ICANN

Moderator: Brenda Brewer
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Coordinator: The recordings are started.

Jordan Carter: Good morning, good afternoon, good evening everyone. My name is Jordan Carter, the WP 1 rapporteur. We'll kick this call off in about two minutes from now.

Okay, hi everyone again. Jordan here. We'll start call Number 31 I think it is of the CCWG Work Party 1 on Enhancing Community Powers. Alan, your hand is straight up. Go ahead.

Alan Greenberg: Thank you. I've got a conflict for this meeting so I'm going to drop off in a couple of minutes. I did send an email a few minutes ago with a number of issues raised. And I will send another one later today. And I will try to participate in the call which - the next call which at my time is 2:00 am. But I'll try to be on at least for the first hour of that one.

Jordan Carter: Okay.

Alan Greenberg: So thank you for taking a look at what I've said and we'll talk later.

Jordan Carter: Okay. I'm not - if we get - depending on the feedback that people raise I'm anticipating both of these calls to be quite short so just so you know that. And just for the record everyone, Brett Schaefer is online with audio only. Is anyone else online audio only today? No, so welcome, Brett. Thanks, Alan. And when you go good luck with what you've got on.

Alan Greenberg: Thanks. Thank you very much.

Jordan Carter: No problem. As was advised in calling this meeting the point of this discussion is to get any - the feedback that you want to talk through or share about the draft text that was circulated a couple of days ago. And really that's to help us accumulate tweaks and improvements or to raise any fundamental problems that need to be solved.

                   And so my - I'd like to kind of take this in two calls because we can all provide written feedback on details. We've had a quick (unintelligible) through yours, Alan, and that seems to be - oh he's gone - that seemed to be the nature of most of his written feedback. To be honest, most of my feedback from working through the proposal was first for annexes is the same.

                   So my proposal is that we just first off do a sort of any significant issues that people would like to raise as a kind of first call and then to go through any more detailed ones that people feel they need to discuss rather than just sending out in an email.

                   Remember of course that sending an email around is by far the easiest way for the staff to make sure that your intent is clearly captured and stuff and same for me. So really this is kind of an add-on process rather than a fundamental

debating one. We're certainly not here to make any decisions. We're not here to change one word for another, to fix one, adding grammar and so on.

So with that, does anyone have any things that they think are pretty significant in terms of WP 1 responsibilities which is the relevant parts of the proposal, Annexes 1-4 and Annex 9. So I'm asking that question knowing that at least one person does have one that they want to raise that I would put in that category which is Steve DelBianco.

But it's, you know, you'll have your judgment about what's more or less significant. I'll be a little bit liberal on interpreting that. But if it's a line edit we're just going to stop the talking.

So, Steve, do you want to raise the issue you just raised with me directly/

Steve DelBianco: Sure, Jordan. Steve DelBianco here. It's funny, when we say no line edits I took that to mean don't do any draft changes on the document. But if in fact we found a line that we thought had an error in it is it appropriate to send an email pointing out that line?

Jordan Carter: My view would be yes especially if it's an important one that changes the meaning. But the important thing that you need to get across is what the meaning issue is, not what the change in word is.

((Crosstalk))

Jordan Carter: My interpretation of what no line edit means.

Steve DelBianco: Got it. So, Jordan, you and I chatted a little bit about this on Skype and I also sent around a list this morning. Starting on Page 3 but continuing all the way

through on Page 46, when the community powers are listed we've lost one of the community powers that was in our first and second draft which was the community's ability to initiate an IRP over any action or inaction of the corporation.

This is completely apart from budget, strat plan, completely apart from spilling the board, apart from anything else. We've always said that one of the community powers would be to challenge the action.

And I think about half the stress tests rely on that community power, to be able to have a binding IRP and then if the community would approve at a certain decision threshold and that ICANN would pay the legal fees. So we seem to have - yeah, Robin exactly - we seem to have dropped it out when we started focusing on the IRP as the enforcement step for the other five powers. And it is that. I get that. But totally apart from that it stands alone as an IRP.

And I know that Becky Burr's Work Party 2 handles the specific reforms to the IRP. And on Page 46 they do talk about the ability for the community to launch one and that ICANN would cover the fees. But I think we need to start listing, again, a community-based IRP among the community powers. And we did so in Dublin.

It was one of the seven powers in Dublin from which we had a decision threshold for a phone call, for a community forum. And we even had a special row in there for triggering a community-based IRP. And it was three ACs and SOs in favor, no more than one against. So I really feel like we've lost it and I think it's just inadvertent. And we've got to put it back. Thank you.

Jordan Carter: Thanks, Steve. My understanding is a little different, not on the substance. I know that we had always contemplated that this would be available and that

we talked about decision thresholds, you know, it should be clearly identified. I just thought it was dealt with in Work Party 2 as one of the features of the new IRP, that the community would have access to it on any issue and not just one - an issue of the board action or inaction, not just one that related to the five community powers.

I think it's a - if it stays there it needs to be very clearly identified. If it's listed among the specific community powers I think that wouldn't do any harm personally as long as it's somewhere and it's clear that we haven't removed that. In other words, no one is saying that the only IRP related power is to deal with these currently five or six listed community powers.

Bernie, do you want to...

Steve DelBianco: Jordan...

Jordan Carter: Hello, Steve, was that you?

Steve DelBianco: If I could just follow up real quickly on that. Thank you.

Jordan Carter: Sure.

Steve DelBianco: Thank you. The improvements to the IRP are available for any aggrieved party. And that's part of what Page 46 and Becky talk about. And Becky does mention that a community-based IRP can happen but there's no discussion of the decision threshold and the engagement and escalation process.

And that is Work Party 1 where we would discuss this is one of the powers that requires, you know, two to hold a phone call; two to hold a forum and

then three to launch. So I think it's got to make it into the powers or it just gets lost.

Jordan Carter: Okay. Thanks. I saw Robin agreeing with that in the chat which is another view. I don't see anyone disagreeing with it. Bernie, could you just - are you on the call? And if you are could you just have a little - see where that sits with you. Your hand is up I see so that's good. Avri is agreeing too.

Bernard Turcotte: Yeah, I mean, we're waiting for direction, it's just that, you know, the fundamental text and what we've been describing is the five powers and not to confuse things. We tried to stick that but we've also had the issue of, you know, where do we put this in.

And, I mean, it would be odd in writing to say at the five powers and then describe seven of them because let's not forget, we've got the two additional things relative to the special IANA reviews which we also listed in the Dublin thing.

So, you know, we've mentioned these things in the document in other places. We did not think logically it made sense to put those things at the same level in this five powers discussion because the five powers discussion has been brought up.

And I believe it was about a month ago we actually had a discussion with that with the leadership and I remember fairly well that we said no, no, we're not increasing the five powers to seven powers, we've got five powers.

So I think, you know, it's not that we don't want to show it, we'd just like to be clear where to show it. And if what we're suggesting is actually changing the five powers to seven powers or if we should just mention it elsewhere and

include the information about how it gets done. I mean, we're - we don't have a view on this apart from the fact that showing seven powers when we say five powers is a little inconsistent. So we're looking for direction on that.

Jordan Carter: Yeah, thanks - thanks, Bernie. I mean, to be honest I don't think that, you know, as long as we mention the right number it doesn't matter what the number is. People won't be profoundly shocked if we change from five to seven or whatever.

So I think that we should, you know, one of the things I was going to ask you, Bernie, was where in the annexes, because I haven't read all of them, where in the annexes is the information about the IANA functions review stuff? Where is that spelled out in detail?

Bernard Turcotte: Currently it's not and that's one of the other issues about us having problems trying to put these things in there. And we would really like, you know, we feel it's absolutely necessary for a final proposal but in the mad rush to get this - this was one of the outstanding items so, again, I think we understand perfectly what kind of text we want to put in. We understand that. We're just really uncertain about where we would like to land that.

So if we decide on where we want this to formally show up in the proposal and for the IANA reviews and other related stuff right now what we've done is put that in under fundamental bylaws. And so we could technically do the same thing with a general community IRP and describe the enforcement and engagement process as we have for the other ones there. That's one option.

And then we could - if that is acceptable to people then we could describe the IANA review processes and separation processes in detail in the fundamental

bylaws annex. But that's just one suggestion. As I say, we're just really trying to figure out what would be best.

Jordan Carter: Yeah. So I think we've clearly identified the issue which is that the community IRP needs to be clearly identified. We've identified an issue that it isn't clear among staff exactly where it should live and it's probably not clear among us either. And we've sort of add in about a subsidiary issue about the IANA functions review stuff and where that currently is.

I don't think we should try and solve that right now on the call but I think that we should have some options to answer that for discussion on the CCWG call. Is that going to be okay in terms of timeframe? Because I explicitly said these meetings weren't going to be decision meetings so I think we need to stick to that.

Bernard Turcotte: Jordan.

Jordan Carter: Bernie.

Bernard Turcotte: Although we're not having a decision meeting I'm seeing Thomas's suggestion in that chat that the IRP could just be expanded in the IRP section. And I'm perfectly comfortable with that. As I said, we're just trying to get direction about what people want us to do with this.

Jordan Carter: Yeah thanks, Bernie. Steve, go ahead.

Steve DelBianco: I agree that the IRP section is a place to mention...

((Crosstalk))

Steve DelBianco: Hello?

((Crosstalk))

Steve DelBianco: Thanks, Jordan. In addition to identifying it in the IRP where we describe the community powers, Avri, Robin and I couldn't have seen it more clearly that it is one of the community powers. We've all covered it as if it were one in Dublin. And I can't believe we would just bury it back in the IRP section. We've got to show that the community with a decision - remember the chart, right, where you show the decision escalation process.

And it's not a lot to add, right, it's not a lot to add. And I'm a little surprised at the reluctance to do so. And I know we're not making any decisions on this call l but this struck me as just an oversight. It's not an expansion. Thank you.

Jordan Carter: Thanks, Steve. I don't think that there's a reluctance here to - I think there's a reluctance here to jump to an answer. I don't think there's any particular reluctance about your proposed solution. So if we could just confirm that. I'll have a quick chat offline with staff and the other co-chairs and rapporteurs later today.

But, you know, to me whether it's in there, whether we just have those seven powers together and change the word "five" to "seven" or whether we, you know, and even if we don't do that we can mention the other two if people are looking at it in the bottom of that section. But either way we'll solve it. So thank you for raising that, that's useful use of this kind of feedback process.

And I would like to ask whether anyone else has any fundamental issues that they would like to raise, problems that they see in the text.

Brett Schaefer: Jordan, this is Brett. I would like to speak when my - I don't have an opportunity to raise my hand. Thanks.

Jordan Carter: That's all right. No one has it up so why don't you go ahead now, Brett.

Brett Schaefer: Okay, I'd like to raise two issues that I noticed in the text. The first most important has to do with the right of inspections. In the text as we have it right now there's a rather generic reference to this where it says that - I'm sorry - the right to have inspection of certain records that the corporation will be included in the empowered community a member would have this right by law but can be granted to the empowered community under ICANN's bylaws.

We had quite a bit of discussion about this. And there was a specific reference to a section of the California Corporation's Code which laid out these authorities. And I think that we need to be very explicit here about what we're talking about, not a right of inspection of certain records but a right of inspection as a member would have which is what we decided. And I think that we need to make that explicit in the text.

Also, I don't see a reference here, and correct me if I'm wrong, but we also reached the conclusion that DIDP decisions should be subject to independent appeal as a Work Stream 1 item. And I don't see a specific reference to that in the text though I will admit that I haven't been able to read it closely as I'm on the road and don't have a computer so I'm working with paper right now. So that is another issue that I think needs to be addressed and stated forthright and very clearly in text.

Less important but I think I want to mention now because it was included in my comments on the draft document that we sent and then I asked those questions again to Mathieu whether they were incorporated or not. And I

haven't gotten a response. Is in the human right section, there's a bullet here in Work Stream 2 which is considering most specific human rights dimensions or other instruments should be used by ICANN in interpreting and implementing the bylaw.

I believe that you should insert a comma if any comma in there much like the bullet right afterward which says, "considering the policy and frameworks, if any, that ICANN needs to develop or enhance in order to fulfill its commitment to human rights. I think we should mirror that language in the bullet preceding that. And that is on - in the human rights appendix, I'm sorry.

Jordan Carter: Brett, that one's definitely out of scope for this call. We have no jurisdiction...

Brett Schaefer: Yeah.

Jordan Carter: ...on the human rights stuff. So I hope staff can pick that one up.

Brett Schaefer: Yeah, I mention it because, like I said, it wasn't incorporated and there was no response as to why it was rejected and my email sent out for the second draft. So I apologize for bringing it up here but I did want to mention because my communications are rather limited right now.

Jordan Carter: Okay, thank you.

Brett Schaefer: Thank you.

Jordan Carter: On the first two points that you raised about the inspection rights, I don't see any problem with making it clearer in the language that the right that's contemplated is the same that would be granted to a member under California law, I think that's very clearly the intent. I think the language can be read that

way or can be read a little bit more ambiguously so making sure that it's not ambiguous is not a problem. And I don't think that will be complicated to do.

Someone in the chat mentioned DIDP being in the transparency section. It is something that was agreed to go into that I thought. Bernie, your hand is up, is it an old hand or a new hand?

Bernard Turcotte: No, a new hand about these two points. What I was going to - first, yes we missed the DIDP stuff and we'll fix that. Second, is the way we'll fix both of those I believe when we were discussing that Becky proposed some language which I've stated in the slide - stated very clearly what the requirements were for this. And we'll just - we'll dig that up and we'll make sure that's inserted as is so there won't be any kind of discussions, would that be okay?

Jordan Carter: That sounds like it's fit for purpose to my ears, yeah. And so...

((Crosstalk))

Jordan Carter: ...DIDP and inspection right will go back in on those terms.

Brett Schaefer: Okay I - pardon me, I'm flipping through here frantically trying to get to the transparency section. I want to make sure that in the transparency section the DIDP reference is not to a review of DIDP policies which is a Work Stream 2 item. But the ability to - for independent appeal of DIDP decisions which was a Work Stream 1 item. Thank you.

Jordan Carter: Yeah, are you clear about that, Bernie? Bernie is giving us a green tick which you can't see in your phone-only connection. But that means that he is clear about that being what it is about, Brett.

Brett Schaefer: Okay thank you. And I apologize for not being on the chat. I will circulate any other comments that I have later on via email. Thank you.

Jordan Carter: Okay. Bernie, your hand is up again. You're multi-clicking. Okay. Robin has mentioned a Work Stream 2 issue in the chat here. Robin, that's not in our jurisdiction either but it's useful to just point out that the ombudsman improvements do need to be in Work Stream 2.

Not sure why it has slipped out of there. There isn't a work party that's responsible for the Work Stream 2 listing. But, Bernie, can you note that one down as well as not slipping out of the Work Stream 2 part of the proposal? And it's in the notes as well.

So thanks for raising that one, Robin. I'm looking through - I found a page of notes - I wrote notes on paper which is extremely old fashioned - about some of this stuff. And I didn't have any significant comments, I'm just putting myself on the speaking list right now.

One of the less maybe significant comments I had was whether we need to be clear with all these enforcement processes that the starting time trigger doesn't happen if the board makes a decision but it's when the board's decision is announced because obviously if you don't know about something you can't act on it.

And I think Bernie has agreed with that but I just raise it here as a kind of middle level things that I've done. There's some nuance bits of language that I'm going to send through. They're not line edits, don't worry. I think that where we've talked about the empowered community as being a sole designator that the language is kind of all the way around, the community - the empowered community as an unincorporated association that's

empowered as a sole designator it's not a sole designator that's empowered as an unincorporated association so that language is thrown way around, the risks adding confusion. But as I said, I'll write that one down.

Steve's got his hand up for another issue or two to raise. And, Steve, go ahead.

Steve DelBianco: Thanks, Jordan. It has to do with the decision escalation for the community power of removing an individual board director. And I do believe that's Work Party 1. Page 23 of the draft at the bottom of the page, indicates that none objecting so that would imply that a single AC or SO objecting would block the removal of a Nominating Committee director.

I'm a little fuzzy on that but when I look back at all the documents we prepared in Dublin it said you had to have more than one objecting, not just one objecting. So unless that changed that's a rather glaring sort of adjustment on Page 23.

Jordan Carter: Yeah, thanks for picking that up, Steve. I believe that to be a mistake. We've said all along that none of these powers should have that level of requirement there. Bernie, your hand is up, maybe in response to that.

Bernard Turcotte: Actually just looking at it now and trying to get the confirmation so we don't mess up any...

Steve DelBianco: Bernie, one of the places to go for confirmation was that nifty table that we created in Dublin. Jordan then made edits to it and circulated to the CCWG. It's a single page, one table listing seven ways the community can escalate its powers. And...

Bernard Turcotte: Yes.

Steve DelBianco: ...it strikes me that that table just begs to be in this document as comparing...

((Crosstalk))

Steve DelBianco: ..which of the powers require four and which require three.

Jordan Carter: It is in the document.

Steve DelBianco: Help me out...

((Crosstalk))

Jordan Carter: Sorry, it's in one of the annexes isn't it, Bernie?

Bernard Turcotte: Yeah, the annex on the five powers.

Jordan Carter: Yeah. It may be a useful summary to consider having it in the main one but, you know, that's a...

Steve DelBianco: Is that Annex 2? No, sorry Annex 4. I'm bringing that up now because if in fact that's the same table we'll likely to see the power of independent IRP.

Bernard Turcotte: Yes...

((Crosstalk))

Bernard Turcotte: I see the problem on Page 23 that was just typing too fast, we'll fix that. So...

Steve DelBianco: Okay.

((Crosstalk))

Bernard Turcotte: Thank you.

Steve DelBianco: Yeah, so the - I don't see that table in the entire annex of Annex 5.

Jordan Carter: I don't see it in Annex...

((Crosstalk))

Jordan Carter: ...either. But I know I've seen it somewhere.

Steve DelBianco: And it's the kind of table, Bernie, that really belongs in the body of the document since in one place people get to see all the powers and the different levels of AC and SO support necessary to move from call to forum to exercise.

Jordan Carter: Yeah, the table is actually in Annex 2 on Page 9 and 10. And it is consistent with what we've just said about the NomComm director three support and no more than one objection. And it does list the seven powers.

Steve DelBianco: Excellent, great. Jordan, would you still support the idea that that table be also replicated in the body of the document for comparison of all the different powers?

Jordan Carter: Yeah, yeah, I do. I also believe that the flow of the report would be better if we started off with the - a different ordering. I've made that comment before to the staff. I just think that the way the recommendations are ordered at the

moment is - starts at the wrong place. I think we should start off with the empowering the community through consensus and then we should have the five powers, then we should have the enforcement step so I think it should be 2, 4, 1, 3. And then you could easily have the summary table having been more up front in the document.

Okay, Steve, your hand is still up, have you got another issue to raise?

Steve DelBianco: Yeah I do, Jordan, happy to defer if someone else wants to go first but the other one that's pretty important is the articles of incorporation. I do think that we have to show that the community has the ability to approve changes to the articles of incorporation.

The articles themselves today declare that if ICANN had member - 2/3 of the members would have to ratify a change to the articles. But our choice of designator could potentially say that the community as sole designator would have to ratify a change to the articles of incorporation.

And then we have to determine what rules are associated with that. Because it's really not much different than a fundamental bylaw. And we do rely on the articles of incorporation to satisfy one of the Affirmation of Commitments items, Commitment Number 8b as well.

Jordan Carter: So, Steve, can we tease that out a little bit because I can see an automatic objection. So one automatic option or easy option would be to say that changes to the articles need to be approved the same way as changes to the fundamental bylaws. But my question is doesn't that kind of automatically render all of what's in the articles as equivalent to fundamental bylaws? And then doesn't that disrupt where we've got to in terms of a tenuous piece about

the 8b or 8c thing from the Affirmation of Commitments which is the location of the corporation?

Steve DelBianco: No, to the contrary, in order to make it not fundamental 8b, we said we've already got it, the equivalent of fundamental if it's in the articles of incorporation because the articles of incorporation require 2/3 of the member, which if were a sole member it would mean the member would have to agree to a change. And we wrote that after our second draft when we were still heading down the member path.

So it's a belts and suspenders approach that said we don't need to make it a fundamental bylaw because it's already in the articles. But that assumes that the articles are subject to community approval before they're changed. And by, you know, by fact that the articles member and not designator means we've got to make that change as well.

Jordan Carter: Okay are there other views on this question? I can see Bernie's hand up. And I see Avri is arguing for equivalent treatment of the articles. I personally am comfortable with equivalent treatment of the articles generally. Bernie, do you have a thing to share with us?

Bernard Turcotte: Yeah, I mean, I - this is nowhere in the proposal. And if we want to include this I really don't have a problem, I just need to understand exactly how we're going to do this and where and we'll get that in there. But right now it's not in there, I can confirm that.

Jordan Carter: Okay so we could present it as a consequential change from the shift to a member model by saying that a member would have had to approve changes to the fundamental bylaws. What that doesn't tell you to be honest is whether it should have the same approval threshold for the board and the community

as changes to what we've called fundamental bylaws. And if memory serves, Steve, the articles say a 2/3 resolution of the board can change it. And if a member or members - were there a 2/3 resolution among them.

So to me it would still be useful for the articles to be subject to co decision but at a lower threshold than the fundamental bylaws. I think that is kind of the most logical way to go personally. I don't know if others would agree with that or not. Is that a new hand, Bernie?

Steve DelBianco: Jordan, the fundamental bylaws approval is currently four to approve and no more than one objecting, 2/3...

Jordan Carter: Yes.

Steve DelBianco: ...is what the articles have today would be less than that.

Jordan Carter: Yeah, that's my point. That's my point. That it should be...

((Crosstalk))

Steve DelBianco: ...maybe not because 3 of 5 is 60% so you actually have to go to 4 of 5 to get to 2/3 come to think of it. If in fact we had five ACs and SOs participating, so 4 is the right number for 2/3 of 5. Think about it because...

((Crosstalk))

Jordan Carter: Well no don't go down the math, just go down the relativity. We said that the power - by saying - when we're doing voting en masse and stuff we said that fundamental bylaws should be one of the hardest things to change and should require a higher than normal board majority than current bylaws changes or

articles changes. And we said that it should require a very high level of community support and 3/4.

So I think the point - rather than going into splitting hairs on the math is that we should have a slightly lower level of community support shown to change the articles than the fundamental bylaws because that is what is consistent or what was in the membership model in the second draft proposal.

And so I would be more comfortable with it being on equivalent with the standard bylaws. So the problem is that with these lack of voting numbers we are splitting hairs here like we don't have a lot of granularity in grading these things.

So, look, can we pop this one up to the CCWG to discuss at its meeting on Tuesday? I think it's a reasonably significant issue. And I think what I'd like to propose - and maybe this can be captured in the notes - is that the issue of community approval of articles changes came up in the call that would have been essential in the membership model. And the same sort of protection should be offered to the articles in the sole designator model.

And the question is what the decisional threshold is whether it's the same as for changes to fundamental bylaws or whether it's a slightly lower threshold. And so if we can note that as something for me to raise with the CCWG that would be good. And maybe we can close that item with that. Are you happy with that, Steve? Others?

In that case I'm going to take that - oh, Avri, your hand is up. Go ahead.

Avri Doria: Yeah, I've had it up for a bit. I just wanted - since you gave a whole reasoning for why you thought it should be less I think we need to record in the call at

least one reason for why it mustn't be less. And that's that the article set the foundation for all of the bylaws both fundamental and not. And a change to the articles actually can undercut the fundamentals. And so I think really you have to treat them at the same level as fundamental because of that relationship. Thanks.

Jordan Carter: Thanks, Avri. That's a very logical point. I'd like to welcome Roelof Meijer to the call on audio only as well. Okay, Avri, your hand down I think. Steve, you've got another item?

Steve DelBianco: I do. Annex 9 is where we put in all of the changes to the bylaws that came out of the Affirmation of Commitments both the commitments...

((Crosstalk))

Bernard Turcotte: Jordan, before we switch can I just have a word on the articles of incorporation?

Jordan Carter: Oh yeah, yeah.

Bernard Turcotte: My hand has been up for quite a while. I will simply note Thomas's point in the chat - he can't speak, he's only listening and he's saying we should check this with the lawyers to see what they think. And I would really like to check this with Becky. So I think we can get all those answers before our next CWG call and put that in as part of the mix.

But I think, yeah, it's a very important point and we need all the right input so we can decide where we're going to put it in and what we're going to put in. Thank you. That's all I had on this.

Jordan Carter: Okay, yeah, that makes sense. Thank you. Okay back to Steve and one last point.

Steve DelBianco: Thanks, Jordan. Work Party 1 handled the incorporation of the Affirmation of Commitments into ICANN's bylaws, both the commitment 378 and also the reviews that were in Section 9.

So the reviews in Section 9 we had pages and pages of tables comparing the text from the Affirmation of Commitments and then we, in Work Party 1, agreed to adjustments to bring that text into the bylaws, adjustments about the sun setting and adjustments of reviews, the documentation requirements to document the generation of consensus, the importance of saying the prioritization of the recommendations for review team would need to assess prior reviews. I could go on and on but I don't need to, I attached it to my email.

But unfortunately none of that made it into Annex 9. In an effort I think to make it read better professional writing staff just tried to summarize things and lost all of the detail that Work Party 1 put into the Affirmation of Commitments reviews. So I reattached the document and it shouldn't be difficult to reinsert those tables into Annex 9.

Jordan Carter: Okay. Bernie, do you have a - Bernie is ticking on that so we'll take that as a yes. I think you're right, Steve, it'll help some useful clarification. Okay thanks for raising those issues.

Everyone remember that these calls are not the only way to raise issues, you're welcome and encouraged to pop stuff on the email list. Shortly after this call there'll be a circulation of the notes from this call so that'll help you see in aggregate what has been discussed on the call and that in turn may help

to stir some more feedback. Does anyone else have any other issues that they want to raise for discussion on this call?

Brett Schaefer: Jordan, I have two brief ones if no one's in front of me.

Jordan Carter: That's Brett I think isn't it?

Brett Schaefer: Yes, I'm sorry, it's Brett Schaefer.

Jordan Carter: Yeah, please go ahead.

Brett Schaefer: Okay, thank you. First is on the DIDP I did find the transparency section and it is in reference to Work Stream 2 and we want to make sure that that is not what we're talking about here, we're talking about the DIDP appeal process.

And I was wondering if Bernie was thinking about including that in the request for reconsideration section or if there was someplace else that he wanted to put that, that's one question.

And second on Page 10 there's a reference to the threshold supported in this document would turn based on the (unintelligible) if fewer than five of ICANN supporting organizations and advisory committees agreed to participate, those thresholds of consensus support maybe adjusted.

Have you reached out to the SOs and ACs to find out what their positions on participation and the enhanced community is at this time? Thank you.

Jordan Carter: Thanks, Brett. Two good questions. I think Bernie is very clear on the first point about the fact we're talking about DIDP appeals that needed to be

mentioned. He's noted that I think it's in the notes for this call. So I'd ask you to make sure that that is reflected (unintelligible) but in my view it is.

On your second point around the reaching out to SOs and ACs about participation, I haven't done it personally but it think that the SOs and ACs have been given a clear view about the need to explain their participation. And I think there's a call coming up sometime in the next 24 hours with SO AC leaders where they're talking about the - whether there's going to be a need for a meeting to talk through the proposal in January.

So I think that one of the things we could ask Thomas to do, who's on this call in a listening mode, is one of the co-chairs, is to take an action point to maybe the co-chairs could make a formal request or will the SOs and ACs (unintelligible) that we've got about their intentions or otherwise with respect to participation and saying that they need to confirm that as part of their decisional process on the report.

And the reason that's important is that if the numbers are down, if someone says actually on reflection we don't want to participate, then I think as the text says, we may need to look at those numbers again and we'd need to do that through a supplemental report so we need to know before everything is finalized, not afterwards.

And in terms of confirmation being a now or never question as Steve has asked in the chat, I don't think it's a now or a never, it's just what's going to be in the bylaws that implement this reformed system, doesn't mean those bylaws can't be changed in the future.

And Thomas has confirmed in the chat that he'll have that as an action point and that he'll raise it during the upcoming SO AC call. So...

Brett Schaefer: Thank you, Jordan. I think it's important not only for this in reference to the bylaws but it's important to those who are going to be reviewing the draft - third report and making decisions on to what they think should and should not be changed because I think that SO and AC participation may impact that decision and the comments that come out of that. Thank you.

Jordan Carter: Okay great. Okay, Steve, your hand is up.

Steve DelBianco: Yeah, just in reaction to something Brett said, I don't think Brett, you should have the impression that we can force an AC and SO to indicate that it will always participate. The GAC in particular seems to want the ability to opt in and participate when it wants to. And I'm repeating this because Brett's not on the Adobe chat.

I realize that the SSAC and RSAC have decided to say no, no, no, we don't want you to count us amongst those who will make decisions and that helped us because that cut us from seven to five in terms of our number of ACs and SOs who could make decisions in the community model - community mechanism.

And at this point the GAC has said they prefer to opt in. And I don't really know whether that's an official GAC position or just what we've heard from several leaders. So if Brett has the impression that our co-chairs have the ability to put the GAC on the spot and ask we need to know now, are you in on all decisions or some decisions or no decisions, they're going to elect some decisions.

Brett Schaefer: No.

Steve DelBianco: And it doesn't really solve - it doesn't really solve our problem on numbers very much and we have to decide what to do with the threshold. So I don't think you're going to get a definitive answer. Go ahead.

Brett Schaefer: Well there's a difference between participating and choosing to abstain in most or all or nearly all or some decisions. And a different - versus a decision to participate on an ad hoc basis wherein they're not abstaining necessarily but are saying that they don't actually want to be registered as a participant in which case the basis for decision making goes from five SOs to four SOs versus standard five SO where you will have just an abstention registered.

I mean, I think we need to clarify what that is and if the GAC is proposing that they're going to be participating on an ad hoc basis but we're fluctuating from four participants to five depending on their decisions. I didn't realize that they were actually - that we were actually considering that. I thought that once you're in, you're in and you just make - decide to make a decision or not make a decision one way or the other.

Jordan Carter: Can we - sorry, Brett, we - that is exactly what we're proposing. So the numbers - the SOs and ACs who are listed as participating in this mechanism in the bylaws will have the right to offer their support for the use of a power and register their opposition to it or to not make a decision. And that...

((Crosstalk))

Jordan Carter: ...that's been consistent all the way through. So what we haven't yet done - what we need to know if someone else wants to totally opt out because we need to know if one of the SOs and ACs wants to do what the RSAC wants to do...

Brett Schaefer: I understand.

((Crosstalk))

Jordan Carter: Can I finish the point? So in that case we would need to lower all of the four thresholds to three and decide what to do with the three. What we haven't yet done in the CCWG is discuss the paper I wrote last week which suggests that because SOs and ACs might have difficulty regularly exercising any of these powers, maybe we should add an asterisk to those things with a threshold of four and say sometimes these might need to be three where only four SOs and ACs are participating in the decision to safeguard the system from paralysis. And that's a discussion that I think we have scheduled for the CCWG on Tuesday.

Brett Schaefer: Okay. I apologize for - I thought that Steve was talking about something else. What you just laid out was what I understood was the case.

Jordan Carter: Yeah.

Brett Schaefer: But I think what Steve was saying that the GAC is talking about opting in and sort of like an on-off switch or an on ramp off ramp for participation in this, not that they would...

((Crosstalk))

Brett Schaefer: ...or have a difficulty arriving at a decision. Thanks.

Jordan Carter: I think that's what Steve thought you were saying. I don't think that's what you were saying. It sounds like that's not what you think you were saying either. So - and, Steve, let's be really clear, there is no on ramp or off ramp in

this model; there is no please announce you're part of this decision making, please announce that you're not anymore. There is only...

Steve DelBianco: Yeah, that's right.

((Crosstalk))

Steve DelBianco: That's right, Jordan. And for any given decision any AC and SO may say at the end I'd rather not support or oppose.

Jordan Carter: Yeah, and I think we're on the same page on that.

Steve DelBianco: Okay great.

Jordan Carter: Okay now I don't see any more hands up so I'm going to remind you all that you're welcome to provide feedback until 2359 on Monday the 23rd UTC so that's in about - oh God, I don't know, 30 hours or so. You'll get the notes of this call which might help prompt you and others.

If you would like to join another call like this the reason that there were two was not to encourage everyone to come on two calls but it was rather to provide an opportunity for people whom this timeframe didn't work to share their thoughts in the same way that has been done here. So please don't feel obliged to do both calls especially if the next one is at a very bad time for you. But of course you're very welcome to do so. And I hope that that call will be as constructive and brief as this one has been.

So with that and since there are no more hands to raise I think we can call it to a close. Remember that call I think is at 1900 - I'm going to get the time

totally wrong 0700 UTC on Monday, might be the right time for that. And then there's the CCWG call coming after that.

So thanks once again, everyone. Might speak with some of you in 10 hours or so. And might not. Have a good day, night, whatever it is for you. See you.

Brett Schaefer: Bye all.

Man: Thank you.

Bernard Turcotte: Bye, thanks.

END