

**ICANN**

**Moderator: Brenda Brewer  
October 5, 2015  
4:00 am CT**

Coordinator: Recordings have been started. You may begin.

Jordan Carter: Okay thanks. Good morning, afternoon and evening everyone. My name is Jordan Carter. I'm rapporteur for Work Party 1 on community empowerment in the CCWG.

Welcome to Meeting Number 25 of the group 1st of October 2015 at 10 hours - about 9 hours UTC and this call finishes at 11 hours UTC. So sorry about the confusion with the start time.

I hope that's not the explanation for the relatively small number of participants on the call. But I'm glad to see you all here - those of you who are.

And we've got the agenda but I don't think we'll take the call two hours today, but we'll see how we go. I apologize for not being on the last call with you.

It was at 5:00 am on a Friday after some day job stuff kept coming up until 1:00 am and so I just couldn't do it, but anyway here we are. The draft agenda was sent to everyone on the email list around 12 hours ago.

We'll go through the agenda first. I want to know if there are any conclusions from the previous meeting. My understanding is that some work is ongoing on the budget stuff but we can come back to that.

And the third item is our first meaty piece of work, which is to have Steve DelBianco take us through the incorporation of the Affirmation of the Commitments into the ICANN bylaws.

The fourth item is Greg Shatan taking us through the comments on the Board recall and community power through the comments there. And our last item is to look through the agenda items for the coming meeting.

When I circulated this agenda I should've added in a review of the previous discussion in a more substantive way. My understanding is that there isn't any documentation available for that yet.

So my first call is whether there are any other items that we need to deal with on this call. Is there anything that anyone would like to add into that agenda? If you think of something during the call we can deal with it in the...

((Crosstalk))

Jordan Carter: And I'll just remind us please to keep your audio on mute if you're not speaking. The other thing I'd like to just say that - and to actually comment is I'm very pleased to see a few Directors from the ICANN Board on the call.

It's pleasing to see people coming along and participating in the discussions directly as things have happened and sharing the analysis task in the public comments so thank you to Chris, George and Rinalia who are the people I've followed so far in that list and if there are any other directors there I apologize missing the name.

So on Item 2, review the conclusions to the previous meeting, my understanding is that the main item was the budget and chat plan/operating plan power.

And Steve DelBianco you are on this call and you were the Chair of that meeting I think in my absence. Thank you for that. Would you be able to take a couple of minutes just to walk us through any high level conclusions in that call, and what you're expecting to come next from Jonathan as the kind of coordinator of analysis on the budget comments? Is that all right?

Steve DelBianco: Hey Jordan, Steve DelBianco here. I did note that - Jordan that Jonathan had his wedding this weekend so a new markup from him - you shouldn't expect it for a few more days yet and I know he won't be on today's call.

We did spend practically the entire time on the substance of the budget document. The - prior to that we walked through the composition of the subteam, the groups that are working on each section and the schedule as to when each of the groups could, you know, aim to have their document ready and so far so good.

Greg and I had ours ready very late before this call but at least we got them done before the call. Apologies for not having them done sooner. So with respect to the budget the discussion was extensive in the notion of areas

needing clarification and refinement and of course areas of divergence and concerns.

And because of that we didn't spend as much time as we probably could have on deciding which concerns and issues have made their way all the way to becoming options that we want to put to the consideration of the full CCWG.

So we're not ready with that yet but again I think the goal here is by October the 12th to have each of these documents done. Is that right?

Jordan Carter: Yes Steve my understanding is that what we - what we're preparing for the CCWG to discuss in Dublin is these public comment reports, so not just the reports but the implications and any recommended changes.

And to me the logic of that then suggests the meeting in Dublin where we focus on the naughtiest problems and try and come over to a CCWG consensus on the way to approach them or to some clear options about how to approach them, which are then the fodder for discussion with the community at the ICANN meeting and...

Steve DelBianco: Thanks Jordan.

Jordan Carter: ...that's the approach.

Steve DelBianco: Got it. And aside from that which needs to be discussed we do need to look at things where there was refinement required and diversion in each of these subgroups, as well as WP1 would have to resolve the areas needing clarification refinement as well as diversions.

And so those would have to be presented to the full CCWG but they're not as - they're not going to be as focused as we would on the section where we want the CCWG to make a choice between options if I think I understand that right.

So the discussion focused extensively on the notion of how one makes the decision on the budget, the question of voting, method of voting, how many rounds, sending it back, trying to avoid an infinite loop as it were.

And we acknowledged that we've created the infinite, you know, we created a solution to the infinite loop problem, which was this notion that after a fixed number of community rejections we would revert to last year's budget potentially plus a certain number of percent's.

That creates a whole new discussion. I know it solves the infinite loop problem but it creates a new problem on how to set that budget level, because in the case where the budget is declining a 10% increase doesn't really help.

It may not be the revenues to support it. And then Cherine Chalaby got on the phone, walked through what he characterized as his personal views on it but I believe it echoed the concerns of many Board members.

But he talked about something new and separating the budget into initiatives or programs so that the Board would have the ability to push through a program that it felt was essential for ICANN, even if the rest of the budget level was being objected to by the community.

And Cherine shared that in writing and I think the challenge now is to integrate what Cherine came up with under the format that we in WP1 have agreed to, in other words areas of divergence, clarification and choices to consider.

So Cherine's new idea at this point still has to be worked on further because you could potentially say, "Here's one party's comment," but I'm pretty sure that Cherine was hoping that we would take it to a higher level of consideration.

We also discussed recent discussion of whether comments from one person or another would be weighted differently. That really got the discussion bogged down because it's really not a matter for us to decide, and we are trying to deal with all comments, all ideas and individual ideas that are worthy of consideration and addressing and try not to worry too much about who they came from.

And that's right Kavous. I think I said that earlier. We had not necessarily come to convergence on voting. Hey the rest of you who were on the call - would you assist me in recapping what we concluded? Please go ahead.

Jordan Carter: Let me just jump in there Steve and thank you for that update. I don't want us to go - in an ideal world we would've had a budget. I can't imagine why it is that Jonathan thinks that getting married is any excuse to not complete his ICANN homework.

But, you know, maybe he lives in a different world from the people who are on this call right now. And so - that was a joke people by the way. So I think it's very reasonable that we do wait for him to do that work before we have the substantive discussion.

And so probably I would be tempted to schedule that for the call on Thursday the 8th so we have time for him to take a couple of days out and then - and finish that rewrite.

So I'd ask if there were any other comments about the last call just in terms of updating us where that got to before we move on to our substantive items.

Tijani I see your hand is up. Please go ahead.

Tijani Ben Jemaa: Thank you Jordan. Do you hear me?

Jordan Carter: Sure do. Yes.

Tijani Ben Jemaa: Jordan do you hear me? Okay thank you. Thank you very much. Tijani speaking. I was on the call last time but I wasn't able to speak so I would like to say here that we are still emphasizing, stressing or highlighting more and more the power of vetoing the budget.

But I spoke to (Versailles) about the process during the production of the budget/during the establishment of the budget. We have now a good experience with the Staff of interaction between the ICANN Staff and the community while developing the budget and it is a very good experience.

And I propose that we formalized this so that the risk or the possibility of vetoing the budget will be minimum. So I like our report. We spoke about it in our second report but it is not enough stressed.

I want it to be more highlighted and more considered because if we do it well we will not have to veto the budget at all. Thank you.

Jordan Carter: Thanks Tijani and I think that's a sensible suggestion. It seems to be pushing at an open door in terms of what I remember from the discussion in Los Angeles as well.

If I may make a request it would be that if you have time you could send a short email to the list on exactly that topic just reminding people of the suggestion.

And the reason for that is that then Jonathan and Cherine both will see it, which would be helpful. We ended that there. Thank you. Thank you. And Alan your hand is up. Please go ahead.

Alan Greenberg: Thank you. Very - three very quick interventions. The first one was basically what Tijani just said. The ALAC made a very strong comment to that effect that our focus should be much more on making sure the budget process works than on the mechanics of the veto.

Number two, the - we did decide -- and Steve is right; the conversation went on probably too long on it -- that our purpose, number one, was to come - make sure we didn't miss any good ideas regardless of who they came from, but noted that ultimately this report has to be approved by the chartering organizations and ultimately implemented by the Board.

So some comments when they're strong comments from those bodies as opposed to some constituent parts of it really do have to be listened to carefully and make sure that we're not creating a report which is doomed to be fail - doomed to fail.

And number 3, the discussion did get far too bog - not - bogged down is maybe not the right word. It took far too long reviewing the comments and was not - and did not end up being as productive a meeting as it probably could or should have been, given the very few meetings we have between now and Dublin.



But we need to make sure that we move quickly and get to the gist and the point as we're going through the various comments. Thank you.

Jordan Carter: Okay thanks Alan. I think one way that will be first to crack comments - that substantive item and we'll do that in a minute. I just wanted to raise my own hand if you like to just note that I think everyone's agreed that institutionalizing - not everyone but a lot of people have said that institutionalizing the consultation process that leads to a budget is a good idea.

That was the centerpiece of the Board's - their comments as well and I think we need to do that. But we also need to make sure that in the context of what Workstream 1 needs to do prior to the transition, it is getting the kind of endpoint accountability stuff sorted out whereas improving the consultation process in detail as opposed to writing all of that today into the bylaws, which is easily assessed for the Workstream 1 point and maybe I think further ongoing development improvement rather than the kind of endpoint that's associated with the transition.

But anyway we'll get the write up there and we'll get - these will go into the notes as well. So that's - it sounds like it was an okay meeting but if you have concrete - like you just said in your intervention Alan and I'm going to apply this - your request to Steve and to Greg that in dealing with these substantive agenda items we kind of give - well I don't know how you did it last time.

But my proposal is that we give the presenters a chance to present their stuff at a - not just a high level, not the two minute version but nothing more than six or seven minutes to really be clear about it.

And then the nature of the discussion I think that's most helpful first after that is for people to note and address any comments they think have been missed.

So if you're aware of any comments that have been made that aren't taken into account in the summary that's important, and then moving to teasing out the implications and any options that we're going to present.

And the way I'm proposing that we structure the agenda for the two following calls is that we could come to some tentative conclusions on that on this call, and then we could move on to any further editing of the document that arises and a second reading of it in a subsequent call.

So that's how I hope and think it can work for us. And of course the debate may play out in a different way, but if you've got a different way you'd like to take it maybe drop a line in the chat while Steve is presenting.

But now I'd like to turn to Item 3 and Steve and to present his summary of comments on bringing the AoC into the ICANN bylaws. Steve the floor is yours.

Steve DelBianco: Thank you Jordan. Steve DelBianco here. I'll take your advice as well as Alan's request to really focus on the substance. We have a four-page document and the substance is really on Pages 2, 3 and 4.

If Staff could please load the document - all of you received it I hope via email last night. The first page is simply a recap of - from our proposals. This section on the AoC and the bylaws begins on Page 72 and I have simply inserted what it was that we had recommended at the high level.

And then I indicated we had 18 public commenters/AoC reviews. There were also six more public comments on the section or the tab labeled Fundamental Bylaws who referred to this Section 8B from the AoC.

Remember 8B is the - because - and to remain in the U.S.A. and that spawned the entire discussion of Article 18 from ICANN's bylaws as well as Section 4 from the Articles of Incorporation.

So that is related to the AoC although it might well be something that the fundamental bylaws group is going to tackle. On consensus look we had 18 commenters.

All of them supported inclusion of the Affirmation of Commitments to review the ICANN bylaws. Several have suggested the changes, which I'll cover in a moment.

And there were - interesting that nobody had any comments one way or the other on an entire page, Page 75, from our proposal where we laid out a brand new process to do confidential disclosures to a review team of documents and notes that were considered confidential by ICANN Board or Staff.

Okay so that's it for a recap. Let's go straight into Page 2 please. So all of you can control your own scroll and please go to Page 2. This is six areas that the public comments indicate we need clarification and refinement, and I don't know what the clarification/refinement it should be for these items, and with the purpose of summarizing it for all of you so that we as a group can make a decision.

The first one -- this is at the top of Page 2 for those of you following along in Adobe -- is that we propose bringing the Affirmation of Commitments 3, 4 and 8 into the core values.

These are commitments from ICANN that precede the Affirmation review. One commenter -- it was the Intellectual Property constituency -- thankfully caught something that we probably inadvertently dropped.

In our first draft report from May the Affirmation of Commitments Number 7 was part of the proposal. We had proposed inserting it into the transparency article of ICANN's bylaws, and I have the text pasted right there where, "ICANN shall adhere to transparent and accountable budgeting processes and giving either adequate or reasonable advanced notice to facilitate stakeholder engagement."

So that entire section of text was supposed to go to Bylaws Section 8 under Article 3, which is Transparency. The way we structured our second public comment it wasn't obvious that that is still around, and in fact the text we had on Page 72 actually omits Section 7 from the Affirmation so I feel like we let something fall through the cracks.

This group probably can't resolve it but I did think that we could - sorry. I did think we could revisit this one and either reaffirm that we wanted Number 7 somewhere in the bylaws or that we didn't so that we could then work with the bylaws group -- I think it's Work Party 2 -- to ensure that it made it.

So Jordan I have six items and I'd prefer we cover each one - take Q&A on each one or if it's your preference I can cover all six first.

Jordan Carter: Steve look I think that - run through them and invite comments after each one and if there are comments that's fine and if there aren't that's fine. And once we get to the end of the six we'll do another open queue for any discussion of any of them. Some people may take a while...

Steve DelBianco: Yes.

Jordan Carter: ...to think up what they want to say.

Steve DelBianco: Great idea and it'll be another bite at the apple if somebody wants to comment - inviting after this call since I didn't give you much time to preview it.

So let's - I'm going to propose that with respect to the first clarification requirement that Work Party 1 - I would propose this and ask your input that Work Party 1 agrees with the IPC that Article - that Item 7 from the AoC was inadvertently dropped and should be retained in the same way we proposed in May.

So I will take anyone who wants to comment in objection to that approach. I don't think it's necessary to confirm the approach, only to let me know if you don't think you're comfortable with it.

Yes Avri its fine. No that's - indicate with picks if you wish. We - I just haven't had much luck with the picks method Avri because so few people end up voting one way or the other.

All right, so Jordan I would read that there's no objection to including 7 so - i.e., we should do it and resolve this that it's a clarification. Thank you. And...

((Crosstalk))

Jordan Carter: Okay I think Steve that's a good approach and we will confirm that at a second reading on a later call.

Steve DelBianco: All right, thank you. The second item - again we're on Page 2. The second item was that commenters requested clarification on how we propose to select the members of the review team.

And Work Party 1 came to this relatively late in April when we came up with another plan for how it would be done. I think we finalized it in - no I think we actually finalized it in Paris, and Avri had been the principal proponent of trying to find ways of suggesting how the review teams are constructed.

There's a fixed number of members and an open number of participants. That's from Page 74 and I put it in the document so all of you could be reminded on what we proposed.

There was a question from a commenter who thought it was not clear about whether the community groups appoint their members, and I think it is clear that well they don't.

They appoint candidates to be members but what we wrote was that the chairs of the participating SOs and ACs would select a group of up to 21, and they would select it from the pool of candidates or participants that each SO and AC had submitted.

And Avri you were the author of that section so I want to be sure what is the clarification we need to do for this particular public comment? This looks as if it's the chairs that select them and we can simply clarify that.

You're going to see that in areas of divergence I returned to this notion of review team composition, because a couple of commenters think that the way we've composed this is not going to work very well.

We'll get to that when we get into the Divergence section, okay. So I'll clarify the underlying language that the chairs of the participating SOs and ACs will do the selection.

Number 3. Three is the clarification requested on our Paragraph 507. We had said that care should be taken when terminating the Affirmation of Commitments so we wouldn't disrupt any AoC reviews that were in process.

One commenter went further to suggest that this notion of not disrupting things that are in process includes reviews that were slated to begin in the next calendar year and that they'd be left in place, which is different than only leaving alone the reviews that are in process.

So I guess this comes down to a clarification as to what we meant by in process. So how many - let's take a queue on this. Are there commenters that believe that we should change our recommendation to clarify that any reviews that were quote unquote scheduled or slated to begin would also be left alone?

Now slated to begin is likely to mean that they were scheduled to be three years from the last review, and let's suppose the WHOIS review is scheduled to begin in 2015 as it is.

And if it's simply scheduled or slated to begin then it needs to proceed without the benefit of the changes that we're proposing here after bringing it all the way through community consensus.

That to me doesn't make as much sense and I would think that in process is the right standard and not worry about slated to begin. I see a queue on that. Avri first and then Alan.

Avri Doria: Hi this is Avri speaking. Well the in process - wouldn't that be judged at the point of - at it's - at the point at which the rules changes were made? So in other words I was thinking that we wouldn't stop doing AoC reviews while we're still in this talking phase/this planning phase.

And so I'm not sure that they're that different in what I'm saying because in, I mean, we should be working on the AoC reviews in its normal frame until such time as we have changed.

So I think that saying in 2016 may be problematic because we might change, you know, we might actually get all this done by next July or, you know, and then certainly something that was planned for August wouldn't proceed as normal.

But certainly anything up until the point at which we have started to work is - should be in process. I'm still on my first cup of coffee and I realize that wasn't coherent. Thanks.

Steve DelBianco: Hey Avri I'm equally incoherent this morning and I agree with you that only - in process means what it means. It means that the - if a review is underway when we approved everything well then it still proceeds under the old rules.

This commenter had suggested that anything that was already scheduled in that same calendar year be allowed to proceed under the old rules, and I'm proposing that we clarify that in process means actually underway and not necessarily slated. Alan.

Alan Greenberg: Thanks. Thank you and I'll give notice I haven't had my first coffee yet. I think this is moot and as I read it and maybe I'm misreading it, the changes



we're making in fact shorten the period from what was being considered by the Board.

You know, our interpretation I think is a strict one of three years from the start of the review to the start of the review as opposed to what the Board I believe has proposed as three years from the time the recommendations are delivered.

So we are shortening it so there's not likely to be any reviews that were slated to be started that we would delay because of our changes. If anything we would've said, "Oops it should've started three months ago," and I think we certainly don't want to get into the business of the catch up on these.

So if it started - declared, you know, we've already called for attendees or participants and the review was supposed to start on a certain date then it goes ahead.

It's - no one's mentioned it at this point. Then it should start as soon as practical, perhaps the beginning of the next calendar year based on whatever we're predicting or recommending.

So I don't think there's going to be anything that's in the category they're worried about.

Steve DelBianco: Thanks Alan. And Jordan indicates in the chat our proposal is five years - no less than five years.

Alan Greenberg: Sorry.

Steve DelBianco: But I believe that - yes the example that...

Alan Greenberg: I misspoke.

Steve DelBianco: No problem. And I really believe that this - commenters could say - suggesting that in 2016 - let me give you an example. Let's suppose that we make the decision today at ICANN to postpone the Security, Stability and Resiliency review at ATRT3 to postpone them to 2016 because we just can't get them in in the remainder of 2015.

So they're slated to begin in 2016 under the current Affirmation. Then, next July or August, we adopt the CCWG plan and it calls for a different set of rules, different set of procedures to appointing the team. Would the new procedures kick in or do you still use the old ones? Our recommendation is that the old rules stay in place for any review that's in process at the point the new rules are adopted.

Some public commenters said if something was already scheduled for later in the year it would be allowed to proceed under the old rules. I don't agree with that and would prefer we clarify to say that in process means in process. Members are in the process of selection would be the beginning of the process. And if it hasn't yet moved to that it goes under the new rules.

So I'm actually looking for reactions to that as a proposed way of resolving this comment or request for clarification. Jordan.

Jordan Carter: I think this is meant to be quite simple. Isn't the high level principle here that if there's a review that's meant to happen in 2016 it shouldn't be cause to delay until 2017 while we're working out Work Stream 1? Isn't that the point?

So whether it's in process or whatever, the key principle for us to sum up in the next version is we're not trying to delay any of these reviews. The only

reason that there would be to delay - and we're not trying to enforce our new rules on them either. The only reason would be if there was community exhaustion in being able to even do the review in the middle of the transition stuff that's going on.

So if that's the general principle surely we can come up with some wording that reflects that. And I don't know whether its process or progress or what, I don't really care to be honest.

Steve DelBianco: Thanks, Jordan. Alan.

Alan Greenberg: Yeah, I just realized something else of an implication I think perhaps not what was imagined by the commenter. If you go back to how we implemented the PDP rules that changed to a large extent we said the new rules do not technically apply to the - any PDP in progress at the time that they were adopted. But to the extent possible and practical new aspects of the PDP should be adhered to.

Now as an example, if the next, I don't know, AOC, Whois review has started by the time these rules are adopted the new rules should certainly have - be able to use the new access to information and disclosure of documents rule. We would not want to see the bulk of a whole AOC review go ahead and not have access to documents because the rules had not been already adopted at the time we called for participants.

So I think we say that in general these rules only apply for new reviews that are started. But to the extent possible things that are related to the process followed during the review should be adhered to if and when possible.

Steve DelBianco: All right thank you, Alan. Jordan brings up the issue too, not just the rules it's also the cycle time so we're recommending no less than...

((Crosstalk))

Alan Greenberg: Sorry, I - on the cycle time it either has been adopted or not and we use the cycle time at the time that - that's one of the ones that is key to when it's approved.

Steve DelBianco: Okay.

Alan Greenberg: But the internal processes we should use when and if possible.

Steve DelBianco: Right, so if you just look at the timing if it's next summer and our new cycle time is no less than five, let's say no less than five, and it's been four years since the last ATRT, and ATRT was quote unquote slated to begin in 2016, well, you know what? Four is less than - four is less than five so four would qualify. And the commenter is right, you potentially could go ahead. You wouldn't have to delay the cycle time. If the community wanted to proceed because no less than five, no greater than five I should say, means that you could start every four years.

And I understand that Avri is indicating about postponing ATRT 3 so there's the rules and there's the cycle time are two separate issues to clarify on this. On cycle time this says that you can't go more than five years allows you to start the next one sooner if the community wants to. So we'll clarify that if there's community support to begin this sooner, as evidenced by the community asking through its various ACs and SOs, asking for the next review for ATRT to proceed in 2016 the new rules we're writing would accommodate that. The new cycle time rules would accommodate that.

So we're trying to interfere and purposefully kick the can down the road if the community is geared up and ready to go with ATRT 3 in 2016. So I could write language to clarify that for our next round of discussion. Any other comments on this one?

Great, let's go to the next one, taking action on recommendations. This is Item 4 on Page 2. We propose that - and we carefully considered these words, right? That when review team's recommendations are given to the board that the board has to consider approval and then begin implementation within six months of receipt.

One commenter wanted to stick with the old AOC requirement that the board quote unquote take action. Folks, I don't see any distinction between taking action and considering approval since the action that the board does when it receives the recommendation is that the board considers approval and budgeting of the item.

So we meant that consider approval, maybe this commenter believes that take action implies that they must implement. And I don't believe that's the current Affirmation of Commitment standard. So let's have a little discussion. Do any of you believe that the current Affirmation of Commitments requires implementation versus simply having the board react to and consider the recommendations it receives the same way it does with AC advice?

Take a queue on that. Go ahead, Alan.

Alan Greenberg: The standard we use now is the board doesn't refuse without substantive reason and rationale. I don't think either of the wordings are different from each other in that context. I don't think - either of them don't really imply that

either nor do I think it's really important to. But I don't think our change makes a substantive difference. Thank you.

Steve DelBianco: And so, Alan, just to clarify, we would clarify that the word "consider" is the action that the board does where it looks at the recommendations and either has to approve and begin implementation or explain why it cannot. So we would clarify this one. We would stick with our words but clarify it in the text?

Alan Greenberg: We certainly could clarify that that would not hurt. I believe...

Steve DelBianco: Thanks, Alan.

Alan Greenberg: As I understand the objection it was quibbling over the words and I don't find a problem with the words themselves.

Steve DelBianco: Thanks, Alan.

((Crosstalk))

Steve DelBianco: Greg. Greg.

Greg Shatan: Thanks, it's Greg Shatan for the record. I agree with Alan. I don't think there's a substantive difference between the two. Although it does raise the question why we changed the language from the language in the AOC. There's always going to be a tendency when language is changed for people to look for the difference or the reason that the language was changed.

If we feel that this language is clearer than the language in the AOC then we should stick with it. However, if it makes no difference then we should try to

stick with the language of the AOC. I see Matthew saying in the chat that begin implementation was the key addition so that the - taking of the action was not merely limited to the decision whether or not to (separate). Somebody seems to be - that's better.

So maybe we consider using the language of the AOC but adding in the "begin implementation" language so it's clear that the expectation is not merely a decision yay or nay on a recommendation but that the action - the implementation action actually be taken. I have not...

Steve DelBianco: Greg...

((Crosstalk))

Greg Shatan: ...either, thanks.

Steve DelBianco: Yeah, yeah, Greg keep in mind that the word "take action" is ambiguous. None of us actually now the word "take action" means. So we deliberately chose the words, "consider approval and begin implementation acknowledging the fact that there are some items the board may not approve," and it has to explain why, and for those that approve implementation needs to begin within six months of receipt. That doesn't mean they're all finished with implementation; the words we chose were "begin implementation."

So we actually chose the words pretty carefully. And it strikes me that the commenter wanted to go back to take action, may have imbued the words "take action" to imply there is no choice, that the board must do them all. I don't know what is in the mind of the commenter.

Recall that WP 1 was clear that we cannot require that every single recommendation arising out of review must be implemented. There's quite a bit in our paper on that on Page 70 - Pages 72-76. Chris Disspain. Chris Disspain, we're not hearing you.

Chris Disspain: Okay, can you not hear me?

Steve DelBianco: Now we do. Please go ahead.

Chris Disspain: Okay good. Sorry. Thank you, Steve. Look, I don't know if this is the right time to ask this question and I apologize if it isn't or it's out of context. But I wonder whether you considered looking at the other side of the fence and putting in some requirements in respect to the recommendations that an ATRT group might make.

One of the problems that the board has had with ATRTs 1 and 2 is a lack of clarity on what success looks like and how you would be able to say that this recommendation has actually been implemented. And I just wonder whether the CCWG needs to think about the possibility of putting some requirements on the ATRT committee itself to provide some clarity around the way in which it would consider a recommendation to have been successfully implemented.

There are obviously some of which are easy, you know, do this is easy. And I apologize if this is completely out of context but it floated into my head so I thought I'd say it.

Steve DelBianco: All right thank you, Chris. We did add that at the board's request in the first round of public comments that the review team should attempt to assign priority to its recommendations, that's Paragraph 531. But the idea you just



brought up of clarity as to what completion means is a new idea, it's not something we had in the queue right now, we'll consider that.

I have Alan Greenberg.

Alan Greenberg: Thank you. Chris's comment is quite valid but I'm not sure it belongs in the CCWG report. It should certainly be in the charge that is made to review teams to the extent possible, provide clarity and provide endpoints and things like that. I don't think it needs to be in the bylaws.

I did realize on reading this that our new words are potentially - if you're sufficiently pedantic are in conflict. That is the board shall approve and begin implementation - consider approval and begin implementation. That implies they could reject it and have to begin implementation. I do mention that requires a very pedantic mind to read about what that that's the only problem I can see with the wording.

((Crosstalk))

Steve DelBianco: Yeah, Alan, the considering of approval is the approval of the entire set of recommendations and certainly only some of them are begun implementation within six months. It takes longer to plan the rest of them.

((Crosstalk))

Steve DelBianco: We don't want to wordsmith on...

Alan Greenberg: Yeah. I said it's sufficiently pedantic. I don't think it requires clarification but somebody might agonize over the fact that it technically requires you to begin implementation of ones that are rejected.

Steve DelBianco: All right, happy to take suggestions on the list. It doesn't sound as if we have a consensus to change the words in what we have. They were carefully considered.

((Crosstalk))

Steve DelBianco: ...meant to be less ambiguous. Go ahead, Alan.

Alan Greenberg: I don't believe we need to change them.

Steve DelBianco: Great. Thanks Alan. Appreciate that. All right, no one else in the queue on that one. And let's jump to the next one. It's Number 5 on Page 2. It's called Transparency Requirements. I note that there is now a lively discussion on the CCWG list, it's a big list, regarding new requirements for transparency.

I sent a note around to that list earlier this week on an entire catalog of all the ways in which our second draft proposal address transparency. I put only three of them here because they're part of bringing the AOC into the bylaws. So I note that we do have a good bit of transparency specific in here. And folks were commenting on list saying we need new transparency. I don't really know whether they're aware that we have quite a bit of that in there and there's additional - there's some Work Stream 2 items that are supposed to be done on transparency.

So I'll simply clarify, we have the transparency covered. And it might be worth noting in our next report the commenters who do believe we need greater transparency requirements.

And the final one is the AOC review team transparency, a commenter wanted documentation of the level of support in each of the review team proposals and how community input was considered. So we do have the requirement already, on Page 75 that each review teams report should describe the degree of consensus reached by the review team. And I think that covers level support.

I'm asking all of you, do you think we should expand it to say how does the review team consider that community input it received during public comment? And should it have to describe that in its report? I'll take a queue.

Speak up in favor of or against the idea of requiring the review team to say in their report how they considered the public comments. It's a lot of work to do and yet it is something we expect ICANN to do when we submit public comments to them. And this particular CCWG has been pretty strict about answering each and every public comment. We don't follow every one of them but we certainly address each one.

Jordan notes that it should be a public comment analysis. And Jordan asks if the ATRTs have done in the past? Alan and Avri, I'd look to you for some help on that. Go ahead Alan Greenberg.

Alan Greenberg: Thank you. Like everything else I think the review team is expected to consider them. I wouldn't necessarily say it has to be part of the report. It may be an ancillary document and depending on the context of the review of the comments the responses may be particularly detailed or summarized.

Steve DelBianco: So not required?

Alan Greenberg: I'm reluctant to say it should be required and part of the report.

Steve DelBianco: Got it. Kavouss.

Kavouss Arasteh: Discussing Number 4 or discussing something else?

Steve DelBianco: Number 6, Kavouss.

Kavouss Arasteh: Okay. Thank you.

Steve DelBianco: All right, I don't see any strong sentiment to require it so we will recommend not requiring an analysis of each public comment. Renalia, you think it's a good addition, are you speaking to Number 6, you think the review team should be required?

Alan Greenberg: Steve, its Alan. What exactly is the wording that we have right now? Are we silent?

Steve DelBianco: No, we say - yes, we're silent on the notion of written explanation of how they dealt with public comments. We are silent.

Alan Greenberg: That's different from requiring them to review it -- to review them.

Steve DelBianco: All right so let me get it exactly. It says, "The final output of all reviews will be published for public comment. The draft report of the review will be published for public comment. The review team will consider such public comment and amend the review as it deems appropriate before issuing its final report and forwarding the recommendations to the board." I'll paste that into the chat. So that's what we say today, Paragraph 533. It's in the chat.

So we do require them to consider public comment and amend the review as we deem appropriate. There's not a requirement in there to explain what we did on each and every public comment.

Jordan Carter: Steve, my hand is up. Could I...

Steve DelBianco: Sorry. Go ahead, Jordan.

Jordan Carter: We don't want to get into too much (unintelligible) but I read your Point 6 literally. Comments are once documentation of level of support of the AOC review team proposals and how community input was considered. You then wrote something at the end of your Point 6 that does the former. And should the statement be expanded, you ask, my answer is yes. You should be expanded to say the draft proposal review team should describe (unintelligible) has reached by the review team and how the community input received on the draft report was considered and dealt with.

And it might only be a couple of paragraphs in the final report. Most of the comments received were favorable towards our recommendations and a number of recommendations were improved from the feedback, they were XYZ AB, you know, it seems to be a positive part of accountability for pieces of work to reflect back to the community be input it's been received from the community. It doesn't have to be a big job, it doesn't have to be an industrial-strength multi-thousand page document.

But having some recognition, some statement about how community input was considered seems to me to be a no-brainer and a useful addition.

Steve DelBianco: Alan, your hand is up again or is that a checkmark to agree with Jordan?

Alan Greenberg: My hand got taken down and I made it a tick. Its current practice within ICANN now to use something like public comment review tool. I think it's a no-brainer that most groups will do it these days but mandating the exact procedure and the way it's documented I think it's more than we should have in the bylaws.

Steve DelBianco: Okay. All right, team, I take the paragraph we have, 533, what I put in the chat said that the review team will consider such public comment and amend the review as it deems appropriate before issuing its final report forwarding the recommendations to the board. That paragraph stands. And then we simply want to include in the final report an explanation of how public comment was considered.

Now the requirements in each and every one be details that explain how public comment was considered. And I think that's what Jordan was recommending we could add that. Industrial effort, whatever that means, right?

All right, thanks, everyone. Let's move on to the next page, it's the areas of divergence and there are five of them. The first one is this notion of recommending the amendment sunset or creation of new reviews. In our second draft report we suggested that the ATRT itself could recommend termination or amendment of other periodic reviews required by the section and can recommend additional periodic reviews.

We had a number of commenters say that the ATRT, one team, just not really be a mending or sun setting a Whois review or amending and sun setting a review of security, stability and resiliency but instead we should invest those amendments for sunset powers with the actual individual review team.

So why do we take a queue on that? I don't feel strongly one way or the other. I'd like to hear what everyone thinks. Alan.

Alan Greenberg: Yeah, my hand was actually up before you went on to this section but I'll comment on both. The hand was up to point out that the ALAC did make a comment on core value 5 where we neglected or actually removed between the first and second draft a reference to consumer trust and choice. That's already been looked out in Becky's group so just a heads up that it may come back to us at some point but it was an omission from the AOC review.

On this particular one that was, among others, perhaps an ALAC comment and I feel strongly about it. I know the last ATRT 2 did a substantive review comment not as much as we were originally intending to but a substantive review on the Whois and the security and stability review. And it's really out of place. Thank you.

Steve DelBianco: Thanks Alan. So that was based on actual experience. Jordan, you're in the queue.

Jordan Carter: Thanks Steve. Once again maybe I'm at risk of reading literally. Your analysis for public comment says that the ATRT should not have the power to amend or sunset the other review. Nobody has proposed giving it back power and I'd be opposed to giving it back power as well. All the ATRT is empowered to do by our proposed changes is to recommend termination or amendment of the other periodic review.

Given that all of the periodic reviews are being put into the bylaws, that's what we're talking about, the changes to those standard bylaws would be a process where the community has a veto and where in any case before even it gets to that point the board has to consider the changes, do community consultation

on a bylaws change and pass a vote by 2/3 majority in the board to implement the bylaws change.

So there's already an extensive review and community dialogue process that's in place before it got anywhere near the other community powers that were proposed. So personally I don't have a view on whether the other reviews should be able to make such recommendations, given their more focused and limited in purpose, it's not clear to me why you'd want to give them that power.

But in the end anyone can recommend anything so whether we give them that power or not if they come up with an idea they're going to make the suggestion. So I don't think this is something we need to spend too much time on to be honest.

Steve DelBianco: Jordan, the commenter fully acknowledged what we said which was that a recommendation to amend or terminate would be subject to public comment and the subsequent bylaws change would be subject to IRP challenge. It deliberately said that that is inadequate and that it was inappropriate to start the notion of amending or terminating a Whois review in an ATRT. It should happen - it should come from the team itself is what this public commenter was saying.

And Alan agrees so far. It strikes me that you would like to stick with our current language. Let's say and Avri and then I think Alan is back in the queue to get a broad set of views. Go ahead, Avri.

Avri Doria: Thanks. This is Avri. I - first of all I see absolutely no reason why a review committee itself cannot recommend that, you know, it looks to us like there are no more of these reviews necessary. So certainly them. The issue I've got



with the ATRT either doing it or not doing it hinges on the - the strength of recommendations that we expect - not the strength of the recommendations but the fact that ATRT recommendations are not really supposed to be just eh, recommendations but are really supposed to be things that do happen unless there's really good reasons, you know, why not and then that's an issue to be discussed.

So I believe in keeping the text as it is I believe it is subject to the process that goes on in ATRT. I don't believe it's a thing that they should be doing, in other words, we are going to review all reviews to see if they should be terminated is not a task I think the ATRT should take on. But as part of their task of looking at the review cycle and looking at all the reviews and saying, you know, are these being implemented, not getting into the details, and I do agree ATRT 2 didn't quite have the balance right. I think we went too deeply into, you know, the details of the review and didn't really just look at it at its acceptance and progress.

And so, you know, but it's looking at that deems that there are, for example, they didn't come out with any recommendations this year. You know, and, you know, there were just tweaks that got done immediately. Perhaps these reviews are no longer necessary seems a good appraisal for the ATRT to be able to come out with.

So I'm in favor of keeping it, having said that, but not - but - that's not it's a task it has to take, it's just the conclusion it can come to. Thanks.

Steve DelBianco: Yeah, Avri, I'll note that our language said "may" recommend. And I'm sensitive to the fact that others commented we don't want to heap more and more responsibility for requirements on the ATRT and you're echoing that. The question is should we put the text in each review team that it may

recommend sunset or amendment as part of its recommendation? In other words, have it both places? Think about that as we go down the queue. Alan, you're next.

Alan Greenberg: Yeah, thank you very much. I believe the ATRT should have the ability to recommend changes in the other review teams but not required to. And I believe it is mandatory that each review team have the ability to recommend changes in its own review including not doing them anymore. Thank you. What Jordan said implied that that we were not saying both parts of that and I think both parts are important.

The AOC reviews, all of them, are accountability and transparency and are under the purview of the ATRT. But that doesn't mean that the other reviews cannot make recommendations, which of course will be processed according to the standard, you know, vetting.

Steve DelBianco: Okay. So, Alan, thank you for the clarity there, the clarity is to retain the language on ATRT "may" and to add pretty much the same language to each of the review teams where each review team may recommend amending or sun setting but not the creation of a brand new review.

Alan Greenberg: For their own review.

Steve DelBianco: That's right. That's right. That's right. So - and retain it in ATRT. As a requirement it says "may" today. Kavouss.

Kavouss Arasteh: Yes, I think (unintelligible) clear in order to avoid any conflict, misunderstanding and any contradiction. The language to the word "may" and that is quite clear. It is not obligatory. And it is not obligatory to (unintelligible). We may propose and then take a look at that one either public

community or public comment or any other instance that we review that, therefore I think we should just (unintelligible) as it is and not to add anything to that. Thank you.

Steve DelBianco: Okay. Thank you, Kavouss. And I think staff has captured the conclusion in the notes. And thank you for that. All right, let's go to the second of the five areas of divergence. It's Number 2 on Page 3. It says the review team composition. I repeated the language we had in our proposal for how to compose the team. A commenter said that this would represent a drastic reduction in representation from the status quo.

I need to think about that and understand is that really true. But there's also a suggestion to increase the presence of the affected constituencies. And I think that might be this notion that if a constituency is more affected than others by security, stability and resiliency that it would potentially get more members. That's rather complex but I don't think it's going to be easy for us to do something like that based on the limited public comments.

And then finally there's a notion that the composition we have proposed would dilute the GNSO influence from what it would be today. I don't know if that's true from what it is today. And the number of - the limit of three members per AC SO does mean that some GNSO constituencies would not be represented.

We've been over this many times. You guys realize that there's a lot of constituencies in GNSO with a lot of different views. For instance, I'm supposed to represent the IPC, the BC and the ISPs and they have very different views. So the CSG, or Commercial Stakeholder Group is not a very good vehicle for those three constituencies.

So this was a predictable public comment that we get pushback on that. The question is, do we want to stick with our notion of 21 total, which is, I'm sorry, 21 total review members, which is three members from each AC and SO. And why don't we take a queue on how we feel about review team composition. Stick with it or consider making changes? Kavouss, you're first, your hand is up.

Kavouss Arasteh: Yes. I suggest that we maintain whatever we have. We do not start to have a debate who should have more and who should have less. That was discussed many, many times and discussed as a source of consensus (unintelligible) that 21 averages. You remember I convene - I (unintelligible) many many times and you were one of those people who tried to convince me that that is a good balance with all SOs and ACs. And it (unintelligible). Thank you.

Steve DelBianco: Thanks, Kavouss. And you're right, we had discussed and come to consensus on this but our job here is to consider public comments and some public comments disagreed with our early conclusion. And we don't want to just discard it without discussion. Next in the queue I see Greg.

But Greg, before you start Renalia mustn't have any audio so she's put into the chat. Renalia, I mean, we've come up with 21 so you should give us your feeling of whether 21 is an appropriate number and then Renalia said are all required to have a full and balanced representation and the answer is no because if somebody in SSAC or RSAC doesn't want to nominate anybody to be part of a Whois review well then they wouldn't be represented and we wouldn't end up with 21 in that case because it's three per I believe is the rule that was interpreted in our proposal.

Go ahead, Greg.

Greg Shatan: Thanks. Greg Shatan for the record. Perhaps not surprisingly I would support this change noting that in past ATRT reviews I believe it's been rare, if ever, that a member of the Intellectual Property Constituency has been fortunate enough to participate. And therefore, you know, prefer not to be left with our nose pressed against the window or hoping to communicate through a member of another constituency in the Commercial Stakeholder Group.

It's just not the same. And, you know, for instance even in this group rarely have participation which is with the exception of a couple of participants or members virtually the same as being a member, it's not quite the same. And I don't believe that the ATRT review have this kind of equal footing participation for nonmembers of the review team. So something that leaves out pieces is really, you know, problematic from that point of view. Thanks.

Steve DelBianco: Okay, Greg, I note that you concur the notion that the number could go up. It's clear from our current writing that each AC and SO is limited to three even though we've set a overall goal of having 21. So limit of three is what the current language would say. Is there any sentiment to say that the 21 is total and the target is three each but there could be more or less depending up on SO's level of interest? That's something to consider.

Go ahead, Alan.

Alan Greenberg: A couple of comments. First of all, there has never been an - there has never been an AOC review where every group down to the constituency in the GNSO is represented. That would be a very large number from the GNSO. And would quite completely imbalance the ATRT.

I disagree with Renalia that budget should be the consideration but the size and manageability of the team certainly is and the 21 number I feel very

comfortable with. I could allow a little bit of discretion to the chairs depending on the review and say maybe up to four. But anything more than that I think is quite ridiculous.

The typical AOC review has had two. I believe that Whois review had four. The real issue here is these reviews are not like the CCWG. It is not the matter of the review team creating from whole cloth their ideas. The review team goes out and talks to people and solicits comments. Those comments form the substance of the review, not the ideas of the people themselves.

If you're sitting on one of these groups and you have a great idea and you can't convince anyone else or five other groups to say it's important in my experience it doesn't make it into the review, period. So it's very substantively different and being represented of the ideas of each group is not what the people are there. The perspectives, yes, but not necessarily their ideas.

So I would very strongly not go much above what we have now and I'm quite happy with the three. Thank you.

Steve DelBianco: Thanks, Alan. I think that what you said reminds us that we would not likely get 21 on any review team under this new set of rules. We would not likely to get 21 since some ACs and SOs wouldn't give three particular individuals to be on the review team. So do we end up with too few people if we're only down at 14 or 10 or 11 people. So consider whether we should use the 21 if an AC or SO has a tremendous level of interest and wants to have more than three should it be allowed to as long as we stay under 21?

Now Jordan's view is - right, Avri - out of 21 there's only a few that do the work, right. Jordan is suggesting we put this to the full CCWG as one of the

items for them all to consider. And he only gave me five more minutes to finish.

Alan Greenberg: Yeah...

((Crosstalk))

Steve DelBianco: So maybe we put this to the whole CCWG.

((Crosstalk))

Steve DelBianco: Alan, we've got to move on.

((Crosstalk))

Jordan Carter: Someone needs to push mute on their line.

Steve DelBianco: Great. Under areas of divergence I had three more areas of divergence...

Alan Greenberg: Yeah, Steve, please if I could just get in for a moment. Let's look at what the other reviews teams have had, they have had experts. And I know from ALAC we've never had more than two on. And there's never been a problem getting up so I think we need to go back and look at the actual composition of the past review teams before deciding how much we want to change it. That's all.  
Thank you.

Steve DelBianco: Alan, I love to be fact-based so an item here for staff is if you could please just give us a short little list of each of the review teams we've done and indicate the composition and quantity of people that were on board, that would be helpful. And I appreciate that. Thank you.

Number 3 is the Whois services review text. We had proposed bringing the AOC requirements pretty much verbatim from Whois. We amended Whois to say Whois slash directory services. Now the board itself and Steve Crocker in particular, was very animated about that being a dangerous thing to do and after that setup we didn't know what we'd get but the board itself came back with a relatively - very close set of texts that pretty closely tracks the current Whois instruction.

And they came in about 10 days before the end of the public comment period. It wasn't in our report. And that means that the board's got new text out there that no one else in the community has commented on. So it'll be up to this group, WP 1, to decide whether we want to move forward with the board's new text.

So this is as much to put it in front of you to carefully look at what the board's proposed text is so that you can do what the BC did, which was evaluate whether you think we should support that. Is there anybody that knows at this point how they feel about the board's proposed text for the Whois review? Because if not you'll have to take it home and consider it before our next call.

Alan seems to be supporting the board by putting up a green checkmark. If that's true - if that's not true, Alan, speak up.

Alan Greenberg: It is true.

Steve DelBianco: Thank you, Alan. So Alan and the BC, ALAC and BC seem to support it, Jordan at NZ. So the board text looks like it has general support here. Greg Shatan IPC is particularly keen to pay attention to Whois reviews and Whois



items. So before the next call, Greg, give it a good look. You're in the queue.  
Go ahead, Greg.

Greg Shatan: Just to say I will do so or we will do so.

Steve DelBianco: Thank you, Greg. I really appreciate that. Great to look at it. Okay our next item is Number 4 on this page, the board did not support our recommendation which was you had to wait for the implementation of the consumer trust, consumer choice and competition review before the next round. The board was the only commenter that said they felt that way. I noted here that just one commenter, and they wouldn't necessarily bow to that, but because it's the board I noted it.

And finally, there was a comment that said that the first ATRT review should occur very quickly, very soon after the termination of the Affirmation because - to look at progress of implementing reform. And this gets to the notion of requiring the first ATRT review three years after termination as opposed to what we do which is to allow that. We say you can take more than five years between a review but if the community wanted to do one within three years it could. This commenter, I say its divergence because this commenter wants to require it.

Matthew Shears, you asked about the board's rationale for objecting to waiting, they actually said that they believe that waiting to implement all the reforms that come out of the review would be a barrier to entry for some who want a new TLD. I'm not kidding. I'm not kidding, that was the board's rationale.

Okay a lot of you are still talking about that one and I'm trying to move us along in the next minute to the ATRT review. So I'm going to recommend

that we not require it to be in three years but we remind this public commenter that if the community has sufficient interest it can do the ATRT review as soon as it wishes, it just cannot wait for more than five years.

The last page on here - Jordan, in the last 60 seconds, was that I had written down two areas where I thought we could do full CCWG consideration. And the first is this notion that some of the commitments contained in an AOC review would go into the bylaws as part of the review but there are some public commenters who still want them to go to the mission and core values.

The decision to not put them in mission and core values was reached by the entire CCWG when we met in Paris. And it was the idea that they would still be part of the bylaws but they're not in the same place as mission and core values. And we probably do want to bring that to the full CCWG particularly in Work Party 2.

And the other was this question of Article 18 as a fundamental bylaw or not. And there is a split in the comments about whether Article 18 should be fundamental bylaw. And why am I bringing it up here in the AOC group? Well this all came from the AOC since the question originated out of the AOC's Commitment 8b.

And we analyzed that very carefully in both sets of public comments and said that 8b is reflected both in Article 18 of the bylaws and in the Articles of Incorporation both of which have barriers to having ICANN change that. Because of that we recommended, as a group, we recommended it not become a fundamental bylaw.

I'm letting you know that there is still sentiment, its split sentiment about whether it should become a fundamental bylaws. So I do think that's got to go

to the full CCWG but glad to hear whether WP 1 has a particular interest one way or the other.

All right, I think I've got it covered so far and I'll take lots of notes and look forward to getting emails from any of the rest of you who had offered to help draft especially because I failed to get it to you early enough to get back some comments to me and I'm sorry about that. Back to you, Jordan.

Jordan Carter: Thanks, Steve, for that run through. It's been a thorough discussion. We've got you - I've got you tentatively down to do another iteration of this if required at the call on the 6th of October at 19 hours which is about 36 hours away, 30 hours away.

So my suggestion would be that if anyone has any other comments that they want to make about any of these, either the points of divergence or these options for consideration by the CCWG they drop Steve or the Work Party 1 list an email in the next 24 hours if you could commit to that and that will give Steve preferably like asap but within 24 hours that should give Steve time to mark up any changes and then put this back before the group to identify any further comments that have come through.

So thanks again for that run through, Steve. That took us about an hour and so because we've only got 43 minutes left on the call, Greg, you're going to have to be quicker. But I'm sure you can do that. I'd like to hand over to Greg Shatan to talk us through the next agenda item, which is the board removal public comments. Greg, the floor is yours.

Greg Shatan: Thank you, Jordan. Greg Shatan for the record. (Unintelligible) collated and analyzed the responses but really beginning on Page 3 of the document before you, I assume you have scroll control so you can get to that point. There were

21 comments of which 14, you know, expressed broad support for the overall context of giving the community the power to recall the entire board and really only four commenters who opposed it per se, three who commented on specific aspects but did not weigh in either way on the power as a whole.

Looking through those things that were, you know, possible areas for refinement, and I'll skip Number 1, the second is the concept that they need to develop community standards for board members and in Work Stream 2, this is part of our overall report. It was expressly supported by one commenter so (unintelligible).

An area that got comments from several, and which I think those point to perhaps a need for clarification or expansion, is the standard for selection of the interim board. There were three commenters that focused on this which in each case made it seem that, you know, we did not - really didn't say much about how the board would be selected other than to say that geographic diversity would essentially be waived.

So there were suggestions - one commenter merely suggested there be an enhanced set of director selection standards but made no suggestions about what they could be. A second noted that it was critical to select directors with the deepest technical and governance abilities. And the board essentially echoed that although - and in addition added that high level of independence and professionalism should be required of the interim board and that there should be operational core competencies such as finance, risk audit and governance on the - among those criteria.

And that while those familiar with the work of ICANN should have a role they should not predominate, which I take it as essentially implicating the point that there shouldn't be too many insiders on the interim board, similar to

saying that the - we should never - we should always meet the regulatory aspirations, meeting an aspiration is an interesting thing, meet the aspiration of a predominance of independent directors.

So the question before us is whether we should consider having a list of criteria added to our report or at least more strongly indicate that as part of implementation there will need to be a list of criteria and that they should include these comments - these particular criteria that are suggested and perhaps others might come up in the point - in the - in our discussion.

So I'll take a queue on that if anyone wants to comment - answer that question. Seeing no queue I would suggest - oh, Alan. Please go ahead.

Alan Greenberg: Very quickly, I'm presuming along with anything that goes into the bylaws we're going to have an implementation manual or something. And since we have no penalty we can impose on an AC or SO for not following it, and we're not making it clear who is supposed to provide the accounting competence and who's supposed to provide whatever, I think this is the kind of thing that goes into the text that surrounds the practical operations of these things and not into the bylaws. Thank you.

Greg Shatan: Thanks, Alan. George Sadowsky.

George Sadowsky: Thanks. We're talking about implementation details here, bylaws should be more general and more long range. Thank you.

Greg Shatan: Thanks, George. Jordan.

Jordan Carter: Thanks, Greg. Just really briefly on this, it would seem reasonable to me to - that if we were going to have the ACs and SOs considering removing the

board and in doing that they have to propose alternative directors that in the discussion step of exercising that power there could be a requirement that they talk about the qualities of the directors with an injunction to try and make sure that the basics of those standards are covered. That could be a useful way to do it before they settle on their selection of who their alternative directors would be.

Greg Shatan: Thanks, Jordan. I don't think there was necessarily a suggestion of the bylaws themselves be further amended to have a list of criteria. You know, perhaps what we need to make more clear in our report in the surrounding language, but not the bylaws itself, that criteria for the independent board or the interim board rather will be similar to or track the requirements for the board generally other than recognizing the diversity - the geographic diversity requirements or aspiration may, given the press of time, be waived, which we had one commenter who expressly supported that and no commenters who objected to that which was something that was in our report.

So I think that would be the suggestion to go forward to the full CCWG because, you know, clearly there are standards for the choice of the full board and it's not necessarily a - it's certainly not our job to rewrite those standards or pick different standards for the interim board so it seems those standards should be by and large the same. But, you know, given the absence of a mention that some people - several commenters were concerned that we, you know, that there would be no standard for the interim board so I think we need to make it clear that there will be standards.

Alan, is that a new hand?

Alan Greenberg: No, sorry.

Greg Shatan: No problem. If there's anything further on this we'll move on. To answer what should not be in the bylaws are criteria - detailed criteria for the choosing of an interim board such as the criteria for picking the regular board are also not enshrined in detail in the bylaws.

Moving on, the next was a suggestion from the board for the use of preservice letters, in other words, letters of resignation that are essentially kept in case - and that can be invoked upon the decision either of the board or upon the exercise of the power to remove the board depending upon what forms they should come up with for the actual exercise of this power in our work.

So any comments on the use of preservice letters? Which I think is also an implementation detail but not an important one if it's necessary to make sure that the power actually can be implemented. Any comments? Jordan.

Jordan Carter: Steve, it's a question. And I apologize, I read your summary paper but I didn't read all the individual comments that came in on this so I think you'll know the answer quite simply. But was the board proposing in Number 4 the use of preservice letters that this would obviate the need for a designator or membership structure? Is that the nature of the suggestion?

Greg Shatan: Yes, I would say so or perhaps to say that in the absence of a designator or member with the actual power to remove board members without the need for a preservice letter, that the preservice letter would be used to effectuate the resignation of a board member.

Jordan Carter: Okay, thank you for that clarification.

Greg Shatan: Thanks. Seeing no further hands on this I think this - can pass this issue to the full CCWG but I think that it really has to be looked at in the context of

whether a preservice letter is necessary. I see a couple of hands. Alan Greenberg.

Alan Greenberg: Thank you. I actually prefer the preserve letter to the other powers or using it in addition. One of the concerns of At Large is the possibility of libel slander suits, defamation if someone is removed without their approval. I suspect, but I'd have to check with our lawyers of course, that pre resignation - pre resignation letters obviate that, that is since it's a voluntary decision effectively. So I'm not 100% sure of that but that may well ease that requirement. So they may be a good thing even if we have a requirement - an ability to do it without those letters. Thank you.

Greg Shatan: Thank you, Alan. Malcolm.

Malcolm Hutty: Thanks, Greg. I must say I think that the preservice letter idea needs further clarification as to how it would actually work in practice. It seems to me that it's intended as a removal for cause as in there would be a criteria under which these letters were activated so as to effect the removal of a director.

But how would that be established? Who would decide whether the criteria had been met? What would their accountability be? How would that be open to challenge? It strikes me that there are a great number of questions that I don't think have been clearly answered as to how this would work in practice. And it may indeed provoke rather more questions than it answers.

It never occurred to me that libel was previously an issue. But to Alan's last point, if this is turning the removal of a director from simply you have lost the support of the community and therefore you must be removed, into some form of removal for cause, as in there are some criteria as to when these things would be activated, if there were a concern about libel it would be I would



have thought much more serious in the context of removal for cause than removal without cause.

So I would suggest that we don't send this to the full group but that we continue to consider those questions and to see whether they have easy answers to them and if so how they might be expressed within this working party. And that we only report back to the full CCWG once we have achieved clarity as to how this would work in practice and whether it's something that we will (unintelligible).

Greg Shatan: Malcolm, I think that's a very good point and I think it actually points up a larger issue perhaps with the document in front of you, which is that I relied on the public comment tool that was produced by staff. And I think that the - due to the way that the comments were sliced and diced the issue of standards for removal of the board, which was brought up by the board comments, ended up not being in the public comment tool for removal of the whole board. Perhaps it's in the public comment tool page, for the removal of individual directors. But really it needs to be considered here as well.

And I know that we will be talking about that public comment analysis as well. So I think it's all - this is a case where perhaps looking at the removal of the whole board and removal of individual directors as separate public comment analyses perhaps leaves things falling into the crack.

So I think that what perhaps, you know, should be either in here or incorporated by reference from a discussion of the analysis of the comments on removal of an individual director is comments that we had on the standard for removing a director and whether it should be for cause or just as decided by the commenter - by the community. So that I think is perhaps a weakness of this document, I realize now, that that important issue is involved.

And I think you're absolutely correct that how the preservice letter is invoked is not at all discussed in the comments that were put into the public comment tool. But clearly they are mentioned we will recall. So I see Grace's point was the board's comment essentially looked at the removal of the whole board as removing all board members one by one. So the full board comment here is I think - was regard to the board's comments perhaps insufficient.

So I think we either need to add a discussion of that here or more completely as I say related to the comments on the individual board removal. Note in the chat CSG believes board removal mechanism should not be constrained by the possible (unintelligible) should not be constrained by cause generally.

And that is the sense of our second draft report and that is something that needs to be discussed in this - I see Grace's note that ideally comments on board removal could be discussed together so we'll need to figure out how to marry those together. Sorry for going on on that point. George Sadowsky, you're next.

George Sadowsky: Thank you. Two things, first of all, Greg, your voice indicated some doubt whether the letters were even necessary. Is that correct? Second, I think we should not confuse for cause, which has a more specific legal meaning with the idea of with justification stated which is a more informal way of proceeding. Thank you.

Greg Shatan: Thanks, George. Just to respond briefly, I don't think that if we have a director - sorry a member or designator model that the preservice letters are necessary because it's within the statutory power of the designator or member to remove board members.

Secondly, I think that what the board in fact suggested was a cause, not a justification. And I agree that there are, you know, with justification or for reasons or anything. And I think that certainly it should not seem to be arbitrary or capricious or on a whim, so I think with justification I see a note by Jordan where we go to in LA, I agree with that and also with the concept underlying it.

Kavouss. Kavouss, we can't hear you yet. While Kavouss is sorting out his audio we'll go to Tijani.

Tijani Ben Jemaa: Yes, thank you Greg. Tijani speaking. I think that the preserve letter is necessary at least to avoid any appeal to the removal of the director, to avoid any endless appeal about that. And I think it will be necessary for all kind of model we will choose. We don't do anything to put it now and to consider it and after that you will see what will be the use-ness of this - or the use of this letter. Thank you.

Greg Shatan: Thank you, Tijani. Kavouss, see if we can get you on. We don't seem to be getting Kavouss here so let's move on. The suggestion that removal of the majority of members should be subject to the same threshold as total recall was made by the board. I'm not sure whether that should be part of the removal of the whole board analysis or the removal of individual directors analysis. But are there any comments on that suggestion?

Avri.

Avri Doria: Thanks. I have an issue with that one, a concern in that that starts to make the removal of individual directors a cross - more of across (unintelligible) so concern so then do we start thinking in terms of the dynamics of well these two or three want to remove the whole group but they can't get the full

threshold to remove the whole group. So do they start building a sort of movement in each of the - and it really - there's a linkage between these two processes that I think could have its own dynamics and create its own problems.

So I think - I certainly have a concern with it and I think we'd need to do a whole bunch more analysis on the dynamics of putting that linkage in between these two mechanisms. Thanks.

Greg Shatan: Thank you, Avri. Jordan.

Jordan Carter: And thanks. Thanks, Greg. I have forgotten what I wanted to say but I will use the opportunity to say that we've got about 20 minutes left on the call so we need to move right on.

Greg Shatan: Thanks. I'll try to be snappy. George.

George Sadowsky: Sorry. Pass.

Greg Shatan: Tijani. Tijani, it appears you're on mute.

Tijani Ben Jemaa: Okay. Do you hear me now?

Greg Shatan: Yes, go ahead.

Tijani Ben Jemaa: You hear me? Okay thank you. I would like to confirm - I would like to confirm what Avri said, the linkage between the recalling the whole board and the recall of individual board member. I have always said that it may be one power that we are spilling in two powers. I think that, as Avri said, the

removal of individual board members by the community will lead to the possibility to recall the whole board.

So I'd like to confirm what Avri said and I think that this may be considered (unintelligible) before. Thank you.

Greg Shatan: Thank you, Tijani. Kavouss is back on the call so go back to...

((Crosstalk))

Kavouss Arasteh: Yes, do you hear me now?

Greg Shatan: Yes, Kavouss, thank you.

Kavouss Arasteh: Okay, thank you. I was referring to the recall of the entire board. I understood that the board wants that the recalling will be director by director. Is that correct? Is that is the case I think it is totally unacceptable. Thank you.

Greg Shatan: Oh, thank you Kavouss. George, your hand seems to be going up and down.

George Sadowsky: Oh my God. No, I thought I put it down.

Greg Shatan: Okay. So perhaps you're...

((Crosstalk))

Greg Shatan: I think that covers this discussion and probably this is more relevant to the discussion of removal of individual directors. Last comment that we had suggested that there were no consequences for failure to meet the goal, principles and deadlines we've set forth implying that we should perhaps, you

know, make - have consequences. It seems to me clearly the consequences, if they are hard deadlines for failing to meet them is that the power essentially goes away.

But as we'll see there are those who commented that there are - that these deadlines should not be so firm. So I think this is more an area of clarification that - of what happens if we don't meet our deadline.

So let's move on to the areas of convergence, divergence if we can, skipping over the general opposition, look at the next area of concern Number 2 which is the time period for selection of an interim board which was suggested that the 120 day period, while it seemed to be reasonable, might not be sufficient and therefore this should be a target rather than a deadline.

George.

George Sadowsky: Thank you. I would like to go back to Number 1 and there are a couple of macro comments I'd like to make which cover a number of these points. First of all it's hard to know what to do in terms of averaging the views with regard to whether the board should be recalled or not. You've correctly pointed out we have four against, 14 for and somewhere in the middle. And we also have some comments that this is, both in Los Angeles and here, that this is really a Byzantine process.

My sense is that if you take these as votes, which I'm not sure I'm happy with but nevertheless, if we take these as accurate counts of sentiment, of community sentiment, that the message is pretty clear that what we want to do is keep the power to recall, which by the way I agree with, tighten the standards, nobody has argued for looser standards. A number of people have argued for tighter standards, and some people have said don't do it at all.

But going back keep the - keep the power, tighten the standards because if this ever happens it's going to be a disaster, and we want to make sure it doesn't happen at the whim of sub groups that want to exercise control and simplify the entire process.

The second macro point is the following that I think that the comments, all of the comments have depended upon reacting to the second draft of the CCWG, the second report. And that has some very specific issues in it with regard to model and membership and voting rules and the like.

And my sense is that part of the complexity comes from - in the comments comes from reacting to that model and I'm wondering if we can't find a way which is model independent to exercise that power to remove the board or not. And I'd propose that we look at the existing structure of the organization, that is the ACs and the SOs and see if we can figure out a way within that structure to create rules for the initiation and finally the decision to remove the board. Thank you.

Greg Shatan: Thanks, George. Alan and then I'll move down the list as Jordan suggested.

((Crosstalk))

Alan Greenberg: Thank you, just to note...

Greg Shatan: ...come back for more comments.

Alan Greenberg: Just to note...

Greg Shatan: Go ahead, Alan.

Alan Greenberg: Thank you. Just to note your title for Section 2 is incorrect. It's time period for selection of the replacement board, not the interim board.

Greg Shatan: Oh...

Alan Greenberg: The interim board is named on the removal process, the replacement board, that's the issue.

Greg Shatan: Thanks for the correction, Alan. And I'll correct that in the next draft. Just to run through the remainder of the areas of concern and divergence and then we'll take any comments at the end, since we have 13 minutes left, as Alan points out the time period for selecting the replacement board was considered to be - or should be considered to be a target rather than a hard deadline. Again, you know, query what the consequences would be if it is a hard deadline and it's not met.

Similarly, there was comments that tight deadlines in general could open the process to capture presumably because of narrow participation and suggested that time limits could be set based on prior discussions within the community. And also the community forum could it be invoked again to get greater participation.

Next was a concern that widespread community support should be expressed for this - if this power is invoked. And next, as noted before there - or similarly, another commented expressed concern that the SOs and ACs may not be able to agree on interim directors but, again, didn't suggest a consequence.



Another commented that the process was labyrinthine and cumbersome similarly to one of George's Byzantine characterizations. Another suggested that in the interest of time I think that the CCWG's standards for board removal should be dealt with in Work Stream 2 at least implying that there need to be express standards for board removal. And lastly one commenter suggested that our threshold for total recall should be higher and at 80%.

So take any comments on these remaining points. Seeing none let's just look very briefly at the - there was a minority view expressed that the entire board should be removed or be able to be removed by a single SO, although not a single AC. Six comments rejected the idea and one supported it. And I think the remainder didn't comment but it seems that this remains the minority view.

Alan, please go ahead.

Alan Greenberg: Yeah, thank you. My recollection, but I haven't gone back to the words, is that we required - this is regard the ability of the AC SO to name the interim director. I thought we required them to name the interim director when casting their vote to do the removal. That is the two had to be linked. They can't find a replacement, they can't say remove the board. I thought that was the order but if not it should be. Thank you.

Greg Shatan: I believe that's correct, we should look at that and Jordan confirms that is correct. Kavouss.

Kavouss Arasteh: Meaning of Number 7, establish a standard involved in Stream 2. Does it mean then that the work in 1 and up to the Work Stream 2 we could not recall the entire board? Or it could recall then existing standard that we have in the report, but we are looking for a better or improved standard in the Work

Stream 2? Can you please clarify the - the consequence of this Number 7, that standard should be reviewed in Work Stream 2? Should we be able to remove the entire board before getting to Work Stream 2 or not? Thank you.

Greg Shatan: Thanks, Kavouss. I believe that the comment intended to - was based on the idea that there would be time in Work Stream 2 before any effort to actually remove the entire board would ever take place. So, you know, technically I think if there was an immediate attempt to remove the entire board I think the - depending upon how we phrased things it would presumably be available with or without any express standard.

Steve.

Steve DelBianco: Greg, good work on this. Thank you. And I realize you put a lot of time into it. On Number 7, and I'm on the Page 6 on Number 7, establishing standards, I don't sense there's any support in WP 1 or CCWG for the requirement of standards specific preordained reasons for removal. I think we've concluded that explanations are sufficient but there should not be, you know, a prerecorded standard.

And if that were the case I would hate to make it seem like the choice is whether to do it in Work Stream 2 because I think the consensus of CCWG is there shouldn't be standards at all. Thanks, Greg.

Greg Shatan: Thanks, Steve. And I think that's consistent. You know, clearly we had the board's comments and we had, you know, just one other commenter. But other than that no support. Jordan.

Jordan Carter: Thanks, Greg. I recall a slightly different decision, that we said as a matter of Work Stream 2 would be the said documentation of community standards and

norms that would give shared expectations to the community and to board members that the sorts of circumstances in which they might be facing removal but that that would not translate into objective standards which formed criteria against which such a decision could be made.

Greg Shatan: Thanks, Jordan. That was actually two separate comments, one that supported the board - our suggestion that there should be community standards for board members and a second separate comment was suggested that the - that there should be standards for board removal and that they should be moved to Work Stream 2. So I think the first comment - the idea that the community should set forth its standard for the board so that there'd be some, you know, expectation is something that we continue to support.

But the idea that there needs to be a standard to be met for removal other than it be a reason needs to be given would seem to be not getting broad support.  
George.

George Sadowsky: Sorry, thank you. This is where the idea of justification comes in. Forget for cause that has a legal interpretation and is off the table. But whenever there is a motion to remove either a board member or the entire board there should be a justification given. Now that justification doesn't have to meet legal standards, but it certainly should be something which must be provided at the same time as the request. And it needs to be judged essentially by the community and by the - by whoever decides on the final removal as to its merits. Thank you.

Greg Shatan: Thanks, George. And I sense that there is support whether justification is the right word or rationale or reason...

George Sadowsky: Rationale is fine.

Greg Shatan: Yeah, it should not be just, you know, off with their head sort of thing.

George Sadowsky: Exactly.

Greg Shatan: So looking at Page 6, the option for consideration by the full CCWG basically restates the kind of, you know, more consideration language, the things that we've already discussed. So I don't think there's a reason to discuss them further. I think it would be helpful on the list to discuss which of these we should go forward with and then when we come back to this for a second time we can confirm how we would move forward or if we would move forward on any of these.

So if there is nothing further generally that would be my suggestion. And then we can turn the chair back to Jordan.

Jordan Carter: Thanks, Greg, for that run through. We are out of time so my suggestion is similar to yours, that people have a look at these options for consideration by full CCWG. I don't think anything that has come up in the discussion requires major rewrite to this document or of Steve's, I think they're relatively light touch additions and changes.

And I'm proposing that we deal with a kind of second reading of this board's recall saying in the next call on the 6th of October. And in terms of new introduced content that that will have the individual director removal dealt with as well. So my proposal would be that we will end up discussing them in the same call on the next call, we'll have individual director presented and then we'll go back to all of board recall. So have a look at those options for consideration.

And I think on the CCWG call the next one it might be helpful for us to ask what level of decisions people want to come back as opposed to smaller ones that we can just leave with the work parties because obviously we don't want 75 decisions to make in our eight hours in Dublin. I don't know about you but that will just leave me going to the Guinness brewery instead of doing any work. And so we need to focus our time there on the critical issues, not on the laundry list of small decisions that need to get made.

So both of these I suggest people going back and rereading those (unintelligible) half hour or so in the next day or two and then shipping any comments - well actually in the next day and shipping any comments to Steve or Greg to get stuff done.

And thank you both for those run through. The next two agenda items we can run together I think. As I've already discussed, Steve had done some work on the last call to suggest when public comments are being dealt with. And the next call on the 6th of October at 19 hours UTC (unintelligible) is going to have fundamental and regular bylaws and individual director removal as in the areas of public comments to be introduced.

I'm going to ask that we keep those each to about half an hour leaving an hour on the call - the second half - to do a second look at this board removal one to look at the content on - a second reading of the AOC stuff as well that we've just dealt with. And then on the call on the 8th of October - Thursday the 8th (unintelligible) hours that'll deal with the last content, community forum and the community mechanism or the mechanism question. And we'll have a second reading there of individual director removal, regular bylaws and the budget and strategic and operating plans power.

Now I'm starting to think that in terms of two more two-hour calls this is getting a bit tight. So we - if we run out of time to do this on the 8th of October we'll probably have to schedule another call, I know that's not welcome news to any of us. But just please keep that in mind that we may need to do another call. And if we do it'll probably be at 06 - no, it'll probably be at 1800 hours on Friday, it's a harder time, but I don't see when else we might be able to do it.

So I will send around an update to those work items. And I'll send around the updated list of people who have volunteered to keep doing some work on various things. I've added Kavouss's name to the (CNSM) team. I urge all of you to keep on with the work, those of you who have volunteered, keep in touch with your drafters, the lead people.

And thank you for all the efforts that you're doing. It's hard and good work that we need to be prepping for Dublin. Thank you for the call tonight. And I'll speak with you all again very soon. Have a good morning, afternoon, evening.

Avri Doria: Bye-bye.

END