
GISELLA GRUBER: ...2nd of January at 17:00 UTC.

On today's call on the English channel, we have Olivier Crépin-Leblond, Cheryl Langdon-Orr, Gordon Chillcott, Tijani Ben Jemaa, Barrack Otieno, Eduardo Diaz, Sébastien Bachollet.

On the Spanish channel we have Alberto Soto.

Apologies today noted from León Sanchez.

Staff today is myself Gisella Gruber. Our interpreters this evening are Veronica and David on the Spanish channel. So if I could please remind everyone to state their names when speaking, not only for transcript purposes, but to allow our interpreters to identify you on the other language channel.

I hope I haven't left anyone off the roll call. If I have, please do speak up. And sorry, I may have left Seun Ojedeji. Seun, sorry, my apologies. You are now on the list, and over to you Olivier. Thank you and apologies again.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Gisella. Olivier speaking. And I don't know if we have missed anybody else on the roll call, by any chance. If we have, please shout your name out now.

Absolutely silence. Fantastic. Okay, well let's get going then. We have a busy agenda yet again. It's the second one of our two calls this week. And first we have to look at the... Well, first adoption of the agenda.

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The majority of the discussion today will be spent on TCWG accountability, since I don't believe there is much to talk about, no updates on IANA coordination group.

And very updates, just business as usual, on the IANA stewardship transition. So we'll start with TCWG accountability. Are there any other amendments, or any other business that we need to add to the agenda?

I don't see anyone putting their hand up, so the agenda is adopted. And we can go to the review of our action items from our last meeting, which is [inaudible], sorry, I'm looking at the wrong thing. No, I am looking at the right thing. Right.

Review of action items from the meeting on the 13th of January. That was not our last meeting. They're cut and paste.

ALAN GREENBERG: This was the second meeting that was not the last meeting. [CROSSTALK]

GISELLA GRUBER: ...my naughtiness. I'll make sure [CROSSTALK]....

OLIVIER CRÉPIN-LEBLOND: ...hit your fingers. All right, I've looked at it. Well the thing is, there are no action items from our last meeting. So all of that trouble for nothing. Oh dear, never mind. Okay. Let's then move on to CCWG accountability

right away. Wow, fast today. I'll hand the floor over to Alan Greenberg for this. Alan, you have the floor.

ALAN GREENBERG:

Thank you very much. There is not an awful lot to report. The three hour meeting was a two hour meeting. There was relatively little controversy, but also relatively little that was substantially changed. There was an interesting discussion at the end on whether the GAC should be allowed to be a decisional partner.

You know, with the standard arguments raised that this changes them from an advisory committee, gives them new status. I'm not quite sure how it ended, but it didn't seem to get a lot of traction. So, we had the discussion, I think, is all that we can say. There was a bit of discussion, and again, I'm not sure I understand exactly what the outcome was.

There was, at one point, a suggestion by some commenters that since community accountability is so important, it shouldn't be purely at the discretion of the Board to call for the periodic reviews of the ACs and SOs, and that the community would be able to call for them. I don't think it got a lot of traction, but to be honest, I have little memory of the discussion.

Maybe somebody else on the call can help me and refresh me. Certainly, if there was a strong move to say the community could request reviews of At-Large, for instance, I would think that would have to be done with a little bit of care, because we really don't want groups targeted by others.

But I don't think it got a lot of traction, but again, I'm willing to yield to someone else, because for some reason, I have little memory of the actual discussion. And I don't think there was too much else that was substantive and decided. So I'm going to yield the floor to anyone else who has anything to report from that meeting. [CROSSTALK]

I don't quite know who that was who just screamed out, but as far as I can remember...

SEUN OJEDEJI: Seun for the record.

ALAN GREENBERG: Go ahead. Go ahead, Seun.

SEUN OJEDEJI: Okay. Thank you. I just wanted to mention that I think when you said [inaudible] issue, but a lot of action, I think I would want [inaudible]... got a lot of traction, if by traction you mean...

ALAN GREENBERG: Seun, I said it did not get a lot of traction.

SEUN OJEDEJI: Oh, did not, sorry. Thank you.

ALAN GREENBERG:

it's one of these things that has come up periodically, people were asked to speak only if they were supporting it. They were very few. I did speak and pointed out, although I was ruled out of order, that if this decision would be made, number one it would have impacts on other groups like the ALAC.

And number two, if there were only four decisional partners instead of five, it would completely destroy the decision making powers that we now have, because you couldn't have requiring four for removing the Board, for instance, would be, would essentially be crying unanimity, which the group has said shouldn't be required.

On the other hand, lowering it to three is just too low a threshold. So, as I said, I was ruled out of order, but felt that it was important to point out that those two issues were linked. But in any case, it does not seem to be something that's going to move forward. Tijani.

TIJANI BEN JEMAA:

Thank you Alan. Tijani speaking. Just to confirm that, as you said and Seun said, this [inaudible] point of view couldn't fly, in my point of view. Because the implication would be very big. We would have to review all of the [inaudible] and even the system itself may be reviewed, because we cannot, in my point of view, have this, how to say, [inaudible] model with only four constituencies. Thank you.

ALAN GREENBERG:

I think everyone is, in this group, is pretty well agreeing on that. Anyone else have anything to report that I missed from the meeting yesterday?

Cheryl, were you more awake than I was?

Nope. Sébastien, go ahead.

CHERYL LANGDON-ORR: Sorry, it took me a while to get off mute. I'm with you on that.

ALAN GREENBERG: Okay. Instead of going off mute, you said you were away. So I assumed you weren't going to be speaking. Sébastien, go ahead.

SÉBASTIEN BACHOLLET: Yes, just when [inaudible] was a question of the schedule, the timing. I think it's an important point we have to discuss. My summary is that nobody knows where we are and how we will go to the end, but it's very troublesome, that there is no yet schedule on what the next type...

And I have the, my impression, I have no clue but my impression is that, in fact, some people are waiting for Marrakesh, some other are hoping that it will happen before. And I don't know what we will wish. Just as a reminder, there is a Board retreat beginning of February.

And from my feeling, it could be a pivotal point in any negotiation, because not last call, but the previous one was very much the CCWG discussing about the Board inputs, and not too much about the other inputs. For example, we had to push a few times to say, "Hey, there is not just the Board that will say that, but also ALAC."

And that seems, for me, an indication of where we are going, because without really having that [inaudible] on the table. Yeah, that's my feeling. And I really would like us to have an idea of which schedule we would like to have, and how we can push for one other.

If I was taking the contact, I don't think that all that is going to the right direction. I could say, "I don't care and let's wait for Marrakesh." And if it's from Marrakesh, it would never fly because the deadline after for the NTIA and for the Congress, the US Congress, will be too short, and for the ICANN Board and ICANN to have the new bylaws.

But I don't think that's the right way to go, even if it would be, in my direction, for what I think we need to do. That's one important point, I think, we need to raise. Thank you Alan.

ALAN GREENBERG:

Okay, thank you. Yes, I did forget about the timeline. And in a moment, I'll try to find the link to the document that was displayed. There was a document displayed of the way forward, which essentially said there was going to be a, I don't remember the exact term, an updated report, or an update to the report. And they outlined sort of the process by which this would get approval.

And there was a number of places where there were one day turnarounds, you know, asking for comments. And I did make the comment that I thought some of those were insufficient. And there really needs to be enough time for the participants in the group to review documents. And doing things on a 24 hour turnaround, or a less than 24 hours, often hits other parts of your life where you just cannot

devote the time to read several hundred pages and review them. So I did make that point. I don't know to what extent it registered. I think it registered. And I pointed out that ACs and SOs are going to have to make a formal decision, they're going to need some time to do that as well.

In terms of a face to face meeting for the CWG, CCWG and potentially ACs and SOs, I support exactly what Sébastien was saying, but you know, to say we're going to meet a week from now, it's just not going to happen. At least, I don't see it happening. There doesn't seem to be a lot of will to push it forward, so I think it will not happen.

I think it would make complete sense for the CCWG and AC SOs, if they choose, to meet face to face early in February, perhaps in conjunction or just after the Board meeting, but again, I just don't see the mechanism by which that would happen. So, we can wring our hands, but I don't see how that is going to change. Tijani, go ahead.

TIJANI BEN JEMAA:

Thank you Alan. It's the [inaudible] report, Alan. And I think that we may, that no more starting next Thursday. Because we have two more meetings of three hours, and the schedule as it is made now, finish our discussion about all recommendations. So if really reach consensus next Thursday on all of the recommendations, perhaps things will go faster, and perhaps we may have a face to face meeting, and the chartering organization may have the time to discuss and to approve the final reports.

But if the consensus, the needed consensus, next Thursday, we will not have any availability for the future. I think that, in any case would be made for the transition. And I don't know how it will work, but there are so [inaudible], they will not accept that we will deliver our report too late. Thank you.

ALAN GREENBERG:

Thank you. I don't know what magic could be turned around in Washington, deadlines and schedules are made to be changed. So I'm not going to pronounce that it's dead at this point, or dead if you don't do it in a week, I really don't know. It's certainly, the chances are going down, perhaps astronomically as we go forward in time.

And if staff could pull up that PDF, I put a link in the chat, and be able to present it. Yes? Who is speaking?

CHERYL LANGDON-ORR:

Cheryl, I had my hand up.

ALAN GREENBERG:

Ah, sorry. I don't see your hand up on my screen. I see Olivier has a hand up. Go ahead Cheryl.

CHERYL LANGDON-ORR:

It must go down when I switch screens to get to the phone aspect to unmute. Sorry about that.

ALAN GREENBERG:

Cheryl, you're shown on my screen as being away from the meeting.

CHERYL LANGDON-ORR:

Well, I'm not. Cheryl here. Now, just in response to a couple of things that were just said. León, I don't believe is on the call, so that's why I'm making my intervention now. The leadership, as in the co-chairs, had a meeting with NTIA and Fiona and Larry [inaudible], but he's [inaudible]. They are well aware of the timeline, and by the way, this meeting was day before yesterday in my time, so yesterday for your time.

They are well aware of the timing. They are well aware of the Marrakesh likelihood. And there was a specific request that if when they talk to the component parts in Washington that need to get all of their ducks in line for all of this, if there is a critical problem, they are going to get back to us so we know whether or not we should continue to push on a rather grueling schedule, as you noted Alan.

And put forward all together during February, before AC and SO final responses at Marrakesh. Final approval otherwise at Marrakesh. So could we do it before Marrakesh with the current timeline? The problem there is that a couple of the ACs, not a couple, at least the GAC and certainly the ccNSO, but possibly even the GNSO, will not be able to deal with their final [inaudible] or otherwise, as chartering organizations until they have a face to face meeting.

And there is no support for a one off or you know, ad-hoc meeting, from ICANN's perspective. They are giving a meeting on Friday for the CCWG, and that was hard enough to win. So re the timeline and Marrakesh, the department is well aware. They will be getting back to us if there is

a critical problem. And with the one day turnaround, Alan, it should be only paragraph-ish, not 100 odd page-ish changes to be added. We are making sure that we keep the general formal, form and function of the text, absolutely the same as the third draft, so it makes it easy for the chartering organizations and the membership to keep on top of things, even with a day turnaround.

And more importantly, even our legal people, etc. have agreed that they will be given one or one and a half day turnaround for their opinions on pieces. So you know, it's going to be a slog. We'll know if it's going to be worthwhile or if it will come together or not. But I just wanted to make sure that you knew that the powers that be in Washington, are fully appraised, and in fact, the GOC, whatever that government office is, that's watch-dogging this, spent I think it was almost three hours with Becky Burr recently, dotting the I's, crossing the T's, looking at our current timelines and talking about some of the IRP aspects. Thank you.

ALAN GREENBERG:

Okay. Thank you Cheryl. I knew none of that, but I could have predicted most, but certainly Fiona, and Larry, and their staff, are not ignoring what we're doing, and pretending it doesn't matter. So none of that is particularly surprising. In terms of the one day turnarounds and the paragraph nature of the changes, I understood that completely, but there is a real danger that we end up, by tweaking a paragraph and not making corresponding changes other places, and certainly not between the executive summary, the main document, and the annexes.

So yes, the changes are easy to look at and verify. The cohesiveness of the whole document is another issue. And I do have some concerns over that, but such is life. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Alan. Olivier speaking. And I'm going to speak in a moment, once we finish this part of the call, about the GNSO response. But purely looking at the timeline of things, there is a passage in the GNSO opening letter, so not the actual response but the opening letter, and this really took a lot of time to discuss on this GNSO call, regarding the fact that if there are material changes to recommendations, and any supplemental proposal out there, there should be a comment period.

Yes. And that's where it starts becoming very difficult. The several respondents yesterday were basically saying that the more recent comment period was way too short for their members to be able to engage in. And I guess that's something which our community has also found to be a bit challenging in some cases, especially when it comes down to having a public comment period that spans the Christmas holidays, which in a significant part of the world, is a really holiday period.

And in the States, specifically between Thanksgiving and New Year, is an extended holiday season in the US. There has been some pushback on that, and there is a significant number of people that are saying, "Well look, we are so late already. This whole thing is not going to be ready on time according to the timelines which we were given and which we

were told were the absolute last timing that we could have. In which case, we could have a public comment period.” Now, there was a discussion on whether it would be a public comment or whether it would be the chartering organization.

So just the GNSO, ccNSO, ALAC, GAC. I think there, I don’t know if there were any others that were chartering, but you know, just the SOs and ACs, being able to provide a comment on the last, you know, on this end version, basically, the [inaudible] version, as one would call it, and that’s because some people, members of the working group have said they are very concerned that there are still changes happening.

Of course, there is a risk that we keep on going around in circles. Comment, changes, comment, changes, etc.

ALAN GREENBERG:

Thank you Olivier. A couple of thoughts on that. I guess, we may well end up having dueling chartering organizations, and I suspect, but I don’t know for sure, that if the ALAC were asked, “Do we need a new comment period?” Our answer would be no. We may choose to not ratify, but we’re not necessarily looking for another full blown comment period.

So, you know, interesting question to ask this group and the ALAC in general, but I really don’t think we want another comment period at this point. But you know, I’m just one person speaking. This business of, but we were given a timeline, told it was the absolute last timeline, and we’ve passed that therefore everything is dead, so why rush?

I live in a different world than they do apparently. I live in a world where, when there are deadlines that are missed and there is some crucial reality that you want to happen, you adjust your timelines. You somehow figure out how to do something in two months instead of three, and things like that.

So in my world, you make adjustments even though you, in good faith, said something was the ultimate last version. But maybe that's just me. I have nothing else to really say at this point, other than to turn it over to Olivier for further discussion on the GNSO statement. But I'd like to open it up. Is there anyone else who feels we need to discuss something else or comment on what has just been said? Sébastien, go ahead.

SÉBASTIEN BACHOLLET:

Yeah, Alan. Just to remind us that we had the discussion, I think two or three calls before about the fact that we need to have a formal decision of ALAC to participate to the community work. I don't know if it's an action item open somewhere, but if not, I think it's important that we get that for the next ALAC meeting.

ALAN GREENBERG:

Yes, it was not lost Sébastien, and it will be on the agenda for discussion and then a formal online vote of the ALAC... The discussion at the meeting next week and a poll online vote afterwards.

SÉBASTIEN BACHOLLET: Okay, thank you. There is just so much going on, and I wanted to be sure that your mind don't forget one thing, because you have too much in your head at that moment.

ALAN GREENBERG: Sébastien, I appreciate the intent and it might well have been something I forgot. In this particular case, it wasn't but I accept all of the reminders that anyone cares to give me. So thank you for that.

Anyone else have any comments to make before we turn it over to Olivier? Seeing nothing, hearing nothing, Olivier, it's yours.

OLIVIER CRÉPIN-LEBLOND: Thank you very much Alan. Olivier speaking. And I find it very unfair that people are willing to help you out, while I'm struggling to even wake up in the morning, in the afternoon, in the evening. Whenever there is a conference call. In fact, I don't ever go to sleep. But anyway, ladies and gentlemen, we have to move on to look at the GNSO response.

There is a link in your agenda at the end of agenda item number three, GNSO response to CCWG accountability draft proposal. There is both a link in PDF and in DOCX format. I'll wait a couple of seconds for it to, ah there we go. It's on the screen as well.

So, this is a letter and a response that has taken several weeks for the GNSO Council to put together, based on the input of all of the stakeholder groups, and the constituencies. As you know, the GNSO is made up of two houses, a contracted parties house and a non-

contracted parties house. And in the non-contracted parties house, they have two stakeholder groups: the commercial stakeholders and the non-commercial stakeholder group. And each one of these stakeholder groups is that constituencies.

And for example, in the commercial stakeholder groups, you have the ISP Internet Service Provider constituency, you've got the intellectual property constituency, etc. And the input from many of these constituencies is very different. They've all, I think, all or most of them have commented directly to the public comment period, but the GNSO Council wanted to have a concerted document that will include some kind of a consensus between the different participants, and provide a response pretty much in the same way as the ALAC has provided a response.

Only our response was within time, just before the holiday break. So it has been a bit laborious. There is an opening letter that is currently on your screen. It explains that the attachment itself doesn't represent the GNSO Councils official approval as such, or lack of approval. It's just a document to give some feedback to the CCWG on where the Council stands at the moment.

And with the difficult of having constituencies that have sometimes radically opposite views, you will notice that in many cases, it's just a listing of the different points of unhappiness or disagreement that the different constituencies have.

Although there are some of the recommendations which there is a good approval. So without any further ado, we can scroll down. I've

mentioned to you that there are concerns as far as timing is concerned, especially with regards to the feedback, and the possibility of a future public comment period. That's not something which the GNSO is ready to die for, but I think it was expressed as being something that would be welcome if there are any significant changes to the proposal.

That said, the GNSO itself is asking for some significant changes in some parts of the proposal. So let's just quickly go through those. And I'm sorry, the document doesn't even have page numbers. I believe it is page three that I am on now, the first page with a table. It's looking at recommendation number one.

And recommendation number one is all about the, establishing an empowered community for enforcing community powers. Now, rather than having, tagging proposal as being having consensus or broad consensus, or full consensus, or whatever term is used, it was decided to make a conscious choice of actually not using any loaded terms, *per se*.

So these terms are not defined. Limited support means that there are some constituencies or stakeholder groups that agree with proposals, there are some that don't. So here you have limited support with some opposition. And it details underneath what there is. It was understood that recommendation number one, 10 and 11 have some linking of arguments between them, a clear link between them, especially when it comes down to the position of the GAC and the responsibilities and the power of the GAC.

And overall, looking at these three recommendations, one, 10 and 11, there was a real concern about the GAC increasing its powers, and therefore, with the GAC having increased powers, powers that they didn't have before, that would actually break the remit of the US government's request over a year ago now, which was that none of the solutions should promote any power by any government.

I mean, I'm paraphrasing, but it's basically playing on this track as well. So there is a condition in therefore supporting recommendation one, and that's for expanded transparency, including a robust right of inspection and improvements to the document disclosure, document information disclosure policy. So they are linking the empowered community for enforcing community powers with the IDP and with also some...

And I guess there is some history here. And also with anything to do that would provide the same level of power for document disclosure in the current model, rather than compared with the other models that were there before. And it says here that the GNSO believes that if a particular SO in a specific area of focus in relation to the budget, it should have a proportional voice in community decisions that affect it.

I am not quite sure I quite understand what that means. Perhaps Alan has an idea. And I see that he has put his hand up. So Alan, you have the floor.

ALAN GREENBERG:

I didn't actually hear that question because I was busy typing in a message to Gisella. What was the question?

OLIVIER CRÉPIN-LEBLOND: You should pay attention, Alan.

ALAN GREENBERG: I know I should.

OLIVIER CRÉPIN-LEBLOND: You have two ears, you don't type with your ears. I'm sure you could do this all together. I'm asking, the GNSO believes that if a particular SO has a specific area of focus in relation to the budget, it should have proportional voice in community decisions that affect it. And I wasn't quite sure what that meant.

ALAN GREENBERG: I don't know what it means either, except... Well, what I think it means is that if there is GNSO money at stake, and someone else is saying, "No you shouldn't spend it." You should listen to the GNSO more than to the other groups. I completely support that when it's ALAC money at stake, and we've made a similar statement many times over, that we don't want the other groups to be able to veto things that are designated for use of the ALAC.

But as far as I can see, that was one of the tradeoffs that we had to give up, because they're called community measures, and indeed, they are community measures. So at some level, I can sympathize, but it's a "Not in my backyard" type thing, that I want to be able to control other people's but they shouldn't be able to control mine.

So I'm not quite sure where we go on that, to be honest. I put my hand up when we were talking about the document information disclosure policy. That's one of the areas that, from my perspective, ICANN has really blown things.

That is a completely sham policy from my perspective. It virtually never yields any information. The cut-outs that allow ICANN to say we won't show you anything are so large and wide, that it's one of these... It's a paper tiger policy, that has no bearing and real substance. And ICANN should have addressed that and fixed that long ago, and I can understand why groups are saying, "We need to tie these things together."

I don't have any answer in that, we're not likely to fix the document information disclosure policy in the next week. It should have been fixed a long time ago, and it was stonewalled. So I'm sympathetic, but I think, again, that's something that is just not practical if we were indeed going to have this process going forward in the next weeks. Thank you.

Sorry, you had a question for me?

OLIVIER CRÉPIN-LEBLOND: Alan, it's Olivier speaking. Yeah, just one thing. You mentioned this topic of the DIPD, which needed attention a long time ago. Is this somehow related also to the reduction procedures? Because what I have noticed was that in some cases of DIPD being affected, ICANN has responded and it said, "Yes, fine. You know, we'll make that document available."

But then all of the relevant information is blanked out, which is pretty much worthless.

ALAN GREENBERG:

Exactly, the two go together. Yes. You know, the ICANN, for instance, has regularly in the past, and it was an ATRT 2 issue, that they say they're going to fix, although I've seen no evidence, that if something is redacted because today it needs to be kept secret, there is never any effort to fix it tomorrow and to un-redact it, unless someone particularly identifies it.

And if you're going to redact a lot of things, then you have to think about when is it they're no longer top secret. So, it all goes together. Yes, you can release any document if you redact 99% of it. And you know, ICANN has agreed that it needs to changes in those areas, but to actually seeing the changes is a different issue altogether.

OLIVIER CRÉPIN-LEBLOND:

Thanks Alan. Next is Sébastien Bachollet.

SÉBASTIEN BACHOLLET:

Yes, thank you. About the document, I guess one of the parameters that even when you are Board member, you have no right to disclose anything, and then it's sometimes very difficult to discuss with your own constituency topics because you have the information and the rest of the community doesn't have them.

I sympathize with the fact that we need to have a better disclosure document type, and one other point I struggle for years now, is to have an open data policy where we publish, where ICANN publishes as much as possible things in an open format to be used by other parties, including the SOs and ACs and constituencies.

Regarding the money, my understanding is that oh yes, I support this proposal. And as all of the money is coming from end user, and we are the only one to have a say on all of that budget yet, because nobody else gets the money. The other [conduit] to get the money to ICANN. But we end user, we pay. And the business constituency plus At-Large must be the only one to have any decision on the budget. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you Sébastien. And that is a very interesting angle that you're touching on here. It's Olivier speaking for the transcript. You are interpreting this clause saying the GNSO believes that if a particular SO has specific area focus in relating, in relation to the budget, it should have a proportional voice in community decisions that affect it.

My interpretation was that this is to do with the allocation of funds. So if funds were to be allocated to some part of the GNSO, then the GNSO would have a proportional voice in community decisions to it, you are looking at it as the source of funds. And I'm not sure where that can lead us.

Obviously there is... Well, I'd be surprised if it was down to the source of funds, because it really is all down to a common pot from everyone. But Alan Greenberg.

ALAN GREENBERG:

Thank you very much. I was just going to comment, I agree with you. I think their intent is on spending the money, not where it comes from. But it dawns on me, looking at the wording there, I don't know what proportional voice is. I think if I would have worded it, I would have said disproportional voice. That is, they should get a larger portion.

I don't think either of them makes any sense, because it's not clear it's in proportion to what. So, I mean if it's in... If you're going to get a voice in proportion to where the money is spent, and the money is spent only on you, that means that you should be the only one to comment on it?

So I think they have a language problem, although I think I understand what their intent is. But I think it's one of those issues of tough luck, this is where we ended up and you're going to live with it. But maybe they won't live with it, I don't know. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thanks Alan. It's Olivier speaking. Let's move on then to recommendation number two. And number two has general support, so that's a good thing. Sébastien Bachollet. Are you still on one?

SÉBASTIEN BACHOLLET:

Sorry, I would like to, yeah, one point on one. It's that we have to be very careful on that because my, if it was a joke about where it comes from, the money, but not totally. If you take, if you imagine that the new gTLD program, all of the money comes from the applicants, and

they need to, are the only ones who say where the money will go, and really we really need to be very careful with what is written, and I guess disagree heavily, because I don't think that because I put money in the new gTLD program, they need to be the only one who decide where the rest of the monies, the ones not spent by ICANN yet, will go back.

And the same for the [inaudible]. Behind this, some very easy words, there are some very tricky ideas, and I don't think it's, all of that is a good idea. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you Sébastien. It's Olivier speaking. And certainly, I think there is an ambiguity in that sentence, and it could be interpreted in both ways. Alan and I interpreted it one way and you're interpreting it another way. I'm not aware from having seen the discussions leading to this, that the GNSO means what you are saying. But certainly, some people can interpret it to be this way, that would be something that we have to be completely against, because that has the chance of actually destroying ICANN altogether, due to the fact that whoever will then be just putting whatever money in ICANN will say, "Well now you have to do what I say."

And obviously, there are different sources and that will not work out. So that's well understood. Thanks for pointing this out Sébastien. And I believe that because this letter is going to reach... Well, there will be a copy of it sent to the CWG, CCWG accountability as well, to the mailing list, plus to the chair. So this is going to the chair plus the mailing list. I'm sure there will be a discussion on this, on that mailing list.

Let's move on. I see the time ticking, so I'm a little concerned about this. But recommendation of the two, is looking at empowering the community through the escalation process, engage, escalate, and force. And there is actually generally support. There are some, what one might call minority opinions, with some concerns regarding timeframes, but we're well aware of this.

And I know that we have discussed this as well. There were questions about the liability for the community when removing directors. That's also something that is currently in discussion in the CCWG. And there is also a broad support among the GNSO that the ICANN headquarters shall remain in California, and should remain organized under Californian law, based on the understanding that the proposed sole designator model is as recognized by California law, which may not be as common or the same under the law of other jurisdictions.

And I know that Alan has said something regarding this, and he has a hand up, so I'll let him speak to this. Alan Greenberg.

ALAN GREENBERG:

Thank you very much. I'll note of the three points, the first one is being addressed and has been addressed, the second one is a concern that we have as well. And the third one, I think is a joke and is a stalling tactic, although I know some people feel very strongly. The real issue is, ICANN is incorporated under California law. That cannot change by changing the bylaws or the Articles of Incorporation.

It is a Californian corporation. If it's going to be a Delaware corporation, or a Swiss corporation, it's going to be a new corporation where a whole

new set of articles and bylaws are created. So changing the words, now where the headquarters are, does not change whose jurisdiction you're running under. So part of this is, I think, people not really understanding what it is they're talking about. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Very good points. I don't see anyone else putting their hand up, so let's move to the next recommendation, that was number three, redefining ICANN bylaws as standard bylaws and fundamental bylaws. And here there was general support with some qualifications.

Now, of course, I was not involved with drafting this, and I took the line as the liaison to the GNSO, the liaison from the ALAC to the GNSO, not actually contributing to draft this consciously because this is a GNSO input, and I just didn't think it was appropriate for someone from At-Large to help in putting this. But I do have some concerns and confusion regarding having general support with some qualifications, broad support in other places, limited support with some opposition.

You'll notice there are quite a few different levels of GNSO support, which did confuse me a little bit. On this one, general support, I guess, that's a good thing. Strong inspection rights must be included as a fundamental bylaw, which I think is something that we probably we would be agreeing with.

And then some stakeholder groups and constituency approval is conditioned on a change to reflect that member approval being replaced with a designator approval in our articles of incorporation item nine. And it was also pointed that the proposal failed to discuss the

community's role in approving or rejecting changes to the article of incorporation.

These are little details that might need to be brushed up in a further version of the proposal. And there was a thing as to whether the articles should be treated as fundamental bylaws or standard bylaws for such purposes. Some are of the opinion that ICANN's articles of incorporation has been given the same treatment as fundamental bylaws.

Alan Greenberg.

ALAN GREENBERG:

Thank you. I find this a little surreal. Those are really important comments, but they're comments that the CCWG has largely already agreed upon. And to simply cite them as if they're brand new, I can understand that they're not guaranteed to have been fixed because the CCWG has not come to closure on everything yet, and things could be reversed. But to cite them as if they were outstanding major issues, where there are people fighting it, I think is giving this whole document a twist.

And this is not the only place it has been done, but you know, it gives the whole thing a much more negative tone than it is deserved, given that they have taken so long to come up with this statement. Thank you.

OLIVIER CRÉPIN-LEBLOND: Yeah, thanks for this Alan. Olivier speaking. One of the reasons, I guess, for this is the time that has taken for the council to develop this document. And as I've said, the process started just before the holiday period. The GNSO chair worked with a small group of people to draft a few things, went through one set of feedback and then another discussion.

It's pretty much kind of... For the GNSO to comment on something, I guess it's a bit like the ALAC. We've been doing this for years, and are able to come back with things that are up to date. [CROSSTALK] I think you have to give some time.

ALAN GREENBERG: I understand the history, but given that this was drafted two and three days ago, it at least warranted an asterisk and a footnote saying, "We understand that these are being addressed by the CCWG," as opposed to pretending that they're outstanding major [matters]. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks Alan. It's Olivier speaking. Actually, they were drafted a few weeks ago, not just days ago. Some of these are actually just cut and paste from the input that was received prior to the New Year. That's the reason why they do sound a little out of the way.

I don't see anyone else in the queue for this, so maybe we can move to the next one. The next one, recommendation four. Now this one is rather interesting, because again, there is general support with some qualifications. It's ensuring community involvement in ICANN decision

making, and it's about the seven new community powers. So again, here it's linking to the responses in recommendation one, two, and three. These are just minor points which are being made with the removal of directors, that should be at the discretion of an appointing SO and AC, and should not be subject to any predefined conditions for removal.

I know that there has been a discussion where the Board wanted three defined conditions to be provided and so on. Somehow the battle has already been passed, I think, perhaps for these. These are just my own personal comments on these, but there were the, mentioning again, the GNSO supports the provision that the IDP disputes are within the scope of the permissible subject matter in the IRP.

And the recommendations require further clarification as to the ability for the community to enforce a co-decision. This remains an outstanding issue for the many areas of the community with the process view that needing greater clarification and more certainty in the areas where the community has enforced requirements, as identified in the CWG process.

Yes, these are just minor comments in a certain way. Are there any thoughts or any feedback on this or could we just move on? Hearing nothing, let's move to the next one, recommendation number five. Now five was changing the aspects of ICANN's mission commitments and core values, and there are some divergent positions here. On this occasion, it's called qualified support.

So that's another type of support, I'm not quite sure... The other one was broad support with qualifications. Now it's qualified support. The GNSO council's qualified support for this recommendation is based, there are some stakeholder groups and constituencies that think in different ways of doing things.

So, the suggested qualifications and modifications are listed below. There is some support that the proposal that limits ICANN's activity or to its mission and core values only. So we're looking here at the actual listed, what is it? The core, the mission being listed in the bylaws, and the GNSO, sorry, and ICANN not being able to do anything outside of its, the listed activities.

The GNSO recognizes that the proposed language for bylaws revision is still being finalized and reserves judgment on the wording until it is finalized. And that somehow brought some calls for another public comment. ICANN articles of incorporation should clarify that the global public interest is to be determined through a multistakeholder bottom up process.

So that's effectively asking for a cross community working group on the global public interest, whilst you would note that the Board and staff have worked on a process to define, to look at the global interest, or the global public interest. So there is a disagreement here. The GNSO Council believes that the word of the DNS were [inaudible] omitted from the text of the mission statement in the third draft report and need to be restored.

I think that this was added back, but Alan might remember this. And then finally, there is broad support for the principle recommendation for the limited ICANN mission. But there is a lack of consensus on what this, what should happen as far as ICANN enforcing its contract terms.

The registries are proposing specific way and others are not in agreement with it, especially when it comes down to terms that might be outside the mission. So we're looking at stress test 29 and 30. There are, there are just so many, it's like a shopping list of many different points. The next one is to do with the, page 10 of annex five, core value three. Okay.

That looks at special, specific core values, ICANN shall have the ability to negotiate, enter into, and enforce agreements with contracted parties in service of its mission. And then further down, for the avoidance, the language of existing registry agreements and registrar accreditation agreements, should be grandfathered.

I felt, reading the discussions on the accountability mailing list, that this was being dealt with. And then finally, support for revised statement of the ICANN mission is condition on a number of, three main points. First that the bylaw clarifies that ICANN has a responsibility to enforce its agreements.

Secondly that there should be some drafting of actual bylaw texts, with regards to clarifying the nature of services and ensuring their compliance with and enforcement of existing obligations are not weakened. So that's a point I think which we certainly would agree to the, enforcement of the picks in that section 3.18 of the RAA, which

we've been very involved with. And thirdly, the IRP may be involved, invoked for failure to act. In other words, failure to enforce contracts. And I'm not quite sure how that would be involved, but anyway. Alan Greenberg, you have the floor.

ALAN GREENBERG:

Thank you very much. Yes, some of these issues are already being addressed. On the one of the overall mission regarding contractual enforcement and constraining ICANN to its mission, and the whole things around there. Is one area where the CCWG is diverging at this point, not converging on an answer?

We in fact are seeing more disagreements, even among people who were agreeing with each other, than we have in the past. You know, there was a, Malcolm [inaudible] and Milton Mueller disagreement the other day, where they've been in lock step on some things.

So it's not clear how we're going to address that. The lawyers have come out and said, "If you think we're going to be able to come up with language that does what you want us to do, you're dreaming." So, this is going to be a really difficult area both to come to closure on and to implement, and I don't know if we know how that's going to turn out at this point.

You know, we've made a strong statement that if the mission and other related terms in article one are such that we do not believe that ICANN can enforce its contracts anymore, then we have a real problem. I suspect the Board will have a real problem. So there is still work to be done in that overall area. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Any other comments?

Okay. Next, it's Olivier speaking, recommendation number six. And here, that's one about reaffirming ICANN commitment to respect internationally recognized human rights as it carries out its mission. And here, there is now limited support with some opposition. Another qualifier for this.

In general, the GNSO does support this, but there are some concerns which have already been, I think, even discussed in this way, that the work should be moved to work stream two instead, and that the proposed version of the bylaw may be premature given the ongoing work related to human rights at the moment.

And some are even asking, which human rights will be covered? What is ICANN's role in enforcement? And what, which body of law should apply? I don't think it changes the view that human rights should be included, and I don't think it brings much to the table. I'm not really sure what the intent was, with making this, you know, this position or something, or making this comment, but certainly, it looks like there isn't push back against human rights in the GNSO.

And I think that is something which we should take into account. Any comments regarding this?

ALAN GREENBERG: Olivier, it's Alan. I think their comments are aligned with the ones we're hearing of the CCWG and to that extent, in ALAC. That no one is

disagreeing with the concept. There is, at this point, significant agreement about how it should be carried out. The statement saying, “We support what is written in the report.” When other people have said what is written in the report is conflicting with itself and doesn’t make any sense, is one of those interesting statements.

So it’s an area that nobody is arguing with in theory. There is a lot of discussion in practice, and work has yet to be done on it.

OLIVIER CRÉPIN-LEBLOND: Thanks Alan. It’s Olivier speaking.

I see Tijani Ben Jemaa has put his hand up. Tijani.

TIJANI BEN JEMAA: Thank you very much Olivier. I am more or less happy with this position of the GNSO, because people who are pushing to have the human rights commitments in work stream one, were people from NCSG, so from GNSO. And since the GNSO isn’t unanimous about it, this is a very good thing, and we can feel it in the CCWG because we have people from the GNSO that are not happy with that.

So I think it is a positive position from the GNSO in my point of view. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Tijani. It’s Olivier speaking. Certainly I note that it doesn’t say no support or opposition, or yeah, it doesn’t say no support. It says

limited support. But discussion will go on really. I think the clarification that would be needed is whether there needs to be a placeholder in the bylaws as they would be redrafted at the moment, or whether there shouldn't be a placeholder.

I think everyone agrees that the work will continue in work stream two. And but the big question is whether it should be in the bylaws, something should be in the bylaws today or not. And that, I don't think, provides, the GNSO statement here doesn't provide any direction as to this. So it just asks more questions.

Let's move down, let's go to recommendation seven. We still have some time, so that's fine. Seven, general support on this occasion. Strengthening ICANN's independent review process. Here, just a few comments. Again, these are just, I think, cut and paste from the comments made by stakeholder groups and constituencies in other forums, so you would have already heard all of this.

And the comments deals primarily with implementation. Who has the standing to bring a claim? What elements you need to bring forward for a claim? And especially when you look at a failure to act a claim, because ICANN sometimes is guilty of things like this, failure to act, are chilling effects of a loser pays model, community involvement in the selection and training of panelists, and of course, you're well aware that the ALAC has had some concern about some [inaudible] sometimes.

I remember the discussions that we've had on the failure of [inaudible] to act consistently when one was looking at the visual similarity process, with car and cars that were judged differently by different panels. So

obviously a concern there. And community involvement in the selection and training of panelists was, I think, probably quite a, is quite a good suggestion as well. If you recall, we, the ALAC, have admitted some concerns about the applicant support to the, selected by the economics unit, so purely commercial organization rather than having community members involved with this.

Failure of language, sorry. Language over the proceedings to ensure fairness outside of common law jurisdiction. Probably something we can really support here. And a warning process by which a panel could indicate early in the process that a claim is likely to be held frivolous.

All of these, I think, are very good comments moving forward, and these, no doubt, will be used during implementation. It's good to see that there are no show stoppers. I don't see any hands up, so let's move on. Number eight, improving ICANN's request for reconsideration process. And there, again, general support with a few additional comments, with supplementary recommendations.

First, an independent party, so involving the ombudsman to advise the ICANN Board on request for consideration. Secondly again, a neutral party that would review the requests first, and then advise the Board on their merit and worthiness. Perhaps the ombudsman on this occasion. I have the feeling this was already discussed in the CCWG, or because of the fact that these were included in the comments that were made by the stakeholder groups and constituencies.

[Inaudible] must be conducted in a timely fashion including responses, and all aspects of the reconsideration request must be completely

transparent and fully communicated to all ICANN stakeholders. The recommendation should also make clear that actions or inactions of the post-transition IANA, including the timing, are included within the scope of the reconsideration request process.

That's one which I'm not so sure that. There is a footnote related to this, and that refers to the new non-profit entity that the, so PTI would be the non-profit entity that the CWG stewardship had proposed to be setup following the IANA transition, to separate the policy and operational aspects.

And that, if I remind you all, that's of course the wholly owned subsidiary of ICANN as it is today. And I don't quite know, because I see here they want to include this PTI in scope of the request for reconsideration, and yet, PTI will deal also with country code top level domain allocations, not only generic top level domain allocations. I'm a little concerned about that because it might well be that this doesn't fall in line with some of the ccNSO's views.

I don't know whether there are any thoughts in this community about this. Maybe Cheryl might shed some light over this?

Maybe I've put everyone to sleep. Let's move on. Not a big thing. Recommendation nine, incorporation of the affirmation of commitments. And here there is limited support with some opposition and potentially divergent qualifications. That starts becoming a little more cryptic. There are quite a number of supplementary recommendations submitted.

I'll let you read through those right now and raise any of them. I'm not going to read through the whole lengthy list of them. It's two full pages, and I don't think we have the time to go through the full two pages. But the opposition came by two, from two groups. The NCC and the NCSG. And qualified support was indicated by the business constituency and the intellectual property constituency.

So, I'm not sure how we want to do this one, but it's quite a long one. And it relates to different little parts of the affirmation of commitments. I think part of the discussion is primarily with regards to the AOC reviews, which and the discussion as to whether the AOC relates to the new generic top level domains, or relates to the overall generic top level domains, gTLDs.

And some are basically saying that the... Yes, Seun, I'll jump for you in a second. I note that Alan has put his hand up before you, so I'll put Alan and then you Seun, but I just wanted to quickly say a few words on this so that the AOC reviews is one brought up by the BC. The IPC believes that the AOC section should mention that the ICANN should remain a US based non-profit, and that should be in the fundamental bylaws.

The NCUC supports the continuation of the ATRT as being compatible with the CCWG mission, but does not support the continuation of the other AOC reviews. The NCSG, so that's, the NCSG is the grouping of both the NCUC plus NPOC, they do not wholly support recommendation nine at all.

The NCSG support continuation of the ATRT, but do not support the continuance of the other AOC reviews, which lack a bottom up and

consensus based constitution. The NCG believes that a special emphasis must be placed on the recommendation related to access internal documentation defined in paragraph 60 to 67.

Alan Greenberg, you have the floor.

ALAN GREENBERG:

Thank you. I mean, what you're seeing here is some of all of the individual comments. Some of them make a lot of sense, to be honest. I was one of the people who questioned whether the specifics of the reviews, in particular, other than the ATRT review should really be on our bylaws.

You know, a WHOIS review in the bylaws? It's taking an implementation issue and raising it into a bylaw issue. It makes little sense to be honest, but so be it. We can always change them as these reviews become obsolete. And it wasn't worth fighting over, in my mind.

So, yeah, there is a lot of things people didn't like about it, but in general, there was wide acceptance to put the AOC in the bylaws. And so we're doing it. I really don't see the harm, even though it degrades the bylaws at some level into operational instruments. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you Alan. Seun Ojedeji, you're next.

SEUN OJEDEJI: Hello, this is Seun. Can you hear me?

OLIVIER CRÉPIN-LEBLOND: Very well, please proceed.

SEUN OJEDEJI: Okay. Thank you Olivier. First, I'd like to say that I haven't seen this particular [inaudible] from the CCWG list yet, so [inaudible] information [inaudible] on the GNSO [inaudible]. Then to my main comment. I think, based on what you've been saying, [inaudible] a different level of support, on the different communication.

I don't think that this approach that the GNSO is [inaudible]. We, there was a template, and there was a [inaudible] requirement indicating whether support, it was [inaudible]. I don't think it hurts the CCWG in any way to [inaudible]...

It's really, really, really making it look like a [inaudible]... I don't understand, so we know exactly [inaudible] CCWG will be determining whether they're going to get support, or partial support, all of those different capacities of support [inaudible]... However they put that into levels of support.

We assume we are seeing the comments from the different constituencies [inaudible] within the GNSO. We assume they are different comments [inaudible], there really is no reason to [inaudible] comment [inaudible] general issue of certain [inaudible], because they are putting so much time already. [Inaudible]...

...a full consensus compromise outcome, not [inaudible] repeating that each people have said. We have disagreement with [inaudible], but we try as much as possible to get a compromise workable outcome [inaudible].

I'd just like to note that, and I hope that it's necessary [inaudible] within the CCWG. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks for this Seun. It's Olivier speaking. We have Avri Doria, who is, should we say, ex-GNSO counsellor? Avri.

AVRI DORIA: Certainly not speaking as a GNSO ex-counsellor. I actually put up my hand on, to respond to Alan's comment. The one thing I will say to Seun's comment is, any time I've ever seen one AC SO start to pressure and put down another AC SO, I think we've gotten into very murky, muddy waters, and I wouldn't want to go further with that sort of notion.

I would recommend that this group not do much about that. In terms of the AOC, the reason it is all put in there quite specifically, and logically I could very much agree with Alan about, you know, putting WHOIS in the bylaws from one aspect, but if we want to have a reason to mutually cancel the AOC... The AOC is a very specific document that gives NTIA certain oversight role by having fixed seats in some of these committees.

The only way, at least those of us that suggested putting this in there, and I was one of them, is that we cannot suggest to NTA that we get rid of the AOC, without having covered those reviews that they felt were important. Yes, by putting them in the bylaws, we bring them under our control, and we can change them over time as they need to be changed.

But I think that's the real reason for why these are incorporated, is because we don't want to leave that particular link to US government oversight. The easiest way to mutually get rid of it is to put the AOC in the bylaws. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you Avri. Alan Greenberg is next.

ALAN GREENBERG: Thank you. I don't disagree with that logic at all. My only point was that you can put the AOC in the bylaws without putting all of the operational details in the bylaws. Just as a lot of the details of the PDP, GNSO PDP process are in a handbook which is referenced by the document, and the ALAC has done the same thing. We have ancillary documents that go along with our rules of procedure.

There are processes by which those documents can be changed, and those processes can be made as strong or as weak as we choose. And it would not have cluttered up the bylaws with it, and more important, we ended up putting things in the bylaws that I think are going to be really ill-advised, and they're going to be more difficult to change because of it.

You know, the size of the PDP and the composition is, I think is going to be really, really problematic. Giving the discretion to the chairs of the AC SOs to pick the groups, and I'm saying this as a chair, you know, it gives me lots of power, but I think it's going to be exceedingly difficult for a chair, for instance, of the GNSO to not honor the requests of their various stakeholder groups, and I think we're going to end up with bloated, over large groups that are not going to be able to do their job as effectively.

So some of that could have been alleviated by not forcing us to put it into the bylaws right now, you know, directly into the bylaws. But we are where we are, and we're not likely to change that today. So I'm not sure there is a lot of merit in discussing it any further. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much Alan. Olivier speaking. And just commenting on the, what appeared to be putting down the input from another SO or AC, I would just like to remind everyone, we are reviewing this so as to first have a head start on the discussions that will, very likely, be taken place in the CCWG accountability as this letter is going to be received within, I think it might actually be sent right now.

So, we obviously need, since the discussion will take place in the forthcoming days, tell the CCWG we need to know where we stand on this, and I would say that on the majority of the points which are made here, we stand in agreement. So no putting down of the points. [CROSSTALK] obviously some certain frustration about the fact that this is coming so late, but that's the nature of the game.

And we've also been in several occasions arriving late. And we have been accused by some as saying, "Well you arrive at the eleventh hour and are putting things back in play. Why didn't you say that a few months ago, weeks ago?" And I guess that's all part of the usual frustration of commenting and public comments and coming up with feedback. Seun Ojedeji.

SEUN OJEDEJI:

Okay, thank you Olivier. This is Seun for the record. I would just like to clarify based on what Avri said. My intent [inaudible] meant to put down [inaudible] any SO or AC. My point is to make, I'm not actually [inaudible]... the document, but what is being said [inaudible]... does not sound like we have much of the recommendation [inaudible] support or against.

It seems like just indicating [inaudible] of level of support. So it does, and it seems like [inaudible] our different constituencies [inaudible] CCWG carried out. That's the way it works. Within the ALAC we said that actually [inaudible] ...and when people disagree, we [inaudible] minority put it, put it here definitely, but we try to put the ultimate view.

On the level, that again, I didn't mean to bring down any SO or AC, I was just trying to, something that I should [inaudible]. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thanks for this Seun. It's Olivier speaking. Let's move on then. Let's go to recommendation 10. We just have three recommendations left, and

then we can have a good weekend break hopefully. The recommendation 10 is about enhancing the accountability of supporting organizations and advisory committees. And obviously that's something which I think the ALAC is very much in favor of.

Here, there is limited support with some opposition. And I don't think it quite describes the opposition there. It's not opposition, it's just concerns that are expressed by the stakeholder groups and constituencies, but it's interesting to see those. The first one is that there are some concerns within the GNSO with this top down nature of accountability reviews.

And we've already discussed this just a moment ago, and more importantly, an exemption of the GAC from this community requirement. And I think that's somehow, as we said earlier, is tied with the response to recommendation one, and recommendation further, I think it was recommendation 11.

And that's actually mentioned here. That with the GAC having further empowerment, but yet not being subjected to the reviews, there certainly is some unhappiness at the GNSO about this, or at least in some of the constituencies of the GNSO.

And secondly, there is this concern about the unilateral control by the Board of those periodic reviews. If you recall, the way that the, for example, for ATRT, everyone has to send in their CV or details and apply for positions. And then it's down to the chair of the Board and the chair of the GAC that makes a choice of who they want on those teams.

That was the way it was drafted, how it would happen in the affirmation of commitments. The question is, whether it needs to continue in the same way now that the AOC will be replaced. And some in the GNSO are saying they're not happy with that. Alan Greenberg, you have the floor.

ALAN GREENBERG:

Yeah, just for a clarification. This comment is about the control by the Board of the administrative reviews of ACs and SOs, not the AOC. The AOC reviews are being handled by a different way, and in fact, are no longer going to be selected by the chair of the Board and the CEO or the chair of the GAC.

I'm sorry, by the chair of the GAC and the CEO or the chair of the Board. They are going to be selected by the AC SO leaders. And I think that's a real big problem. They're talking here about the AC SO reviews, and the fact that those are triggered by Board decision and reviewed and approved by Board decision.

And I think that's why we have a Board, to be quite honest. I don't think everything can be done by the community. You know, this is not a collective where all decisions are made by the, so I think that's life. And they're asking for things to be changed in a way that I don't believe would necessarily be better for ICANN.

With regard to the fact that the GAC is exempted from the periodic reviews, I don't know the history of that. I suspect it has to do with this concept that governments are sovereign, and you can't have an outside body telling governments, or groups of governments together, how to

run their business. I suspect that is the origin. Now that being said, the ATRT review has made recommendations in a gentle sort of way, that have done just that. But I suspect that's the origin of it, but I'm not that old. Thank you.

OLIVIER CRÉPIN-LEBLOND: Yes, thanks for correcting me Alan. It's Olivier speaking. I did make an error here. But I guess the reason for the error was because of this mentioning of the GAC review, and I had made one and one makes two, added up to the fact that the ATRT 2 did make recommendations for the GAC.

And there is a Board GAC discussion. So in some ways, there is some kind of review going on of the GAC, but not as the same sort of reviews as the other SOs and ACs...

ALAN GREENBERG: Yeah, just for clarity Olivier. The recommendations that were made were not really prescriptive. They were gentler, and that's how they were gotten around, I think.

OLIVIER CRÉPIN-LEBLOND: Okay thanks for this. Next is Sébastien Bachollet.

SÉBASTIEN BACHOLLET: Thank you Olivier. And I go with Alan. A few other things. One of the reason I guess was outside is also because in 2002, it was not so clear if

the GAC was part of ICANN or outside of ICANN. It takes few months, even few years, before it has become clear that it is one part. But still, for example, the Secretariat of the GAC is outside of ICANN. And then it's difficult to compare.

In the, I know that we are talking about ATRT, and that's good that the ATRT can say things about the GAC. The fact that it's the Board who decides for the review of the SO and ACs, at the end we can decide not to have any more Board because they don't have any positions. They can't do anything. They can't meet, and maybe we need to change this organization and to have an organization without Board.

But as a Board still is select by us, one way or the other, directly or indirectly, but the Board is also us. And I can't accept to say the Board can't have any decision. Last point is regarding the, how the member of the review team are selected. I for one think that we need to be careful of how we say, the selection is made by SO and ACs.

And the last choice inside a selection made by the SO and ACs, is made by the chair of the GAC and the chair of the CEO of the Board. And it's quite different. From my point of view, it's their role is to add some balance, some, to be sure about diversity, to be sure about different things that one single SO or AC can't take into account.

And I am really not sure that the group of chair of SO and AC, even if they're the best people in the world, can do that. We need to have people a little bit outside of the game, and if we don't like the chair of the Board or the chair of the GAC, we can find two other people to be independent.

But I really think that the way it's done will be very difficult. Thank you and sorry if I took, pick one in what we are discussing and the one a little bit outside. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Sébastien. It's Olivier speaking. And we are at the half hour mark. If we could have a five minute extension please, to go through the two last recommendations. I suppose that the rest of our agenda, we haven't got any news on IANA coordination group or on CWG IANA stewardship. So that will go very fast, but I wanted to quickly go through those last two recommendations.

The first one is to do with the recommendation 11, Board obligations regarding GAC advice, and that's where there was a big discussion regarding the thresholds. Little support, strong opposition. They do not support the proposal to raise the threshold for the Board to reject GAC advice.

That's related to the other two GAC related positions. Recommendations one and 10. We have mentioned this earlier, the discussion is still ongoing. I don't quite know how that will go. I have a feeling though, that this could be a redline issue for the GNSO. Such is the opposition from some many SOs and ACs.

If they vote on this, they will vote against this. Any comments? Sébastien, your hand is still up. Is that a new hand?

Alan Greenberg.

ALAN GREENBERG:

Thank you. They may well vote against it. And so be it. There are issues here that I think there are people, part of the GNSO are adamant that the GAC not change anything, even though, as was pointed out during the GNSO meetings, yes the two-thirds threshold is being altered, or is being proposed to be altered, but there are other things that are being changed.

For instance, we're saying the GAC cannot change their manner of consensus. That's something that a few months ago, if we had suggested, or when we did suggest it, the GAC just unilaterally refused to even contemplate, and now there appears to be a good chance that it would be accepted.

There are people who are claiming Fadi said to Congress a year ago that, at that point, it was a dead issue, because that was presented in isolation and therefore, they're invoking Congress as saying, they're never going to accept it because Fadi made that promise. But this is a different package.

So ultimately, is it correct that part of the GNSO may refuse to ratify this recommendation? Yes, there is a good chance of that. Are they going to be, are they going to want to be seen as the only thing that's an impediment to the transition? That's an interesting question.

How it will unfold, I don't know. And one other comment in relation to the previous thing, my line dropped and I couldn't get my hand up at the right time. Sébastien had said he doesn't know if the chairs can do as good a job as balancing as the chair of the Board and the CEO have done, or the chair of the Board for one of their reviews.

From my point of view, there is no way they can. They are subject to the levels of pressures that will not allow them to do the job properly. The chair of the GAC had also similar pressures, and has been amazingly constrained, that's over several, three different chairs of the GAC, have been amazingly constrained in not using that power to do something untorrid, favoring the GAC.

And I don't believe the chairs of the ACs and SOs are going to be able to survive the political pressure that some of them, or at least one or two of them, will be under to treat their community more favorably. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you Alan. Avri Doria.

AVRI DORIA: Thanks. I'll try to make this brief and hopefully not as controversial so that there isn't as much need to respond. But I can't really help it. I think one of the important reasons in the linking of one, 10, and 11, is the fact that, for example, people like me, who have been arguing for the compromise and for the general notions of parity, when we're discussing it, when that parity doesn't extend to the reviews, we lose our ability.

We have to sort of sputter and go, well yeah, you're right. You can't be insist on parity as a reason in one place, and yet not have it in another. So, you know, that's part of the reasoning for linking those three. So I don't think the compromise is impossible. I think it's a very serious

consideration. There are people that are very adamant, but I wouldn't go so far as to say that there is no compromise possible.

And you know how often in the CCWG people have been asked to define the issues they will die in the ditch over. My personal one is human rights. For other people, it's the two-thirds and the GAC power, and you know, we all have different ones. At-Large has its equal representation as... There are many.

And I do believe that this is one that it's quite possible that the GNSO would be the link to die in the ditch over, and I don't believe that they are concerning themselves with how they'll be seen. I really do think on this point, they are arguing from their fundamental beliefs. Thanks.

OLIVIER CRÉPIN-LEBLOND:

Thank you for this Avri. It's Olivier speaking. And I do note that we're passed the seven minute mark beyond the half hour mark. If we have any further discussions on this recommendation 11, please do this on the list. Recommendation 12 is just committing to further accountability work in work stream two.

There was general support, so nothing really to discuss for us here. So these are the recommendations. They're all linked to the agenda page, sorry, the GNSO response falling to the agenda page. I believe that is the version that will be sent out. And you'll see it on the accountability working group mailing list very soon.

The other two topics in our agenda, the IANA coordination group update. I believe there is nothing that has taken place since our last

call. And IANA stewardship transition update, there is nothing either to note. So I jump to any other business.

Sébastien.

SÉBASTIEN BACHOLLET: Yes, thank you Olivier. Very short. I think we need to have a discussion about the need or no need of new comment period, because it will come and I think it will be better if we have one common point of view on that. And I just want to bring one idea on that. When we will decide about this report, then a lot of work will have to be done about bylaws.

And the bylaw will get through a comment period. And I really think that we can stop any comment period on this report. We need to finalize it. And anyhow, there will be a comment period for the bylaw review, and that will be enough, I think, that will be my argument about not having any more comment period for this report. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks Sébastien. Alan Greenberg, closing words.

ALAN GREENBERG: Thank you very much. Two comments on that in reverse order. I think we would have a really difficult time objecting at the bylaw level, which to fix that problem, would require going against the CCWG report. So yes, we can fit the details at that level, but things which are really different I think would be a real problem.

I would advocate not a comment period as such, but serving to the ACs and SOs, that they have an obligation or the subparts of them, an obligation to identify issues that are going to be die in the ditch ones, would cause them not to ratify, as we get towards the end of this process, not exactly at the end.

So it's not a comment period, but we don't want surprises either. So I think we need to have a heads up about what are going to be the really hot buttons. It's not clear that groups like the GNSO are going to be able to answer to that, but that certainly would be a preferred way to go forward. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thank you Alan. It's Olivier speaking. I believe we can put this on our agenda for next week's calls, because we already will have a bit more discussion on this next week, as time goes. I see no other hands. I'd like to thank you all.

Next week, I believe maybe two calls again, because it's been very helpful and we're pretty much up to date, with the second call being optional. So Doodle again as previous weeks please. And with this, I would like to... Yes Gisella?

GISELLA GRUBER:

Yes, just with regards to, Gisella speaking. With regards to the Doodle as I put earlier on in the chat, the Doodles will be going out later today. I have two Doodles to close before being able to launch your Doodles, just because the limited timeslots and the number of calls already

scheduled next week. So keep your eyes out over the next few hours.
The Doodle will be in your inbox.

OLIVIER CRÉPIN-LEBLOND: Thanks very much Gisella. Keep on Doodling, and thanks to Veronica and David for those 11 additional...

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