

---

UNIDENTIFIED FEMALE: This meeting is now being recorded.

GRACE ABUHAMAD: Hey, Jonathan. It's Grace and we've got Holly and Sharon in the room as well as Lise.

JONATHAN ROBINSON: Thank you. Hi, everyone. We'll just wait a moment and see if either Greg and/or Martin joins us and then we can work our way through the agenda. Start the recording and work our way through the agenda. [inaudible] a while since we spoke with either Holly or Shannon, so hi to both of you.

UNIDENTIFIED FEMALE: Good to hear your voice, Jon.

JONATHAN ROBINSON: Likewise. Hopefully, we've got a reasonable agenda here and we can work through this relatively straightforwardly. So I'd suggest we just give it a couple of minutes, literally till two or three minutes past the hour, and then we'll get things going.

UNIDENTIFIED FEMALE: Sounds good.

---

*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.*

---

JONATHAN ROBINSON: I guess I might as well make a couple of remarks on the agenda. It's probably self-evident that you're obviously in process on the dependencies for the CWG, so we'd like to look at that and just talk with you about how you see that going [inaudible] any concerns you might have there.

I think you've got an earlier note from Grace about the timescales and trying to get this done. We're targeted to try and get it out by the end of today, I think it is. We talked about that. When we last spoke, when you presented the bylaws to the CWG, we talked about actually taking a different approach, and so I think that's probably the meat of the sandwich of this meeting is just talking in a little more detail about how that might work and if that's all okay.

JONATHAN ROBINSON: Terrific.

JONATHAN ROBINSON: And then as far as point three is concerned, we've had with discussions with ICANN and their proposals on implementation, and we wanted to let you know their intentions and plans and see if you had any concerns with that or felt a need to provide any specific input and so we can touch on that, as well.

Hi, Greg. Welcome. I just took a brief tour of the agenda so that I've given Holly and Sharon a sense of what we're hoping to achieve on the meeting. Greg, can you just confirm you've got audio?

---

GREG SHATAN: Hi. It's Greg.

JONATHAN ROBINSON: Hey, Greg. I've just done a very brief informal walkthrough of the scope of the agenda while we're waiting for you to join. Just to bring Holly and Sharon up to speed. And I think we're good to go now that you've joined us.

GREG SHATAN: Great.

JONATHAN ROBINSON: Okay. So let's go straight on to the CWG dependencies. Our understanding there is – thank you. Actually, let's just put a header on the meeting. So Grace, maybe you can just announce the header for the meeting, the recording's started.

GRACE ABUHAMAD: Hi, everyone. So the recording has started. This is the 17<sup>th</sup> Client Committee meeting on December 10 at 17:03 UTC.

JONATHAN ROBINSON: Thanks, Grace. All right. So we have an agenda of four items in front of us that you'll see before you. I've sent this to the client committee mailing list earlier so it's on record. Our attention is to deal with the CWG dependencies work on the ICANN bylaws pertaining to the work of

---

the CWG and to look at detail on the proposed implementation of PTI, specifically the legal work related to that.

So we record we've got Greg Shatan, myself, and Lise Fuhr present from the Client Committee, Maarten sent his apologies. I've got Holly Gregory and Sharon Flanagan from Sidley on, and Brenda Brewer and Grace Abuhamad from staff. Right.

So item one deals with the CWG dependencies, Sidley's work on that where you are assisting us to scope out and make sure that the work, the proposal as it currently stands meets our requirements. Our intention is to submit something formal to the public consultation process, which ends on 21 December, as far as I recall, that essentially confirms or not that it meets our requirements.

So let me hand straight over to probably you, Holly, you or Sharon, whoever is intending to speak [inaudible] give us an update and any issues that you've got or concerns.

HOLLY GREGORY:

So we have the comment letter in the work and are hoping... Our plan is to get it to you today. As you know, there was a significant change between the second draft proposal and the third draft proposal in terms of the model that's being used. So we've moved from a membership model to a designator model.

And by action of California law, someone who is a designator cannot be given the entire span of rights that a member can be given. And that means that some of the powers that CWG has contemplated will now

---

be subject to indirect rather than direct enforcement. And by indirect enforcement, we mean you will have that very coercive power to remove directors and to even remove the full Board should the Board ignore a community effort to reject, for example, a budget or a strategic plan.

Now in my view as a governance professional, I think that that's a very sufficient power, a very coercive means, and I think that that's where the CCWG came out in adopting the designator model rather than the membership model. But CWG will have to make a determination if that indirect enforcement is sufficient. My recommendation would be that you do find it sufficient.

So that's the biggest change in the model and how it impact CWG conditions. Do you agree with that, Sharon?

SHARON FLANAGAN: Yeah, I do, Holly.

HOLLY GREGORY: So then if you drill down, you'll see that there are little places where some of the detail, including some of the comments that you included in your second draft comment letter, haven't quite been addressed. There's nothing that's too egregious but the letter will certainly walk through all of that. I'm trying to pull up our draft of the letter, Sharon, I don't have [inaudible].

---

SHARON FLANAGAN: Holly, I could just weigh in on a couple of examples that are [inaudible] coming in from the last – we made the same comment on the last proposal, and that is the IRP process and ensuring that it also addresses actions or inactions by PTI. You may recall that with the – it was one of the few places on the last comment letter where CWG noted that it did not fully meet the CWG final proposal. So that is still there.

And then there are some more nuanced points around budget. Some of the specificity that CWG has requested on budget is not present in the third CCWG proposal. But I think that's more of a nuanced point and probably could be fairly readily addressed. Other than that, I think it's largely consistent with the last comment letter other than, as Holly mentioned, the enforcement is a different mechanism but ultimately gets you to the same place.

HOLLY GREGORY: In our judgment.

SHARON FLANAGAN: Yes, in our judgment.

JONATHAN ROBINSON: Okay. Well, that's helpful. One of the things that immediately strikes me is actually I think rather than this being relayed via, as of course, it will be great to get the letter as you [inaudible]the draft later today and we will circulate that to the CWG.

---

But it does strike me that it will be very helpful to have you participate, at least one of you, if one of you can be available to participate in our meeting on Tuesday next week. So we should flag [inaudible] to present this particular for the outcome of this work and possibly even initial indicator of the bylaws, but clearly this is the urgent task and to discuss these points. We'll take questions or issues on these points.

Are there any other comments or questions on this from Greg or Lise? Feel free to come in. Greg, go ahead.

GREG SHATAN:

I would only say as a participant in the CCWG process, as well, that I agree with what Holly and Sharon have said, and would support the positions that they've recommended.

HOLLY GREGORY:

I would like to add one other thing, Jonathan, and I think we need to have a little bit of a tone of this in the comment letter, and I'm in a bit of awkward position because, as you know, I advised both groups. But I have concerns around the process that the CCWG uses that sometimes they treat all comments sort of the same, and therefore, comments can get lost when there's a lot of them.

I think there needs to be tone in this letter that attention needs to be paid to these issues where you've provided comments before. You should at least ask for some sort of explanation for if comments are not to be addressed, why they're not being addressed.

---

GREG SHATAN:                               Actually, Holly, that's a very helpful point and I think that's got to be very useful. In fact, it's – I've heard a similar concern expressed elsewhere. So I think it would be useful if indeed we have made the comment. I think it'd be useful to both, as I think you was saying, indicate that we have made the comment before and in the event that the CCWG elects not to respond to it or possibly in any event, it will be useful to know how the comment has been processed or dealt with.

HOLLY GREGORY:                           Yes. We will add language to that. I want a little bit of that tone. The last tone was all about how wonderfully cooperative everybody's been. I think it's time to have a little tone that says, "The CWG conditions are conditions, and therefore, they need to be addressed."

So we will add a little bit of that tone. I probably will come out harsher than you want, then you can soften it.

GREG SHATAN:                               I would actually go even a step further in terms of tone or framing this, which is that while this is being submitted through the public comment process and during the public comment period, in essence, it's really not a public comment. It is part of the working method and requirements of the CWG and the CCWG, and this document should be viewed in that context.

HOLLY GREGORY:                           Greg, that's a great point. And you just stated it so beautifully. Could you shoot me a sentence?



GREG SHATAN: Sure.

HOLLY GREGORY: Thanks.

GREG SHATAN: Yeah, it's a really good point. And thank you, Greg, for making that so effectively and eloquently. I think the key here is that, actually, we said as a belt and braces – or as you say in the United States belts and suspenders approach – we were going to submit our comment to the CCWG. And it's really our analysis of whether the conditionality is met. We would communicate those to the chairs, to the chartering organizations, and through the public comment of the CCWG. But it has a status that is different, and so Greg, thank you for reminding us of that. That is helpful. This is not simply a response to public comment. It is an initial indication to the chartering organizations of whether or not the conditionality is met, and it is a communication direct to the CCWG that is probably for the record onto public comment. Lise, go ahead.

LISE FUHR: Thank you, Jonathan. I must say I'm not sure I agree with the specific tone you want to put in this because we've been in quite close contact with the CCWG on if they fulfill our requirement. So I think it kind of hit back to ourselves.

---

So I would be a little careful with how we state if there's something that's not been addressed because I think we have some responsibility, too, in addressing this if it wasn't probably taken care of by the CCWG. That's one. Another one is that, yes, it's not just a public comment that's equal to others, but it's a fine line between going in and saying that we can overrule everything in that our comments are special. So I would say that we need to tread carefully here.

So I agree with the principle but I think it's a delicate thing we need to express in a delicate way. Thank you.

HOLLY GREGORY:

Lise, I agree that it's very [delicate] [inaudible] and better your first point in a moment. As the things that are sort of missing, the comments where we have concerns where they haven't fully [inaudible] s not because, in my mind, the CCWG has discussed it and decided to go another way. It's sometimes because it's a level of detail that while in some drafts and discussions they went into, they pulled back in the drafting a level of detail and I think it's a way of – so I don't think these are issues where there's really any disagreement. I think it's more sending clearly, "No, no, no. We really need to see that there's a focus on this point that you really haven't quite focused in on yet and that there is a commitment to it."

So it's not that we're saying our comments should override someone else's comments. I'm saying our comments shouldn't be lost in the noise of so many comments and treated just like any other comment

---

where someone has an idea that says, “Oh, you should pay a little more attention to this.”

Here, I think, CWG’s comments in this area do rise to a different level than anybody – just an individual throwing in lots and lots of comments in the comment page. But I would like a better understanding of your first point that CWG bears some responsibility for this. We’re pointing out issues that CWG pointed out in its – either pointed out in its comment letter on the second draft or because of the change to the new model and the redrafting are not addressed in this draft. So I’m not sure how CWG bears responsibility for that.

JONATHAN ROBINSON:

Okay. I could make a stab at that, but I won’t. I’ll let Lise come in. Then go ahead, Lise, let’s [inaudible].

LISE FUHR:

Yeah. It’s just that we have had a close collaboration with the CCWG chairs and the first draft, we said that was actually accommodating our requirements. It needed a few twitches, and they asked, “Does it now fulfill your requirement?” But it might have changed again in this draft. I don’t know. But it’s just that I think we have a responsibility to oversee the work continuously and maybe we have not been following this closely enough. So that’s where I find that we need to – yeah.

We need to not go too hard on them if something is missing, but to – yeah. To, of course, if it’s missing, it needs to be there. Thank you.

---

JONATHAN ROBINSON: So I don't think there's a contradiction here. In essence, Lise, your concern is that we've been meeting regularly with the chairs and your concern is that we ambush them with something quite dramatic that we could have or should have communicated via another channel. I don't think that's what's at play here. I think our intention is potentially to just make sure that things are done thoroughly and properly and that the CCWG work is complete in all respects.

So I hope and expect that we're not about to ambush them with something that they find difficult to deal with. Rather, as Holly says, it's about dotting the Is and crossing the Ts fully with the report, and it can be covered by a non-material revision or update to the report.

And I suppose the practical point is do our comments necessitate some kind of change in the process? And I don't think that's... Or alteration to the timing therefore. And I don't think that's the case.

Let me let you respond, Greg. And then anyone else, by all means, come in.

GREG SHATAN: I think first, hindsight is 20/20. Maybe there should have been a formal CWG liaison to the CCWG whose kind of only job was to monitor dependencies and conditionalities and requirements of the CWG, and that was essentially their brief. We didn't quite have that.

I could have done that, but I wasn't looking at it solely through those glasses. But in any case, hindsight is 20/20. And furthermore, I say that while cooperation at the chair level is essential, that the CCWG,

---

perhaps even more than the CWG, has a mind of its own, and not everything gets shaped perfectly by the chairs.

And lastly, to the extent that anything we have.... Any concerns that we have are interstitial, are things that can be dealt with in the implementation that are not inconsistent with the report, I think that there's no issue with presenting them. Indeed, if they have policy level report and there's lots of implementation left for the accountability group to do. So anything that's essentially an implementation note, I don't think ruffles any feathers or points any fingers or shows any failure in working methods.

If there is language that needs to be changed in the proposal, even that, especially given how the proposal was kind of shaped up and shipped out under far less than ideal circumstances, even then, I don't think there's anything.... That we don't have to take a tone that's rough, and maybe we need to just see what the document looks like. But in any case, this is all being offered in the spirit of cooperation.

At the same time, unless we go back to this at the CWG level and change our requirements, we don't have a lot of flexibility in whether they're met. We have some flexibility in judging how they're met. But they need to be met. So I don't think – this doesn't need to be seen as some sort of tough talk document, but we do need to actually just be very substantive in dealing with any gaps, especially any gaps where we might say that – essentially, at the end of the day, you'd have to say we either agree and approve a recommendation or don't approve a recommendation because something within that recommendation is inconsistent and can't be made consistent through implementation.

---

And really, the third answer, which is one we discussed a lot on the accountability call is the at this point, is we can support this recommendation if the following changes are made. And I think from our point of view, we are different in a lot of ways from any other commenter, including that our conditions are ones that have been agreed to by the community, and not by just any one stakeholder group. And so that in a sense is – we can do this in a.... It's all being done in the spirit of cooperation and coordination to meet the community's needs. Thanks.

HOLLY GREGORY:

And if I may, I just want to make sure that we're not overstating what the areas are. There are relatively minor areas where something that CWG said in describing what it wanted, it's addressed. It may be that when CWG sees those [inaudible], they are so minor that they don't matter. So please, I don't think this is a big deal. I think this is we're talking about making sure that you're aware of what the differences are. It's our job as lawyers to make sure our clients is informed.

You may decide that these things are very minor and don't really matter, and that you're fine with the proposal. We need to point them out to you. So I just want to be very clear about that.

So in terms of tone, I think we should take a gentle tone, but a tone that indicates that these comments important. And then as you see it in draft, you can determine that you may want to decide that none of this matters.

---

JONATHAN ROBINSON: Thanks, Holly, and thanks, Greg, before you. I think we have enough [inaudible] between now and when you produce that. I'll just say one other thing. The point that Greg made, I thought, was useful. To the extent that you are writing something and you feel that it needs to be or we want to give an indication that this needs to be ready, modified in the proposal, or dealt with in implementation, I think that might be a useful point to give in any changes we see.

Because we might want to assert something needs to be done, that we're comfortable with it being done undertaking the implementation or assert that it needs to be dealt with and it's necessary that it's dealt with as part of the proposal. But you're right. Let's not overrate this and let's move on to the next area of the agenda.

I assume that unless you raise a hand... Greg, you've got an old hand. If there's any other points, do raise them. Otherwise, I suggest we go on to the bylaws work now and just have a – make sure that the scope and understanding of what's intended there.

And just as a reminder [Sidley], you gave us a good presentation and a walkthrough, although time is a little tight but not ridiculously tight, of a sort of high-level view of the bylaws work that you had done, and the series of questions and issues that were raised by that for the CWG to deal with.

We asked ICANN staff to compile that into a table form so that we can systematically work through it. But at the same time, we recognize that those bylaws – or we felt that those bylaws as drafted were too voluminous and substantial in that form, and we were seeking from you

---

an alternative presentation of them such that they could be just stripped back to being... Without losing the key effect but were less weighty.

And so I'm not sure where you are in the execution of that request and what, if anything, you need from us on that. I think our feeling was that you would probably still need answers to many of those questions, but in redrafting them, you may not need answers to all of those.

So we've suspended our work on dealing with all of those subject to the redrafting. Let me hand over to you for an update and see where we go from there.

UNIDENTIFIED FEMALE:

Holly, before you speak, can I just speak to the process point? So yes, we did have that call where some concern was expressed about the detail. As far as we understand it, we've not been instructed to do anything other than that CWG was going to consider what it wanted with respect to the bylaws.

So if there is a project to be done, we should talk about that. And then, Holly, I'll leave it now to you to talk about that.

HOLLY GREGORY:

That's what I was going to say. So we have not been doing anything because we've been waiting to hear from CWG on instructions. We do need CWG to answer those questions. We think that it may be helpful to have a longer call with more time for us to really walk through that chart we've provided to you.



---

I know that to non-lawyers, it can seem daunting, but there is a method to the madness. Rather than get engaged right now in a project in trying to skinny down the bylaws, we think it's better to answer the questions so that we have a full vision of what is thought, and then at the end of the exercise, determine what goes into bylaws and what goes into a policy.

That said, I think it's really important to understand that we're creating a legal document that's designed – and our role is to help design it to ensure that it clearly and concisely addresses issues that will be important to implementing and enforcing the vision that CWG had. And that takes a lot of detail.

We agree that it doesn't all have to be in the bylaw. Some of it can be in policies. But if it's important detail, it will have to be in policies that have the same rigor around protections against change that the community doesn't have a role in that the bylaws have. So because the concept is that most of this would have been some sort of – or some of it – fund bylaws.

So it's a long way of saying, Jonathan, that I think the most efficient way of working is not to try to start striping out detail now, but instead to get agreement on the detail to the extent we can so that we can really draft something, whether it's in the bylaws, whether it's in the policies, is an issue to determine later in the stage, not early in the stage.

JONATHAN ROBINSON: Okay. So thank you both. And, first of all, apologies for the way I conveyed it at the outset. We haven't instructed you; it was our

---

intention to discuss it with you and potentially instruct you here. So actually, the purpose of this discussion is to have the preliminary discussion, which we are having effectively now, and so that's useful.

I guess the question then is, what I'm hearing is that you would like us to deal with that range of questions that have been posed in any event, or issues raised in what I call the current long draft. And on that basis, then, we need to discuss with you how the draft might be reorganized.

HOLLY GREGORY:

And what we wanted to propose. I mean, we [inaudible] short time to go through what's a very complicated issue. We do think that this may be something that you don't need the full CWG on, that there could be some kind of working group or task lived working with us to at least preliminarily go through the document. It would be helpful to have people who have a level of either legal expertise or sophisticated experience with bylaws to do this so that we're not spending an inordinate amount of time on education.

I mean, I'm being very frank, Jonathan. One of the struggles in this project and one of the reasons the bills go so high is we have to spend so much time on educating and redirecting away from rat holes. I can see that we could easily get into that if we have to get answers to all of those questions from the full group in a consensus process.

JONATHAN ROBINSON:

Okay. Well that's helpful because we have clearly a balanced responsibility here between ensuring we are thorough enough to

---

include the right level of details but are not so – we don't overdo it such that we run up unnecessary bills. So that's helpful to know and that's useful.

What about that... Just to clarify, you feel that – I mean, our initial idea was to make a first pass at answering all of those questions or issues raised in the long draft and initial draft ourselves. Is it your sense that we should actually try and do that more collaboratively rather than come back to you with our first attempt? You would rather sort of walk through them with an appropriate subgroup.

HOLLY GREGORY:

Well I guess the question for you, Jonathan, is one of – I'm trying to understand sort of from the outside looking in, as one of the concerns about the fact that there's this lengthy document to deal with, is that now you've got to take a group of people through this lengthy document to get them to answer some core questions.

And so if that was part of the concern, I thought with Sharon's excellent skills of communication, if she had a little bit more time and could actually facilitate the discussion of each of those items, she could help explain why it's important, what maybe [inaudible] on some of them. You might be interested in a lawyer's recommendation, although I know that's not how bottom-up works.

I mean, when we're getting into these details, it may be useful to have the lawyers make a recommendation on some of these points. And so whether that's done on a big group or a small group, [inaudible] a way to help efficiently get to sort of movement. What we don't want – and I

---

don't think you want, either – is to open up a CWG deliberation on each of these points. They're not things that should be deserved of that kind of effort. This is really about implementing, and if we've got a group of thoughtful people who understood what the CWG was trying to do, I would think they could provide us with some good guidance.

JONATHAN ROBINSON:

Okay. That's very helpful. I'm conscious [inaudible] waiting in line but just one other point before going to Greg, and that is that, yes, you're right. The length was exactly as you expressed. Well, in the sense that we wanted to find an efficient and effective way of going through answering the detail points.

But there was another one, as well, and I think looking at it, just intuitively, if you like, I got the feeling that the group thought, "My goodness. This is a lot of volume to put in bylaws. Is it necessary that all of this goes into the bylaws?" So that's the second and related point on the length of document.

But I think you touched on that earlier in saying that elements of it could be put into policy. But I think those are the two pieces of work. It's really what can be stripped out and put in a related document without reducing the impact, and second, how can we most effectively answer all of the relevant questions you have?

HOLLY GREGORY:

Right. And on that first question about what can be stripped out, again, we think that that's easier and more efficiently addressed once we've

---

answered the questions and we have – once we’ve got a description of legally [inaudible] policies perspective, how is this going to work.

We can put detail in other places so long as the critical and important detail is protected. Because again, what you don’t want to do is come up with a bare bones set of bylaws at this point that requires community approval to change, but put key aspects of how it’s going to function into some kind of document that the community doesn’t have some influence when ICANN Board, management, or staff want to make changes to.

JONATHAN ROBINSON: Okay. Go ahead. So [inaudible].

HOLLY GREGORY: I’d like to leave that issue until we sort of lock down how we think that his is going to work from a legal perspective, and if we can get that right, what document it goes into is endgame.

JONATHAN ROBINSON: Okay, great. That’s helpful. That’s a key watershed to have got past, and that helps us. It seems there’s an action on that to come back to you with a smaller group rather than the whole CWG who can work with you in a focused and an effective way. Greg, I’ve kept you waiting a while, so let me let you make whatever point you would like to at this point.

---

GREG SHATAN:

Thank you, Jonathan. We're doing something similar in the CCWG with what we're calling an implementation oversight team, or maybe an implementation direction information oversight team for which the acronym is IDIOT. So the IDIOT team is going to oversee kind of the legal drafting and implementation of the IRP changes to the arbitral body and rules.

And it was similarly constituted asking for those with legal experience or at least experience working with governance and bylaws and reading legal output and understanding the role of bylaws in the governance so that it could be a fairly expert team, but at the same time, not just limiting it to lawyers or especially common law trained lawyers. That can seem a little reductive.

But I think that model makes sense. I would use a similar model not far off the Client Committee concept in a sense. And obviously, it can be transparent and the like, but the actual recourse and dialogue should be with that relatively small group. And I think we ended up with about seven or eight people on the team and each person has to put together a couple of paragraphs and a kind of expression of interest and statement of relevance so that choice could be made.

We did seek, ultimately, some balance to make sure it was not just a bunch of primarily North American lawyers. And yeah, I think ultimately we managed to get some volunteers, but it requires some outreach or at least some explicit pointing out that, hey, we have no one from Africa, we have no one from Asia. That's not ideal in terms of the optics of getting this done.

---

But I would basically suggest that we adopt that. I think the CCWG will probably adopt a similar approach to its bylaws oversight work, so I think it all makes sense to me. And I agree, too, that the issue of whether what goes in the bylaws and what goes into ancillary documents is one that will be much better answered after we have everything – have a lot more down on paper.

I think as such, we should make sure that we have somebody involved who is knowledgeable about how kind of ICANN has organized its bylaws versus things like a GNSO operating procedures and the like and what has been kind of put off into secondary document, taking the point clearly that we need to watch what goes where so that the scheme of who can change what doesn't get undermined. Thanks.

JONATHAN ROBINSON:

Okay. Thanks, Greg. So it strikes me that we do need to do some work. We may want to do some work before meeting with Sidley, and try and get the low-hanging fruit out of the way and as we had intended to do, and [inaudible] useful conversation to guide us on that. We can come up. I'll chat with Lise and we can come up with some thoughts as to how we get a small, effective team out of the CWG that can help with this, if necessary, and we can still keep it in full view of the whole CWG. I feel there's a way we can deal with that without making the group too large or clumsy. We've clearly go to do a good job of working with ICANN implementation staff as well as Sidley to get this part of the implementation right.

Holly, did you want to comment?

HOLLY GREGORY:

I just ask that if we do do a small group, we really take advantage of the efficiency that smaller can bring this project is so much more complicated than it needs to be, and largely that's because of the number of voices involved.

We've got agreement now from the community on the CWG proposal. We're talking about the fine-tuned legal points. I really hope we can avoid the kind of deliberation that we had to do to get to the big concept proposal on each of these points. I think – and one of the things that I'm concerned about is I don't see a lot of evidence from my CCWG experience that people are able to self-edit and know when it makes sense to get out of the weeds.

So I'm just putting that out there because I know you're concerned about the legal bills. We're concerned about the amount of time that we have to spend wheel spinning. It doesn't feel good for us when we feel like we're spinning wheels because of the process by which decisions are made.

And I just encourage – I'm going to be frank. I am not thrilled with the size of the group and the process for the IRP. I would like to have three or four really smart, knowledgeable people that we can bounce some things off with the CCWG always having the ability once we deliver it to say, "No, that's not what we meant." But [inaudible].



---

JONATHAN ROBINSON: Yeah. That experience is welcome and we can work with that. I think that gives us good guidance and we can work well with that to provide you with the relevant expertise without going too wide. Sorry. I cut across you there a little. I thought you'd finished. Please [inaudible].

HOLLY GREGORY: No, I think that's fine. I just want to – I hate to disagree with Greg because I so greatly respect him, but I'm dealing with a whole set of concerns on that other project and I am just beginning the bylaws drafting contemplation there.

So there's a part of us that loves to go into a dark cave and draft the thing, and we need some direction from you to go do that. Then we'll bring it back something that you can tear apart and say, "No, it didn't quite get it and why did you this?" And we can help explain it. ut if we have to do a lot of iterations through the whole process, this is just going to be as expensive as getting to the proposals was. And I really don't think it should be.

If we have, I think, Sharon and the team working on the bylaws [inaudible] put forward some pretty clear questions that shouldn't be hard to answer. And with a little bit of discussion, the kind of thing that a three-hour conference call with a set of knowledgeable people should be able to come up with and then we're done, and then we can move on and draft and maybe come back when we have a question, but not like a big clunky process. That's what I'm asking.

---

JONATHAN ROBINSON: Holly, that guidance is helpful and clear and our work with Lise and the group to get you the resources you need to get the answers you require and to try to keep this tight. We want to demonstrate that we can do that thing, so we'll work with [inaudible].

Greg, I think that might be a new hand after Holly's, so go ahead.

GREG SHATAN: Just briefly, I would say that actually, I do agree with Holly so we're not just disagreeing with each other. I think that even with the eight or so people, it will be a little bit of a challenge, although I think the vast majority kind of fit the bill of being qualified individuals and that was what was being looked for. So I think we can balance the various needs.

And I think that this does need to be viewed as an implementation level situation, so, again, ICANN land implementation does fall more into the hands of those doing the implementation, which in this case, really is Sidley. And the reason it's called an oversight team is it hopefully will function more in an oversight function and not require us to kind of flog through together. Clearly, we should make sure from the beginning that whatever we do in the CWG is designed that way.

I take your point, Holly, including how it impacts the legal bill. It's kind of like going on a hike and being forced to follow the dog on the hike, and the dog always walks twice as far as any of the humans. Unfortunately, that's kind of what happens here, and that doubles the bills in many ways because you're following the dog. Thanks.

---

JONATHAN ROBINSON: Thanks, Greg. All right. So I think we understand each other there and we will work hard to get that set in shape and talk with the group about that on Tuesday and we'll come back to you, [Sidley], with a response to that. But in essence, our plan will be to get your questions answered, work with you to refine any that we either can't answer or need you to collaborate with you to do so, get a further refinement, and then ultimately shape the document. So I think we understand that that process better and that's the purpose of this conversation that you saw.

On the next one, then, let's keep us going on to the next one, which is the ICANN implementation of PTI. ICANN has a full implementation plan that you may or may not have seen. There's a project management team under the operations group working on executing the implementation of all of the CWG recommendations, and that includes the set up and legal incorporation of PTI and various other legally related points, as I've put in the agenda item there on things like drafting the articles and the bylaws and so on.

One area that they've been very careful of – and rightly so – is that there are constraints on what can and can't be done ahead of the transition being agreed. So there's a line to walk there between preparing for implementation and actually implementing the work. Nevertheless, the plan is as in when it becomes appropriate to undertake that implementation.

So I guess the question here really was to both give you that information and check with you what, if any, advice or input – advice you'd like to give us in respect to that or input you would like to have, or

---

whether you just want to note that at this stage, and keep us posted. So over to you, Holly.

HOLLY GREGORY:

So as I understand this, what we're talking about is the group at some point someone has to create PTI, create the legal entity to the articles and bylaws. And I understand that in the first instance, the proposal is that that will be ICANN legal. That's fine with us. Our only note is you may at some point want us to review it all to make sure that we think it meets the CWG specifications.

SHARON FLANAGAN:

And can I just weigh in on that, too? I think and I'm also totally fine with ICANN legal doing the drafting there. I think on that, one caution I would have is that the PTI... We form subsidiaries all the time and you use short form three-page articles, three-page bylaws – very, very simple. In this case, PTI is really fundamental to the entire model that's been created by CWG and so those articles and bylaws are critical and they will need to be very, very carefully vetted and reviewed by us.

I don't mind if someone else wants to draft in the first instance, but there are a lot of parts of that that if it's not done in detail and correctly, the model will not work. So that would be my one word of caution is to not treat it overly as a simple just put together some forms. It's not that simple. And so we will definitely want to take a very close look at what's produced.

---

JONATHAN ROBINSON: Thanks, Sharon, and that is precisely why we are raising this with you now. It's exactly that reason. We don't take it that this is in any sense an off-the-shelf entity that can be constructed and just – we appreciate that, but nevertheless, it's very useful to have you emphasize that and we will remain reminded of that.

So as the work to implement goes ahead, we will need your help in – I guess it's not dissimilar, although it's more legal than the framework, it's not dissimilar to the approach we're taking to the CCWG where maybe if we want to talk to ICANN about it feels to me like thinking about this off the top of my head, what we probably want is almost like a heads of terms or some kind of... There may be an interim step here rather than you being delivered a final package, here's the entity, here's the bylaws, here's the articles, here's whatever else goes with it. How does that look?

It may be that there's some form of interim step here that we need to look at.

UNIDENTIFIED FEMALE: Yeah, and I would say, Jonathan, on that, it would be my preference... I didn't want to overly dictate process to them, but it would be my preference that they approach it the way we approach the first cut at the ICANN bylaws, which is first the matrix, first the table showing here are the things we think need to be there, and then get down to the drafting.

The drafting takes a lot of time and if you don't agree on the principles, it's just wasted effort. And there are some things, frankly, on PTI that I

---

have in my head that need to be done, and they may not even realize they need to be done because I'm, I think, probably closer to the CWG model and they might be in some respects.

So I would like to see, if it's possible, a matrix like we prepared before they get to the detail drafting.

JONATHAN ROBINSON:

Okay. Thanks. That's helpful. So Grace, if we could capture that, there's an action there to propose back to ICANN legal if they approach this in a sort of mirror image of the way in which the bylaws have been drafted that it goes to the stages of principles and then draft and then further refine. I think that that's makes a lot of sense to make everyone's work effective.

Greg?

GREG SHATAN:

I just briefly agree entirely with what Holly and Sharon have said that while we could – you can form a corporation in a day. You have one of your associates act as the initial incorporator and you pull standard off-the-shelf bylaws and articles together, and you end up with a shelf corporation, essentially.

Forming an empty and generic shell is not the real assignment here. Forming the unique entity that is PTI, which is an integral part of the entire system we've set up is the real job. And that needs to be approached completely as a substantive exercise under the... With the CWG taking the same role as it would take with the bylaw.

---

So if there's any idea that ICANN has any other idea of that, then they need to be [disabused] of that because it's clear that how PTI functions is determined, in many ways, of the success or failure of our entire exercise. Thanks.

JONATHAN ROBINSON:

Okay. Thanks, Greg. Yeah. I support [inaudible] made in the chat if Grace, [inaudible] they will need to review this, the PTI bylaws and then the action really deals with that properly. The second bullet under item three. Thanks.

All right. We tied for time. I know, Greg, you've got to run a [inaudible] call you in just a moment. So any other business that hasn't been dealt with now? I think it's certainly been useful to, and we've covered off the key points that has been captured in the notes and actions. Any other points of business?

Holly, Sharon, if you could withdraw your hand if you don't intend to speak, and Greg, you seem to have a new hand up again.

GREG SHATAN:

Yeah, just briefly. As you mentioned, DTI PR is moving along and we may need to come back to Sidley for some legal advice and another kind of legal voice about trademarks and best practices and their functionality. It's a little bit of a challenging group to lead. It's small and only about three members other than myself have anything to say at all, and at least one of them, if not more, of those who are very vocal has a very particular viewpoint and goal in mind, which makes the process difficult.

---

So I guess I would just say watch this space and that this will be on the Tuesday agenda along with the document. So I don't know if that means that Josh Hofheimer should be on the Tuesday call, but we at least kind of alert him that there's going to be some activity coming up shortly on this point.

JONATHAN ROBINSON: Okay. Thanks, Greg. I mean, as you know, we need to make sure that any work is instructed through the CWG and done in that way, but certainly I've been given what we've requested already in respect of the dependencies work. We would like to have Sidley be on hand to deal with questions and issues arising from that. I don't think we'll be talking with you about the bylaws at the next meeting and we do need to understand if the PTI PR will need external legal work, so that's important, and giving a heads-up on that is no bad thing.

All right. So I think we've got to call the meeting to an end so that you can get on to the next call. Greg, I'll try and join you with the PTI PR now. Thanks, [Sidley] and Sharon and Holly, that's helpful, and, obviously, thanks, Greg and Lisa, as well. So I think we've covered what we need to for the moment. All right. We can stop the recording and call the meeting to a close.

UNIDENTIFIED FEMALE: Thank you, Jonathan. Thanks, Lise. Thanks, everyone. Bye-bye.

JONATHAN ROBINSON: Bye, all.



**[END OF TRANSCRIPTION]**