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GREG SHATAN: Welcome to the CCWG accountability Work Stream 2 Jurisdiction subgroup meeting number 14, December 19, 2016, 19:00 UTC. First, welcome to all. Second, question whether anybody on the call has any updates to statements of interest? None?

We can get right into our agenda. First subject is the questionnaire, a staff-specific questionnaire on the screen. Thank you. At last week's CCWG conference, we had a first reading of the subgroup on the questionnaire, a reading as part of what has evolved to be the approval process within the CCWG as a whole, for any subgroups to send out materials.

There were a few comments either on the call or after the call within our group, with regard to the preamble in the proposed question. So, I—let's see who we have on the call. We do not have Harmander on the call.

He suggested, with regard to the preamble, to put the entirety of Annex 12 in the preamble, based on a concern that the quoted text, which is in italics, did not completely address or represent the scope of the group, at least not well enough for the potential respondents to this questionnaire to understand the remit of the group. So, I'd like to see if anybody has any comments on that suggestion, or any other thoughts related to the preamble. Milton Mueller?

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MILTON MUELLER: Hello, can everybody hear me okay?

GREG SHATAN: A little echo-y but otherwise okay.

MILTON MUELLER: [INAUDIBLE]. Yes, I think this whole exercise of fact-seeking has gotten a little needlessly complicated, and people keep trying to stick things onto preambles or add question material that is sort of designed to advance their own agenda rather than actually seek facts.

And I would pose that any modification to the preamble, if anything, I would want to make it shorter. I don't think most of the people who would want to respond to this would care about the details and the niceties of Annex 12. We want them to get to the proposed questions.

We want them to answer those questions. And I think the questions are pretty self-explanatory. We probably need a short, two-paragraph preamble that explains who we are and why we're doing this, but to get into a long debate about how much of the final report will be included is really, I think, kind of a waste of time and also, again, detracts from people answering the questions.

If I'm confronted with a six-page email, I'm likely to delete it rather than answer it, because I just won't have the time to devote to it. And if I see that this is going to be something that really involves a lot of

complicated reading, I think I'm going to be less likely to answer it. So, I would propose that we simplify rather than expand the preamble.

GREG SHATAN: Milton, before we go to Kavouss, you have a specific [INAUDIBLE] preamble text?

MILTON MUELLER: Yes, I would propose to delete everything below the second paragraph.

GREG SHATAN: So, beginning with "Add further background?"

MILTON MUELLER: Yes.

GREG SHATAN: Oh, okay. Just wanted to clarify that. I see Avri Doria with her red x, which I will take it to mean disagree with that suggestion. And Kavouss, you have a hand up. Kavouss, we're not hearing you yet.

KAVOUSS ARASTEH: Hello, excuse me. Do you hear me?

GREG SHATAN: Hear you now.

KAVOUSS ARASTEH: Do you hear me, please check?

GREG SHATAN: Yes, yes. We hear you.

KAVOUSS ARASTEH: Yes, I'm sorry I said that. I am very badly sick. I cough very severely, so please apologize if during the attendance, and I cough and may discuss all of this. I have no problem with the shortening of the preamble, but I have an alternative or complimentary proposal.

Put a short one or two paragraphs and then put reference "For further information, for complete information, see Annex 12" and hyperlink that. So, I don't think that a long preamble serves anything. As Milton mentioned, we should say who we are and what the reason for these questions.

And with that, add the rest of the Annex 12 as a hyperlink so people who are interested can read that. So, I can agree with that, with the provision of hyperlink, but not copying everything here, hyperlinking that here. Thank you.

GREG SHATAN: Thank you, Kavouss. Sorry for your illness. So, I guess one way to respond, or to take your suggestion into account would be to cut the— take the first two paragraphs as Milton suggested and then also take the

sentence, or some variation on it, that says “This subgroup’s remit is now particularly described in the final report, Annex 12,” which now has a link to paragraph 25-31. So, that might account for that for your suggestion. So, I thought I saw a hand from David McAuley? David McAuley?

DAVID MCAULEY:

Thanks, Greg. David McAuley here. Kavouss pretty much said what I was going to say, but I have some sympathy for what Milton was saying. Originally, I was the author of the preamble at the group’s request to draw up a preamble, and I originally drafted it a little bit shorter, not too much shorter, and was asked to expand it.

I think the first two paragraphs were specifically language, but then quotes language in italics here. I seized on as contextual language for the responder sympathy, because that’s the way the final report discusses jurisdiction. I’m not talking about Annex 12 now, but the language in the final report of paragraph 234. That’s why that showed up there. I thought it would be helpful, but I’m unsympathetic at all to the idea of shortening this. Thank you.

GREG SHATAN:

Thank you, David. And I think in looking at the preamble with somewhat fresh eyes, I would say that the second, the third and the fourth paragraph all say basically the same thing in slightly different ways, and that the second paragraph is probably the crispest way to deal with it.

If we're going to choose one of the three, that—I'm fine with that one. So, everything else is just kind of a shading, or a recasting, which probably detracts from clarity in the long run. So, I think if we were to cut the paragraphs, beginning at "further background," and specifically.

And then the subgroup's remit will come in so that there is a link to the Annex 12. And then the question's whether we need all or any of the "To help" paragraph, or whether the questions and the footnote about the finding ICANN's jurisdiction and the note that effect could be positive or negative is really sufficient. So, do we want all or any part of this last paragraph? Kavouss?

KAVOUSS ARASTEH:

Yes, I think you said what I wanted to say. We need the last paragraph, because the last paragraph is essential, to say "To help the subgroup." We have to maintain last paragraph. Thank you.

GREG SHATAN:

Kavouss, my turn to think so. We need the last paragraph. I think that's giving some guidance, a guide to the somewhat perplex, about how to approach this. So, I think that's—I think those are worthwhile edits. I think we don't lose anything, and we add some clarity by our losing the third and fourth paragraph. So, I think we're good on that. If there's any other opinions, now's a good time, or any other comments on the preamble. Are there any objections to those edits? I don't see any objections, and I see support.

UNKNOWN SPEAKER: You raised your hand.

GREG SHATAN: Where is your hand? I see Avri's hand.

AVRI DORIA: Yeah, I was just slow reacting. So, I'm not sure about taking out the one that says specifically "ask the subgroup to engage in." That's a short, one-sentence explanation of task. So, if that's one you were thinking, I'm not sure of my [INAUDIBLE]. Now, if that's the fourth one that you're removing that, then I'm not sure that I agree with that. I think that's useful. I don't know.

GREG SHATAN: Well, I guess—

AVRI DORIA: I think it's already short. I think part of the problem for me is it's already really short and I don't understand why people need to—certainly some of the redundancies they want to, and whatever. But one, two and three, I guess, is that. But I really don't think—we're not including all of the 12. We're just including a little piece of it, and I think it's important to state it. Thanks. Otherwise, it's why are people asking this?

GREG SHATAN: Thank you, Avri. And I do tend to like the idea of quoting rather than paraphrasing from the final report. So, maybe a possible option is to

edit these three redundant paragraphs by keeping the second paragraph up through where it says “final report,” and then saying “specifically:” or something—no we need to go to the end of that line, so the end of the second line “the jurisdiction subgroup is addressing jurisdiction-related questions, specifically: can ICANN’s accountability be enhanced?”

Something along those lines, where we take the intro of the second paragraph and the quote of the fourth paragraph and put them together. I’m not quite editing as well on the fly as I should. But that gives us both the advantage of the intro to the second paragraph and the quote in the fourth.

So, why don’t I put that on the list afterwards, and we can move onto the first question. Any objection to that edit, as best I could express it? I’m seeing no objections. Let’s move onto the first proposed question. And there was a—well, I will let Kavouss speak. Kavouss?

KAVOUSS ARASTEH:

Yes, the CCWG requested possibly we remove business, your business and your privacy. I’m talking about that. Or have your activity relating to and then let’s not talk about [INAUDIBLE] but the DNS. The second one was the proposed one, we proposed.

But just instead of DNS-related service, let’s talk about the [INAUDIBLE] system. And I propose to delete business and privacy because, as we just put too specific an issue, there might be other issues that perhaps we [INAUDIBLE], your activities related to the use of the DNS. Thank you.

GREG SHATAN: Thank you, Kavouss. Do we have any other comments on the first question? Any pro or con comments on Kavouss' suggestion, or any other suggestions? And Kavouss, if this question in the chat expresses how you would like that question to read?

KAVOUSS ARASTEH: Let me see in chat. Avri Doria, Jorge, David, Avri Doria. I don't see the— which one in the chat?

GREG SHATAN: The very last thing that I typed.

KAVOUSS ARASTEH: Could you refer to it? I don't see it. [INAUDIBLE]

GREG SHATAN: Have your activities related to domain name service been affected by ICM's jurisdiction?

KAVOUSS ARASTEH: Yes. The only thing, [INAUDIBLE] system of domain name services. Are you sure that we could refer to services? We have such services, or just DNS, domain name system? I stand to be corrected whether we say domain name system or domain name services. Because when we say services, there might be one, somebody thinks.

GREG SHATAN:

Thank you, Kavouss. Does anybody else have any comments? I would like to—I think the problem with DNS is that people who are more—who work in the domain name industry, if I'll call it that, and they see DNS services, they're thinking of managed DNS, like [INAUDIBLE], or GoDaddy, as an added value add, and not the [INAUDIBLE] services related to the domain name system.

So, that's the reason not to use DNS services or DNS-related services. Anybody else have any comments? We kind of have two suggestions, the question as it is, Kavouss' suggestion. Either way, just a suggestion to get away from DNS-related services. How do people feel about deleting the references to your business, your privacy and just making it a very high-level, your activities? Milton Mueller?

MILTON MUELLER:

Yes, I think we qualify DNS-related services with later on saying has it been affected by ICANN's jurisdiction in any way? I think we're interested in any way in which ICANN's jurisdiction affects their ability to use a purchased DNS-related services. I don't know what it means to user-purchased DNS.

I think that's just an overly broad, almost meaningless construct. You don't purchase the DNS. The DNS is a standard. You purchase or use services that somehow rely on the DNS. So, I'm not sure what the point of this modification is. What are people afraid of?

Nobody's going to describe—maybe they might mistakenly describe some kind of completely irrelevant consumer protection issue that might have happened in Moldova or Spain, but we can just discard that. If they don't actually show us some way in which their activity was affected by ICANN's jurisdiction, then we just throw it out. We don't worry about it. But I think we want to be focused on services related to DNS and not just say DNS.

GREG SHATAN:

I think the suggestion was to replace DNS-related services with domain name-related services, with the idea of avoiding confusion with basically DNS hosting services, which is often—and managed DNS services, which are often referred to as DNS services.

So, the concern was not so much whether people who had no real contact with the domain name industry or system would get confused, but rather those who had a lot of contact, or more contact, would be confused as to whether we're really just asking about DNS services as opposed to something broader. Okay, so I think the notes need to be caught up. So, there we have now. So, domain name-related services, I think would be a little clearer. Christopher Wilkinson?

CHRISTOPHER WILKINSON:

Hi, good evening. Greg mentioned—I think the discussion has moved on from when I asked for the floor. I just wish to suggest that we maintain the business privacy of the DNS-related services in the question one. I think we've come back to that, more or less, from what I hear he's just saying. So, let's leave it to that.

GREG SHATAN: Well, thank you, Chris. We haven't really—that's still an open question, since Kavouss has suggested it. And so, we need to kind of work that through. Kavouss? Kavouss, we're not hearing you yet.

KAVOUSS ARASTEH: Yes, in other fora, when we have some difficulties to select between services and systems, what we do, we put services/systems. [INAUDIBLE] So, I suggest that putting between, spelling out domain name services/system, or domain name system/services.

This is something that could serve, not to engage in a discourse with Milton, who insists to have services, and that if possible, we put both of them with a slash, depending on the way that the people injected that. Thank you.

GREG SHATAN: Kavouss, I think we're going to need to see how these questionnaires as a whole lays out. But we could make references to both services and systems, if that makes sense in the context of the larger question once we've gotten to figuring out what it will say. David McAuley?

DAVID MCAULEY: Thanks, Greg. It's possible that what Kavouss said may address my concern, but I couldn't quite get it all. And I was thinking that if the concern was—and one of my concerns is opening the question up to more general, happier activities related to domain name services.

Maybe we could do with an intro, such as “Restricting your question to ICANN’s impact, have your activities related to domain name services been affected to ICANN’s jurisdiction in any way?” Maybe an introduction would help narrow it and address some of the concern that Jeff Neuman had, and I think I share. Thank you.

GREGG SHATAN:

Okay, thanks for that suggestion, David. I think we refer to ICANN’s jurisdiction a little bit later, so still, I think, limited to the effects of ICANN’s jurisdiction. So, I’m not sure that we would get more clarity out of adding that intro. Kavouss, is that a new hand or an old hand?

KAVOUSS ARASTEH:

No, it was an old hand. I’m sorry. I’m sorry, it was an old hand. Yeah.

GREG SHATAN:

Are there any other opinions, pro or con, between referring to your business, privacy or your ability to use versus just have your activities been affected by ICANN’s jurisdiction in any way? Or have your activities related to domain name services or domain name systems been affected by ICANN’s jurisdiction in any way? We do have two options here.

Without much feedback on either, I think we’ve got kind of one who wants to change it, one who’d like to keep it the way it is. And everyone else is kind of sitting this one out. So, it would be nice to have some opinion. Let’s do some checks.

If you would like to keep the question the way it is, other than changing the reference to DNS-related services, if you'd like to keep the beginning part the way it is, please use a green check. And if you—so, let's—and if you'd like to change it to include—to say only have your activities related to DNS been affected by ICANN's jurisdiction, please put a red x.

Avri and Corwin have both put "stepped away." Okay. We have, it looks like, pretty much equally three and three. Let's get rid of your x's and checks. And let me just try this the other way. If you support changing this to have your activities related to DNS been affected by ICANN's jurisdiction in any way, put up a green check.

If you support the alternative suggested today, put up a green check. And if you're opposed to that change, put up a red x. I'll keep this open a little while longer. So far, one in support of the change suggested by Kavouss, and two—three objected.

So, it does not seem that there is support for this. There's some support for the change, but not a sufficient amount. Also, a red x appearing from Jeff Neuman. So, four red x's. And I counted earlier, three green checks in support of that change.

Paul McGrady says we need an abstain button. Maybe indicate active listening. That's a good idea. I don't see support for the change, but given that we have participants not on the call, we can put this out on the list as a report. Avri says stepped away is abstain, so that was what she was indicating. She hadn't actually stepped away. Phil Corwin seems to actually have stepped away.

In any case, I think that takes care of the first question. Again, we'll put everything out on the list with appropriate notations, and move onto the second question. See if there are any comments on this question. This one seems to be relatively non-controversial.

[INAUDIBLE] seems to have stayed pretty much the same. So, I think we can move past question two. Going once, going twice, gone. And move to question three. "Do you have copies of and/or links to any verifiable reports or experiences of other parties that would be responsive to the question above?"

Question three. Any comments on this question? Going once, going twice, and gone as well. Now we come to question four, and to recap, there's been quite a lot of discussion and changes in this question, and some discussion on the list about how to possibly change question four.

In our poll that we conducted earlier, there was somewhat more support, by a gap of about three votes out of about 31 votes for including this question as opposed to not including this question, which raises questions about our decision-making parcel.

Ideally, we would come up with a version of this question, if we could, that would get broad enough support that we don't have to face the question of how do you deal with a split vote, and another slightly split vote about sending out the questionnaire without the fourth question.

So, heading toward consensus is always the better approach. The last thing we want to do is send out a questionnaire and have a footnote that says that 47 percent of those in the group creating this objected to

sending this question out, or something like that. That would not be fruitful. So, I will take a queue, and we have Kavouss.

KAVOUSS ARASTEH:

Yes, you are quite rapid. I didn't understand the meaning of question three. Do you have copies of and/or links of any ways of the report or experience of other companies? You asked me if I would have report of other problems? If I don't have that I should? What does it mean do I have report of other problems? Why do we raise this question? What is the use of this question? Could you please explain? You can explain because you have drafted the questions. Thank you.

GREG SHATAN:

Yes, question three, the question three was added because some people wanted people responding to be able to answer with facts that were not about their own experiences but facts about other people or entities' experiences. Since questions one and two are asking about your own experiences, question three was added so that if somebody wanted to submit another person's experience, or another business' experience, or another entity of any type, a country, whatever it might be, they could submit that.

But the idea was to submit copies of or links to that other report so that we would avoid kind of what lawyers would call hearsay and get a first-person report, but if that first person wasn't the responding to the questionnaire directly, it would allow somebody else to submit it to us for our consideration. That was the point of question three. Milton?

MILTON MUELLER:

Yes, I think the problem with question four, as you probably know, I have been opposed to including it. And I think the reason some people are insisting that we keep it is that they think that it raises issues that are very important, and that if we don't ask about them in this questionnaire, then we will never ask about them at all.

I actually am not opposed to this group engaging on some of the issues that are very indirectly touched on by question four. My point has always been that we have a very specific focus in questions one through three, which is what we agreed we were going to talk about first, which was these kinds of conflicts of jurisdiction issues.

I believe that the other set of questions are also important, but they have not been properly worked out in terms of what we want to find, in terms of how we're going to deal with it, and that question four should simply be detached and deferred from this questionnaire.

We should deal with those issues separately and later. So, if you got an email which is headlined "Some issues extracted from email exchanges among subgroup participants." I believe that subject line came from Kavouss, but I'm looking at some kind of endorsement of this from Harmander.

There are 22 different questions, some of which are, I think, quite potentially interesting questions, but they're about a completely different matter than what we're dealing with in these first three questions.

And some of those questions are actually not so valid and would not be anywhere, and I think these broader issues about jurisdiction and immunity, and so on, that some people want to talk about very badly, are better dealt with separately and with a bit more time.

Again, I thought we had agreed to pursue these sort of narrower issues first anyway. So, that's why I support removing question four altogether from this questionnaire. It's not that I want to avoid or cover up any issues. It's that if you really want to deal with those issues properly, this is not the time or the place to do it. There's a lot more work that needs to be done preparing for that.

GREG SHATAN: Thank you, Milton. Understood. Kavouss?

KAVOUSS ARASTEH: Yes. I'm sorry, you were too quick on question three. I am not convinced why you are asking me to send you experience of others? How could I know that? If somebody is affected, how could I know that? Why I should quote something from experience of others that may be saying that why you can get that information? I'm not [INAUDIBLE] to get the experience of so many people. Where I can get that? I don't understand the question three.

GREG SHATAN: I think—

KAVOUSS ARASTEH: I do not understand question three. Please do not on question four until we settle question three. I am worried that question three does not have any meaning besides asking x to give the experience of y, and I don't know where that x could access the experience of y. How could have access to that? Where he can quote that? By his own imagination?

GREG SHATAN: No, that's exactly the opposite. The idea is that they would need to be verifiable reports of, say something that was written, maybe a court case, maybe it's something that's been written up on somebody's—in a newsletter or newspaper, or a blog, or that's been reported in an ICANN session and is in the transcript.

Obviously, this is not my question, but the reason for the question was that a concern that if we did not have a way for people to provide experiences of others, we'd be limited only to the factual experiences of those responding, and we might miss some factual experiences that were known to people.

If you don't know any of them, just answer no. If you don't have anybody else's story that you believe is—or experience that you believe is germane, then the answer would be no. But I think that the belief was that some people would answer yes and that questions one and two would not embrace that question. So, I think that's the reason for that.

KAVOUSS ARASTEH: I'm sorry. I don't think that we can ask the people to quote something from newspaper or from articles. They do not have this factuality at all.

You know the media, they act fake information. I don't want people to go to the website and select part of a report and say that this is part of my experience [INAUDIBLE] and this is my experience of advice.

You could just give your own experience. But not experience of others. I don't understand. Never, ever you can ask somebody to talk about experience of others. This is really my question. So, I don't agree with this question at all. We don't need that.

GREG SHATAN:

Okay, well we started with just questions one and two, of course, and then along the way, there was the suggestion to add question three. But why don't we see if anybody else has comments on question three? Next is Avri.

AVRI DORIA:

Hi, yeah, I didn't raise my hand on question three, but I do have an opinion on it, and I was going to speak on question four. Avri speaking. So, with question three I think what we're saying is we're willing to take secondary sources as well as primary sources.

And that seems completely reasonable to me. I mean obviously with a secondary source, you have to do a little bit more work to ensure that that source is a reasonable source, but that can be done, and there are whole groups of secondary sources that are considered quite useful and valuable.

So, I think if you look at it that way, in terms of reference and whether you're referring to primary or secondary. I think as well if you're in the

secondary, I think it's like "You know? I read an article once that said..." would certainly not be applied as a sort of third-hand reference to a secondary. But a proper secondary source should be allowed. On four, should I go to that or should I stop with three?

GREG SHATAN: Why don't we stick to three for the moment, but definitely stick around for four.

AVRI DORIA: I'll take my hand down and the put it up again when we're back to four. Thanks.

GREG SHATAN: Thanks. Kavouss, number three?

KAVOUSS ARASTEH: Yes, I think unless we give the reasons of the use of such question [INAUDIBLE]. We should have a meaning to use that. [INAUDIBLE] have any report of experience of this second question. I cannot do that. I have no access to those experience, and whatever I say may not be true. And it creates difficulties. It does not reflect the facts to why you need this question. So, what [INAUDIBLE]. Something that doesn't help us, don't put it.

GREG SHATAN: And what did you think of what Avri said?

KAVOUSS ARASTEH: I don't know. Avri proposed a new version of the question three?

GREG SHATAN: No, not a new version, but just an analysis of it that basically question three is asking for secondary sources.

KAVOUSS ARASTEH: Obviously if you are putting secondary sources, and then you have it available. If you ask on this one, is it available. [INAUDIBLE] secondary sources. The secondary sources have no meaning. Someone has closed mind experience, which is not correct.

I've had requested before, in some other area. I did not get report for that. Experience that we had was that reported in personal development, according to the judgement of the people. I don't want to rely on judgement of the first party to think about the experience of the second party.

Perhaps you could put some conditions, some qualifiers, secondary sources, if available, and something like that to see whether it is possible or not. But just at least try to align myself with Avri that we should put conditional, or qualifiers if available, and it will—the possible [INAUDIBLE] that could help.

But the only thing I don't think there is [INAUDIBLE] that. If somebody goes and gives experience of our experience, and we don't agree with it because of difficulty, then we have to engage in problems with the

other people, that what they have quoted as our experience are true. Because it is in your thinking our experience. Just you can talk about your experience yourself. But you cannot talk about my experience. How you could do that?

GREG SHATAN: Okay, I think—thanks, Kavouss. Christopher Wilkinson?

CHRISTOPHER WILKINSON: Unmuted. Christopher Wilkinson, for the record. So, regarding question three, I understand the concerns and reservations about third-party gossip, informal and unverifiable information. And one would need to find a way to say making sure that such replies were verifiable.

But I don't agree entirely that it isn't possible. Because many of these third-party relationships are contractual. First of all, [INAUDIBLE] of privacy in WHOISs, for example, where there's a major jurisdictional difference between the United States, and particularly Europe.

ICANN has an awful lot of information about this already. There's a procedure where ICANN invites [INAUDIBLE] to undertake a quite onerous procedure to acquire an exemption from the consequence of [INAUDIBLE] jurisdiction. And I think it would be important to make sure that ICANN itself replies in detail to question three.

There is also a very question of the less contractual relationship between Registries and Registrars and their customers, their clients, the registrants. And if I was in charge of answering this question for a Registry or Registrar, I could [INAUDIBLE] if I have contractual

relationships with hundreds, and in some places thousands, of registrants whose privacy, for example, is affected by US jurisdiction.

So, there are areas where third-party reports should be admitted. But I agree with Kavouss and others who have spoken out to say that the relationships should be formal and contractual, and that would not necessarily be purely hearsay.

GREG SHATAN:

Yes, thank you, Christopher. What I think I could take away from this, and then I'd like to get onto the fourth question for the last minutes, if we could make this question a little more narrow, rigorous, and only come up with good quality results, not hearsay, not friend of a friend type of stories, memories, but actual published reports, that could be relied on, it would be worthwhile having them, but not a general expedition for something you might have heard about. Let's move to question four, and Avri, I believe. I think Kavouss' had is old. Avri, yours is returned, so please take the floor.

AVRI DORIA:

Thank you. Avri speaking. Yeah. So, on four, I very much think that it needs to be there, and I think we can find a form for it that works. In terms of the idea of a second questionnaire, we're dealing with how hard is it going to be to get people to give proper attention to this first one.

The idea that we quickly send another one after, or even not so quickly, just strikes me as relatively impossible. But I also want to go further,

that I see this as being able to be the factual basis that would then lead to further discussions, depending on the facts.

So, all those issues that Milton was bringing up are indeed the questions that we might get to, depending upon the information that we collect. And so—and then there may be time later to develop other questions, but much later, on those issues. But at this point, this question goes to the factual basis for taking those further explorations. Thanks. I'm going to drop off, because I've got to get ready to go to another meeting, but thank you for getting me in.

GREG SHATAN:

Thank you, Avri. Philip?

PHILIP CORWIN:

Yes, this is Phil Corwin. And on question four, I've suggested and it's received some support on the list, the email list and in the chat room, that we restrict question four to the first three sentences. So, the sentence about advantage or disadvantage relating to ICANN's jurisdiction, the request to support the response with appropriate examples, and also to please indicate current or past instances.

So, I would stop there, because after that, we start talking about likely future risk. And that brings us into the world of speculation. When we're dealing with a jurisdictional—with a new accountability framework that's based upon ICANN—the jurisdiction that ICANN has since inception, and that has never produced any major problems so far as I know of a jurisdictional nature.

So, I think we restrict the question to facts. It's fine. But when we start talking about speculation about the future, I think we're getting way ahead of ourselves. Thank you.

GREG SHATAN: Thank you, Phil. So, the suggestion is to cut the question off, ending with problems, the second sentence of this paragraph, and cut out everything in terms of what the future risks to the end. Kavouss?

KAVOUSS ARASTEH: Do you hear me?

GREG SHATAN: Yeah, go ahead.

KAVOUSS ARASTEH: Yes, Greg. [INAUDIBLE] the question is vital, fundamental and important, if there is a need to redraft it, we can redraft it. But the interest of the question is important. For me, question four is not much more important than question one, two and three.

Three is a question that we do not agree. But drop the question four and go only with questions one, two and three. That is the situation, and that is something that we have heard from [INAUDIBLE] in many meetings, saying that nothing is agreed until everything is agreed on. It is not from our part, it is decided the big powers in the world.

They say that many international meetings, nothing is agreed until everything is agreed. So, we should agree on everything. So please, I request that we do not agree to drop question four at all. Thank you.

GREG SHATAN: Kavouss, can you comment on Phil Corwin's revision? Are you okay with that revision?

KAVOUSS ARASTEH: What is the revision? Could you review the revision? I have nothing—is it in the chat?

GREG SHATAN: It is in the chat. It is basically to keep the question and the first two sentences of the second paragraph, and to delete everything after that.

KAVOUS ARASTEH: So, first question, what are the advantages of this? We support [INAUDIBLE]. We need to ask that in particular, right?

GREG SHATAN: Yes, and then cut everything else in terms of likely future risks.

KAVOUSS ARASTEH: Yes, we will be deleting particular phrases, pattern of past instances [INAUDIBLE] if you have experience.

GREG SHATAN: Okay, Milton Mueller?

MILTON MUELLER: Yes, I have to go almost immediately at 3:00, so I just want to say I second what David McAuley just said in the chat, which is, as you know, question four should not go out with this questionnaire. It should be completely reformulated and discussed at much greater length and sent out separately.

But if we are going to send it out, then the version that Phil suggested would be acceptable. Although again, it's so general that it's not going to get [INAUDIBLE] information that the people that support this question want.

So, I'm suggesting again that the people who really want to explore these questions are shooting themselves in the foot by tacking on a very general and vague question onto a much more specific questionnaire about a different topic, and I don't quite understand Avri's point that somehow, we can never send out another questionnaire if we don't send out this one. So, with that, I hope that you all make the right decision, and I'll see you next week.

GREG SHATAN: Thank you, Milton. Well, we're up to the hour, and a number of us have a call at 3:00, so we have a hard stop. So, what I will do is rather than making a decision in basically no seconds, is to put this out on the list. I think we have a couple of different options on question four, and I think

what we need to do is see what would get the greatest level of support and try to move from there.

So, everyone, please be active on the mail list. I know we're heading into the holidays. We do not actually have a meeting next week. So, our next meeting is in the first week of January, on the 5th. So, let's see if we can make a lot of progress in the meantime.

And in the meantime, happy holidays, Merry Christmas, Happy Hanukkah, Kwanzaa, Festivus, and any other holiday where it's being celebrated around the Winter Solstice. This call is now adjourned. Thank you and goodbye.

[END OF TRANSCRIPTION]