
TERRI AGNEW: Good morning, good afternoon, and good evening. Welcome to the At-Large Ad Hoc Working Group on IANA Transition & ICANN Accountability, taking place on Friday, the 11th of December, 2015, at 14:00 UTC.

On the English channel, we have Gordon Chillcott, Jean-Jacques Subrenat, Cheryl Langdon-Orr, Olivier Crepin-Leblond, Tijani Ben Jemaa, Eduardo Diaz, Barrack Otieno, Sebastien Bachollet, Alan Greenberg, Seun Ojedeji, and Avri Doria.

From apologies, we have Christopher Wilkinson.

From staff, we have Heidi Ullrich; and myself, Terri Agnew.

Our Spanish interpreters today are Veronica and David.

I would like to remind all participants to please state your name before speaking not only for transcription purposes but also for our Spanish interpreters. Thank you very much and back over to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Terri. Have we missed anyone in the roll call? No. So the roll call is complete. Today, we have an agenda, which will primarily revolve around CCWG Accountability, long review of the proposal, and some decisions that have to be made or at least decisions to what we can propose to the ALAC. The other two topics, the IANA Coordination Group and the CWG IANA Stewardship Transition are just very fast updates.

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I propose that we start with those two, so item four and item five, get them done, and then we'll have the most amount of time possible for the CCWG Accountability. Are there any additional topics that anybody wishes to cover or is there any objection to scheduling four, five, and then three in the agenda?

ALAN GREENBERG: Olivier, I will note that the plan for going forward is part of my presentation, so we don't need to cover that separately.

OLIVIER CREPIN-LEBLOND: Okay. That's fine. Thanks for this, Alan. I see green ticks from other participants on the Adobe Connect so let's proceed as planned and let's then look at the action items from the last meeting that was just for a Doodle to take place for that. That's done.

And jumping to agenda item number four, the IANA Coordination Group, Jean-Jacques Subrenat is on the line, I believe, and so if there is any update on this, Jean-Jacques, you have the floor.

JEAN-JACQUES SUBRENAT: Hello, Olivier. No, nothing to report since last week, when I gave you all – or reminded us, rather – of the publication of the report on the public comments and how we have processed that with the ICG. Since then, I've had no other things to point out. Thanks.

OLIVIER CREPIN-LEBLOND: Thanks for this, Jean-Jacques Subrenat. If that's the case, then I think we can move straight to the agenda item number five, unless anybody has any questions on the ICG. I don't see anyone putting their hand up. So number five is the CWG Stewardship Transition, and on this, there just is a review of the action items of the last call that took place on the 3rd of December. There are just a handful of action items, some to do mostly with PTI, so there was a response regarding the PTI legal status, the post-transition IANA. There was also a number of questions regarding the PTI articles of incorporation, the bylaws. We really are moving into the implementation of PTI. There was also the Client Committee because, of course, the PTI bylaws that are being drafted by the Sidley, the legal support. And so yeah, the Client Committee to review plan for PTI implementation on the next call.

And, of course, the next call hasn't taken place yet so we're still awaiting some information on this. The rest is all to instruct Sidley of the various simplification versions of the bylaws and the number of things that we're basically waiting from Sidley, and I gather that all of this data and information will be ready for the next call, which I believe is scheduled for some time next week.

That's all that I can certainly point out. Does anybody else wish to point anything out that I've missed on the CWG Stewardship? Okay. I don't see anyone putting their hand up. So that means we have the ability to move straight into the next agenda item, and that's the CCWG Accountability. And for this, I hand the floor over to, I believe, is it Alan Greenberg who will take this spot?

ALAN GREENBERG: You will, indeed.

OLIVIER CREPIN-LEBLOND: So go ahead, Alan. You have the floor.

ALAN GREENBERG: All right. Can I have the presentation up in the pod?

TERRI AGNEW: Yes. Apologies. I grabbed the wrong one. One moment.

ALAN GREENBERG: And can we go to slide two? I will try as I go through it to say what slide is on. Let's try with Terri changing the slides as we go along, and if people really want control themselves, then we can have someone ask for it.

All right. The first thing is a disclaimer. I've tried to format this as it will be going forward as an ALAC position and ALAC analysis and ALAC position. However, this version was done by me. It was done purely by me based on what I understand to be ALAC positions, but let's not – don't let the wording fool you. This is not an ALAC position until – or even an IANA issues position until we say so.

That being said, we really need to transform this into an ALAC position very quickly. We have an obligation to alert the CCWG and particularly the other chartering organizations of any major problems we have with this. The last thing we want is other groups ratifying something, which

we're then going to insist is going to have to change. So we need to work very quickly and I'm not at all clear how we're going to do that, but we'll talk about that at the end.

Next slide, we're on number three now. What I've done is gone through the 12 recommendations because the format that we will be submitting our answers essentially is: does the ALAC support this position? Does this proposal? And if so, and if not, what are the problems with it? This is a little complex, because in some cases, there are issues that are really spread over multiple recommendations, but to the extent possible, I've tried to put them into the correct place.

So the first one essentially describes the empowered community. The text for recommendation one goes into a lot of different issues, but the substance of the recommendation is describing the empowered community that is for appointing directors will use the sole designator model.

The sole designator will also act on behalf of all of the ACs and SOs that are participating in the community power to enforce or to enact the other powers. So even though the designator, for instance, does not apply to the GAC, it will address GAC issues if the GAC takes formal action. And as far as I can tell, we are completely satisfied with this. I'm going to pause after each one. Is there anyone on this call who believes this is not the case and wants to raise a particular issue?

Seeing no hands – okay, we have Jean-Jacques. Please go ahead.

JEAN-JACQUES SUBRENAT: Yeah. Thanks, Alan. I just had a slight audio break. I just want to make sure that at this stage at least, this doesn't run counter to the position taken so far by the GAC.

ALAN GREENBERG: I do not believe it runs counter to anything, but the GAC has to speak for itself. This is not one of the issues I've heard the GAC complain about.

JEAN-JACQUES SUBRENAT: Thank you.

ALAN GREENBERG: Olivier?

OLIVIER CREPIN-LEBLOND: Thank you, Alan. Just mentioning this, I don't think we have a problem with that. I have heard voices in the GNSO specifically that the GAC is empowered, and we have to be aware that if there are complaints that the GAC would be empowered on the same level as the other members of this working group.

We have to be aware we might also be in the firing line as the ALAC having the same level of power as the Names Supporting Organizations. So as far as the ALAC position is concerned in here is concerned, I think we're fine. Thank you.

ALAN GREENBERG:

We are very much in the line of fire, specifically for the NCSG. There's no question about that. Whether it becomes a formal NCSG position, various NCSG people have said it will be a formal position, not only Robin's, but that goes where it may. If the ALAC had received lower recognition than the three SOs, I think we would be very clearly saying we would not ratify.

So at this point, we're putting forward our position. Someone else can put forward theirs. Sebastien?

SEBASTIEN BACHOLLET:

Thank you, Alan. And yes, it's just to underline what you just said. I think it's important that we totally agree as At-Large ALAC to resist [proposal] and I guess any other on this matter, changing the weight of both the ALAC and the GAC will not have our support. Thank you.

ALAN GREENBERG:

Thank you. Seeing no more hands, hearing no more voices, we'll go on to slide number four. All right. This one is essentially describing the empowered community, and I'm trying to summarize essentially what the process is for those who haven't followed it. It is a complex process. We'll talk about that in a minute.

For most of the actions, but not all, the process varies somewhat for removing a director by an AC and SO. It varies for supporting a fundamental bylaw change. But this is the general process. Essentially, anybody – and I didn't say a member. I said anybody can request that an AC or an SO initiate a petition.

It is conceivable that any given AC or SO may be inundated with such requests. If so, we'll have to act on it as we can. The AC or SO has 15 days with which to decide whether to formally issue a petition to use a power or not.

It is unclear, but I believe there is a six-day period under which other ACs or SOs then have to decide whether to support it. At least one other one has to support it with the exception of the individual director removal within six days. There is some confusing text, which one place says 15, one place says 6, but 6 seems to be the correct one.

There then has to be a conference call within seven days. If two or three of the ACs and SOs support it within seven days after the conference call, they can convene a community forum, which could be face-to-face, but in the timeframe allowed almost surely will not be.

The community forum must be convened within a certain amount of time (one week) and that community forum can then discuss the issue and the ACs and SOs will then have 15 days to decide whether they support using the power or not.

To support using a power, there must be three or four, depending on the power, who say they support using the power and less than two against. So a power can be used if there is one against but not if there's two. Okay. So that's the basic process.

Next slide. Slide five says what we happens if the Board refuses to honor what the community is saying? In theory, the Board could refuse. We have two paths. One starts off with mediation, an IRP, and then we could then either go to court. If the Board is still refusing to – if we win

the IRP and the Board refuses to honor it, or we can recall the Board, or we can simply go directly to Board recall. It's not envisioned that this is going to happen, but nevertheless.

Seun, go ahead. Can't hear you, Seun. We'll go to Tijani first. Still no one.

TIJANI BEN JEMAA: Do you hear me now?

ALAN GREENBERG: Yes, we hear you with an echo.

TIJANI BEN JEMAA: Now you don't have echo. Okay. I think that the two possibilities, if you want the enforcement is for the two possibilities. If we go to mediation and the Board doesn't comply with the IRP decision, we can go to the court. And if we decide to recall the Board and the Board don't want to go to, we can go to the court, also. Thank you.

ALAN GREENBERG: That's correct. But in terms of compliance with any of the powers, there are two methods. I mean, clearly, we can mix and match to the extent we want to. We can do a Board recall at any point in time should we choose, but the proposal outlines, one, which is tries a bunch of things to get the Board to agree, and then, ultimately, Board recall if

necessary. The other is we can simply presume the Board is not going to agree and simply do a recall immediately.

I believe that is accurate as outlined in the proposal. Seun, are you there now?

TERRI AGNEW: Alan, we're currently dialing out to Seun at this time.

ALAN GREENBERG: Thank you. If there's anyone else who will want to speak and will need to dial out, please ask for it now. All right. We'll go on to the next slide and come back to Seun. Next slide is number six. It is the table of various powers.

SEUN OJEDEJI: Thank you.

ALAN GREENBERG: Okay. Seun, are you there? Go ahead. Seun, go ahead.

SEUN OJEDEJI: Thank you, Alan. Can you hear me?

ALAN GREENBERG: Yes.

SEUN OJEDEJI: Okay. Yeah. I just wanted to make sure the relation to the recommendation two, and the [inaudible] SO and [inaudible] I think I have a [inaudible] the fact that anyone can actually register [inaudible] position as [inaudible] as a result of the PDP. I believe that I'm of the opinion that such should actually go back to the PDP if there's any such petition, and I think it does [inaudible] there's not actually the [inaudible] of the PDP itself. So I thought I should flag that [inaudible] reason why you should [inaudible] should recommend to ALAC to [inaudible] recommendation. I think that's something that [inaudible] should see.

I hope [inaudible].

ALAN GREENBERG: Seun, I could only hear part of what you were saying. I think you were talking about in a case where using a power and specifically the budget power to... Or the bylaw – rather, the bylaw power to cancel a bylaw, which is required by a PDP, and you're saying it should go back to the PDP group. Is that correct?

SEUN OJEDEJI: Yeah. What I'm saying is [inaudible] PDP outcomes, [inaudible].

ALAN GREENBERG: No, no—

SEUN OJEDEJI: [inaudible].

ALAN GREENBERG: Okay. There are two problems with what you're saying. Number one, the PDP group does not exist anymore, so there is no group to go back to, necessarily. So that's number one.

Number two, we are at a stage much beyond the PDP where there's a bylaw required by the PDP and the rules say that if a community is trying to overrule a bylaw required by a PDP that has passed all of the processes and gone all the way up to the Board and been approved by the Board, that cannot be done without the concurrence of the organization, the GNSO or ccNSO, that initiated the PDP.

The reason that was put in was if we allow otherwise, we are essentially allowing the community to override the bottom-up policy development process, and that has some very serious repercussions. So I personally support the change. I think it was a good catch that it was identified at that point, and...

SEUN OJEDEJI: This is Seun, for the record.

ALAN GREENBERG: Seun, may I finish, please? Yeah. It may not be the only way to address the problem, but it is the way that is in this proposal, I believe it does

address the problem, and it is up to the – such a bylaw can only be overridden if the group that initiated the PDP and made the recommendation changes its made on its particular bylaw. Go ahead, Seun.

SEUN OJEDEJI:

Thank you, Alan. Yeah. My point is that it shouldn't be open to the group for everybody that is not actually [inaudible]the PDP. What I'm saying is that it shouldn't be petitioned by anybody. It should be the originating PDP that we petitioned if we think that the Board has not [inaudible] completed what applied it the bylaw properly or if we think that the bylaw is not [accepted] probably shouldn't be done by any other party that within the [inaudible] enough time.

But again, I have no strong opposition about this, but if ALAC wants [inaudible] we recommend ALAC to go ahead and [inaudible].

ALAN GREENBERG:

Okay. Thank you. Clearly, the power cannot be exercised to veto a bylaw without the support of the appropriate SO. All we're saying is it needs support of others, as well. Everyone else has had multiple opportunities in which to comment on both the recommendation and the wording of the bylaw. So I think this is completely in line with what is being recommended.

The Board is not likely to implement a bylaw, which is counter to what the recommendation is. Now since you say you're not in direct opposition to it, I haven't heard a lot of other opposition to it. I don't

think this is something the ALAC would refuse to ratify over. We do have some very substantive issues with this recommendation, which I'd like to get to, but if this is not one that we want to die on our sword over, then let's move on. Sebastien?

SEBASTIEN BACHOLLET: Thank you, Alan. And just to take my point of view, the opposite of what Seun explained, I think that we are a multi-stakeholder organization and not all the stakeholder are in each SO. And therefore, even if an SO has a policy development process and the rest of the community or part of the rest of the community disagree with that, it could be said, and the rest of the community do have [something] for that. And I will the reverse [inaudible].

ALAN GREENBERG: Sebastien, let us be clear. Are you saying that this is an issue that the rest of the community should be able to override the originating SO on a bylaw change that was created because of a PDP, that this is something that you believe the ALAC should object to?

SEBASTIEN BACHOLLET: I am not saying that at this stage for that, we need to object, but just to say to send that I have the opposite position, then let's take the medium one for this one today.

ALAN GREENBERG:

Okay. Then at this point, I happen to support the wording, Seun supports a different wording, you supporting the opposite version. Unless I hear from someone that this is something that we need to identify and it needs to be rectified before we can ratify, then I would suggest we move on. Is that acceptable? It sounds like it.

Okay. We're back on the slide on the powers. So this is an extract from the documents that have been published. Everyone has seen them before. The change that happened in the very, very near to the end is for the powers that require four supports.

Now remember, there are five groups, according the bylaws, that can say something. The change that is noted at the bottom of the slide says that for the powers that require four supports, they are the most important ones. The ability to reject plans or budgets, the ability to change fundamental bylaws, the ability to remove the entire Board, and the ability to reject Board decisions related to IANA.

If one, and only one, of the ACs and SOs decides to not participate – that is, they do not say they support, they do not say they object – that leaves four. At which point, if you still require the four support, a single objection could kill it because you can't get four if there's only four with any objections. And therefore, the CCWG is proposing that this number be reduced to three.

That means these critical actions can be taken with three of the ACs and SOs supporting it, one objecting, and one being silent. And as we go on to the next page, I have a major problem with that. I'll take questions right now, and I will stay on the same page right now. Questions right

now, not on that issue, but on the overall plan, on the overall thresholds.

UNIDENTIFIED MALE: I have an issue here.

ALAN GREENBERG: With what I was discussing or with the overall description?

UNIDENTIFIED MALE: No, no. What you just said.

ALAN GREENBERG: Then let me go on to the next slide and present what I'm saying, and then I'll go on to you. Olivier, is that the same thing for you? Olivier?

OLIVIER CREPIN-LEBLOND: Yes, Alan. It's to do with the thresholds.

ALAN GREENBERG: Okay. The general thresholds or the reduction of four to three?

OLIVIER CREPIN-LEBLOND: Well, there's two things. I'm more concerned about the objections and I'm a little concerned that these community powers would move forward even if there was one objection. Because I would imagine that

if there was an objection, the case of ICANN having gone rogue or whatever it is that we're trying to redress here, the unspeakable case will have really gone beyond and if an SO or AC is objecting to these powers being used, then it's not such a clear-cut thing.

I'm less concerned about the threshold as to how many need to be in support.

ALAN GREENBERG:

All right. I'm asking the group now, is this an issue? This is something that's been in the proposal for a long time. Essentially, since Los Angeles. The only negative comments that have been made against in public that I'm aware of is the Board has said that for some directors – sorry, not the Board. Some directors have said that for recall of the entire Board, it should require unanimity. Other than that, I have not heard that the quasi principle we have that is a power should not be vetoable by a single AC or SO.

So unless I hear other things here, I think you're in a minority on this particular issue.

OLIVIER CREPIN-LEBLOND:

Alan, can I comment on this?

ALAN GREENBERG:

Yes, please. Go ahead.

OLIVIER CREPIN-LEBLOND: Thanks, Alan. So I'm a little confused here, and I might be completely confused. But if let's say the ALAC-selected Board director was to be replaced using one of these powers, does that mean that if the ALAC opposed the replacement of their Board director, the director would still be replaced because the others didn't like them?

ALAN GREENBERG: No. The Board director one is approvable only by, if you go to the previous slide, please....

OLIVIER CREPIN-LEBLOND: Yeah, I wanted to go to the previous slide.

ALAN GREENBERG: It says one, and I should have clarified. It is not only one. It is the specific AC and SO that owns that director, so to speak.

OLIVIER CREPIN-LEBLOND: Okay. That's more like it.

ALAN GREENBERG: It is not objectable by anyone. It is a sole decision of the appropriate AC and SO.

OLIVIER CREPIN-LEBLOND: Then there should be less than two objections. That's correct now on all the lines.

ALAN GREENBERG: With the exception of that one.

OLIVIER CREPIN-LEBLOND: Every single – yeah, with the with the exception of that one, okay. Everyone...

ALAN GREENBERG: Essentially, zero objections lets something go through, one objection lets something go through. More than one objection kills it.

OLIVIER CREPIN-LEBLOND: I was under the impression that even removing an individual Board director needed to have the support of the other SOs and ACs.

ALAN GREENBERG: It does not.

OLIVIER CREPIN-LEBLOND: Yeah, well [inaudible].

ALAN GREENBERG: Some people argued it should, but it doesn't.

OLIVIER CREPIN-LEBLOND: Yeah. As far as I'm concerned, there's no safeguard here. We've transformed Board directors into politicians and they basically have to do what the SOs and ACs want them to do and that will never be allowed by the Board because well we all know that this goes against California law. So [inaudible] that's all. Thank you.

ALAN GREENBERG: I presume you are not suggesting the ALAC [inaudible] over that issue.

OLIVIER CREPIN-LEBLOND: No. I mean, ultimately, there's so many wrong things in the whole thing that this is not going to break the camel's back, and I don't think we should make – if everyone else wants to jump the cliff without a parachute, we're not going to stop them. Ultimately, it's likely to hurt them a lot more than us because they're the ones who are likely to want things that the Board doesn't want while the ALAC in general has – in any case, had very little power on the Board to start with. So I don't think it will really hurt us too much.

ALAN GREENBERG: Okay. Let's go on to the next slide, please. Okay. I think the ALAC position, as I have understood it, is we are in general agreement. I know I personally object to the reduction of the four supports the three for all four powers. The documentation, first of all, and foremost, I don't believe there was any attempt to be malicious.

However, if the documentation regarding this change, if someone was trying to hide it, they couldn't have done a better job. It is not in

recommendation two associated with the table. It is in recommendation one as an add-on afterthought, I believe, before we even talk about the three or four powers, it says, “But we’ll reduce four to three in some cases.”

So I think we have a very serious problem that people are going to miss it. I couldn’t find it myself. I couldn’t find it by reading the text. I couldn’t find it by searching for it. I had to ask staff where it was. So that’s point number one.

Point number two is the rationale, and it’s in paragraph 61, if you want to look at the report. The rationale says it’s primarily there because of a concern that the process enact these powers is very complex and has a small likelihood of ever completing this process. And for fundamental bylaws, we might have a problem. Therefore, we might not be able to make a change to a fundamental bylaw that is necessary.

Now you will recall the ALAC has similar concerns in earlier versions of the report. That was initiated, suggested by Sebastien in one of his minority statement he wrote to some version of the report – I don’t remember which. I think version number one. And it is indeed true.

And maybe we need to reduce the threshold for fundamental bylaws. I have a very significant problem reducing it for recall of the whole Board. I would actually support the Board’s position or some director’s position that we need five, we need unanimity to remove the whole Board. I’m willing to accept four. I think three pushes it down way below a level.

And then the question for the ALAC is that if my position that I've just gave is supported by the ALAC, how do we feel on the budget plan in IANA issues, which are the other ones? I can live with those personally.

The other issue that I have with the 120-day requirement, there's a 120-day requirement on a recall of the entire Board to replace the interim director with a replacement director. The current wording says the ACs and SOs must put in place a process which will yield a director in 120 days.

The process the ALAC uses to select its directors cannot be done in 120 days. The first director that was... When Sebastien was elected in 2010, the process, once we had the structure set up, once the committees were formed to do all of the work, once the committees had made a whole bunch of decisions, it took 130 days. The total time was probably closer to 160 to 180 days.

The process this year took, I believe, 200-and-something days plus some additional time before that. So this 120 days implies we are going to have to radically change our processes. I'm fine with that, but I think I had to highlight that to the ALAC. We'll now take questions on any of these issues. Seun was in the queue, his hand isn't up. Let's go to Tijani first and then go to Seun. And try to keep intervention short because we are going to run out of time if we're not careful.

TIJANI BEN JEMAA:

Okay. Thank you, Alan. First of all, I would like to say that I object strongly against using the threshold of four to three. I expressed that on

the list, on the mailing list, publicly once, and then privately with Jordan, who was the original [inaudible] of this proposal [inaudible].

When I confront him that this is not... There is no reason, he said, "Well it is only to make to not accept that the GAC can block something or can..." This is the concern, more or less."

Why I object? This is very easy. An abstention is a position. It is not a non-participation. So if we said we need four support, people who are there, they have the ability to support. But they choose not to support. That's clear. But this [inaudible] object.

So for me, they have a position, and so we are not absent, we are present, we don't want to support, we don't want to object. For me, we cannot count them as a support, neither as an objection.

But it is not a single issue or an SO or AC blocking the process since we have the abstention, the SO or AC abstaining. We can change, we can come, they can object or they cannot object. They can support or they cannot support. They are not prevented from that.

So it is a false problem for me. It is a wrong problem. There is no problem here. It only was used the threshold and I don't accept it at all, especially for recalling the Board and also for the others. Why we put for and then we want to [inaudible] them? Because [inaudible] abstain. This is absolute for me. And there is no reason for that.

Second, I support your [inaudible] about the 120 days, and I raise this point from the very beginning, if you remember. And that's why I propose at the meeting that when we appoint the Board member, we,

at the same time, we select an [alternate one] that can served [after it], but it was rejected. I will not come back to it. But 120 days is not enough, and even it is enough, it is too long for me to put a replacement for someone who is already recalled. Thank you.

ALAN GREENBERG:

Okay. For clarity, I would like to make sure that what you are saying is you believe that the ALAC should reject this proposal if we cannot get this amendment changed with completely. My position was I believe we can accept it from the other powers, but not for the Board recall. That's number one.

And, again, my position is on the 120 days. Remember, the interim director, we don't have 120 days. We have to name an interim director when we're exercising the power. We have 15 days to do that. So we're talking about replacing the interim director, and my belief is we can alter that process if we choose to. I would not reject this overall transition because of that. So my position is the, and this is Greenberg's position, the only thing that I believe has to be fixed is the one on fundamental bylaws.

TIJANI BEN JEMAA:

For clarity, Alan, the 120 days is not the blocking point for me.

ALAN GREENBERG:

Okay. We're talking about blocking point here. Let's try to keep the discussion focused on blocking points.

TIJANI BEN JEMAA: [inaudible] only the election of the threshold from four to three.

ALAN GREENBERG: For all four powers.

TIJANI BEN JEMAA: I would say for two powers. There are not four. There are three, I think, [important].

ALAN GREENBERG: No, there are four.

TIJANI BEN JEMAA: Four. Okay. Mainly for the recall of the whole Board. Mainly.

ALAN GREENBERG: Okay. So you're taking the same position I am.

TIJANI BEN JEMAA: Yeah.

ALAN GREENBERG: I know that might hurt, but then it sounds like... Sorry, that was a joke. Sebastien?

SEBASTIEN BACHOLLET: Yes. I would like to be very short. Thank you, Alan. It's just to say that we will see more and more detail and it will [inaudible] the detail and I don't want to recall what I say at the first issue of this document. That was my minority position. But I still think that we can't accept to have all those [inaudible] difficulty for us to move in the right direction. Then I support what Olivier said, [inaudible] that all that is just crazy. But if I have to take a very firm position, I think the one it's recall of the whole Board and the other, we will be able to manage, I guess, and I agree with your position even if it's a lot because I think all this process [inaudible]. Thank you.

ALAN GREENBERG: Okay. What I'm hearing from everyone at this point is we can live with reduction. Remember, the four and three were numbers that were developed in front of a flip chart in a meeting in the lobby in a Los Angeles hotel. So it's not as if the four and three had any meaning other than that's what the people standing in front of the flip chart believed.

I believe I could accept three for most of the powers that currently have four, if there is an abstention. And remember, if there's two abstentions, the whole thing dies. You're not going to have enough votes. And so my position right now is I can live with a reduction for everything except Board recall, and I can live with the 120 days because we will have to come up with a process, which is not quite as convoluted as our current process.

So Sebastien, is that a new hand?

SEBASTIEN BACHOLLET: I just have one question. Yes. You are talking about abstaining. What is the situation when one of those five groups decide not to participate? To be outside of the game, if I can say that.

ALAN GREENBERG: If the five that are going to be listed in the bylaws under this proposal changes to four. If, for instance, the GAC or the ASO says, "We never want to exercise power." In other words, if they say what the SSAC has said, then all of this has to be renegotiated. The wording is clear right now if one AC/SO abstains. Iff two abstain, for instance, then the wording, I believe, does not cover that.

Three supporting an action and two abstentions, I believe, are not sufficient. I'm not sure that makes sense, but that is what the wording says, I believe. I will verify that. If I'm wrong, I'll let you know.

SEBASTIEN BACHOLLET: Okay. Thank you, Alan.

OLIVIER CREPIN-LEBLOND: Alan?

ALAN GREENBERG: This is a critical issue. Let's make sure we have everyone in agreement that's on this call. Olivier, go ahead.

OLIVIER CREPIN-LEBLOND: Thank you. Actually, Tijani had his hand up. That was before me. I don't know whether he's in the queue.

ALAN GREENBERG: Go ahead anyway, please. We don't have... I'll try and manage the best I can.

OLIVIER CREPIN-LEBLOND: So you basically said if three are in favor and two abstain, it might not pass, but isn't that then the same thing as two objecting? Because they are asking for two objections.

ALAN GREENBERG: I believe that is the wording. If you hold on, I will pull it up.

OLIVIER CREPIN-LEBLOND: It just doesn't make sense because then if you put abstentions on the same level as objections, then I would have thought objections are a lot stronger than abstentions.

ALAN GREENBERG: Olivier, many things in life don't make sense. I will read you the exact wording. The CCWG also recommends that in a situation where use of a community power only attracts a decision to support or object to that power by four decisional SOs and ACs, the threshold set at four – and it

describes them. Hold on one second. The threshold is set at four if in support for community powers to block a budget, approve changes, fundamental bylaws, or require the entire Board, the power will still validly will be validly exercised if there are three in support and no more than one objects.

The decision has come about because considering the considerably extended escalation process now proposed before use of any power and to avoid the risk of powers being unusable, especially making changes to the fundamental bylaws.

And by the way, the process to change fundamental bylaws is substantially different from the others. It is a very much reduced power that doesn't have all of the petitioning that and conference calls that others have.

So I certainly object. I believe that if this power... The problem of fundamental bylaws can be fixed by reducing the threshold for fundamental bylaws. I believe it is unacceptable for the Board recall and not needed for the others. But I'll try to put that in wording and pass it by this group.

Tijani, go ahead.

TIJANI BEN JEMAA:

Thank you. You said to abstain, that all [inaudible] work, isn't it? [inaudible].

ALAN GREENBERG: For the powers that require four.

TIJANI BEN JEMAA: Yeah, exactly.

ALAN GREENBERG: If at least two abstain, it is not exercisable.

TIJANI BEN JEMAA: So why you say that? Since if there is one abstention, we can reduce the threshold to three, so you will have three supporting and zero objecting. So it will pass.

ALAN GREENBERG: That's correct.

TIJANI BEN JEMAA: So we have to put some limitation. I understand. I see it as something that is not controllable in this way. We cannot control it like this. We have to put things clearly. If there is two abstentions, all the [inaudible] is finished. Okay. [inaudible] like this.

ALAN GREENBERG: What is it saying now? Is if only four participate. So we are in the situation right now where three organizations can say, "I want to recall the Board." One says no, and the other is silent, according to the current proposal, the Board would be recalled. If three say yes and two

are silent, the Board would not be recalled. So It would make more sense to be silent than to say no.

TIJANI BEN JEMAA: Why? Why, Alan? Why it is not be recalled.

ALAN GREENBERG: Tijani, I'm not defending what it says, I'm explaining what it says. I agree with you it makes no sense.

TIJANI BEN JEMAA: You know, please try to understand what I'm saying. If we accept the reduction from four to three, that means that if two abstain, we will still have three approving the recall the Board and zero objecting, and there is no provision to say that if we only have two abstentions, the power will not go. Is that what I think?

ALAN GREENBERG: It doesn't say that, no. It is very clear in the current wording. It may not make sense, but it is very clear that if four exercise the power – three with, one against – the power is exercised.

TIJANI BEN JEMAA: I know. No, but try to consider the case where you have two abstentions and three approving the recalling of the Board.

ALAN GREENBERG: According to the word the proposal as it is written, that power would not be exercised in that case.

TIJANI BEN JEMAA: Why?

ALAN GREENBERG: Now you're asking me to defend it. I didn't write it. I don't support.

TIJANI BEN JEMAA: No, no, no, but why? No, no. According to the wording, why it will not be, it will not go? Why? Since we have three supporting and zero objecting, why it will not go? Since we said we will reduce it to three.

ALAN GREENBERG: Because in my mind, it was incorrectly worded.

TIJANI BEN JEMAA: Okay, but it is, if we stick to the wording, it will be [exercised].

ALAN GREENBERG: No. The wording says, "If only four exercise their decisional powers..." That is four say they abstain or object – say they are four are against, support or object, then it can be exercised with three for.

TIJANI BEN JEMAA: And what about if there are only three express their position?

ALAN GREENBERG: The exception is not invoked and the power cannot be exercised, as it is currently written, which I'm happy with.

TIJANI BEN JEMAA: But where? I didn't see it. I wanted to [inaudible] but I didn't see it.

ALAN GREENBERG: Paragraph 61 of the proposal on page 15.

TIJANI BEN JEMAA: [inaudible] check it. Thank you.

ALAN GREENBERG: Seun, let's go on to Seun, please. We're already an hour into the call and we're on recommendation two. Seun, go ahead. We cannot hear you, Seun.

SEUN OJEDEJI: Hello.

ALAN GREENBERG: Now we can hear you. Go ahead.

SEUN OJEDEJI: Hello?

ALAN GREENBERG: We can hear you. Can you hear me?

SEUN OJEDEJI: Thank you. Yeah. I can hear you loud and clear. I wanted to [inaudible]. What is the way to actually review the threshold, whenever [a new] SO or AC joins [inaudible]?

ALAN GREENBERG: The report simply says that it must go to... They must be renegotiated, this is part of a fundamental bylaw; therefore, we're going to have to be changed according to the rules of changing fundamental bylaws.

SEUN OJEDEJI: Thank you.

ALAN GREENBERG: Tijani, do you want to go back to you? No. Okay. We're going to go on to the next issue. Recommendation three is dividing bylaws into standard and fundamental, this is something that's been there ever since the beginning. I don't think I've heard any objections to it. I believe the ALAC is fine with it. Comments? None.

Recommendation four. Ensuring community engagement to exercise the various powers. It lists the specific ones, reject various things,

initiate binding arbitration, reject Board decisions on IANA, and so forth. Next slide, we're on slide ten now. I think the ALAC generally supports it.

We have raised an issue before on concern of liability in removing Board members. That the Board member may have cause to take legal action against individuals because of statements that they claim are defamation.

It is unclear whether restricting them from doing this is even legal in California. It may not be possible to restrict the defamation. The CCWG has indicated this is an implementation issue, but I believe at the very least there must be an instruction to the lawyers in drafting the bylaws to, if it is legal, make some statement to that effect.

I think it's a serious problem that we may not be able to use any of the removal powers if we cannot make sure that we are either indemnified or, preferably, that they can't take action. Olivier, go ahead.

OLIVIER CREPIN-LEBLOND: Thank you, Alan. I don't understand this slide. It doesn't have what power that is. It says seven new community powers to... Which power is this one we're talking about?

ALAN GREENBERG: I don't know what slide you're looking at. I'm looking at slide number ten.

OLIVIER CREPIN-LEBLOND: Slide number ten, yep. It says, “Recommendation number four, in sharing community engagement in ICANN decision making, seven new community powers, two.” Which one of the community powers are we talking about?

ALAN GREENBERG: We’re talking about the removal of Board members.

OLIVIER CREPIN-LEBLOND: Okay. It doesn’t say on the slide. Okay. Fine.

ALAN GREENBERG: It says, “Concern over liability is associated with Board member defamation.” Sorry. I thought it was clear we’re talking about Board member removal, but...

OLIVIER CREPIN-LEBLOND: No, because it said associates so I wasn’t sure. Okay.

ALAN GREENBERG: We’re talking about the statements that we are now – remember, we are now obliged to say why we believe a Board member has to be removed. California law says we can remove a Board member without stating a cause. We are saying in our bylaws that the cause – not actually a legal cause, but the reason for removal must be published and discussed. That opens a liability issue, in my mind.

OLIVIER CREPIN-LEBLOND: Yep. As I mentioned earlier, it's obviously an issue. Anyway, we've gone down that road and I don't think we can turn back on this.

ALAN GREENBERG: No. That exactly what I'm saying. Regardless of whether you support Board removal or not, if we have Board removal, it opens a liability issue and the question is... We should be looking at that. I think I'm hearing general support.

Next slide, 11, recommendation five. Thank you. This is on mission. This is a long section. I don't know how we're going to cover it on time. Many of our objections in the second draft were focused on mission, core values, and commitments. Some of our concerns have been addressed, some have not, and at least one new issue has arisen. Next slide, please.

Okay. The three paragraphs at the top are the new mission wording. It essentially says ICANN should be able to enter into things that support its mission, and part of its mission is to develop things in a bottom-up process. It's in other of the clauses. The wording was focused on content, but is not restricted to content.

It references specification one and specification of the registry agreement, and specification four of the registrar agreement, which are the areas that say what is subject to consensus policy.

Next slide looks at registry specification one in some detail. I'm not going to try to read it to you. I will point out, however, that it lists some

specific things. It talks about warehousing, it talks about things like WHOIS. There's a number of things it talks about. There's a lot of things it doesn't talk about. As an example, it doesn't talk about PICs.

Next slide. Okay. Many parts of our contracts, our current contracts with registries and registrars were creating before the bottom-up process was creating. There are other parts, which have been negotiated or otherwise determined that are not eligible for PICs. There is a requirement that current contracts – current contracts – be grandfathered. That is, the IRP cannot be used to dispute terms in those contracts.

It is not 100% clear whether it covers renewals. Becky Burr, who drafted the document, says she believes it covers renewals. And it certainly does not cover contracts, which are not signed, and we still have hundreds of TLDs in the first round that are not signed, and likely, we will by the time these bylaws go into effect, we will still have some.

And I believe the ability to use the IRP to invalidated contractual terms is not acceptable. The GAC has raised a similar concern just recently – today, as a matter of fact – with regard to PICs in particular. Becky's answer was it's okay, the GAC can recommend whatever it wants. The GAC members have come back and say, "Thank you very much, but we have a practice in the CCWG that legal opinions come from our external legal advisors, not our committee meetings, and we want legal opinion that says the language will be sufficient to protect these things."

I believe we have to make a similar point that is the assurance of the author is not sufficient to make sure that we feel comfortable. My

bottom line is the last bullet, that is the IRP should not be able to be used to invalidate the terms in current contracts, even if it's a renewal or something like that.

I think this is a very significant issue. And Leon says they will be asking for legal advice. I believe ICANN might live or die on this particular one.

I open the floor now on this issue. Any comments? If you're agreeing, you don't have to comment. I'm assuming that what I've listed here are the concerns of the ALAC in general. If that's not the case, then let's hear about it. Otherwise, I'm assuming that we go forward with this and make a statement to the CCWG.

Seun, I think it actually is in bold, but maybe not. I'll make it in bold next time. I see some tick marks. I see no negative comments. I see a hand from Sebastien.

SEBASTIEN BACHOLLET:

Yes. Thank you, Alan. I don't know, but you will go to the other mission and then maybe at the end, I will come back on the top of the mission where the three paragraph written. It [inaudible] then if I have still something to say, I will say at the end. Thank you.

ALAN GREENBERG:

That's fine. Okay. Next one. Next slide, please. 15. All right. This one was there originally was a core value saying where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment. There were some words added regarding the healthy, but the "where feasible and appropriate" was removed. I ask

the question exactly why because I did not personally recall being a party to any discussions on this. And the answer is on the next slide, slide 16, please, at the top.

And the response was – and I’ll read it – “ICANN does not possess the requisite skill or authority to intervene in the competitive market, and its Registry Service Evaluation Process” – that’s the process by which registries can ask for changes to the contract – “recognizes that by flagging potential items for review by sovereign competitive competition authorities.”

Based on that, I then did some research on what the RSEP says. That is not, in my mind, what the RSEP says. The RSEP says, and again, I’ve extracted the first section, leaving off some details, is “After an RSEP is submitted, general counsel reviews it. Based on the analysis, the general counsel reaches a preliminary determination, point number two, on competition issues, i.e. no competition issues or significant competition issues could be raised. If the preliminary determination is no significant competition issues, then the process is complete. If the preliminary discussion investigation says there might be competition issues, then we have to refer them to appropriate competition authorities.”

Now go back to the previous slide, slide 615. The previous slide says where appropriate, we will make decisions. We may not be able to make those decisions in every case. I believe that the first paragraph, the one on the left, describes exactly what the RSEP does. That is, we do have ICANN staff making decisions on whether competition, whether

there is a competition issue and whether we should allow something or not. And we may, if we're not sure, refer to a competition authority.

So I believe that the "where feasible and appropriate" is exactly what we do right now, and we need the words there because, otherwise, without those words, the paragraphs that I have on the next slide on how we handle RSEPs could be deemed by an IRP to be invalid and against our mission.

Comments? Olivier agrees. Any comments from anyone else? Sebastien, go ahead.

SEBASTIEN BACHOLLET:

Thank you, Alan. I really think that it's this point for me is very important. Your explanation, it's very interesting. I have one other that, and I will take blunt words here, but [inaudible] is not the market and I [like] the people who want to support the capitalism but maybe sometimes there are other way to do things in our multi-stakeholder organization.

Then we need to have someplace where feasible and appropriate, there could be some way to do things in another way than to apply or to get the market deciding on things. We will see on the new gTLD program what the market have done, and I am sure that we need to do better than the market [inaudible]. Thank you.

ALAN GREENBERG:

Yeah. I mean, conceivably, removing the feasible and appropriate, we could even be prohibited from invoking a competition authority. All

right. Not hearing any negative comments. Hearing some supports and a few ticks, I'm assuming that is something we will put forward. And next. We're now on slide 17.

All right. This is one that says – the wording got changed from preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet. The words that were added we enhance the neutral and judgment-free operation of the Internet and the other stuff.

I originally was told this is in the Affirmation of Commitments. That was incorrect. It is, however, a very closely related thing is in the NTIA statements that were made publicly, testimony in Congress, and a number of other things, and specifically, NTIA has committed to a transition ensuring the neutral and judgment-free administration of the technical DNS and IANA functions.

Now, I see those as somewhat different. The operation of the DNS, which includes a wider range of players – it includes the root zone operators and things like that – is a wider thing than the administration of the technical DNS and IANA functions.

I'm not an expert in this and I'm not sure I want to die in the ditch over whether these two sets of wordings are identical or similar enough that we shouldn't care. The question is, clearly, the neutral and judgment-free words, the part that we originally objected to – and Olivier was the who identified that and said, "Does that mean we now have to stop countries that are blocking TLDs or something like that?" Those words are out of NTIA documents and are essential.

The question is, is operation of the DNS functionally equivalent to administration of the technical DNS and IANA functions or do we need to insist that the original words be preserved? I open the floor.

While we're waiting for hands, can I ask staff to see with the interpreters how much longer they can keep on going? It's clear we're not likely to finish this by the 90-minute timeframe. Tijani, go ahead.

TIJANI BEN JEMAA: I think that the previous wording was more clear for me. I understand it better. So I [inaudible] instead of this new wording. Thank you.

ALAN GREENBERG: Tijani, that's not the question. The question is do we use the words on the right or do we insist that the NTIA words in full be used? I don't believe we can avoid using the reference to neutral and judgment-free.

TIJANI BEN JEMAA: But is the original word – no. Here, you are speaking about the operation of the DNS. The previous wording was better for me, at least, it is more clear.

ALAN GREENBERG: When you say the previous wording, please be specific. Which wording are you talking about?

TIJANI BEN JEMAA: I don't have it here, I cannot repeat it exactly, but they are speaking about the administration.

ALAN GREENBERG: Okay. So that's not the previous wording. That's the wording the NTIA used in their testimony and other documents.

TIJANI BEN JEMAA: Yes. I prefer this one than the operation of the DNS.

ALAN GREENBERG: I understand. I prefer, too. Is it something we're willing to say we will not ratify? The question is are the two close enough that we're willing to accept it or not?

TIJANI BEN JEMAA: I don't know. [inaudible].

ALAN GREENBERG: That's a decision we need to make in the next couple of days. So think about it and look at the document. The document we're talking about is linked in the agenda, and it is slide 17. The question is, is the wording that is in the current proposal acceptable or do we demand that it be changed to the wording used by the NTIA? We have Eduardo next.

EDUARDO DIAZ: My comment that these new words are based... They're going to be interpret in the future. I don't think it's a stop. I don't think ALAC should stop the CCWG because they put these words in. And this is like any other law or any other thing that happened. If things happen that people will in the future will come to this and people have to interpret this at that point in time, it might be changed or not. So I don't think that having these words will make [inaudible] big deal.

ALAN GREENBERG: Okay. You're saying you can live with the current wording. [inaudible] I think we should raise the issue and point out they did change the words but not to say that we demand that it be referred to the NTIA words, is my current position.

EDUARDO DIAZ: I agree with that. Thank you.

ALAN GREENBERG: Okay. Any other comments? Next slide. Thank you, Gordon. Next slide, 21. Recommendation eight, improving ICANN's reconsideration process. The ALAC has never had a concern with this recommendation. We have, in fact, supported it. We [inaudible] vocal a number of times that the reconsideration – current reconsideration process is insufficient in that it only looks at whether the policy has been followed and I believe we support this recommendation. Comments? No comments. Next slide, please.

Somehow, we've gone to 22. I don't know where 18 went. Back to 18, please. Thank you. This is an issue on regarding the AOC. Paragraph three of the Affirmation of Commitments made a reference to consumer trust. That reference was not carried through into the bylaws. The response, again, from Becky, who was the repertoire and drafting of much of this was – and I quote, "Article three of the Affirmation of Commitments is a general comment about the purpose of the AOC. It states that the specific commitments made by the parties... It states what the specific commitments made by the parties are intended to promote. All the specific commitments made in the AOC, and that includes the specific commitment to hold a review team on consumer trust, has been put in there."

So she is claiming this was not a commitment as such, but an explanation of why the rest is there, and therefore, it does not need to be included in the AOC in the new bylaws. The question is, is this sufficient or not? Again, we're not talking about what will we prefer. Are we willing to say it must be included or we do not ratify?

Cheryl, go ahead.

CHERYL LANGDON-ORR: Thank you, Alan. This is one I know you're particularly concerned about, and I just wanted to put my views forward. I understand the concerns. However, I do think that this is sufficient because the Consumer Review Team are able to increase and strengthen recommendations in future review teams. So to that end, I think this is something that can be fixed

even as a result of the first review team that will be going on shortly. So I think it's sufficient because I think we can deal with it.

ALAN GREENBERG:

Okay. Thank you. Any other comments? We know we're going to have at least one person on the ALAC, and that is Garth, who's going to feel this is exceedingly important. Are there other people willing to say, to take Cheryl's position that yes, it's important, but it is fixable? And if not, something to deny the transition on since we have raised this issue multiple times and have not succeeded in getting the CCWG to adopt it? I'm willing to live with it. Olivier, go ahead.

OLIVIER CREPIN-LEBLOND:

Thanks very much, Alan. I have serious concerns about most of these bylaw changes. Serious concerns about first the person that has proposed the [inaudible] has been the report, and secondly, the process by which these have been brought forward to us. To me, most of these bylaws serve to be restricting not only ICANN's mission, but also ICANN's position as far as the public interest is concerned, and maximizing the rights of opportunities that any contracted parties could have to make money one way or other, whether it serves the ICANN public interest or not.

I have real concerns that this issue of consumer trust is effectively being deleted from the bylaws because it's seen as just an option of the or an explanation of the ICANN reviews. To me, it looks like just a chipping away of the overall public interest mission of ICANN.

Now is that sufficient enough for us to say, “No, we’re not going to sign forward?” I would think that... I would say no because – individually speaking, I would say no. But I’m starting to now look at the different component parts, and I think that we should maybe not just look at the single parts being like, “Well, this is a redline. We’re not going to sign up because of that redline.” But what we should do is to actually make a list of all of the redlines that we have, and at the end, see if that’s enough for us not to sign.

This individually I would say, “No, we can go ahead with.” But I can see a lot of redlines and red flags all over the place.

ALAN GREENBERG:

Okay. Olivier, what you’re saying is you want to comment on the whole mission package, as Sebastien has said. So let’s defer that to the end [inaudible]. And we are actually already there. So I’m going to call on Sebastien again and I’ll call on you again, if you wish.

Recognize, though, that I don’t disagree with you. There have been a lot of changes and they have been pushed to a large extent to control what is perceived to be ICANN’s desire for mission creep and to widen its scope. I believe many of the proponents of those are looking at history that may be ten years old and using that as an indication of what ICANN may be planning to do next and trying to prohibit it.

I believe it is significant overkill. I believe the Board has implied they are going to say something similar, but they haven’t actually said the words yet. So I tend to agree with you but I’m doing my best to try to focus on

this particular wording that is, indeed, problematic as opposed to the philosophy, which underlaid it, which I do disagree with.

Sebastien, first, and then Olivier, and then anyone else who wants to comment. Our interpreters can stay for another 15 minutes, which means that's 23 minutes from now or 22 minutes from now, and we're not quite finished yet. The rest of them should go a little bit quicker. But let's try to summarize on the mission parts.

Sebastien, if you can talk, that would be fine.

SEBASTIEN BACHOLLET:

Thank you, Alan, and I agree with Olivier. That's a time of if we add... If each thing can be accepted the total, it's very difficult to accept. And the question of mission creep, it's not just something who happens ten years ago. It's something against all the process set up by the CEO to have the NETmundial in Brazil and then NETmundial Initiative. And I really think that for us as an end user, it was a very good move and it must be done.

And I am sure that with this new bylaw, we will have – it will not be possible anymore. It's why this whole package it's almost, from my point of view, unacceptable.

Once again, it's very close to we will not be able to change ICANN anymore in the future. There are too much things put on the bylaw, not advised by the bylaw, and all the power we have will be very difficult to exercise. And I don't see that as a healthy organization in the future. It's

why I have said disagreement to say that for the moment, I am very reluctant to say, “Yes, we love that.” Thank you very much.

ALAN GREENBERG: Okay. Thank you. Olivier?

OLIVIER CREPIN-LEBLOND: Thanks very much, Alan. I say I do agree with the points that Sebastien has made. The concern I have, just taking an example. I think that applicant support at some point was being touted as being something that was nothing to do with ICANN. And does this mean by chopping so many bits off now and saying, “ICANN can’t do this, ICANN can’t do that,” it wouldn’t be able to provide us applicant support? Or, I don’t know, it’s bizarre, really, and that’s all.

ALAN GREENBERG: Thank you. Any other comments? I note that there is some concern from at least two people that the overall package of mission statements may restrict ICANN in ways that will be unhealthy for ICANN and its evolution, even though indeed, it might suit the purposes of registries and other people who want to carefully restrict ICANN. Tijani, go ahead.

TIJANI BEN JEMAA: Thank you. I will not repeat. I support everything Sebastien and Olivier said about this kind of restriction to and limitation of the mission so that any other initiative in the future will be possible. Thank you.

ALAN GREENBERG: Okay. Let's be clear. These mission changes have been, in one form or another, been part of the process since the very beginning, and the ability to restrict ICANN in its mission to the very narrow focus it has, has been something that has been a target of the CCWG.

So the wording, in some cases, is new, but the intent is not new. What I'm hearing from the three of you is that you believe the ALAC might be required to reject this overall proposal because rejecting all of the mission statements, we can, perhaps, tweak them and get them changed in minor ways, but rejecting the overall concept is something that will not be acceptable to the CCWG in general.

So you're saying that if we cannot make radical changes at this point, that we should reject the overall proposal. Am I misreading what you're saying? I'm not saying it's a wrong position, I'm just trying to make sure we have clarity.

TIJANI BEN JEMAA: I understand. Personally, I will not request the rejection of the proposal because of that, because we knew it from the beginning. But now the wording is becoming more and more restrictive, so this is – the general [inaudible] yes, as you said, it was from the beginning like this. But if we can make comments on that without rejecting the proposal.

ALAN GREENBERG: Okay. So we should certainly make a statement saying we have grave concerns, not necessarily that we will refuse because of, but we're going

on record of saying we have great concerns. I see a tick from Olivier. Cheryl has her hand up.

CHERYL LANGDON-ORR: Thank you, Alan. And I [inaudible] microphone is slightly louder for the interpreters. The thing I think we need to also remember is let's assume that every one of the current wording in our report, as it is with now, goes through our processes without a single edit or a single change. Let's assume it all just goes through at the moment.

Then this draft test still is subject to all the usual public comment and application to tweaking and alterations and everything else that any other bylaw change go through. So this is not our last opportunity to measure and move and try and reframe what goes into the bylaw changes. So I just want to remind you all, it's just part of a process. It's not an end game and this is [inaudible] it's not as it will be enshrined. It is as it is proposed, and then it all goes through normal processes, including all the opportunities [inaudible]. Thank you.

ALAN GREENBERG: Okay. Thank you, Cheryl. I tend to agree with you but with some caveats. And by the way, we have still yet to hear from the Board and I'm expecting some of our concerns to be echoed there. As Sebastien mentioned, NETmundial is one of the things that people focused on as something, which shouldn't be allowed to happen, and that's not necessarily a position that we will support.

But in terms of the normal processes, yes, there will be processes, but the timeline is such that we can't afford a lot of false starts. So we're likely to get something close to what we're asking for at this point, short of the Board saying they won't enact the bylaws, which of course, is [a crucial thing].

Okay. I think I've captured it. We have grave concern, we don't necessarily agree with the whole package. It's not clear that for some of the individual ones we would veto because of it, but we certainly will register a significant concern. Next slide, please. We're on 19 now.

This is the recommendation on human rights. The wording that we are talking about – and you can read it in the slide – essentially, it says we will put in the bylaw something is not normally in bylaws. It says this is an intent to change the bylaws, but we're not actually going to change it at this point. So we are saying there will be a new bylaw implemented, which will be developed during Work Stream 2, which will create a framework of interpretation for how human rights is adopted. I support that.

My concern is it says we will come up with this framework within one year after the bylaws are adopted. I believe that one year is totally unrealistic from an ICANN perspective. There's very little we can do in one year, going all the way through the bylaws, and there is not clear what the penalty is for not doing it, but in my mind, the penalty is we could be brought to an IRP saying we have not followed our bylaws because we have not done something within one year, and I don't know what the implications are of that happening, so that is my worry on that one.

We have two hands up, I think it was Olivier and then Tijani. If it's wrong, someone say so.

OLIVIER CREPIN-LEBLOND: Thanks, Alan. For this recommendation, as well, and I hope that I have concerns about what you mean regarding what the penalty is. But maybe they should spill the Board if they don't do that. Maybe that's one great way to move forward. I don't know. I'm just seeing the same sort of trust here being given as some of those idiots that are basically saying Work Stream 2 work will never move forward because we don't trust that ICANN will ever move forward with it. To me, it's just despicable.

And if they want to put it in there, fine. As far as I'm concerned, I've gone way beyond starting to argue about little things like this. Thank you.

ALAN GREENBERG: Okay. Just to be clear, it's not the Board. If the Board would have to pass the final bylaw change, this is a community action that would have to be taken and completed within one year. I believe it is reasonable to embark on it. I believe the overall timeframe is somewhat unrealistic. Tijani, you're next.

TIJANI BEN JEMAA: Thank you very much. I have a big concern with this recommendation. If we try to look at it very clearly, in the core value, we have a provision that ICANN must carry out its activities accordance with the applicable

law and international law and the convention. Is there a need to repeat here that ICANN should commit to expect internationally recognized human rights? Are they included in the international law and the convention? This is the first concern.

The second one, we say here that the legal advice – we said that that the legal advice for that, that upon termination of the contract, there wouldn't be a significant impact on ICANN human rights obligations. So why we are insisting on including the addition of this language?

The third point regarding the same subject, despite the fact that we were advised that no significant impact on the ICANN's obligation on human rights can be built by the condition, and the despite that the core values included already, the obligation of ICANN to comply with the international laws and conventions, we are here proposing to add an interim bylaw, interim bylaw provision because the issue of human rights will be extensively addressed in the Work Stream 2. I find this really absurd. Thank you.

ALAN GREENBERG:

Okay. Thank you, Tijani. To answer some of your questions, number one, international law and treaties apply to governments. They do not apply to corporations. So the wording we have is interesting wording, but it's not clear what it means. This has been hashed out in the CCWG for a long time.

I think the chances of getting approval from all of the chartering organizations without something here, talking about human rights, is very low. I think even if the chartering organizations would approve it,

the chance of the CCWG having agreement that we will go forward without anything in human rights is very low. So the question at this point is not whether there is something going to be put in. I think that ship, too, has passed. And if there were going to be strong objections from the ALAC, they should have been there in the previous versions, and they were not.

So I'm not sure that we have an opportunity to say, "Scrap the whole thing." The question is is the wording that we have that is being proposed acceptable? And understand this is not the wording of the bylaw. This is the instructions to the lawyers. Avri, go ahead.

AVRI DORIA:

Thank you. I just wanted to reiterate what you said is that the bylaws and the articles will not commit ICANN to respect human rights unless it says so specifically for the reason that you said. And I, too, would have preferred the [inaudible] statement that Tijani says, but because of various intellectual property and other concerns of that sort, this is the best we're able to get at the moment.

So I'm hoping that people don't object to it. I personally am sad to see us have to go this way as opposed to just putting in a simple statement [inaudible]. But this really is the best we can get at this point, and I do believe that we can do it [inaudible]. We're doing almost all of the accountability in here. If we put our minds to it, we can do this in a year. Thanks.

ALAN GREENBERG: Yeah. Thank you, Avri, my concern is not whether we can. It's do we want to commit in the bylaws with words that says in no event later one year? That's the wording that concerns me, and the possibility of an IRP finding us in violation of the bylaws has some deep concerns for me. Olivier, is that a new hand?

OLIVIER CREPIN-LEBLOND: Alan, you just said what I wanted to say. I must say to Avri I'm in full support of having the human rights element in the bylaws, but there's possibility to break the bylaws by the community not being able to come up in time with the details opens up the possibility of something that we might not wish to happen. Thank you.

ALAN GREENBERG: Yeah. I have a real concern. We have done unbelievable things in the last year in terms of the transition and the accountability CCWG. There is going to be a very significant reduction in effort at this point. Some of us just cannot sustain that level, and therefore, I have concerns about timeframes following the bylaw implementation. Tijani?

TIJANI BEN JEMAA: Yes, thank you. What we can do, we can, perhaps, suggest that we don't need an interim bylaw because everything, which will be [inaudible] in Work Stream 2 will have an interim bylaw here in Work Stream 1, I think it will be... I don't know why it is necessary to have this interim bylaw here.

ALAN GREENBERG:

Tijani, you're welcome to make that comment. On behalf of ALAC, I don't think I can. I agree that I don't think we needed something. I'm not one of the ones who was pushing forward and we're at a decision point right now where after much discussion back and forth with lots of different wording looked at, including no wording, we are where we are right now.

So I think it's too late to say scrap it all. The question is how can we make it acceptable? That's my question, in any case. Any further comments on this one? We are 11 minutes after that hour and a half. We have another four minutes of interpretation. We may go ahead without interpretation. I'm not actually sure there's anyone on the call right now using it.

TIJANI BEN JEMAA:

Alan, I have to go and I really don't want to miss this discussion, so please stop here and we will make another call in the same week, in the next week.

ALAN GREENBERG:

Remember, we have the final report going in in nine days, in 11 days, and we must tell the CCWG where we're going first, so let me go very quickly over the next items. The strengthening the IRP, there's an issue on decisions of panels. The position that has been taken is it will only apply to future policy, and I think that's fine. But we need to say that.

Recommendation nine is Affirmation of Commitments. I think we're okay with that one. Again, if anyone has any comments disagreeing with

these positions, please do so on the e-mail very quickly. Recommendation 10, enhancing the accountability of the supporting organizations. I'm somewhat cynical that it's going to have a major effect, but yes, we support it.

Recommendation 11 on the stress test 18 – and I'm quoting now – the ALAC has decided that this is not an issue, which to comment on, other than to note that it has explicitly been stated as an NTIA requirement and whatever is adopted must meet transition requirements. I think that agrees with what we said at the last meeting.

And recommendation 12 is what is in work stream number two, and I won't read over the list. It's in slide 25, and I think we support that. So Olivier, you have a comment. Very quickly, please. Olivier? Old hand. Okay.

OLIVIER CREPIN-LEBLOND: I'm sorry.

ALAN GREENBERG: All right. Slide number 26, please. This is crucial. We have ten days in which to submit our final report. I will get something out today – I hope soon, but I have other commitments today – that summarizes what we will say to the CCWG. That is, raising any issues that either we want to see changed, whether they're controversial or not – some of them are just corrections – and identifying issues that we believe might be things that we would require changes to.

I will try to summarize them. Please look at the document I send out. I'll keep it as short and concise as I can. Because it will have to go into the CCWG by very early next week. So essentially, we have to decide very quickly whether it goes through. We need to decide on how many more meetings we have in the next ten days. Ten calendar days, by the way, not business days, the 21st is a week from Monday. We have said outreach to our community is essential, but it's not clear we've done a lot of that at this point.

We need other meetings for the IANA Issues Group, and I think we need at least one webinar for the community and particularly for the ALAC that it's going to have to approve this. I will say we have confirmation that the GAC will not be meeting intersessionally, and therefore, we will not be meeting intersessionally. This decision will have to be made by the middle of January at the latest. But we can't continue to evolve our position. We have to state it very quickly. And the CCWG is looking for confirmation that we will endorse by the essentially by Christmas, if at all possible, although middle of January is a possibility.

Cheryl, you have your hand up.

CHERYL LANGDON-ORR:

Thank you very much. Very briefly, with the translated documents coming out, we already are applying from the leadership point of view to have another webinar. So from the webinar, I think our community, particularly, our diverse language community, should be encouraged to engage in that webinar and that will take care of some of our

requirements as well as the additional webinar that you've pointed out in that [inaudible], Alan.

ALAN GREENBERG: Thank you. My concern on the webinar is not on the proposal as such, but on the ALAC position. We have identified a small number of things that we are saying we will not ratify without those changes being made. I don't think this group can make that unilaterally a decision on behalf of the ALAC. We're going to have to get the ALAC involved sometime in the next ten calendar days.

Tijani, go ahead.

TIJANI BEN JEMAA: Alan, you said you sent a document. I didn't receive it.

ALAN GREENBERG: I did not say I sent any document.

TIJANI BEN JEMAA: Okay. There is no document [inaudible].

ALAN GREENBERG: The document that we're looking at in the Adobe Connect is linked to in the agenda.

TIJANI BEN JEMAA: Okay. Very good.

ALAN GREENBERG: Olivier, I think that's a new hand.

OLIVIER CREPIN-LEBLOND: Yes, thank you, Alan. Regarding scheduling of meetings, I would hope that, perhaps, we could have another meeting of the IANA Issues Group on Monday, and then any other time over the week to – I would suggest maybe an ALAC special issue call sometime during that week so that you get the ALAC to be able to revert back to you possibly maybe after the next webinar that will be sent out. So you don't need to do a full webinar, but it's going to be a discussion call with all of the ALAC.

ALAN GREENBERG: Okay. I will be sending something to the CCWG before that. I'd like to do that after Monday. So I'm asking staff to do a Doodle or whatever is necessary to schedule a call either Monday or early Tuesday, that's number one action item. Number two...

OLIVIER CREPIN-LEBLOND: For the IANA Issues Working Group, yeah?

ALAN GREENBERG: For the IANA Issues Working Group. Number two, we need one or two webinars for ALAC and anyone else in the regions who want to participate, but it is mandatory for the ALAC, and I'm willing to do two,

one at different hours to make sure that we get everyone. I will leave it to staff to figure out if they need to do a Doodle or simply announce two hours. That should be done around about Thursday of next week because we're going to have to finalize the document and somehow get ALAC approval on it by Monday.

So Wednesday or Thursday for the webinars.

OLIVIER CREPIN-LEBLOND: Monday the 21st.

ALAN GREENBERG: Monday the 21st is the deadline. There is no extension. Okay. So we have an IANA Issues call Monday or early Tuesday, two webinars.

UNIDENTIFIED MALE: Alan.

ALAN GREENBERG: I'll go to you in a second. Two webinars on Wednesday or Thursday at different hours. And I think that's all we need at this point. We may have to schedule an ALAC call. I don't know how but we'll probably have to do it via e-mail or some other method, but we will give people warning and a heads up so we can make a decision by the close of business on Monday, which is the deadline for submitting. Tijani, you wanted to speak.

TIJANI BEN JEMAA: Yes. I wanted you to avoid Wednesday because I will be on a [inaudible] on Sunday, will not be able to participate. So please try to avoid Wednesday.

ALAN GREENBERG: Are you saying Thursday would be better? Because I was told you'd be gone Tuesday through Friday.

TIJANI BEN JEMAA: I know, but Thursday I will not have hall duty [inaudible], I will be still in the conference, but okay.

ALAN GREENBERG: Okay. I ask staff to work with Tijani to try to make sure that one of the webinars, the one he would likely attend, is at a time he can attend.

TIJANI BEN JEMAA: Thank you very much.

ALAN GREENBERG: And with that, I'm finished. Anyone else have any last comments? We have an awful lot of work to do, people. Please, if there are things in this presentation, which we have not already resolved in this call that you are disagreeing with, please make it clear, be as concise and clear as you can. We don't have the time to handle misunderstandings at this point.

I know there are things that people do not like in the overall proposal, but unless you are recommending that the ALAC withhold support or make a comment just to state our position, then personal positions are, at this point, too late, but we are in a position to make statements, we are in a position to demand changes with the understanding that the more we make of those, the less likely they are to happen.

Sebastien.

SEBASTIEN BACHOLLET:

Thank you, Alan. Just I am very concerned that we have trouble to outreach even outside of our five participants, including [inaudible]. And I know that you are doing everything possible, but it's my concern I want to raise here once again. Because even the ten other ALAC member, I am not sure that they're aware and the fact that we will not have a face-to-face meeting is for me a breach in how we will be able to really take a decision.

It's a position if we don't, if we disagree, we will not have the transition, then don't ask us and go ahead, but I don't think it's the way we want to do as end user voice. Then I am really concerned how we will do that in the next ten days. Thank you.

ALAN GREENBERG:

Okay. Thank you, Sebastien. I am concerned, too. And I will simply remind everyone that it is the responsibility of every person in this group, whether they're an ALAC member, a regional leader, or simply an

active participant to talk to people and make sure their comments are involved. I don't see any other way we can do it.

You had suggested that we say we will hold a face-to-face regardless of whether the GAC does that or not. There was not a lot of support on the ALAC for it and there was some significant opposition. So I didn't see I had grounds to made that demand.

SEBASTIEN BACHOLLET:

So sorry. I'm not sure that the way you counted, the way I count was the same, but doesn't matter. It's not the [inaudible]. I think really, we need we will need a face-to-face, but that's not going to happen. And I just want to finish to thank you very much for the other work you have done. [inaudible] it's I am sure take you a long time to do it and really, I want to thank you because it helped us to do our work, also, then Alan really, thank you.

ALAN GREENBERG:

Thank you, Sebastien. I do have a request for everyone, though, on this call, and it will be my parting request. People need to read the report, all of it. The base report and the annexes. And make sure I'm not the only one looking for problems. There may be other things there I haven't found. And yet, we are going to approve every word in the report if we approve it and live with the consequences.

So please, people who have not read the actual final documents and lots of changes were made, editorial changes were made at the very last

moment. If you have not read them, you must somehow find the time to do it, please. That's begging, and I don't often beg.

Thank you all for participation for look forward for a message from me and I look forward to messages from you all. Thank you.

UNIDENTIFIED FEMALE: Bye.

ALAN GREENBERG: Thank you to the interpreters who have been flexible with us.

UNIDENTIFIED FEMALE: Thank you [inaudible].

OLIVIER CREPIN-LEBLOND: Taking the call back. Any other business? Is there any other business? It looks like there is no other business, so thanks very much, and yes, I'd like to echo what Sebastien has said. Thanks very much for this slide deck and the work you've done on this. It's very helpful. And I hope that we can all share it with our communities.

ALAN GREENBERG: Everything you have is searchable with the caveat that a revised version will be coming out, but yes, please share. There are very few days left between now and when we have to set a final position on behalf of the several billion users of the world. Thank you.

OLIVIER CREPIN-LEBLOND: Last thing, so the action items, just to make sure we've all got them right here in the bottom right hand corner of the screen. Next IANA Issues call Monday or early Tuesday, 14th or 15th or December time by Doodle. Secondly, there will be two webinars at different hours, ALAC or other regions, mandatory for the ALAC, I would say ALAC and other regions, and RALOs, especially [inaudible] two-hour duration on Wednesday and/or Thursday. Work with Tijani on the Thursday time.

And the deadline for submitting is the Monday the 21st of September. Terri, you're okay with those, you've typed those in, so you know what you meant there.

TERRI AGNEW: Yes. Thank you very much, Olivier. All good.

ALAN GREENBERG: Thank you.

OLIVIER CREPIN-LEBLOND: [inaudible] you work with Gisella for all this, and thanks, everyone. This call is adjourned.

ALAN GREENBERG: Thank you, Olivier.

UNIDENTIFIED FEMALE: Bye.

TERRI AGNEW: Thank you. Once again, the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all...

[END OF TRANSCRIPTION]