ICANN
New gTLD Auction Proceeds CCWG Charter Drafting Team
Thursday, 14 July 2016 at 13:00 UTC

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The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page http://gnso.icann.org/en/group-activities/calendar

Attendees:

ALAC
Alan Greenberg

ASO
None

ccNSO
Will not be participating in the drafting team

GAC
Olga Cavalli

GNSO
Tony Harris
Jonathan Robinson

RSSAC
Brad Verd
Kaveh Ranjbar

SSAC
None

Board
Board Liaisons
Asha Hemrajani

Board appointed staff advisors
Samantha Eisner

Apologies:
Russ Mundy
Erika Mann
Lyman Chapin

ICANN staff:
Marika Konings
Vinciane Koenigsfeld
Lauren Allison
David Tait
Terri Agnew

Operator: The recordings are now started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the New gTLD Auction Proceeds CCWG Charter Drafting Team call held on the 14th of July, 2016.

On the call today we have Jonathan Robinson, Alan Greenberg, Brad Verd, Alan Greenberg. Our Board liaison is Asha Hemrajani. Our Board staff advisor is Samantha Eisner.

We have listed apologies from Russ Mundy and Lyman Chapin. Joining us a little later in the call will be Erika Mann in between flights.

From staff we have Marika Konings, V. Koenigsfeld, David Tait, Lauren Allison and myself, Terri Agnew. I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you, Jonathan.

Jonathan Robinson: Thank you, Terri. Welcome, everyone. And welcome after the Helsinki meeting. And I'm actually hesitating a little, I'm a little concerned about the number of participants we have and how realistic that is to work with such a limited group. So that's something we do need to think about.

There are a few – I think we could certainly talk about some practicalities. I'm a little bit worried about getting into the substance with so few people on the call. The reason is because, A, it's not necessarily representative; and, B, there's a risk that others come back and want to argue counter points. So I'll be guided by any thoughts you have. But I certainly think we can work through the agenda at a high level and discuss process and practicalities. But like I say, I'm concerned about the substance.

So, that's my suggestion to you that we work rather rapidly through this agenda and make sure we're all clear on what the process and practicalities are, communicate that to the group and make sure that the group is aware that there are issues with participation.

I see don't have either Olga or Sylvia, who I think are in the same region of the world. But it doesn't feel to me like it's too late there. And we didn't hear from them. And, Asha, yes, thank you, I note that you have a similar concern about attendance. So let's accept that for what it is and think about what we can do.

So the agenda you will have seen, we want to talk about the feedback in the Helsinki session and how to deal with that. We want to identify the outstanding items that need further consideration, particularly sort of big overarching points and in the agenda we identified this whole issue around statements of interest and conflict of interest. And then talk about a timeline, which towards finalizing the charter and next steps.

Okay so I knew Olga was in Latin America. Where is Sylvia based? Perhaps I wasn't sure, somehow I had…

((Crosstalk))

Alan Greenberg: Sylvia is normally in Australia.

Jonathan Robinson: Oka thanks, Alan. All right so actually there's quite a difference. I somehow had them marked down in my mind on a similar time zone. Anyway, so thanks. So we note that Olga was – we were expecting Olga to participate and Sylvia didn't respond to the Doodle so we were unsure of whether she would participate.

Okay let's move on then to the points about the Helsinki session. Well, I mean, I think I got very positive feedback on that, a lot of people were positive about it. I know immediately prior to the Helsinki session the Board also met and discussed the charter and their views and input. And I don't believe, and maybe, Asha, you can help me here, but I think I've seen some indication at or around Helsinki of the Board's views. But I don't think we've shared t that with the group yet. So we've really got – although we did hear from the Board in the session, so but I think we're due to hear in writing from the Board as to their views on the draft charter.

So we've really got three inputs, if you like. One, those that were recorded during the session in Helsinki. Two, those that were – and that includes Board input. Two, the sort of the Board input that came out of the pre-Helsinki workshop or meetings that the Board held. And, three, any further responses we received by email in the interim.

Our current plan, in my mind, will be to integrate all of those inputs as – in a sort of via public – using the public comments tool and analyze each of those, work through those, form a view on those, and then take some action. But before I got into that in a little more detail, why don't I hand the mic over to you, Asha, and just let me know what your thoughts are as to when we might get that Board input circulated to the group.

Asha Hemrajani: This is Asha. Can you hear me? Hello, can you hear me?

Jonathan Robinson: Hear you fine.

Asha Hemrajani: Okay great. Yes. I just want to say up front that I have a faulty landline so it – you might – suddenly hear a lot of noise and the line might get disconnected so I apologize in advance. It's already – I've already raised this to the telephone company.

Okay so the – coming back to your point, Jonathan, so as you mentioned you mentioned some of the things I was going to say, that there are three sorts of inputs. One was the written – we met with the Board on the Sunday before the Tuesday session. Oh no, pardon me, the Saturday before the Tuesday session. And we gathered – Erika and myself – we gathered a lot of the inputs and we summarized everything and we have sent that to you and you have seen that, is that correct, Jonathan?

Jonathan Robinson: Yes, I've seen privately, Asha, but I don't think it's been shared with the group, that's the issue.

Asha Hemrajani: Oh okay. Okay, okay. So I mean, that's what we would like to, I mean, that's the point I guess. Then we have no issues with that being shared with the group so in fact we think it should be shared with the group so we just wanted to ask you how you want to do that best.

Jonathan Robinson: Okay great. Well, look, I suggest that that is shared as soon as possible. And I think it should just come from you, you just post that feedback to the group, it'd be great for that to go ahead, that's my perspective.

Asha Hemrajani: Oh okay, understood, okay. So we weren't quite clear about what you meant. Okay so if that's what you feel that we should send it then we can send that to the group.

Jonathan Robinson: Asha, let me make it very clear. The Board provided two forms of input that I saw. One, a note that had – that covered the sort of deliberations and the key points. And the other was the integration of that into the charter. As I

said privately, my view is that integrating those comments into the charter is premature. I think it would be useful to share the thoughts of the Board so that the group could discuss these as part of its work in dealing with all of the comments in the round. And I think that would be most effective rather than attempting to integrate those into the charter right away.

Asha Hemrajani: Yes, what you're talking about is simply sending the document that we – that the document that we put together and sending it to the group. That's all we're talking about at this stage.

Jonathan Robinson: I think so. I think that would be helpful and…

((Crosstalk))

Jonathan Robinson: Thanks.

Asha Hemrajani: Okay.

Jonathan Robinson: Continue, Asha, if you'd like to.

Asha Hemrajani: Okay. So that's and – that was the first area. And the second is the, as you mentioned, the Board comments – comments, rather, from individual Board members at the public session on the Tuesday in Helsinki. So you heard from myself, from Erika and also from Steve. And most of that we- what we have said – is already included in the Board paper except for one point I had made, which is the in relation to a question somebody has asked about whether this was a one-time thing or – one-time disbursement or this will be a fund in perpetuity.

So there was nothing really new that we covered on the Tuesday that is not in the document that we put together in the comments that we put together. And that's all I had say, thanks.

Jonathan Robinson: Okay great so the group – we can look forward to receiving that and thank you, Asha. And noting that we've been joined now by I think Tony Harris and Kaveh Ranjbar. So that's good we've got a couple more joiners.

Why don't you go ahead, Alan?

Alan Greenberg: Thank you very much. You covered part of what I was going to ask. I haven't seen either of those documents. They may have been sent to me but certainly I haven't consciously looked at them.

Just for clarity, the one – the version of the charter which integrated those comments, that was simply an exercise integrating those comments and we can assume that they are the same, is that correct, Asha, or substantively the same.

Asha Hemrajani: This is where I'm – okay, this is where I'm a bit confused because I'm not aware of any version of the charter with the comments integrated. Sam, are you on the call? Is there such a – is Sam or Marika or anyone else? I'm not aware of that. I was just aware of that – the document that we had put together.

((Crosstalk))

Asha Hemrajani: That's what I'm not sure why you mean by two documents, there's only one.

Alan Greenberg: I was referring to what Jonathan said he had seen so.

Asha Hemrajani: Okay.

Jonathan Robinson: So I received from Erika at some point, both just at or around – well clearly must have been just after your Sunday meeting a document saying, look, here's what the Board has worked out and here's a version of the draft charter with these points integrated. And I was expecting, and I'm still

expecting, that those – that the document with the Board's comments is circulated to the group. And as I said, my opinion is that it's premature to integrate those into the charter until the group has, you know, processed them and had a chance to debate and discuss them and so that's really – so it would be good to get that document to the group…

Asha Hemrajani: Okay.

Jonathan Robinson: …as soon as possible.

Alan Greenberg: Yes, okay.

Asha Hemrajani: Right, so Sam has just responded that there is both so there is the document and maybe the – and the comments have been included in the next version of the charter. So if you feel that it would be too premature then we can just circulate the comments first.

Alan Greenberg: Okay, it's Alan. I was just trying to make sure…

Asha Hemrajani: The document – the one…

Alan Greenberg: Go ahead, Asha.

Asha Hemrajani: Sorry, yes, I'm so sorry, Alan, yes. So the charter is – and I'm just reading what Sam has said, and now I recall because it's been three weeks, sorry, about that. So what we had done was we just, you know, for ease – for everybody's convenience what we had done was taking the comments that we'd put together and just integrated into – and proposed some language so that – so the proposed on how and where it would fit into the charter so it was just meant for convenience.

But if Jonathan, if you feel that it's a bit too early for that it would be just as good, just as well, just as fine to – for us to – for myself to send you the – just the comments first.

Alan Greenberg: Okay thank you.

Asha Hemrajani: And then later on, yes, okay go ahead.

Alan Greenberg: Yes, I just wanted to make sure that there weren't any gotchas in the draft charter version that weren't in the other comments. But I support Jonathan to distribute – and when we say distribute to this group that implies it's public, our mailing lists are all public.

That implies the Board has essentially passed down the revised charter, which they will deem to be acceptable and that, I believe, would be a strategic error on everyone's part so I agree with what Jonathan is saying. Go ahead. That's all.

Asha Hemrajani: Okay.

Alan Greenberg: Thank you.

Asha Hemrajani: Understood, thank you, Alan.

Jonathan Robinson: Yes, and I think that was – thank you, Alan, I think that really reflects my concern well. It's the sort of presumptuousness of integrating it into the charter in a way when the group hasn't even seen the comments. And it feels that it makes sense just to let the comments (unintelligible) and understood and then see, you know, for example, in one or more areas there could be quite strong feelings in the group that these don't – these should be pushed back on and shouldn't be integrated.

So I, you know, I think that's probably the best way to do it just to share that input as soon as possible with the group and let's get on with it.

Alan Greenberg: Yes, Jonathan…

Asha Hemrajani: Okay.

Alan Greenberg: Jonathan, if I may? It's – it has been often my practice and the practice of many other people to make comments on things by, you know, tentatively modifying the charter – the document as we would like to see it. So what was done is not unreasonable, however, given the sensitivity of the Board passing down a document and the Board traditionally has not issued anything unless it is a consensus formal position of the Board, I think that sends the wrong message. So the – what they're doing was not unreasonable. But given the overall environment I think that's probably unwise. Thank you.

Asha Hemrajani: So, Jonathan, if I may jump in?

Alan Greenberg: We may have lost Jonathan.

Asha Hemrajani: Hello? Hello, Jonathan?

Jonathan Robinson: You haven't lost me. Go ahead, Asha.

Asha Hemrajani: Oh okay, all right. So, yes, I just wanted to say thank you to Alan, he took the words out of mouth. We really thought we would be, you know, trying to be helpful that way so we hear both of you and if it's not an issue we can just circulate the – because I really wasn't clear what you meant in your emails, now it's perfectly clear to me, Jonathan, so we will – I will circulate the – send the comments only to the list.

Jonathan Robinson: Okay great.

Asha Hemrajani: Thank you.

Jonathan Robinson: Thanks. I'm glad we asked that.

Asha Hemrajani: Is there a delay?

((Crosstalk))

Asha Hemrajani: Sorry, is there a very long delay?

((Crosstalk))

Jonathan Robinson: I think there's always a little bit of delay on Adobe, yes.

Asha Hemrajani: Okay. No, I'm not using Adobe, I'm using my landline. And I just wanted to check if there's a very long delay.

Alan Greenberg: There does seem to be some delay. Delays are weird in that each of us only hear the delay at the other time. So it's hard for us to judge if you're hearing delay but from people…

Asha Hemrajani: Exactly…

((Crosstalk))

Alan Greenberg: …it sounds like there is.

Asha Hemrajani: Okay, thank you.

Jonathan Robinson: Okay so we've established that. So I would suggest that we get to the group as soon as possible, that Board input. And moreover that we ask staff to integrate it into the public comment table - the public comment mechanism. It's not strictly a public comment but we're using the same tool. Alan, and

others, what do you think about highlighting the comment, if it's derived from the Board memo, and/or perhaps Board input at the session highlighting it in some way differently than the other comments just with, you know, with flagging it in some way so it's evident that that's the case? Any thoughts on whether that's a problem or a good idea?

Alan Greenberg: Remind me how we normally indicate where a comment came from.

Jonathan Robinson: Currently if you look at the table in front of you now there's no attribution.

Alan Greenberg: Oh okay. Well maybe – I thought on tables that we've used in previous working groups there's normally a column of where it came from. Marika has her hand up.

((Crosstalk))

Marika Konings: Yes, this is Marika. Indeed, usually that's the practice because, you know, those comments come in through public comment and it's easy to identify who has made the comment. As many of these comments were, you know, taken during the session I didn't necessarily, you know, capture everyone's names or even knew everyone's names. So that's why they haven't been attributed. But if it's helpful we can definitely attribute those that were submitted by email as well as the Board comments so we just add a column to it.

But it's just important to note that for the others of course we can go back to the transcript and try to, you know, put together who said what but I'm not really sure if that's really necessary also because I think some of the columns were kind of culminations of or have been combined with similar comments that were made. But for those that we can attribute we can maybe do so.

Alan Greenberg: Yes and maybe just have a public or something, you know, or, you know, face to face or something like that, some indication so they're not blank but we're not really sure exactly where they came from. I think that would be fine.

Jonathan Robinson: Yes, Marika, then let's attribute it in your attribute column, you use three indicators. One is a Board or Board member; two - Board memo or Board member; two is Helsinki session; and three is email and the email with whom – with the person from whom it – the comment was made. And then at least we've got some level of attribution and we can particularly identify the Board input which will be useful.

Asha, go ahead.

Asha Hemrajani: Yes, thanks Jonathan. So I know you were asking Alan but from my perspective I think it would be useful to write who the comment came from and not just attribute it to which session or whether it came from by email or not. So I know we had three sources, one is the Board paper, one is the public comments from the different people during the public session, and the third is, you know, email.

So the email one, as Marika mentioned, easy to identify. And on the comments with regards to the comments that were spoken at the public session I took very comprehensive notes. I think I pretty much have everyone's name except for two. So if it's – I think it would be worthwhile to go back to the transcript and figure out who it was if possible, and if not I'd be happy to, you know, add where, you know, where it was missing, whatever I know in terms of who that person is. Because I think it's worthwhile to know where those comments came from.

So and – and for the purposes of not singling out whether the Board comment came from the Board or not, I mean, it should be – if possible why not make it – treat the Board as anyone else giving input into this public comment so it's either the Board or it's Kristine Rosette or it's Jean-Jacques

Subrenat. I'm just reading off the names that I have here on my notes – or Edmon from Hong Kong or the gentleman from Tucows, that sort of thing. If we have the names it would be useful to put them in. Thank you.

Jonathan Robinson: I think – I have a question for you, Asha. Well three things, first of all, I said Alan or anyone else have a view so your view is, of course, welcome. Second, I just address Alan first – because he's the vice chair of the group. The second is, to the extent that there are – that we want to attribute them, I wonder what the value of the attribution is. It may be that we're putting staff to a whole lot of work here for potentially little or no benefit. From my point of view what I singled out was first of all, did it come up in the Helsinki session? Was it – did it come up later by email? And if we have it by email it'll be very easy to attribute it because we'll know the emailer.

And third, if it came from the Board, and this is was my motivation for identifying Board comments, in principle, at least, if the Board has a very strong view and we are asking the Board to ultimately act on the outcomes of this group, and we have acted against that, we've got to do that deliberately. And so that's why it felt to me to be useful to uniquely identify the Board things.

Now, do you see a particular – what's the value in identifying individual contributors? Thanks.

Asha Hemrajani: Can I come back to that, Jonathan? Because my four-year old has decided to have a tantrum now. I'm sorry, I will – I need to step away for one minute and I'll come back and answer that. Apologies.

Jonathan Robinson: Thanks, Asha. We'll wait for you to come back on that. In the meantime, over to Alan. Go ahead.

Alan Greenberg: Thank you. I personally would like to see them but I certainly don't want to add a huge amount of work. But I'll point out that for the Helsinki ones we

probably – we probably know who each of them was. And if indeed we don't then we can simply put, you know, Helsinki if we didn't capture the person's name. I think Marika was referencing the previous sessions that we had where there are comments here that were made without attribution that go back a long time prior to Helsinki, which Asha may not have been thinking of.

And those I'm happy to simply put what meeting it was from or simply say face to face. Again, in terms of optics, I think if we only identify things that came from the Board or from specific Board members in the face to face in Helsinki then we're attributing an import to them which some people will read the wrong way.

Jonathan, you're of course correctly right, if we do something that is very counter to a strong Board position, then we have to consider it very carefully. But what's in the document I don't think we want to send wrong messages and that's really what it comes down to.

Marika just said she didn't capture…

Jonathan Robinson: Thanks, Alan.

((Crosstalk))

Alan Greenberg: …in Helsinki. And if, you know, if Asha can contribute the names, fine, if we can't I'm happy to just have Helsinki. Anyway, go ahead.

Jonathan Robinson: Thanks, Alan. So two points there. I mean…

Alan Greenberg: Jonathan, if you're talking we can't hear you.

((Crosstalk))

Alan Greenberg: …or is it me?

Terri Agnew: This is – no, Jonathan, this is Terri. I see that your mic is no longer active at this time. Oh, and it just reactivated.

Marika Konings: His connection has dropped.

Terri Agnew: Thank you.

((Crosstalk))

Jonathan Robinson: …on the connection, sorry. So just to come back on those two points. I think first of all, Alan, this table that we're looking at now contains only input from Helsinki and associated comments so it's – that's what we're talking about here. We're not talking about…

((Crosstalk))

Jonathan Robinson: …historic comment. This is after we…

((Crosstalk))

Jonathan Robinson: … a draft charter and set it out pre-Helsinki and that's what we have here.

Alan Greenberg: My apologies, I thought it was the whole – the integrated one.

Jonathan Robinson: No problem. So what's what we have here? And then the question is whether there is value, and Marika says she'd have to go back through the transcript to identifying the individual contributors. Like I say, that's exactly why I ask. Your point was exactly why I asked about the Board comment. On the one hand identifying adds unique status to it of some description.

However, on the other, not knowing that something is a Board comment means we may – may not recognize the consequences of not taking that on

board. So which is why it felt like to me like there was at least consideration to be given to identifying the Board comments specifically.

Alan Greenberg: Then, Jonathan, it's Alan if I may interject. Marika says we also have comments from Sylvia there. Why don't we have another column with three points, Helsinki meeting, Sylvia and Board comments.

Jonathan Robinson: That's fine by me. That's practical. And then just to be crystal clear on that, though, those that arrive by email as a result of the Helsinki meeting, you know, because what we said to people in Helsinki was if you haven't been given the opportunity to contribute, by all means drop us an email so those will be integrated with the Helsinki meeting comments so there'll be simply three. Ones from a drafting team member, Sylvia; two, anything that transpired during the course of the Helsinki meeting or emailed immediately afterwards; and, three will be Board comments, whether or not they were from the Board memo – or from the Board member themselves.

But particularly it's the Board memo comments that we really want to identify I think because that's, in a sense, will be an official communication from the Board. And as Asha pointed out, in essence, those points were covered – were essentially remade or repeated or in the meeting in Helsinki by Board members just making them in person. So that looks like a plan. They've come from three different sources, Sylvia, drafting team, or Helsinki meeting or Board memo.

Okay good. So we can do that. And then we're going to need to systematically work through those. And frankly I would suggest we perhaps even start working with those offline via a document where one or more of us work through the document and make some proposals but we may need to of course discuss them in more detail as well.

I was thinking if there were some other practicalities here. Oh, certainly the agenda, there is something else that I would like to talk about. And we can

come back to this at some point. It's manifest in the charter and it's something I'd like everyone to think about and probably particularly Asha. But I would – it seems timely to raise this now.

In the Board – in the – we are doing something unique here, which is partly why we're grappling with it a little, is that it's not normal or usual for us to have – well we've had Board liaisons in the past but we've had some very active participation from Board members. We've also got ICANN legal and ICANN Board input in quite substantial forms. This isn't just a little – a sort of a bit of flow of information to and from. The active participation of the Board members, the input of ICANN legal on legal and financial matters is substantial and influencing and shaping the charter, which is – that is as it is.

This group will then ultimately embark on a lot of work. We'll commission a working group that will end up doing a lot of work. And what's not clear in the charter as it stands at the moment is what the – how the Board will take that work. And I'd like to ask this group is do we want to firm up and, Asha, the question to you and Erika will be, is the Board amenable to firming up its commitments as to how it deals with this work?

And it seems to me that's a substantial item that we should deal with as part of the charter. And we can come back to it on the specific part of the charter. But I did want to flag that with you. And if anyone has any immediate reactions that's fine, by all means come in with that. But as we review the charter and review the comments I think that's a key area we need to decide on because at the moment it's very soft that – what our expectation of the Board will be on the back of all of this work.

And, you know, it may make some question the value of this and might set us up for a collision course that we could avoid in future if we thought more carefully about how the board might deal with this.

For example, in CCWG Accountability, the Board made some quite specific undertakings as to how it would deal with the output of that group. And it may be that we want to talk about something more substantial like the being in the charter here. Any immediate thoughts or reactions or input on that – that point? Go ahead.

Alan Greenberg: I guess I view Board – in general when a recommendation goes to the – has gone to the Board, let's say on PDPs, but the same is true in other cross community working groups in the past, and there have not been many, the Board has accepted them if they have gone through a proper due process. They do a public comment and there is not what they would perceive as a radical objection to them. The Board has said, we don't do policy and if this is what the community wants then so be it.

This one is a little bit different in that there will be aspects. It is conceivable the cross community working group could recommend things which the Board, in its fiduciary duty, does not believe should be done. You know, for instance, if we do not have proper controls on conflict of interest and handing you the money, if we do not have proper auditing, if we do not have a variety of things like that, the Board could well refuse it.

I would like to presume that other than those types of fiduciary duty reasons, the Board is not going to be refusing to use the money as the community deems to be appropriate. How we get that kind of commitment or what words are put around it I'm not quite sure. You know, the wording that was used in the accountability commitment that is if the Board determines something is not in the public interest, it's not clear that with the new bylaws they can actually do that.

So, you know, I think there's going to have to be some careful thought about just what it said. But I'd like to presume that short of fiduciary issues that the Board will go along with whatever the community proposes. Thank you.

Jonathan Robinson: When we come to review that part of the charter perhaps you could have that frame of reference in mind when you look at the wording as it currently stands and see whether it meets that test and if others have other views relating to this we can deal with it. But let's (unintelligible) on that for the moment.

So how do we feel? We've got everyone together here. We've got a bigger group than we thought we had at the outset. Would it be helpful to start to work our way through these comments and start to get some and see whether we can make some progress on these public comment points?

Asha Hemrajani: Yes.

Alan Greenberg: Jonathan, just a thought. Giving that you're running – I presume you're running another two-hour meeting after this, perhaps we could give you and the other people who are also in that meeting a short break so not use the full two hours.

Jonathan Robinson: Thanks for reminding me, Alan. Yes, I will set that expectation now and that's a fair point. I would like to – us to run no more than 90 minutes. So let's spend, which means we'll finish at 30 minutes past the top of the hour. Let's have a look at – let's see what we can do about working through some of these points. There's support from Olga and Asha and as I suspect, Sam. Let's see what we can do and I'll work through this up until – for the next, say, 30-35 minutes and then we'll use the remaining 15, until the half past, to deal with Items 3, 4 and 5 or approximately along those lines.

Okay so Item 1 from the public comment talks about the prohibition on using auction funds for governments, and wondering why that's included. And just talking about process here, I think what we've got to do is we have an obligation to, within reason, consider all of these points raised. And I think there are a number of ways in which we can deal with this. Clearly what we

could do is say that's a really good point, it should be inserted into the charter.

Another reaction might be that's a really good point but we considered it and dismissed it a while ago for good reason, therefore we won't include it. Or, you know, or some kind of hybrid. And that's really what we – I think the obligation we have here is to systematically go through these, take a view and take an action.

But what it doesn't mean is that we have to absorb every single one of these points into the charter. I think we have to give them reasonable consideration and decide whether, based on the current view, or work we've done previously, whether it makes sense.

Alan, go ahead.

Alan Greenberg: Yes, thank you. I'm talking on Point Number 1 if you want any further comment on the general one then I'll stand back for a moment.

Jonathan Robinson: Okay well since you are vice chair of the group you may want to comment on the satisfaction or not – your satisfaction with that process and then go straight into the…

((Crosstalk))

Alan Greenberg: I totally agree on the process. Okay on Point Number 1, you said why is it included? And the actual text is why is not included? I do not believe we actually have a prohibition on governments and the answer to why is it not included is twofold from my point of view. Number 1, that's very much, in my mind, a CCWG decision that who is eligible to apply for the grants or whatever is we call the use of these auction funds.

And Number 2, my experience with – in At Large where we're looking at organizations we don't have a prohibition that government is involved because in many small countries in developing nations the government is involved in everything at some level and if not the government and government people. So you want to be careful on making a prohibition that sounds right in the west but does not necessarily work in other countries. So I think when the CCWG looks at this they're going to have a use a little bit of finesse and make sure their wording is appropriate. And I don't think it's something that we want to consider at – in our level. Thank you.

Jonathan Robinson: Okay so thanks, Alan. And Olga is supportive of that point of view. I think, for the sake of expediency, whilst, I mean, your points on the substance are interesting, and if helpful, by all means, go ahead and do them. But what – I think the essence of your point is the drafting teams' view should be that this is not for the drafting team, this is for the CCWG. And so that will be our view.

And the action would be pass this on, you know, this is something for the CCWG to consider.

Alan Greenberg: Yes, I support that. I was just referencing other things because if other people in this group decided it was a drafting team job they're taking on a bigger job than they might have otherwise suspected. That's the only reason I added the At Large perspective.

Jonathan Robinson: That's helpful. Okay so I'm going to move us to the next one. You know, essentially and I note that Olga agrees with you, and I'll take a lack of disagreement as agreement. So by all means if you think somebody has made a point that you strongly disagree with, come in; but, you know, for the sake of moving us through this wish list let's just keep it ticking over there.

So how broadly defined is lobbying? Some NGOs would advocate as part of their activities would actually considered lobbying. Some examples have included in the – yes, I remember this point. And this is really the definition of

lobbying. I don't know if Sam, I think you responded at the time and maybe you want to come in on this point, Sam Eisner.

It's – this comes down to, you know, you may have a clear definition in the west but it might be more difficult to define lobbying elsewhere or Alan your hand is up, go ahead.

Alan Greenberg: Yeah, sorry. I was confused by this issue when it was raised because I thought we had a prohibition on using our funds for lobbying as opposed to the organization does lobbying in part of its other life. Now I understand money is fungible but, you know, my understanding was we were saying you cannot allocate the funds for lobbying. Not that the organization can't do any lobbying in other parts of its life. But I guess the clarification from Sam would be useful.

Jonathan Robinson: Alan, I'll pause here.

Samantha Eisner: Thanks. This is Sam Eisner. So there is – the way that it's been drafted into the language currently, and from the memo that was circulated, there has been a recommendation that we just don't allow the money to be used in ways that are for lobbying.

Now the concern that was expressed in the meeting as well as concerns that have already been raised in prior drafting team calls is that we shouldn't be developing rules that are just US-centric. And so what we heard from people across the room, I think, and also we've touched on it a bit in our prior conversations is, you know, we know that there's going to be a need to expand that definition.

So the definition that exists today is about – it is a US-centric rule because that's where it comes from. And so it focuses on the US definition of lobbying. However, we don't want to get into the situation where we're creating

differential expectations of those who are receiving the funds either based on their geographic location.

And so one of the things that came up during that session was that we're going to need to, at the drafting team – or not at the drafting team level but at the CCWG level, understand the scope of prohibitions that we're going to make applicable across the board so that we have a clear line of activity that is not permitted by any of the people who receive the funds because any money that that group would then spend on those types of activities it winds up getting imputed back to ICANN ultimately and gets considered as part of ICANN's lobbying activities once that triggers a certain threshold, ICANN loses its not for profit status.

So it's this very broad view that the government, the US government takes on lobbying activities that we need to translate into something that can be applicable across the world or wherever the recipients of the money might be. And then make that just an objective standard requirement for whoever might get it.

Jonathan Robinson: Thanks, Sam. That, to me, is helpful. And if feels like what that translates to is two objectives from the drafting team's point of view. One, that the drafting team specifies that lobbying must be prohibited to the extent that it protects the tax exempt status of ICANN. And, two, that such a prohibition should be applied generically so as to be fairly applied across the world and not be entirely US-specific.

And I guess in general that those are applied – that work is done by the CCWG and we just give the direction at those two high level points. Thanks, Sam. I note your checkmark so hopefully that helps with the language in responding to this point.

And, Asha, did you agree, disagree or have something different to add there?

Asha Hemrajani: Yes, I did. This is Asha. Thank you, Jonathan. So as I recall, the gentleman who brought up this point, so hear what Sam and what Sam just said and your summary of Sam's comment in that we should protect our nonprofit status and we should not – we should have – not have a US-centric definition of lobbying. But the other issue which that gentleman brought up when he raised this in the public session was not only a US-centric definition but also there's different types of definition even within a country.

So there's political lobbying, there's also lobbying for a particular cause. So in his case he gave the example of child safety online. He says would my organization be defined as a lobbyist because I lobby for child safety online? So I'm not – I'm just wondering in addition to a non-US-centric definition what about the definition on types of lobbying – the different types and the samples of lobbying? I agree that maybe this is not the – should not be in the scope of the charter but it just wanted to remind everyone this was the gentleman's comments when he brought this up.

Jonathan Robinson: Asha. Alan, did you want to respond?

Alan Greenberg: I'm not responding to that, although it – my question involves that. I'm still rather fuzzy or at least my understanding is fuzzy. And two things, it's still not clear to me if what Sam was saying that an organization that does lobbying, whatever the definition of lobbying we come up with, is not allowed to accept funds – we are not allowed to grant them funds or we are not allowed to grant them funds if they are planning to use those funds for lobbying? And, you know, I can accept either but it's not clear to me which of those prohibitions it is. That's Number 1.

Number 2, my understanding of why we are worrying about lobbying is because it could impact our US tax exempt status. So I would have thought we are looking for a US-centric definition of lobbying. The fact that Tunisia may add some completely other thing under their definition of lobbying is not going to affect, I don't think, would affect our US tax status. It's lobbying of

the kind that is prohibited in the US that we are not allowed to do for other countries as well. At least that was my reading of why we have lobbying there.

So I guess I'd like some clarification on those two issues. Is it – is it the organization lobbying or use of our funds for lobbying? And why is it we're not looking for a US-centric definition of lobbying? Which is understand is narrower than many others. Thank you.

Jonathan Robinson: Alan, I thought I covered that with my two overarching objectives. The first objective, which is what I feel seems to both deal with this question from a drafting team point of view, and give the appropriate work to the CCWG. The first objective is to meet the requirement of not compromising the tax status. How that's translated in practice is the work of the CCWG. We just want to make sure that we give that direction.

Second, in applying that exactly as you say, that very US-centric consideration, we need to find a mechanism to apply that uniformly across prospective applicants. Because what you don't want to do is prohibit, in the example given, some form of child protection charity in the US to keep them from applying, yet you don't prohibit one in Argentina, for example, from applying because as, you know, Olga highlighted, you know, it's different across the world and so on.

So that's why I felt those two overarching principles were important. First, you protect the tax status; second, you make it in some way equivalent across prospective applicants. That felt to me like the way of dealing with it…

((Crosstalk))

Alan Greenberg: Jonathan, a follow up. The reason I'm pursuing it is if we indeed know the answer is reasonably clear now, that's an if, then we should put it into our charter and not make the CCWG go over that territory again. If it is not clear

to us now then you're correct, we just put lobbying in and let them worry about what it means.

Jonathan Robinson: I suppose – in my mind I wouldn't attempt to define it. I would just say lobbying to the extent that it doesn't compromise the tax exempt status and then it's up to the lawyers and accountants to define that properly. And if we need expert help to create that definition in the CCWG then so be it.

Alan Greenberg: Okay, I'm happy with that.

Jonathan Robinson: (Unintelligible) from reading Sam's comment that she feels similarly, Alan, and Asha. Okay great. Thanks, both. So there's – Marika, can I just check in with you? Are you happy that you're getting the sort of answers you might require to put into this thing as we talk – this table as we talk things through? And thanks, Tony, for your point in the chat recognizing that that will work.

Marika Konings: Yes, this is Marika. I'm trying to follow along on my own document. And of course I will circulate that back to the working group after – the drafting team after the call so you can all check as well that I captured the comments as well as the agreed action appropriately.

Jonathan Robinson: Thanks, Marika. And to assist you I will try and do that sort of capturing and summarizing and (unintelligible) and you've got the detail there. Asha, come in.

Asha Hemrajani: Yes, thanks Jonathan. So, you know, Alan just mentioned something that I thought was really good idea. And it is not in relation only to this point but everything else really. It can be applied to everything else, which is Alan mentioned, you know, if we know something – if we can define something specifically now we should do it now as opposed to kicking the can down to the CCWG.

And whereas in this particular case we've agreed on those two broad principles which makes a lot of sense to me. It might be helpful to kind of – and I'm just putting this – I'm just putting this idea out in the – to the group – if we can talk about – if we can summarize rather these challenges or these scenarios that we've thought about, for instance, this child safety online, and document it somewhere so that when the – when the CCWG does deliberate this and, for example, on the child safety online issue, Sam mentioned in the chat she said, Asha in instances like that would we address when uniform principles that can be established and applied across organizations.

So I'm assuming that the CCWG will have to come up with these uniform principles. So it might be helpful for us to write some notes for them. And let them know, okay these are things that we didn't dig too deeply in but there might – when you – when the CCWG does its deliberations this is something you might wish to consider looking into. Just a general idea, not only in relation to this point but in other points for all other points as well. Thanks.

Jonathan Robinson: Thanks, that's a good point. And I suppose, Asha, there's a delicate line to walk there between the fact that we've given things some new consideration and should impart that thought and pass that along. And ideally we capture that in this context as part of the drafting team view. And then the action taken is rather simply it says we pass the CCWG and these two principles. But I take your point, it is – to the extent that we've done that it is useful to communicate that.

One slight reservation is that we are a very small – whilst we're reasonably representative we're ultimately a small team. So which is why we've got to walk this line between not doing too much and trying to hand it over. But I take your point, if we've had substantive discussions on it it's a shame just to lose that. And let the drafting team…

Asha Hemrajani: Exactly.

Jonathan Robinson: …the working group start it. And Alan makes the point of course that at least some of us, if not all of us, might move over to the working group in any case. Okay thanks. That's a good point. So next one – well the next – 4 and 5 both deal with the lobbying point which I think we've done in quite a lot of detail now. And then how – then the Point 6 is how tightly does the charter restrict fund allocation in relation to the mission? Many of the conversations about the new mission statement regard to the – within the DT what that means for the charter especially with regard to scoping.

Well I suppose there's two different points there. There's one is that the mission and the second, you know, is the mission a moving target at this stage? I think it's settled as far as I know from the work of the accountability team and then how tightly does this charter restrict it? And I seem to recall seeing some – there's some discussion online where we've got some further discussion to have in any event about this how tightly we tie the work of the group into the mission.

So I guess our view here is that we will – we'll – how tightly does the charter restrict the fund allocation in relation to the mission. Well I guess this is something we need to just – feels like this is something we shall and will consider as we work through the charter.

Thanks, Brad, noted that you have to leave. And we'll see you on the next call. Thanks for your involvement on this one. Any other comments about Point 6 so any thoughts?

Go ahead.

Alan Greenberg: Jonathan, it's Alan. My only comment is this is going to be clearly a key one that will make or break the CCWG's recommendations being accepted by the Board. So it's going to require a lot of, you know, a lot of discussion on what can legally, and that word is in quotes, be allowed. And on top of that there's a philosophical one that some of us have pushed very hard for as broad a

definition as our mission can bear, and other people have said we want as narrow a mission as possible, narrow a scope as possible.

So there's both a philosophical question plus the Board's perspective of what they can legally do without endangering the corporation. So it's going to be a substantive discussion within the CCWG.

Jonathan Robinson: Yes, and Alan, I take your point. And I think so from my point of view right now, as far as the CCWG – as far as the drafting team is concerned, we'll give, you know, well let me be clear. I agree with you it'll be substantive in the CCWG. It will also be something which we haven't – I don't think we've done our job yet in the drafting team on this, we've still got some more work to do.

So I guess our answer is that the – on 6 and 7 really or 6 certainly is that the drafting team will give thorough consideration to these points. I mean, you can just recognize the value of the point and say we will give clear consideration to it.

Alan Greenberg: Fine.

Jonathan Robinson: Now we've lost a couple of people or are losing a couple of people. And so I think we're back to where we were. I think we've dealt with the first six points on substance and my temptation is for a variety of reasons to now – we'll come back to this. And I would encourage everyone now that you have this table and this table will be shortly updated to have the Board input in addition to this.

My suggestion is we pause this activity now, everyone gives some consideration it in the meantime, potentially posts any responses to the group and we'll continue this exercise at the next meeting. And in the meantime I suggest we go on and deal with 3, 4 and 5 for the purposes of this meeting. How does that sound? Alan, are you okay with that?

Alan Greenberg: Yes.

Jonathan Robinson: Okay great. Thanks, Alan. Thanks, Asha. So what I'd like to do in Item 3 is just see if there are – and this will probably require ultimately a walk through on the charter. But it wouldn't be a bad idea to capture a couple of these things on the items that need further substantive items really that need further DT consideration. And I feel like we've identified two at least.

One is our position on adherence to the mission, which is the point we were talking about a moment ago. And, you know, this whole point about is it in line with not inconsistent with and so on. It feels to me like that job is not yet done.

To answer your question, the agenda should be visible to you top right of the screen.

And second point that clearly needs further consideration is this whole thing around how we deal with conflicts of interest at the different stages of the process including any specific requirements we've put on statements of interest. And it's clear and when you look at the Board input, which is why we can't get into the substance of it now, that the Board – and you would have heard that in Helsinki. The Board has some very strong views on this.

And my opinion is that those views have value and I've heard them and I understand, they're – there's a coherent argument there but it does contradict with an open working group type of practice. And so really it's – there's quite a meaty issue to think about and decide at what stage and what conditions we impose on participation in and around the conflict of interest provisions.

And there's the sort of hard line if you like, that says if you are – if you believe or are likely to have any, you know, you'll essentially disqualify yourself from participating in any ultimate application of funding if you participate in the working group. Or – and that's the firmest line you could take and you're

essentially disqualified from participating in any way. Or you say that's not how it works at ICANN, working groups are open to everyone.

We want clear and specified – and I think this is where we got to – this is the only alternative. I think it felt to me like we were very clear that we wanted enhanced and standardized statements of interest. I don't think anyone's in any doubt about that. But the question is, is that enough or are we going to take a harder line view that says anyone who participates in the CWG will automatically preclude their future participation in application for funding?

So that's going to be the nut to crack. And I think that's something – that certainly seems to be one. Are there any other – that anyone's aware of at the moment overarching, I mean, something we might flush out as we go through this table again in the future, but would anyone like to flag any other points that they're aware of overarching or substantial interest?

Well I suggest we have a running list like that and we'll work with that and keep that updated and so we know that these are the issues we have to deal with.

And as far as Item 4 is concerned, the timeline for finalizing the charter, I worked on this a little bit with Marika which she then shared with Alan and myself and we have a draft. Marika, did that go to the group or is it – if we see it now, will that be the first time?

Marika Konings: This is Marika. I circulated this morning as well to the drafting team.

Jonathan Robinson: Okay thanks, Marika. So I'd like any comments or thoughts on this. But essentially what this does is targets commissioning the CCWG ahead of the ICANN 57 meeting in November such that the first meeting of the CCWG can take place during that November ICANN 57 meeting. That feels to me like a good target to have and a nice potential outcome.

How do others feel about that kind of target and kind of timeline? Is that something that you would like to aspire to? Come in, Marika.

Marika Konings: Yes, this is Marika. I don't know if everyone may have had a chance to look at that in detail just to maybe briefly outline the two options here are to a large extent the same. The only difference is that Option 1, as Jonathan said, foresees that the charter is submitted in the course of September to the different ICANN SOs and ACs, with the question of, you know, if they can identify whether there are any pertinent issues in there that would prevent them from adopting the charter.

If there are none, you know, adoption would go relatively smoothly and that would allow for convening the CCWG prior to ICANN 57 with the first meeting taking place there.

The Option 2 foresees or basically anticipates what would happen should some of the ICANN SOs and ACs come back and say well there are actually issues in there that we just cannot live with or would prevent us from adopting the charter, which may require some additional work from the drafting team and as such that may line up a potential approval in – at ICANN 57 assuming that those issues are able to addressed to the satisfaction of all the ICANN SOs and ACs.

Jonathan Robinson: Yes, Marika. Thank you for reminding me of that or highlighting it. Yes, and so the key points here to think about is what we're proposing to do here is during that mid-August timeframe is distribute the charter to the chartering organizations and say not we want public comment on substantial items here but what needs to know is are there any show stoppers in the charter that are going to cause you a problem because what the alternative would be shipping the charter out to the chartering organizations, a portion of the chartering organizations ratify it and come back and tell us that's fine and a portion, one or more, say no it's not and then we end up with a problem. So the idea would be to share it with them and ask for show stoppers.

Alan, what are your thoughts?

Alan Greenberg: I'm happy with that but I'm looking at the first couple of lines. We have some substantive issues to discuss and we are saying that after two more meetings we will have a text ready to distribute. And I'm not sure that's going to be the case so I think we may want to consider weekly meetings instead of biweekly meetings.

Jonathan Robinson: Yes, that's a good point. And the challenge is of course it's Northern Hemisphere summer so there's going to be times off and so on. So some comments on that would be helpful in addition. How do others feel about the pace of work and what we try and do?

Asha, you asked for further explanation of Option 2.

Asha Hemrajani: Not further, sorry, I just want – I didn't hear part of what Marika was saying. It just – it blanked out so that's why I wanted – her voice muted on my end so I wanted her to say it again. And I have another comment to make.

Jonathan Robinson: Thanks, Asha.

((Crosstalk))

Jonathan Robinson: …and then come in with your other point.

Asha Hemrajani: Okay. If I may jump in now with my other comment? So I agree with – I think I agree with what Alan just said. Not in terms of increasing the frequency because I think it will be difficult because it is the summer break. But I feel we still have a lot of substantive issues to discuss so we may not be able to cover all of that in the next two to three meetings. So I would like to build in more buffer into this.

And really ask – it would be good to have Hyderabad as a goal but can we consider the option of not – of the possibility of a more time buffer into our schedule so that if we are not able to complete by Hyderabad we're completing for instance by the end of the year or maybe by the next meeting it still won't' be the end of the world. I just want to build in more time buffer in here because I think we need to take the time to do this properly.

Jonathan Robinson: Asha, fair enough. Let's – what I suggest we do, here's how I propose we deal with that. Right now this is an ambitious – I acknowledge, it's an ambitious timetable. But it's not – it's a – it's at least a working document. So let's get on with our next meeting and (unintelligible) and then adjust the time table – I think we can have a – we can regularly publish the timetable and see how we go with it as we go.

And, you know, I think what we'll – we can also lean on staff a little bit and ask for their help so that we can sort of integrate – as we process these comments and do this work we start to integrate it into the charter and if, you know, we end up with relatively uncontroversial points or things that are easy to deal with we can weave those in. And I guess one other thing we can do to make this work is try and do work offline as well and be as responsible as possible on the email lists and so on.

Asha, your hand is still up. Would you like to come back in with some more audio comments are you okay?

Asha Hemrajani: Yes, no I just wanted to agree with what you said that if you're, you know, on the regular updating of the schedule and try to build in some buffer into this and also I wanted to ask if this is not – are you meaning – are you intending to share this publicly or this is just mean to be a working document for us internally? Because I think it would be best if it's something that's internal to us for now.

Jonathan Robinson: Yes, I think so. I mean, you know, all of our work is public so anyone could look at this and see it. But it don't think we're intending to do anything more than share it within our own – within this group which is transparent and public but not intending to broadcast it other than that.

Asha Hemrajani: Yes, I meant broadcast, not public, sorry, yes you're right.

Jonathan Robinson: Yes. Okay great. So we'll work along those lines. So that's really the timeline and ambition for trying to – and acknowledge that it is ambitious but let's see what we can do. And see what's – how we can get on with that. And then the final point was next meeting and next steps. The way in which we've been doing this is we currently plan to meet more or less every two weeks or is it three weeks? So I think it's every two weeks we've been meeting. I just don't see why there's a big gap between now and the next meeting, maybe you can help me there, Marika. Why is there – oh no, sorry, this is…

Asha Hemrajani: It is two weeks.

((Crosstalk))

Asha Hemrajani: Yes.

Jonathan Robinson: Yes, yes, yes, thanks, Asha. I was, yes, okay. So and what we've been doing is – and this is how we propose to work going forward is we simply put a Doodle poll out for that time rather than forcing everyone to a standard time which may or may not work for you and we should try and be sensitive of course to the different time zones as well. How does that work? Rather than just doing stock rotation that we just put out a Doodle ahead of, you know, so for example tomorrow we would put out a Doodle for the next meeting.

I must say there's one other detail I have to flag with you. I'm going to really struggle if we continue to do these on Thursdays and so I would like to propose that we do these on Wednesdays. I've got the next – and Alan's in

the same boat I think, perhaps others maybe Olga, I'm not sure who else is. But for the next six weeks or so we've got regular CWG meetings that might be – two hour meetings that might be taking place on Tuesdays and Thursdays for which I have to chair.

So if – the plan then is to, yes, I must say I would love to not do anything over the summer, be quite nice to but I wonder what we can do. But that's the plan is suggesting to do it on Wednesdays but that's the plan is suggesting to do it on Wednesdays and Doodle people. And I think what we need is if you feel you're being prejudiced in some way by these Doodles just flag it, let us know because the intention is to try and make it flexible to accommodate different people. Because some people, you know, notwithstanding their time zones, some people are morning people or evening people or have other commitments.

Olga, believe me, I grew up in the Southern Hemisphere, I'm totally sympathetic to the fact that it's winter and I acknowledge that the reference to Northern Hemisphere winter here as summer but I get it. You're willing to work 24 hours a day on this, you're not in summer at the moment.

So the other thing is whether we do two hour calls. How do people feel about two hour calls, 60 minute, 90 minute or two hours? Any strong feelings about that? Feels like 60 minutes isn't enough to get things done. So we need 90 or two hours probably. But Asha 90, Olga is happy with two. I think we'll default to 90 then or, I mean, the other option is to block out the two-hour slot and try to work shorter than that.

Okay let's work with 90. I think 90 is not a bad way of doing things. There's a limit to how much any of us want to be sitting on a conference call. Let's try and work with the 90.

Alan Greenberg: Jonathan, it's Alan.

Jonathan Robinson: So 90 every second…

((Crosstalk))

Alan Greenberg: Sorry, we do seem to have a delay. I would support doing the Doodle for two hours and targeting 90 minutes.

Jonathan Robinson: Okay I'm good with that especially given that we've got quite a lot to get through and I'll do my best to drive us through in the 90 minutes as we have done today and will do. So let's block out a two-hour slot but try and complete it in 90 minutes, no more than 90 minutes when we do the work. And these will be (unintelligible) at mutually convenient time and if you have substantial issues with the time if you feel you're being prejudiced and it's regularly coming outside of a convenient time for you please let us know and we'll work with you.

All right good. Thanks, everyone. I think that's it for now. Any other business? Anything else anyone needs to or wishes to raise? Okay wonderful. Thanks to those who were able to be here today and contribute. Much appreciated. And we'll see you on – in approximately two weeks' time.

Alan Greenberg: Thank you.

Jonathan Robinson: And don't forget we need you on the mailing list as well. Thank you.

Terri Agnew: Once again, the meeting has been adjourned. Thank you very much for joining. (Lance), the operator, if you could stop all recordings.

END