

**ICANN**

**Moderator: Brenda Brewer**  
**February 2, 2016**  
**12:00 am CT**

Coordinator: The recordings are started.

Thomas Rickert: Thank you very much. We'll start momentarily. Good morning, good afternoon, good evening. This is Thomas Rickert speaking, the GNSO appointed cochair to the CCWG. And I would like to welcome you all to this 82 - 82nd call of the CCWG on Tuesday, February the 2nd, 2016 starting at 6 UTC which is an early hour in my time zone. But I see that for others the time zone is even more unpleasant.

But I hope that we're going to have an interesting and fruitful discussion today. And as usual we would like to start by taking the roll call from the remote participation room. So can I ask those who are on the phone bridge only to speak up so that we can add them to the list?

Jordan Carter: Thomas, it's Jordan Carter here. I'm only on the phone for the next 10 minutes.

Thomas Rickert: Thanks very much, Jordan. We will add you to the list. There was someone else?

((Crosstalk))

Seun Ojedeji: (Unintelligible) on audio only, thank you.

Thomas Rickert: So that was Seun, if I'm correct. And there was a third person.

Sebastien Bachollet: Yes, it's Sebastien Bachollet on the audio bridge. Thank you.

Thomas Rickert: Thank you very much, Sebastien. Anyone else? That doesn't seem to be the case. Do we have any updates to statements of interest? That doesn't seem to be the case as well. That allows us to move to the second agenda item which is the third reading on Recommendation 11.

And the plan for this meeting was -- there was quite some discussion surrounding it to take the discussion on this recommendation to a poll or a vote, there was a discussion even on the terminology to be used. As you know, according to our charter when we have reached the stage where our group is not able to find consensus easily the cochairs have the option to ask for a poll amongst the members that are being devoted to this group by the chartering organizations.

We have, as cochairs, made clear at the outset of our work that we would try to avoid this in order to be able to maintain an atmosphere where no distinction between participants and members needs to be made. We think that is most inclusive, also we think that it is better for the group and for the outcome of our group to be able to present consensus proposals rather than results that have been reached by means of polling or voting.

There has been considerable debate on the list about this and how we would conduct this type of decision making. So we have prepared for that. But there was also considerable discussion on substance. And you will remember that

when we announced that we would now move to a different form of decision-making we also said that we would not proceed this way or in other words we would change to a different working method if there was sufficient traction for an alternative solution that allowed for the group to switch back to pure consensus building as we did on other matters. And we also have a lot of challenging matters in front of the group before.

So what we've seen in the last couple of days is a lot of discussion surrounding two proposals that have been sent to the list. One of which is a proposal introduced by Kavouss, and that was to discuss a refined threshold required for the board when it makes the decision whether or not to reject GAC consensus. So the proposal was to move to a 60% threshold rather than maintaining the 2/3 threshold that we do have in our third draft report.

And the other proposal was made by Becky Burr. And that was a carve out to provide for a situation where this notion of the GAC being able to take two bites at the apple, I'm paraphrasing here deliberately not using legal language or language of the proposal in order to meet the concerns by those that have indicated that they're chartering organizations might reject the Recommendation 11 proposal if it were the final outcome of the CCWG.

While we also (unintelligible) that not all in this group received the proposed changes to our draft language favorably, we do think that these two proposals have been introduced with good faith and that these have been received well by many in our group. It is not yet predictable whether or not any of these proposals or a combination thereof will make it to the consensus level. But after careful and lengthy deliberations in the leadership team we have concluded a few hours back that we should give these suggestions a chance to get further traction and possibly lead to a consensus suggestion by this group.

There will be limited time to achieve that so it is our suggestion that we start a debate on those alternative suggestions during this call today. We have allocated roughly 30 minutes for that discussion and then we will likely need to handover the work on this to those who are interested in this topic to conduct a dedicated special call merely focusing on this very subject next week to see whether it can be further fleshed out and then we would bring this back to the plenary during our next call.

The reason why we are moving away from voting at this stage is that we have seen signals on the list -- encouraging signals from those who have been quite firm in their rejection of the current text. And those have indicated sympathy for alternative suggestions. May it be the 60% solution which has been -- which has become known in the trade as the Kavouss proposal or the carve out language suggested by Becky, or a combination thereof.

So with that I would like to give the opportunity to the group to speak to the procedural approach that we are suggesting to the group. And after that, you know, we shouldn't talk process for too long but nonetheless we should allow for feedback from the group on that, but we were really keep that brief and then moved to the substantive discussion. Kavouss, your hand is raised.

Kavouss Arasteh: Good morning or good time to everybody. Do you hear me please?

Thomas Rickert: Yes.

Kavouss Arasteh: I am speaking not to support my proposal, I am speaking on Becky's proposal that from the substance is a very good proposal. But, it simply said that GAC advice, instead of going to the board (unintelligible) GNSO. This I think is a textual change. Is a change of the structure and format and process. It is a new for the entire community. All of our proposal has been subject to three public

comments. This one is the first time irrespective the value of the proposal of the substance. Procedurally we might have difficulty that we all of a sudden change from one concept to other concept. The proposal of 60%, forget about me, is simple because the 2/3 what was objected, 50% was also objected by others. It has always been a proverb, make or divide the apple by two.

So that is the situation. Does not require any procedure. It is a mathematic or arithmetic calculation. That is what I'm suggesting that at this stage it may be difficult because we don't know the legal consequences of all these changes. They have to wait for the board whether board has a difficulty. We have to wait for the GAC whether the GAC has difficulty that now its proposal going to the GNSO before going to the board. Sorry, I want to limit myself to the five minutes that I have proposed for the third intervention. And I finish and I thank you very much.

Thomas Rickert: Thank you very much, Kavouss, for these explanations. Let me first put on record that there has been no objections to our suggested way forward. In fact, there has been some support and sympathy for us not taking a decision on this important aspect of our set of recommendations today so...

((Crosstalk))

Thomas Rickert: ...let us - Seun, you'll be put into the - you will get to speak in a moment. So I would just like to note that there was no objection to our suggested way forward. In terms of substance -- and Kavouss, let me just put on record as well the idea of a carve out with respect to a particular part of the community is not unprecedented in our work. But I will let others comment on your suggestion. It would be my proposal that we speak to the 60% proposal first, see whether individuals on this call do think that the 60% proposal introduced

by Kavouss could bridge the gap between those that have previously objected to the recommendation and whether we could get their buy-in.

There was feedback on the list suggesting that the 60% might not remove the concerns expressed with respect to the combination of Recommendations 1, 10 and 11. But let's hear others on that point and after that I would like to ask Becky to explain both her proposal with the carve out as well as the rationale for it so that we can all better understand what the implications are.

I heard - Seun, I think you wanted to get in the queue so this would be your time.

Seun Ojedeji: Hello, can you hear me?

Thomas Rickert: Yes, Seun. Please go ahead.

Seun Ojedeji: Okay. Yeah, thank you. Thank you very much. I just wanted to make comment about the timeline. I think you just mentioned that the group will be (unintelligible) to discuss this particular issue and then come back next week or something. I hope this is not going to take too much time. I think this should be closed as soon as possible. And if there can't be good progress in this current (unintelligible) I don't see a need to (unintelligible) special group again for this.

In view of the timeline and the fact that even if it is going to happen for this transition to the - for the CCWG (unintelligible) I think the proposal to (unintelligible) in this month. So prolonging this to next week and then it good coming back to the mailing list we see the same possible disagreements. I don't think it's (unintelligible). So in view of that I think it would be good to

try to fashion out the compromise solution within the larger group as soon as possible.

And to your question on the 60%, my own individual view I think it's a compromise that should be accepted. Thank you.

Thomas Rickert: Thanks very much, Seun. Before moving back to Kavouss let me be perfectly clear, we are offering to the group to find compromise by other means than through voting because we think that the group really wants to have this evolutionary process and come to consensus. Let's not mistake that as a suggestion to give more time to the group in terms of days or week to close this. So we are going to give more time for deliberation on this topic with an extra call or multiple extra calls. But we stand by the overall suggested timeframe that Mathieu will speak to later during this call.

So there is still a sense of urgency. We need to crunch as Keith said, in order to make this happen. We think the hope of consensus justifies that we give this an extra opportunity but we do not plan to expand the time - span to get our report finalized because of that.

And I think that you should all take this as an opportunity to reach compromise but also as an encouragement not to rehearse arguments that have previously been made but to actually move out of corners that you might have been in before using the analogy that Robin has been using in the chat a while ago and work constructively on ways forward rather than looking at the positions that are already known for quite some time.

So thank you for that. Kavouss, your hand is now lowered. Did you want to speak?

Kavouss Arasteh: No, I give this to the others. I have spoken once. Thank you.

Thomas Rickert: Thank you very much, Kavouss. Let me ask whether there are further comments on the proposal introduced by Kavouss. I would be particularly interested in expressions of support for this as a standalone solution to bridging the gap between the different views. And also I would like to hear objections from those who think that even a lowering of the threshold might not be sufficient in order to make their chartering organizations approve the recommendation.

So let me refresh your memory on the note sent to the list by Becky who said that she thinks that 60% alone might not do the trick. But let's please hear more views on that. We need to know whether 60%, which is obviously the simplest alternative solution that we have has a chance of succeeding or whether we need to move on to another proposal that might have reconciled the differences. James.

James Bladel: Thanks, Thomas. James speaking. And just wanted to weigh in from the perspective of registrars, who I've been - who have been having some discussions relative to the 2/3 threshold. The 60% threshold I think was intriguing to some registrars. And I think that if we had more time that we could perhaps discuss it a bit further and I could maybe see that approach gaining traction.

So I am encouraged by the potential to have more time. I don't want to presume that it will ultimately lead to registrars and then perhaps, you know, the broader GNSO softening its opposition to the threshold or becoming the compromise that we want it to be. But I think it's a step in the right direction and more time will definitely help. Thank you.

Thomas Rickert: Thank you very much, Malcolm.

Malcolm Hutty: Thank you, Thomas. We need a compromise that addresses the reasons why people are concerned. One of the problems with that 2/3 rule is this notion of two bites at the cherry. And Becky's proposal attempts to address that. But one of the problems -- one of the other problems with this 2/3 rule is the sense that it creates a presumption that the board must follow GAC advice except in extraordinary circumstances and doesn't treat evenhandedly.

And neither does 60% nor Becky's proposal directly address that. So I think the next or week we could come up with some language that would seek to compromise on that point and to clarify that point so I welcome the week and hope that we can build a compromise that everyone can live with.

Thomas Rickert: Malcolm, let me ask a follow-up question. Do you have concrete language capturing the spirit or the idea of that proposal that you mentioned?

Malcolm Hutty: The problem or the solution?

Thomas Rickert: A solution. So I would like to add to the note a suggested component that you're offering to resolve this.

Malcolm Hutty: Okay. Looking for language that affirms that the change in the super majority does not create the presumption that the board ought to accept GAC advice in all except extraordinary circumstances.

Thomas Rickert: Thank you very much, Malcolm.

Malcolm Hutty: Thank you.

Thomas Rickert: Eberhard's hand is up. Eberhard.

Eberhard Lisse: Can you hear me?

Thomas Rickert: Yes we can hear you all right.

Eberhard Lisse: Okay. Good morning, everybody. As I've written in the chat I can - I will object to anything that has 2/3, 60% is fine; 60% plus Becky's proposal is even better. And I do not agree with what Malcolm just said. The GAC most certainly has I think a right to expect the board to, in principle, follow its consensus advice and rejections must be the first a step must be taken to reconcile and then rejection can be by whatever thresholds we decide, 60% would be fine with me.

Thomas Rickert: Thank you very much, Eberhard. I think we need to get further clarity on the Malcolm suggestion. I did not hear Malcolm stating that we would deviate from the current practice whereby it is the ultimate or the board's ultimate decision to adhere to or to reject GAC advice. Malcolm, would you like to speak to that and explain more because I think we need to be - we need to ensure that there is no misunderstanding of the suggested component of the solution that you're offering.

Malcolm Hutty: At the moment, the board's responsibility is to consider all the advice that it receives, to consider all the input from all parts of the community and to determine the position. I'm simply seeking to ensure that we continue that the board continues to have a duty to consider all input rather than a presumption that the GAC advice must be followed in almost all circumstances. So I'm

simply seeking to continue the current criteria by which the board evaluates GAC advice and for that matter everybody else's advice.

Thomas Rickert: Okay, thank you very much Malcolm. Any further comments on the 60% proposal? Eberhard.

Eberhard Lisse: I just posted this in the chat, can we be precise on the language? GAC advice is only special if it is consensus advice.

Thomas Rickert: I guess that would depend on your definition of special but what we have now is the GAC can issue advice whether there is consensus in the GAC or not to the ICANN Board so there is no threshold for advice to be allowed for. But we are discussing the board's reaction to GAC advice. And only if there is GAC consensus advice to the board then the formal process of discussing a mutually acceptable solution is triggered and ultimately the GAC's advice can be rejected with a threshold inside the board that we're currently discussing.

So the only -- and I guess you mean special advice by GAC consensus advice would trigger this process. Does that answer the question, Eberhard?

Eberhard Lisse: I was just - it wasn't a question. You just used five sentences to explain my one word but I think we are in agreement.

Thomas Rickert: Let's put that on record that we are in agreement on this one. Thank you so much, Eberhard. So with that there don't seem to be more comments on the 60% suggestion. We have heard and read some concerns that in isolation 60% might not resolve the issue but that it is perceived as a step forward or a part of a potential solution.

Let's now move to the Becky proposal. And I would like to invite Becky to speak to this briefly so that everyone is on the same page with respect to the rationale and the consequences thereof.

Becky Burr: Thank you, Thomas. So first of all I just want to say that point of my proposal is really to try to address the issues that people cite when they are talking about the combination of Recommendation 1, 10 and 11. And actually doesn't really involve any changes to Recommendation 11 itself.

But the notion is that, you know, that when there is a discussion about an exercise of the community power that is designed to challenge the board's implementation of GAC advice since the GAC would have, you know, whether it's 66% or 60%, you know, since GAC advice would be subject to this extraordinary, you know, higher rejection requirement that in order to avoid, you know, in order to really permit the community to ensure that there are challenges to board implementation that exceeds the mission or violates the bylaws that GAC would not participate in a decision-making we into decision to escalate and challenge the GAC advice in that manner.

So obviously the GAC would continue to participate as a discussant provided by whatever. But to the extent that the GAC thought a decision-making role it would not exercise that in the context of a community decision to use a community power to challenge the board implementation of GAC advice. So that would mean that we would need to adjust the threshold to ensure, you know, to ensure that each of the issues were properly addressed. I think in the case of the IRP where I think this comes up most clearly, you know, the GAC would not count as one of the - no more than two SOs or ACs objecting to the exercise of a community power.

But as I said, I want to make sure that everybody understands this really comment it does not actually take the language of Recommendation 11 but it addresses the sort of combination of authority or extra consideration change of a status that you get when you combine Recommendation 1, 10, 11 and the GAC acting in a decision-making role.

Thomas Rickert: Thanks very much, Becky. Are there any questions for Becky on this? Okay so we can assume that Becky's proposal is well understood. Let me now ask those who think that the Becky proposal could do the trick and those who think that it is not sufficient to speak up so that we can either proceed with this proposal standalone or discuss variations thereof. Kavouss.

Kavouss Arasteh: I'm sorry, once again, this is a complex proposal. It may be good proposal to resolve not only Recommendation 1 but also Recommendation 11 both together. But it must be discussed whether in a full group or in another group. We cannot decide on this. It is not asking for our 60%. It is a complex, we have to see whether required any special changes, whether requires any process changes and so on, so forth. So we need to discuss that. Thank you.

Thomas Rickert: Thanks very much, Kavouss. Any further comments on this? So there are hands raising and Jorge from the Swiss government has suggested to close this today. I would be interested in hearing from you, Jorge, on the basis of what proposed alternative you think we can close today. If so, I'm all for it but it is my understanding that the individuals on this group need to take back the suggested variations or additional suggestions to their respective groups.

And I think one thing we all need to take to heart and that is that once we've been working on and agree on the revised version of Recommendation 11 that needs to be it. So we can't afford to have an additional feedback loop after we have reached consensus on this one. Brett.

Brett Schaefer: Thank you, Mathieu. Can you hear me?

Thomas Rickert: Yes, I can hear you.

((Crosstalk))

Brett Schaefer: Okay, good. I just wanted to say I'm not exactly certain about the details of Becky's proposal. I'd like to see them developed and laid out in text (unintelligible) next week or so as many people have suggested in the chat. However, I will say that I do think this is the only reasonable way forward to address all of the concerns that have been raised by a number of people in regards to the interplay between Recommendation 1 and Recommendation 11.

And I think that this is a very positive development both where this ends up but I do think that this is the most likely path to a resolution if there is to be one. Thanks.

Thomas Rickert: thank you very much, Brett. And thanks for indicating that there is room for compromise. That's excellent. Andrew.

Andrew Sullivan: Thank you. I don't - well okay let me put this another way. For official purposes I don't have an opinion about how to do this because I don't, you know, I'm not a member, I don't have a vote or anything like that. But I'm trying to understand which direction this is going. I just - Kavouss suggesting that Becky's proposal needs to be completely laid out and we need to discuss it and so on.

We initially were talking about the next few days for a decision in a week and people keep drifting across that threshold into -- to discuss it over the next

week. And I'm trying to understand how this decision comes to an end. I really think it's important, and I think it's valuable, that people want to look towards a compromise and a consensus position that everybody can embrace. I really, you know, I congratulate everybody for being willing to do that.

But I'm also looking at the calendar and so I'm trying to understand whether for instance what Kavouss is saying is that we need to discuss this over and along period and have three readings and all the rest of it because if that's what the option is then Becky's proposal is off the table. We don't have the time to do it. And I just want -- I would like some firm guidance to come out of this called on exactly how this is going to proceed and when the drop-dead position is on closing this and just working with the members because we don't have any more time. Thank you.

Thomas Rickert: Thanks very much Andrew. And I sympathize with that request for clarity. There are more individuals adding themselves to the queue which I would like to close after Eberhard. But our suggested way forward is, as previously stated, we are not going to extend the time spent towards finalizing our supplemental report with this.

So we will host dedicated meetings for a sub team and the sub team can be the same size as this plenary group. We will offer to host a meeting on Thursday and another meeting on Monday whether it's needed or not we can then determine. And deadline for submission of an alternative proposal or potentially reaches group consensus needs to be submitted by 2359 UTC on Monday. And in the absence of a viable proposal on the table we will then go back to voting.

Suzanne.

Suzanne Radell: Thank you, Thomas. And I don't mean to take too much time. I hope, can I be heard?

Thomas Rickert: Yes we can hear you.

Suzanne Radell: Thank you so much. I just wanted to clarify, I've gotten some guidance from GAC colleagues earlier today and I just wanted to share that. I think I'm in the same boat as Alice and Par. We feel obliged to just indicate today, and I think you've taken the poll off the table today, which is very helpful to us, that to date we have no GAC position other than the January 25 comments.

So very heartened by the ideas that are circulating and some proposals to look at for a compromise solution but then I'm not in a position as an official GAC representative to share a GAC view at the moment. So I just wanted to put that marker down but certainly also wanted to support the ideas, the very constructive ideas that are now in circulation. Thank you.

Thomas Rickert: Thanks very much, Suzanne. Izumi. Izumi. Izumi, if you are speaking we can't hear you. So I understand that there is an audio issue with Izumi. Eberhard has lowered his hand so, Eberhard, if that was deliberate then everything is okay. If you wanted to speak give me an indication and you'll get in the queue. And while Izumi is trying to get on the audio let me just clarify that we are not establishing another sub team.

You know, when I said that this is a sub group call then it's rather a single-purpose call or a one topic call that we're having to allow for those that want to discuss this to meet and further flesh out a solution. So there is no new group being formed, it's just a forum for discussing this very topic.

Izumi, I suggest that we get back to you once your audio is fixed. And I hope that everybody has taken good note of the proposed way forward, two meetings, Thursday and Monday. Submission deadline for a consensus proposal, 2359 on next Monday, UTC that is.

Great, and with that I think we can move to the next agenda item and that's going to be chaired by Mathieu.

Mathieu Weill: Thank you very much, Thomas. This is Mathieu Weill, the ccNSO-appointed cochair of the CCWG. And we are moving on with our agenda which is filled with items that we are trying to close as we proceed towards a supplemental draft. And the first set of items was related to the CWG Stewardship feedback. We have already discussed ways to refine the budget process as well as address the concerns raised by CWG, the separation process especially the separation process as well as the scope of the IRP and the issue raised by Avri about the PTI and how the PTI decisions would be in the scope of the IRP.

So this has led to some proposals back and forth with the CWG. And I think we can -- I don't know if we got a summary of these ready. And I see Grace, Grace you are volunteering for a quick summary of the CWG discussions on that? Or was that for something else?

Grace Abuhamad: That was for something else, Mathieu, for the AOB.

Mathieu Weill: So it's our understanding that regarding the budget we have cleared the discussion through a subgroup, Jonathan Zuck, Jordan Carter and Chuck Gomes on insuring that the timing issues we are taking into account for the IANA budget. And there is going to be a requirement that we keep cooperating in implementation with the CWG as they draft the process for the IANA budget collaboration and approval.

So that was something that apparently was consistent. It was not a structural change of any kind. The separation process I think was not a contentious one. And on the IRP and PTI, two options were being considered. One was to ensure that the bylaws of ICANN would mention that PTI -- or that ICANN is also responsible for ensuring PTI complies with its own bylaws.

And the second option was to elaborate a little bit of specific standards of review that are related to the PTI processes so that an affected party can use the IRP as an appeal mechanism in case if that PTI does not follow the rules as described with the CWG. And on that aspect as well we would have some form of checkpoints to organize with the CWG during implementation phase to ensure we are still in line.

So basically our assessment was that we would address this with the checkpoints in implementation. And I'm not sure whether we have the CWG cochairs -- I'm seeing Jonathan in the room and Lise, and if you want, Jonathan, and Lise, to comment on this short summary or add something at this point?

Unless there's any concern on this I think what we - our next steps will be sending out the final version of these recommendations to lawyers as well as the group for final confirmation and closing them in the next few days as we are closing our other items one by one this Tuesday.

Any concern about this approach? I'm seeing none. So I think it's a good step to report that we are now clear on all the CWG concerns and the CWG dependency and that's -- I want to thank Lise, Jonathan and all the CWG members who got involved in this discussion further activity and the ability to find constructive solutions to the interactions of our group.

And I'm now moving to the next agenda item which is that AOC review, that's Recommendation number 9. And I will turn to Steve DelBianco for a quick update of the discussion so far. We left this last week with a proposal to get back to the board, there's been a back-and-forth exchange so Steve, can you please summarize for us that type of discussion to close that we have to make today. Thank you.

Steve DelBianco: Glad to, Mathieu. Steve DeBianco here. And it would be I think better if staff were able to display in the Adobe - okay, you've got Recommendation 9 there, that's great. What we're trying to discuss here is on second reading for Annex 9, and that's the AOC reviews, which are being brought into the bylaws as a result of Stress Test 14. The second reading for this was distributed to the list on the 27th of January and that's what you're looking at now in Adobe.

On Pages 1-3 of that document we show our reply to concerns that the board raised in an email that the board sent to the CCWG on 26 January. And the board's concerns related specifically to the review team size and composition, to the working method we had recommended in the proposal and to the timing of the reviews.

Now Annex 9 has size and composition. The document you have in Adobe, in Paragraph 54 if any of you need to refresh your memory on it. And the working methods were in Paragraph 57. So we are really only talking about a couple of areas in there. And the timing of reviews, well that's in each of the four individual AOC required reviews. And the timing in each case is the same.

We had recommended in the CCWG that the timing of review be no less frequently than every five years so you couldn't go more than five years

between say ATRT reviews for reviews of SSR, security, stability and resiliency, but you could do it more frequently if the case was needed.

Now on 1 February, yesterday, Rinalia, from the board of directors, replied to our reply in email. And I think to make life easier for you I'll put the link to that board email into the chat if anybody wanted to refresh their memory on Rinalia's board reply. I've put the hyper-mail link in the chat.

And what it consists of is a different color, blue, where the board replied to the replied that we had given back to the board. And frankly, this exchange between the board and the CCWG suggests that we are really talking past each other on this topic because we had replied specifically the CCWG wasn't proposing, just to give you an example, we're not proposing fixed size of the review team, our recommendation, it said up to 21 members of the review team. And that's not a fixed size, it's a maximum size.

While the board came back once again yesterday and said well, we don't recommend specifying a fixed number. So that's why I feel as if we are talking past each other a little bit. One other example, we replied that we are recommending the review to occur at least every five years and that leaves flexibility. And then we noted that the AOC required the reviews at least three years, not every five. So we created some room in there to relax the review schedule that we've been on since the AOC was signed.

But in the board's February 1 reply the board said there should be flexibility and predictability but would not support any minimum frequency for the reviews. So that's what I mean by talking past each other. We will do a reply and the board is coming back with basically restating their original concern. And I don't think it would be productive for us on this call to do another round of replies to the board, a reply to the board's reply of our reply.

Instead, I'd love to put a question to you all tonight. Let's look at what the board is really asking for and determine if the CCWG participants tonight are willing to accept. Now the board and staff want to compile and maintain what they call operational standards for the review team size, the review team composition, the working methods and the timing of reviews and not have those parameters be reflected in the bylaws at all. And that would mean that Paragraph 54, 57 and the timing sentences, just really three paragraphs, would have to be taken from the bylaws and left to the determination of operational standards.

Now the board is suggesting that the operational standards would reflect the lessons learned and would be more easily updated compared to changing a standard bylaw. And the CCWG had made recommendations that these parameters be standard bylaws.

So as an example, the board notes that it and staff are in the process of compiling operational standards for organizational or structural reviews that are already required in the bylaws. And many of you know, you've been through this required review of the GNSO, ALAC, ccNSO, those structural reviews are undergoing an operational standard. We just haven't seen it yet.

Now the board proposes adding that operational standard for organizational reviews also be used for the AOC reviews. I just will note that the organization reviews are reviews of ICANN's internal ACs and SOs. And they are managed by the board and staff to select an outside expert, a consulting firm usually, to do the review.

Now on the other hand, I want to give you a contrast. The AOC reviews are reviews of ICANN, including the Corporation's performance. And those

reviews in the AOC are managed by the community. So the board and staff -- is it really appropriate for the board and staff to maintain operational standards for a review of ICANN's board and staff?

So here's the question, we want CCWG to consider taking the parameters on timing and size and composition to working methods, taking them out of our recommended bylaws and instead let them become operational standards and determined by ICANN. And to do that I would ask the board members on the call to try to help us understand more about operational standards because we are not familiar with it within the context of ICANN and certainly not within the context of ICANN reviews.

For instance, three quick questions, and I'll paste them into the chat. With the community have input on developing and improving the initial operational standards? Would the CCWG proposal, as written in Annex 9, would they become the starting point for the operational standards? And the key question, what would be the process for revising and approving changes to operational standards later on?

So I'll paste those questions into the chat. And hope the board members can speak to those to give us all a better understanding on your desire to move these things from bylaws to operational standards. Thank you. Back to you, Mathieu.

Mathieu Weill: Thank you very much, Steve. And indeed I don't know, I think - I haven't seen Rinalia in the room - in the AC room at least. But I think before turning to Alan I would just like to check from the board whether there is any - okay Sam is stating that the board had a conflict and no board members could attend this meeting. We can take back the request for clarification.

This is too late for that. This is at least our third reading. I am - I think we need to make a - to define a way forward. And I'm actually very puzzled by the fact that we are still going into lengthy detailed discussions on basically implementation questions at this late stage after three public comments on the incorporation of the Affirmation of Commitments.

So I would - we still have so much to do. We don't have to actually add to our workload in the very short timeframe a discussion that does not seem to me to be creating in all issues with the overall community. But I'd like to hear Alan and the Jordan first. Alan.

Alan Greenberg: Thank you very much. Sam's comment notwithstanding, Bruce I think still is a board member and he is on this call so you might want to defer to him. A couple of very quick comments, and I won't spend a lot of time. Steve made the -- I think says something about the AOC reviews are managed by the community as opposed to an external consultant brought in. Last time I checked, they're not managed by the community, they're conducted by the community but that's a very different thing.

I tended to support the board's recommendations. The periodic reviews that we right now have for ACs and SOs are described in the bylaws in three paragraphs, the rest is implementation. I honestly believe that we should be doing something similar with the AOC review. We should mandate them and the details should not be cast in bylaws so that to change them requires, you know, perhaps unmanageable things that have to be done.

So I understand it's late now but I do support the concept that the details of how the reviews are handled and the details of how the people are selected, not be cast in concrete in the bylaws. Thank you.

Mathieu Weill: Thank you, Alan. I would say that (unintelligible) of the board concerns was actually taken into account. And we have definitely made a reference to a number of implementation and operational standards in the recommendation right now. It's only a limited number of items that would be put into the bylaws and not the full operational details. Jordan, you're next.

Jordan Carter: Thanks, Mathieu. Can you hear me?

Mathieu Weill: Yes, very well.

Jordan Carter: Great. Thanks. Hi everyone. It's Jordan here, dotNZ, Work Party 1 rapporteur. I generally support the bylaws being as friendly as possible and as little detail as required there and the - filling out the detail of how we will operate being done in various other documents. But we are seeing them at past midnight in this process. We have run out of time and we've put up numerous drafts of this proposal where we've made a key commitment being that we'll translate the AOC, including the reviews that are set out in it, into the bylaws.

And the issue that I've got now is that there is - it just doesn't matter in substance whether these are in the bylaws or not. As we all know, these aren't going to be fundamental bylaws in our proposal. We can change these details if required. And the board can put up bylaws amendments if required. But only the bare basics of this, and a very permissive and sensible way are being put in. The guarantee there'll be wide community participation and that guarantee that their views will at least happen every half decade, which as we all know, in Internet time, is quite a long time.

So the idea that we would say, at this late point, after three drafts that said something else, oh by the way, these core reviews of accountability and transparency, no we're not going to put them in the bylaws, we'll put them in

operational policy documents that could be changed by the body that's being reviewed, just doesn't seem to me to be sustainable. Even though intellectually I think that's probably where they belong, I just think this is another change, another complexity, another last minute diversion that we shouldn't go down.

And the fact that none of the board members would come on this call to explain that is a scheduling fault that cannot be rectified and is unfortunate. But even if they were speaking for it, my view is firmly that adding another change like this will just make it harder to get this proposal through congress, harder to explain to our SOs and ACs why we've changed yet another thing at this point, and I think we should just go with where we were in the third draft proposal.

We're not trying to add extra changes and have a glorious sort of massive rewrite at this point. And no one has convinced me that we should change this. Thank you.

Mathieu Weill: Thank you, Jordan. And just to make clear, before turning back to Steve, and maybe you're going to make the same point, Steve, we are not making all the operational details in the bylaws. We are only putting some key requirements such as maximum size of the team, frequency of the reviews in the bylaws. And that's a standard bylaws that the board can change if they want to subject to potential community veto with the thresholds that we know.

And the rest we have totally taken into account the board comments that were suggesting that aims about the operational details. Steve.

Steve DelBianco: Thanks, Mathieu. You're right, I was going to recap how limited the number of paragraphs are in our recommendation for team size composition,

frequency and a working method. And I think that Jordan is right, we do have to keep in mind that the reviews themselves include reviews of the board and staff so I wouldn't call it a conflict of interest but they are certainly a concern that the board and staff not be able to unilaterally change the operational standard for reviews that are conducted by the community that involve the corporation itself.

I think that in the chat Sam, speaking for ICANN legal, had a good point. They may start with our recommendations on these operational standards that there would need to be away for the community to have input if not approval. And we would look forward to detail on that.

And then finally, the board did note in public comments that wanted to provide operational standards. That's been on the table for several weeks and was even noted in our third draft. So operational standards, the way we understood it was going to be the actual operational details on how review teams would conduct their business, how they'd interact with the experts, whether participants and observers and members would be available on review teams. Items like that, which were not in our proposal, we assumed would be operational standards and we would look forward to staff giving us a publication of that eventually through implementation.

But it's really only since Rinalia sent us the board's note yesterday that I think the board has made it abundantly clear that even the paragraph on timing and composition shouldn't, in their opinion, even be in the bylaws at all, that those should be completely left to operational standards. And I'll confess, this is the first time I'd realized that that's what the board is asking for since the board had been giving us email replies indicating they didn't think that it should be a fixed number of the team. Well, we kept replying we don't have a fixed number, we just have a maximum and the number is allowed to be lower.

But now we know that the board wishes to move everything in those categories to operational standards. And that begs the question of what is an operational standard in the ICANN context? How is it created? And how is it reviewed? If the board wants to provide more detail on that that might be a way forward on this but I don't think we have to suggest that it's all very last-minute since the board has asked for this angle for several weeks, it just hadn't revealed the degree to which they wanted to move things out of our proposal for the bylaws.

Thanks, Mathieu.

Mathieu Weill: Thank you, Steve. Avri and then we'll conclude. Avri.

Avri Doria: Thank you. Avri speaking. I just wanted to add my voice to this to say that we should leave them as they are in the bylaws. We have to remember what we are doing here, we are replacing the AOC. The AOC has no change or no change procedure. It is indeed something that's in concrete. We are moving into the bylaws, bylaws that are mutable. I think that in principle one can agree that bylaws should be minimal and things should be moved into operational procedures.

I think that we could spend the next couple of years working out those operational procedures. And when that is done, when it's been done with the community and it's gone through all its cycles, we could certainly point the bylaws, I mean, get the bylaws altered to point to those. We have certainly done that in other cases. We did that in the GNSO where at one time all the details of PDPs were in the bylaws. And then once we had worked out a separate set of guidelines and procedures, operating procedures, the bylaws were changed to refer to those.

So while in principle it's a good idea, it's not something that needs to be done now. We need to remember that what we are doing is in order to cancel the AOC with bilateral agreements we are putting these in our bylaws. So we are taking them from concrete to something very solid but mutable. At the moment they're suitable but they're not mutable. Thanks.

Mathieu Weill: Thank you very much, Avri. Kavouss, I had closed the queue but it's your first intervention on this topic. I'm sure you will be concise because you're aware of our time constraints. Kavouss.

Kavouss Arasteh: Yes, I will. I think I have (unintelligible) difficulty to see the operational things with changes quickly with the time put into the bylaw. Operational things, I put in the chat, could be published for public comments and so on so forth, but not to the bylaw even the minimum one. We should not tie up the hands of the board, we should not take all maneuvering assets on the board. Thank you.

Mathieu Weill: Thank you, Kavouss. So what I'm taking away from this conversation is first of all there is some form of confusion about what we're trying to do. We are trying to put some key minimal frameworks in the bylaws for the AOC and that's actually giving the board and the community a lot more flexibility than today because it's standard bylaws and standard bylaws can be changed pretty easily as it's actually much more easily than the AOC itself.

And the minimal framework in the bylaws has been our proposal for a while. I haven't heard any significant substantial reason for not putting such thing in the bylaws in our discussion. And so I think the safest way forward is to keep our recommendation as is. I would put an action item for Steve or the cochairs to reach out to Rinalia and have a discussion about it because I think a lot of it

is a bit of a misunderstanding about what we are trying to do and how we've actually taken into account some of the board comments.

And I think with that we will -- we are able to say that our Recommendation 11 can go into final drafting mode and we will address any last-minute things if need be. But I'm confident we won't have to. So staff will finalize drafting and we are going to reach out to Rinalia to ensure we are clearing any misunderstanding.

And with that and turning to Thomas for the next agenda item.

Thomas Rickert: Thank you very much, Mathieu. And we are now going to move to another discussion on the mission. And the document that is going to be brought up in the remote participation room I guess momentarily, this is a multifaceted discussion, as you know. And I would like to hand over to Becky to give us a quick recap on where we are because actually we've made good progress on Recommendation 5 and there are only two items left to be fleshed out and agreed on at this stage. Becky, over to you.

Becky Burr: Thanks. As the document reflects, we have agreed on consumer trust to keep the language of the third draft proposal. With respect to the discussion that we had about the words "where feasible and appropriate" in Core Value 4, where feasible and appropriate depending on market mechanisms for competition purposes. We have agreed to re-insert that text. And at this point it looks like we have general agreement to the extent that there's been discussion about some language in the text of the report.

The current state of the language is listed there. While acknowledging that ICANN (unintelligible) authority on balance the CCWG elected to retain the introductory language to ensure that ICANN continue to have the authority for

example to refer competition related questions regarding the registry services to appropriate authority and as the RCEP program and to establish bottom up policy for allocating top level domains.

So I think we are getting there on that particular language. We're still waiting final input on the language in the mission statement with respect to the numbers work and the root server (unintelligible). I understand we're getting close on that.

We continue to have an open discussion about how issues regarding the scope of ICANN's agreements with contracted parties are dealt with in the bylaws. Currently we have language that specifies that ICANN shall not impose regulations on services that use the Internet's unique identifiers for that content that such services carry or provide along with language that says ICANN shall have the ability to negotiate, enter in and enforce agreements with contracted parties in service of its mission.

Our lawyers have advised us that it might be best to have a sort of general statement of principles and defer to interpretation on this approach. The board has suggested that although in concept they agree that ICANN is not a regulator, they would suggest that the lawyer should be instructed to draft language regarding the contract in another part of ICANN bylaws.

And there are serious concerns that have been raised regarding creation of third party beneficiaries for commercial agreements between ICANN and registry operator and registrar. So those contracting and regulatory language are still out there to be discussed.

On grandfathering I'm taking a little bit of liberty to propose in response to our discussion last night - last week - that we provide some language to clarify

that grandfathering - any grandfathering would be for the avoidance of doubt. It should not create any expectation or implication that anything about the existing registrar agreements - accreditation agreements or registry agreements are in fact outside of the scope of mission but related to reserve - resolve all doubt on that question.

And I'm suggesting that we clarify, in response to the questions that the attorneys have asked us, that the grandfather terms and conditions, including PICs, can be renewed until the expiration date of any such contracts following ICANN's approval of a new substitute form of registry agreement or registrar accreditation agreement.

So, you know, all contracts for new gTLDs that haven't been signed yet can be signed up. The existing agreements can be resigned, renewed. And at some point, as ICANN does in the ordinary course, if it replaces the registry agreements or the registrar accreditation agreements, then at that point renewal would not be appropriate.

So that's where we are assuming that we can reach closure on the proposed approach on grandfathering. I think we then are just left with the significant issue regarding whether this regulatory prohibition belongs in a different part of the ICANN bylaws.

Thomas Rickert: Thanks very much, Becky. I suggest that we go through the open items one by one to have a structured discussion on those. I guess the first two points do not need any further discussion by this group. On the third point with respect to board input we have Bruce on the call so I would like to offer an opportunity to Bruce to speak to that. Bruce, would the board like to offer any feedback on Point Number 3?

Okay so Bruce can't speak. Sorry, I had missed that piece of information earlier. Bruce, can you maybe give an indication on where we stand in the chat? Okay so board liaison is still working with RSAC on this. Then is there an expected delivery date for feedback? I think we need to get some clarity on when we can make progress with this. We need to close this.

So for those who are on audio only, Bruce can't speak. And I was asking whether he could update us on a deadline or when we can expect feedback. So I understand Bruce is in a predicament that he needs to discuss new gTLDs at the moment. And he's trying to multitask. Let me say that as we move on in the critical phase of our work that we would very much appreciate at least a heads up if board participation is not possible because it - it's difficult to close if we can't for sure note that there will be no issues with the board.

So let me then put on record picking up a suggestion from Jordan that we will note Monday 2359 as an expected delivery time for the board feedback on this so that we can proceed on the Tuesday call. Thank you very much.

Let's move to the fourth item then. I know that Alan's hand has been raised for a moment. So, Alan, would you like to speak to that point I hope or do you have other...

Alan Greenberg: I'll wait until we get to the market mechanisms item.

Thomas Rickert: Thanks very much. Any comments on the fourth point with respect to contract language? Greg.

Greg Shatan: Thanks. Greg Shatan for the record. And the Item D there about considering concerns about third party beneficiaries, this is the first I've heard of this and a word search in email, which of course is, you know, a crude type of

searching, did not reveal any discussions of this. And I've probably been an insidious reader of emails on our list as anybody, sadly. So I'm not sure what these concerns are or why they're being expressed as being serious as opposed to all of our, you know, other concerns.

In any case I'm not sure, you know, I see the point, you know, if we want to consider them I guess we need to, you know, discuss it. But at this point I'm not sure how that, you know, is, you know, theoretically coming about here and what the concern is so I'm not sure, you know, what we'd do about it in this case.

So but I think if we are going to have a discussion about it it's something we, you know, need to deal with. I mean, I think, you know, freedom of contract is obviously something I'm, you know, all in favor of. I'm not sure I see exactly the nexus between that and language here and the third party beneficiary issue which is a, you know, fairly, you know, technical although not unimportant legal issue.

I don't think - but I don't want to beat a dead horse, it's just something I don't think, you know, it's now sitting here and if we're going to - if it's going to sit here it has to be resolved somehow. I'm just not sure what the resolution is of it. So - or what the concern exactly is. And, you know, happy to discuss it offline with Becky. I'm not even that we disagree about it but it seems if we're going to, you know, raise - if we have open issues here that we're trying not close and this one's sitting here, you know, technically as open issue we have to figure out how to close it.

So, you know, hopefully we're not talking about changing anything from our very, very negotiated language in 4a and b at this point. Thanks.

Thomas Rickert: Thanks, Greg. So I would like to turn to Becky to see whether this is something that we can maybe resolve in the next few minutes. It looks like this needs further discussion on the list. But, Becky, maybe you can briefly speak to that?

Becky Burr: No, I wasn't proposing any change. I was just saying as part of the entire contract - the entire contracting discussion and entire contracting regulatory discussion that that is one of the things that is in the mix with respect to this issue. I am not proposing any language to - any changes to the language in 4b. But I would note that the ICANN board has taken serious exception to having the language in 4b in the mission statement. And so really when it gets right down to it I think the particular issue that is open is where the language in 4b - where that concept goes in the bylaws.

Thomas Rickert: Becky, there is a suggestion from Malcolm in the chat, easy to close. Just include a clause saying that this does not create any rights in those contracts with third parties. Can you comment on that?

Becky Burr: I don't disagree, that is easy to close on that in that way.

Thomas Rickert: So can we then close on that?

Becky Burr: Well I just don't - I mean, I don't - I think that this is part of the - we need to have the conversation about where we put all of this contract language and the language regarding the prohibition on regulation, whether we're accepting the board's proposal or the board's comments on this, which as we discussed at some length, the board felt that - strongly that it was not appropriate to have this level of detailed language expressed in the note, in the bylaws and suggested that there be a more general contracting language in the bylaws and it was on this point that the board said - on the specific of the regulation

language that the board said that its concern could rise to the level of public interest concern.

So, you know, I don't think that we are closed off on how we are responding to the board's concerns on this particular issue. And it is in particular the (unintelligible) language.

Thomas Rickert: Okay, Becky, I think you misspoke at the beginning of our intervention. It is my understanding the board is not against having this in the bylaws, which you suggested, but it is suggesting that we move this out of the mission and have another section in the bylaws related to agreements with contracted parties.

And let me just ask whether there is any objection to doing so. I mean, it might help cleaning up the bylaws, making them more readable. So can we maybe conclude by accepting that suggestion, which is in 4e. Let us now...

Becky Burr: Can I just add...

Thomas Rickert: Sure.

Becky Burr: ...one issue with that is I do think it makes things a little bit complicated to create a new section with the contracting language. So - and the reason I'm going to say that is for the reason that Anne has put into the chat as well, you know, ICANN has - may, you know, in service of its mission enter into contracts, that's, you know, that is language that is important to a number of communities here.

And I think that, you know, what we have sort of balanced out is the ICANN has the ability to negotiate, enter into and enforce agreements with contracting

parties in service of its mission. And on the other side of the balance, the language that ICANN shall not impose regulations on services that use the Internet's unique identifiers.

So I think that we maybe could agree that we want to put this in a different section but we need to keep in mind that ICANN's - that it's pretty clear that this has to be characterized in a way that talks about ICANN's ability to enter into and enforce agreements as part of ICANN's appropriate scope of activities.

Thomas Rickert: Okay thank you for that. It looks like Malcolm and Greg want to continue conversation...

Alan Greenberg: And my hand is up for this section also, Thomas.

Thomas Rickert: For this one? Okay. Let me just explicitly ask those who object to making this formal change on putting this aspect into another part of the bylaws whether there's any issue with that. Can you please use the red tick boxes in the Adobe so that we can...

((Crosstalk))

Malcolm Hutty: Sorry, Thomas, can you please clarify which - you're talking about moving, A or B or both?

Becky Burr: Well I think that that people are talking about moving both.

((Crosstalk))

Malcolm Hutty: No, A was - A is an explicit limitation on the mission so we can't be talking about moving A. B is a...

Becky Burr: I'm sorry, I agree, not A, B - oh, I'm sorry. No I think that what the board has said is move A. I think that what I was saying and I think that Greg is saying this is that A and B are sort of a pair that are intended to balance each other and needs to appear together.

Malcolm Hutty: So that would be argument for not moving them then as opposed to - I think we need to be clear about what the question is (unintelligible).

Thomas Rickert: I suggest that since there seems to be further comments on that let's move to the queue which I'm going to close after Greg, first, and then see whether we can do a straw poll on this. Alan.

Alan Greenberg: Thank you very much. I don't have a particular opinion on whether we move things or not, I don't much care. I am worried, however, that this whole section has been one that's been hanging on for a very long time. We don't seem to be making a lot of progress on it. And, again, like the Recommendation 11, we really need to have closure on it pretty soon.

The board has made some strong statements about what they want to see and don't want to see and where. Our lawyers have said the kind of things we were suggesting are probably not possible. But somehow we need a plan so we come to closure in the next few days. Thank you.

Thomas Rickert: I agree that we need to come to closure and this is our attempt to do so, so let's hear Malcolm now and then Greg.

Malcolm Hutty: Okay. I don't mind whether we move these around. I do believe that they mustn't be moved away. It's clearly intended as an explicit limit on the mission and shouldn't be moved away from the mission. But in terms of resolving this, surely the advice from the lawyers is the correct way forward. They said draft the general principles in the governing documents and accept that there will be a mechanism for interpreting them.

Well we have the general principles; A, B, C, D, E, are our general principles. Aren't we're done?

Thomas Rickert: Thanks, Malcolm. Greg.

Greg Shatan: Thanks. Greg Shatan again. And as the X indicates, I am not in favor of separating B from A; to do so, you know, renders B just kind of a random statement almost goes without saying kind of just sitting there without context. It's really there in context and contrast to A. And so - and I think we've almost closed this in a sense if we just leave A and B as they are they are not perfect. I think it should say that there's a responsibility to enforce agreements, not merely an ability. I'm choking that and some people in my constituency are choking me for choking that back.

You know, this is a balance, maybe finely balanced thing we've got here. And I also agree with Malcolm, this is at the level of general principles. I'm not sure what more - could be more general than this. So I think we close this - closing this down and moving it on - moving on is the best thing we can do. If we reopen it there's all kinds of little threads that can start getting pulled and then we end up losing our sweater and going back to yarn. Thanks.

Thomas Rickert: Thanks very much. Any further comments on Item Number 4? It pretty much looks like the group wishes to leave what we have in 4 as it is. And I would

like to give those who are against keeping as it is to indicate this. So it looks like this group is leaning towards keeping what we have not move this section elsewhere. That would be our result for this discussion.

I note that Alan wanted to speak to the market mechanism issues. Just to be perfectly clear on that one we have concluded the market mechanism discussion that we reintroduced where feasible and appropriate as suggested by Alan.

So Alan is there any further need to comment?

Alan Greenberg: Yes there is. In looking at that and putting forth our arguments for it another problem turned up that I really believe we need to address. It is a very easy one to address.

It is in core value - what is now Core Value 5 on Page 18. Let me scroll to it so I can use the exact words.

Thomas Rickert: Alan before you proceed can we note that this will be the last item that you are going to bring up on this?

Alan Greenberg: As far as I know yes.

Thomas Rickert: We really need to close. To reopen and reopen. You have made a proposal. You have got your wish. The group has accepted this and now I am seeing that we are going back to this and this is an approach that we can't follow through.

Alan Greenberg: Thomas may I have one sentence and you can judge as you wish.

Thomas Rickert: It is not for me to judge. I am just asking for us to stay focused on the process and close matters and not reopen them. But please do introduce your point Alan.

Alan Greenberg: Slide says, introducing and promoting competition and registration domain name where practicable and beneficial in the public interest as identified through bottom up multi-stakeholder policy development process.

The policy development process in terms of the bylaws is only used with respect to the GNSO and ccNSO policy development processes. ICANN regularly does things in this area that are not done through the GNSO and ccNSO.

The African strategy, the Latin American strategy which are building vehicles to generate competition within those areas is a critical part of what ICANN does. I strongly suggest we eliminate the term policy development process.

That is we still keep that it must be done through a bottom up multi-stakeholder process but not a policy development process. So I am recommending eliminating those two words. Thank you.

Thomas Rickert: So I think we need to be perfectly clear on where this is. So you are talking about Page 18 right hand column, Item Number 5 right?

Alan Greenberg: That is correct. I am simply pointing out I believe we made a mistake in adding those words. And ICANN would be in violation of those words on a regular basis if we leave them in. I am simply bringing that to the attention of the CCWG. Thank you.

Thomas Rickert: You can help me out. Which two words would you like to delete there?

Alan Greenberg: Policy development.

Thomas Rickert: So the section according to your suggestion would read, identified through the bottom up multi-stakeholder process.

Alan Greenberg: Should probably be a bottom up multi-stakeholder process but yes.

Thomas Rickert: So I just want to make sure that we are all discussing the same language. So Number 5 would then read, introducing and promoting competition and the registration of domain name where practical and beneficial in the public interest as identified through a bottom up multi-stakeholder process.

So are there any objections to that? There is a queue forming Becky and then to Tijani.

Becky Burr: I just want to say this language that we use, the public interest as identified through the bottom up multi-stakeholder policy development process is language that we worked on quite a bit and also appears in Core Value 2.

So I think I understand what Alan is getting at but I just caution that we - because of concerns about this whole, you know, large concept of, you know, the global public interest we have tethered it in each case to as identified through the multi-stakeholder policy development process. And I at least need to think about deviating from that construction.

Thomas Rickert: Thanks. Tijani.

Tijani Ben Jemaa: Thanks very much Thomas. I would like to support Alan because otherwise ICANN will be violating this text. It is not only about policy development and (unintelligible) GNSO (unintelligible).

Thomas Rickert: Thanks very much Tijani. It looks like some of you need to take a closer look at this and assess the consequences this might have. It is understandable. So my suggestion way forward is that we take note of Alan's proposal that was supported by some.

So there seems to be traction for accepting that. Let's see whether it gets further support in the next 48 hours as we previously suggested to (unintelligible).

If it does we will bring it back to the (unintelligible) for confirmation and if not we have to accept that this one of those suggestions that do not get sufficient traction to change the group's previous suggestion.

So with that I think we should move to the question of grandfathering and I would like to ask whether there are any objections to proceeding as indicated in the summary and presented by Becky.

Becky your hand is conveniently raised. So over to you.

Becky Burr: Sorry that is an old hand except that I will just note that for (unintelligible) has asked us not to use the word grandfathering. So as soon as I figure out what other word to use I will drop into the (unintelligible).

Thomas Rickert: Okay so we might get back to grandparenting then? But that is a point that can maybe be discussed offline. Let me ask again whether there are objections to the proposed approach? However we might call it ultimately.

That doesn't seem to be the case so we would then accept proposed language on Item Number 5 which is currently called grandfathering as our consensus going forward.

So with that I would like to thank Becky for her continued efforts on this and all those that have been working on this. Thanks to the whole group for a good discussion on this point and let's then move to the next agenda item. Over to you Mathieu.

Mathieu Weill: Thank you very much Thomas and actually this is a great progress that we have been making on this item.

And our next agenda item is about timeline communication and where we are. And I would like to start this item by showing in your screens a little bit of the scorecard or tracker and maybe I can turn over to Grace who volunteered earlier to introduce this to the group. Grace?

Grace Abuhamad: Thank you Mathieu. Hi everyone this is Grace from the staff team. What we have put together for you is just a sort of visual overview of where we are at.

This is pulled from the final report page on the Wiki where we have the elaborate page that has something like nine different columns addressing, you know, the document at different stages. The first reading, second reading, sometimes the third reading, et cetera.

And so we took that and just put it into a more visual form for you. And this way you can see where the blue lines reach the sort of the final column that means the document has been finalized. In other cases the documents are at different stages in that process.

And we will be updating this and we can send it to the group at the end of every week for example or as we make more progress maybe every 48 hours or something like that.

For more detail you can go to the final report page on the Wiki. And then I have also - in an email response to Alan's request.

Right before the call I sent around also a table that has sort of the status in words, you know, for you if you need that if that is easier to look at. So those are a few documents that may help you track the work.

Mathieu Weill: Thank you Grace. And I think what this tracker is showing is that we are quickly progressing on finalizing. Because obviously the last few steps here are only a few days in length - long sorry.

And we have today made a number of progress on Recommendation Number 4A, 4C as well as Recommendation 5, Recommendation 7 and Recommendation 9.

So basically what is ahead of us still is in terms of discussion is the discussion about the board removal liability mitigation, the waiver indemnification discussion.

We are still waiting for input from ICANN legal on that. It was on the agenda but we haven't had any input so it had to be pushed forward unfortunately. It is very unfortunate.

We also have Recommendation 11 do I have go back to item now? I am not sure. And basically - that is the extra - the extra summary of where we are.

And apart from that I think most of the key substance based discussions are closed now. Mission is almost closed maybe there is still a bit to refine on Mission as discussed earlier and then it is Recommendation 11. So we are almost there.

And Andrew, no I don't have any indication about expected delivery date from ICANN legal on the indemnification waiver. And it has been requested however so I am sure we will get some very soon now.

So that leads to a point that was raised on the list and we have been aware of expectations from the sheltering organizations now for at least what? For a few days that the community and the chartering organizations need to know when they will get supplemental draft. And how and what time of - timeline is going to be expected for them to discuss it.

We think it is an appropriate time for communication to the community these next steps as well as the statement of progress. So our proposal is to - what we are planning to do is to inform through a co-chair blog post.

And also send this note to the chartering organizations and the recover note that would thank them for the time they have been taking in answering (unintelligible) report comments and also indicate the next steps.

And basically the next steps that we would provide we would provide the update on our work which is here on your screen. And also indicate that we would plan - we are planning to send the supplemental draft in time for proper chartering organization consideration during the (Marakesh) meeting. That would be our proposal.

That means that we need to finalize everything in terms of substance but also finalizing the report, checking with ICANN legal, ensuring we have ICANN board comments include including minor (unintelligible) if need be obviously in time for (Marakesh) consideration.

So in the second half of February so that is only basically two to three weeks from now. And that is the plan that we have at this point.

And I am turning to Kavouss for the first question. Kavouss I cannot hear you.

Kavouss Arasteh: If we are going to discuss the case proposal on sometime do we come back to it from Recommendation 1 or you decline that Recommendation 1 is completed and only discuss Recommendation 11. If that is the case, Becky's proposal would fall. Thank you.

Mathieu Weill: Let's find compromise. That is all I can say. If it is compromised it is compromised. If everyone is in agreement then everyone is in agreement. I think there is no - this is about finding consensus on the overall package of recommendations for Workstream 1.

So any fully new idea would be certainly inappropriate but if there is a minor tweak to be had for one of the finalized recommendation. And if it is minor then it enables us to reach consensus then I think it is for the group to decide. Next is Suzanne.

Suzanne Radell: Thank you Mathieu. Just a quick question for the co-chairs if I could. We in the GAC cover requests from (Jorge Conseulo) pursuant to as the five representatives from the GAC to the CCWG to post very quickly today an update as to what the CCWG is now doing on Recommendation 11.

So could I just get some clarification as to when the text might be posted for review so that we can share with our GAC colleagues? Thank you.

Mathieu Weill: Suzanne I am not sure I understand which text you are referring to? Because my point is I think we concluded and Thomas was sharing at this point. We concluded that we would work on substantial text in a format of a group that would be organized on Thursday. Am I correct Thomas?

I just don't want to misrepresent a conclusion from the earlier point and introduce confusion here.

Thomas Rickert: Thanks Mathieu. I can confirm that the dedicated cause for the deal with Kavouss suggested 60% proposal. Becky suggested carve out language or combinations thereof. These are the options that are currently in front of the group.

Dedicated cause shall produce exact language that could be accepted by (unintelligible).

Malcolm Hutty: Thomas was my suggestion also on the table? This Malcolm.

Thomas Rickert: (Malcom) we have been - I think that there were some rejection on that suggestion but I am happy for you to introduce it during those calls.

Malcolm Hutty: Thank you.

Thomas Rickert: So it is not for me to rule that out.

Mathieu Weill: Thank you. Suzanne if that hasn't cleared your question let's give that (unintelligible) and make sure we can provide the GAC members with the relevant information that they need.

Next is Kavouss.

Kavouss Arasteh: (Unintelligible) the only thing that she can report to the GAC is the issue is under discussion on Thursday. So if people want to come, come on Thursday. When Becky's proposal, my proposal and perhaps some discussion or discussions on Malcolm's proposal.

That is all that Suzanne could report. Nothing else. There is nothing to report to the GAC expect that the issue was deferred for Thursday meeting in a dedicated group. Thank you.

Mathieu Weill: Thank you Kavouss. (Athina)?

Athina Fragkouli: Yes hello can you hear me?

Mathieu Weill: Sure.

Athina Fragkouli: Can you hear me?

Woman: Yes.

Athina Fragkouli: So yes given the time NTIA needs to process our proposal. I would like to suggest that because reconfigure the suggested timeline. And have (unintelligible) before (unintelligible).

I would like to make sure that NTIA has enough time to process the proposal.  
Thank you.

Mathieu Weill: Thank you Athina. Just a follow up question. How would you see a quicker path to approval exactly? Considering the time needed for ASO and AC approval?

And I mean past first round timeline was basically two months or slightly shorter than two months for only ASO and AC to come back with feedback and some of them actually did not fully conclude.

So honestly I am very interested in any option we could have that would bring to faster closure but it seems quite difficult to conceive if the chartering orgs are all in agreement and stay to it we can do it faster let's do it.

But I am not sure that actually possible in terms of the approval steps which will be actually made faster in (Marakesh) than if it was offline or off meeting approval processes. But I am thinking any (unintelligible) on this.

Athina Fragkouli: Yes, no I appreciate very much the work of the group and the work of the co-chair and of course this is a very difficult task and coordination of different participants is very difficult and requires some time.

At the same time I think putting some concrete deadlines to feedback and input from the lawyers, from the board and so on which I see. I mean the chairs are trying to introduce and I think the chairs and the group to stick to this deadline.

And participants should compromise. We cannot all be super happy with the proposal. And of course we should restrain ourselves from opening new issues

and from opening new submissions. I mean we have a proposal and let's stick to it unless there are like big implications.

Yes I mean other than that I understand it is very difficult to, you know, to push things and I really, really appreciate the work all done and all the coordination by the co-chair. Thank you.

Mathieu Weill: Thank you very much Athina and I do appreciate your concerns as well. I think the - one key aspect is that the way we are seeing steps is that (Marakesh) would be the timeline for approval of the recommendation.

But not - which does not mean that there would be a potential discussion about changing them because changing them would launch us into actually unchartered territory.

Because we need to finalize the supplemental draft way before. And if there is any ASO or AC that can provide feedback before (Marakesh) then that is perfectly acceptable. But we need to put that in writing.

Next is Brett. I am seeing Brett on the line sorry.

Brett Schaefer: That is okay. If I could - this is just a sort of a clerical issue. Do we have a time for the call on Thursday? And so we have an outline for exactly whether this going to be full CCWG call or is that going to be a select group. Can you give me some details on what is going to happen with that call? Thank you.

Mathieu Weill: Thank you Brett. So that call is going to be a one topic CCWG call. We do not have a precise timing at this point but we will organize it as soon as one call is finished. I do not know what else I can do on that. Does that answer your question?

Brett Schaefer: It does thank you but my only concern that there is a GNSO meeting going on Thursday and Friday in LA and I want to make sure that the GNSO has a full opportunity to state since it is obviously an issue that is of great concern to them. Thanks.

Mathieu Weill: Thanks that is a good point we were not aware of. Certainly that needs to be - I don't think any (unintelligible) can be accommodated so we need to factor that into our timing and probably reach out to the GNSO to see if there is an flexibility that can be given.

Since this extra delay and extra discussion is very much driven by GNSO concerns. I am sure we can find some way to accommodate the need to expedite closure on Recommendation 11 and the need for including participation from GNSO stakeholders.

So I think we need to make - just like with the board obviously we all have many other things going on. Not even mentioning the day job. So at some point we need to set priorities. So we will reach out to ensure we don't have too much conflict or at least are aware of it. Thank you for mentioning it.

Kavouss?

Kavouss Arasteh: You said that the deadline for the proposal for Recommendation 11 and possibly combination delivered is Monday, midnight. So the (unintelligible) group or group or devoted groups should vote before that.

Why not we maintain the Thursday 12 o'clock UTC to working on this Recommendation 11 and possible Recommendation 1?

Why you said you have to work out the time? The time is already set and why we not use that? Thank you.

Mathieu Weill: I was not aware that this time had been set. But if it is the case I have no - I think we shouldn't discuss time slots during the calls. I am not sure it is the best use can make of everyone's time.

And so we will - we have an action item to come back very quickly with the time and ensure we get - we are included as possible in that.

And I think with that I will close the agenda item regarding the communication and timeline. Thank you Athina for your feedback. We will adjust on according to what I said following your response.

And we will - we encourage you to use the tracker that is currently on (unintelligible) of your respective groups on where we are. And with that I am turning to Thomas for (unintelligible).

Thomas Rickert: Yes this might be a quick one. Let me just check whether there is any (AOV) from you. So that doesn't seem to be the case. And let's at least conclude the call by reminding ourselves that we are at a very critical juncture in our work.

We need to get (unintelligible) a team Rec 11 resolved before Monday's 2359. I think we do have momentum for reaching consensus and let's all capture that moment and ensure that we can't avoid voting on this issue which I think was the preferred option for all of us.

So thanks for a very constructive call. Have a great day or evening or night. And with that we would like to adjourn. Thank you very much. Bye-bye.

Woman: Thanks everyone, bye.

END