
MICHAEL KARANICOLAS: There it is. Thanks to everybody for joining us. There's a new version that was circulated before the break but has also been uploaded. I'll just send it around again now – like I said, a clean version – just to make sure that everybody has a copy in front of them. It's a clean version with the changes highlighted. I'm just sending that around to the Transparency Subgroup now.

I think that the hopes were that, with – I did, so actually it's up on the screen now. I think that our hope was that we could agree to forward this to be discussed for the next plenary of the CCWG on January 11th.

There's been some changes, mostly minor, to the documents and, generally, in response to feedback that we either got in the last meeting – the last discussion that we had – or to written feedback that we've since received.

Just to draw your attention to the changes that have been made, the introductory section (it's sort of the executive summary) has been trimmed down just a bit – not that much, but some of the substantive paragraphs were condensed. The introduction was also – I went through it again to make sure that it was harmonized and that there were not inconsistencies between that and the other recommendations.

There's been a footnote added to the background section mentioning that nothing that we do is meant to counter or intrude on the Human Rights Subgroup. Just to clarify that, since there are some mentions of human rights in it.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

Also, there was a later reference to human rights, which has been changed to a reference to Better Practice Standards. That's all to avoid any kind of confusion.

There was a clarification on the kind of assistance to requesters that we're hoping that responding staff can do to help out and clarify the process.

The timelines have been shifted from requesting that ICANN process requests as soon as possible has been shifted to saying that requests should be processed as soon as reasonably possible. That, I think, was discussed on the last call.

There was another change – again, it was discussed on the last call – to the mention of commercial interests, where it now says the exception is for ICANN's financial or business interests or the commercial interests of its stakeholders who have those interests – which, I think, as a recall, is the language to which we agreed in the last call so I incorporated that into the recommendation, as well as the discussion.

There's an additional line into the discussion of open contracting to mention that ICANN should make clear to contractors what the rules are, and that if any changes are made to the rules, those should be expressed.

There was a couple of incomplete sentences on page 10 which were completed, as well as clarification of expectations of monitoring and evaluation to the ombudsman in order to clear up what is recommended and to keep things reasonable because I think there was some concerns about expanding their role too much or dumping a

bunch of additional responsibilities that might not necessarily be properly resourced. So, we assessed and clarified to set out what I think are some fairly reasonable expectations.

So, those are the changes in the latest document. With that, I'd be happy to take any suggestions or comments on this newest draft.

I see David McAuley's hand up.

DAVID MCAULEY:

Thanks, Michael. I appreciate the work that's been done. I appreciate a number of the changes, but I do have a little bit of concern with some of them. Like you, I think I'll do it in summary fashion which I think is a good way to go here.

One concern I have – I just may mention it generally when we bring it up to the CCWG – is treating ICANN as if it was a government. There's a number of places where we say in the document, "While ICANN is not a government, we think that..." Basically, the end of that sentence would be, "it should be treated as a government." It ties into my concern about cost and things like that.

Frankly, on that, I'd be interested in waiting for ICANN's input on that. I know that, in the comments I've made, I think I have not attracted any support yet, so I recognize that it just may be me saying that at that time.

On page 4, you mentioned the footnote that you put in about human rights. I think that that was inadequate. I actually think that the document needs to state explicitly that this, in no way, should be read

as having any priority over that; in other words, recognizing the precedence that human rights bylaw and the work that's done on human rights is applicable irrespective of what this document says.

On page 6, as I mentioned, where the issues are that I raised about cost, creating new documents, time needed to respond – all that kind of stuff – I'm happy to wait and see if ICANN has a comment because I don't need to press on if it's really not a matter of concern.

On page 8, Michael, I think there's a phrase in there with respect to some kind of an override to non-disclosure agreement obligations ICANN might have – there was a discussion of “causing real harm.” That would be the operative phrase to judge this by, and I think that's not acceptable. It seems to me that, if someone discloses confidential information to ICANN, it should not be disclosed under a process like we're concerning. I think it is possible to make changes.

Going forward, we talked about what those changes would be. If there is a public interest override, ICANN would need to notify every party that it enters into a non-disclosure agreement with that there was a public interest override that could potentially hit their documents. “Causing real harm” to me is not an inappropriate standard. I could see saying here, “If ICANN is going to disclose its information, then, in addition to ICANN having a chance to go to court and arguing against that, the party whose information this is should have a chance to make that argument before disclosure.” That comment applies with respect to the public interest override.

On page 9, I continue to think that giving RSSAC and SSAC a say on security and stability is important.

Finally, on page 11, with respect to my comment on the IRP standard, I think that your observation that the language is a comment rather than a recommendation is not that helpful. I think that that language on that page could be read by someone on the IRP panel as saying it's their judgement that matters, and that's not the case.

The question is, does it violate bylaws or articles? The judgement that the panel needs to bring to bear is simply answering that question, not whether it's in their judgement that something should be disclosed.

So, that's pretty much it. Thank you.

MICHAEL KARANICOLAS: Okay. I'll just ask you to give me a moment while I finish taking notes on that.

Okay. To start with the last one first – because I think that's one's potentially fairly simple to resolve. I don't think we disagree on the substance; I think we just disagree on the wording. So, potentially, if I understand you correctly, David, what you're saying is that we should make clear that the IRP people shouldn't be making a decision based on their own values; that they should rather be making a decision based on whether ICANN has acted in accordance with the bylaws.

Is that correct?

DAVID MCAULEY: Yes. In other words, I would see this document as not being capable of changing the applicable standard to IRP. I think it's unfortunate if we have a reference – I don't have it in front of me, but I'm trying to get there – to indicate it to a panel: "Oh, by the way, your judgement matters here." I think that's true only to the extent that they can consider, "Has a bylaw or article been violated?"

MICHAEL KARANICOLAS: All right. I have no problem putting in an explicit reference basically saying – let me just get the document in front of me; page 11 in terms of the de novo – "The panel will consider whether, in their own judgement, information should be subject to an exception rather than reconsidering whether ICANN staff under a reasonable rationale...."

Why don't we change that to say, "The panel will consider whether, in their own judgment" – because it is a judgment call – "ICANN acted in accordance with the bylaws," or, "ICANN's decision was in accordance with the bylaws"? How about that?

DAVID MCAULEY: Okay.

MICHAEL KARANICOLAS: Okay. So, that's easy enough. In terms of, moving backwards now, the RSSAC, yeah, I think that we're going to hear back from them regarding security – regarding the changes on that – which is why I responded the way that I did to say "yes." They're going to have an opportunity to feed into the process, I think. That's certainly what I understood from the last

call, was that we'd be hearing from our staff as the process moved forward.

So, I think that, as far as that goes, we can just wait to hear back from them. We can move the process forward and be responsive as we hear back from them. I thought that was what we got from the last call, that ICANN staff would have their own opportunities to feed into the process, that it would come down the line.

DAVID MCAULEY:

Michael, if you're asking me, that would be fine. I think the RSSAC and the SSAC themselves should have an opportunity to weigh in. And if that's the plan, that sounds fine to me.

MICHAEL KARANICOLAS:

Okay, great. I think we can say the same thing about what you mentioned about the time needed and waiting for ICANN because, obviously, in terms of prioritization and in terms of resources, they'll have their inputs about that, which I'm sure is good. We can wait to hear back.

In terms of the notes about the human rights process, I think that my concern with phrasing it the way that you have done is that it might dilute the fact that these are co-equal processes. What I'm concerned about doing is sort of [refencing] off and basically saying...

The human rights discussion as we put it in the current document is not an argument about human rights and ICANN more generally – which is, I think, what the Human Rights Subgroup is looking at – but the right to

information is internationally recognized as a human right, so there is a human rights component to what we're doing.

Now, that being said, I just don't want to phrase thing in a way that we're going to be overruled on the transparency side or that opens the door to discussions of ICANN's transparency obligations being trumped by the discussions in the Human Rights Subgroup because, as I understand it, they are co-equal and they are parallel processes, as each have their own areas of focus which can complement one another.

But I'm a little concerned about putting in explicit language that basically says that they are overruling us, if you see what I'm saying. With the way that it's currently phrased, your suggestion was, "The subgroup recognizes that ICANN has adopted a bylaw/core value concerning respect for human rights and that another Work Stream 2 subgroup is developing a [developing a framework of interpretation in such respect]. References in this document to human rights do not expand upon these efforts or affect ICANN's obligations respecting human rights."

So, we just take issue with it at the end where that sounds to me like, because the right to information is recognized as a human right, that pushes the Human Rights Subgroup's work in a prioritization over ours, or their conclusions in a prioritization over ours.

What if we kept your first sentence and said, "The subgroup recognizes that ICANN has adopted a bylaw/core value concerning respects to human rights, and another Work Stream 2 subgroup is developing a framework of interpretation in such respect," and then add in that

“References in this document to human rights do not intend to counter or intrude on the work of this other subgroup”? Would that resolve your concern?

I see that Alan’s hand is up.

ALAN GREENBERG:

Thank you. I think this is one of the areas where it’s reasonable for us to say that when both groups complete their work or come close to completing their work, if there is a conflict it will have to be resolved. I don’t think we want to waive completely our responsibility in an area that may overlap to them, nor should they to us. But should there be overlap or should there be conflict because of something, then we’ll need to resolve it.

That doesn’t solve the problem, but I think it puts it off until the point where have something substantive to talk about instead of theory.

MICHAEL KARANICOLAS:

Sure. I see David’s hand is up as well.

DAVID MCAULEY:

Thanks, Michael. Well, to answer your question, to me it wouldn’t solve my problem. In listening to Alan, I agree in part, but disagree in part. One of the premises that you’re using, Michael, is that access to information is a human right. That’s actually a subject of discussion in the Human Rights group.

One of the things that's an important part, in my understanding of the human rights work, is that ICANN's obligation to respect human rights is only to those human rights that are internationally recognized human rights and only to the extent required by applicable law. Those are important elements of it.

So, free access to information may be seen differently in different parts of the world, so I think it's a mistake in the Transparency group to approach the DIDP as an exercise in human rights.

But if that's where we are, then I think Alan's point is a good one. It would have to be resolved at the end. It would have to be explicitly brought up to the group and resolved at the end. That would take care of my concern that we're simply blowing by it. But I think that the Human Rights group is working on these things and it takes priority. Thank you.

MICHAEL KARANICOLAS: Sure. In discussions in the Human Rights Subgroup, as they may be, it is broadly recognized as a human right. It's in the International Covenant on Civil and Political Rights. It's been recognized by the U.N. Special Rapporteur and the U.N. Human Rights Committee. It's very, very broadly recognized as is spelled out in the first paragraph of the document.

But that being said, if I'm recalling correctly, I think that we had a pretty careful discussion very early on in this process about – certainly we did via e-mail and certainly we got feedback from Ed Morris, among others. I think that it was then the subject of a discussion in one of the earlier

meetings that we had about the relationship between human rights and this discussion.

We edited the paper pretty substantially as a result of that. I think that, in the first draft of the paper, it was much stronger than this on the human rights side. There were people that felt strongly on both sides of that debate. I don't want to rehash the debate about the human rights perspective because I see the current wording as already a compromise that took place between people that felt strongly on both sides.

Now, that being said, I'm also in full agreement that we shouldn't be trying to overrule or blow past the Human Rights Subgroup's own discussions on this.

If we're in agreement about the need to resolve these things at the end of the process, then should we change the current footnote so that it says...

I'm happy to keep the first part of it. Again, "The subgroup recognizes that ICANN has adopted a bylaw/core value concerning respect for human rights and that another Work Stream 2 subgroup is developing a framework of interpretation in such respect." Should we then say, "If there's any conflict between the conclusions of these two subgroups with respect to transparency, those should be resolved at the end of the process"? Does that solve the issue? To me, that's a stronger statement on that front, but I see Alan's hand is up.

ALAN GREENBERG:

Thank you. I'm getting somewhat confused, and it may be lack of sleep, which I'm definitely lacking recently. If you play through a number of scenarios, if the Human Rights group says, "Access to all data is a human right," fine. Then we've already agreed without us doing any work. They're not going to say, "It is not a human right and ICANN should never give out any data." That's just not one of the viable outcomes of their process.

So, we're looking at under what conditions should data be made available, regardless of whether it is a human right or not. So, I don't see the potential for a lot of conflict, but maybe I'm missing something along the way. I think covering ourselves saying, "If there is a conflict, we will have to resolve it--"

I don't think there's going to be in the end, but I think that covers us completely.

MICHAEL KARANICOLAS:

Okay. David, do you want to weigh in?

DAVID MCAULEY:

Yes. I would like to say that I think the formulation that Alan just made, I could agree with. What we're dealing with in this document doesn't rise to the level of human rights. It's talking about ICANN's DIDP policy, which will apply irrespective of whether it's a human right or not. So, I can agree with that.

I don't think, therefore, that there should be a place in this that references human rights without the explicit disclaimer, or whatever

you want to call it that I put in there, saying that nothing in here is intended to intrude on the human rights work going on in that group.

For instance, in our document, we're talking about ICANN having to create new documents to someone's request. We're talking about having no consideration of costs or putting timelines in it. All of that makes sense, but that's not a human right, and I wouldn't want this to be read that way.

So, that's where I was coming from. I think Alan's formulation is a good one. Thank you.

MICHAEL KARANICOLAS: Okay. Alan, could you please repeat your formulation so that I can write down? Just in terms of that latter section about resolving.

ALAN GREENBERG: As David was saying that, I was trying to remember, "What did I formulate?" I don't really remember. I wasn't intending to try to formulate things. I was just pointing out that what we are doing is what we believe should be the case, regardless of whether something is a human right or not. And since the Human Rights group is not likely to say, "Not only is it not a human right, but you shouldn't do this," I don't see the conflict.

So, I think what we're doing is maybe covered by human rights, in which case ICANN's human rights bylaw may require it, but what we are talking about is what we believe is the case over and above what may be required [to be] human rights.

I'm not sure if that's what I said before, but that was what I was trying to say. There will be a transcript to see what I said before, but other than that, I can't remember.

MICHAEL KARANICOLAS: Okay. What if we start off with that first sentence that David put in? "The subgroup recognizes that ICANN has adopted a bylaw/core value concerning respect for human rights and that another Work Stream 2 subgroup is developing a framework of interpretation in such respect."

"The work of this subgroup is solely focused on transparency and not meant to intrude into these other efforts." David?

DAVID MCAULEY: Thanks, Michael. I would stick with my original footnote. The reason I suggested a footnote is that the paragraph at the top of page 4 begins and gets into human rights in depth. It starts with, "Institutional transparency is," etc., etc., "broadly recognized as a fundamental human right." Then it goes on and it cites the case of Claude-Reyes and others vs. Chile, etc. It gets into substantive human rights.

That's why I thought it would be good to have a footnote or a statement, rather, that says, "Oh, by the way, while we talk about human rights in this document, we recognize that we're not intruding on the work of the Human Rights Subgroup," or whatever you want to call it.

They're doing the heavy lifting with respect with respect to what is an internationally recognized human right, and what is applicable law, and how does that affects ICANN. That is undisturbed by what we're doing.

So, that's why I agreed with Alan's formulation of a minute ago. Thank you.

MICHAEL KARANICOLAS: Okay. I think that Alan said it as an idea, and I don't think he raised it [specific to] that sentence, but – sorry, Alan. I see his hand is up, so maybe he can clarify.

ALAN GREENBERG: As David was talking, I realized that what I'm trying to say – again, I'm not sure I'm formulating something here – is that, although some of what we are doing may be included in any human rights that ICANN is committed to address, what we are talking about is not from a point of view from human rights, but transparency.

Certainly, we cannot reduce anything that human rights demands that is finally accepted by ICANN, but what we are looking at is potentially a superset of it and is not conditioned on it being a human right.

MICHAEL KARANICOLAS: Sure. So, the sentence that I would suggest then would be to say, "The work of this subgroup is focused solely on transparency and not meant to intrude on these other efforts." Does that work?

DAVID MCAULEY: "It does not intrude."

MICHAEL KARANICOLAS: "And does not intrude on these other efforts." Sure.

DAVID MCAULEY: Meaning is interpretable. We should state explicitly what we recognize.

MICHAEL KARANICOLAS: Okay. Sure. "And does not intrude on these other efforts." Sure. All right?

Okay. So, that one's been done. I think that [inaudible] as possible. Sorry, let me just go back to the comments that you made, if I can. Right. In terms of treating ICANN as a government, I don't think that that's what we're trying to do, but I think that Robin expressed it very well in her comment above where we're not – and I think we say this again and again and again in the paper – a government.

We understand ICANN is not a government. We recognize that ICANN is not a government. It's just about the fact that high standards of transparency tend to exist at the governmental level, so that's where we tend to look for the models, because that's where it's done most effectively. So, I think that that captures it quite well.

I see David saying, "I'm happy to wait for ICANN's reply in this respect." Sorry, just to clarify, was that with regards to this specific point?

DAVID MCAULEY: Yes.

MICHAEL KARANICOLAS: Okay, great. So, we're good leaving that and going on, I think – right? – to the issues around the harm test and the public interest override. Is that correct?

DAVID MCAULEY: If you're asking me, Michael, I would say yes. That's correct. We're good awaiting ICANN's [reply]. Let's see what they say.

MICHAEL KARANICOLAS: Okay. Great. So, that brings us to the stuff around the harm test and the public interest override. There were a couple of changes made already with regard to the feedback that David gave us. Originally, I think that we clarified, first of all, that existing contracts should be respected and that any changes shouldn't be retroactive and that the rules should be clearly expressed to people that enter into contracts with ICANN.

I think that was feedback that David provided back at Hyderabad and that discussion, and then we worked that in as a result.

In terms of the public interest override more generally, I was looking into it a little more carefully after the last discussion. A public interest override already applies to any documents that ICANN has, including anything subject to an NDA. So, the system, as it already exists, already

potentially allows for disclosure of information subject to an NDA if that information is in the public interest. So, in fact, that's a system that's already there.

I'm happy to keep in the reference about making it clear about any changes, or especially around open contracting that are made, and making sure that contractors come in with their eyes open. But in terms of the public interest [override], that's not actually something new that we're suggesting. That is an existing provision within the current policy.

Beyond that, I think we discussed, in terms of harm – I think that anything that ICANN does which violates a contract or an agreement that they've entered into is plainly understood as being harmful – that an organization shouldn't break its word, shouldn't break its contract, which is why I didn't feel the need for a specific reference to that.

But again, if that's not clear, then we can discuss.

I see David's hand is up, so I'm sure he'll want to respond.

DAVID MCAULEY:

Thanks, Michael. Two points. One is that I was unaware that there is an existing public interest override. I guess I would ask you a question and then make a comment. The question would be, "Where is that? Does that apply universally?"

Then my comment would be, "Okay. Great. If we recognize that there is a public interest override, I would recommend that our document say, "Except for how it's disclosable under a public interest override to the extent that applies under law.""

And then the second point is with respect to “cause real harm.” I can just envision the case where a third party discloses something under a non-disclosure agreement where the person requesting the DIDP says, “That information is inconsequential. I need it, but it’s inconsequential, so it would not cause real harm to disclose.”

I think it was on page 8 where your “cause real harm” language is. We could say, “including reaching a non-disclosure agreement.” That would solve that problem. Thank you.

MICHAEL KARANICOLAS:

Okay. Let me read out the existing public interest override, and then I’m going to go back to page 8 and just check about that reference specifically.

The existing public interest override says, “Information that falls within any of the conditions set forth above may still be made public if ICANN determines under particular circumstances that the public interest in disclosing the information outweighs the harm that may be caused by such disclosure. Further, ICANN reserves the right to deny disclosure of information under conditions not designated above if ICANN determines that the harm in disclosing the information outweighs the public interest in disclosing the information.”

So, ICANN has all these documents, some of which have non-disclosure agreements attached to them. You can request any document that ICANN has, and ICANN will go through the exceptions which are there, which include exceptions that would apply there for financial stuff or commercial materials or whatever. ICANN can look at the fact that

there's an NDA and use that to make the determination of, "Actually, one of these exceptions applies, so we're not going to disclose it."

Now, the next stage of the process as it currently works is for ICANN to apply this test and say, "Okay. Does the public interest in disclosing the information outweigh the harm that may be caused by such exposure?" That's the test that's currently being done.

Regardless of whether the information has an NDA, the policy says that, if ICANN believes the public interest in disclosure outweighs the harm, they can disclose it anyway. At least that's the plain reading of it.

I'm going to go over to page 8. There's a lot of mentions of harm. David, can I ask you to maybe type in this sentence where you're looking for the reference, such as "breaking a contract," where we could plug that in?

Maybe while you do that we can hear from Alan Greenberg.

ALAN GREENBERG:

Thank you. My comment is orthogonal to what we're talking about but was triggered by it, so I'll say it now, but feel free to defer the discussion until some later point.

The question is, is the expression "the public interest" the same as "the global public interest"? The reason I'm asking is that we now have provisions in our articles of incorporation and in our bylaws that say "The global public interest may only be determined by a bottom-up, multistakeholder process." It's not a judgement call that staff members or the Board can make.

So, if those two are indeed one and the same, we have a big problem here. I don't know how we determine if they're the same or not, but I thought I'd raise it. Thank you.

MICHAEL KARANICOLAS: Okay.

ALAN GREENBERG: Sorry. [laughing]

MICHAEL KARANICOLAS: Defining the public interest is something that is infernally difficult in every [access of] information system. A lot of different [access of] information systems have this public interest override. I've done a lot of trainings with government officials that say, "Well, how do we know what public interest is?" and it's really a tricky thing to define. That is something that is always challenging.

Now, the fact that there's a specific determination within the bylaws of what the global public interest is, I think we can interpret that as being the public interest as –

No?

ALAN GREENBERG: If I may intrude, there is not a provision saying what the global interest is. It says that if we were to decide what the global public interest is in

any case, it must be done through a multistakeholder, bottom-up process.

MICHAEL KARANICOLAS: Is there a specific context in which that applies?

ALAN GREENBERG: “Any determination of such global public interest shall be made by the multi-stakeholder community through an inclusive bottom-up, multi-stakeholder community process.” I’m quoting from the articles of incorporation.

MICHAEL KARANICOLAS: Okay. Let me just –

ALAN GREENBERG: Now, it may be that the global public interest is not the same as the public interest, in which case we’re safe.

MICHAEL KARANICOLAS: I don’t think that –

ALAN GREENBERG: I don’t know that. I thought I’d raise the issue, and I apologized for doing it.

MICHAEL KARANICOLAS: I think that that specific reference is in terms of the global public interest as defined in the articles of incorporation in terms of “pursuing the charitable and public purposes of lessening the burdens of government and promoting the global public interest.” I think that that’s a specific context for public interest as opposed to a broader understanding of public interest, which is [inaudible].

ALAN GREENBERG: Yeah. There always is a reference in the bylaws, and I don’t have that one in front of me. I’m not sure it used the term “global” in that context.

MICHAEL KARANICOLAS: Okay. Well, I’ve just got the bylaws here. The only references I can see are early on, where they talk about pursuing charitable and public purposes – oh, but that seems to be...

When you talk about the articles of incorporation, isn’t that just a boilerplate thing that you do for 501c3? In any case, with the fact that there’s already a reference to the public interest, which is not something that we’re suggesting changing, I think that we’re on fairly safe ground with leaving the idea of public interest as contained in the current version as opposed to going back and opening up.

When you talk about a bottom-up process, you can’t respond to every access-to-information request through a bottom-up evaluative process. There has to be an internal procedure for handling this stuff, right? It

has to work. So, you can't set up these ongoing processes to affect those kinds of issues.

So, I would suggest that we leave the discussion of the public interest as it exists in the current bylaws and not try to go in and create a new definition or create a new way of determining that. That would be my suggestion. I mean, I'm not really sure how that could work as a functioning system for responding to requests.

ALAN GREENBERG:

Clearly, if we had to go to a multistakeholder, bottom-up process every time there's a request, that's not workable. The real question is, do we have words in either our articles of incorporation or bylaws which are going to cause bells to go off because we're using the term "something will be determined based on the public interest"? I'm hoping not, but I think it's something we need to do our homework on.

Certainly, there are references to things in the public interest that have to do with the open and free market for domain names, and some of those have to be determined through a bottom-up process. All I'm saying is we need to do our homework and make sure that we're not going to set up alarm bells because we're using the term "public interest." And it will be determined by staff members or whatever, as opposed to a bottom-up process.

So, it was orthogonal to the discussion we were having, but it's some homework we have to do.

MICHAEL KARANICOLAS: Well, the passage that I just read out is the existing DIDP process, which has been in place for however long.

ALAN GREENBERG: Yeah, but we have new bylaws. The bylaws have changed, though.

MICHAEL KARANICOLAS: Chris, I see that your hand is up.

CHRIS WILSON: Thanks, Michael. Alan, thank you for raising it. I think it's worth keeping our eye on. Maybe it's worth us having a caveat footnote where we acknowledge that there's this change in the bylaws that reference this global public interest.

I don't think – to Michael's point, we're not trying to dovetail with that. I think we're exporting – or [inaudible], I guess – pre-existing notions within this narrow context of transparency. Notwithstanding the fact that there is this global public interest reference, etc., we're keeping our powder dry there.

To be sure, if other parties want to, down the road, talk about this and make this an issue, then the community, I guess, will have to deal with it. But from our subgroup point of view, I would think our recommendation would be that we're not attempting to implicate that – that it's a separate beast in this context – and go forward with that as best we can. That's my suggestion.

MICHAEL KARANICOLAS: Okay. Thanks, Chris. Alan, did you want to respond?

ALAN GREENBERG: Yeah. Thank you. I did say when I started this that I don't think it's something we're discussing right now, and I didn't mean to hijack the conversation. It's just something that I think we need to make sure we're on firm ground on as we go forward, given that we are mentioning the public interest regularly. And, as you point out, it's already been mentioned in existing documents.

We just need to make sure that, with the new bylaws, we don't have a problem in that context. I don't think we really need to discuss it today, but I think sometime before we finish our work, we either need to ask ICANN Legal or something else to make sure that we don't have a gaping hole in front of us that we're going to fall into.

CHRIS WILSON: Alan, this is Chris. To that point, do we want to have a footnote or some sort of acknowledgement to what you've just –

You've just made the acknowledgement. Do we want to formalize that acknowledgement in our document? I guess that's the question.

ALAN GREENBERG: I think we have to convey the message somehow to the CCWG. What form it takes, I don't much care.

CHRIS WILSON: Okay.

MICHAEL KARANICOLAS: I'm very happy to add in a footnote basically noting that the reference to the public interest here shouldn't be confused with the new bylaws referencing the global public interest, just to ensure that there's no confusion. I'm very happy to add that in.

ALAN GREENBERG: Yeah, they talk about public interest *and* global public interest, so it's.... But yes, what you just said – if you don't restrict it just to the global public interest, what you said is fine with me.

MICHAEL KARANICOLAS: Great. That's no problem. So, I'm planning to add that in.

So, we've made some suggestions for changes that are fairly closed and fairly easy to implement. Generally speaking, we've agreed on the language for those changes as we've gone. If there aren't any additional objections, I'm going to suggest that we move this forward to the Cross-Community Working Group for proofreading on January 11th.

Are we happy with that? David?

DAVID MCAULEY: Michael, would just you tell us how you intend to present it, specifically with respect to the thing that Alan just mentioned – that we do have plans to put in a footnote or some other reference, and that we also anticipate hearing from ICANN? In other words, you’ll make those points to the CCWG when you present this, I take it?

MICHAEL KARANICOLAS: Well, the thing that was just discussed about ICANN, I’ll add in a footnote about that. And I don’t think the language on that is going to be super controversial. All I’m saying is just to avoid any confusion and to convey the message that Alan said.

In terms of going back and hearing from the – did you say from ICANN or from the CCWG?

Oh, so you wanted me to make the note that we look forward to hearing from ICANN to the CCWG and to present it in that manner? Unless I’m misunderstanding you.

Yeah, that’s no problem. I’d be happy to even write that in – to basically include a message saying, both in the introduction and the executive summary, essentially saying where we talk about the process. I’d be happy to put it right in there and say, “We look forward to hearing back from ICANN staff about these specific issues.” And [I’m most happy] to present it that way.

All right. I think that’s everything, then. Unless there’s anything pressing, I’m going to incorporate the changes that we’ve now agreed

on and will look forward to discussing it at the first reading at the CCWG.

Wonderful. Thanks, Cheryl. Wonderful.

All right. Thanks very much, all. Thanks for taking the time now and throughout this process. I really appreciate it and look forward to talking about this more as we go forward.

All right. Cheers. Have a good one.

[END OF TRANSCRIPTION]