda item #3, the Cross-Community Working Group on Accountability.

There is a statement that is being drafted and Alan Greenberg is the penholder so I pass the floor over to Alan. You have the floor.

ALAN GREENBERG:

Alan Greenberg is the tired penholder. All right. We have a significant number of changes in this version. Most of them are driven by Olivier's review of the commitments, core values, and principles. There are a number of others that popped up for various other reasons.

I have a question to ask first, though, on something that isn't in the document. We're working on this version on the – sorry, my mind has just gone blank – on the community member as a sole community mechanism, as a sole member. This group has been quite strong against the ability to approve budgets. There has been some other pushback in the community, but not necessarily a lot. Do we want to introduce the concept of a CMSD, community mechanism of sole designator? Do we want to muddy the water? Sébastien says yes.

[TIJANI BEN JEMAA]:

Me, too. I say yes.

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ALAN GREENBERG: That was Tijani, I think. Cheryl, you wanted to speak?

CHERYL LANGDON-ORR: Yes, thanks. [inaudible] muddy the water, we may as well do it that way. But I also would suggest that things may become either slightly more complicated or slightly more simplified in the next 48 hours anyway, so why not?

ALAN GREENBERG: Well, that's true. We don't know quite what the pushback is going to be. We know that the Board has said, "We are very supportive and we're going to work with you and we want to see the transition happen." Clearly, without some accountability things coming out of this group modified or unchanged, the transition will not happen.

On the other hand, we know there have been a number of directors who have pushed back very strongly against some of the aspects of the model. We don't know what's going to come out of it in the next 24 hours.

We can always take it out. I wouldn't mind putting [inaudible] as the next version, just because I think there's been strong support within At-Large, and why not?

CHERYL LANGDON-ORR: Absolutely, why not? I wasn't joking and I agree.

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ALAN GREENBERG: No, I understand.

CHERYL LANGDON-ORR: It will be one of several things we need to talk about in our next meeting.

ALAN GREENBERG: Correct. Sébastien, you have your hand up.

SÉBASTIEN BACHOLLET: Yes, thank you very much, Alan. It's interesting, your question, because [inaudible] to try to read inputs from lawyers, [historical] lawyer of ICANN. It struck me when I was reading that we as a group never consider – the “sole” was just sole member, never sole designator. Our main focus was not too much the fact that it was a member or a designator. It was the fact that it was sole.

The fact that our legal advisor never came to say, “You may have a look to the sole designator as a possibility,” it's for me once again a difficulty in this process.

I don't know if it will solve what we think are some issues, but at least we must have gone through this as a solution. We get to some other solution. I will not [say everything] else because I don't know, but never to this specific point. I think it's quite an interesting one and it came out of my mind, too, after reading the beginning of the lawyer from the Board comments.

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My second point is that I didn't finish to read all this document. It seems that I am not the only one. That's good. We may find other useful information or [possibility] in this document. I think we need to read it and have a discussion around this input. Thank you.

ALAN GREENBERG:

Yeah, thank you. The format they chose does not make reading it easy, but I think someone came up with [inaudible] format. Once they realized that some of the answers went on for four pages, they didn't choose to change the format, which they should have.

Tijani, go ahead please.

TIJANI BEN JEMAA:

Thank you, Alan. I learned very well that there was someone in the group in the CCWG who proposed the sole designator member. I don't remember who, but someone did. I feel very supportive to this proposal, but the lawyers, they didn't even speak about the issue at all. So I concluded that perhaps this is not the model that can be done legally.

But if it is possible, I think this is the best – really, the best – model that we have to choose. Alan, I agree with you. If it is possible to raise it, I do agree that we need to raise it. Thank you.

ALAN GREENBERG:

Yeah. My take, not a lawyer's perspective, is the designator model has everything except the budget and plan rejection, which certainly goes

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along with our position. My understanding is although the details of how the powers are invoked may be different, the net result should be able to be the same. But we'll find out. There's nothing to stop us from saying it.

Cheryl, next. Then perhaps we can go on with the other changes in the document.

CHERYL LANGDON-ORR:

Thank you, [inaudible]. If I can breathe and talk without coughing, that will [inaudible].

Regardless of how much traction our proposal would get or not, it would go in as a [comment]. It would go through the necessary diligence from our legal team to dot the Is, cross the Ts, and see what the validity of such a proposal is. It's well worthwhile putting in.

I also am aware that, of course, our external legal advisors prepared a high level response reaction to the Jones Day missive. That there is also a deeper analysis going on that we will all be privy to in the not too distant future when that's prepared, published, and put out by the CCWG. And of course the other thing is with whatever happens in terms of other proposals coming in from other public comments, all of it will be given the necessary diligence and care that we exercised with the comments that came in in the first public comment. So I don't think there's a downside to [inaudible] what Alan was [inaudible].

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ALAN GREENBERG:

And heaven help us, there may even be an upside. Okay, first change. The bulk of the changes in this version are in the section on principles. The change in the first paragraph, I put “users or end users” because some people favor one, some of the other, so I just basically covered all bases.

I pointed out that civil society in most of the definitions talks about that it is a grouping of organizations. Not-for-profit organizations, typically non-governmental. But basically it’s organizations. Virtually no definitions actually include individuals.

Given that we have an increasingly, and hopefully increasingly, number of individuals within At-Large, that alone I think is a strong reason why we need to have something outside of just civil society. I think we do need to enhance that somewhat, and a statement has been made a number of times that we may well have ALSes that for one reason or another are not civil society.

Holly in a discussion the other day mentioned things like consumer groups, which might not consider themselves civil society. On the other hand, I don’t know if we actually have any consumer groups as members right now. Anyone who can help fill in the ellipses at the end of that sentence of other examples within the current At-Large which might be outside of the definition of civil society would be appreciated. Sébastien?

SÉBASTIEN BACHOLLET:

Yes. Thank you, Alan. And I know that you are waiting for my input on that. [inaudible]. I want to just add a few things on that. The

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organization of At-Large was set up not to have at the beginning directly end user, but to have organizations who have individual end users inside their body. It was meant to be the easiest way to gather the end user.

You remember that it was done after a study, after the first election, direct election. It was painful and the result was not enough transparent and so on and so forth.

But the question here – the end user even in our At-Large structures, the goal is the end user. It's not the fact that they organize an ISOC chapter, consumer organization, or user of software, free software or unique, whatever.

But the fact is that even those organizations, some of them, like ISOC, could be considered like civil society. Could be a longer discussion, but let's leave that aside.

But [unique] user association of the country X or Y, I am not sure that they consider themselves as a civil society. They are end users of this product and they are interested in using Internet for what they are doing in the organization and how the Internet is using the software they are pushing forward, using.

It's why I feel strongly that it's a good way, what you are writing in this document about user or end user. Thank you.

ALAN GREENBERG:

Thank you, Sébastien. I did have a sentence, as I was drafting this, about groups like that, but realized that the specific phrases we're



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commenting on include, among the commas, the technical community and academia. Yes, the Unix users group may not view themselves as civil society, but they would fit under the technical community. That's why I ended up with square brackets with nothing in it, because I didn't have any good examples of ones which weren't already covered by the other ones.

In any case, I don't think it's any disagreement among us that we want to put this in. We just need to make the rational stronger. Tijani, you're up.

TIJANI BEN JEMAA:

Yes, Alan. I want to say that everyone is end user. A businessman is an end user. A president of a country is an end user. Everyone is end user. "End users" is everyone. If you want to understand it like this. I don't disagree to add civil society. We agreed on it before. It is not a matter of discussion. But I proposed a tweaking in the language so that it will not give the NCSG the possibility to claim to be the sole representative or the sole civil society component in ICANN. That's all. I don't know if you took it in consideration or not. Thank you.

ALAN GREENBERG:

Yes. Thank you, Tijani. I may have missed that. I really don't remember anymore whether I rejected it or didn't see what you're referring to. Perhaps you can send me a note or a Skype message or something separately to make sure I got it.

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There's no question at this point, civil society is going to be there. In this document, I don't think we can fight the battle of whether NCSG is the only part of civil society. The question is: are there parts of At-Large that are not covered by civil society that we need to add to be inclusive?

TIJANI BEN JEMAA: No problem. My point was very clear: we include civil society, we include end users, but we try to make a language – because as you know in ICANN, NCSG always says that they are the civil society, and this is not true at all.

ALAN GREENBERG: And I've asked you to highlight to me what those words were so I can make sure they're either covered or a good reason for not including them.

TIJANI BEN JEMAA: Okay, thank you.

ALAN GREENBERG: Thank you. Sébastien?

SÉBASTIEN BACHOLLET: Thank you very much, Alan. Just a short comment on, Tijani, not too much what you say but what you write in this comments. Yes, everybody is end user, and every one of us can wear different hats. One time it's end user. It could be when you are in your company voice. It

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could be that you are [sitting in] another country, and if you are elected, you are a politician. It's exactly where [inaudible] complex. It's because every one of us can be multi-stakeholder. But we decide to be within ICANN in one capacity or another, and not to change too much.

Then it's too big a difficulty, I think, even to include that the president of United States is an end user. Therefore we are talking on behalf of him, and he thinks that he's talking on behalf of us because he's the leader of the biggest country in this world. Joke.

It's important. It's why we need to have different types of people, organizations, giving the voice of all the stakeholders. It's why multi-stakeholder rights are important. Thank you.

ALAN GREENBERG:

Thank you, Sébastien. We have a queue right now of two or three people. Can I ask people not to simply say you support it and you agree? I don't think there's any question that we agree on this, and there's a long list of things we need to get through. But I'll go through the queue right now. Olivier, you're next.

OLIVIER CRÉPIN-LEBLOND:

Thanks very much, Alan. I was just going to point out quickly that double-dipping, as one sometimes calls it – in other words, being able to act at several levels – is something that is done by many of the communities there. You do have some [inaudible] people that are now also domain name registries or registrars. I don't think that we should spend too much time on this topic of being present at several levels.

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But we do need to make sure that in whatever we write, we don't stand accused of actually being ourselves the double-dipping in that we're taking part in the GNSO processes and then also able to comment on it [outside]. I don't see at the moment anything that points to that in this statement. I don't think there needs to be an addition on this so far. But if you do, be careful on that. That's all. Thanks.

ALAN GREENBERG:

Thank you, Olivier. That's already covered in our comment on Ed Morris's statement. We agree that double-dipping is a potential problem and we may need to look at it. In our particular case, we don't know of any blatant cases. You're the liaison to the GNSO but you don't vote. Leon is a member of the IPC but is not a voting member. So at this point we don't have any blatant cases. If there are, we should address them.

OLIVIER CRÉPIN-LEBLOND:

There might be blatant cases elsewhere. That's my point, Alan. There might be blatant cases within the GNSO, for example.

ALAN GREENBERG:

There may be, but I believe the GNSO, most of the stakeholder groups do have rules that you can only be a voting member of one of them. There are such rules in a number of places anyway, right now, certainly between the registrars and registries, and I believe between business and other groups.

Alberto?

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ALBERTO SOTO:

Thank you very much, Alan. I don't agree with the fact that we are all end users, Internet end users. Indeed we are Internet end users. But for example, there are certain occasions on which there are people from the GAC who have to represent their governments, and they are, again, the interest of the end users. For example, I said that to Fadi, and I remember that when we met with Fadi, someone said or Olivier said that we were not being represented, and Fadi said that we are all end users. But I don't agree with that.

It is true that we are end users, but depending on our activity, we can create conflicts of interest. For example, the GAC is the most typical example where there might be a governmental interest against the end users and this might not be right. I mean, it is right for the government, but it might not be right for the end users. So that's why I insist on the idea that the end user should be mentioned as a stakeholder.

There are many topics related to this point. For example, human rights. ICANN is in charge of this. Privacy is being dealt with in another area of ICANN. They're all end users, but there might be certain issues or problems that are not the same for everybody. Thank you.

ALAN GREENBERG:

Thank you, Alberto. We have no more queue, so we'll go on to the next section right now. This is one of the items that Olivier mentioned. There is a section that reads – and let me read it to you in a moment. This is a new section that was added. "ICANN shall have no power to act other than in accordance with and as reasonably appropriate to achieve its

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mission. Without in any way limiting the foregoing absolute prohibition, ICANN shall not engage in or use its powers to attempt the regulation of services that use the Internet's unique identifiers for the content that those services carry or provide.”

Olivier raised the flag on this, and I'm going to ask him to speak to it. This seems to be clearly talking about the services that are provided by the users of the domain names, and not talking about the domain names themselves. I couldn't come up, when I was drafting this, with a rationale for saying where the harm is in this, but I might not be seeing something. So I'll turn it over to Olivier, and perhaps you can give us some examples.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Unfortunately, I haven't got my notes in front of me on this one. The text which is on the screen is not particularly explicit.

ALAN GREENBERG: I can probably pull up the [inaudible] say what you said, if you give me a moment. Or not.

OLIVIER CRÉPIN-LEBLOND: Is that on the Wiki, or...?

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ALAN GREENBERG: I don't think it's on the Wiki. It was in an e-mail. I'm not sure you put it in the Wiki.

SÉBASTIEN BACHOLLET: Olivier, it was on the mail where you put your comments on the [inaudible] document, and I answer to you and so on.

OLIVIER CRÉPIN-LEBLOND: Yeah, I know what mail it was in, but it's just a while ago.

ALAN GREENBERG: I'm trying to [inaudible]. Let me see if I can find the statement. One second. I just did a paste and it's the wrong document.

OLIVIER CRÉPIN-LEBLOND: Do you have a date by it? I can find it by date.

ALAN GREENBERG: [inaudible] second, but here is the statement. Yes, you sent it on the 26<sup>th</sup> of August at about 9:45 a.m. your time. I just put your comment in.

OLIVIER CRÉPIN-LEBLOND: I've got it. Okay. So effectively, the concern I have here is that at the moment we have the ability of ICANN being able to regulate its contract, basically. The concern I have is if you do have any rogue occurrence of some sort, when it comes down to a domain name itself – I'm not talking about regulation of content, but regulation of registries

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and registrars and the way that they market the domain names or the way that... To give you an example, the .sucks problem. That, I believe, might be that the additional clause might stop ICANN from being able to even call upon an external organization to resolve a problem such as the [top] .sucks [inaudible].

That's a concern that I have. I don't know whether it's warranted or not, but I really have a concern that it clips the wings of ICANN being able to actually judge on what goes on there.

ALAN GREENBERG:

Thank you. Referring something to an external body I don't believe is using its power. Anyone can refer something to an external body. I don't think it affects that. And I'm not even convinced that ICANN has much remit on resolving the .sucks thing. To some extent in that case, these people did exactly what ICANN suggested they do, and we're now finding it offensive because we didn't think through our suggestions. But that's true of a lot of what we've done recently.

The only relevance I see in this is there are those people in NCSG in particular who claim that the domain name itself is content, and we should not be regulating it. If you put that statement together with this, then I think we have a problem. But that's the only linkage that I can see.

OLIVIER CRÉPIN-LEBLOND: Alan, if I may?



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ALAN GREENBERG: Yes, go ahead, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thanks, Alan. That's exactly the point I was making in taking .sucks as an example. The message itself being carried by the domain name which might be offensive or not is one where I certainly believe ICANN should have a remit on being able to control what's said on a domain name. If that domain name is going to be used for other ways than as addressing, and ICANN then receives complaints about this in its compliance function, I really have concerns then at that point that we're setting ourselves up for ICANN not being able to have any control over anything as far as compliance is concerned for these types of issues. It might extend to WHOIS, it might extend to other information that is associated with a domain name. It will effectively clip the wings of the compliance department, in my view. I'm very worried at that point that we're ending up with – what's ICANN's role at the end of the day? It basically loses one of its major roles, which is the stability of the world's identifier systems, rather than a means of expression, and it is not a means of expression. Thanks.

ALAN GREENBERG: I guess I'd like an example. I know for instance that if you are using a domain to sell something illegally, most or all registration agreements say you must not use your domain name for illegal purposes. I don't think that's part of the RAA, though. I think they're protecting themselves in saying that, not necessarily because we're requiring them to.

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If we have something in the RAA saying you can only use a domain name for legal purposes, then indeed there's relevance to that and we should perhaps check on that. But that's the only real connection I can see. But let me try to draft something and you can comment on it afterwards.

OLIVIER CRÉPIN-LEBLOND: Alan?

ALAN GREENBERG: Go ahead, please.

OLIVIER CRÉPIN-LEBLOND: Thanks. I do believe that there is a clause somewhere, and unfortunately I'm not knowledgeable enough to pull this off the back of my hat one way or other. But there is a clause somewhere that deals with law enforcement and deals with use of domain names for specific reasons and things. I'm not saying it's to do with content, but it's worded in a way where anything that's illegal is not to be—

ALAN GREENBERG: Okay, Olivier, let's talk about [inaudible]—

OLIVIER CRÉPIN-LEBLOND: —not to be done, and it might be in the RAA. It might be in something else. I don't know.

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ALAN GREENBERG: Olivier, let's not do our research online here.

OLIVIER CRÉPIN-LEBLOND: Yeah, all right. No worries.

ALAN GREENBERG: If you can try to do it, and we can move on right now.

OLIVIER CRÉPIN-LEBLOND: Okay, thanks.

ALAN GREENBERG: The next one is paragraph 199: "preserve and enhance the neutral and judgment-free operation of the DNS." This was a new expression that was added. What I've written is the ALAC has concerns regarding what this means operationally. Does it mean that ICANN can no longer make a judgment over calls over TLDs, such as "confusingly similar"? Does it mean ICANN will actively stop sovereign nations from filtering? Does it mean we can't use spam blacklists? Exactly what does this mean? Because it could be completely innocent, or it could be construed... If something can be interpreted later on to mean things, we may have a real problem on our hands. So I have a real problem with the wording as it is without any clear understanding of what it means. Anyone want to see this changed, or are you happy with it? Seeing no hands, hearing nothing.

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Article 207: “Discriminatory treatment.” There is a clause in the – it’s rather confusing. Let me see if I can pull it up. There is currently a by-law that is article 2, section 3. “Non-discriminatory treatment: ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause, such as promotion of effective competition.” That’s a good cause for treating people discriminatorily.

One of the advisors, I don’t know which, I think pointed out the wording is in the original [inaudible], not the current one – pointed out that “discriminatory” implies making unfair determinations. In other words, treating someone differently unfairly. That if you do it fairly, it’s not discrimination.

The clause that they’ve put in replacing it says that you must not discriminate, might in a legal sense include the phrase that you shouldn’t do it without good reason, but I don’t feel comfortable omitting the phrase. Any thoughts? I have to go away from my computer for a moment. If anyone wants to say something, just speak out, please.

CHERYL LANGDON-ORR: I think the request for more explicit detail is very reasonable on this.

ALAN GREENBERG: I think you just said it’s warranted?

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CHERYL LANGDON-ORR: I did indeed, Alan.

ALAN GREENBERG: Okay. Sorry. I was away from my computer and my phone was not as clear as it could be. All right. Then we leave that in and go ahead to the next item.

All right. The next one is in consumer trust. The current AOC says we must promote consumer competition trust in the DNS marketplace, and consumer choice in the DNS marketplace. There was a reference to consumer trust in the first draft under core values. It was removed. The current, only reference to consumer trust is in the AOC review, which is explicitly talking about the growth of the gTLD namespace. There is currently no reference to ICANN having responsibility to ensure consumer trust, confidence, and competition – well, competition is there, but the consumer trust is not there. I believe strongly that must be put back in somewhere. I’m suspecting we’re not going to have any objections on that.

The other part is there is – this is one of the places where “when feasible and appropriate” has been removed, and we’ve already agreed to put – that that needs to be put back in. Seeing no comments, no hands.

Next one is the bottom of page 2 of the comment, paragraph 226. There is a statement. Let me find the correct reference. One second. Yeah, there is a new statement they have added that says, “must strive to achieve a reasonable balance between the interests of different stakeholders.” This is one that Olivier noted and I agree that that

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statement alone, as a principle, is insufficient without reference to the commitments and core values that talk about public interest. [Balance] is not a be-all in its own right. It only is a reasonable thing to do if it doesn't conflict with any of our core values, and I believe there should be explicit reference to those. Olivier, go ahead.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. I wanted to come back to the paragraph before, the one on consumer trust.

ALAN GREENBERG: Sure.

OLIVIER CRÉPIN-LEBLOND: I'm re-reading the red-underlined text at the bottom of page two, which is currently – which is shared on this screen. In there, you're mentioning exactly what you told us with regard to the consumer trust issue. I think it's a little ambiguous that we want this consumer trust to apply to all TLDs and not just to new gTLDs. You're saying at the moment, "Yes, the commitment must be put in the by-laws and [nominated]. Leaving it to the consumer trust review to monitor and then only for the namespace expansion is not sufficient." Perhaps we have to explicitly say we want that for all gTLDs. That would of course include the legacy gTLDs. I think there is a definite concern here that if we drop that, we're – it's the first piece of—

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ALAN GREENBERG: Did I not say that? It says, the affirmation [inaudible] says that ICANN will promote competition, consumer trust, and consumer choice in the DNS marketplace. Not restricted to growth. Then I say, "This is a general statement and not just in reference to the expansion of the namespace. This commitment must be put in the by-laws and not omitted." I guess I'm not sure where you think I didn't say it.

OLIVIER CRÉPIN-LEBLOND: You didn't say – it's not explicitly said that this applies to all gTLDs.

ALAN GREENBERG: Okay, the DNS marketplace is—

OLIVIER CRÉPIN-LEBLOND: Maybe we just – it's just four words.

ALAN GREENBERG: The DNS marketplace is all TLDs. But okay. I'll make something more explicit.

OLIVIER CRÉPIN-LEBLOND: Thanks.

ALAN GREENBERG: I mean, it's all gTLDs. We have no control over the ccTLDs.

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OLIVIER CRÉPIN-LEBLOND: That's correct. That's what I said. All gTLDs.

ALAN GREENBERG: In fact, the AOC talks about the DNS marketplace, which is overstepping its bounds to some extent. Yes, go ahead, Tijani.

TIJANI BEN JEMAA: Thank you, Olivier. Thank you, Alan. Regarding the balance between the interests of stakeholders, we may keep the text as it is and we can add that the global public interest is over all those interests, to be considered.

ALAN GREENBERG: It's not only global public interests. It's also things like security and stability. There's a number of core values that win over balance of the stakeholders, of the competing stakeholders.

TIJANI BEN JEMAA: Alan, those are two points. I agree with you. Those are two points. The first point is that the core values [inaudible] to conflict between each other. We have to respect them. And the second point, which is the balance between the interests of all stakeholders. I don't agree with that, because we don't – if a stakeholder has a very narrow interest which is really against the public interest, we don't have to take it. So it is not a balance. We don't need a balance. We need all the interests to be considered, but the public interest should be the first and most important to be considered. Thank you.



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ALAN GREENBERG: I agree, and I think that's what it says, although I will add some other ones, as well. But it says that the balance is secondary to public interest.

TIJANI BEN JEMAA: Exactly. That's exactly what I wanted to say. Thank you.

ALAN GREENBERG: Yeah. Okay. Thank you. All right, we've gone through the bulk of them now and making pretty good time. The next one – sorry, the top of page three was just a typo. Section six, towards the bottom of page three, I added a new one. I should have highlighted it in yellow because we hadn't discussed this one, but I think it's self-evident. It was one of the issues raised on the Jones Day document. That is the description of the SO/AC membership model does not have a minimum number of SOs/ACs. Although there is a provision for probably four starting, any of them can drop out, and you could be left with as few as one controlling the whole thing.

Obviously that's with the complicit agreement of the others who have dropped out, but nevertheless, you can't predict exactly what the reasons are. I think we need an absolute minimum. I would suggest three is the absolute minimum – that if we have less than three SOs/ACs participating, then all deals are off and the membership model can't work. Sébastien, go ahead.

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SÉBASTIEN BACHOLLET: Yes, thank you, Alan. Two points. The first one is that I agree with you completely. I would just add in the current organization of ICANN. Because let's imagine that – what can be done ... that the registry becomes an SO, the registrar becomes an SO, and the IP lawyer becomes an SO, and then we're at three SOs and that's done. Then I agree with you that a minimum of three, taking into account the current organization of ICANN.

My second suggestion is that you don't need to [inaudible] limitations. It must be a minimum number of ACs. I think it will be – it will have the same meaning. Thank you.

ALAN GREENBERG: Got it. Thank you. I'm not sure – I think you're correct that we need to mention that the three is contingent on the current AC/SO list of who's here today. You can't put in the by-laws that you must reconsider the by-laws if something changes, but I would hope – certainly we can say it, and I would hope that if we ever doubled the number of AC/SOs, whoever was doing that would be looking at this kind of thing. But yes, it's certainly worthy saying that. I'll add that. And yes, I have too many words in the sentence.

Next item – I see no more hands. Next item is the top of page four, the community forum. This is something that came out of the AFRALO statement. The potential problem is, there are statements about the community forum saying it has no standing. We are not defining a specific membership that was intentional. We are mentioning there must be a chair, but not saying anything more about how it is. And

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perhaps we need a statement saying this is an essential component of the overall process. The denigrating words of “no standing,” things like “no standing” tend to minimize it. Therefore I think it may need some stronger words in describing it. Any comments on that? Seeing no hands, no comments.

Paragraphs 407 and 409, I was asked to clarify just to make sure that the original comment said that if there is a removal of directors, the text in the proposal implies that you must convene a community forum for each director removal. This is simply saying that if you’re doing multiple ones at the same time, you should try to do them in parallel.

The section on the diversity in ATRT, there was strong pushback. Some people felt that it does belong in the ATRT. This is diversity review. Other people strongly believe it does not belong in the ATRT. So I put in a statement saying we’re of mixed opinions. There was a comment that rationale – I originally had a comment that in one of the recommendations, it included rationale of why the recommendation was there. There was push-back on that, so I just deleted that sentence. Any comments before I go ahead? Nothing.

There was a suggestion, I believe from Tijani, saying although we disagree with [Eberhard’s] request to essentially ignore the whole report because of how it was done, that say we do note that it was done in an extremely compressed timeline, but we don’t agree that it was compressed for arbitrary reasons or uncalled for, as [Eberhard] does.

That’s all I have. No comments? I did go through the entire AFRALO statement. I had some discussion with Tijani on it because I suspect

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there's going to be some revisions in it. But most of the items that are not already covered in our statement are relatively minor ones, but they are pointing out that there is undefined process someplace, the kind of thing that has been said in spades by the Board and the external legal counsel – that there's a lot of fluff that's undefined, and that is clearly true. I didn't think we really wanted to identify those one by one. It's important to somewhat identify them all, but I don't think it needs to be actively supported by the ALAC. Tijani, as one of the prime authors of the AFRALO statement, may have a different opinion. I think at this point the intention is to turn it over to Tijani if he wants to either highlight or explain any of the parts in the AFRALO statement. I see Sébastien has his hand up, first off.

SÉBASTIEN BACHOLLET: Alan, thank you. First I am not sure that I saw this AFRALO statement in my mailbox but [inaudible].

ALAN GREENBERG: Maybe not. I'm not sure where it was distributed.

SÉBASTIEN BACHOLLET: Then it's maybe good to have this distributed to the members of this group [inaudible] because this group is going to discuss it—

ALAN GREENBERG: At the next meeting?

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SÉBASTIEN BACHOLLET: At the next call. By the way, there are three things—

ALAN GREENBERG: Yeah, Tijani – go ahead.

SÉBASTIEN BACHOLLET: Okay. I have two other things to say. First, [inaudible] in your text as all the points, there are two main instances. The first one you asked at the beginning of the call, and we need to add it in our comments. I think it's a good way to have some exchange with other people. My other point is that I read the inputs from Olivier about director dismissing or whatever. I really think that we need to have this discussion again, at least to highlight that we are really very diverse on the position on that subject. Thank you.

ALAN GREENBERG: Thank you. Sébastien, I missed the middle one.

SÉBASTIEN BACHOLLET: The middle one is what you asked at the beginning of the call, to add the sole designator model as a proposal to discuss [inaudible]. But I do think that we may need to do that outside of the comments because it will come to the discussion. It must be better to come to the discussion in the next few days or even next few hours, and maybe you need to

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find another way to have this included in the discussion of the CCWG. And you have our support if it's a good way to do. Back to you.

ALAN GREENBERG:

I suspect if it was mentioned at a meeting, it will be either shot down or completely ignored, which is what usually happens when someone introduces a new concept in the meeting that wasn't planned in the agenda. But if the opportunity arises, yes, certainly.

Tijani, I don't know if your hand is up to talk about AFRALO or to make another comment. If it's – actually, I have one more comment with respect to Sébastien. On the issue of removing directors, I think I've tried to say that we are a divided community on that. I don't know if we want to go into a lot more detail, but certainly if people feel strongly that there's something missing from the statement, then please try to identify what that is. But I'll turn it over to Tijani right now first. Thank you.

TIJANI BEN JEMAA:

Thank you very much, Alan. The AFRALO statement was [inaudible] to IANA issues. The subject was "my comments." In this name, I commented on the latest Alan statement about the CCWG, and in the end I said, "These are some of the points of the AFRALO statements. It is not yet approved by the AFRALO community, but it is the draft one to be taken into consideration." So you all received it normally. If someone didn't receive it, I can send it to you again. I think that it is better that you read it and then in the next call we speak about it, because I see that Alan [inaudible] a very, very, very [inaudible] part of it.

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Even if we agreed on all of it, we had a discussion, Alan and me, about it, and he agreed on almost everything. But he thinks that it is not important, and he said [inaudible], but I see in the comments that we are doing now in the ALAC statement, some comments [inaudible]. I can give you examples. I would send [inaudible] and give you examples of that. Please read it and then we'll speak about it, because I don't think we have time now to go through them all now. Thank you.

ALAN GREENBERG:

Thank you Tijani and everyone. If you send something in an e-mail that you want me to pay attention to in the statement, please at least put a note in the Wiki saying the e-mail was sent and when it was and what the subject was. The amount of e-mail that's coming in these days from a lot of different sources is such that I don't always notice everything. If you want me to catch it in a revision, then at least point to it in the Wiki. Otherwise I may well miss it, as I did in this case.

With regard to the comments on the AFRALO, as I said, I went through them. I made a judgment call on a good a number of them that I thought they were important points, but they didn't need to be raised by multiple places because they were identifying a deficiency in the report that I don't think anyone will debate. Those I tended not to put in. But this is a statement written by the community and if people feel strongly that something should be in there, then it will be in there.

Tijani, I don't know if that's a new hand or an old hand.

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TIJANI BEN JEMAA: No, no. It's an old hand.

ALAN GREENBERG: Okay. Then I believe I am finished, unless anyone has any other things they want to point out. Sébastien said we should have another discussion on the issue of director. I am certainly willing to have it. Olivier, if we have time, we could do that now.

TIJANI BEN JEMAA: [inaudible]

OLIVIER CRÉPIN-LEBLOND: I think we – sure. [inaudible] ten minute.

ALAN GREENBERG: Just as ground rules, we know we don't agree. Simply identifying – the report does not claim that there's 63% on one side and 37% on another. It's not saying what the split is. We don't need to take a head count to find out who's on which side. I think we are divided. Let's try to keep the discussion to things that need to be said in putting in the report. I may be naïve, but I don't think we're going to convince everyone one way or another at this point, so I think we need to agree to disagree and have our statement reflect that. My preference, of course, is to have statements make positive strong statements, but if that's not possible, then we need to simply move on. But at this point, the floor is open. Sébastien?



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SÉBASTIEN BACHOLLET:

Thank you, Alan. I agree with you. As a goal, it's not to know if there are four people in one hand and two in the other or as the reverse. But if you – why I came back on this issue is that I read the comment made by Olivier, and it take me to look again to the comments you write. The question here, for example, in the paragraph 407 in page 4, it says ALAC community supports the concept of removing an individual director, but divided on the – if it must be done by one single, by the appointing body, or by the community mechanism.

I think the division is stronger as the concept itself. It's why I wanted to come back to this discussion. If the rest of the group feel that it's okay, I will not push on that. I expressed my point of view, I wrote it a few times, and it's not to be included. But my impression is that we are divided on the concept itself. Thank you.

ALAN GREENBERG:

Thank you. My hand is up for another reason, but I'll address that. The sense I got as we went forward is that there is general unanimity that the ultimate threat of removing directors is one of the reasons the other powers may in fact be usable, because there is that threat. I sensed that there was not unanimity perhaps, but close to unanimity on the concept. But the process varied. If I've misread that, then people should speak up. Certainly that's how I understood the overall concept to be.

Let me share something with you that I'm about to send out. I'm still working on the wording. It'll go out sometime today. This is a question to the directors on the accountability list. There are, when I last

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counted, about 11 voting directors. The real question I asked them is – and I have some knowledge of many of them – “Do any of you believe that if push came to shove, you would change how you voted because you were afraid you might be removed?” It’s particularly applicable to the four on the list that are appointed by ACs and SOs, but it’s applicable to the NomCom ones also. Are they worried about protecting their job, so to speak, so that they would change how they voted?

Of the 11 people that I’m looking at, I know most of them pretty well. At least I have judgments of their character, in any case. I can’t see any of them doing that. They would resign first if they had to change their vote, and they would stick by their guns and do what is best. If indeed those are the kind of people that we normally have on the Board, then the only real worry is once we have the ability to remove people, we will now appoint different people. We’ll appoint the ones who will be weak and simply follow our advice. If indeed the community was going to do that, we’d be doing it right now. We wouldn’t be appointing the strongest director. We’d be appointing the weakest person that we can control. I just don’t see that happening. That’s for the reason that I have very little concern that this is going to politicize the system and people will lose independence.

I’ve said my piece. I have Tijani and then Olivier, unless you tell me that was the wrong order. Tijani, go ahead.

TIJANI BEN JEMAA:

Thank you, Alan. If you ask people and say if they will change their vote, they would say no, even if they will change their vote in effective case. A

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second point, we are not speaking about people who are now on the Board or whom we know. We are speaking about the Board members in general. Third point, we generally try to choose the best director. It was very clearly said that he is the best to defend the ICANN interest. Why we decide to remove him as an SO or AC, why? Why we give this power to the appointive organization? It is to make the director look very carefully to the interest of this [inaudible]. And people told me that on our group, people told me. They told me some [inaudible] when they are appointed, they will not care about their community. So we want them to care about the community. This is exactly what I don't want them to do. Thank you.

ALAN GREENBERG: And Olivier.

JIMMY SCHULZ: Alan [inaudible]. Sorry [inaudible] I am not on the Adobe Connect. Can you put me on?

ALAN GREENBERG: I'll put you on the list.

JIMMY SCHULZ: Thank you very much. That's what I [inaudible].

ALAN GREENBERG: Olivier, you're next.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. I think Tijani has actually, again, hit the nail on the head on this one. I think that removal of the whole Board is definitely a threat. It's definitely one of these big things that could happen and the whole Board could be removed and oh my goodness, that would really create waves. The removal of an individual Board director, to me, goes further than a threat. It's more like changing that Board director to being someone you can direct and say, "If you don't do as we tell you to do, and we'll just remove you. And nobody is going to notice. We'll just remove you and put someone else in your place."

That changes the dynamics completely because what you'll end up with is – the Board today is already a collection of people who might not have the same point of view. And I've discussed this with several Board members. Yes, there are conflicts on the Board. There are different points of view. But they will be able to reach some consensus at the end.

If, on the other hand, we have people that are effectively guided by their communities and that have to reach results for their community and if they don't, they're out, then we're going to end up with potential situations where you will have a total paralysis of the Board. They won't even be able to go and come up to consensus on the Board itself. That's the big, big concern I have here, and this is why I really think that this is going to politicize things so badly. It's going to introduce a lot of problems. Thank you.

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ALAN GREENBERG: Thank you. Next I have Jimmy.

JIMMY SCHULZ: Okay. Sorry I'm not on the Adobe Connect. I'm just dialed in because I'm in the car. Well, I think it's a very difficult decision and very difficult question. If I may have that picture that the Board is compared to a government, and the constituencies, and we are, for example, a part of a parliament, of course our job is to control them and to [inaudible] them, the Board. But on the other hand, the argument I just heard and have heard the last couple of weeks to, that there might be a lot of pressure – and Olivier, what you just said, it's too easy, maybe, to replace a single Board member without any notice in public.

But on the other hand, if you compare that to a government parliamentary system, a developed Western system, of course there are a means that you can replace a member of the government by the parliament. But there has to be very high [borders] to do so. I'm not yet decided. But if we think that on the one hand our job is to control, and on the other hand, for that we have to have some means in the hand, because they're elected for a time, and during that time they might do everything they want, but there must be some control mechanism and there must be some power behind that control mechanism. I'm not yet decided, but I just wanted to bring in that picture. Thanks.

ALAN GREENBERG: Thank you. Sébastien?

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SÉBASTIEN BACHOLLET:

Yes, thank you, Alan. My feeling is that what we may want to say is that we support the concept of removing Board members, I will say the concept is the threat of removing, or recalling, whatever is the name you give, the Board member. Once again, I don't think that the idea of removing individuals or recalling the whole Board is the right solution. I think a more granular solution, not to start with room but not to finish with all, that could be done from one to 15, it's a better way to do it. It still gives the threat and it's a more workable solution.

But I will not argue anymore on that. I really think that the proposal can't work. If it's work for the removing, it will be very deep – the same thing. When you remove the whole Board, it will show that the ICANN is not working anymore. If one organization, one SO or AC, decides to remove their Board member or one of their two Board members, it will show that the community is not working well.

I don't think it's a very feasible solution. But if you think that it's the best way to go, then go, and I will stop to argue within the At-Large on that issue anymore. Thank you.

ALAN GREENBERG:

Thank you. A couple of comments. I put myself in the queue. Then we have Olivier and Gordon afterwards. First of all, Olivier, one of the things you said is you can agree with removing the whole Board but removing individual directors is a problem. The last time we discussed this, we categorically said we don't want to see removal of the whole Board. As Sébastien says, that indicates the organization is dysfunctional and it sends messages to the rest of the world that are not messages we

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would want to send. So I think you can't come out on both sides of that. We have to decide how we want to go forward, and we can't pick the whole Board one as opposed to it, but then reject it in its own right.

You also made a comment about removing directors quietly with no one noticing. Well, the process as defined right now, people are going to notice. It requires convening of the entire community to discuss it. I don't think we have a no-notice issue.

Sébastien, were you suggesting that we put the word – the “threat” of removal is what we support, as opposed to the removal? I just want clarity. I think that's what you said, but I'm not sure.

SÉBASTIEN BACHOLLET:

I have no – I didn't give you a sentence to write, but I think it's the threat that we support, but we want to find a better way than the current proposal, it's from my point of view. But yes. And as you gave me back the floor, I just want to make – it's a kind of joke, but the [stadium] process, we don't like them, and I am not sure that we want to have this type of process within ICANN. I know it's strong words, but I really feel that just imagine one of the Board members in front of the whole community to say, “You are doing wrong, you are doing wrong.” It's not something I would like to see. It could be a good [inaudible] idea, but in practice it's not good at all. We have to find the best way to do that, a better way than is currently proposed. Thank you.

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ALAN GREENBERG: Sébastien, on that last point I agree with you completely, but there are a number of people, led by I think Tijani, who said that's absolutely mandatory. Again, we can put "We are divided on this." We don't seem to be coming to closure on it. Olivier, you're next.

OLIVIER CRÉPIN-LEBLOND: Thanks, Alan. You mentioned the removal of the whole Board. Of course, we're going to have to settle for either one or the other: either removal of the whole Board or either removal of individual members. As this, I believe it's probably the last stop of the Board goes rogue. But this is it. This has always been marketed as "if the Board goes rogue." I don't see the set of conditions now at the moment being put in the reason for dismissal if we are to go down a dismissal route.

For a dismissal of the whole Board, you're saying, "Well, that would really create a lot of waves out there," but hang on. If the Board was to be completely dismissed, doesn't that mean that it's really doing as a whole something really wrong, and at that point, are we not way past the idea of "What is this going to look like"? It's a little bit like having a mass-murderer in the family and thinking, "We're not going to say anything because the neighbors might talk about it." Come on. So that's one thing.

But the next thing also is with regards to the removal of an individual Board member, I put it in the chat. If we have certain strict conditions for the removal of a Board member, such as being rogue, acting in a rogue way or something, and there we have to define what rogue is as well and what level of severity merits the dismissal of the Board



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member, I would feel a lot better. But at the moment it's so open, you can dismiss them for virtually anything. Thanks.

ALAN GREENBERG: Thank you. Gordon next.

GORDON CHILLCOTT: Thank you, Alan. Something Jimmy said brought something home to me. This is really a cautionary note. He compared the Board to a parliament. They are very, very different. They're not the same at all. The responsibilities of a member of a Board of a corporation are not in any way comparable to the members of a parliament. Other than that, I'm still on the fence on [both] of these myself, as is my ALS, I should mention. Thank you.

ALAN GREENBERG: Thank you very much. We have Tijani next. Tijani, are you there?

TIJANI BEN JEMAA: Sorry, I was muted. It is true that the removal of the whole Board is [inaudible]. It is also sure that the removal of a single individual Board member, by the SO or AC who appointed him, without reason, is really a big [inaudible] also. So we are not choosing between [inaudible] and another. The issue is that there are problems, and the problems were identified since the first draft. I feel that there are in the community people who absolutely want it to be like this. They want the removal of the individual Board members be done by their SO and ACs, and some

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of them told me clearly, they don't take care of their community, we need them to take care of their community. They need them to be controlled by their community. This is a very nasty thing because as Olivier said, this will make the Board another – we give another kind of Board. It is not the same kind as now.

Second point, very important, I sure don't want to see the recalled Board member to be inside the community and the people saying, "You are doing very bad, you have to go [inaudible]." This is not good. I agree with you. But if I have to accept between this and removing him without any reason by the one who appointed him, I would choose this, because this would make the SO or AC who appointed him obliged to say why they removed him, and they have to say that in the presence of the whole community. This is very important. This will make the harm lesser. That's why I am one of the most [supporter]. This is the issue that makes me say I can live with this solution. Otherwise I will not accept it at all. We don't have to give people the ability to do whatever they want without any control or any even question. Thank you.

ALAN GREENBERG: Thank you, Tijani. A couple of comments, and then we have – Alberto was in the queue, and he's back in the queue.

JIMMY SCHULZ: Alan, could you please put me on the list?

ALAN GREENBERG: Yes, I will do that.

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JIMMY SCHULZ: Thank you.

ALAN GREENBERG: First of all, just to be clear, from my perspective, removal of individual directors says “We made a mistake.” It’s nothing more onerous than that. It’s either the NomCom made a mistake and we’re correcting it, or we as the AC/SO made a mistake. We’re looking at I believe a 75% threshold. That’s going to be hard to achieve unless there’s really universal belief that the person is the wrong person in the job.

Olivier used the term rogue, and actually Thomas also used it, one of the co-chairs, the other day. Both of them I think were using it saying we disagree with the person. I have a very different definition of going rogue. Going rogue is the term we use when we were talking about the Board deciding that IANA didn’t need any more money and would defund it. Something that made no sense whatsoever for the future of the Internet, and yet the Board was doing something patently stupid. That’s what I view as going rogue. Just disagreeing, maybe going rogue from your community, but that’s not going rogue. That’s a completely different thing from my perspective.

I’ll simply note that we have strong and emotional statements from various people so far about whether this should be done quietly and without identifying cause or should be done very publicly and with identifying cause, so we are split on that. We can say we’re split on it or we can just be silent on it. I’ll follow the direction of the community, whichever way you want to go. Alberto, you’re next.

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ALBERTO SOTO: Well, I believe that we need a prior notice. I know that perhaps Tijani will not agree with this, but in many position, when you are acting as an officer in an organization, you receive a prior notice or a certain warning, and then there is a sanction. This is not the same, of course, but I think it should not be that different. So within the requirements to remove an individual member or the whole Board, there should be a kind of prior notice, and perhaps with these prior notices, should not be public. In that way, we can move forward. Because otherwise, we cannot expect someone to be acting in the wrong way and if that person is acting in the wrong way and that is causing damage, then we have to remove that person. But we cannot wait for that. Thank you.

ALAN GREENBERG: Thank you, Alberto. My presumption is that if a director were ever going to be removed, that there would be private discussions first. I'm not sure we can legislate it. Jimmy, you're next, and then we have Eduardo.

JIMMY SCHULZ: Thank you. I want to clear a misunderstanding. I didn't compare the Board to be compared to a parliament. I said if we had that picture, that ICANN will work maybe similar to a democratic state, while the Board might be the government and for example the ALAC a part of the parliament. I completely agree that this picture is not completely applicable to ICANN, but just to have a thought about how things might work and work all around [inaudible], this might be helpful to understand where we can get closer to the problem. Thank you.

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ALAN GREENBERG: Thank you, Jimmy. Eduardo?

EDUARDO DIAZ: Sorry. Can you hear me?

ALAN GREENBERG: Yes, we can.

EDUARDO DIAZ: I just wanted to say that I believe there should be this threat of removing individual directors. I think it should be there. I believe the 75% gives you a high cap that it's – if you get 75% or more people that want to remove somebody, that somebody might be doing something wrong. It's like Tijani said, it's a way of not writing 100% [inaudible] person for the time that this person is there. There's a door that you can actually use if something goes wrong, whatever that is.

I also wanted to say that the thing between quiet and public, I think removing a director will be public. We are in a multi-stakeholder environment, and everybody will know. If we're going to remove somebody, it should be by a [inaudible]. It should not be something like when somebody or a group that wants to do that.

The last thing is, this is the engineer in me talking – let's say we cannot remove the whole Board. We don't support that. We support individual members. Guess what? Not removing the whole Board means all the Board minus one. We can remove all of them except one, and that will make it [inaudible] without removing the whole Board. It will send the

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same message as what some of them were saying before, that ICANN is [inaudible]. Thank you. Those are my comments.

ALAN GREENBERG:

Yeah. By the way, just technically, we could remove the whole Board one by one. At this point there is no proposed rule saying you can't remove the last one. Olivier, you're the last one in the queue right now, and I suspect we've already used up more than your ten minutes, so it's up to you whether we keep the queue open or not. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thanks, Alan. You mentioned earlier the rogue director. I think my definition of a rogue director is the same as yours. Specifically, I want to be able to – well, I don't want to be able to, sorry – the community should be able to remove directors that have gone crazy, that have decided to triple their salaries, that have decided to go on trips around the world and enjoy the finest of champagnes and whatever. But at the same time, it shouldn't be able to use the ability to remove a Board member because it disagrees with its point of view and disagrees with sometimes decisions that ICANN might have to make in the wider context of things. That's one thing I'm really worried about. But anyway, we're starting to go a little in circles. I'll let you say the last words on this topic, and then we'll have to move on immediately afterward.

ALAN GREENBERG:

Okay. Thank you. Two comments. Number one, from my perspective, I use the term rogue regarding the Board or the majority of the Board,

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not an individual. An individual doing something completely stupid is business as usual in the world. We put a whole bunch of people there to hope they don't all do the same stupid thing at the same time. Again, that may just be my perspective.

At this point, other than perhaps putting in a statement saying that some people do not agree with removal at all, but I haven't heard a viable alternative – because Olivier, I think you're the only one who said that, and you suggested removing the whole Board as the alternative. I don't think the ALAC is going to endorse that. At this point, I've heard very little that needs to change in the statement other than perhaps making a couple of words stronger. But if someone disagrees, then put something on the Wiki or send me e-mail or something that I won't miss, and I'll look into it. I've heard there is wide divergence in what we think is correct – whether it should be public or private, whether we should be able to remove it by a single AC or not. But I haven't heard anything that is really changing where we were other than people feel passionately about this.

I'm going to leave it at that. I'll turn it back to you, Olivier. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. I know Tijani has put his hand up. Tijani, I'll let you speak and close off on this topic. We need to [inaudible]. Tijani Ben Jemaa.

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TIJANI BEN JEMAA:

Thank you very much, Alan, or Olivier. And I'm sorry to take over the floor again. You said there was no alternative proposed. There was a very clear alternative from the first draft, Alan. I will not argue about that, but what I want to say is that I accept the removal of an individual Board member if it is done by the whole community and because of a clear reason. This is my point of view, for me, the way to do it. I think that removal of an individual Board member will replace the [due process], because you can remove one til 15. You can remove 15 at the same time. It is a decision of the community. Rather than doing two processes, you can use only one process, but with very clear things. Very clear [inaudible], very clear, and the community, the whole community taking the decision and not a single SO and AC. Thank you.

ALAN GREENBERG:

Thank you. Olivier, if I may try to summarize. Tijani, I know you've changed your position, because in the CCWG you did say removal by a single AC or SO with a public discussion is okay. That's fine. You're allowed to change your mind. But I don't see anything in the statement as written that needs to change. If someone strongly believes something in the statement as written needs to better reflect this discussion, then please let me know specific language you would like to see and I'll try to accommodate, assuming it seems to match with what other people are saying.

So if we can go ahead. But please let me know specifics. We're starting to run short of time.



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OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. Let's move on quickly to our next agenda item. I'm told the interpreters can spare another 10-15 minutes maximum, so let's try and go quickly to agenda item 4, that's the IANA coordination group. We have a statement on this as well. I invite you to take a look at the ALAC statement drafting Wiki. Unfortunately, the [inaudible] public comment input template is the older version of the comment, which still has the red lines on it. What I have done is to take the red lines out. I haven't received any additional major changes to make on the ALAC statement. So the ALAC statement drafting Wiki is version number three, document in PDF format and in Word format. It shouldn't have any red lines on it. Unless there are objections, we could move forward with that.

Why could we move forward with that? Because there is actually – we had an action item for me to have a look at the AFRALO comment and see if we were to add anything from the AFRALO comment. On our agenda page, there is a link to the AFRALO comment. I now invite you to open that up. I have made a few highlights in the AFRALO comment. I hope that they can actually show – yes, they do show on the screen. Excellent. These are points which were not in the ALAC comments so far. The question I wanted to ask was whether we wanted to include those. I wish we had a little more time to discuss them. Let's see. I see Alan has put his hand up, so let's start with Alan Greenberg.

ALAN GREENBERG: Thank you. On the first one, the SLA has been qualified. It was sent out I believe yesterday. So that's no longer applicable. Whether it's

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acceptable or not, I'm not going to speak to, because I haven't looked at it at all. But it was sent out.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. I was going to say that. So the first one I believe we don't need to add specifically. The second one says here, "otherwise we accept and can live with the suggested view of transferring the IANA trademark and domain to the IETF trust as proposed by the numbers community, even though our preference was to leave the IANA trademark and domain with ICANN."

Now, I note here – and you can't open... that's a funny one. When it's on the screen, you can't open the comment for some strange reason. If you were to be able to open the comment, what you would see there is that this preference was mentioned in an earlier version of the ALAC document, and our previous discussions made us take that away. Does anybody feel strongly that we should bring that part back into the ALAC document?

ALAN GREENBERG: The first part is already there. We said we can live with anything that protects the names community, and the IETF trust is presumably one of those with the right ifs, buts, and ands.

OLIVIER CRÉPIN-LEBLOND: Correct. Yes. The first part is there. It's just the – our preference was to leave the IANA trademark and domain with ICANN. Previous discussion

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on one of the calls that we had made us reach consensus, we didn't need to have this there. Alan Greenberg.

ALAN GREENBERG:

Yeah, I see no reason. I don't think we need to reiterate it.

OLIVIER CRÉPIN-LEBLOND:

Okay, thanks. Let's move then to the next one, the next yellow box here. It will be good for the SLA of the respective operational community to explicitly permit such subcontracting possibility as well. Now, that's actually something which I also thought of back in Buenos Aires, I believe, when I did have a chat with the members of the other operational communities. Of course, they had already sent their proposal over to the ICG. Is it something we wish to point out? Is it the ALAC's remit to be able to point such things out regarding the other operation communities? Permitting the subcontracting of the – because at the moment, the current contract that is there with the NTIA is that no subcontracting is possible. When I did ask the other representatives from the other operational communities, they said, "Oh, we have no concern about this. We're fine with subcontracting." Alan Greenberg.

ALAN GREENBERG:

Number one, I don't think it's the SLA that would specify that. It would be the contractor agreement. My understanding is the ICG, in unifying the proposals, did verify with the other two communities that they considered it acceptable to subcontract to [BDI]. My understanding is

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those communities have already tacitly agreed to it, and therefore it would be in the agreements as signed.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks, Alan. Any other comments? All right. Let's go to the next one, then. Now we're at a large yellow paragraph here, because I thought I would draw your attention to the full length of it. It's to do with the accountability. The response that the ALAC – the ALAC response in itself was rather a lot shorter. The operational community proposals together include the appropriate and properly supported independent accountability mechanisms.

What's written here is, "We believe the proposal from the numbers and protocol parameters has sufficient independent accountability mechanisms, considering the historical accountability mechanisms existing within the operational communities. We recognize that the names proposal has a number of accountability dependences on the IANA CCWG Accountability, and we expect that the report from that group, if implemented, will grant the names proposal adequate independent accountability mechanisms as well."

My feeling is that first paragraph is already one would say a given, basically stating facts that are already existing. I felt maybe we wouldn't include this. But the second paragraph, "We're concerned that the CWG stewardship on names suggested composition of PTI has too much on names, considering that the GDD executive is also proposed to be on the Board. We recommend that the skills set requirement for the two external Board members to be sought be balanced across the

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operational communities.” I don’t recall us discussing this, and that’s why I opened the floor for us to discuss it. Alan Greenberg.

ALAN GREENBERG:

I don’t think we discussed it. The other operational communities were given the opportunity to participate, and they said no. They have no interest. My understanding is they’re going to be signing with ICANN. ICANN will have the say – the CWG made a recommendation on who might be on the Board, but it was not tied to that. It’s going to be ICANN and the ICANN Board presumably that will select the directors, and they can add diversity should they choose, but ultimately it’s the ICANN Board and staff that are responsible for the contract ICANN signs, and to do whatever it needs to to make sure PTI can do its job properly or lose the contract. So I think this was discussed in the CWG, at perhaps great length. Not to everyone’s satisfaction, obviously. But I think what we ended up with was lacking any of the other communities there, because they said no.

OLIVIER CRÉPIN-LEBLOND:

Thank you for this, Alan. Any other comments on this? No other comments. Okay. I guess we can leave that out, then, as well. Tijani Ben Jemaa, you have the floor.

TIJANI BEN JEMAA:

Thank you very much, Olivier. This paragraph I think is quite clear and it is – we can say yes, for accountability, but here it is detailed and I think it is fair to say what is in this paragraph for the two first communities,

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they have that [inaudible] and the accountability is there. And for the third, it is [inaudible] done through the CCWG Accountability decision. So I don't know what is the position of ALAC about it.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Tijani. This is why we have this discussion. I don't know either what the position of ALAC is on this. I note time is ticking. This statement needs to be ready pretty soon. We have a closing date of the 2<sup>nd</sup> of September, which is tomorrow, for the calls for comment. I'm not quite sure how the timing should be for the vote on this. Alan, could you please clarify? Do we have time to discuss this online and then follow up in our next call just to discuss this very point? Okay, so Alan has just left. Okay. That doesn't help. Sorry. I don't want to extend this call for another 20 minutes or 30 minutes. I think we've made some good progress on this. We'll follow up by e-mail, Tijani, on this part, and I'll see with Alan if we could perhaps get another 24 hours in order to be able to decide on whether we want to put this in the statement or not.

With regards to the rest of this statement, I haven't noticed anything that was significantly different to what has been said in the ALAC statement. Tijani, you are very welcome to point us to any of the other points in there that you think is significantly different.

TIJANI BEN JEMAA: No, Olivier, this is exactly what I said at the beginning of the call. The comments of AFRALO was more or less the same as ALAC, but there are more details. It is more elaborated, that's all. We are in agreement. But shall we give more details? This is the problem.

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OLIVIER CRÉPIN-LEBLOND: Okay. Thanks, Tijani. I personally, I think the more detail that AFRALO provides is helpful, but I don't see the worth in having the same details iterated by the ALAC, since we are making the same points. So if there was any counting of the points themselves being made, they'd both be saying the same thing, but one would just have a bit more details. So having it twice doesn't really matter in the staff summary of the comments, etc.

TIJANI BEN JEMAA: No problem. It is for me, it is only for ALAC to choose whether to have more comments, more details or not. If ALAC decides to make it very short as we did, it is no problem for me. The answer of the questions are the same.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks, Tijani. Then, if that's the case, let's leave this up in the air still with regards to specifically this paragraph. See if we can discuss this on the mailing list. I invite you all to have a look at the AFRALO proposal and see if we can perhaps pick a few more things in there or if we are okay with how it is at the moment. So far, based on the discussions we've had until this point number three, I don't see anything that we would be adding to the ALAC statement for the time being.

Now we have to unfortunately wrap up. I also note that Alan has left and others will probably leave soon. Our next agenda item is number five. That was going to look at the IANA Service Level Expectations

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document. We weren't going to have any substantive discussion on it, it was just a question of whether anybody had pointed anything out or had noticed anything on there. It's something that was only sent a couple of days ago. I don't expect anyone to have read this. We can always move this agenda item to our next call. So I would suggest we move it to our second call of the week, and it might not take more than five, ten minutes to discuss.

So finally, the next question was, do we need another call this week? My feeling is we probably need another short call this week to verify on the last amendment that Alan has made to the statement on the CCWG Accountability. Then those ten minutes, and maybe another ten minutes on – so ten minutes on the ICG, and then ten minutes on the CCWG, so we would have a – sorry, on the ICG statement. We would probably have a 90 minute call but hopefully would be wrapping up by the 60-minute mark, unless something comes up.

I don't see anyone objecting to this, so with this, I'd like to thank the interpreters, Veronica and David, for the extension of 15 minutes that they've provided us with. Thank all of you for this great input we've had today. It's been very, very interesting. I think we've got great statements coming together and certainly very crucial statements that I really hope will be taken into account very carefully by the ICG and by the CCWG.

**[END OF TRANSCRIPTION]**