ICANN

Moderator: Brenda Brewer
December 15, 2015
10:00 am CT

Coordinator: Recordings have started.

Grace Abuhamad: Thank you. Everyone welcome to the 73rd meeting of the CWG. It's our last
meeting of the year and its 1602 UTC on 15 December.

We have Eduardo Diaz, Holly Gregory and David Conrad on audio only. The
rest of the roll call will be done based on the people in the Adobe Connect
room. And I will turn it over to Lise to do the opening remarks.

Lise Fuhr: Thank you Grace. And yes I will chair this call. I'll have help from my co-
chair Jonathan Robinson who will chair Item 2 dependencies.

But before going into the substance of the listed items on the agenda I'm
going to give you a quick update.

First on the final status on the letter to the chartering organization regarding
the CWG role in the implementation where we actually had set 30 November

as a deadline I think we at the last call heard from ALAC that they were fine with our role in the implementation.

I would like to ask Martin Boyle to give a status from the ccNSO. I know you're on the council call where this was discussed. So Martin can you give a quick status on this?

Martin Boyle: Thank you Lise. Can you hear me?

Lise Fuhr: Yes we can.

Martin Boyle: Good. Yes I was on the ccNSO Council call I think it was as recently as last week. And this was accepted by the council as being quite a natural and sensible approach to it.

And they will not only not be registering any objections they will be (concerning) this in writing. Thank you.

Lise Fuhr: Okay, thank you Martin. I don't know is there any news from the GNSO, anyone from the GNSO here to give a quick update? Jonathan?

Jonathan Robinson: Thanks Lise. I received a confirmation from possibly you were copied on it but it certainly received a confirmation from James Bladel, GNSO Council Chair who confirmed there will be no objection from the GNSO. Thanks.

Lise Fuhr: Okay, thank you. I don't know if there's anyone from GAC who can give an update on GAC? Okay if not I don't know if there's anyone from SSAC who will give an update? And I see that essentially...

Jaap Akkerhuis: Hi (unintelligible) hi.

Lise Fuhr: Hi. Is that Jaap?

Jaap Akkerhuis: Yes. This is Jaap. I've managed to - I had a problem getting in but yes.

Lise Fuhr: Okay.

Jaap Akkerhuis: Of SSAC well there is not a lot to update (unintelligible). I mean we are basically watching what's happening. And this - I mean - and been giving definitely tried to be neutral in most things. I mean we just - we only watching that's basically on the moment.

Lise Fuhr: But and that's fine Jaap. What we actually wanted was just to inform and if there was any objections we would just go on.

                  And so far we have not received any objections. I see Sabine is - your hand is up Sabine? Go ahead.

Jaap Akkerhuis: Well there's some worry about what's going to happen during the implementation phase. But since nothing has been decided how this is going to be handled there's not a lot we can say at the moment.

Lise Fuhr: Okay, thank you Jaap. We will proceed (unintelligible). Okay and Sabine go ahead yes.

Sabine Meyer: Yes just seeing that I got my chat comment into the jazz off in the chat I would just like to go on the record again that GAC is also still deliberating. We'll have a phone call on Friday. So no news from us either.

Lise Fuhr: Okay thank you Sabine. Okay and as you might know we have the public comment on the accountability draft proposal which is running until December 21.

And we the CWG need to respond to the CCWG if the draft of meets our requirements or not. We will discuss this under Item 2. And Jonathan will lead this discussion.

Furthermore we the client committee of this group have had a call with Sidley last Thursday in order to discuss three issues where the first one was the status of the letter to the accountability group regarding our requirements.

The second one was the instruction of simplifying the bylaws which we will discuss under Item 4 today.

And the third one was the implementation of PTI which will be discussed or updated under the item of implementation.

Furthermore we have had two calls with the accountability co-chairs since our last call. And we had one yesterday where we discussed the dependencies.

And we have invited Thomas Rickert to be on this call. We actually invited all of the co-chairs but they're sending Thomas.

And we're happy to have him on this call. And he will answer any questions that we might have in relation to the draft proposal.

Furthermore we Jonathan and I will have a call with the two other operational communities late tonight regarding the IPR which we also will discuss under the implementation agenda item.

That was a brief opening remarks and I don't know if there's any questions to what's been mentioned. We will deal with most of it and during the call because this is mostly meant as an offset to our further discussion but if you have any questions please go ahead.

I see none. So I will hand it over to you Jonathan to go ahead with agenda Item Number 2 CCWG dependencies.

Jonathan Robinson: Thanks Lise. I'll just say couple of things and then head over to Sharon who's kindly joined us from Sidley.

We have the draft of our letter regarding or document regarding the dependencies. In discussing this and thinking about it it became clear to at least us and I think a little on the list as well.

But in any event that this is our contribution and review of the CCWG proposal as it currently stands with respect to whether or not it meets our dependencies.

We will submit this document in via the public comment. But it is not primarily a public comment. This is our response. It will submit directly to the CCWG and also supply it to the chartering organization so they are well informed as to where we stand as they continue their deliberations on this proposal.

We've had some - it's a comprehensive document in the first place and so thank you to Sidley for doing that work and setting us up as we would've hoped.

We've had some good comments and input from at least a couple. I recall both Chuck and Greg's input to the document. I have a couple of minor inputs myself that I can possibly give on this call as we seek to finalize it.

We've also got Thomas here which is great, so thank you Thomas as Lise mentioned Thomas Rickert to assist.

And there is one wrinkle as we deal with all of this I guess is that in a sense we are responding to a proposal that is static and yet subject to public comment.

So that makes it quite difficult. And I've heard this was brought into most sharp definition by virtue of the board the ICANN Board comments that were published within the last couple of days.

The comments that are coming in may or may not impact the final output from the CCWG. I think for the moment we have to take it that we are commenting on the document as it currently stands.

I think if we try and do anything else it will be a moving target. But in the back of my mind and I suspect there's others as well there is an awareness that there are some potentially material inputs into the CCWG's work even at this late stage such as that coming from the board.

Personally I've been through the board comments. And frankly the main area where we might have concern is in and around the budget and the work on the budget.

And my personal take on it and I haven't socialized this with anyone else or discussed it is that there is not - there doesn't seem at first pass to be a

significant impact of what the board is proposing on whether or not our conditionality will be satisfactorily met.

So that is my personal first take. But that's jumping the gun a little. Let's come back to where we are with a proposal as published and a review of the dependencies.

And you'll see that Sidley structured it if you haven't already had a proper chance to look with a comment and a conclusion in each area.

And really Sharon I suggest we focus really sharply in on where there is a requirement, where there's either been some input during our processing of this document or a need for input.

And perhaps you can just work through it section, you know, introduction then section by section and call out if there are any viewpoints or comments.

And I guess I'll try and manage the - any of the dialogue to assist you. So if there's a comment or question but if you feel more comfortable sharing it yourself by all means let me know.

So let me hand over to you Sharon to sort of talk us through the key points there and where input is required.

I think the one we have in the screen in front of us -- just checking see if this has been edited at all -- maybe staff could just comment a bit.

Lise Fuhr: Jonathan this has not been edited. This is the original.

Jonathan Robinson: Okay. So there are a couple of inputs but they are not so much that we can't manage to deal with those as we go through.

So let's let Sharon walk us through. And then we can probably deal with the input either through the chair or those that made the contribution as we go. I'm going to hand over to you Sharon.

Sharon Flanagan: Thanks Jonathan. So in terms of the introduction I think you hit on a key point already Jonathan which is to note that this is taking the form of a public comment but it is really is more than a public comment and that it's a part of the agreed working method between the CCWG and CWG and ensuring that the CCWG proposal meets all of the conditions and dependencies of the CWG's work.

So let me go through there are about I think seven or eight items. Let me just walk through them and highlight as Jonathan requested the places where there might be some areas where we would need some changes to the final CCWG proposal.

So the first one is the community empowerment mechanism, and just as a reminder we've got the CCWG requirements listed at the beginning of Section 1 the ability to appoint and remove directors, to recall directors, to exercise oversight over key decisions and to approve the fundamental bylaw amendments.

In terms of the comments the - as you probably know the CCWG proposal contemplates now a soul designator model. And that's a change from the sole member model that was in the second draft proposal.

And for those not as close to CCWG's work that soul designator model the designator is a recognized - has recognized status under California nonprofit law. And that designator would be empowered to act in certain ways.

It would be empowered to exercise the community powers. It would be empowered to remove individual directors, to recall the entire board and to enforce decisions of the community mechanism. So that is the way that the powers are exercised and enforced.

One of the new features of the proposal is that there is extensive engagement and escalation that leads to the exercise of the community powers.

And I can very briefly I'll will try to do very briefly just for those who aren't as close to CCWG just recap what that process is in just a couple of minutes.

The basic structure is that there is engagement meaning there's consultation between the community and ICANN and then after that there would be if needed enforcement.

And the way that works is that an individual would petition and SO or an AC. And then the SO or AC has to accept that petition.

And then that SO or AC that has accepted a petition has to reach out to the other SOs and ACs and at least one other SO or AC must support the petition.

And the petition is to have a call. And so then the call would be organized. There would be discussion. The ICANN Board would participate in that call.

And if there's resolution then that's the end of the process. And if there's no resolution then a decision is made to whether - to hold a community forum.

And that's a more involved process of gathering, you know, for a couple of states potentially to discuss the issue.

And then generally for a community forum that would require three or more SOs or ACs to support that. I say generally because for certain powers it's different but that's the general default mechanism.

So then after the community forum if there's no resolution then there's a decision about whether to exercise the community power that's at issue.

And generally that would require four or more SOs or ACs to support the use of the power and then no more than one to be against it.

And then if the decision is made to use the community power the empowered community advises the board.

And then if the board fails to act the empowered community can start an enforcement process. And that also has an escalation process so for starting with mediation and then if that's not successful moving in to a formal binding IRP.

And then at the end of the IRP process if the community has arbitration in its favor then the community could if it needed to go to a court to enforce that decision or it could also decide to recall the board.

So that's, you know, at a very high level that's the mechanism. And that would be the way that the community powers that CWG requires would also be exercised.

So one more minor point to note on the community powers is that the ability to remove a director which is a CWG dependency could only be used once during a director's term.

So if there's a term of three years if the community tries to remove the director and a decision is made not to remove him or her than that director serves out his or her term. So that's the mechanism.

In terms of conclusion it's our view that this mechanism does address the CWG dependency for community empowerment.

In some cases it is less direct than it was in the full member model because there's not necessarily a direct vote and rather it's this escalation process that I described and then enforcement through binding arbitration.

But at the end of the day there's still the ability to ensure that the powers can be exercised. It's just - it takes - it might take a little longer or go through a slightly different path but we think that you still get to that point.

So it's our view that that model does meet CWG's requirements. We would ask the group to weigh in on whether you're comfortable on that one point I just raised about the ability to remove a director if removal for only once during the three year term is sufficient for CWG? So that's just a question for consideration.

So that's the first one. I think what I'll do is I'll just run through all of them and then, you know, people can kind of keep track of their questions and then we can come back at the end with questions or...

Jonathan Robinson: Sharon I think if I may - it's Jonathan -- I think it might be easier to manage if we do it section by section...

Sharon Flanagan: Okay.

Jonathan Robinson: ...and just resolve the issues.

I hope it doesn't make it to broken but they're relatively small. And it may mean that we can just sort of deal with some one by one rather than making in effect two passes through the document.

Sharon Flanagan: That sounds good Jonathan. Well I see Chuck's hand is up. So Chuck do you want to go ahead?

Chuck Gomes: Thanks Sharon and thanks Jonathan. So I think I put this on the list but I don't understand why there needs to be a limitation on only using the escalation process to remove a director once during a three year term.

Now I'm - it's obvious that, that would probably be a rare case that would happen. But if it did -- and I think on the list I described the situation where that could happen -- you would want to be able to do it.

You know, so I don't see that as a showstopper but I do - I don't know why there has to be a limitation there. I think it would rarely ever happen more than once but still I'm not sure why that needs to be there.

The second concern and I'll go ahead and communicate both of them now. The second concern I have is the use of the escalation process could be very limited by the time constraints that all of you have heard me harp on before.

You know, a seven day turnaround time which occurs in several instances is virtually impossible for a bottom up multi-stakeholder organization like we're all a part of in our individual groups.

So I think that's where the timing issues become a concern in the escalation processes to use the community powers. So those would be my two comments on this section. Thanks.

Jonathan Robinson: Thanks Chuck. And before we go to Milton I'll just - right and maybe Thomas would like to come in here because this is something that Lise and I raised with the CCWG co-chairs this issue of the onetime per term perspective removal of a director because we knew it had come up as a concern and so we discussed it.

And it appears that this is the outcome of quite some deliberation. So let me before we go on to the position of time and timing and on to Milton next in the queue why don't we hear a response from Thomas on this specific point which may impact the thinking here.

Thomas Rickert: Yes. Thank you very much Jonathan. Welcome everyone and thanks for the opportunity to chime in.

We have more CCWG members and participants on this call so they might wish to add to what I say trying to reflect the deliberations of our group over the last let's say six months.

The community power to remove directors has been there pretty much from the beginning. And it has been one community power discussed quite controversially.

Other than the removal of the entire board dismissal of individual directors was quite contentious because there was the feeling by some that we should have a catalog of reasons why board members can be spilled other said that allowing for both members to be removed can lead to a situation where directors would just tell what they are told by their respective organizations in order not to run the risk of being dismissed.

Also there was the risk that was discussed that board members could be removed too often or that, you know, to use (unintelligible) that the board is (degust) by the removal requests and that this could lead to a destabilization of the organization.

So a lot of arguments some of them very valid have been exchanged. And what you see in our third report is the outcome of a very long and very engaged discussion by the group and the wider community. And this is actually now a fine balance between the different positions.

So we added for example the requirement not to pick from a catalog of specified reasons for dismissal but to publish a rationale for why dismissal is flawed.

We've also added transparency requirements to bring out the discussion to the public to give the consent director the opportunity to speak up also to be heard also.

And all of that you see in our report. And the discussion of whether there should be limitations on the number of dismissals or attempt to dismiss was discussed.

And it was felt or we could reach consensus on the limitation that was made reference to earlier because that was felt a community power that is strong because you wouldn't dismiss a director easily.

At the same time it can't be overused because it is limited to one time per turn. So that was the agreement that was reached. And rest assured that we have carefully looked at the CWG requirements.

And if you read the requirements that you as a group have established that does not specify that there must not be any limitation.

So both removal - or director removal must be possible and yes that is possible. But there was no explicit condition that there should not be any limitations on that happening.

I think I should pause here and turn it back over to you to Jonathan so that hear from those in the queue.

Jonathan Robinson: Thanks Thomas. So that's what understood in our previous discussions. So that's in a sense and others may come back on this but that's a reason to respond to why this is the case and why it may not be practical to modify this.

Let's go on and hear then what Milton and following Milton Alan have to say. Milton go ahead.

Milton Mueller: Yes. I just wanted to reiterate my concerns about or the concerns about timing that Chuck expressed. Although I believe that for these mechanisms to be effective that they do have to be very timely but I guess there are questions about the feasibility about that.

My main question however is for Sharon. And I wanted to focus her attention on the recent board comments on the CCWG and ask her whether anything in those comments is changing the nature of the thresholds or requirements for board removal in a way that would affect her analysis?

Jonathan Robinson: So Milton my preferred way of dealing with that -- and it may be that I'm being a little linear in this -- but I would quite like to go through this in its current form and then if - well and then try and deal with if there was any overlay relating to the board.

The one question I would have is I'm not sure if Sharon's even had the opportunity to look at that board comment. So she may not even be in a position to assist here but in any event that would be my suggestion.

Milton Mueller: That's okay with me if you want to structure the discussion that way it's fine to wait as long as we do get to it because it certainly sort of a Sword of Damocles hanging over some of this discussion.

Jonathan Robinson: Yes understood. Although as sort of - in terms of the budget work which seemed to be the most obvious impacts on our - my personal view was it didn't seem to be a significant issue but let's not go there first.

One thing I wouldn't mind is a quick response from Sharon as to whether she's in any position to do that when you next come in Sharon.

In fact let's give you an opportunity to do that if you have had any sight of the board comment and are in any position to deal with that?

Sharon Flanagan: Thanks Jonathan. Yes I mean was not tasked to us but I couldn't resist. I did read it. So I can't really opine at this point on - in detail.

But I shared your view Jonathan. I didn't see a lot of things in here that were showstoppers or looked like fundamental problems or issues. So I can speak to it in general terms but not in detail.

Jonathan Robinson: Well that's helpful already I think. So let's - I haven't forgotten Chuck's point on the timing. I'm not quite sure what we can do about that but let's go to Alan first and then come back to that.

Alan Greenberg: Thank you. That's actually what my comment is about. The reading between the lines of the CCWG proposal I think makes the situation a little bit better.

The timelines that are specified between each step or the time delays are short. There's no question about it.

And we know our groups in general cannot make decisions in that timeframe but I think you have to look at it as the continuum.

When there is an issue raises that requires a quick delay a quick response it's not the first time it's come up.

So if we ever get into exercising these powers we really have to look at the timeline from the beginning from the time it starts.

And if any SO or AC ever starts the petition process I think that's going to have to be a wakeup call for the entire community.

And the processes all kick off from that point. And we should be looking at the entire timeline not between the individual steps. And I think that makes it much more feasible and possible. Thank you.

Jonathan Robinson: Thanks Alan. So I guess we're in a position where my take on this is that we are - we will - in terms of the CWG's concern the limitation the use of escalation process to remove a director more than once it feels to me like we have to live with that limitation based on what Thomas has said and in our work - if others come back and have a different view then go ahead.

I see Martin in support of Alan's view. In other words that I'm not one of the questions I have is how much we can do about that timing or time points that Chuck has made.

But let's leave that potentially open for a little longer and come back to that if necessary or any suggestions as to how we might do that.

I mean the other option is of course which is whether or not this is brought up via any other mechanism in the comment period outside of our work whether this specifically impacts on our dependencies or not.

But let me hand back to Sharon. Sharon when you've gone through all of this I had a point on the introductions that I think we should deal with which perhaps is easy enough to deal with right away.

And that's that we're just slightly long winded in our wording. We go on in the beginning of the document we say the results of these dependencies and conditionality while this document is being submitted to the public comment.

I would suggest we strike all of that part of the introduction. Just simply say this document should be viewed as an element of the agreed upon working methods.

So I'll propose that to the group for things to think about as part of the introduction. It's the sentence beginning as a result and ending public comment. I think we can essentially strike the whole of that. It's in the last paragraph of the introduction.

Sharon, go ahead and take us through to the next point of the document there.

Sharon Flanagan: So thanks Jonathan. Okay so the next item is the ICANN budget and the IANA budget. And just a reminder of the requirements for CWG which was to approve or veto the ICANN budget before it comes into effect.

And then specific requirements on the IANA function budget that the costs be transparent, that there be itemization and also some requirements on the timing of the budget. That the budget be submitted for PTI in advance nine months in advance of the fiscal year and that the IANA budget be approved on an earlier timeframe.

So there was some I would call them more implementation type items in CWG's proposal on the budget.

In terms of the CCWG proposal there is a clear power to reject the budget that is proposed by ICANN. And again as I described before it's that same process of escalation that you'd go through and the community discussions.

One thing to note that is slightly different is that you can only challenge the budget if there are significant issues that have been brought up in the engagement phase that were not addressed prior to approval.

So remember you have engagement and then escalation. So at the escalation stage on budget you wouldn't be able to raise new items. They would have had to have been raised at the engagement stage.

So that's more just a process point that people would need to be aware of to ensure that any issues are raised at the earliest phase of the process.

The CCWG proposal does provide that the ICANN and IANA budgets would be considered separately so that a rejection of one is not automatically a rejection of the other.

As we talked about on the second proposal that the third proposal doesn't provide for approval by the community rather it's negative authority it's the ability to reject.

And when we discussed the second proposal CWG was comfortable with the negative authority. So that's not really a change it's just again it's the difference from the original proposal but it's something that people felt was within bounds and got you to the same place.

What the CCWG third proposal doesn't address is some of the details on transparency of the IANA costs, the specific grounds for which you could reject a budget or plan, some of the time frames on when budgets would be proposed and passed on and then details on the caretaker budget.

Just a reminder the caretaker budget is the budget that goes into effect if there is no consensus on budget.

And so there's - there will be a caretaker budget that will be there in place to ensure that the, you know, the operations continue.

In the third proposal that - some of the details on the caretaker budget were removed and instead there's just reference to the fact that that's being developed and the board the ICANN Board comments also address the caretaker budget a bit.

So I think on that one our view is that consistent with your conclusions on the second draft proposal that this third draft proposal does meet the CWG required power on budget but that there should be a discussion of the - some of the specifics that are required by CWG.

And those specifics are outlined here at the end of Section 2 on transparency and timing, et cetera. So that would be something that we would recommend noting in this letter.

Any comments there? I see Paul Kane has got his hand up. Paul?

Paul Kane: Thank you very much. First of all let me just say I'm - I've been reading very recently the CCWG and I don't have any comments on ICANN accountability.

But I am very interested in making sure that the IANA staff are well resourced have secure funding to make sure that all the staff associated with the IANA know they're getting paid and things can happen.

So the transparency issue has been a very important issue for the CC community since day one simply because if things go wrong go bad many of the CC community and we've already made a contribution collective contribution for the - a round of IANA service root zone management

enhancements transparency is key to us being able to as a community delve in and facilitate that.

The second issue relates to in the event of separation heaven forbid but it is always useful to know how much a contract costing so that if there needs to be a third party appointed that the parameters are already there and have been publicly disclosed for a period of not - it's not just in a period of crisis.

And the final thing is it is vitally important that the IANA is well-funded. And it is in the event of a dispute and the ICANN coffers get hit hard through non-IANA related matters.

It's important that that budget is ring fenced so that there is assurance that they IANA operated by the PTI company has sufficient funding to sustain X number of years so that any disputes with ICANN can pass but again the staff at IANA are assured of their well-being.

So I don't know how - that was the reason we originally suggested it when we did the CWG work. And I don't know how this one plans to address that going, thank you.

Lise Fuhr: Chuck, do you want to go ahead?

Chuck Gomes: Sure thanks. And just first let me follow-up on something Paul said there because the question I have is does the care paid caretaker budget that's going to be worked on I - am I correct in assuming that. That applies to both the IANA budget and the overall ICANN budget because as we recommended in the CWG there really needs to be some separate processes for the two not that they can't be related.

So that would be a question. But also I still - could we in the community challenge the IANA budget or reject it let's say reject it if the process wasn't followed that the CWG recommended?

We recommended in our recommendation that the PTI budget should be submitted at least nine months in advance of the next fiscal year.

And we also recommended that it should be approved by the ICANN Board before the full budget is approved. But I don't see any way that we could reject the budget if those process steps don't happen.

So that's where my concern now the finance team has done a really good job in the last two years in starting earlier and allowing for the full ICANN budget but we're now talking about an even earlier start for the PTI budget. And I'm not sure that's adequately covered.

Sharon Flanagan: Chuck maybe I'll just respond to one question you asked if the caretaker budget would apply to both? My reading is that the proposal -- and Thomas or others chime in if this isn't correct -- but my reading is that, you know, the proposal is explicit that a rejection of one budget isn't a rejection of the other. So if you reject the ICANN you're not necessarily rejecting IANA.

And so I would interpret that to mean that the caretaker budget is not for the piece that is rejected. It's not for the piece that moves forward so that they could be separated.

Then on the other point Chuck I mean the way we've set this comment letter up we have articulated that all of those details that were in the CWG proposal and budget are important, and they are dependencies and they need to be

addressed. So that is the approach that was taken in the letter. Let me turn to Milton. Milton?

Milton Mueller: Yes. I'm having some trouble. I've made some comments on the list which some people didn't want to hear I guess but it seems like we're not fully reflecting the nature of the reform that's being proposed.

When we talk the IANA let me ask a simple question that sort of gets in the heart of what I'm trying to say.

When we reject or accept a budget for IANA so called we should be saying PTI as I said not IANA because this is a new corporation which is supposed to be separate. It's not the IANA anymore.

But are we proposing to accept or reject the main IANA budget or the entire PTI budget for all of the other assumptions?

Remember now these are supposed to be separate. And I'm not comfortable with the idea that the names community is deciding what the budget of the protocols IANA might be or the numbers IANA might be. So what exactly is happening when we're considering this budget of PTI?

Sharon Flanagan: Jonathan do you want me to take that? I think my understanding is we're talking about names.

Jonathan Robinson: It's a good point. I mean I don't have - I mean I'm mindful of the board comments on this the most recent board comments that specifically deals with this point and talks about to the extent that there is any kind of a reaction to the overall IANA budget that should be dealt with by more than just the names community.

I would expect that it would be presumptuous to assume we would be dealing with a budget other than that. But there's a list of hands. Let's let other contribute Sharon and then - I'm just not quite sure how to chair this now.

Let me lead there. Let me take the queue Sharon and try and manage this. And then we can come back to the point. So Alan let's hear from you next.

Alan Greenberg: Thank you very much a couple of quick points. We are talking about the budget for IANA for all three functions.

Until the protocol community or the numbers community decides to leave which they have the right to do then the group that we are calling IANA or PTI is performing the function for all of them.

And if their budget were severely impacted it would affect all three operational communities. That's what we designed, a bit late now to change that.

A lot of the problems we're talking about right now are real potential ones because of the kinds of issues the Paul raised.

You know, how do we make sure we have enough money? How do we make sure that everything is going to go smoothly?

We had an opportunity a long time ago to say put a big pile of money in escrow that IANA or PTI could access should it need - should need be if there were problems that we could not agree on within ICANN such as the next year's operational budget.

We in our wisdom or not decided not to do that. And now we're having - now we have to essentially fine tune the rules we do have.

So we do have some problems here. And I'm not quite sure I see how to go forward other than to make sure that for instance the caretaker budget when it's the finally designed has an, you know, isn't a penny pinching one.

The caretaker budget almost has to go overboard to make sure that IANA can function and regardless of the eventualities in the particular given year. Thank you.

Jonathan Robinson: Thanks Alan. I'm just going to let others speak and respond to this point. And then we'll see how we can pull the threads together. So let's go next to Lise.

Lise Fuhr: Thank you Jonathan. Actually I had another point but it kind of relates to this one because I think where we have some uncertainties and this was in relation to what Chuck raised earlier regarding if we reject or veto the whole budget or it separated the IANA and the ICANN budget.

I think what's important in our answer to the accountability group and then this letter is actually to be very specific in how we read their proposal so we kind of respond in a way so it makes no uncertainties of how we see it should be done and the way we understand their proposal.

And in relation to this I don't know if it's wise or not to highlight that we see that there might be a potential issue here but we think it could be dealt with during implementation which I think it could be. Thank you.

Jonathan Robinson: Thanks Lise. I think you're right. And I try and remind everyone of us it's quite a specific purpose to this.

We're not in essence opening up all of the issues that may or may not be as watertight as they could be in our proposal all that can be dealt with in implementation the very specific point of this is to respond to the CCWG to let them know whether there is anything in their proposal that could or should be done differently to meet our requirements. Go ahead Martin.

Martin Boyle: Thank you Jonathan, its Martin Boyle here. Yes I think certainly Lise came out with my conclusion and dutifully enforced that Jonathan that I think what we're talking about here is a budgeting process.

The budgeting process we haven't defined as I would certainly see that as being firstly a responsibility of PTI working with its customers to identify what needs to be done and the resources needed to achieve that.

And that once it has gone through that process that is essentially and agreed activity then a request money a request for budgets goes into ICANN.

And so at the ICANN level really if ICANN withholds the budget this has been approved by the community then that would seem to me to be a good reason for perhaps counterintuitively vetoing the budget.

So in other words there is a process that needs to be put in place to make sure that the correct budget is going into PTI.

And the other reason - so that would be ICANN's Scrooge as being reluctant to pass on the money that the community expected to pay.

The other reason though would be that imagine a PTI does something that is, you know, sort of essentially ignores the community, decides that it's going to give all its staff 200% bonuses and triple their salary which might then get objections from the community.

And it's at that point I suppose that from a CWG point of view we would then be looking at a mechanism to enforce what the community inputs into the budget had been to make sure that, that was again being done correctly and that it actually had support and agreement from the community and in particular from the customers and those people who were providing the money for it.

So as I say I think both of those sort of activities if you just try and say well why are we vetoing the budget both of those activities I think are things that when we start trying to do an analysis of what should we actually be doing then those come out and there might be others I've missed but it would be useful then to try and specify those when we write the fine print. Thank you.

Jonathan Robinson: Thanks Martin. Just to make sure we as a group are focused on the document at hand in addition to the bigger concept.

I mean that proposal from Sidley specifically recommends certain changes to a further version of the CCWG accountability proposal.

And indeed then the revision suggested by Greg and/or Chuck would even went further and Martin and I agree with those as it happens to not say that we recommend the CCWG draft proposal address the matters that are not specifically specified but deal with things like the concern about a transparency to the budget but that we require that both of them so that we are

- we do have a draft in front of us that deals with some if not all of these issues.

So Andrew you've come in next please.

Andrew Sullivan: Thank you. I would like to take the issues about other communities and just set them aside. The way that the other operational communities are going to work is that they're going to have a contract either with ICANN or PTI. It isn't clear yet the implementation details.

And one way or the other when I'm a customer of someone and I've got an agreement with them if they fail to do their work whether it's bloody mindedness, or they ran out of money, or whatever I use the agreement that I have with them in order to settle that dispute.

And I expect what would happen under those circumstances is that the other communities would find another IANA provider.

So I don't think that that's any of our business. I don't think it's a problem we should worry about. And it seems to me that we proposed a mechanism that Alan's right that there were, you know, some alternative things we could have done but we didn't do them.

And to me the question is only does this proposal from the CCWG actually match what the CWG said it needed? I think the answer was yes. And I think we could, you know, put it to bed for that reason.

Jonathan Robinson: Thanks Andrew. I'd like to add on both. In fact specifically I think that seems to be sensible thinking about how the different customers have to interface in their own way with the provider.

Let's go to Milton next. And then Greg and we'll try and wrap this up if we can.

Milton Mueller: I'm not sure how I got in front of Greg in the line but I'm quite amused by that. So essentially I want to say that...

Jonathan Robinson: Milton passed Greg lowered his hand expecting to speak. I don't know. I saw that - or but I guess go ahead anyway and then we'll come to Greg anyway.

Milton Mueller: Okay. So let me just say that I don't disagree with what Andrew Sullivan just said that essentially the accountability lines over budget for the other communities could be adequately dealt with through their contracts or MOUs with UT ICANN.

But I would really still insist that in our drafting of this comment letter that we remove all references to the IANA or IANA and replace it with PTI where that's appropriate.

Maybe it's okay to use IANA functions but when you are doing reviews of IANA functions I think it's very important to specify that you are reviewing the names related IANA functions and not all of them.

And I think when you're talking about budgets and contracts and other relationships that you specify that you're talking about PTI and not confuse that with the IANA.

Can we just agree to do that and just make - it clarifies some of these issues? And is more in the spirit of the nature of the reform that was intended through the creation of PTI.

Jonathan Robinson: Thanks Milton. I think that's helpful input. And so I just need to check where we are. I'm not seeing typing going on in the notes field now.

So I need to check from who from staff is recording this. And second I would like to be sure who is holding the pen on this?

My thought here is that - I mean we've had some revisions proposed on list. We are currently reviewing the Sidley draft the unmodified draft.

And so I think it would be very helpful to capture some of these changes in the - in those as we suggest them. Here is my suggested process but let's recapture these notes as we talk.

We then overlay those on the other modifications that have been previously proposed on list. And we send these back to Sidley for a final check for overall consistency with what was intended.

And so that feels to me like the way we should go. And so yes Milton I agree. I think it would be useful to capture that correct or to be careful on the use of the IANA functions the IANA function operator and PTI where appropriate in the document.

So let's hear from Greg and then try and pull this together and find out where we have any loose ends in this area, so Greg go ahead.

Greg Shatan: Thanks. It's Greg. Sorry I had to step away briefly so I dropped my hand down the list but coming back just briefly to a couple of points here.

First it seems to me that, you know, as was said I think by Andrew that, you know, PTI is operating under contract with the other two communities and performing the IANA functions for those communities under contract.

So, you know, the budget of that organization, you know, is still is within ICANN but kind of ICANN as a contractor. So there are influences there that would come through the contract.

I think that, you know, we have somewhat of, you know, an odd structure in this regard because ICANN and the names community and IANA have, you know, slightly different relationships to each other than they do the other two communities.

So the overall, you know, if the budget can be, you know, parsed out that's, you know, certainly seems to be something that's worth looking into.

As Milton says that a number of the at least the individuals working there are tasked to one community and not the other and maybe some are shared.

They're probably - they're still going to be shared resources there, you know, accounting tricks that can be used to a portion elements one way or the other whether we need to go into all of that certainly at this point I don't necessarily believe is the case.

And certainly - and I think we do need to be clear, you know, in our nomenclature, you know, with PTI, you know, being the entity it's my understanding that there are going to be some functions, you know, provided

to PTI by ICANN under some sort of a shared services agreement that it won't be an entity that has, you know, all of its own, you know, enterprise type personnel.

So, you know, the PTI budget and the IANA budget may not be exactly the same thing although, you know, depending on how it's - again that could be an accounting detail.

And what's important is the ICANN is putting aside enough money to cover everything that's needed for PTI to run smoothly whether it's just money that goes into PTI or it's the support for appropriate services for PTI to run.

And, you know, with regard to nomenclature and whether or not IANA identifies which is, you know, the Internet Assigned Numbers Authority whether that - or the PTI is that authority or not or whether even the name other than the acronym has now become kind of useless, you know, is an interesting question. I'm not sure we need to get to it in this letter or comment.

I guess what's important is not to kind of create unnecessary conclusions or prejudices at this point in - but just try to put forward fairly the roles and goals of each aspect of this. Thanks.

Jonathan Robinson: Okay, thanks Greg. So I'm getting a little nervous about the time here just to put this in context. Our objective here was to review this letter, try and give essentially create any changes that were required and necessary in communicating effectively back to the CCWG bearing in mind our primary objective is to assure the SOs and ACs if indeed it is the case that the dependencies are met.

And secondly to give clear and specific guidance to the CCWG as to what if anything in their proposal needs to change specifically with reference to meeting our dependencies or not.

So we have a letter. We've had some clear proposed inputs on list. The other thing is that our intention was to submit this to the CCWG chairs mindful of the time of year, and the closing of the public comments period and in advance of the closing of the public comment period. So therefore we need to if at all possible agree how proposed changes during the course of this meeting.

We have I think much of them okay. We've had some proposed changes on the language that shouldn't compromise the definitions I don't believe.

We have some proposed changes in terms of firming up the language so that we change from recommendations to requirements. And I'm going to ask that Grace holds the pen on this and pulls together the changes and brings this back to the group for a final review before going back to Sidley for their final review and then us submitting this.

We have no other meetings scheduled between now and the end of the year in order to deal with this. So I really would encourage you - I'm conscious of the few loose threads still perhaps not adequately dealt with on this budget issue.

We don't need the use of requirements necessary. The note from Sidley asked us to confirm if the limitation of the ability of the community to challenge a budget as described in the draft proposal is sufficient.
And so we need to I guess - Greg is that an old hand? If that's an old hand if you would withdrawal that. Just guessing you're not - so I suggest we - I'm just wondering where we go with this note for the CCWG concern with the

limitation of the ability of the community to challenge the budget as described in the draft proposal.

This seems reasonable to me and I think our comments were that we were satisfied with that. So can I ask if anyone if the changes that we've talked about here are made and we shift from recommend to require, we change the terminology as discussed.

Are there any other fundamental points that need to be dealt with in this budget area at least - I think what I'll suggest we do is we continue to work through the document and have us think about the changes that are going to be made and come back to that if you think that a change in Sidley's (unintelligible) in particular or the Sidley's work on our behalf in particular needs to be stated or modified in terms of the dependencies.

Sharon let me continue with the other items and we can - if there are open points on this text in relation to the budget we come back to that.

Sharon Flanagan: Okay thanks (Jonathan). Well the next few items should be brief and are straight forward. So number 3 is the IFR. So we required the creation of an IFR and the ability to conduct the special reviews.

The third proposal from CCWG does contemplate the IFR's and the special IFR's as part of the bylaws. It also acknowledges that the CWG would be part of the drafting process around those two functions.

And then the proposal also contemplates that the community would be empowered to reject board decisions relating to those reviews. So that's all consistent with the CWG requirement.

The one note we had in the conclusion is we'd like to clarify that the right to reject can be exercised an unlimited number of times. The current CCWG proposal doesn't suggest otherwise but it would be good to clarify that.

And I would suggest to staff that we maybe strengthen that and make sure that it provides it was clear that we are requiring a statement on the (assessment) review, a statement that it can be exercised an unlimited number of times.

Anything on number 3 IFR? Okay.

Jonathan Robinson: So here Sharon we essentially take - I mean my expectations we essentially take and firm up your recommendation in this conclusion which includes providers have a right to reject or maybe exercise an unlimited number of times.

And we make these the risk, you know, absent any objections or concerns from this group or indeed from (Thomas) or anyone else we firm these up and make these part of our communication. So that would be my only comment from the chair.

Sharon Flanagan: Thanks (Jonathan). So let me move then to number 4 the CSC. The CWG requires the creation of the CSC, the CCWG proposal contemplates the CSC as part of the bylaws.

The proposal does not note that CWG will have a role in drafting. So the requirement in the conclusion is that that role will be explicit because that is important.

Okay anything on CSC? Okay, number 5 is the PTI the creation of PTI is of course fundamental to the CWG proposal. The CCWG proposal does

contemplate that PTI will be incorporated into the ICANN bylaws as fundamental bylaws.

The second draft proposal from CCWG was explicit that the PTI governance would be based on the requirements detailed by the CWG. That language was not included in the third proposal and we would like to make explicit the expectation and requirement that CWG be involved or the, you know, CWG successor group be involved in the drafting of the PTI governance provision.

So that's number 5. Any comments? Okay, number 6 is the separation process and all that that entails. The CCWG proposal does contemplate that the separation process will be incorporated into the ICANN bylaws and also provides that the community has the power to reject ICANN board decisions that relate to IANA reviews including anything that would trigger the PTI separation.

So it's our conclusion that the CCWG proposal does adequately satisfy the CWG requirements. Here again though we would like to make it explicit that the right to reject would be - could be exercised an unlimited number of times. So that should be made explicit.

And there's one other point I would make here that was not in our draft but I think there is adding and clarifying. The CCWG proposal speaks of board decisions on these matters.
I think we should also be explicit that decisions also includes inaction. So for example if there is a recommendation to separate and the board just doesn't do anything and there is no action that the action itself could be subject to a rejection by the community.

So that's - I think that's one thing we should also clarify that decision covered inaction.

Jonathan Robinson: So Sharon thank you. That is an important point and the question then is who will integrate that into the draft and I expect you'll catch that on the final review but certainly that's still sensible to put that in.

We've got a couple of hands come up at this point so let's go to Milton and make sure that we hear from Milton. Go ahead Milton.

Milton Mueller: Yes Sharon just a question about a technicality. So my understanding is that the decision to create the committee to do a review also dependent on the decision of the board.

Then I'm wondering if there is a loophole where if the board didn't want to have a review could it simply thwart the creation of the review process without actually rejecting or recommending the community and therefore its decision would not be reviewable or enforceable under the community powers or had - does this loophole not exist?

I hope you understand what I'm saying I wasn't terribly clear.

Sharon Flanagan: I do I agree with you I think that loophole is the concern I had as well and I think that's why making explicit that inaction is also a decision and in fact to do nothing is a decision that can be reviewed and go through the, you know, the escalation and enforcement process. I think we should make that clear.

And (Jonathan) I'm happy to put that language in on the turn that comes out from staff.

Jonathan Robinson: Thank you that's helpful to know so we're thankful for testing that Sharon and Milton and we'll make sure that goes in then. So (Paul Kane).

Paul Kane: So I just have a question of clarification. The process that's outlined and certainly the one we outlined has been captured I believe which is great. One thing I'm not sure on is timelines.

How long does all this take? Bearing in mind a special IFR has been triggered because something is fundamentally not working, has gone wrong. Is there a requirement that's within a period of X days things have to happen, there has to be a determination.

Bearing in mind this is a technical function and the aggrieved party is obviously not getting the technical services they require and that means their customers are suffering or most probably their customers are suffering.

Did we not stipulate that things should be done efficiently and they have a timetable for such events? Just a clarification thank you.

Sharon Flanagan: So (Paul) there is a timetable in CCWG proposal with fairly tight windows of how much time people have to petition and how much time there is for the calls and then the community forum if it gets to that.

So those are very it seems to me tight, you know, tight timing but there are a lot of steps so you kind of need to keep it tight in order for all of those steps to happen on a time limit, you know, with work without dragging on too long.

So I think the timeline is articulated there. The CWG I don't think had, you know, specific, you know, very detailed or specific timelines but that was part

of - I think that was part of the implementation and also the drafting of the bylaws was to try to put some of that detail into the ultimate bylaws.

Paul Kane: So thank you for the clarification so just a short one. And if they if whoever party drags their feet building on (Milton's) point and doesn't want things to go to the next step is it automatically implied that I'm sorry you've missed the deadline go onto the next step. Is that also built in?

Sharon Flanagan: I think it's the way it's set up it's incumbent on whoever is trying to petition or move it to the next step to fit within the deadline. So that I think the person who is affected for example the individual petitioning, you know has to move quickly. So if the time passes I don't think there is a mechanism to address that.

Okay I can move on to number 7. It doesn't look like there are any other questions. So number 7 is the appeal mechanism and you remember on the last CCWG proposal comment we spent some time talking about this.

The CWG proposal requires that there be an appeal mechanism and the CCWG third draft proposal obviously deals with that. The one thing we talked about on the last - in the last comment period was how to address IRP for actions or inactions of PTI.

And I think at this point we've got, you know, similar language to what we had on the second draft proposal which is there needs to be some process, some IRP process to address actions or inactions of PTI.

The CWG at the last - on the last comment letter was open to how that was addressed but it does need to be addressed and it has not been addressed at this point.

Jonathan Robinson: Sharon one other request from the CCWG chairs is that we be as - it would be helpful in their work if we are explicit as we can be. Can we be more explicit here in terms of our wording and guiding exactly what we require?

Sharon Flanagan: I think we could be if the group is - if there's consensus on an approach and, you know, I see there could be kind of two ways to go about this. So one way to go about how do we pick up PTI actions or inactions through the IRP one way to deal with that is to provide that, you know, so ICANN and PTI will have a contract and an SOW right.

And so we could add something in the ICANN bylaws that says that ICANN must enforce the contract with PTI and if it fails to enforce if PTI is in material breach of that contract and ICANN does not enforce it that that failure to enforce the contract is subject to escalation and enforcement.

And that that would basically then be, you know, pushed into the arbitration process. So that would be one way. So one way to go about it is through the contract and ensuring that ICANN enforces its rights under the contract.

The other way to go about it would be to if you didn't want to do it through an ICANN bylaw would be to basically make the sole designator, you know, a third party beneficiary to the ICANN PTI contract and then that would give the designator the power to enforce directly.

So those are just two ways but I think the issue here (Jonathan) is that the group I don't think has, you know, discussed how it would like to address the appeal process for PTI and I'm not sure, you know, the group would be ready to be clear at this point on the process.

There are lots of different ways to come at it and it might just be something that needs to be worked on post comment letter and here we would just be putting a pin in it and saying it needs to be addressed and the how would have to get worked out, you know, in the coming weeks.

Jonathan Robinson: Okay if providing we are sufficiently clear that this will need to be resolved as in the period ahead as an implementation I think you're right we haven't got the time to figure out which - we might give some examples though one way of doing it for example to make it clear what our, you know, the kind of level of our expectations may be worth putting an example in there one or more examples.

Sharon Flanagan: Okay that makes sense we can and I can draft, I'll draft something and I can send it on to Grace to be used in the letter.

Jonathan Robinson: Okay, I'll come on to the process in a moment or two. Let's deal with - were we on number 8 there or were we on number...

Sharon Flanagan: So yes we're ready - I think we're ready to move to number 8 which is also an easy one if you read the conclusion.

Jonathan Robinson: Yes.

Sharon Flanagan: So fundamental bylaws the approach that is outlined in the CCWG proposal does address the CWG requirements, no issues there.

Jonathan Robinson: Okay, so we've got the loose of that is one, making sure we understand the process we're in right now to getting this letter finalized. Two, making sure

that any key points that (unintelligible) have raised in this meeting are actually included and addressed adequately.

And so this sort of steps that I see us going through if you look at it now we're at 1400 going on 1600 UTC on the - sorry 1600 going on 1800 UTC on the 15th.

If we are to prepare this and send it off such that it can also be submitted as part of the public comment period and just generally in line with the timelines and expectations of the CCWG it feels to me like we need a staff turnaround in 24 hours.

So we request that the staff make their modifications, absorb the modifications suggested on this call and previously on list by 1600 UTC on the 16th or the 12th.

Let Sidley then take those for another 24 hours and process their overlay, their checking and overlay on top of that which will take us to 1600 on the 17th or the 12th.

And then the group has a final opportunity to review it for 24 hours until the 18th or the 12th at which point we are ready to send it off late on Friday the 18th or the 12th to the chartering organization and the CWG.

I guess one option is we could switch it around and we could have the staff edit prior to it going across to Sidley. So we could do 24 hour staff and its 24 hour CWG review and then 24 hours final pass from Sidley. That make more sense that the group has had an opportunity.

Any comments on which is the right, what the right sequence there is? I mean I suspect Sidley's is more technical in making sure that everything is in order rather than - so it may be that we deal with them in that order that may make the most sense.

All right so revised we do 24 hours staff produces us a list 24 hours from now. The CWG gets to review and ensure that the staff comments are as intended. The staff processing of comments and changes as intended.

They're not massive and then it goes to Sidley for a final polish prior to coming back to the chairs on Friday I guess for distribution back to the chartering organization.

Now the issue that I'm concerned about there is a couple of loose ends then still we didn't deal with Chuck's point on timing and others raised that issue of the timing in the sequencing.

And so the question is is that relevant and can we include that in any point and that feels like an open end to me. We've clearly got the issue of the board input although Sharon and I have both given initial view that the board's primary issue is in and around the budget and that doesn't seem to impact us substantially the variations they proposed.

It still seems to me to have a tendency. And in any event we can't assume that the boards changes will be absorbed by the C - those changes will be absorbed by the CCWG.

And then a couple of others and I'd like to put a pin in this one. A couple of others like (Paul Kane) mentioned a recent budget. Some talked about long-term funding.

I know something has come up in the IPR discussion as well. So I'd encourage everyone to think about this and think whether there is something we can do that doesn't create a new proposal or modify things.

But there is somewhere in there in all of our thinking we think about whether or not it makes sense for in protecting this PTI and the IANA function that is responsible for whether there is some kind of pool of money set aside to cover a number of years operating costs and some kind of (unintelligible) since Sunday.

I don't know how we get that into things at this late stage and whether indeed you think that that's sensible but it feels intuitively sensible as I said it also deals with a peripheral question of the IPR issue which is about what if any funding is set aside to cover that.

So what other questions or issues remain on this document at this stage in terms of the process or substance. Has anyone got anything they'd like to raise at this point as we go? Chuck.

Chuck Gomes: (Jonathan) I wanted to respond to your comments on the time constraints. I think where it impacts the CWG is that for the CWG accountability requirements to be met the escalation process has to work.
So in that sense if the time constraints are too restrictive then the escalation process doesn't work and then our needs aren't met. But let me turn that around a little bit I don't think that's a hard problem to solve.

I agree with Alan in terms of his comments about they're looking at the whole continuum and I agree that the time limitations have to be limited we can't let things drag on forever.

So I don't think that's a hard problem to solve but I do believe that we are - we the CWG are impacted because if the time constraints don't work then the escalation process doesn't work and then our needs aren't met.

So again let's not over complicate that. I think it's fixable maybe with just some conditional language or something to make sure that we don't over rush the parties that need to submit comments in a few days. Thanks.

Jonathan Robinson: Okay Chuck thanks that's helpful. So maybe what I could request of you then please is as this revised draft comes back to this or even as a contribution to the revised draft and ahead of the staff revision over the next 24 hours if you could see any place within the document that that conditional language can be inserted by all means suggest that and let's see if we can't weave that in in a way that is appropriate to ensuring that the CWG dependencies are met.

Chuck Gomes: Okay.

Jonathan Robinson: Thanks. Okay, Sharon do you feel that you are going to get what you need to then buy this process? Are you going to be in a position to deliver back to us on Friday a final document having been through a staff turn of the document a final CWG review on list and then come back to you for a final turn? Are you - is that satisfactory to you?

Sharon Flanagan: Yes that sounds very doable.

Jonathan Robinson: Great, well it feels to me like we are in shape then to call this item to a close. I think we have to be very careful not to open up fundamental points about our work.

We have some other issues to deal with in implementation and some of those we've touched on in here. There is some very good points about how we ensure that our implementation matches up to what was intended.

But I'm not sure we can get all of that into this response on the dependencies. So as our work continues on the implementation it's exactly why we need to be present and vigilant going into the New Year and making sure that things are done properly as intended.

Okay Lise I think I'll hand back to you then to you then to - on that implementation oriented note to try and get us through the remainder of the agenda in the time available.

Lise Fuhr:	Thank you (Jonathan) and thank you for chairing a substantial part of the meeting it's been a very good and helpful discussion. And thank you to Sharon (unintelligible) draft now and that's absolutely fine and you've been (unintelligible) and been very great to have you on the call thank you.

So let's move on with the implementation. We have ICANN staff here, we have Trang and I know that we also have (David Conrad) on the call and I know that there is a lot of people in interest in SLA's.

So please Trang go ahead with the update.

Trang Nguyen:	Thank you Lise. Thank you Lise. I also have Akram and (Yuko) here with me. Thank you for giving us the opportunity to provide you with an update today.

On the last call we presented you with some high level project plans and received some feedback so thank you for that. And be that we've updated these project plans and we'll be highlighting the update for you today.

But before we do that there is an important point that I'd like to cover which is to again reiterate that the project plans that we're showing you are currently in draft form.

We're still working with the NTIA to determine what can be done prior to the approval of the proposal and so depending on what NTIA says, you know, you may see some with the timing for some of these project plans shift.

So we just wanted to make sure that that's understood and of course if any of the timelines move we will inform you. So rather than going to each high level project plan that we did on the last call what we've done is - next slide please, summarized the update for you in one table.

Next slide. And we are providing all of the individual project plan slides as an appendix. So I'll run through these real quickly and then pause for any questions.

The first update item is on the consumer standing committee or CSC. On the last call there were some concerns expressed about the March 2016 timing of the implementation plan for the CSC and how that may be too late.

So to address that concern we've moved up the timing of the implementation plan for the CSC to February 2016. So hopefully that addressed that concern.

Regarding the PTI structure there were a few discussion points around this topic on the last call. One of the requests that was made was to reflect the drafting of the PTI governance document as a distinct task on the project plan.

So we've done that for this week and you can see that in the timeline for the PTI in the appendix. There was also some discussion around the use of the world subsidiary.

So what we did was we went back and we reviewed the CWG proposal and we've adjusted the language in our project plan to reflect the language that was used in the proposal which is affiliate.

So the task now says ICANN formed PTI affiliate to be in alignment with the CWG proposal.

Lastly there was a request for ICANN to review the timing of the task on the PTI project plan. Specifically around the timing of the formation of the PTI board.

For this week update we did not make any adjustments to the timing of the formation of the PTI board. As explained on the last CWG call it is unlikely that the NTIA will allow us to form the board until after the proposals are approved.

But we're still in discussion - within discussions with the NTIA with regards to the specifics around the activities on forming the PTI structure. So some of the timings and some of the tasks the order of the task may change and move around.

Once we've nailed those down we'll update the project plan accordingly and then provide you with an update.

With regard to the bylaws we understand that certainly we'll be working on a revised simplified draft of the bylaws and we look forward to seeing the next draft and providing our feedback.

And then (unintelligible) as always the update for this week is that we are experiencing some delays in getting an initial estimate on the levels effort and the type and format of data that can be extracted from the current database.

We were hoping to have this information around middle of December right around now but that's not going to happen. And given the holidays we don't expect to have more information on this until after the holiday.

So we've reflected that to people at task as yellow being at risk on the project plan as of right now.

And then for the last three items on the table, IANA, IPR, (ITMS) standing committee and the escalation mechanisms there are no new updates this week.

I have two more very brief slides and then we'll pause for questions. Next slide please. This is - this slide shows the other projects not directly related to the CWG.

There are no updates this week for the (IRSLA) document or the (MOU) supplemental agreement as well as the (RDMS) and (RDMA). With regards to the last three projects there that are related to the CCWG proposals we've reviewed a current draft proposing number three and have built a high level project plan for those three projects.

Again the high level project plans may change depending on the final language of the CCWG proposal but at least we have a high level draft so that - as up with time.

Next slide please. And then there was a request on the last call to capture some of the post transition related projects so that we don't forget them. So what this slide attempted to do it just add the ones that we have identified are the IANA remedial action procedures per the CSC charter in the CWG proposal.

Those procedures is to be finalized between the CSC and PTI after the transition. So that was this here. As mentioned on the last call the operationalization of the IANA function review or IFR that will happen after the transition as the first IFT is not expected to take place two years after the transition.

Of course the incorporation of the IFR will be done in the ICANN bylaws. Transition to (successor) IFO the CWG proposal included a framework for the transition, this is (Jacob Spencer) IFO but also specified that the full plan for transition should be developed after the transition. So that's captured here.

The CWG proposal also proposes a formal study to be done post transition. It's a study - the robustness of the operational, the current operational arrangements of making changes whether or not there should be any changes made to eliminate single points of failure. So that's captured here.

And then lastly the ICANN operating and budgeting processes as per the CWG proposals requirement of having the PTI budget be approved nine months prior to the new fiscal year.

That's going to necessitate some changes to the current ICANN operating and budgeting processes. So I expect that (unintelligible) and his team will be working on revising or amending that process shortly after the transition.

So that concludes our update Lise and we'll be happy to take any questions.

Lise Fuhr: Thank you Trang and I can see Chuck has his hand up. Chuck go ahead.

Chuck Gomes: Thanks Trang I appreciate the responsiveness to the feedback you guys got in our last meeting. Regarding the ICANN operating and budgeting processes.

Some of that I can see taking place after the transition but I'm not sure all of it can. And the reason I say that like for example I think maybe the caretaker budget can be done as long as it's accomplished soon after the transition.

But assuming the transition happens in September as targeted and that the PTI budget has to be submitted nine months prior to the start of the new fiscal year that would only leave three months from September for those processes to be developed.

And that may be okay but it seems to me that that part of the processes I think would be better off being developed before the transition happens. Maybe not as early as some of the other things for sure but still I think waiting until the transition happens assuming it's September of 2016 would be a little bit late to develop a budget nine months before.
So I just raised that flag and I'll let you guys think about that and we can talk about that further. Thanks.

Akram Atallah: Hi Chuck. Lise this is Akram if I may.

Lise Fuhr: Yes go ahead Akram.

Akram Atallah: Thank you. Chuck you are 100% right. I don't think that we can wait to agree on the processes with the community until after the transition. So I think this had to be flushed out.

And I think that we have plans to do that with the community so we will refresh that and we will get back to you.

Chuck Gomes: Thanks.

Lise Fuhr: Thank you Akram. I know there's been quite a lot of concern regarding the SLE. So to get back to that slide I don't know if that's the second slide and I know we're tight of time and we need to discuss the IPR.

I know there are some concerns regarding this. Isn't it possible in any way to actually providing the data because it's been something that's been requested for quite a while? What is the reason for this delay?

Akram Atallah: Lise this is Akram. I don't know if David is able to talk. Let me know David if you want to take this but I'll try to give it my best shot. We've actually moved forward and got resources to look at the data.

The data as it is it does not actually provide anybody meaningful information because it's not easily sorted into the SLE's that are needed. So the resources we got in place are actually looking at this data and trying to make sense of it to see what they can extract out of that data that gives, you know, maybe not the exact SLE's (unintelligible) but what closely meaningful at least can be extracted out of it.

So there is a lot of judgment and trying to understand where this data comes out from the code and how this whole things comes together especially that the data comes from two different systems and they have to kind of sort through this data and try to get the different points to match together in order for them to be able to say this is an SLE we can extract from the data or not.

And that time is also dependent on resources that we have that are working on the code to explain to the resources that run outside the organization on what they are dealing with and what they can do and what they cannot do.

So there is a lot of work to be done and the resources thought that they could actually get this done in a shorter period of time and they still are shooting for getting us some data as soon as possible but it's not - it didn't turn out to be as easy for an outside person that doesn't understand the code to be able to make sense of it as quickly as possible.

So that's what we run into when we get into these kind of situations. I see David has raised his hand so David if you want to add something to this please go ahead.

David Conrad: Sure just to expand a bit on what Akram was saying. The work that's being done by the contractors that we've hired is basically setting up a series of (dSHeuristics) to try to derive out of the data that we collect within the transaction log associated with both the (RZMS) system itself and the underlying ticketing system that we're using to try to I guess as closely correlate the timings that we currently capture with the timings that were requested or demanded within the SLE's.

You know, as I'm sure everyone is aware the timings that we currently capture were not deemed sufficient by the community and as such we end up having to sort of derive estimates based on the information that we do have.

This is taking a bit longer than the original off the cuff estimates that we had originally anticipated, you know, perhaps the first time in the history of software development that this project might be running a bit late.

But we are anticipating that, you know, work is ongoing we do anticipate having some results as soon as possible. Unfortunately someone decided to I'm sure it's this weird holiday thing in between the work schedule.

I guess I'll personally admit to a little confusion on this topic since we are talking about historical data that exists within databases and log files about the requirement for the timing of making that data available.

My assumption would be that the goal here is to actually have some sufficient data in order to derive the ultimate SLE's when we get to the point of contracting and having the historical data available now seems a bit odd to me but we are working to try to meet that requirement.

Lise Fuhr: Thank you David. Mindful of time and I'm not happy to cut this discussion off since it's a high priority for some in the group but we actually need to go on to the DTIPR.

And I'll just stress that it's important to have data and actually to move forward on the SLE's and to me it's a little misleading that it's a green checkmark when it's actually experiencing delays but that's a small private note on this.

Regarding the DTIPR I would invite Greg to go through where the group is regarding this and to talk about the document that's been circulated through the group. Greg.

Greg Shatan: Thank you Lise. This is Greg Shatan for the record. Obviously the 15 minutes, 12 minutes that we have left is not enough to go through this document in detail.

But I think that what is important is to highlight several decision points and key points in this document and the rest I think are decidedly less controversial points that were largely agreed within DTIPR and can be considered by the full group perhaps on the list.

I think that there are, you know, a handful of particular points regarding first the characteristics of the future owner of the IPR, you know, putting aside how they operate with regard to the IPR but the question goes to the essence of who or how the owner, the new owner is structured.

And you'll see on the first page that this is actually not the right draft that's up in front here. The draft should be the one that I circulated yesterday but I don't think I changed the heading but everything else changed.

The first and more important question is what type of neutrality does the CWG and ultimately the named community want or find acceptable with regard to a new owner.

And this drives a number of downstream decisions that need to be made. And after quite a bit of time trying to frame the decision correctly and I think there is an Einstein quote about that but I don't know it is as you'll see there is structural neutrality and functional neutrality.

And we as a group need to decide whether what we are demanding or what we want is structured neutrality or whether we can live with functional neutrality. And what's meant by structured neutrality is a structure where all three operational communities essentially have the same or an equivalent tie to the owner or no ties at all to the own but essentially is not a structure that is any way tied to one operational community to the exclusion of the other.

The second is functional neutrality which essentially sets aside what the formal structure of the owner is but nearly asks that the owner be set up in a way that its function connected with the IANA IPR have equivalent ties to each of the three operational communities.

And that any decisions it has to make and its control and actions relating to the IANA IPR won't be dominated to steered by one operational community to the exception of the others.

There is an underlying assumption regardless of what neutrality flavor we choose that the IANA functions operator itself currently ICANN soon to PTI cannot itself be the owner of the IANA trademarks and domain names.

So that goes without saying which is why it's in gray I guess. And then the choice about structural and functional neutrality is really a key one that we need to make.

And as you can see looking a little bit further down the document, you know, practically speaking if we want structure and neutrality practically speaking the IETF trust is unlikely we have, you know, been informal guidance that they, you know, would not make significant structural changes to accommodate kind of equal relationships to the names and numbers

community since the IETF trust is currently a trust where all the trustees come from the IETF and where the trust beneficiary is the IETF.

So asking for structured neutrality is either asking for significant changes in the IETF trust or asking for a new trust. That's reflected here in number 2 at the bottom of page 1 and then over onto page 2 the question is kind of similar to the structure to the neutrality question.

What's the relationship of the community to the owner would be either would essentially be some form of a joint trust or a trust where the names community has a contractual relationship to the trust.

And that contract could include calling for an advisory board and the advisory board set up could have the advice, have a strong presumption that the advice will be taken but ultimately would be just advisory.

And presumably the other two communities would also have similar or parallel contracts with the trust although and raise the question if the IETF is the settler and the trustees of the trust are IETF is it going to be exactly the same.

But the choice here is whether again kind of a joint trust where there are trustees representing the names community who were involved in the actual decision making apparatus of the trust is necessary or whether the contractual relationship is sufficient to meet our needs.

So those are really kind of the major structural questions of the board and its August 15 statement stated that they would transfer the IANA related trademarks and presumably the ownership of the domain names as well to a neutral third party mutually agreed among the operational communities.

It's unclear whether they would take anything the operational community would deem as neutral to be neutral but there is no reason and so they believe they absolutely wouldn't and that really takes us past, you know, issues of structure.

Number 5 the point is that the owner needs to be responsible, accountable to the three community, you know, our major concern is the names community but we need to be mindful that we'll be working with the other two operational communities to operationalize it. So thinking in terms of parallelism makes sense to do so.

Number 6 as noted funding is a concern and there are basically - there's another decision there that, you know, needs to be made or at least a decision as to a recommendation would we want the - based on IANA to transfer I mean ICANN rather to transfer the IPR to the owner along with enough funding to cover cost of ownership and operations of the IPR or would the operational communities cover this on some sort of an ongoing funding basis or should the owner just be responsible for all those costs?

Those are kind of, you know, three different scenarios. The seventh point which is highlighted here but goes further down in more detail is that if and when separation is requested by any operational community the owner has to be prepared to facilitate that separation.

Section 8 mentions a number of concerns that were raised by Sidley in their August 4 memo. These we don't need to review these in detail but I ask you to look at them and one thing we have to decide is, you know, whether and to what extent, you know, each of these, you know, raise concerns that we subscribe to.

Section (Roman II) discusses in more detail separation. I don't think there is anything terribly controversial here it seems to be fairly well worked out within the DTIPR. So clearly needs your review as a CWG but I don't expect any bombshells there.

Next discusses what may happen if there are disputes between the owner and any of the operational communities or among the operational communities with regard to the IANA IPR.

You know, some sort of an engagement escalation process fairly lightweight and businesslike seems to make sense. The controversial point here on which there was not essentially a reasonable agreement across the DTIPR is here in this point 3 in the middle of page 5.

Whether one of the potential remedies in case of a breach or dispute with the owner whether one remedy should be moving in the IANA IPR away from that owner to yet another owner as an ultimate accountability mechanism.

So I've termed this divestiture so we're not using the term separation to mean this. At a minimum I think it's clear that this would not be an option in disputes that only involve the operational communities but not a dispute with the owner itself.

In other words where the owner was doing fine and performing appropriately. And that there should be a high bar to any divestiture since this is intended to be a long-term stable relationship.

And that any new owner of the IPR should be approved by all three operational communities or at least subject to a veto. Some in the DTIPR believe that a divestiture should not be available as a remedy that essentially

the IPR once in the hands of the new owner should be there in perpetuity or at least that any decision to move it away should not be something that results merely from a dispute with the owner.

So this is an issue I think that probably requires some discussion and I'm not going to summarize the attempt to summarize the points made by those who thought this was not appropriate.

But the, you know, the point is, you know, the question is whether essentially the new owner is acting as a steward of the IPR and if they're failing as a steward should be moved away or not.

But I think that's one rather than trying to start a discussion of it with zero time on the clock is just I want to highlight as one of the kind of key talking or discussion points that we need to focus on.

The next section relates to number of principles and requirements relating to iana.org with a, you know, direct operational importance and relevance to the way the TCI and all of the IANA functions are operated.

Again probably nothing here of, you know, great controversy but nonetheless needs to be worked out.

Last but not least a series of principles and requirements relating to how the owner will operate as an owner and licensure of trademark. I don't think there's anything too controversial here.

There are some issues and decisions that would need to be made regarding who would take on quality control responsibilities, to what extent can those

quality control responsibilities be delegated essential to the operational community.

Lise Fuhr: Greg, Greg.

Greg Shatan: Yes.

Lise Fuhr: Greg sorry to interrupt you but we are in the top of the hour. So take two more minutes to go through the losses document and then we need to wrap up the call. Sorry.

Greg Shatan: So this is my last point so...

Lise Fuhr: Okay great.

Greg Shatan: ...I think quality control tends to be the one that's the most complex to understand in terms of the roll of the owner. That and the right of the owner essentially to approve new licensees which needs to be balanced against the rights of the operational community to choose the IFO of their choice.

So that really is the last of the points here and you can see that then we just discussed briefly policing and enforcement of unauthorized uses that's non-controversial and then acknowledge that there are expectations set by the ICG and also expectations of other operational communities that we need to meet in order to help this move forward.

So what I would hope we can do is have some discussions on the list and focus, you know specifically on the kind of high points and those have been identified as kind of discussion or decision points in the document.

So, you know, look for the italicized places and those are really where the key decisions need to be made. That's it and back to you Lise.

Lise Fuhr: Thank you Greg and thank you for the presentation of the document it's very helpful and I agree with you that the procedure now or the process now is actually for all of you to have a look at the document and I encourage you all to contribute on the list with any key points and issues or comments you have to the document.

We will discuss it later in January on the next meeting where we will set enough time to where we'll have enough time to discuss it thoroughly. This is the first introduction and I hope you all have time during the holidays to have a look at it.

And we will have the next call on the 12th of January and that's going to be 1600 UTC. And I'm sorry because we are tight of time I have agreed with (Jonathan) that we will give you a written update on the creation of the PTI and also we had some discussions with Sidley regarding ICANN for bylaws.

Where we proposed to form a small group of the DT leads that are mostly implicated in the bylaws and that actually detailed Chuck and the DT regarding the CSC (donor) and the DT regarding the separation which is Avri.

But we will give you more updates on this and we still have a lot of work to do. Within the next 24 hours we'll have staff send the revised draft of our comment to the accountability group out for you.

And you'll have 24 hours to review and comment on this and then we will send it to Sidley before it's finally submitted to the accountability group.

But I'd like to thank and I forgot to thank staff and Trang and Akram and also David for contributing to the update on the implementation. It's very good to have this reoccurring so it's great that you are here and can explain even though we might be some harsh, have some harsh comments regarding this (lease).

But thank you all for participating and well for the rest we have to close now but as I said we have the next call on the 12th of January at 1600 UTC. We will make sure that you get time enough to discuss the IPR on this call and we will provide you with a written update on the last items that we didn't cover on this call within the next 24 hours.

Thank you all and have a nice day.

Sharon Flanagan: Thanks Lise, thanks (Jonathan) bye.

Jonathan Robinson: Bye all.

END