

ICANN

**Moderator: Brenda Brewer
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12:00 am CT**

Mathieu Weill: Hello everyone. This is Mathieu Weill speaking, the ccNSO appointed co-Chair of the Cross Community Working Group on Enhancing ICANN Accountability. And welcome to this call Number 72 on December 15. As usual, we will start with the roll call. And if there is anyone who is on audio only at this point...

((Crosstalk))

Cheryl Langdon-Orr: I will be in the AC room shortly but at the moment I'm only on audio.

Mathieu Weill: Thank you Cheryl.

Holly Gregory: This is Holly Gregory. I'm having difficulty connecting to Adobe. So I'm on audio only at the moment.

Mathieu Weill: Okay Holly. Thank you. That's well noted. Anyone else? No. The usual call for any update on the statements of interest. None at this point. And so with that, we'll be able to go to the substance of this call. It's very good to be with

all of you today. I know many are busy finalizing comments. Others are singing carols to capture the spirit of the moment.

And I'd like to thank our special author on the list for providing entertaining carols to our group. And we'll move to the agenda right away, which is going to be focused on updating regarding the various parts of the community discussing our report. And for ICANN Number 2 I will turn to Thomas Rickert right away. Thomas.

Thomas Rickert: Thank you very much Mathieu. And hello everyone. This agenda item is a follow up discussion on the upcoming Marrakech meeting. As you might remember there have been several questions surrounding what type of meetings we're going to have and whether travel support will be available for such meetings (unintelligible).

For those not speaking, and at the moment that's just me I guess, please do mute your microphones because that's causing some nasty echo for us.

You will have seen the note from ICANN staff that it's usual practice for ICANN to fund meeting slots for the constituencies and that we should go through that and that meetings during the ordinary ICANN meeting would not be supported in terms of travel slots. So this is clear. And the travel support that we've received so far was granted because these meetings that we had were conducted outside of regular ICANN meetings.

After this email from staff came in and after we had indicated that we would have I guess it's three travel slots in total to address CCWG matters, there has been some concerns expressed with respect to overlap with other commitments of individuals during the ICANN week.

So we would like to discuss with you, and we can take this offline as well. But we would like to plan further for Marrakech. And we would like to hear from you which topics you think we should be discussing in Marrakech.

And we will then make a decision and discuss further with you whether we need an additional meeting outside the usual ICANN week in order to avoid overlap and in order to cope with workloads that we would determine based on the feedback that we get from you.

So (unintelligible) as we know there will be activities that need to be kicked off to initiate the work on Workstream 2 recommendations. And we will surely have some engagement work to do. But we would like to hear from you what we should focus on during the Marrakech meeting and then determine whether or not we would need extra meeting time out of the usual ICANN week meeting schedule.

So I'm not sure whether any of you wish to comment on that now. But if you would like to do that, this is the opportunity for you to put yourself in the queue. And the first hand is raised. That is Kavouss. Kavouss please.

Kavouss Arasteh: Good morning (or evening) to everybody. I don't know really what would happen to the third proposal once we receive comment. Do we have a finalized proposal that is before us in Marrakech or not? Because sometimes this is quite (way) whether you have some supplement or you have a full final report.

It includes all the comments we have visited by 21st of January and then put it in a final proposal. And whether this final proposal will be available for discussion in Marrakech or not. Thank you. That was the question.

Thomas Rickert: Thank you very much Kavouss. According to our current planning, the report will be with the ICANN Board and then hopefully with NTIA by the time we would come to Marrakech or we would - some of you would join remotely.

So according to our plans, we will have a final report that is already supported by the chartering organizations that we all have consensus on. So it's not foreseen to have the final discussions on the third report that we issued. But the meeting will rather be used for other purposes. What purpose - what activities you would like to be put on the agenda. That will be much up for discussion now.

Any further (interventions during this call)? I see Steve's hand is up. Steve please.

Steve DelBianco: Thank you. Steve DelBianco. One potential activity just before Marrakech could be reviewing the draft bylaws that are coming from our Council and whatever cooperation they're doing with ICANN (string).

But the drafted bylaws pursuant to sections to the final supplemental that we've approved will have to be matched up against what the documents that we approved had asked for. And that may be an opportunity for CCWG to adjust that particular bylaw drafting, have sessions about it before it's forwarded to the Board for formal consideration. Thank you.

Thomas Rickert: Thanks Steve. We will take note of that. Any further comments? Okay. So this might be challenging for me to respond right now. I would suggest that we allow for another 24 hours for you to send recommendations or proposals how to use the meeting time to the list.

And we will then make a determination whether the meeting time allocated so far -- I use three meeting slots during the ICANN week -- will suffice to accomplish what we decide to be working on in Marrakech. So unless we hear from you, we think we will assume that we can get everything dealt with during the meeting slots that we've already allocated and then (with that), if you wish.

So that's helpful. Thank you so much. And with that, we can move to the next agenda item, which is going to be chaired by Leon.

Leon Sanchez: Thank you very much Thomas. This is Leon Sanchez. Can you hear me well?

Man: Yes we can.

Leon Sanchez: Thank you. So as you may be aware, you might remember there was some discussion on the resolution of the mission language related to regulation and contract. And specifically about which would be the future of public interest commitments in regard to the new mission wording.

And there were some concerns raised by some GAC members. And there was a question certified for our external counsel to provide an answer. But there is also a need for clarification as to the scope of this question that was certified and that just to have it on the record.

The question was that bearing in mind the new mission wording and considering what kind of provisions (picks) have typically been included so far. To what extent would similar (picks) be consistent with the new mission and for what the conditions (unintelligible) what they need to respect specifically to be consistent with the new mission.

And then from there we'll of course a series of emails were going back and forth in the list. I remember seeing an email from Kavouss, which specifically asked for different clarifications. We also have some requests for clarification on our counsel by all different - (Graham), also (Rosemary).

And while this space today in the call would be to ask GAC members specifically for clarification on which kind of concrete examples would you be thinking of that could be applicable to the question that was raised and that is pending certification for counsel to actually provide an answer.

Of course we don't need to go through the full (picks) that have been developed. But I think that a more concrete situation in which GAC members could see a problem in the new mission wording could be very helpful so that we can better guide our external counsel to provide answers to this concern.

So at this point I would like to open the floor for any GAC members to please set a couple of examples - very concrete examples as to which would be the concern in regard to the discussion on the list. And I see Kavouss has raised his hand. Kavouss, could you please take the floor?

Kavouss Arasteh: The discussion is that is discussion coming from GAC as a whole as contained in the GAC community or sent to you by the GAC Chair or the question made by (Orin) or some GAC member. This is Question 1 need to be (unintelligible).

Second, is the question that's raised by (Rosemary), which is very important? And the third is the question or a group of questions that I raised that there is no typical (picks). And there are some 500 received. And there are 1913 (strings) or gTLDs and there might be more.

And whether they are documented by additional (picks) on that and whether really you can use (unintelligible) change that could not have any typical (picks) and so on. Every gTLD has its own (picks) and depending on the scope and nature of that one, I don't understand the use of the (exercise). Thank you.

Leon Sanchez: Thank you very much Kavouss. And I have to note that this is not a question that was raised by either the GAC as Advisory Committee or directed by a GAC Chair to the CCWG. But instead by some GAC members that have been representing of course the GAC in the CCWG.

And I also note that in the chat box we have a comment from Alan Greenberg that it's not just GAC members that have raised this concern but also the ALAC has been vitally concerned about this area. And I know (that the) counsel has been following up on Alan's comment.

And also some very concrete information by Alan who says that the real question is whether (a pick) resulting from GAC advice can be overturned by an IRP since it is - will not have been created through a bottom up process.

So I think a key question here is even that some (picks) may not come out as outcome of a PDP or a (public) policy development process. Would these of course come into conflict in regard to the new mission wording?

So I would really encourage some other GAC members or maybe ALAC members if - would you like to point to concrete examples as to whether - which kind of hypothesis would actually lead us into this kind of conflict. So I don't if - I know (Jorge) that he's been very active in this (string). So I don't know if he would be willing to provide us with some of your insights on this discussion.

All right. So I see no other hands being raised. And (Julia) from Denmark says she does not have any concrete examples at the moment. And I see Becky Burr and Alan Greenberg have their hand up. So Becky, could you please take the floor?

Becky Burr: Yes. I understand that the inclination and the question. But I think that the - I think to answer Alan's point, the language that we drafted specifically directed the drafters that ICANN has authority to enter into contracts in service of its mission. So setting aside to grandfathering for the moment, the question would be are (the picks) in service of ICANN's mission.

Having said that, I put myself in the shoes of a lawyer being asked to do this. And I have to say, you know, when you ask a lawyer to tell you this or to provide an opinion, what they do if they are good and our lawyers are good is ask to understand the facts and circumstances that lead you to ask the question and then ask some circumstances that might be on the ground when a dispute about enforceability arose.

And here we are not - we're asking a question in a vacuum as opposed to asking a question about disputes with facts and circumstances. So I am afraid that the only answer a good lawyer could give us to the question would be it depends.

It depends on the facts and circumstances. It depends on the wording of the (picks) for example. It depends on the way the new gTLD operator implements the commitments. And it depends on the way ICANN enforces its commitments.

So I believe we could be spending a lot of lawyer hours coming up with an answer that in the end is not going to be the positive of anything. And so, you know, I think that the answer is clear that, you know, to the extent that (picks) are in service of ICANN's mission, they are - they would be permitted going forward and of course except they exist in contracts subject to the grandfathering that are also submitted.

Leon Sanchez: Thank you very much Becky. Next in queue I have Alan Greenberg. Alan.

Alan Greenberg: Thank you. I suspect that everything that Becky says is correct. The real question in my mind is whether the requirement that everything that ICANN does for its mission must be developed through a bottom up process trumps the ability of the GAC to give advice. And it's that conflict that I worry about. Thank you.

Leon Sanchez: Thanks Alan. And maybe this could be something to flag for the moment when our counsel would be drafting the proposed bylaws. So maybe we could ask them to think of a way forward to avoid this kind of a huge gap that I could see being opened by this fact. So next in queue I have Malcolm Hutty. Malcolm.

Malcolm Hutty: Thank you. That last comment from Alan was unusually helpful actually. If this is only about whether the requirement for bottom up process is to prevent ICANN from acting on GAC advice, I think that's relatively clear with specific questions that is (susceptible) for an answer.

The broader question that's being raised however I think - I agree with Becky. I think it's just too difficult and I think it's not really a lawyer's question. And one thing that (unintelligible) opt for was would a typical (pick) be permitted under this?

If we ask that question of the lawyers, we are asking them to review the entire base of (picks) and to make some kind of assessment of what is typical. I would certainly want to know how we were asking for that to be conducted - how that review will be conducted and what criteria were going to be considered for specific (unintelligible).

If we know that's typical, then omit that word from the question, I would wonder how - well what the assessment was going to be of. Is it nonetheless to be of a typical one? Is it to be of whether there are any (unintelligible) problems? What exactly the question is asking.

I don't think we have a clear question and I don't think that the question that we have is really a legal assessment. I think it's a (political) assessment (of) CCWG. So for those reasons as well as Becky's, I don't think this question is well - currently well formed in a position to be (certified with the) lawyers.

Leon Sanchez: Thank you very much Malcolm. Next in queue I have Greg Shatan.

Greg Shatan: Thank you. It's Greg. And I'll be brief because I think Malcolm said much of what I would say. I think that in essence all we're asking our lawyers to do is to figure out exactly what ICANN's mission is based on all of the changes that we've made or proposed to make to the bylaws.

And if we're asking our lawyers to figure that out because we can't, we have a problem because then we don't really know what we've done. And if we don't know what we've done, then we shouldn't be doing it. And our lawyers aren't going to get us out of it.

And, you know, the collective wisdom in this group about what ICANN's mission is or it might be is probably much more significant than that of our lawyers. So, you know, I think this is our problem and not theirs. Thanks.

Leon Sanchez: Thank you very much Greg. And I know that (Jorge) wrote something following up on my request for him to actually enlighten us with some concrete examples. And I'm quoting him.

He says on the chat box I do not have audio right now but I refer to my comments in the emailing list. ICANN legal on the (set provision) of the CCWG might well be suited to provide a sample of typical (picks), which could be considered for this general assessment.

So I think that we would be - we would be asking ICANN legal if they have some examples on that. Maybe not on this call but of course to follow on the list.

So I'd like to (listen) from counsel if you agree or you're available Holly whether this has been helpful in trying to narrow the scope of the question over whether this could be solved as I suggested by maybe making sure that when we draft the bylaws that would include this kind of language.

We'd make sure that we don't open a gap as to whether - as to whether the concern that Alan raised of having all (picks) that do not come from a PDP actually being overturned by an IRP. So I know that you have raised your hand Holly so you're next.

Holly Gregory: No. I have to say listening to this I really, you know, agree with what Becky has said about you need some lawyers to have a fair degree of specificity

around context in order to be able to provide valuable counsel. And I'm not sure that I have that specificity yet.

I also will confess that I hadn't quite understood the question the way Alan posed it. I thought we were being asked a slightly different question. And so I want to consider Alan's question.

And again, I know - like I'm going to be frank. I worry a little bit that there's an - that part of this has a very natural tendency to want to try to kick the can down the road because the group is having difficulty really - to the - articulating a consensus around the point.

So Leon, that's a long way of saying is I'm not coming out of this conversation with greater clarity around how we would approach the questions that you posed.

We did based on the original question, which was, you know, bearing in mind the new mission wording and considering what kind of provisions (picks) have typically been included so far to what extent would similar (picks) be consistent with the new mission and/or what key conditions or legal (contours) they need to respect specifically to be consistent with the new mission.

And our question - we had two questions back to you. One was when you say new mission wording, do you mean the wording as currently reflected in the third proposal or do you also include some language from the email discussion? There's been huge email discussions on mission wording.

And it's - if it is the email discussion mission wording, we'd appreciate it if somebody would send us the specific language that is now the newest and greatest.

Our second point was we will need information on the current provisions that (picks) have typically included. And we thought ICANN legal could potentially be helpful in providing us with some of that information. But of course that leaves it to ICANN legal to help define what is typical.

So I don't know if that sets more heat than light but that's my reflection on the discussion of this very early morning.

Leon Sanchez: Thank you very much Holly. So what I suggest we do as a way forward is to actually touch base with ICANN legal as to which would be a typical (picks) case and try to reframe the question so that we can hand it to you and see if this new question is clear enough to have an assessment from your side. And I believe that also when we refer to the new mission language, we are referring to the language that is actually not a third draft proposal.

And I would not deviate that language to the wording that was coming back and forth on the list throughout the discussion.

So if there are no more comments or questions on this topic I would encourage us to continue this discussion on the list and of course come back to our council with something that they can actually work on.

So are there any other comments or questions? (Vicki) I see your hand is up. I'm not sure if that's an old hand or a new hand?

Okay so I see (Malcolm)'s hand is up. (Malcolm)?

Malcolm Hutty: Sorry if you are planning to certify this question I would like you to explain how you intend and what criteria would be used for identifying typical PICs.

And if you intend to say as ICANN legal as you referred to already what criteria they would use? I think we need clarity and transparency on this.

Leon Sanchez: Thank you very much (Malcolm). Well before certifying any questions we should definitely analyze whatever outcome or input we have from ICANN legal as to assess what you just said.

So what I suggest is that in regard to whether we are going to certify any questions or not to our external council we should try to ask ICANN legal for examples on the typical PICs if there are any or we could say that there are typical PICs at all. And as you rightly said we could also ask them to explain those which would be the criteria to consider a PIC to be typical or not.

So I think there's I mean I think I think it's not an easy task to actually reframe the question and narrow it down so that we can actually hand it to external counsel.

But that's why I suggest that we continue the discussion off-line because we of course need to go through other items in our agenda today. And I don't want to take much more time on this issue.

And I see Chris' hand is up. Chris?

Chris Disspain: Hi Leon. Can you hear me?

Leon Sanchez: Yes we do.

Chris Disspain: Okay look I'm noticed a couple of posts in the list which I think - I mean Greg said we're trying to nail Mercury to a wall. And that's kind of how I feel. And I'm worried that if you're going to ask ICANN legal a question you need to be very specific.

There are (unintelligible) at the upper level. One is a voluntary pick which I would argue is, you know, something someone clearly covered by the title voluntary PIC is something you should put in voluntarily.

And then PICs that arise almost exclusively out of a way of trying to deal with specific GAC advice.

I don't see how it's possible to define find something as being - it seems to me that I'm speaking as somebody who is involved in the discussions on the board or the NGCP as to how to deal with the GAC advice and its coming up with the concept of PICs.

It seems to me that all of the GAC driven which is a better way to putting it (unintelligible) simply the GAC has provided advice in respect - can you still hear me? Yes you can.

In respect to public policy and (unintelligible) said its public policy and the way that the board has suggest those that public-policy advice can be dealt with by the insertion of a PIC does that make it typical, and no.

I mean you could define it as being typical simply because it arises from advice from the GAC that is cashed in terms of being public policy.

But I'm at a loss to understand how else you could possibly define it and I'm out a loss to understand how defining it is typical since it becomes rises as a response to GAC advice is of any of help in dealing with this issue.

This is incredibly complicated and I'm struggling to see a way through to be honest. Happy to help in any way that I can happy to provide any background that might be helpful for how the board reaches conclusions about what was acceptable from a PIC point of view or not.

But I really am struggling to see how, you know, designing something that's typically can be helpful in these - in this circumstance.

Can you still hear me?

Woman: We can but I think we might have lost Leon.

Chris Disspain: Yes. We seem to have lost anyone apart - anyone who is due to speak next.

Man: Hello Chris...

((Crosstalk))

Woman: Is Mathieu on the call? Could he take over the chairing while Leon is absent?

Mathieu Weill: Leon is back on the call.

Leon Sanchez: Yes. I'm back on the call. I back on the call, thank you. And I'm sorry for that but my call dropped.

So yes you definitely raised a very valid point. And I as I said when replying to (Malcolm) this is of course no easy task. So yes indeed I don't think that we should be actually looking in a very detailed way.

And that's why I suggest once again to continue the discussion off-line and of course reach out to ICANN legal and then from there may be continue shaping the question for our council to actually have something to work on.

So if we are agree then I think that the first it would be to actually reach out to ICANN legal to see whether there are if any is some PICs that might be considered as typical and of course considering all these side issues or condiments as you could say that Chris has added to the equation.

So at this point I would like to ask for any other comments or questions on this issue. And if there are no further comments or questions then I would turn back to my co-chair Mathieu for the next agenda item.

Mathieu Weill: Thank you very much Leon. And thank you for coping with the little technical issue.

So the next agenda item is a quick update on the CWG stewardship draft comment. The CWG stewardship has received a draft comment analyzing our sub report.

It's been circulated on their mailing list over the weekend I think and it is going to be discussed during a call that is organized later today.

A few of the key items that are raised in this draft which I think are valuable for us to be aware of there are some question raised regarding whether our IRP recommendation address fully addresses the need of the CWG

stewardship because it's not written anywhere in our third report that the PGI decisions would be included in the scope of IRP.

And if you will remember that the condition from the CWG was that the decisions of the IANA functions operator would be object (unintelligible) available to TLD managers except for revocations and negations of ccTLD. So that's one key item that's being raised on the CWG.

There's also some questions raised regarding whether our proposal for an individual board removal fully addresses the CWG dependency.

There are some concerns raised on the list about whether the limitation of one removal process for term of a director is adequately addressing the CWG requirements.

There are some concerns expressed on the delays in the escalation process and whether that's efficient enough to make the community powers efficient.

So that's one of the questions we've had in the Webinars already about some delays being as low as seven days for making some decisions.

And that's perceived as being - is both a concern that that's all tentative comments at this point. They haven't been discussed with the full group but I'm giving you just the broad picture.

And finally there are some concerns raised whether our recommendation on the specific IANA CTI budget digital process is precise enough or has enough of the details that the CWG is requiring. And there are some concerns raised in that regard.

There were as I said there is a call later today from the CWG the co-chairs are - been invited to attend to respond to any clarifying questions from the CWG group.

Certainly I would encourage those of you who have been following the CWG to also participate to this call because obviously the CWG input and assessment of whether our draft report does meet their condition is a key element in the process testing whether our draft report is meeting all requirements on us.

And that's for the overview on the CWG draft comments. And I see Kavouss hand is up so Kavouss?

Kavouss Arasteh: Yes Mathieu. I have sent you comment on Recommendation 2, 3, 4, 5, 6 and 7. I have not heard you referring to some of them. You referred to some, maybe not been mine or maybe mine. But I have heard many other things at least with respect to the IRP relating to the IANA function.

It is in Recommendation 4 but it is not as particularly mentioned at the IRP in the other recommendation does not cover this fund. So there is this lack of clarity but there is several questions I know.

I don't know whether you have time to read that one. I prepared that while I was in hospital in a very bad condition not to miss any time but I understand you have not had time to read that. That's all. Thank you.

Mathieu Weill: Thank you Kavouss. And indeed you - those messages are well noted. We made sure that a number of the comments you've raised were sent over for the clarification and proofreading which is taking place right now.

and that's an occasion for me to remind everyone that if you are seeing something that is could be edited easily in the report for greater clarification without changing applicant substance or that there is a typo or anything then please send it over to staff who are managing the proofreaders at this point. And we need to make sure we're not missing anything.

And indeed you are raising a number of good questions Kavouss. I haven't - we haven't had time to recap everything but that's - it's certainly very useful and your work is extremely important to us.

On the CWG draft this was more of an awareness raising agenda item. But if there are any questions I think we'll probably have to discuss whether PTI decisions are in scope of the IRP.

My impression is that it's - it was part of - it was sort of intended from a group that we never mentioned it. And we can also expect some discussions on the IANA budget because obviously some of the details that are required by the CWG will need some discussions to keep their also and they're meeting the requirements that we discussed about operational continuity and things like this.

And I'm seeing no further hand on this topic so I'm moving back to Leon for the next agenda item.

Leon Sanchez: Thank you very much Mathieu. And the next agenda item is the update from SOs and ACs on endorsement timelines.

So at this point I would like to actually open the floor for those that could comment on where are we standing or where are their respective SOs and ACs on the endorsement process for our proposal.

So please feel free to raise your hand and make your comments where is your SO or AC at this stage on assessing the third draft proposal?

So I see that the first in the queue is Alan Greenberg. Alan?

Alan Greenberg: Thank you. I sent a document to the group I guess about an hour or so before the start of the meeting identifying what the current hot issues are right now within the ALAC and At-Large.

It's still an evolving process and it's conceivable something in that list will disappear, not too likely I'll be honest but it is possible.

And there's possibly other things that will be added but it should give the CCWG a good feel of where we stand and it's quite clear there are a number of what we believe critical issues that have to be addressed. Thank you.

Leon Sanchez: Thank you very much Alan. And I think that we have received the document and we will of course be going through it.

So next on the queue I have (unintelligible). Kavouss might you be unmute? Kavouss we are not able to hear you. So if you don't mind I will continue with Izumi who is next in line and I will get back to you so we can listen to what you have to say to us Kavouss. So Izumi could you please...

Izumi Okutani: Yes.

((Crosstalk))

Kavouss Arasteh: I am back on the line. If it is my turn please give me the floor. I wait until you give me the green light.

Leon Sanchez: Please go ahead Kavouss.

Kavouss Arasteh: Yes. Leon the question of the chartering organization was discussed at the previous meeting.

And I confirmed and reiterate that any comment on chartering organization on until 21st of December is just preliminary either on individual basis or any other form.

The formal reply from chartering organizations it starts from 7 of January when the chartering organization received its full package of the comments.

They cannot comment without receiving the comments of all because they might have impact and they might have - avoiding some overlapping. Therefore please kindly clearly clarify the matter that the charting organization comment start from 7th of January until 21st of January, not before.

In the GAC there was many email exchange and opposed to the way that chartering organization are obliged to make it comment before they received comment from the public community and so on.

This is an important issue and I think that the CCWG management should not push more than necessary. Once again the public comment must be in hand of the chartering organization.

Based on that they will comment between 7 January and 21st of January and not before in a formal manner. In formal they can comment anytime until the 18th of - 21st of December or between that until the 21st of January.

But formal is start from 7th of January. Thank you.

Leon Sanchez: Thank you very much for this Kavouss and well the point of this agenda item is to actually get a sense of where are the different SOs and ACs standing at this point.

We are not of course requesting that they provide their official support of the states. We are aware that there is a timeline that they are also processes that need to be followed each SO and AC.

So as I said this space in our call is just to get a heads up if possible from the different SOs and ACs. But thank you very much for pointing what you have kindly noted.

Next in queue I have Izumi. Izumi could you please take the floor?

Izumi Okutani: Thank you Leon. Hello everyone. So I just want to give a status update from the ASO.

So we are planning to have a call in a few hours after this to discuss the position within the ASO.

We're certainly targeting to make comments before the comment period. And I just want to highlight our possible issues that we will be discussing from with our interest.

So first we are of course planning to have clarity on whether or not the ASO plans to join this community mechanism in having deciding the consensus and how frequently, how likely are we going to participate in this community process. Is that something we plan to have more clarity?

And there - we also just our board has (unintelligible) comments on about its position.

We are planning to review the board suggested text on mission including its text around the numbers community it's - ICANN's roll around the number of resources.

We strongly feel that we strongly support the current CCWG text around the numbers community which includes reference to the ASO MOU. So any changes from this we are not likely to be able to support.

The second the board's comments around the IANA budget and the fact that the operational community should be involved in the process.

We don't have a strong position around this at this day so we will have more clarity on this.

Lastly on probably not a measure or discussion point but more for the text clarity on the reconsideration at least along the ASO liaisons, the text on the reconsideration that the numbers related issue are out of focus may not be completely clear enough on the ASO perspective.

So if the ASO formally feels this we will come back with suggested text. But I believe that this will be a friendly amendment because this has been agreed in the past process that in addition not just the IRP but also for the

reconsideration number that this (unintelligible) related issues will be out of focus.

So these are the highlights of the possible issues from the (adopt) perspective. And overall I don't see anything that is too challenging or to get our approval. Thanks.

Leon Sanchez: Thank you very much Izumi for this information which I find most useful. It gives you - it gives a sense of which are the issues that are - that actually raise concern as you said in the ASO and in order to be a step that needs refinement from the ASO point of view.

And next in the queue I have my co-chair Mathieu Weill. Mathieu?

Mathieu Weill: Thank you Leon, Mathieu Weill speaking. As a ccNSO appointed member we in the ccNSO side a ccNSO council call is planned on December 23. And my understanding is that the draft report of the CCWG is going to be on the agenda.

There have been a number of outreach and engagement activities started to prepare for this including Webinars that were held on December 2.

Well I'm having a terrible echo right now.

Leon Sanchez: Yes there is an echo. Could you (unintelligible) mute your mic? I think it's gone.

Mathieu Weill: Okay. Now let's...

Leon Sanchez: Okay so let's try to...

((Crosstalk))

Mathieu Weill: Is that better? Okay, I cut off the AC...

Leon Sanchez: Yes.

Mathieu Weill: That's good. So there were Webinars held on December 2 with approximately 20, 25 ccTLDs attending. Four out of five of the ccNSO members have provided the council with their inputs overall supporting the draft report filled with some concerns on the efficiency of some of the processes were raised.

The fifth member is - has been invited by (Byron) to provide his input as well. And obviously I'm not in a position to predict the outcome of the ccNSO Council call but it's at least on the agenda.

And I want to stress that this plan and outreach activities were all made before the board comment was sent and this board comment has been circulated to the ccNSO list as well this point. That's it for the - my perspective on the ccNSO preparation. Thank you Leon.

Leon Sanchez: Thank you very much Mathieu. And next in the queue I have Julie Hammer.

Julie Hammer: Thank you Leon, just a brief update. The SSAC discussed this at its meeting on Thursday the 10th of December and went through the main issues that were form the basis of change in draft three taking into account that the SSAC has formally advised that it will not exercise any decision-making role in the empowered community.

Is drafting a response that reflects that very limited role. It believes that it's inappropriate to comment on matters that are not security and stability. And so it will have no comment on many of the things that aren't related to that.

But like Mathieu advised us that meeting was prior to receiving the advice from the board. And I'm still working on my end some details through that and seeing whether there are any aspects there that need to be brought to the FX's attention. But certainly there is a document in development to provide comments. Thank you.

Leon Sanchez: Thank you very much Julie. And I note that in the chat box Chris Dispain is asking that both Keith Drazek and Izumi that their respective consequences or charter organization won't be able to approve or otherwise (party) to send the transfers deadline.

And he asked me if that is correct and I do think that is correct and actually let's remember that what we're asking from charter organization is to provide their provisional approval or support to the third draft.

So which would of course be finalized after we receive comments from the (unintelligible) that we have asked for in this time period that would be ending on December 21 and officially express their support or approval mid-January so we can then forward our proposal if approved by the community through the ICANN board of directors.

So I just want to read Keith, Keith Drazek's comment in the chat box. He is saying that the GNSO council has a call on the 17th where they will discuss the CCWG proposal.

The stakeholder groups and constituency's comments are under development and hope in time is to determine if there are any obstacles to approval but the GNSO will likely need another meeting in January to pass a resolution on the proposal.

So I think this will pretty much continue to be in line with our current timeline and I see that Alan Greenberg's hand is up so Alan could you please take the floor.

Alan Greenberg: Yes thank you. Just to be clear since it is conceivable that based on the comments from the chartering organizations and the public comment there may be a change in the report.

No chartering organization can approve that unspecified change at this point. So unless we presume there will be no changes it is not going to be possible for the chartering organization at least my chartering organization is not going to sign off until we see what we're signing off on.

So I think that implies that everyone is going to have to at least to say yes the changes are not significant enough for me to withdraw what I tangibly decided to support. Otherwise I'm not quite sure I understand the process. Thank you.

Leon Sanchez: Thank you very much Alan. Next piece (Matthew Bale), Mathieu.

Mathieu Weill: Yes thank you very much Mathieu speaking. Just to confirm on Alan's point obviously it is not (us) because a chartering organization would respond to the current draft report by endorsing that it would be endorsing the future change if any.

If there are any material change then it needs to go back to chartering organization approval. That's a minimum obviously. I think that's very clear.

Leon Sanchez: Thank you very much Mathieu for this clarification. And I don't know if there are any other comments that anyone would like to voice at this stage or provide us with an update on where things are standing under corresponding charter organization.

Okay, so having no other comments at this stage I would now turn to my co-chair (Thomas) for the next agenda item.

Thomas Rickert: Thank you very much (Leon) and just one additional point since there is a discussion going on in the chat with respect to your and (Matthew's) point. Let me reiterate and we put that in writing already.

There is no risk for the chartering organizations that they improve unknown changes. So whenever there are changes to the recommendations that are material we would go back to the chartering organization and ask them to confirm their approval on their support.

Certainly Tatiana is raising in the chat there might be borderline cases with respect to what is to be considered material substantial and whatnot but this is certainly something that we will bring back in front of our group.

And with that we can move to the sixth agenda item which is a quick update on board interaction. You will remember that the co-chairs have been invited by the board I think it's like two weeks back to respond to questions on our third draft proposal which we did.

This call was recorded and transcribed and we have volunteered during that call to further liaise with the board should the board wish to do so. Let me remind everyone that we have made such invitation to all other parts of the community.

So if you would like the co-chairs to attend any of your meetings or have a Q&A session with the co-chairs please do let us know and we will make sure to make time to have such discussion which is going to be important. This is not something we're only doing for the board and - long time.

And so an invitation from the board came through during the call which took place last Sunday. This call as well was recorded and transcribed so the transcript of that will surely be made available to the community very shortly.

And in advance of the call we have as we did for the first call indicated to the board that we would be able to answer clarifying questions or questions related to the process but that there was no way for us to enter into negotiation type discussions with the board on individual recommendations.

We should also note that we did not get any draft of the board comments that now have been published. So we joined this call and let me just briefly recap what was discussed there.

First the board has thankfully expressed its appreciation for the work of the CCWG and indicated that they wanted to share some of their comments with us.

Bruce our board liaison then outlined at a high level the board comments that the board was planning to submit and Mathieu and I, you know, since (Leon) couldn't make it for that call we reminded the board of the tight deadline that

we're working under and also reminded them of the recommendations of the request that we issued to the chartering organizations.

And those were to ask the chartering organizations to leave all comment on the aspect relating to implementation to a later stage i.e. to make their comment as lean as possible in order to reduce the risk of confusion and also to reduce the workload during this last phase of our work on work stream one recommendations.

We also asked the board to limit its comments to those points where they can anticipate that 75% of the board are of the opinion that the recommendations are against to go with public interest.

You will remember and you will surely have read that in the boards comment that this goes back to a board resolution that was made in the fourth quarter of 2014 where the board had indicated that they would pass on the community recommendations on an as is basis unless there are recommendations in there that quoting to a 3/4 or more majority of the board are not in public interest.

So with that the board applied those tests so that we can ensure only to get those comments that are relating to or that are relevant to the approach encapsulated in this board resolution.

So that you know the chartering organizations will hopefully approve our recommendations and after that they will be passed onto the board and the board will then do this over public interest test.

We also showed the board that their previous input was taken into account during the CCWG's deliberations and that even though some of the boards requests were not fully incorporated in our recommendations that their input

still has been analyzed and taken into account during the consensus voting process which as we reminded the board of is a process in which all parties involved need to make sacrifices and do not necessarily get 100% of their wishes.

So that was what we shared with the group as a - as you will have seen on the list and in the public comment box. The board has sent its comments and I'm sure that you will take a look at those comments from the board which I think were discussed on another occasion.

I would now like to ask you whether there are any questions on this update. So sometimes my AC room is freezing which happened earlier during this call so let me - there is a hand raising, Mathieu.

Mathieu Weill: Yes (Thomas) it's just an extra point which I think is worth mentioning here. There is a SO, AC leader's call being organized on Thursday where the board is apparently planning to discuss their comment and respond to questions from the SO, AC leaders.

We have just received an invitation for that (Thomas). I don't know if you've seen that in your email. I know I cannot attend and since (Leon) with - I was not aware of this call being planned but maybe that's a mistake on my side.

But there is some activity going on from the board and ICANN to socialize the comments. So if any - I guess this is going to be transcribed and a recorded call so we'll share on the list because it might be of interest to some of you. Thank you (Thomas).

Thomas Rickert: Thanks so much Mathieu that's a good point actually that the notification came in something during last night in my time zone. I see a question from

Tatiana in the chat whether there are other occasions that aren't mentioned - would be another call that they will be scheduling to comment on the - or to discuss the board comments.

I - my immediate response to that would be that we will deal with the board comments as we deal with other comments. We said earlier that there will be no special deference to board comments because according to our charter we are holding public comments.

We need the approval from chartering organizations and so we're going to treat all that equally because we think that, you know, a comment from an individual maybe as important as a comment from other parts of the community or the board.

But I think it's perfectly proper to ask how we or how this group wishes to deal with the board comments. So if you would like to comment on that or make recommendations as to how you would like to go about with this.

I guess this is an ideal opportunity for you to chime in. Alan.

Alan Greenberg: I guess I'll ask a question I've asked before. At some level it's fair to say the boards comments are addressed in other comments like anyone else's. On the other hand ultimately any changes to the bylaws have to be approved by the board.

And if in their fiduciary if their belief it violates their fiduciary duty because a change is not in the interest of ICANN then they're not allowed to implement that bylaw.

So how do we merge that into the fact that they're just another part of the community?

Thomas Rickert: And Alan I think that - first of all let me thank you for asking that question. And let me be clear and this is certainly just my personal view and I'd like to share others' views as well.

You are certainly correct in saying that the board has a special role when it comes to procedural aspects and when it comes to their role in the ICANN corporation right.

Certainly from a procedural point of view it is the board to which we submit our report and it is the board that has to pass on our recommendations to NTIA.

Yet at this stage we are consulting the community on our recommendations and therefore the role of the board is to comment on our recommendations which by the way they are not obliged to the board could as well have held back its comments until the point in time when it is their call to judge the recommendations based on the methodology they have put in their Q4 2014 board resolution.

So let me be specific in summarizing this. There is a special role as you correctly point out with respect to procedural aspects. Also when it comes to implementing the changes at a later point. But when it comes to soliciting feedback from the community I think it would be an unfair statement to the rest of the community to claim that we're going to give special deference to what the board has to say.

Any further feedback on this? Good let me pause for another few seconds whether any - whether you would like to make any comments on the board input or the board direction. Kavouss please, Kavouss the floor is yours. Can staff please check whether (Kabus') line is still connected?

Kavouss Arasteh: Can you hear me please?

Thomas Rickert: Yes we can hear you now go ahead. Kavouss.

Kavouss Arasteh: Can you hear me please?

Thomas Rickert: Yes we can hear you please do speak.

Kavouss Arasteh: Yes, yes my question is that if one or several of the recommendations are rejected by the board or 2/3 of majority of the board public available knowing who has objected to that.

What do you do with those recommendations? You send the recommendations again indicating the rejection or you drop that recommendation irrespective of support of the community and chartering organization. Thank you.

Thomas Rickert: Thanks very much Kavouss for that question. I guess the answer is in the board resolution on the specific case. First either the board will determine whether any of our recommendations is against the global public interest and only if more than the 75% of the board and it's actually not a 2/3 majority is of the opinion that this is the case.

Then our recommendations would not be passed on but the board would then engage in the discussion with the CCWG to fix this. So the recommendations that get concerns from the board in that respect would not be deleted from the

whole package or amended silently but they would be subject of further deliberations between the board and the community.

There was another hand raised so I'm...

((Crosstalk))

Bruce Tonkin: Can you also add me to the queue as well (Thomas) it's Bruce talking.

Leon Sanchez: Yes let me just see I thought there was another hand raised but if that hand is lowered - Bruce it's actually your case, it's actually your turn go ahead.

Bruce Tonkin: Yes thank you (Thomas) I just wanted to pick up on a couple of the comments and questions that were raised. One of the things that Alan referred to was improving bylaws language.

I guess there is actually a couple of steps in between this. But the first step is agreeing to the recommendation. The second step is probably guidance to the legal counsel that will eventually write the bylaws and then the third step is approving the bylaws.

So I think as we're sort of envisaging or at least why the NTIA might think that as well is that all of the (unintelligible) weeks that we would be spinning a report to the NTIA with that final bylaws language.

The NTIA (unintelligible) regarding that report. I guess they would give us feedback if they felt there was a recommendation they thought was inappropriate.

But the actual transition itself doesn't happen until the bylaws are actually passed going forward. So I think that step between when the report is finalized and the actual bylaws themselves are passed by the board is going to be some months.

And I think we all agree that the board and the (unintelligible) work on taking this report, taking the implementation guidelines and guidance in their report and then transforming them into bylaws.

Then specifically with the recommendations one of the approaches we used in the new gTLD policy development process is we actually separated out the core recommendations themselves and I think there was about 20, from what we refer to as implementation guidelines.

If we want to go back and read the new gTLD policy recommendations from the generic name services or organization they were actually quite different from the core recommendations and then implementation (unintelligible).

A lot of what you see Mathieu and (Thomas) and I think you have an accurate description of what you said to the board in the call yesterday, but in essence you are saying don't make comments on things that are implementation just make comments on the recommendations.

So part of the reason we had to make or felt we need to make some comments was that the board does actually talk about implementation as a recommendation to the high level recommendation saying that (unintelligible) should be.

So then it actually talks about stuff that's basically got us to the legal counsel (unintelligible) basically trading bylaws language. And a few place we've actually provided input onto adjusting that guidance if you like or suggestions

for change because we think that will make the recommendation implementable in the bylaws ultimately.

I just want to (unintelligible) but the recommendation which I think is very (unintelligible) the board and the CCWG on the high level recommendation then the implementation guidelines or guidance to the legal counsel where we in many cases given some quite specific data.

And then there will be the final bylaws signing process which will, you know, be some months away from now (unintelligible) if that's helpful. In terms of you also made some comments about, you know how the board will - I saw (Milton's) comment on the list as well.

Has the board (unintelligible), you know, is it (unintelligible) for or against the public interest. And I believe Chris Disspain has responded to that (unintelligible) and he's passed that onto the group as well.

The board comments certainly represent a consensus of the board and our reason consent (unintelligible) definition. That's for the comments with the CCWG.

We have yet to actually vote on the recommendation and in doing that vote we'll actually take into account the input we get from the public comment process, the input we get from the chartering organization and the final report that we receive from the CCWG.

So no vote has been taken as you correctly reported (Thomas) and that won't happen until we have a final report and may potentially evaluate all the information we have available at the time we do that vote.

Thomas Rickert: Thanks very much Bruce. Any further interventions? I don't see any (unintelligible) so with that it looks like we can close for the night and then I'd like to hand over to Mathieu.

Mathieu Weill: Thank you (Thomas), Mathieu Weill speaking and this is the any other business including remarks item. I'm turning to the room to see if there is any other business.

I'm seeing none. So we will be able to close this call with 35 minutes in advance of the planned time which is a good way to either go to bed slightly earlier than planned or start the day or go for drinks for those of you whose time zone is (unintelligible).

Thank you all for providing these updates and contributing to this call. We still have a lot of work to do as you know and it's good to see the group still being this engaged in the process.

And I see a hand raised by Kavouss, please Kavouss.

Kavouss Arasteh: I tell you on which the board could say that I don't agree with this recommendation because it is against the public interest. What are the criteria, what are the basis or it is just subject to (unintelligible) or to the discussion of the board?

We need to really know that. If the public comments after or public community asks who (hears) of discussions and so on and so forth having a recommendation and if it is supported by this public comment or by the chartering organization and the board still say that they don't agree with that.

We need to know reasons, valid legal reasons for that. So especially the important questions I don't want to waste your time if you could please consider my question and we need an answer to that. Thank you.

Mathieu Weill: Thank you very much Kavouss. I think it was (unintelligible) you at the beginning but I think your question was put in the chat as well and it whether the board could explain its criteria when it says it might be contrary to global public interest and it has to reject the recommendation.

And you're actually quite right re-raising the question about whether we could have any clarity about those underlying criteria and definition basically of this global public interest issue.

I don't know if Bruce or anyone in the board has an answer to that right away it might be difficult to do so in this room but if that's not the case my suggestion would be that we engage the discussion on the list by putting your question in writing as co-chair to Bruce as the staff liaison so that we try and get clarity on this.

And I would put that into the action items under agenda item number 6 that the co-chairs relay your question to Bruce, the board through Bruce as the staff liaison.

And I think that's actually ending our call on a high and very useful note to further enhance the dialogue with the board on the basis of the underlying criteria that will guide the board's decision in the end and certainly - committed to making this work and making this work right.

And I do hope that we can keep that momentum going. Thank you very much everyone and enjoy the rest of your day or night depending on your time zone. Thank you very much.

END