
OLIVIER CRÉPIN-LEBLOND: Can we start the call, please?

TERRI AGNEW: Certainly. Thank you. We'll go ahead and begin at this time. Good morning, good afternoon, and good evening. Welcome to the At-Large Ad-hoc Working Group on IANA Transition & ICANN Accountability taking place on Wednesday, the 13th of January, 2016, at 14:00 UTC.

On the call today, we have Tomohiro Fujisaki, Jean-Jacques Subrenat, Cheryl Langon-Orr, Barrack Otieno, Alan Greenberg, Avri Doria, Olivier Crepin-LeBlond, Sebastien Bachollet, Leon Sanchez, Seun Ojedeji, and Tijani Ben Jemaa on the English channel.

On the Spanish channel, we have Alberto Soto.

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 interpreters.

Thank you very much, and back over to you, Oliver.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Terri. Have we missed anyone on the roll call? Okay, total silence, so we've got everyone.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Welcome, everybody, in this first call of 2016 for this working group. Best wishes to everyone on this new year. It feels with all of the work taking place in the IANA Issues Working Group or the IANA CWG, but mostly on the CCWG Accountability it feels like we're in the middle of the year, doesn't it? Just so many calls already, and therefore that means we've got a lot to catch up on this working group.

The agenda is going to be having a quick update on the ICG, which I believe has a call later on this week, so we might actually focus on an ICG update to this further if we have a second call this week. Then we'll have an update and a few questions as to where we want to go as far as the Cross Community Working Group on IANA stewardship transition is concerned. There was a call yesterday that had quite a few discussions on IPR issues – intellectual property issues, IANA.org, etc.

Then we have the majority of this call, 55 minutes on CCWG Accountability. Lots to discuss in that, as I just said.

Does anybody wish to add anything to this agenda or amend anything to this agenda?

ALAN GREENBERG:

Nothing to add. I'll just note the CCWG schedule was not updated to provide documents. There's a lot of documents, but they're not something that are easily displayable at this point, or at least the level that we're likely to look at them. But I will be prepared to talk about most of them.

OLIVIER CRÉPIN-LEBLOND: Okay, thanks very much, Alan. Thanks for this advanced warning. Is there a location where these documents might be located? Maybe a link to the last few calls of the CCWG Accountability?

ALAN GREENBERG: The agendas for each of the calls have documented pointed to. I'm not sure they're in a single place. Leon may know better.

OLIVIER CRÉPIN-LEBLOND: Okay, thanks. It's just if I can ask anyone who knows. Just put the links on the chat. We will be able to link to those documents in case you're going through these. I find the amount of work and volume in the accountability [threads] have been increasingly challenging. [inaudible] for a whole year.

ALAN GREENBERG: In general, they've been distributed as e-mail attachments, and then the agenda has pointed to the e-mails. So I don't think they're in any central place, but I may be wrong on that.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this, Alan. That's helpful. I think that there is a document store somewhere in the accountability wiki, or whatever it's called. [inaudible] webpages, but I don't know how updated that is. Anyway, let's get moving.

First are action items. There were no action items – just keep on doing whatever you’re doing so far. So let’s move down to agenda item #3, then, IANA Coordination Group, an ICG update. We have Jean-Jacques Subrenat who is with us. Jean-Jacques, you therefore have the floor.

JEAN-JACQUES SUBRENAT: Thank you, Olivier. Hello. Happy new year. I haven’t “seen” you since the first of January. As you know, the ICG is in [reception] mode. It’s [inaudible] because the last two items of work for us was on the one hand completing a draft proposal and that has been terminated. We stated clearly that we were waiting just for the final input from the accountability CCWG.

The second thing, which I have already spoken about at this venue is the completion of our report on the public comments received about our proposed transition plan. I’ve given you both links on this chat.

Because, as you know, the ICG is not chartered to invent anything – it is the assembler of contributions from the [inaudible] [community] – we are not in capacity to fill in the space, as it were, or invent anything whilst waiting for the CCWG accountability contribution.

Of course individually [inaudible] happens elsewhere, but I’m afraid I don’t have anything to report as ICG member. Thank you. Do you have any questions?

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Jean-Jacques. The floor is open for questions. Alan Greenberg, you have the floor.

ALAN GREENBERG:

Yeah. Thank you. It's not a question, but just a statement. There has been a fair amount of participation by a number of ICG members, and specifically Alissa Cooper in some recent meetings. As we'll talk about when we get to the CCWG, we do not have an updated agenda right now or schedule when we plan to be completed, for a number of reasons. And that, of course, is causing some concern within the ICG. I think that's one of the reasons there is a meeting this week. Clearly there is concern on several levels about the fact that things are late.

The NTIA was asked and the only answer was we've said before every time you delay, it increases risk. So that's where we are.

JEAN-JACQUES SUBRENAT:

Yes, Alan. Thanks for that remark. Yes, as individual members of the ICG, we are aware of that. But as a group, it was decided that our chair [inaudible] would keep in touch with the chairs of [inaudible] in contact with. Yes, we do have some concerns, but they have not been voiced as a body.

Thanks for reminding me, Alan, that this [inaudible] has 22:00 UTC. The ICG will have another teleconference call and I'm looking forward to that very much. I hope that some of our members will be able to [inaudible] the latest news from CCWG Accountability.

One last point. There has been some discussion on the ICG mailing list about whether there would be cause for the ICG to meet in the margins of ICANN 55 in Marrakech. At least at this stage of my [inaudible]

exchanges, it seems that the majority of members think it is not necessary to have a face-to-face meeting in Marrakech, that we could very well do what we've done all along and [inaudible] which is to have teleconferences. But this may change. In any case, we are all waiting for our [inaudible] 20:00 UTC. Thanks.

ALAN GREENBERG:

Alissa did comment that at this point it's not clear whether there will be a need for a face-to-face. Since the majority of people on the ICG will likely be in Marrakech, they may well meet, but that will be decided as they go along. At least that was her comment as of yesterday.

JEAN-JACQUES SUBRENAT:

Yes. I would say that, as an individual member of the ICG representing the At-Large, I would need to have my trip funded if there was an [inaudible] meeting in Marrakech. I think that the fact that several members of the ICG will be going there in any case, but in another capacity, is not enough of an administrative [inaudible] travel accommodations [inaudible]. Thanks.

OLIVIER CRÉPIN-LEBLOND:

Thanks very much for this, Jean-Jacques. Let's ask any other questions. Okay. Well, if we have another call later on this week in this working group – I believe there's a call tonight, then, so you'll probably be able to give us more information about what's been happening I guess.

JEAN-JACQUES SUBRENAT: Yes, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you, Jean-Jacques. Can you hear me better? I had feedback that my voice was very faint.

ALAN GREENBERG: I'm hearing you fine.

OLIVIER CRÉPIN-LEBLOND: Am I okay? Okay.

ALAN GREENBERG: The interpreters often have problems. I have no problem.

OLIVIER CRÉPIN-LEBLOND: My microphone had fallen off, so I'm not sure. Hopefully it's fine now. Let's move on, then, and go into the CCWG IANA Stewardship Transition. As I mentioned a bit earlier, there was a call that took place yesterday. I note that Alan has immediately put his hand up. It's to do with the next agenda item or is it still to do with the IANA Coordination Group?

ALAN GREENBERG: No. It's to do with the agenda item you're going into.

OLIVIER CRÉPIN-LEBLOND: Okay. I'll just do a quick intro. Effectively, the call that took place yesterday is linked to your agenda and had a large chunk of it devoted to the intellectual property issues of IANA.org and the Design Team IPR's results.

There was a little implementation update on how things were moving forward and we had a presentation that was given on how the implementation was taking place – very nice presentation, indeed. It looks like things are now in place for transfers and involvement of the root zone maintainer, etc. So I'm not too concerned about that personally, but I'll be asking for everyone else to comment on this.

That was pretty much most of what was discussed as far as the [inaudible], if I recall correctly. The discussion regarding the bylaws and the Cross Community Working Group on Accountability and the link with these two was also touched on, but I didn't see very much progress on that.

So I guess I can open the floor right away to Alan Greenberg.

ALAN GREENBERG: Thank you. I was going to comment on two things. One is the implementation and second is the intellectual property and domain name issue.

On the implementation, I will echo what you were saying. The presentation was good, but more important I think the people that ICANN has assigned to this are doing, from what I can tell, a really good job.

Many of us on the CWG I don't think had any appreciation for anywhere near the complexity of what we were requesting. There are just so many things that have to be done, many of them in parallel. It is being tackled with a level of professionalism that, to be blunt, I don't often see in ICANN. I think maybe we learned a lot out of the new gTLD implementation, but I'm very impressed both with the work that's been done and the level of reporting that's going along with it and the awareness of the people doing the reporting of what's going on. I've been very impressed.

I think if we had asked for the people hours or people days or something of the people who were writing the policies in the CWG, what this was going to take, they probably would've underestimated the implementation by an order of magnitude at least. I'm very pleased with how that's going.

There was a very substantive discussion on the intellectual property issue. Who owns IANA? Who should own IANA trademark and domain name? Greg Shatan and a group of people have put together a document looking into the legal and the trademark issues to the nth degree and came up with a number of principles and a number of practices and stuff like that. We spent a long amount of time going over it.

There were a number of us – and I think I was probably among the leaders, and including several of the other community representatives – who basically said this is all very good, but we need to move forward.

There was a strong push from Greg to begin with that issues such as the principle of how independent should the trademark owner be – and they had a principle that it should be independent. Some of us in fact believed that less independence... If you give it to someone who really cares about it, you're likely to have better stewardship than giving it to someone who's completely independent.

There's a lot of discussion about when we said independent, do we mean independent of the IANA functions operator? Did we mean independent of any other groups? It wasn't even clear.

There was a suggestion that we needed more discussion, more in-depth debate, over some of these issues going forward.

I think there may actually have been a decision saying independence is not all that important. But more important than that, there was a decision that came out of the meeting saying we need to move forward.

The risk associated with doing this properly is far larger than the risk associated with not doing it. There is virtually no way that a separate trust could be set up in the timeframe we're looking at. Just looking at the IETF processes which would have to go through to endorse it, including all of the appeal processes, would push us past the implementation window for the transition.

There was general agreement coming out of the meeting, I believe. I'd like to see the summary notes and I haven't had a chance to look at anything yet. But I believe there was an agreement that we just need to start implementing this. Yes, there are risks associated with what if

things blow up? But if things blow up between ICANN and the IETF there are so many things at risk.

If you look at all the work that's going on regarding IDN, regarding WHOIS and its follow-ons and things like that, a rift between ICANN and the IETF is a really significant problem.

Basically, I think we have addressed that issue. There was some talk about holding yet another meeting and another who knows how long debate. In the end, Greg took the position that I value in a good lawyer. A lawyer presents the issues, identifies the risks, and then lets the client make a decision. And once the decision is made, supports that decision, and that's where we seem to be at this point. I think we have gotten over the hump on that. It's taken a lot longer than it should have, but I think we're okay.

Bottom line is this will go to the IETF trust and we'll hammer out the agreements and everyone will be happy. If things blow up in the future, then we address them, period. That's basically my report on the CWG.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much for this, Alan. You will all find the notes from that meeting actually shared on the Adobe Connect at the moment. One thing which you didn't touch on – and I guess you've already kind of made the move forward on this, yes. There are two choices, the one to create a new trust and the one to use the IETF trust, the already existing IETF trust.

One of the action items in this agenda item on the IANA IPR was as follows. I guess it wasn't made as a consensus call, per se, on the call but some kind of way to ask the members of the CWG to go and ask their communities the following question. Does anyone object or feel strongly/differently about the provisional conclusion that there is no need for structural neutrality which would require the creation of a new trust? In other words, does anyone really believe we need a new trust and is ready to fight for this?

So I guess I put the question here to everyone on the call whether anyone feels strongly that we need a new trust, or are we all okay to go with the IETF trust? Alan Greenberg?

ALAN GREENBERG:

Yeah, thank you. You're correct. No formal decision was made because our practice is we don't make formal decisions in one call with a limited number of people on the call.

The risk analysis is such that if we were trying to form a new trust it will not happen in the timeframe, period. It takes at least... Andrew Sullivan thinks it would take at least six months to go through the IETF process, assuming we knew what we were doing and started immediately and we don't. We don't have that structure ready. Six months just kills the window.

The bottom line is nobody on the call felt that we should do anything other than go with the IETF trust and hammer out an agreement. Greg's original recommendation was to talk about it more at the end of the call. He I won't say conceded because he did a good job, but agreed that

that is the clear message that was coming from this call. So the chairs have put out a request for a consensus call, but I don't see any way forward. There was no support on the call for doing it through some other independent method, and there were many people – several people – who made very strong pleas that we should not try to go down that path or even continue talking about it.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Alan. Next is Sebastien Bachollet.

SEBASTIEN BACHOLLET: Hello. I hope you can hear me well.

ALAN GREENBERG: We can't hear you well, but we can hear you sort of.

OLIVIER CRÉPIN-LEBLOND: You're very faint. You're quite faint here.

SEBASTIEN BACHOLLET: Okay, I will try to do better.

OLIVIER CRÉPIN-LEBLOND: Ah, that's a lot better.

SEBASTIEN BACHOLLET: That's better now?

OLIVIER CRÉPIN-LEBLOND: Yes, it is.

SEBASTIEN BACHOLLET: Great. Yeah, I have no problem with this proposal. I would hope that in the reverse IETF will still trust ICANN. And I am not sure we're going through this path [inaudible] bylaw of ICANN. They want to be more independent. They want a lot of things. I just hope that we can [bargain] something here. Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks for this, Sebastien. It's a case I guess of not having very much choice. The time is just so late on this. I personally originally felt a little negative about transferring this to the IETF trust for reasons which have been given a while ago, that the IETF trust was not quite geared for this sort of thing. But that said, now looking at what the alternatives are and the fact that there isn't really any alternative, the fact that the IETF folks are not the devil reincarnated – far from it – this looks like a viable solution.

I do agree that – and I think it was felt on the call we had spent probably way too much time on this. But I did want to commend the work of DTIPR. Greg and his colleagues have done an incredible amount of thorough work on this, and I was actually very pleased to see it. I guess that somehow convinced me that this was at least a negative solution to go forward with. Does that make sense?

Alan Greenberg, your hand is still up.

ALAN GREENBERG:

My hand is up again. Let's be clear. In a different world where there was more trust between various bodies, there could have been simpler ways of doing this. The world didn't unfold that way. The numbers community made a very strong statement to the ICG saying that the current arrangement was not acceptable. The IETF stepped up and said that is one alternative. And I think it is something that can work. Whether we would've designed it if we were [inaudible], that's a different issue altogether.

Ultimately, the only group that has any real stake in this game is the IETF. Companies rebrand themselves regularly. Sometimes they fail because of it, but usually they don't. The Internet is not going to fail if we have to stop using the term IANA. If we have to stop using IANA.org – and I'm looking at worst-case scenarios – the only group that has a real problem is the IETF because the domain name is buried in code. Bad practice, but it is.

The other groups we can change if we have to. The risk analysis is such that we can survive even if all this falls apart and we're not really predicting it's going to fall apart. So let's move ahead and onto real problems.

OLIVIER CRÉPIN-LEBLOND:

Thanks for this, Alan. I note in the chat that Avri is saying maybe all of the issues are making sure that will be included in the MOU. Sorry, I'm

not making sense. All of the issues that were touched on I guess in DTIPR's paper will probably have to be embedded in the actual signing of the MOU. So that's the way forward.

Now regarding the next part here, the CCWG Accountability update and the ICANN bylaws, are there any comments on any of this?

My own comments with regards to the link with the CCWG Accountability is that there is... At some point, I was a bit concerned that there wasn't very much interaction between the two groups. Now it looks as though there is a lot more interaction because of people taking part in both groups. I'm less concerned about this than about the slipping of the time table.

And regarding the bylaws, the ICANN bylaws, relating to the CWG, well the bulk work of the bylaw rewriting is taking place in the CCWG and I guess we'll be talking about this in a moment. The ones that relate specifically to the CWG I'm even inclined to say that we could then say, look, this satisfies the transitional part where we are not and we could move forward. But I'm concerned that there would be people in the group who will be saying no we need to have all of those other bylaws that are listed in the – worked on the CCWG – implemented before we can move on with this. I don't know how others think here.

Alan Greenberg?

ALAN GREENBERG:

I'm not talking about the CCWG. The CWG there's a lot of work going on in bylaws. I mean, there's work going on that we're not even talking

about. We started off by saying the people looking at the overall plan are doing a good job. That includes ICANN bylaw changes. It includes drafting bylaws for PTI. There's all sorts of work going on. The CWG has identified a number of showstoppers where the CCWG has not met the commitments. Those are being worked on both in the CCWG and the CWG is monitoring it.

I think from a point of view of implementation things are going well. There are problems. We're working on them. I don't really think there's a lot more to discuss on the CWG.

OLIVIER CRÉPIN-LEBLOND:

Thanks for this, Alan. Any other comments or questions? I see on the CWG update, there's this wonderful presentation at the moment. Can you all scroll through this? You can scroll through that in your own time. You can see the quality of the work on this and showing the percentage completion.

We are dealing also with the same when it comes down to the IPR process and when it comes down to enhancing ICANN accountability parts.

We spent just over a half an hour on this call. I think we can now move on to the next part of our agenda, and that's CCWG accountability. For this, I'm not sure. Is it Alan or Leon who will lead on this?

ALAN GREENBERG:

I can lead if you'd like. I don't really care.

LEON SANCHEZ: Please do, Alan.

OLIVIER CRÉPIN-LEBLOND: Okay, so Alan Greenberg, you have the floor.

ALAN GREENBERG: Okay, thank you. Two things. First of all, to highlight from the overview. You will recall we had a deadline or a timeline which culminated in January 22nd, but when the chartering organizations were supposed to make a determination of whether they were supporting or not.

That timeline is out the window. We are currently working on a timeline which brings us almost to the end of January in terms of having calls that are addressing the various issues that were raised through the public comment, including those of the board. Those are proceeding. There are two three-hour calls a week, and so far there have been at least one other call that I know of. There's a lot of work going on. The work is going on by a small number of people, which I think is one of the potential problems, but it also has yielded some very high-quality work.

We're attacking the issues section by section and bit by bit trying to come to closure on a meeting and then having a second reading which essentially sign, seal, and deliver each section. There is good interaction from the board members and we're making progress. There are some areas as I'll identify where we have stumbling blocks. Other ones we have essentially come to closure and are moving on.

So from a high level, things are moving. Both the GNSO and the GAC have not formally submitted comments. The GNSO as a group has not said anything. There is a GNSO meeting tomorrow, which Olivier can talk about, where there may be something coming out of it. Essentially, I think – but I'm not sure if that's happening tomorrow – a recommendation by recommendation essentially vote, or maybe it will be simply a decision to take that vote.

The GAC also has made some comments but has not made any official statement and that presumably is forthcoming. I'll let Leon speak to it, but apparently the CCWG leadership has said until we know what the formal position is of each of those groups, they're not going to try to come up with a new timeline. So that puts us in a Never Never Land of not quite sure what we're working towards. Presumably, we would like to have a decision from the [inaudible] before Marrakech, but it's not clear how that's going to happen at this point.

So that's where we sit at an overview. I guess we should have any discussion we want on a general level and then I can go over some of the high points of things that have been resolved and the points that have not been resolved where there is specific conflict at this point, if that meets with your approval.

OLIVIER CRÉPIN-LEBLOND: Just a quick thing. There's been a lot of different threads, parallel threads, in the e-mail mailing list as well. Are we going to look at each one of those threads as well? One, for example, to do with the – which one was it again? There's so many of them here. There's a couple which

I [felt] about taking part in, but wanted to first get a good idea. Yeah, the consumer trust issue being a huge, huge thread at the moment. I wanted to gain some feedback from people here with the consumer trust issues. Is that one of the things you're going to touch on?

ALAN GREENBERG:

What I was suggesting is we talk about the overview if anyone has any questions or comments, and then we go into the details one by one and say where we are, assuming we have enough time for this.

OLIVIER CRÉPIN-LEBLOND:

So then, overview-wise, why is there such a delay? Is there a significant problem here or what has the group found that is delaying it so much?

ALAN GREENBERG:

I'm not quite sure. There are two things. Number one, there was a huge number of public comments, many of which were negative and we're trying to address those one by one. The ALAC was prominent among those who had a number of redline issues there. So that's number one. Number two, we have two of the chartering organizations that at this point have been silent.

So there's lots of work going on. We're not quite sure what the end point is. I guess Leon may be able to give more insight into the latter part. In terms of the work going on, we're slowly trying to work through the issues. There's only a limited amount you can accomplish in a three-hour call and there's only a limited number of three-hour calls people can survive.

OLIVIER CRÉPIN-LEBLOND: Just to let you know, as part of my GNSO liaison duties, I will be attending the GNSO call. There's a single issue call tomorrow by the GNSO Council. I gather the masses will be discussed. And if we have a call later on this week, I will be able to report on that.

ALAN GREENBERG: And you won't be the only one. The rest of us cannot participate, but there is a listen only channel and some of us will be on it.

OLIVIER CRÉPIN-LEBLOND: Okay. If there is anything that I should say... I think at the moment I'm seeing it as this is a GNSO matter, so I will shut my mouth. But if there is anything that you need me to say at any point that's valid for everyone, then please just Skype me and I'll...

ALAN GREENBERG: I was going to say keep Skype going.

OLIVIER CRÉPIN-LEBLOND: Yeah, that's what I'll do.

ALAN GREENBERG: Over to you, Olivier, unless you want me to start going through the items one by one.

OLIVIER CRÉPIN-LEBLOND: Well, it's your part of the call. I guess we could probably go through all the items one by one now. We have 55 minutes, so we've got another 45 minutes on all of this. So yeah, you're in charge.

ALAN GREENBERG: All right. Recommendation 1 is the recommendation on the empowered community. There are discussions going on on inspection rights. That is who has the power to request access to documents. The board has objected strongly to the wording that was put in. It believes the community itself should have... The individual parts of the community should have the power, not the community. There are people who are now saying that a single AC/SO should be able to request inspection rights. [inaudible] objected to that.

Remember, we went into this because we lost membership and there are inspection rights [inaudible] member. But in that case, it would've been the community, the member that would have to make the decision.

Now there are some people saying a single SO should make the decision. It's quite clear under California law... The whole thing on inspection rights is not clear, but some aspects of it are. And that specifically says you should not have inspection rights because of your own personal business issues, which you happen to be able to invoke because you're a member.

I have significant worries of the ccNSO or the GNSO which have very significant business interests having the right to make demands. I suspect the board for perhaps different reasons is likely to have a

similar position. And the question is at what level do you have inspection rights? Can you look at the detailed ledgers going down to how much was paid to each individual and such?

So I'm not quite sure where that one is going. There's a lot of discussion. It's certainly not a resolved issue right now. There was one discussion and I suspect it's going to be on the agenda again tomorrow, but I haven't actually looked.

There is still discussion on whether the GAC should have decision rights. The GAC and the ALAC should not be put in a decision position. They're only advisory. That's the discussion that's been going on forever. I can't see it being resolved other than to accept what's in the proposal with some minority reports going forward. But presuming the GNSO as a whole does not question it. The NCSG apparently now has some supporters in some of the contracted parties side – or at least... Not in the contacted party side, but in the side, that may support their decision. So that's going to be an interesting meeting tomorrow.

I think in general the issues on recommendation 1 are not resolved. I'm presuming we will come to closure on the inspection rights and we will probably not make a change with regarding to who can have decisional powers. That's where I'm guessing we're going to go.

Questions, comments? I think Avri has something in the chat. Avri says, "Can a threshold of a single participant in the community be sufficient to trigger the request for inspection?"

Avri, it's being proposed that a single AC or SO is sufficient to trigger inspection. The current model it doesn't quite say. The board has

suggested that the full power procedure with all of its stages be required to trigger the inspection rights. That I think is overkill. I personally think one is not sufficient.

I'm happy to leave it, to not be very active in this discussion. I think ultimately the board will have concerns and they'll have to be addressed. I'm willing to leave this one for them to fight. I see Avri's hand is up. Do you want me to handle the queue, Olivier?

OLIVIER CRÉPIN-LEBLOND: If you're okay with it. Otherwise I can handle it. But you seem to do well.

ALAN GREENBERG: Go ahead, Avri.

AVRI DORIA: Thanks. Sorry if my hand is up at an inappropriate time.

ALAN GREENBERG: No, no.

AVRI DORIA: I very much agree with you that, yes, it could happen that the GNSO or ccNSO would [inaudible] what could be considered an inappropriate reason. But I also think it's possible that [At-Large] ALAC could, for example, be looking at the support of user communities or how the

outreach is appropriately funded or whether there's any sort of omissions or malfeasance that it would be the only one that cared about, because of a [inaudible] orientation.

So that same advantage that we think might be inappropriately applied by GNSO or ccNSO could be something that – a power that the ALAC would actually want or need. That's why I think that.

But I think it should still be the community member, but I think that certainly one should be able to get into that information, one SO or AC. Otherwise... As a formality, it can be done by the CM and [inaudible] of dealing with inappropriate or a [inaudible] of inappropriate requests.

But I think to require to makes it harder to get information, makes it harder to get transparency and that is where the problem is. And I don't understand why we still have this strong [inaudible] transparency drive against inspection from the board.

I would just ask people to consider whether it is a power that indeed this group would want. Thanks.

ALAN GREENBERG:

Thank you. It's an interesting question. I hadn't actually considered that aspect. As I said, I've got enough battles to fight from a personal point of view. This is not one of the ones that I feel really strong on.

The question also is who's going to define exactly what the level of inspection is. Do we have the right to look at every ledger entry? Can it be constrained to a specific subject matter, which apparently is what happens if you have a member type query. It's a level of detail that I

haven't gone into and I don't have a lot of interest. I'm certainly happy to give it over to someone else.

I suspect the board is going to be a little bit too reactive on this, but I could probably live with what they end up accepting. I just don't think it's one of the ones that's our hottest point. It's one that I can't get particularly excited about. But if there's someone else who wants to champion it, then we can go for it.

I think the potential that we would use it for good is outweighed by the potential that registrars and registries or ccTLDs use it in a potentially abusive way for ways that are just going to hurt the organization in the long term for their own business needs. So I think the risk there is higher than the benefit for us as a personal analysis. Analysis is probably not the proper word to use for it because it's just a gut feeling from my point of view.

Olivier, your hand is up.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. Just a quick one. Is there or would there be any chance of ICANN being somehow affected if there were... I mean, you said abusive requests. Are we speaking about repeated requests? Is there any chance that this could be used and then basically wasting ICANN time?

ALAN GREENBERG: You bet. I'm not assigning a probability to it. Is there the potential if a single group can do this? Sure.

OLIVIER CRÉPIN-LEBLOND: But I'd imagine, though, that if we were to design processes at implementation, one always puts all sorts of safeguards so that there cannot be abuse. The concept itself sounds like a good thing, and I guess it's all in the implementation.

ALAN GREENBERG: The current proposal is almost completely silent on all of these details and it has raised worries because of that.

OLIVIER CRÉPIN-LEBLOND: I'm just concerned that we're now going from the concept to the design to the actual implementation, and that's one of the concerns I've had with a lot of things on the CCWG Accountability is that it's actually trying to even design things down to the last dot. And if we go into this, we're going into so much time. It's a bit of a concern for me. Anyway, let's just move on. Thanks.

ALAN GREENBERG: Well, but the opposite concern is that as soon as these rules are – as soon as the bylaws are in place, the IRP starts being used to say ICANN is in violation of its bylaws because they won't give us inspection rights to the [data] we want. And there are implications in being silent on it right now.

As I said, it's not one of the ones that I'm getting really upset about. The board has identified this as a public interest, one which means they are

worried about that, and I'm happy to make comments occasionally in the discussion. But other than that – which gets booed very quickly by a whole bunch of other people. And just let the world flow. Are we done with that one? No other hands. I will close document number 1.

Recommendation number 2, this is the empowered community. There are a number of issues. The first one is the escalation timelines. There was a lot of concern expressed in the public comment that the 7-day and 15-day limits are not long enough for the ACs and SOs to act. It's hard to find fault with that statement. It's true.

On the other hand, extending all of them seemed to be overkill because we would end up with processes which would take far, far too long. The current proposal, and it's not fleshed out fully, is that if you remember the current process is somebody identifies a problem. An AC/SO decides to petition to use the power. They then go to a teleconference with other ACs and SOs. If you've made a certain threshold of those ACs and SOs supporting it, we can go to a community forum.

Community forum was originally envisioned as a face-to-face meeting but now is essentially another teleconference. So there is talk about merging the two teleconferences and only have one process but with longer delays associated with it.

My only concern on that is if you really want to worry about exercising powers, how does the one AC and SO that has made the first decision socialize things enough to even convince people to attend the community forum teleconference?

If you don't have a reasonable process to do that, you may never be able to exercise any powers. That may go along with what the At-Large was looking for to begin with, but it doesn't yield a really good process. So there is some concern, but I think that's where we will end up going, of eliminating some of the steps, but elongating some of the timeframes associated with that.

Any questions on that one before we go to the next one? Go ahead, Seun.

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

ALAN GREENBERG: Yes.

SEUN OJEDEJI: Can you hear me? Hello?

ALAN GREENBERG: Yes, we can.

SEUN OJEDEJI: Yeah, just ask on this particular recommendation, at the [inaudible] where the SO or AC makes petition and gives the petition did not get passed... So this makes the particular SO or AC can still [inaudible] the petition process. Is there a limit to the number of the SO or AC can

make? And if there is no limit, does that have any implication on the resources of ICANN? Thank you.

ALAN GREENBERG:

I don't think we've... The question was if someone tries to raise a petition and it's not successful within the AC or SO, can they do it again? In other words, if Seun comes to us and says let's start a petition to do something, and the rest of the ALAC says no, can we do it again later?

I do not believe there's been any discussion on that and I presume that that's going to have to be covered within the rules of an individual AC and SO.

So there's the potential that anyone – because remember, it's not just an ALAC member – any human being in the world can come to the ALAC and say, "I want you to raise a petition on something." I think we, along with the other ACs and SOs that are participating, will have to put in place a process to handle this.

We can ignore the problem of abuse until it happens, at which point we'll build some new rules, or we can try to consider it from the beginning. But I think that's wholly within the AC and SO. Until it gets out of the AC/SO to be a petition, I think that's internal to each group and each of us can handle it the way we want. That's my take, but [inaudible] no discussion either within this group or within the CCWG.

SEUN OJEDEJI:

Okay, thank you, Alan. The other part of the question, which actually is my main question, is when it becomes the actual petition. And if

[inaudible] actually support, does this start the cycle back? That's actually the main question because it seems to me like it would be a waste of time getting the community [inaudible] have to go back again to read the document and then to get somebody to support the petition. It [seems] like I have.

I'm not really focused on the process of actually getting to petition. My question is when the petition itself does not succeed, does the process stop?

ALAN GREENBERG:

You're asking if one group issues a petition, nobody else cares and then they do it again. I don't believe we have any rules that we've written about that. To be honest, I don't have a lot of concern about that. If the GNSO says, "Let's do something," and everyone else yawns, then they come back three weeks later and do it again, we're going to have very little trouble saying no a second time. I don't think we're going to spend a lot of time debating it. I don't have a particularly large concern. Should there be rules that you cannot have the same petition, then you have a debate about what is exactly the same. I don't think it's something that I'm particularly worried about, but maybe others are.

Seun, your hand is still up. Okay.

Next item is the issue of lowering the threshold if only four of the five groups are actively participating. There was a discussion on this and one of the issues raised was, well, we're not really talking about abstaining a group that actually says they're going to abstain. What the concern is is a group that can't make a decision, and therefore does not say yes or

no, but also does not actively say are abstaining. I have a real trouble differentiating between the two.

If you look within the ALAC, sometimes people abstain on a vote. Very often they just don't vote because they don't get around to it. I can imagine on a community power the ALAC simply cannot get to the point where we're ready to make a decision in the timeframe. I'm not sure I want someone else psychoanalyzing us as to did we abstain or did we just not make a decision? I have some real problems with that.

As we pointed out in our statement, the way it is worded would allow three groups to decide to do something in the presence of an objection, but in the presence of no objection they couldn't do anything, which sounds backwards.

Although the discussion in the CCWG has largely focused on the ALAC objection, the board has also objected to this very strenuously. I don't see how it's going to go forward, but at this point I don't see... We haven't had the discussion which says it won't go forward also. I don't know where we are on that one. There's going to be a second reading I'm guessing and I don't know what's going to be proposed. It may have been published already, but I'm so far behind on my e-mail that I'm not aware of it. Any questions on that item? Seun?

SEUN OJEDEJI:

Yeah, thank you, Alan. So on the threshold, [inaudible] sent an update [inaudible]. There's still [inaudible] on the threshold for approval of the fundamental bylaws. Does ALAC have a position on that particular item?

The other question is in relation to if a request to use a community power is actually not successful, that means [inaudible] is not met, does the process restart? Are there limits to the number of a call to use a particular power on a particular issue? [inaudible] because that looks like a [inaudible] for me. Thank you.

ALAN GREENBERG:

Okay. Our position was we would accept lowering the limit to three being required for the fundamental bylaws. We would not accept it for removing the board. And we were on the wall, so to speak – not for but not firmly against – for the other two powers. So if he's currently proposing that it be lowered only for fundamental bylaws, that would pass our test.

In terms of if something fails can it be restarted again, again I don't really remember whether we had any limits. I don't think we do, but I think the community's not going to have a real interest in doing the same thing over again and wasting a lot of time on it. So I'm less worried about that. But I don't really know what the answer is. Maybe Leon does. If there is something specifically limiting the community from doing that, from trying a second time. Certainly it's not something we objected to in our formal comment.

Seeing no more hands... Tijani, go ahead. I don't see a hand, but go ahead.

TIJANI BEN JEMAA:

I'm sorry. I'm not on Adobe. I am in the [inaudible].

ALAN GREENBERG: Oh, okay. I see.

TIJANI BEN JEMAA: I would like to say that [inaudible] subject as you did seems to be for me... Seems to be wrong because it is not participating. It is abstaining. You said this is not an abstention. It is an abstention, because when a person abstains, that means that inside he felt he is divided between yes and no, so [inaudible].

So it is the same here. You have a group and the group, they are divided. They cannot find consensus, so they abstain. They don't have a position. This is an abstention, and an abstention is a participation. For me, it is a very important issue that we have to make it clear, because our consensus in Dublin was that whatever the number participating, we need to have this three agreements and not more than one objection.

So now we are changing because [inaudible] I understood from Dublin that he is afraid that the GAC may change the position because they cannot find a position. This is not our problem. Our problem is not to change the board because we have only three SOs or ACs who want to remove the board. Thank you.

ALAN GREENBERG: Okay. Thank you, Tijani. You have made that case on the calls. Let me try to bring some perspective to it. In the ALAC when we have a vote, we have a box you can tick off sometimes that says "abstain". We also

have the situation where people just don't vote. So typically people don't necessarily abstain because they can't decide. They abstain because they feel they should not be participating in the vote at all.

Now, sometimes people might use abstain because they can't decide, but that becomes an issue of psychoanalyzing why they used it. But it sounds like from what Seun said that we've won at this point. I don't think we need to continue to debate the logic behind a failed proposal.

If indeed there is still a recommendation to lower the threshold for removing the whole board, for whatever reason people do not vote yes or no, then I think we have a problem. If that's been off the table, then I don't think we need to debate the issue of why people abstain or whether someone being silent is really an abstention or not.

I'm happy to leave the question unanswered if we end up getting what we want. The theoretical discussions are interesting, but less importance. I think we've got to go into the second reading on that one.

By the way, when I was presenting at the beginning that there was a substantive difference between not deciding and abstaining, I was quoting Jordan. I wasn't giving my own position. From my position, I think we have to treat the two the same.

The next one is the board has suggested instead of using absolute numbers in the number for or against we use percentages. The percentages they proposed, 60 and 80, would essentially work for any current proposal to increase the number of ACs and SO. When I say work, they make some sense. The percentage for instance does not work if you reduce it from five to four.

The general feeling in the group was, although percentages could be a good guideline or default, that in any case where we actually increase the number of ACs and SOs, we would really have to look at the substance and make a case to case decision.

If, for instance, the GNSO split into five groups as the [DNSO] did into the ccNSO and GNSO a number of years ago, it's not clear we would want to give each of those groups equal weighting. There may be a special case. We might come up with an advisory committee that has a completely different nature than the others and not want to give it the same thing.

So it was a strong feeling in the group on the call at the time that we could use percentages as a default or as a recommendation, but not tie the organization to using them if we grow the number of ACs and SOs. The board will get back to us on whether they will agree to that or not.

I'm not particularly worried. I could live with the percentages if we put them in. I think it would be a dumb thing to do, but I suspect we could live with it. Because any bylaw that will allow us to change the structure will also allow us to change the percentages ultimately.

TIJANI BEN JEMAA:

Thank you very much. You have [inaudible] these percentages may work [inaudible] when the number of SOs—

ALAN GREENBERG:

I'm sorry, we have music coming from somewhere.

TERRI AGNEW: We're trying to locate. Apologies.

TIJANI BEN JEMAA: Okay, thank you. I said that the percentage may be used for when we increase the number of SOs and ACs, but cannot be used when we decrease it because [inaudible] but also because if we start a certain low number of SOs and ACs [inaudible], all these thresholds would not work anymore. So we have to make it clear that there is a minimum number to use the thresholds that we have now, even [with the] percentage. Thank you.

ALAN GREENBERG: Yes, you're quite correct. If we end up saying that we must use the percentages, then there has to be a caveat that it only applies for five or more. It cannot apply for the four. The numbers just don't work. You need unanimity, which I might support, but violates one of the cardinal principles that we've been using all along.

At this point, I don't know where we stand. I personally can live with percentages, but I think it will be a dumb move. Hopefully we'll end up with something that makes sense.

TIJANI BEN JEMAA: Also, Alan, if we don't use the percentage, we have to add a point regarding the minimum number of SOs and ACs participating in the

[inaudible] because the threshold decided in Dublin will not work if the number decreases.

ALAN GREENBERG: Well, at this point we are planning to put in the bylaws that there will be five. So it would require a bylaw change to lower that. I don't see a problem there.

TIJANI BEN JEMAA: Okay.

ALAN GREENBERG: Seun?

SEUN OJEDEJI: Just want to get clarification on the percentage [inaudible]. If the number increases, will the percentage [inaudible] really work? If nobody [inaudible], for instance, because some of the percentage of [inaudible] really work. Would the [inaudible] support or [inaudible]?

ALAN GREENBERG: It's not a problem. If you say that you need 60% of eight, then it's five. You have to round up. You only need 4.8 groups for something to pass, but since each AC and SO must say yes or no, there are only whole numbers, so you must exceed. You must be at 4.8 or above, so it becomes 5.

If you look at the table I distributed, which uses a round-up function, it works quite well. The only reason something wouldn't work is if you end up with the threshold being equal to the total number, which means unanimity, but it's okay for five and above.

One can argue if it's the right number or not. That's a different issue. There is no problem with that once you go above five. The numbers yield usable results. But as I said, I think it would be dumb to commit to doing that without any flexibility in the future. Olivier?

OLIVIER CRÉPIN-LEBLOND:

Thanks very much, Alan. I think that from my perspective, the working group is yet again falling into the classical trap of trying to look at every single possibility – if this, if that, if the Earth stops spinning, what do we do type thing.

If there are going to be some more SOs or ACs participating, or less SOs and ACs participating, then it's obvious that the numbers are going to have to be changed anyway. As long as we say that the numbers are going to be set at the moment XYZ based on the current numbers of participating SOs and ACs, and that will be changed if there is one more or there is less, then I think we're clear.

Trying to cover every single eventuality and certainly using percentages which to me sounds like a one-size-fits all, or in fact one size doesn't fit anyone, is a bit of a treacherous step forward. Thank you.

ALAN GREENBERG:

Well, Olivier, you may want to get onto the call and make that case. At this point, although they may change because of the discussion at the last meeting, the board has said that either we need percentages, which will be honored if there is ever an expansion or an algorithm to come up with the number, which essentially maps to something similar to percentages.

Most of us have said we do need flexibility and it should be debated at the time the number of ACs and SOs increases. So we have a conflict at this point. The board has taken a position and we're trying to work it out. I don't see what else to say. My personal position has percentages are [inaudible] or a recommendation but shouldn't be cast in stone. It'll probably be raised on the call tonight. If you want to participate, you're certainly welcome. But that's where we are right now. It has been raised. We can't pretend it hasn't been raised. Just like the CCWG can't pretend we haven't raised issues. They have been raised. They're on the table. They need to be discussed.

Go ahead, Tijani.

TIJANI BEN JEMAA:

Olivier, I think the board brings this point because they are afraid that if we don't make the mention in our text it will be considered as it is a fixed number. That's why they come up with this percentage. But I think we are on the right way because we are all trying to find a way to make a change when the number of SOs and ACs change. But in which way and how we are trying to find?

We said on the call that any way when the number changes, the bylaw has to change. And when we change the bylaw, we will change the threshold as well. Thank you.

ALAN GREENBERG:

Yeah. I think the real concern, which has not been spoken, is there is a fear that should we ever add an AC or SO, the existing ACs and SOs will gang up on the new one and basically say, "We're not going to dilute our power." Sure, we can have another AC and SO, but we're not giving you any power. I think there's a fear that might be what would happen.

Certainly that goes along with how humans act in many, many cases. That would not be particularly surprising. If you look at the next item, item 2 is in fact equal weight for the ACs and SOs. If you look at the fight that has been put off from some of the SOs, or some parts of the SOs, that the ACs should not have any voting rights or should have minimal voting rights or minimal weighting, there's a reality that if a AC was created, would the existing SOs allow them to have any voting rights or any participation rights?

I think the casting in stone the percentages or an algorithm for how you increase avoids the problem. And that's why I believe it is being suggested and I think it's a real problem. But I don't think we can avoid the discussion of whether simply extrapolating using the current percentages is the right way in any given case. So I think that's where we stand right now. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. And of course when one looks at having a small number of votes for each SO and AC, the percentages would round up or would round down and might be totally unsuitable, in which case I would say that each SO and AC would have 50 votes, let's say, and at that point the percentages would not have to round up or round down and the percentages would still work.

But I still do feel and I understand, yeah, if really AC were created. But we're trying to cross every single bridge now. It's difficult. I think the answer, if you want to not have rounding up or rounding down number of votes, then you just modify the votes by ten for each one of the SOs and ACs, [inaudible] dilute it a little bit more.

ALAN GREENBERG: Remember, Olivier, we avoided the whole concept of calling them votes or giving them weights. We are not using that terminology. If you now go back to saying there will be five votes or 50 votes or 100 votes for each AC and SO, then you go back into the question of can we divide them among the constituencies?

OLIVIER CRÉPIN-LEBLOND: In which case I would say then let's not even get into this discussion. If we...

ALAN GREENBERG: Well, and that's where we are right now. We're not getting into the discussion of whether there is... Of multiple votes. Look, we are where we are. The issue has been raised and we're trying to work through it. If

anyone here feels they would die on their sword before allowing percentages, then someone needs to say so. Otherwise, it's an issue that we're watching. We're trying to encourage people to do rational things, but it's not a die on our sword one. That's the direction I think the five members need from this group. I'm not hearing anyone say die on the sword.

If the recommendation of this group is let's not talk about it, well, we can't do that. We're talking about it. Sebastien?

SEBASTIEN BACHOLLET:

Yeah, I don't know if I want to die for anything about ideas. Personally, I think that – and I think that from the beginning – yes, multiple voice within each SO and AC would have been much better than just one single. Once again, my rationale is that, okay, ICANN is organized around SOs and ACs, but that's not the only way to express your ideas, to coordinate a discussion and so on and so forth.

But we are where we are. For me, it's one of the points I really disagree. At the end, if the percentages are not working, then I don't know why we spend time to discuss it and I don't know why the board is pushing for that because it's just no sense.

If you ask me, yes, stop discussing that and let's go for more important topics. Thank you.

ALAN GREENBERG:

I agree completely. Nobody in the comments that I'm aware of has raised the issue of going back to multiple votes and divided votes for AC

and SO. So I think that's off the table at this point. Whether we each think it was the right way or wrong way, I don't believe anyone pushed it in their particular comments. We may see something different coming out of the GNSO, but I don't think it's on the table right now, and therefore we're not likely to reopen it. So we are talking about a single yes or no from each group, and the question is how do we handle changing that if there were more ACs and SOs? The current proposal says silence and we make the decision at the right time. The board has said we must have a cast in concrete way of making that decision. We'll see where we go at this point. It's not something that I feel is the die in the ditch one.

The last item in number 2 is, again, the issue of equal weight for ACs and SOs. I think we've talked about that one at infinitum. There are large parts of the NCSG and now some parts of other parts of the GNSO that are pushing for lower or no weight for the ACs. The theory is that advisory committees are just advisory right now, so they should stay that way. SOs, which are not groups that currently have any rights to change the direction of ICANN will be given those rights, but not ACs. So I think it's a no winner. I think it would die if anyone tried to advise – push it. I think the board would object to it. But it is on the table on right now and it is what it is.

Clearly the ALAC has said that this is a die in the ditch issue for us. So that's clear. Olivier?

OLIVIER CRÉPIN-LEBLOND: Thanks, Alan. Two words: red line.

ALAN GREENBERG: I think that's what die in the ditch means.

OLIVIER CRÉPIN-LEBLOND: It's nicer. It's the official way. You don't say it's a die in the ditch issue.
It's a die in the ditch issue.

ALAN GREENBERG: No, I believe our formal comment said something to the effect of the
ALAC could not accept.

TIJANI BEN JEMAA: Alan?

ALAN GREENBERG: Yes, go ahead, Tijani.

TIJANI BEN JEMAA: Olivier, [inaudible] since you are the leader of the [inaudible], is there
other groups inside the GNSO that are [inaudible] for [inaudible] power
of the ACs against the SOs?

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Tijani. There hasn't been any discussion on
the GNSO Council list regarding this. The discussions have taken place

on the actual – the individual constituency mailing list which I’m not part of. So far no one has openly asked for this on the council list.

Now, there is a meeting of the council tomorrow as I mentioned earlier. A single issue meeting tomorrow where the council will be putting forward its responses, pretty much like the kind of response that we gave to the public comments. They haven’t even done this yet.

So it will be interesting to hear the discussions tomorrow. I will be able to let you know more on who else thinks this in the GNSO, if there is such a thing, indeed, and if it has reached the council. I’m still yet to know whether this is an individual view from some members of the different stakeholder groups or whether it’s a concerted view. Once it reaches the council, it should be interesting.

ALAN GREENBERG:

Yeah, I put my own hand up. Because I’m not the GNSO liaison, I can be less politically correct than Olivier is. We know it is a formal position of the NCSG. We know that not all members of the NCSG agree, however, but it’s likely to be a formal NCSG position.

There are rumors that there has been horse trading going on between the NCSG and some other constituencies saying that if you support this, then we’ll support something that you want. Those are rumors. I have nothing substantiated and until we get a formal response from the GNSO, we will not know. And even then we might not know.

So interesting discussion. I’m not sure we want to spend time on it. We’re only on recommendation 2 of 12 at this point, although we’re not

going over all of them. Olivier, what time do we have until? When does this meeting end?

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. I've just been told by the interpreters that we have an extension of 15 minutes. So let's just do another 10 minutes, please. Then I gather we will need another call this week. We have the interpreters already booked for Friday this week.

ALAN GREENBERG: Okay, let's continue, then. The next recommendation of interest is recommendation [inaudible] that is the substantive one there is an ALAC issue, not only ALAC but other people also, of mitigation of risk. That is if we try to remove a director, what are the chances that that director will attempt to sue ICANN, the AC/SO, the single member, single designator, or individuals?

If I as the ALAC stand up and say the ALAC wants to remove a specific director and this is the reason why, does that director then have the potential to come back and say because you have said this in public – and remember we are required to say it in public – because you have said this in public that I now can't find a job. No one will hire me because this is on the public record, and if you Google my name, you're going to find that people said I was incompetent or people said I was whatever, and therefore I can personally be sued for it. Or you could be sued, as ALAC members participating in the discussion or whatever.

There was some wording proposed in the first reading that had the right intentions. That is, directors would sign a waiver before entering into the directorship saying they would not do that, and possibly ICANN would indemnify – that is, say they would cover costs if anyone did sue. It's not clear you can prohibit someone from suing altogether.

Due to the criticism, the lawyers came back and reworded it into something far more extensive. And from my point of view, it addressed all of the questions to any degree.

The board has come back and said they would not agree to either a waiver of rights or indemnification. At that point, I think we have a real problem in that I don't believe that – certainly we would never take part in such a process where we don't have some level of certainty. Now, I can live with that, to be quite honest, that we'll never take part of the process to remove directors.

But again, if we're creating a power, to create a power which can never be used doesn't make an awful lot of sense. We're putting an awful lot of work into drafting bylaws that could never be used.

At this point, the board's position is they might consider indemnification of chairs or maybe even the whole AC or SO council or committee members, but they would not consider a waiver and they have to get back to us on that. So we don't know where that one stands.

Personally, I think we could live with no waiver and no indemnification, but it would virtually guarantee that we would never participate in the process. So that's where I stand anyway.

We have Seun and Sebastien.

SEUN OJEDEJI: My comment is an overall comment, not on this but other things. Can I go ahead or hold on?

ALAN GREENBERG: I don't know what topic you want to talk about.

SEUN OJEDEJI: Okay. It's just on the – I wanted to ask you at what point will the CCWG be making [inaudible] because there have been [inaudible] of some of the recommendations. At one point [inaudible] on the discussion? Thank you.

ALAN GREENBERG: Well, assuming there is not someone who is objecting to what is in the second reading, and particularly the board, because it's quite clear if the board objects to a second reading of something, then that second reading can't stand. It's going to have to come back to the group again. And that's where we stand on this particular issue.

I don't know where that noise is coming from, but it's very annoying. Sebastien, go ahead.

SEBASTIEN BACHOLLET: Yes, thank you, Alan. I don't agree with you about so be it and we will not participate to the [inaudible] of removing a board member. But when you say we will not participate, do you think that we will not participate [removal], then we will not participate even if we did agree with the removal or we will participate in the [inaudible] sense? That is to say we don't need to remove one. [inaudible] for the board member. I don't know if that's clear.

My question is do you think we don't need to participate to anything about removal of board member, or can we participate not saying [inaudible] the board member [inaudible] protected?

ALAN GREENBERG: All I'm saying is if we do not have either a waiver and indemnification, then I as chair would not want to make comments that I could be personally liable for in the future. You as an ALAC member I would think would be unwilling to make a statement in a community forum or in a public meeting that this director has done something which you object to, if you have personal liability because of that.

I think that would prohibit us from making any statements about the individual person. It might inhibit us from voting to remove them, because the action of voting perhaps could be deemed by some to be defamatory. I don't see any reason why it would stop us from voting to object to the removal. There's virtually no liability there.

I don't think it would stop us from participating in the process. I think it would stop us from acting against a direction in a way that could cause liabilities to the individuals. But yes, we could still object. If everyone

else wants to remove Rinalia, we could say, no, I don't think there's any liability issues. And it's only liability issues that [were] a reason for raising this issue. I don't think there's any reason we couldn't participate in the process, but it might limit certain types of participation.

Any other questions? Seeing nothing, let's go on to the next item.

The next item we have I believe is recommend 7 on the independent review process. There's a lot going on here. Most of it I think is moderately harmless. The question is what can the IRP, the independent review process, look at? If you remember currently, all it can say right now is we have violated our bylaws.

One of the CWG requirements is that the IRP can be used to address actions or inactions of the PTI board, which would not be violations in my mind anyway of the ICANN bylaws. So it's not clear how – what kind of remedies the IRP could have if one brought some of those.

There are also questions of whether the IRP should be used on DIDP that is document disclosure questions and the board has said that if that is done it's really having the IRP dipping into operational issues and not just bylaw issues.

The current answer seems to be that yes we can include some of these and the implementation oversight group will determine exactly how these can be remedied. I have a problem with that because you recall we originally said we can live with the IRP if all it says is you violated your bylaws or you didn't violate your bylaws. But it doesn't prescribe the actual solution.

We are almost giving to the implementation oversight group the ability to add new types of remedies, and I have some concern over that. I don't know if it's a widespread concern in this overall group.

I can live with pretty much anything the IRP were talking about at this point, unless it gives the implementation group too wide powers in making decisions in the future. Again, I think this is one of the die in the ditch redline issues for the board so I'm not sure we have to fight it a lot at this point.

There are a number of other issues at play here and that's to exclude IAB or IETF issues from the IRP and numbering issues, and I think those are generally accepted, so I don't think there's a problem there.

So my only concerns are the oversight group and what powers it has. Other than that, again I don't think these are issues that we need to fight for in any great way. Comments, questions?

There are two more issues that have been discussed. Just let me look at them quickly and decide whether it's something we really need to talk about.

OLIVIER CRÉPIN-LEBLOND: Avri has put her hand up.

ALAN GREENBERG: I don't see a hand, but go ahead, Avri.

But you're right. At this point, the CWG has put in a requirement. We need to address the requirement. I don't particularly have a lot of skin in the game trying to figure out what the answers are, but there are people working on that and I'm happy to leave it to them.

Olivier, the other issues that we have to deal with are, number one, the human rights issues and there's still discussion going on on whether it should be included, how we should address the concerns that have been raised. You'll remember the ALAC concern was the absolute inclusion of a one-year deadline in the bylaws. There seems to be general agreement that all of these absolute deadlines should be targets and not commit ourselves to, again, fall on our sword if – and be in violation of bylaws if we don't meet a target for whatever reason. There seems to be general agreement on that. So from the ALAC issue, I don't think we have a problem.

The more substantive issues of what should the bylaws say, when should it kick in, the board has a concern very similar to a personal one I had that having a bylaw in without understanding exactly where it applies to the ICANN scope opens ourselves up potentially to IRPs that we don't know what impact they're going to have in the future. It wasn't an ALAC comment and it's not something that we're pushing but the board certainly has that concern. And I don't really remember which way we're going to go forward in the second reading. Maybe somebody else does.

Olivier, your hand is up.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thanks very much, Alan. I'm jumping in because we are reaching the end of the call for the interpreters. I guess the issue of human rights is a substantive issue.

There is a call. I think it is tomorrow. Sorry, there's an accountability call tonight. Do you have everything you need – you as in you and your colleagues, Cheryl and Tijani, etc. – who are all on this CCWG. Do you have enough to be able to respond and take part in the call tonight? And can we then continue with all of those substantive issues which we have gone through on the Friday call? I believe we will need a call this Friday.

ALAN GREENBERG: Yeah. On most of the issues, yes. The only issue that I think I do need to alert you to – and we don't need a discussion. I'm just going to make a statement. We made some very strong statements on the mission. Some of those are being addressed.

I'm sorry, on article one of the bylaws which includes mission, core values and commitments, there's been a lot of fuzz going on because things that we wanted in core commitments, people said, "You're changing the mission." And we've made it clear that there are different parts of article one.

The issue on consumer trust is one where we have had some substantive discussions. We do not have closure. The two sides are getting more and more rigid and it's not clear how we are going to resolve that one. We will need to have a discussion on Friday on the consumer trust issue. That's all I have to say at the moment.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. You said we will have a discussion on Friday on the consumer – we as in the IANA Issues Working Group will have a discussion on Friday?

ALAN GREENBERG: Yes, that's correct.

OLIVIER CRÉPIN-LEBLOND: Perfect, okay. I see one more hand up from—

ALAN GREENBERG: I do not believe there will be any further discussion before then in the CCWG, although I haven't looked at tonight's agenda.

OLIVIER CRÉPIN-LEBLOND: Thanks. That was the gist of my question. So that's fine. Sebastien, you have your hand up. Then we'll have to close the call.

SEBASTIEN BACHOLLET: Yes. Thank you very much, Olivier. Yeah. I wanted – but we will do that hopefully on Friday discuss about the question of work stream 2, the content of the work stream 2 how it will be organized and the budget for that. There are some discussions on the list and I would like to be sure that what is our [common] position on all those issues.

The second point is that I would like very much that we had a short discussion about face-to-face meeting, if it's happened or not, if we want one or not, and when.

Last point, I hope that the time on Friday will be available because I have a hard day on Friday. But I will try to join you. Thank you.

ALAN GREENBERG: Okay. Thank you very much.

OLIVIER CRÉPIN-LEBLOND: Okay, thanks very much, everyone. So we've already got Friday's agenda all worked out. We'll start with human rights. We'll have the consumer trust issue and also a discussion on the face-to-face, the need for a face-to-face. The need or not for a face-to-face meeting of the ALAC.

Finally also I guess any of the other issues that we haven't touched on today. Any issues that will arise from the discussions that you will have had on the call later on today.

ALAN GREENBERG: That's correct.

OLIVIER CRÉPIN-LEBLOND: Okay. Well, I thank you all. The next call will be on Friday as we just said. 17:00 UTC. With this, I'd like to thank the interpreters, Veronica and David, for having spent more time with us – an additional 15, or actually

20 minutes by now – and to close the call. So this call is now adjourned and thanks to everyone. This is very, very good work today.

ALAN GREENBERG: Thank you.

CHERYL LANGDON-ORR: Bye.

TERRI AGNEW: Once again, the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]