
DAVID MCAULEY:

Thank you very much. Again, good morning to Kate, Marianne, and Sarah. Thank you very much for being here. As you can see and we can all see, we're struggling as a group to get together for meetings. That's perhaps understandable. There's a lot going on. I myself have been pretty overwhelmed with the amount of work that's going on in this subgroup, but primarily in other subgroups as well, including my day job with Verisign.

In any event, good morning also to Avri and welcome. I was just saying, Avri, that we have a small group again. Rather than cancel the call, I'd like to make a statement about what I think we might be able to do going forward, not only for the small group of us that has gathered here, but for those who want to check the transcript or the record/the reporting. I have some suggestions for going forward, and then I will invite your comments.

Before we get to that, I would like to ask, if there's anyone listening on the phone who is not in Adobe, if they would identify themselves.

Hearing none, to this group, I would ask if anyone has anything they want to mention regarding a statement of interest or a change to a statement of interest.

Okay. Hearing none, let's move on. I think I'll jumble the agenda just a bit and talk about how I think we might be able to move forward as an IRP-IOT team.

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When I say that, I mean move forward, recognizing that it's difficult to get a significant group together on the phone. Rather than dive into the timing issue, let me make a statement about scheduling and about the nature of our work.

In my opinion – I'm certainly open to other views – this team's job is switching from decisional to operational. I personally see three legs to the new IRP stool. One of those legs is the updated procedures that we're working on, and that involves decisional work from us. That's continuing because the comments forum [is] open and we're getting blogs and we're getting comments, so after January 25th, we'll have some work to do.

There's another leg to the stool, which deals with the administrative support for IRP, and that is the process of putting in place an administrative advisor. Currently, there is one, of course, because IRP has been an ongoing institution, and that's the International Centre for Dispute Resolution.

The bylaws call on ICANN – this is ICANN's responsibility, with support from us and from Supporting Organizations and Advisory Committees – consider an RFP, etc., for admin support services. That's something we can address and we can be helpful in. We can be advisory, I believe, in that capacity, and so I see that as operational. I think the IRP process can keep moving forward because there is a provider now, but ICANN will probably look at its obligation under the Bylaws with respect to this RFP and decide what it wants to do and let us know.

Let me mention the third leg, and then I'll ask the folks that have joined on the phone to identify themselves. The third leg of the IRP process – these are important links. The rules is one. The admin support is two. The third is establishing gathering a Standing Panel. Again, that will be ICANN and the Supporting Organizations and Advisory Committees largely taking the lead, and I think our role would be advisory.

I think what all that leads to is we may be able to work primarily on list with meetings maybe every month or every six weeks as needed. But I'll get to that in a minute.

There are two folks who have joined on the phone. Can I ask them to please identify themselves?

ELIZABETH LE: Hi. This is Elizabeth Le, ICANN staff.

DAVID MCAULEY: Thank you, Elizabeth.

GREG SHATAN: Hi. It's Greg Shatan as well.

DAVID MCAULEY: Good morning, Greg. In Adobe, we have a fairly small group again, and it's going to be difficult to meet. So I'm making a statement about how we might proceed going forward. Then I'll invite comments and I'll go

through the agenda items and invite comments, but we will probably have a short meeting today.

I want to personally thank you, Greg, for showing up. I know this is a very difficult time for you.

I was just making the point about our role in this team as shifting to an operational role. With that being said, and with respect to meetings in the future, I see the next meeting as probably being bookended by two important dates.

The first date that I have in mind is January 25th. That's the close date for the comments on the currently-posted updated rules of Supplementary Procedures. That would be to me the opening date of a period within which we might have a meeting. The closing date to me would be the 10th of March, the face-to-face meeting in Copenhagen, where I believe I should be prepared as our rapporteur – and I'll invite other help as people wish – to make a presentation to the plenary CCWG as to where we are as a team and what progress we might be making, etc.

With that in mind, I ask Bernie if he would be able to talk to what we currently have booked on the calendar for teleconference meetings and whether there might be an opening roughly three weeks after the close of the comment period when we might gather together on the phone. If we agree with that, I would go out [on the] list and urge people to please show up, etc.

All of that being said, Bernie, could you – well, let me just back up before I ask you, Bernie. I see that Sam has now joined us. Sam, we have

a small group, and I'm making a statement about the nature of the IRP work going forward. We're looking for the date for the next meeting, for which I think I need to do my best to gather folks around the phone. I don't think we need to meet that often, since I see our job moving to an operational one as opposed to a decisional one. I see you at ICANN having a role in doing admin support for IRP and then establishing a standing panel and our job shifting in those respects to advisory.

Anyway, Bernie, could you talk to us about dates – what we currently have booked and what might be available the week of February 13th or 20th?

BERNARD TURCOTTE:

Yes, sir. Currently our next meeting is scheduled for Friday, January 27th, 13:00 UTC, so this time. Per your request, I looked at the weeks of February 13th and 20th. I have some times available. It's not overly busy. On Thursday, February 16th, I could get you 19:00 UTC, which is 2:00 P.M. Washington time. Similarly, on the week of the 20th, please note that Monday, the 20th of February, is a holiday in the states, U.S. Presidents Day.

I have February 23rd at 19:00 UTC also available. There are other times – the 05:00 slot is open, but I know it's not preferred by this group. I've tried to keep away from the Fridays, so the best we could do at this point for the weeks of the 13th of February and the 20th of February are Thursday the 16th of February at 19:00 UTC and Thursday, the 23rd of February, 19:00 UTC.

DAVID MCAULEY: Thank you, Bernie. To the group assembled, I'll ask for your input on what I've said. Basically, to summarize, I tend to believe that we don't need to meet on the phone until several weeks past the close date of the comment period on the rules. Given what Bernie just said, I might suggest either of those dates – Thursday the 16th or the 23rd at 2:00 P.M. – but I'm open to comments and ask if anybody would like to weigh in on this.

GREG SHATAN: This is Greg. I'd like to get in the queue.

DAVID MCAULEY: Greg, you're number one, so you have the floor.

GREG SHATAN: Two comments, one logistical, the other substantive. On the logistical front, the week of February 13th is the week of the Non-Contracted Parties House intercessional in Reykjavik. That is on the 14th and 15th and into the 16th, which will be a travel day. It's possible I could make a call on the 16th but awkward, going from one difficult time slot to another. So that's one problem. I may be the only person affected by that. But I wanted to mention that.

The substantive point is, if the comment period is closing on the 25th, it seems odd to me to wait nearly a month to meet. I don't know how many comments we'll get. We already have a bunch. It seems to me that we need to delve into the comments as soon as possible after the end of the comment period.

Now, I know that staff typically prepares an analysis by trying to organize the comments into something that maybe makes it a little easier to analyze things across comments and to respond to the comments, but I don't think that will take a month, even if we get a ton of comments in the next few [boot] days or ten days – whatever we have left.

So I would think we would want to meet earlier, maybe the week before the week of the 13th; that is, the week of the 6th, thinking that the comments should be mix-mastered and you'd have time to read them. Plus we are always perfectly capable of reading the raw comments themselves, rather than waiting for a review tool. Sometimes, no matter how good the review tool is, it's necessary to go back to the original comments to get context from what was snipped and put into the review tool.

I do think, given what our next item on the agenda is and the comments that will be forthcoming from the ICP and comments that have already been forthcoming from other groups, that there's a real need to focus on this timing issue and be able to respond to it. I think our response probably needs to be something significant. Thanks.

DAVID MCAULEY:

Thanks, Greg. Two reactions to what you said. As the rapporteur, I'm taking note of the fact that it's hard to gather our group on the phone. So maybe I was thinking that, if we waited until several weeks, we'd have a better chance. But that's not really that important.

The other was that I do anticipate working actually more pointedly for this group on the list. I don't know that there's a bunch of comments right now. I haven't checked the forum since, I think, like a day-and-a-half ago, but there were seven comments and there's two separate blogs, one by Milton and one by Kathy Kleiman that I've seen. There may be others, but those are the ones I've seen.

As I look at things now, I would say, "Hmm. There's probably two big items we should look at." I would say there's the timing issue on the one hand. Maybe we could get a subset of the IRP to work on that. Then there's Kathy's point about a joinder of parties and consensus policy changes. Maybe we could get a separate subgroup to work on that.

I do anticipate encouraging and asking everybody to be looking at these comments, if not now, then once they close on the 25th, and then to take account of the staff's reporting on it. So I see the fact that, if we met the week of the 20th or whatever it was, we're not doing anything until then. There would be a lot of work, I hope, going on in the background.

Nonetheless, Bernie, do we have anything available the week of the 6th of February? I suspect, looking at your notes in the chat, Bernie, that we might want to cancel the meeting on January 27th. But we'll talk about that in a minute. Have you been able to check if there's any time available on the week of the 6th?

BERNARD TURCOTTE:

Yes. As per the chat, Thursday the 9th at 19:00 UTC is available.

DAVID MCAULEY: Thursday the 9th at 19:00. I guess I would suggest, Bernie, if you could pencil us in for Thursday the 9th. Does anybody object to that?

Hearing or seeing none, Bernie, if you could pencil us in for Thursday the 9th – is that 19:00 UTC?

BERNARD TURCOTTE: That is correct and that is now done.

DAVID MCAULEY: Thank you. So we have that as a placeholder. Does anybody on the call object – I'll mention it on the list – object if I cancel the meeting on January the 27th?

Hearing or seeing none, I think I'll do that. I'll go to the list with that cancellation and see if there's any major concerns.

Does anybody wish to comment on the nature of our work going forward? I see us as decisional on the rules business but as advisory on the others. Does anybody want to make any statements with respect to the view of our work as addressing three important stools? One is the rules, one is the admin support for IRP, and the third is the Standing Panel. Anybody want to comment on that generally or in any other way?

Okay. Seeing none –

GREG SHATAN: David, this is Greg Shatan. I just wanted to comment and support. Other than the one point that I made, which I think you addressed, I support everything else that you put forward.

I guess the only thing I would like to know – obviously this is a little hard to predict because we don't know how many more than the seven, or counting IPC's comments, eight comments will be filed – is when the review tool itself might be ready for us after the 25th.

DAVID MCAULEY: Bernie, do you have any comment in that respect?

BERNARD TURCOTTE: It always depends on the number of comments and their complexity. Right now, looking at what we've got, if the trend is maintained to fewer comments that are light – I'm being very clear here. I'm talking about the comments that are officially made. I'm not talking about blog posts or anything anywhere else in the multiverse – then I think, all things being equal, staff would endeavor to get that out well within a week.

DAVID MCAULEY: Thank you. Thanks, Bernie. Malcolm has joined the call. I'll just mention briefly for Malcolm that we've been discussing that the last call was cancelled because of small attendance and that it's a fairly small group again. We've just been discussing the nature of our work, moving from decisional on rules, although there still is work to do on that, to advisory with respect to admin support for IRP and establishing a panel. We'll

still have a role in that, but I think the fact that we're moving towards an advisory role may lead to the possibility for having less teleconferences and more work on the list.

We also talked about establishing the next meeting, Malcolm. It's going to be on Thursday, February 9th, and we're going to cancel the meeting on January the 27th. It'll be at 19:00 UTC on the 9th.

We have not yet discussed the other points on the agenda; for instance, the substance of timing, etc. Greg has mentioned that the IPC is going to comment on it.

We can get into that now if you would like. I'm glad to see that you're on the call, Malcolm. I would ask you to take the floor if you wish to make any comments in respect [inaudible]. Now we're onto the agenda item with respect to discussion of timing. I expect that we'll deal with this on the list as well.

MALCOLM HUTTY:

Thank you. Well, I mentioned that what we were going to do is we were going to leave the decision-making on the timing issue until after the public comments had closed. But given Sidley's reply, I imagine that we will be looking at either simply adopting Sidley's alternative text or crafting an alternative that is intended to meet the points that Sidley made.

The key thing that Sidley has said – well, they said two things that I think are crucially important. The first is that actually what we put up did not do what we thought it did, which in itself seems to be a substantial and

sufficient reason for coming backwards and having another go at this again. The second thing is that, in Sidley's opinion, it isn't consistent with the bylaws, which would clearly necessitate more work now.

For myself, my initial take, personally, would be that I would be content with the alternative text that Sidley put up, but I would be eager to read the public comments before reaching a final view on that.

DAVID MCAULEY:

Thank you, Malcolm. You're correct that, obviously, we can't definitely deal with the timing issue until the comments period has closed. We've seen what the body of comments are. I actually also think that we can certainly consider the blog entries that have been made. Milton's point, I think, goes a little bit beyond yours.

For those who have just joined – hi, Chris; welcome to the call – later, I've posted links above in the chat to Milton's blog and to a separate blog by Kathy Kleiman. My bad for forgetting to put those links on a slide. But in any event, they're in the chat.

With respect to the timing issue, Malcolm, when the period for comments was delayed to the 25th, I thought in your response you indicated that you would be making a comment. I haven't checked in the last day-and-a-half to see if you did. Do you plan on putting a comment in?

MALCOLM HUTTY:

I certainly plan on putting a comment in. To be honest, Sidley changed it, rather. I was expecting to spend an awful lot of time putting a long

and detailed comment in. Now that we've had Sidley's comments, I think we'll get something much, much briefer from me. I don't think it's necessary for me to argue the point in detail when we've had this in Sidley. It would just be a position. But, yeah, there will be something.

DAVID MCAULEY:

Okay. Fair enough. So there's a timing issue. As you describe it, we have your input. There's Sidley's response. There's a blog from Milton. There may be other comments. I know that a couple of the comments in the forum have addressed timing. So there's the timing issue.

I don't anticipate saying anything more, but would ask: does anybody else have a comment they wish to make about the timing issue during this period, recognizing that we still have to work on it once all the comments are in?

MALCOLM HUTTY:

I'm anticipating that there will be more comments on the finding issue, David.

DAVID MCAULEY:

Okay.

MALCOLM HUTTY:

From others.

DAVID MCAULEY: And we'll certainly take them into account. Thanks, Malcolm. Sam, you have your hand up. You have the floor.

SAM EISNER: David, I know from our side, too, that we're taking a look at what [inaudible] side and we'll be providing some input shortly on it. I think some clarifications from the ICANN standpoint – I think that there's some places where we're talking across each other. It seems that there's possibly areas of disagreement or understandings of when IRPs could be filed that I think we could help provide some clarity on; that there are actually multiple action that are taken within ICANN on a certain issue, etc., to help clarify where we think things can appropriately lie and also still remain with the standard of when IRPs are to be brought because we're seeing some confusion in some of the timing issues that we've spotted from the comment pool.

DAVID MCAULEY: Outstanding. Sam, that would be welcome input, so I'm glad to hear it. Thank you. Greg, you are next after Sam, so you have the floor.

GREG SHATAN: Thanks. I've joined the Adobe Connect as well. First, just to preview the comment that is coming from the IPC to some extent, the comment is primarily on how the timing interacts with other procedures and more about how the timing interacts once it becomes clear that an IRP might be filed. So this is less about the repose issue and more about the filing issue, if you will.

This may be more a matter of clarification than a major substantive reform, but it's unclear how this interacts with the CEP process and unclear [if] any time periods are told during that. It's also unclear that, for an Empowered Community action, the Empowered Community would have anywhere near enough time, given its own timing constraints and the need for substantive debate among a number of different groups. It would not have time once somebody raised the issue to get a filing in in time.

I think there may be one or two other issues – there's essentially an interaction issue. So that's the thrust of our concerns. I'm not sure how that compares to some of the other concerns about timing, especially about what's called the statute of limitations issue. But there's definitely concerns that it would be impossible in good faith to go from, "Gee, I think we might want to have an IRP," to, "Here is the filing that is being made timely." Thanks.

DAVID MCAULEY:

Thank you, Greg. With respect to the interaction with other procedures, like CEP and reconsideration of requests or whatever else there might be, I wouldn't be surprised if the Registry Stakeholder Group make a similar comment. I appreciate your input and preview of the IPC input.

Anybody else have anything they wish to say about the timing issue? If not, I will go to the next point on the agenda. I think you've seen on the list that I've sent out some draft letters. I see the idea of sending a letter to the SOs and the ACs and sending a letter potentially to the direct customers of PTI, saying, "Hey, there are new Bylaws out there and you

have a role in those Bylaws with respect to reconstituting the IRP process” – I think it would be good on our part to let them know and make sure that nothing falls through the cracks. One of our jobs in our advisory capacity will be to act as a [prod] to make sure that things are moving along. At least that’s how see it.

I would ask if anybody has any concerns with what I’ve put together, thinks differently, or has anything they want to say about these kinds of efforts. If not, my plan would be simply to mention on the list that these will probably sent next Monday or something like that – whatever it is. I’d like to get them rolling.

Does anybody wish to comment on that? Seeing none and hearing none, I’ll take that as assent that we can move forward in this respect. It’s pretty anodyne, I think, but I just wanted to make sure.

Greg, you have a hand up. I believe it’s a new hand.

GREG SHATAN:

Yeah. Just briefly, I’m not sure whether we should do something, at least with the SOs/ACs, to acknowledge, if they get this letter during our quiet period after or even before the end of the comment period on the rules, that we are dealing with that, because this may be interpreted as somehow we thinking that, in spite of the comments on the rules, everything is just hunky-dory and we’re going forward to the next step. So I realize it’s important to be able to work in parallel and not only serially. This is my breakfast, so I’m working cereal-ly this morning. Also, coffee-ly.

In any case, I think we may want to put in a sentence or a fragment or a clause or a phrase that just indicates that we know that we're also doing this other work and they should understand that this does not indicate that somehow we've jumped to a conclusion that everything else is just rolling along. Thanks.

DAVID MCAULEY:

Thank you, Greg. I think it's an excellent suggestion, and I'll do that and pass it around our list before it goes out. Great idea. Thank you.

If there are no other comments in that respect, I just wanted to dive into and put on the agenda the comments forum generally to ask if anybody has read any comments that they'd like to discuss or bring up, if there is anything that caught your eye that you think we should discuss now. Obviously, I think we can discuss the comments prior to the end of the period, recognizing that we will have to look at the comments at the end of the comment period with a comprehensive eye. But I don't think anything prevents us from getting started.

I will simply mention that I know there'll be a comment coming from Kathy Kleiman consistent with her blog. In that blog, she brings up the idea that, now that there is a review at IRP of expert panel decisions and things of that nature, all of the parties involved should have a chance to take part in the IRP at the very least. I'm paraphrasing, and probably not very well, but at the very least there should be a notion of "friend of the IRP briefs" and things of that nature.

She's also mentioning consensus policy challenges, that the supporting organization or group that developed the consensus policy should have

a voice in the IRP proceedings. So that will be coming into the comments period as well.

What I would do is encourage all of us to stay abreast of what's going on in the comments forum. It's interesting, and this is important work, obviously. I'm sure we're all convinced. That's why we're here.

Having touched on that and having already addressed the next meeting issue, I don't think we have much else that I anticipated bringing up, but there is a section on Any Other Business. It's open to us to bring up items for discussion, and I invite you to do that now. Possibly we'll get out of here early, but again, with small attendance, I encourage us to talk to our brethren to bring folks in on the next meeting.

Having said that, is there any other business, any other issue people would like to discuss? If not, we can let Greg get back to his cereal.

Bernie, anything from you.

BERNARD TURCOTTE: No, sir. All good. Thank you.

DAVID MCAULEY: Okay. Well, it looks to me, then, that we can adjourn early. I would simply thank this group for being here. We have developed a way forward. I'll be coming out on the list. I think we'll be doing a lot of work on the list. I'm very grateful for the work that people have been putting into and the thought that people have been putting into this.

Sam, I look forward to the ICANN comments. Thank you all very much.
Bernie, I think we can stop the recording.

BERNARD TURCOTTE: Thank you.

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