
RECORDED VOICE: This meeting is now being recorded.

ED MORRIS: Okay, fantastic; thank you, Yvette. This is Ed Morris, the Rapporteur of the Reviewing the CEP Group of Work Stream 2 of the ICANN community's accountability project. Welcome to Meeting 1. My apologies for being late; we've had some trouble with our new incredible Adobe software getting online; and my apologies for being late to starting this group. We have a bit of a late staff report that I managed to get to two variants of the [inaudible] back-to-back, so I had no voice group in. But that's the past, so I hope we can dig into the project today.

Can – do we have scroll on this, Yvette, or no?

YVETTE GUIGNEAUX: Yes, you do. I've made you a presenter, so you can go ahead and scroll through, if you'd like, and I've also put on the [inaudible] a button down there so everybody can scroll with you. So you do have scroll, yes.

ED MORRIS: Thanks so much. Again, our apologies – we're on a mini iPhone. If we could go to the agenda slide and set out what we'd like to do today. After the introductions, what I thought I would do is go through the CEP by looking at the bylaws, past and present. That could give those in the group who haven't been to a CEP before some basic information about

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what the Cooperative Engagement Process involves, both what it has involved in the past, and what the new bylaws are allowing it – or the changes that have been made that we have to deal with here in this group.

Then once I've done the basic presentation to get everybody on an even playing field, I'd like to try to discuss some of the issues that are coming forward from the changes. Then, attempt to get a work plan going forward for our small group, so we can meet the challenges that have been given to us by the Plenary and the CCWG. So without further ado, if we could – let's see. I'm sorry; I'm working on an iPhone with three little [inaudible] if we go to the first page, which if it loads properly – page three – okay.

The purpose of the CEP has not changed from the old bylaws to what we have now. It's a pre-IRP filing; in other words, before you do an Independent Review Process, you would file for a CEP. And the goals of the CEP are to narrow the dispute between the third party and ICANN; if at all possible, to resolve the dispute. The CEP is expensive; it is time-consuming, and so the feeling was, we should have this mediation process at the outset to try, at the very least, to delineate the issues that the IRP would handle; and then the best, to get rid of the dispute altogether by having an agreement between ICANN and the third parties.

Going forward. Now, in terms of changes, there have been changes – I think they're pretty important – between what the bylaws can help the CEP to do, what it did in the past, and what we're going to do in the new ICANN with the bylaws that are now enforced. When we go to slide

five, I'd like to talk about incentives. Why would anyone want to do a CEP? Well, very clearly, in the old bylaws and partially in the new bylaws, there is an incentive to participate in a CEP. So just reading from the old bylaws, "this cooperative engagement and conciliation are both voluntary. However, if the party requesting the independent review does not participate in good faith in the CEP and conciliation processes, and ICANN is the prevailing party, the IRP Panel must award to ICANN all reasonable fees and costs incurred by ICANN in the proceedings." That's [inaudible] incentive to participate in the CEP. Yeah, you could, under the old system, go straight to an IRP, but you go ahead and lose, you may be in for ICANN's fees, both legal and participatory fees for participating in an IRP process entirely. And some of the IRP process went into seven figures. That's a substantial incentive for doing a CEP.

Okay, take a look at the new language on slide six. "The CEP is voluntary; however, except for claims brought by the EC in accordance with this section, 4.3 and 4.2 of the [inaudible], "if a claimant does not participate in good faith in the CEP, and ICANN is the prevailing party, the IRP shall award to ICANN all reasonable fees and costs incurred by ICANN in the IRP, including legal fees." If you take a look at the comparison of the language, the one thing I would point out is conciliation – if we can get this little phone to work, here – conciliation is no longer part of the same language. This is strictly a CEP provision now, in terms of the incentive. It was included with that when the Empowered Community's doing an IRP, there was no money involved. The Empowered Community can do the IRP for free; ICANN picks up the cost.

Moving forward. Farzaneh, I apologize. We have to skip right into this. Attendance will be taken off of the Adobe call; and if there are any regrets, if staff would kindly note that, I would appreciate it. My apologies. Now, back to our slide show, here – if I can get my little phone here to work. Okay.

We're now – if it loads – on slide number eight. In the old bylaws, it basically says, "Prior to starting the IRP, the complainant is urged to enter into a CEP for the purpose of resolving or narrowing the issues that are contemplated to be brought to the IRP. The Cooperative Engagement Process is published on icann.org and is incorporated into this document." Okay? "Resolve or narrow the issues; the rules are published on-site." That's the old bylaws.

Going forward to slide number nine – and this is actually fairly important. "All matters discussed during the cooperative engagement and conciliation phases are to remain confidential and not subject to discovery or as evidence for any purpose within the IRP, and without prejudice to either party." Now, let's take a look at the new bylaws on slide number ten.

"Except for claims brought by the EC, prior to the filing of a claim, the parties are strongly encouraged to participate in a non-binding" – we've added the word "nonbinding" – "CEP for the purpose of attempting to resolve and/or narrow the dispute. Same thing. CEPs shall be conducted pursuant to the CEP rules developed, with community involvement, adopted by the Board, and as amended from time to time. This group is charged with developing CEP rules.

Moving on. More for the new bylaws. Either party may terminate the CEP efforts if that party a) concludes in good faith that further efforts are likely to produce agreement, or b) requests the inclusion of an independent dispute resolution facilitator, an IRP mediator, after at least one IRP meeting. Come on, phone. Apologies.

Okay, moving on to slide number twelve. So when we take a look at the old versus new bylaws, the purpose is generally the same – to narrow or resolve the disputes. We have to create a set of CEP rules which replaces the process guidelines, which were sent out an earlier email. And we see the deletion of the confidentiality and the discovery and evidence rules and exemptions from the bylaws. My presumption is that it's up to us to decide within the CEP rules whether to include those clauses.

So, moving on to the current CEP processes, which again I have sent out in emails, available online where noted. Basically, the current processes list a form of requesting a CEP, give various deadlines for filing responses, and then have rules for dispositional proceedings that further delineate it. So we have this set of processes, we have the exemptions of confidentiality, evidence and discovery from the bylaws. Those and other processes are part of our charge in developing the new CEP rules. Now, going forward, conciliation is not part of the CEP, but it interplays something I think we need to explore bit further. We looked at the old bylaws – and this is on page 14, or slide 14. “Upon the filing of a request for an independent review” - this is post request; CEP is pre-request – but “upon the filing of an independent request for independent review, the parties are urged to participate in a conciliation period for the purpose of narrowing the issues that are

stated within the request for independent review. The appointed conciliator and the Chair of the Standing Panel can deem the conciliation unnecessary if the CEP has sufficiently narrowed the issues remaining in the [inaudible] review. So, under the old bylaws, there is a connection between the CEP and the conciliation process.

Moving on to slide number 15, the new bylaws eliminate that connection, at least for now. “After a claim is referred to an IRP panel, the parties are urged to participate in conciliation discussions for the purpose of attempting to narrow the issues that are to be addressed by the IRP panel.”

So you go on to slide 16; the difference is that conciliation specifics are now to be developed in the IRP Implementation Oversight Team. In the relation to the CEP, I presume – again, I have reached out to Becky and I have not had any responses yet – I presume this relationship with the CEP will be defined in those rules. But that’s something I do believe we need to consult with the IRP Implementation Oversight Team for.

So that’s a general overview. I’m having some trouble here with my mini phone connection, but we’re trying to see – are there any questions about the overview itself? If folks want to speak up, otherwise, we can start – I’d like to get into the discussion about the types of issues and things that we need to take a look at going forward.

Comments? Questions?

BERNARD TURCOTTE: Ed, this is Bernie, from staff. Given your technology limitations, do you want staff to tell you if there are hands up, or are you okay to manage the queue, yourself?

ED MORRIS: Bernie, you're a life saver. Yeah, I've never used Adobe on an iPhone, and it's very frustrating, as you might imagine. So, yeah. If you could manage the queue, I would be greatly appreciative.

BERNARD TURCOTTE: Okay, very well. There are no hands up currently, so I guess you're free to go on. And if they do come up, I will signal you.

ED MORRIS: Thank you very much, Bernie. Let me get onto the current slide, here. Okay.

BERNARD TURCOTTE: So, while you're doing that – yeah, I'll let you catch up – and just note that I'm working with the IOP team and Becky, as you know, has been named to the Board and has been very, very, busy, especially with the transition, so she's terribly hard to get a hold of, but she is starting to get some time to get the IOP house in order. And I'll make sure that you get a hold of her, either – probably the best thing will be, we'll arrange for you to talk to her in Hyderabad. You will be there?

ED MORRIS:

Yeah. Yeah, I will be there, as well. And David McAuley is going to be stepping up into that group, as well. So one way or the other, we will get that information. So let's try to unpack some of this question, if we can. In terms of the overlap, going onto slide number eighteen, I'd suggest that we do need to liaise with Becky and her team. If both CEPs and conciliation are intended to frame and narrow the issues of the dispute, in addition, I guess the question I would have – and I'd love to hear comments from folks here on the call – the mediation clause and the CEP seem to be somewhat related to conciliation. Under our new bylaws, if a party to the CEP says they want to have a mediator, that's reason to stop the CEP, and I guess the question for the group as we go forward – is that a clause we want to keep?

So in terms of the overlap with conciliation, I'd love to hear some ideas and comments about ways for us to explore the relationship with conciliation. Do folks believe we even need a CEP, if there's going to be a mediation as part of the IRP, given the fact that we're making the IRP a lot easier and a lot less [inaudible] to access? So, I'll open the floor for thoughts on these issues, if there are any.

BERNARD TURCOTTE:

Farzaneh has her hand up.

ED MORRIS:

Go ahead, Farzaneh.

FARZANEH BADII: Yeah, hi. Thank you, Ed. So I just want to see if I've got this wrong. Now, the CEP part says beforehand, before in the old bylaws, would [inaudible] and there would have been no kind of discovery or anything like that; and now, it is not confidential?

ED MORRIS: We have to set the rules in terms of – at least, as I understand it – in the bylaws itself, there is no mention of confidentiality, there is no mention of the fact that it can't be used for discovery or as an evidentiary tool. I'll be blunt. Taking off my Rapporteur hat, some members of the community do believe that ICANN Legal, for example, has used it for discovery. I'm going to put my Rapporteur hat back on. So that is something I've heard from others. Now, how we formulate the rules in the CEP rules is the question. Can we make it confidential again within the rules? Of course we can. Do we want to? Again, there has been some discussion in the community that one of the problems with the CEP is that it is behind closed doors. I've been through one; my experience was not good. You go behind a closed door, you have no mediation, and you're basically one-on-one with one of the top lawyers I've ever met, [inaudible]. And is that – do we want to continue with that? Do we want some disclosure?

I've heard from some that third parties should have an idea as to what's going on – that they have an interest in terms of what's happening in the CEP. So these are all issues that we need to consider, and that if we want, for example, for the confidentiality or the exemption from

discovery requirements to continue – as they're no longer in the bylaws, we'll have to include them in the CEP rules that we create.

FARZANEH BADI:

Thank you, Ed. So one of the issues that we see in [inaudible] our mediation that leads to arbitration practices is that the party provides all the evidence and everything else in mediation stage or the negotiation stage, so they know that what the other party is going to come up with during the arbitration. And if we don't keep this process confidential, it could potentially affect the neutrality of the arbitration tribunal, as well as the mediator. So that's one of the reasons that I would see if it would make some kind of sense to actually keep it confidential, so that the parties don't put everything on the table, and all the issues are known, all the evidence and everything else is known, and then it hampers the neutrality of the mediator and the arbitrator, I would think.

ED MORRIS:

I think that we'd want to build those into the CEP rules, themselves, which we'll get to in two slides from now. But thanks such much for that, Farzaneh. Appreciate the contribution. Bernie, anybody else out there that would like to talk in terms of conciliation?

BERNARD TURCOTTE:

I see no other hands up, Ed.

ED MORRIS:

Okay. Thanks, Bernie. Could we move on to the next slide, then?

I've been told by our [inaudible] Chairs that, if we don't like something in the bylaws, or we want to add something in the bylaws regarding the CEP, we're free to recommend that to the Plenary, and within the provisions of Work Stream 1, there is provision for any recommendations we come up with. The Board will treat them with the same priority and the same reverence that they would give a Work Stream 1 recommendation.

So in terms of the bylaws, I think some of the things we need to take a look at – and again, today is more of an organizational meeting; we'll have time to come back to this. Is it appropriate to exempt the empowered community from a CEP? Obviously, there's no financial incentive, but should we at least state that empowered communities should attempt to engage in a CEP process? Do we have enough in the bylaws? For example, as Farzaneh mentioned, confidentiality – this may be something we want to incorporate. Is it sufficient to do that in a set of rules – in the CEP rules – or do we want to make the recommendation that we put confidentiality and the discovery and evidence exemptions back into the bylaws, so they're not as easily changed?

The role of the mediator in the CEP – I guess that's something that, as we move forward, I questioned – the way it's set up in the bylaws is that, if you go into a CEP as a third party, and either ICANN or the other party says, "I don't want a mediator," then the CEP is eliminated. It's ended. I'm not sure that's something I would agree with, taking off the other Rapporteur hat, because I do like – having been in a CEP, where

you walk in not knowing what you're doing – I would've loved to have had a mediator. But would that make our process a duplication of the conciliation phase of an IRP? I don't have the answers to that. These are simply questions we may want to talk about in a bit as we move down the road.

Any questions, comments on the bylaws procedures?

BERNARD TURCOTTE: There's nothing; no hands up.

ED MORRIS: Okay. Unfortunately, on iPhone, every time you leave the slide, you have to reload everything, so my apologies. I'm hoping we can technically solve the problems with the Adobe. This is the first time I've actually had one.

So, moving on to slide number twenty. This is where the real meat of the group is going to be – the CEP rules, which the bylaws charge us with establishing. Among the policy issues, the confidentiality-transparency paradigm. Should it be completely confidential, as it is now? Should there be some transparency to the procedures? How should we balance that? And then, do we balance that and put this into the rules, or do we recommend that it be re-inserted into the bylaws? Again, the same thing with the disclosure evidence exemption. We have to come up with timescales. We have them in the current processes, which staff has created. Do we like them? They're quite complicated, I know, in practice. Certainly, when I went through the

CEP I was through, we pretty much ignored them, with the [inaudible] of ICANN [inaudible] and ICANN Legal. Do we want the time limits? Do we just want outside limits? How do we want to deal with that?

Third party rights. This is something that a few folks have come to me privately with and said, “Look. People take something into a CEP, they reach an agreement with ICANN – and we can’t even find out what the agreement is, or if we can, we don’t have a process that led to that. And the newly open and transparent ICANN is this sort of black wall behind which this goes on. Is this appropriate, both in terms of our transparency and is it fair to third parties?” Again, I’m not taking position on that, but these are things we may want to take a look at.

Mediation rights and rules. As I mentioned, do we want to have the complaining party to have the right to a mediator, or should ICANN Legal or if the party itself of ICANN wants a mediator, be able to say, “Hey, I want a mediator,” and that end proceedings? Again, more procedure and process issues. We have to create the rules under which the CEP takes place.

And so, those are some initial discussion terms in terms of scope and how we should explore this. If any other issues folks would like to bring up now, I’d like to open up the floor now, if I can. Back to you, Bernie.

BERNARD TURCOTTE:

Thank you, Ed. I’m not seeing any hands, currently.

get into place to follow through to get through the community [inaudible] process, to initiate a community IRP. These issues are already out in the open, really, as that community process happens. And so, there is already an understanding. So during that community process, we would expect people would be having the conversation about, what are the proper issues to take to the IRP or not. So, the financial reason really isn't in there.

So I think we want to keep in mind that the purpose of this – and then we also did, in the new bylaws, we had a separate mediation phase added in – and so I think we have to be very careful and mindful about the reasons why we have both a CEP and a mediation phase, and be careful if we're going to make recommendations that go between the two. I think there have been CEPs that have actually taken away the need to file for an IRP, if the parties have come to an understanding that it's not an issue that's appropriate for an IRP. ICANN can't – it's not that there are settlement agreements that you would find in court, where people pay money – but that's not the type of thing that ICANN's empowered to do in a CEP. But if an issue is removed from the table, or an IRP proceeding is streamlined in some way, that's something that we have to hold out as a benefit to the entire ICANN community. It keeps the process more streamlined for everyone, because these are the community's resources that will be used. Actually, more [inaudible] across the IRPs as we go forward.

ED MORRIS:

Thank you very much. And can I ask a question? The way you describe the process as you see it, it's almost as if the CEP is not necessarily –

should not just necessarily be viewed as I think we did when we were considering it in Work Stream 1 as a gateway to an IRP, but as a process in and of itself to resolve issues, so that an IRP shouldn't even be considered. Would that be more in line with your thinking?

SAMANTHA EISNER:

Yes and no. It depends on what it is that you're hoping to resolve. So the CEP itself wouldn't necessarily create its own independent relief. Things can only be changed if they are, again, appropriately, within process and admission and whoever else [inaudible] it. But if there's a possibility of sitting down with a party that is intending to bring an IRP against ICANN, and they're laying out their issues, and you can point to it and say, "Actually, we don't believe that that meets the test of what an IRP is supposed to challenge," and we can have discussions around that, then in that way, it is a process to not necessarily come to a remedy, but to really get crisp on what is and what is not appropriate to take to the IRP.

ED MORRIS:

Okay. Is there anybody on the call that has been part of a CEP other than Sam in her role in ICANN Legal? Who would like to give us a perspective of a party that's gone through the process from the complainant side?

BERNARD TURCOTTE:

I see no hands up, Ed.

ED MORRIS: Okay. Thanks, Bernie. Is there anybody who'd like to comment on what Sam has just had to say, or – on, frankly, where we're at right now and where we should be going, issues we should be considering as we scope what we're going to be looking at in going forward to construct this part of the group?

BERNARD TURCOTTE: Farzaneh has her hand up.

ED MORRIS: Farzaneh, thank you.

FARZANEH BADI: Yes, hi, Ed. I agree with Sam, in that some of the issues can be [inaudible] during the CEP process. But I have a feeling – the more we are talking about this, I have a feeling that it's kind of like a private negotiation. I don't think it should lead to having a private negotiation system in place because some of the disputes might have a larger effect on the community, and we might not want to resolve them through a private negotiation process. So when we are considering these things, we have to also consider that what – as Sam said – what sort of issue it is, and what we want to include and what we don't want to include. If the issue has an effect on the community as a whole, then I would say that it should not go through private negotiation.

I might be wrong that this is a negotiation [inaudible] but the more we talked about it, the more it sounded to me like a negotiation. Thanks.

ED MORRIS:

Yeah, I agree. I think that part of the – it’s part of the confidentiality-transparency paradigm that I was speaking about. I attempted, while waiting to set this up, to talk to those who have been through the process. I’m so glad that Sam’s here, and thank you so much for coming, Sam. We needed to hear at least the perspective of ICANN Legal. The complaints I’ve heard from the other side were that you walk into a room, there’s nobody there, you don’t know what you’re doing, you’re on your own, and you’re at a disadvantage. I’ve heard some have alleged that ICANN Legal uses this for discovery. Others have told me it was a good process – worked fine, got rid of the dispute. So I think that there are issues; we’re not going to resolve everything in call one. I’m more trying to scope the issues today and trying to get a work plan going for it. But there does appear to be a paradigm somewhere on this confidentiality-transparency scale that we need to wind up, so that the community is not made subject to private negotiation that you really don’t know about; at the same point, we really don’t drag everything out in the open, into an IRP that, as Sam said, is expensive. It is not just that ICANN is going to be funding the community IRPs; there is also a process in the bylaw for ICANN perhaps to pick up the tab for nonprofits, and other groups that would otherwise not be able to afford this. And those details still need to be worked out.

So I do think that, again, we’re starting to scope some of the issues that we need to deal with. Anyone else?

BERNARD TURCOTTE: Sam has her hand up.

ED MORRIS: Hey, Sam.

SAMANTHA EISNER: Thanks. I think that you and Farzaneh touched on a really important point: that perception that the CEP is about negotiation, as opposed to about clarifying issues. The intention has always been that it's about clarifying issues, and so I think we have to keep in mind that you can't get anything more out of a CEP than you could get out of an IRP. So you could get ICANN to agree in a CEP that it didn't actually follow its rule – sorry, that it violated the bylaw. And maybe that would be potentially one possible way through. Maybe it's bringing something to life that ICANN would then say, "Wow, okay, now we have to go figure out how to fix that." But in the end, ICANN would always have to fix that in a public manner, right? ICANN can't just go and fix decisions privately. So it can't give someone a private settlement negotiation. ICANN couldn't agree to a CEP about what relief someone would get, other than having the Board go through and do it again, or the staff go through and do it again, which would have to be done in a more public manner.

And so, I think that it's really important to, as this group moves forward, to keep that idea of what looks more like a private negotiaton and what looks more like trying to stay in line with the IRP, so that we can help navigate through. Because there probably is a place for a party who's agreed to privately bring information to ICANN to and say, "You violated your rule. This is how you hurt me, and what you did I'm aggrieved, it's

appropriate for me to even be in this process,” so that ICANN could consider that and say yes or no, or point to the other parts of the bylaws and say, “But this isn’t that, because of [inaudible].” But I definitely agree with that sense that the CEP should not be used as a place for private settlement. So I think that that’s just a really good line to be careful of, I think, as this group moves forward.

ED MORRIS:

it brings the thought, at least to me, that we need to perhaps at the outset of [inaudible] the CEP rules to set out what the purpose of the CEP is, and actually perhaps even specifically state, “This is not intended for the private negotiation or settlement of private disputes, private negotiation,” and at least make it clear. Because the perception’s out there. Whether it’s deserved or not almost doesn’t matter. It’s there, and at some point, perception becomes reality in terms of how folks act. So perhaps we need to have a – not so much a mission statement – but at least clarify the purpose of the CEP, either within the bylaws, or within the CEP rules. I’ll make a note of that and set that up for further discussion, if that’s okay with us. Any thoughts, or any other comments? Thank you so much, Sam.

BERNARD TURCOTTE:

There are no other hands at this moment, Ed.

ED MORRIS:

Thanks, Bernie. Why don’t we move on, and let’s try to create a work plan going forward. Again, this is the initial meeting. We’ve had a

reasonable turnout for a CEP. We actually have some subgroups, where – Laurie Schulman comes to mind, where poor Laurie was almost there by herself. So I want to thank everyone for coming to the meeting, and hopefully we'll be able to engender greater participation going forward. So what I propose – and again, I want the input from everybody here, in terms of how to set this up going forward.

The first thing I like to propose is that we do as much as possible on-list and not in meeting form. Our Board liaison is Chris; he's in Australia, or in that part of the world. We have members on this call today in Los Angeles and in Europe. So the more we can do on the list, the more we can engender participation in fairness to everybody. I will take responsibility of liaising with – yes?

BERNARD TURCOTTE: Just a note. Chris [inaudible] is now based out of England.

ED MORRIS: He is? I did not know that.

BERNARD TURCOTTE: Yeah, he moved this summer.

ED MORRIS: That may make it a little bit easier. Thanks, Bernie.

But let's try to do as much as we can in the list. When we set up Work Stream 2, we set it up with one of our goals, and in some of the other

groups I'm part of, that's not happening. So if folks put some ideas out there and ask some questions, the more people can comment, and the less need we'll have for actual meetings, which I think is a plus-plus. And for the type of work we're doing here, I think it lends itself more to written communication than it does to verbal communication.

Looking at the work plan, I'm happy to take responsibility for liaising with Becky and perhaps David McAuley in India, and talking about what to do with conciliation. Try to even grab some ideas from what the IRP Implementation Oversight Team has done in constructing their rules, that we might be able to use in constructing CEP rules. And I guess what I'm looking for, if anyone is interested, are there any volunteers to take a look at two things? The bylaws, in terms of what we have now, and anything we may consider that we need to put back into the bylaws, and basically take a read of the old and new bylaws, make sure I didn't miss something in my analysis, and try to make a proposal or at least take a look for things to discuss that we may want to include in the bylaws. I would be looking for one individual to take that responsibility. Secondly, is there anybody out there, or a group of people, that would be willing to at least initially hold the pen for creating a set of CET rules. I would suggest that would mean while some of us are weighing in, just sitting down and taking a look at the types of things that we'll have to include in the rules. Take a look at our current processes, take a look at the things that were in the bylaws that are no longer there, and anything else you can come up with. So I guess I'm seeing if there's anybody up here that would want to take the pen for one or both of these.

BERNARD TURCOTTE: There are no – Anna Loup has her hand up, Ed.

ED MORRIS: Okay. Anna, hi.

BERNARD TURCOTTE: Anna, if you're speaking, we're not hearing you. Maybe you're on mute.
Anna, we're not hearing you. I'm seeing you in the chat, but that's it.

ANNA LOUP: Can you guys hear me now?

BERNARD TURCOTTE: Ah, there we go.

ED MORRIS: Hi, Anna.

ANNA LOUP: Alright. Sorry, I just changed my preferences here. Anyway, sorry, Ed. I've been looking through the bylaws, the current bylaws, and I realized that the person who would do the reading for the old, the new, and deciding on discussion issues, maybe pointing out some things that they're concerned about for future readings on the list – do you wish they had a legal background? Because for me looking at this, I'm not entirely sure of the proceedings [CROSSTALK] [inaudible].

ED MORRIS: Well, if you want to step up, I'd be happy to help you. Maybe we can do it together. How does that sound?

ANNA LOUP: Sure! Yeah, okay, that works for me. I just wanted to make sure that – I just want to be transparent in the fact that I do not have a legal background.

ED MORRIS: I do, you don't, and we'll look at things with different eyes and perhaps come up with something we wouldn't ordinarily do. Lawyers tend to have a perspective of looking things through eyes which have been trained to look for lawyer things. Maybe you'll come up with some other stuff. Thank you so much, Anna. I will copy you to work with me on that.

Anybody want to help out with starting the long process toward written CEP rules, or at least in the parameters and the scope?

BERNARD TURCOTTE: We have a hand up from Farzaneh.

ED MORRIS: Farzaneh, hi.

FARZANEH BADI: Yes. So I was just saying this in chat, that I have too many pens in my hand, [inaudible] but I'm glad that Anna has volunteered for this, but I will help to [inaudible] the document, and if possible, make additions, or – so, yes. Count on me, but not too much, because I have taken on too many things.

ED MORRIS: I understand, Farzaneh. You're everywhere I look in ICANN [inaudible], which is a wonderful testament to your energy and your volunteering skills. Anybody else, Bernie?

BERNARD TURCOTTE: Samantha, hand up.

SAMANTHA EISNER: Hi. I wanted to raise a potential additional item for the work plan. Something that we did initially at the IRP meeting [inaudible] with the IRP was, we reached to get some practitioners, or to get some experiences from people who have been through IRPs, so there we started to reach out to practitioners from ICANN and from those who brought IRPs against ICANN. And so, as we move forward through this process, I don't know if that's an initial step, or something to bring in as we're trying to finalize the procedures. But I think it's important to understand the experiences of people who have participated in the CEP process. I can see from how you're running the meeting today, and that you were calling out for some of that experience. So maybe it would

make more sense to do a little bit more outreach, to bring a few more people into the conversation that way.

ED MORRIS:

[inaudible] my dear Sam. How did they do it in the IRP? I know in the RPM, we offered surveys to reach folks that are actually dealing with things that [inaudible]. Do they do it in a survey form, or do they try to bring the people actually into the group? Which I have tried, unsuccessfully, today.

SAMANTHA EISNER:

We try to bring people into the group, so we actually – so [inaudible], who's one of ICANN's legal counsel, was participating from the legal perspective. We agreed when we put together the IRP that [inaudible] participating as well as [inaudible] because they'd actually done so much of the IRP work for ICANN. So [inaudible], one of our main lawyers, recommended – he identified some of the practitioners that have been in place in multiple IRPs. And so I believe that there is some outreach to them. I don't think that it was a survey. I'm not sure who all actually came to the table, but we clearly tried to invite them in and get some experience from them. We do have – I know that there's a sense that the CEPs are a black box, and we're not sure which ones are in CEP or not. ICANN [inaudible] status identification on all ongoing CEPs, and we've done this for at least a year if not a little bit more, so you can see who has been part of CEPs in the past, and so I could – one of the things that I could do to try to facilitate the work of this group – I know that it's also in PDFs – but I of course could probably work

together with the people who put together that list and see if I could get a compilation of that list together to see [inaudible] CEP. And that way, you could identify if there are people – figure out the number of people, and if there is any outreach that we wanted to coordinate.

ED MORRIS: That would be – let me [inaudible]. I can't make this decision on my own. [inaudible] I think that would be a [inaudible], both in terms of trying to bring more folks that have experience into the group – if that's unsuccessful, we could even consider a survey at some point, like we're doing in the RPN group. Thoughts and comments, or suggestions?

BERNARD TURCOTTE: No hands up right now, Ed.

ED MORRIS: Okay, Bernie. We're nine minutes before the hour. Why don't we proceed this way? I'll fill this out as a plan going forward, and if there are no objections, we'll go this way; and if someone has some other ideas, I'd love them.

I will take the responsibility of liaising with the IRP Oversight Team, to try to get perhaps some suggestions for how to approach creating the CEP rules, and also trying to get some definition about what they're doing with conciliation – how it's going to relate to the CEP.

Anna Loup has agreed to work with me in trying to take a look at the bylaws. Farzaneh, God bless her, has agreed to give me at least a little

bit of time and try to work with me on the CEP rule situation. Sam, if you can get us that list and perhaps if we can talk a little bit in here about how to proceed with that, I would love that opportunity, and try to bring more people into the group by the time for our next call, which I'll try to have as soon as possible when we get done from Hyderabad.

I will throw this out to the list, as well, see if we can make some more volunteers, as well - [inaudible] and CEP rules. Anyone on this call not stepping up right now that would like to help us out, just as long as you're on the list, I we'd love to have your participation.

So I guess that's the way to go forward. Any other suggestions out there?

BERNARD TURCOTTE:

No other hands up, Ed, at the moment.

ED MORRIS:

Okay, Bernie. Why don't we go ahead forward with that? We'll try to get the summary of the meeting out to the group within the next 24 hours. Hopefully, some of the folks who couldn't come to the meeting today will be a bit more active, and Anna – sorry. I'm having some trouble here with my [inaudible] – I'll take Sam up on her suggestion, and maybe we can do outreach to some of the participants, and see if we can bring them in, as well. And so, with that, I guess we'll conclude the meeting. Thank you so much for coming. My apologies for my technological limitations. So let's hope that our wonderful folks at

ICANN Tech will finally figure out why this little Adobe bug is hitting a few of us at times.

BERNARD TURCOTTE: Thanks, everyone. The meeting is now adjourned. Goodbye.

[END OF TRANSCRIPTION]