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| RECORDED VOICE: | This meeting is now being recorded. |

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| DAVID MCAULEY: | Thank you.  Let's go through the agenda, some of the administrivia stuff at the beginning.  First of all, can I ask if there is anyone who is on the audio bridge but who is not in the Adobe room, if they would please make themselves known at this time. |
| | Hearing none.  I will then ask if there's anybody in the group that has any update to the statement of interest that they have filed or if they have not filed one, if they would like to make a statement of interest. |

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| JAY SUDOWSKI: | David, this is Jay Sudowski with the BC.  I do not have a statement of interest related to this [inaudible] IOT, but Steve Delbianco suggested I join the call today just to hear what you guys were discussing in regards to the public [inaudible] area. |

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| DAVID MCAULEY: | Okay.  Thanks, Jay.  We are going to—there's one other administrivia bit that I would like to get to before we get into agenda item number 2, and I'll ask Bernie to address that, because we do have certain rules for the call, and I will just ask if Bernie would remind us of what they are for the IOT. |

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*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.*

BERNARD TURCOTTE: Thank you, David. This is a closed group, but if people have filed their statements of interest with the accountability working group and there's no objections from other groups, I don't think there's a problem with people listening in. And so Jay, and I think we have Sarah Podmaniczky McGonigle. I'm unfamiliar with that name, I'm sorry.

SAMANTHA EISNER: Hi Bernie, this is Sam Eisner. Sarah is an attorney that's working with us from Jones Day, but I think we're actually just wind up with one Jones person on the call, right now.

BERNARD TURCOTTE: Alright, thank you, just clearing that up. Anybody else who's not a member?

GREG SHATAN: This is Greg Shatan. I am a member, but I just joined.

BERNARD TURCOTTE: Okay, thanks, Greg. So, unless there's an objection, we have one person that would like to listen in, which is Jay Sudowski. And please raise an objection if you have one now. I'm not seeing any. We'll ask Jay to observe only. Over to you, David.

DAVID MCAULEY: Thanks very much, Bernie, and welcome Jay. So the second matter on the agenda is just a brief report from the—and I just want to make an

update, and I will invite Sam Eisner to make a comment or two at this point. What I want to say is those of you in the group have seen two letters that we've put together. I've drafted and we've all taken a look at.

One is a letter of notice to support organizations and advisory committees with respect to their role in putting together and establishing a standing panel and it was really a letter in the nature of this is information telling those folks this is coming down the pipe, in the early part of 2017, simply to apprise them of this fact and let them do whatever preparations they want in that respect and letting them know that the IOT team is a support to them in that respect, under the bylaws. So that letter is one of them.

The other letter is a letter to "direct customs of IANA naming functions and we've drafted up a letter them and we've put one in place and I wrote to Elise Gerich of PTI and asked her, "Elise, how specifically can we release a letter to direct customers of the IANA naming function?" And she very kindly wrote back and she made a very good suggestion about how I could sort of bolt these two letters together in one letter.

And so I plan on doing that, and so I have to say that the letters have not yet been released to the addressees yet, thanks in part to a suggestion that I got from Elise this morning. And I will make a change and I think we can do that in one go, and I'll keep this group apprised as to how that's going to be taking place. But as I said, it's informational to these groups, letting them know what's coming at them, with respect to the IANA customers they don't even have to do anything, they're just entitled to have special rules if they see the need for some. Having said

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that I would invite anybody's comments on that matter, if anyone has a comment.

Okay, hearing none then I'd like to move on to the other bit I have on number two which is connect with ICANN staff.  Sam and I have spoken by phone and it's just sort of an administrative matters, I'd like to ask Sam to please comment on two things, and the first is if Sam would kindly comment on her current thoughts, plans for the expression of interest of people that might become members of the standing panel. Sam can you talk to that now?

SAMANTHA EISNER:    Sure, thanks David.  This is Sam Eisner from ICANN Legal and I want to let you guys know that we're working internally.  We have David and the group produce a bit of documentation for us, and we've also been working internally on some other use that we had around the call for expressions of interest.  We are expecting to have a draft hopefully well in advanced of Copenhagen, but no later than before we all travel to Copenhagen, to share with the IOT to give you a view of what we're intending to do.  It is an ICANN -- [BREAK IN AUDIO]

Can you hear me now?

JAY SUDOWSKI:    I can't hear anyone else.

DAVID MCAULEY:              Hello everyone, it seems we had an audio issue and a bunch of people were cut off.  We'll take a minute to allow everyone to dial back in.  Thank you.

SAMANTHA EISNER:          Hello?

DAVID MCAULEY:              Sam, we can hear you.  Sam?  Can you hear me?

SAMANTHA EISNER:          Are people in the room able to hear me?

UNKNOWN SPEAKER:         I can hear you.

DAVID MCAULEY:              Hi, this is David McCauley…

SAMANTHA EISNER:          Okay, great.  I just came back in through the mike on my computer.  I was something happened with the phone line apparently.  So are we waiting for people to rejoin, or should I go on?

DAVID MCAULEY: Hey Sam, it's David. I'm sorry I was bounced off the call, I'm not back on. Somebody's microphone is on that should be muted. I would like you to finish this point Sam and then we'll ask Kavouss to make a comment.

SAMANTHA EISNER: Okay, sounds good. So we have some information that we're working with internally through a document that was produced imported to us by David by the subgroup of these are the things that we should consider in the call for expressions of interest as well as internal work. And so our time frame to provide something for the view of the IOT and anticipated for release is to have that completed by the time we leave for Copenhagen, but hopefully well in advanced of that, so we should see something from us within the coming weeks. We've been working on it and we're pretty close to having something we could release. And we're very interested in getting the IOT in on this now.

DAVID MCAULEY Okay Sam, thank you very much for that comment. Before we go to Kavouss, does anybody have any question about that particular matter? Seeing none, I'd ask Kavouss to please take the floor.

Okay. Kavouss, we cannot hear you. And it looks like from that chat that Kavouss has a sound issue right now. Pretty much like I might have had a couple of minutes ago.

So we'll move on and I have a second question Sam for you and I just would like to ask if you see any need to seek and RMP for administrative support for the IRP right now?  Could you just generally discuss that?

SAMANTHA EISNER:     Thanks David.  We don't see a need to open an RPM at the point.  Clearly, it's something that we always have the opportunity to do in the future.  I think at this point the best thing to do is to get the supplemental rules to a place where they're solid and everyone knows the world that we're working with on the IRP and at that point, if it determines to be appropriate to seek additions administrative support or to seek a new provider, we could move forward with it at that point.  We do have that ICDR ready and already lined up as they've been our administrative support for the IRP up to this point.

I do want to flag, now that the supplemental rules are getting to the point where they're very close to formalized and ready for approval we will be asking the ICDR to make sure that they see nothing because they do a review, they've done this before when we first developed the supplemental rules to review, that they don't see anything, within the supplemental rules not inconsistent with the ICANN bylaws, so that they're not put into a place that they will be forced into a violation of ICANN bylaws by the way that the rules are set up.  And also that they don't see anything within the rules that are outside of their capability.

Those are what they need the rules for earlier when they were developed in approximately 2008 and that's what they'd be reviewing it for now.  Of course those have been the things we've been considering

from the ICANN point two as we've been working with the IOT and so we don't believe there's anything in there that would cause any issue, but we just want to find if there's that review there. We of course have been looking at the issue as we've been working on it from the ICANN stand point too.

DAVID MCAULEY: Thanks. Thanks Sam. Before we go to Kavouss is there anyone with a question in respect to those comments that Sam had?

Seeing we're hearing none, Kavouss can you hear us now?

KAVOUSS ARASTEH: Yes I hear now, but I am disappointed. What is going on? I have been disconnected and then I have raised a hand some ten minutes ago. Do you see that my hand's raised already? Now that I was ready to discussing about the observer to listen to the discussions about the combination or [inaudible] and I was waiting. Unless Adobe doesn't work, I am disappointed; why I have to spend my time and energy. And honestly, am I connected? Am I disconnected? Do you see my hand? Don't you see my hand? What is going on, please? Thank you.

DAVID MCAULEY: Kavouss, thank you. I think you've nailed it. I did miss your hand it was my fault, apologies for that. And then I experienced some issues on the phone and I think you may have as well, but please go ahead and make those comments that you wanted to, and we'll take them into account. So you still have the floor.

KAVOUSS ARASTEH: Yeah, with respect to the listening to the discussions by observers, luckily I have no difficulty, but I suggest that you explain that in the notes that this sort of the listening only are most welcome and sorry to be a thief [inaudible] possible open and not to prevent anyone to listen, so I would suggest that people are encouraged to listen. If we put that, it would be of help to everybody.

With respect to the combination of the letters, I didn't quite understand the reasons to why you combined the two letters in one. Is it a matter of economy? Is it a matter of the timing? Is it a matter of both? I have no objection, but I was not sufficiently convinced the reason you did this unless both of the letters are the same, groups of people are the same as receive as the ones that don't have any difficulties. Otherwise I don't have any difficulties, but if the letters are different, I don't understand why they're being married together.

And the last part that was submitted, I don't know by whom? I didn't of course understand because I wasn't selected and if possible you could repeat the last portion or the last presentation. And I'm sorry for that, and thank you very much.

DAVID MCAULEY: Thank you, Kavouss. And thank you for your comments on the observer. With respect to the putting the two letters together, these are the informational letters one to the SO's and AC's and the other to direct customers of the IM Naming functions. I am contemplating putting them together based on a suggestion by Elise Gerich of PTI. I

thought it was a—I just got it this morning so I haven't finished thinking this through, but I thought it was a sensible suggestion. The thought about efficiency: I believe that her point is that if we address one to the SO's and AC's and perhaps I'm tweaking those addresses just a little bit that everyone who needs to get these letters will get them. And so it can be done in a way that makes sense. If I think when I look into it further that it doesn't make sense I'll let those of us on the list know that. But it just sounded like a good suggestion and I as I said, I just got it this morning so I just need a little bit of time to look at it. And I'll forward that mail to the list as well, that I got.

Finally, Sam was speaking about first the expression of interest. I believe that she said that they are putting together an expression of interest that would be released to people that are interested in applying to become members of the standing panel and that we should see that—Sam correct me if I'm wrong—sometime before the ICANN 58 meeting and we might have a change to discuss it there? And then secondly with respect to administrative support for the IRP I believe that Sam was saying that issue is less important right now, maybe not less important—maybe that's not that correct phrasing but less demanding right now because there is administrative support in place in the form of the International Center for Dispute Resolution. And whether we need to request new admin support is something that will become informed by the rules as we get closer to finishing the rules. The rules themselves will affect how people can respond to be considered for admin support. Sam feel free to jump in if I got any of that wrong. And if that's okay, I would then move onto the next item on the agenda.

Okay, so I think I will do that.  The incumbents Form.  There are two parts to this discussion.  I think we need to get into the incumbents form but I'd like to begin with the process to begin the discussion.  And the first part of the process discussion would be—I might ask Bernie to comment.  And I put a notice on list that people have seen things that have worked well in the past, if they would please pipe up in the meeting and let us know about those, and I know Bernie has some experience in this respect.  And I'm going to ask Bernie if he could speak to the idea of what might be a good process or what are the things he's seen that might make sense.  And as I do that I'm going to thank Bernie for the compendium he sent and the spreadsheet.  And so Bernie if it's okay, I'd like to give the floor to you now.

BERNARD TURCOTTE:     Thank you David.  Just quickly yes, I've been around public comments in ICANN for almost ten years now.  Working on this side of the fence and I have been on the other side of the fence for a number of other years, so I have seen quite a few of these.  Quickly for this kind of volume of response which is a low volume, but a highly specific which looks like it's split into two major categories: The timing issues about fifty or 60% of the commenters had issues on the commenting issues and they were lesser topics which gathered between two and four comments on each of those.  One of the ways that could be efficient to deal with them, the group could consider given the timing issue is of interest to everyone and needs is a very serious issue.  The group could try and deal with it officially as a primary and for the lesser issues it may be worthwhile to identify one person responsible per issue or topic if you will as they have been broken out into spreadsheet.  And to come back with the

group with a summary of the issue the positions and a recommendation for the IOT how to deal with it. So those are my comments for you David and I'd be glad to take questions if there are any, thank you.

DAVID MCAULEY:

Thanks Bernie. And so I'd like to open the floor now to anyone. I think Bernie's comments make a lot of sense. I think the timing is something that might be good for the whole group to discuss both here on calls and on list. And maybe it would be good—the other issues do not gather as much comment. I thought that the issue brought up by Kathy Kline the joiner issue is one that almost rose to the same level, but not quite. The timing is clearly the issue that's peaked everybody's interest and so I see Kavouss has a hand up, so I'm going to give the floor. Kavouss, please go ahead.

Kavouss, we can't hear you so you might be on mute. Whoops, hand is down. I see that Malcolm says in that chat that that's exactly what he would suggest. Bernie I think it's a good suggestion. I'm just taking a quick look at Avri's: I think that's a good point too. And so since we're going to get into timing on this call I think that I think that's a good idea. Bernie could I ask you when you have a minute following the call if you could just summarize that in an email to the list that that's what you would suggest and then those that agree, myself Malcolm, whoever else might agree, could weigh in on the list. If you would just note that this timing issue will be a plenary manner and the others we're looking others to take issues on a per issue basis. Do exactly what you said. Summarize what's there, make a recommendation and bring it to the full group. Is that something that you would be happy to do Bernie?

I'm sorry.

BERNARD TURCOTTE:     Yes.  I'll be glad to send a note, and following on to Avri's suggestion, if the group feels comfortable with that I could easily build the Googledoc for each of the topics which will outline the areas that have to be considered and fill them in with the basics, so that those that take on a top pic should have an easier time.  Thank you .

DAVID MCAULEY:     Thank you Bernie that's a great idea.  I appreciate you doing that.  I can't say I'm a true fan of Google Docs, but I think in this case where there's discrete issues it may work out pretty well.

So let's start looking at the timing issue.  Now, I'm happy to sort of give a brief summary I know Malcolm that you're very interested in this and wondered if you wanted to make a comment early on, or if you preferred for me to press on and sort of set the table and then invite you to make a comment.  I'm happy to do it either way.

MALCOLM HUTTY:     Why don't you kick off and set the table and I'll be very happy to come as an early contributor.

DAVID MCAULEY:     Thank you Malcolm.   To Yvette if you would like I sent to staff a document -- that's the document so thank you for putting that up.  I

created a document that we might take a look at. It's basically three pages. The first page is simply giving us the current draft that's in the rules along with Sid Lee's recommendation. That's [inaudible] to Sid Lee, the second page deals with some representative comments with respect to the twelve-month's time limitation and the third page deals with some representative comments to the 45 day limitation. When I say representative comments, that's exactly what I mean. I'm not in these pages trying to summarize everything that everybody has said.

So with respect to the timing, we've put the original rule out there and then Sid Lee came back with advice based on a question that was posed to Sid Lee by myself Becky and Malcolm. And in their advice, Sid Lee basically says that the bylaws require that any time limits should run from the time at which the claim became aware or reasonably should have become aware of the material impact. So Sid Lee's pointing out that the rules as we construct them did have a problem. And so they made their suggestion in the Annex A and I have to admit that when I took a look at Annex A I sort of came away wondering if it was the solution.

And I also was even though there's different issues the twelve month limitation and the forty-five day limitations. I'm looking through some of the timing comments, there was a comment made by Richard Hill that Bernie picked up on and mentioned to me. And it came down along the lines of you know looking at claims that are either facial or as applied, it struck me that it's possible that there's a solution here and the solution would be simply taking the language that Sid Lee prospered, you know the additional language, became aware of or

should have become aware of, and making the time run from the material impact, material harm whatever might be.

And if we came up with a suitable time limit--everybody seemed to have a problem with 45 days, or most of the comments had a problem with 45 days.  I think Richard Hill may have suggested thirty days, but I think he was alone in that.  And so if we came up—let's assume for a minute that the time was six months—I'm just picking that out of the air as an example if we came up with a time within which someone should come up and make a claim from the date of the material harm or the date that they should have known about the material harm, that that may answer everything.  I mean it struck me that that may be the simple solution to this.  And so we all know what the rule says and we all have seen what Sid Lee prospered so that's my take on it Malcolm, so not I would ask if you would take the floor.  Kavouss, I see your hand is up, but Malcolm was in the que based on his earlier comments, so I'll come after you right after Malcolm.

MALCOLM HUTTY:     Thank you, David.  Yeah as you know I've been very interested in this topic, and I did give you an indication informally in a previous call that maybe we would have been happy with Sid Lee's way to go, but then on reflection when it came time to put in our comments our position has quite frankly, hardened a little as a result of consultation.  I don't want to go into too much detail on LINC's internal decision making as to how that comes about, but maybe I should have seen this coming.  I mean really, we've always been—I've taken a relentlessly consistent position that for us the most important thing is to ensure that there is a

possibility to challenge ICANN's actions for any known contracted party, for being—if it's out of scope on a particular, if it's a breach of the contents in surfaces regulation restriction.

And it was our view that this time would seriously undermine the ability of that. And that stands, but I have rather been—so when I saw the Sid Lee thing I thought, ah well they're agreeing with me. But that's a problem and so we're going to win this point. So that's good, at least it's going to be simple. But windows that were left closely involved looked—heard from me what had happened they didn't say anything— it wasn't characterized to them quite the same way. I've been looking at this as a discussion amongst ourselves as we're seeking—I'm seeking to persuade you of the merits of our case. They said in a much more institutional faction.

How did ICANN—and this is seen from outsiders, this is an ICANN proposal and we are ICANN in that sense—how did ICANN come with the first thing that it did first transition as being something that would materially undermine the accountability that we've put in place as part of the transition. And in a way that is so extreme that the independent lawyers confirm that it's against our rules? How did that come about? And to be honest that was met with a degree of I'll just say negative emotions, and then after that a concern that this is being handled too informally. The discussion is too informal and it needs to be a more systematic approach, for saying this is what the ICANN—let's look to the bylaws and let's look to the commitments that we've made as to what the ICANN IRT—what the IRT is for and then construct something that aims at that.

So not asking the question how long is fair enough—that's the wrong question to ask.  But instead, asking what are the purposed of the IRT and then at what point is a claim so late that it is undermining those purposes.  And systematically analyzing the output that we do, and we've only commented on the timing bill, but to be honest it's wasting I think—it's potentially applicable to anything else, systematically analyze what we are about to propose against the bylaws and the objectives within the bylaws for the IRT.  And we haven't done that, we certainly haven't had any outside evidence of doing that.  And we actually haven't done it internally really, not in an absolute systematic way.

So that led us to really making a comment that it's really, yes we stand by what I said before that timing was wrong, but more than that—our approach is wrong and that has led us to this wrong place.  And it's also led us to be wrong in things that might have been less actively criticizing such as the forty-five day limit.  And we've given our reasoning for why we think that that is wrong too.  And we've now taken a much more, on a harder position on the 45 day network that we also think is a serious problem, which I haven't been as nearly as vocal on as before.

So that's how we got to where we are and in conclusion the characterization you put in your options on the screen as officers we want a moratorium, we don't actually have that position on how early— we don't have a view on how early this new supplemental rules or procedure needs to be carried into effect, so we don't have a view as to whether this should, the whole thing should wait while we work through this, or whether the rest should go ahead and this thing should carry on behind later, after a moratorium to systematic thing.  We're open to either approach, but we do think there needs to be a much

more extended consideration and a much more systematic consideration of how you construct the timing rule and that in the constituency that we're a part of are basically a much more succinct submission, but basically the same thing there that it should be a—and there they are saying a moratorium. But until further studies can be done to analyze the impacts. And so that's essentially leading to the same place. Does that help? I'll stop there.

DAVID MCAULEY:      It does, thank you. And before I comment, I'll ask Kavouss to take the floor.

KAVOUSS ARASTEH:      Yes, I will be short. Are we re-discussing this timing again? I think we have discussed this sufficiently, extensively and then you had said that we had determined from [inaudible] for a shorter period, so technically the line is what is the reason we come back to this timing again? I see we have various options, 30 days, 45 days, 60 days, and so on, so [INAUDIBLE] 45 days. Are we changing that? Are we talking about the same time frame? Or is it another time frame for a different issue? Could you please clarify this matter? Thank you.

DAVID MCAULEY:      Thank you, Kavouss. This is David speaking. I believe that we talking about the timing issue that—I think it's paragraph four, I don't know exactly, but the timing issue generally entirely based on public comments that have been submitted to the timing issue.

Let me just react to what Malcolm just said and then ask others to weigh in as appropriate and Malcolm I think I don't know—I take it what you're saying is these comments that you're hearing are from people that you represent in the comments that you've made.  In other words, that there comments have been submitted to the comment forum.

MALCOLM HUTTY: Yes that's right.  That's our internal members, our internal discussions I was saying.  Not everyone in the group that I represent but most of them is following this as closely as I am and so there's, there comes a point of reporting back and all that sort of things as you'd expect and then you realize actually maybe I haven't seen the [word for the trays] and they're looking at—others see this as a much more of an institution fashion and take a different reaction and sometimes it's not just about the substantial point that you're trying to make.  That's also a [inaudible] concern here.  How could this even happen at all?

DAVID MCAULEY: Thank you.  Since there are no hands raised, I'll go ahead and comment. Malcolm, I guess in part, I don't agree with the institutional concern.  I understand the comment, but it seems—and let me just say if their reaction was in fact how did ICANN come up with something that was so drastically undermining accountability, the rules that were put forward were basically done by the committee and they were put in place as it was an effort as I understand it.  I mean I was part of it—as I understand it is to balance the need for some certainty at some point, but it's very clear from the comments that have been submitted that

the time lines, the specific time lines are seen as inadequate and as simply said in one case, contrary to what the bylaws require.

And so with respect to the institutional concern that you've raised, it seems to me it's quite possible in fact that there's actually an easy solution here that would satisfy those who are concerned that the potential claimers need to have a reasonable period of time to make a claim from the time at which they either knew of the harm that they encountered or the impact, or should have known. And so I think it's pretty clear the forty-five days is not that time. And so it falls to us I would think, if we're going to keep going down that road to say, okay what is that time? Is it ninety days? Is it six months?

And then secondly, and parenthetically I would note with respect to a moratorium business constituency is also recommended that the rules be put on moratorium pending further study. And then secondly, there may be an easy solution for the outer edge of challenges on the time, but I actually think that taking care of by the phrasing, knew or reasonable should have known, I think that may solve both things if we come up with whatever that time period is to fill in the blank.

And then I would say, picking up on something Sam said in the chat, is if this group comes up with a significantly different period of time within which claims are to be made, that we would probably go out for some public discourse on that as well. I think it's incumbent of this group to get rules out as quickly as we can while at the same time, making sure that they're right. So I don't feel any time pressure that they need to be out by March 30th or anything like that, I just think it's because we do

have a standard in place now it would be good to have new rules and a standing panel etcetera.

So I guess I appreciate the point that you're making Malcolm and I recognize that you have consistently intense about this, and I take Sid Lee's advice, but I just think there's a solution that wouldn't necessarily require us to throw everything off the table and step back and look at the process again. I'm not sure I agree with those in your constituency that have said the process is flawed. And so that's my own position. I have a feeling that now that you've said that, I'm going to invite you to sort of restate this on list. And so that we can have this discussion further on the list because there's some folks on the team that are not on this call and I think it bears discussion. Feel free you have the floor nobody else has their hand up.

MALCOLM HUTTY:          So sorry. Very briefly, I think the essence of the disagreement here is that when you say there might be an easier way—there needs to be a reasonable period to at least come up with an answers to what ideas and it might be this and it might be that. The essence of the process point is to disagree with that formulation as a way of going forward. The essence of it is to say no, where do you get this there must be a reasonable time from? You've essential assert that you've come up with it arbitrarily. That instead of saying that and then asking us to come up with some number, based on I don't know our judgment.

It is to say, no what should be done is to look systematically at the requirements as laid out in the bylaws and see what standard that

requires us to judge.  Not necessarily what's the reasonable amount, but maybe something else and certainly in our submission we argued that it should be approached from the other direction.  Not as what is a reasonable time, but instead how long would undermine the purposes; which leads us to a different place.  Separately the business constituency for example argues that there needs to be an analysis of the impacts, again that's fundamentally disagrees with your proposed approach.

DAVID MCAULEY:          Okay, Malcolm, thank you.  No that's fine, thank you.  And Greg you have your hand up.  You have the floor next.

GREG SHATAN:           Thanks.  Greg Shatan for the record.  I think that we arrived at the forty-five days was trying to find a balance between offering the opportunity for review and challenge and also allowing for finality with regard to for instance new bylaws or rules or policies and a like, allowing some to oppose so that ICANN.org could go forward with some certainty that these are now the rules.  That at least the institution of those rules for instance would not be challenged although if some application of them later on caused on that could be challenged, because that would potentially be a new event.

So 45 days may have been too short.  Clearly a lot of people think it was. I think we need to listen and learn from that.  I think we should not take an approach that is too easy, but we should do one that analytically looks—as I said in the chat, at the empowered community processes

and timelines, at the SOAC processes and timelines as part of the empowered community process and also to the extent the SOAC's also may independently bring IRP's.  And given the standard comment that the multi-stakeholder process is slow and messy.  Taking a fairly short time period, doesn't seem to fit with short and messy.  And we're never going to make the multi-stake holder process quick and crisp.

So we need to deal with the plaintiffs we have or we can anticipate having.  I mean forty-five days is actually quite a common day for repose so it's not arbitrary in the fact that it's random.  It perhaps was not sufficiently tied to particular realties of our situation.   But I think arbitrary goes over board and I'm not sure that the BC comment is not quite as dismissive of what David's saying.  I do think we need to be analytical and not just pick another number that sounds longer, but see how—make sure that we pick a time that gives sufficient time for the slow and messy processes to work.

And so I think there is—clearly we do need to answer the question of whether we've picked a time that is too short and thus A doesn't allow the processes to work and B by so doing undercuts the validity or availability of the process.  But on the other hand there is a value to repose and to finality.  And we can't just say that that's arbitrary unless there are people that want to argue that there should be no time periods and everything should be open forever.   No statues of limitations.  No repose.  You know, there may be some polling issues, but I would not go into everything's open forever.

And I don't know—I don't think that repose needs to be grounded in the bylaws.  This is an implementation matter.  Bylaws are fairly high level

and I can go back and look at the bylaws but see if there is a way that the repose, or concept of respose has a finality which is extremely standard in any kind of challenge process based on a knowledge or standard should have known type of process or analysis so I think it would be uncommon not to have finality and so assuming that no explicit mention of it means we shouldn't contemplate it, I think is not taking kind of a typical, ordinary type of approaches resolution procedures into account.  Thanks.

DAVID MCAULEY:          Thank you, Greg.  Kavouss, you have the floor.

KAVOUSS ARASTEH:       Yes, we have discussed this time frame for many issues, advantage, disadvantage of short and long, and so on and so forth, and we came to some sort of legal round for many other similar areas and that of course is five days.  Maybe perhaps you ask the people attending this group that who else needs beyond 45 days?  And come to some sort of conclusion and not put another [inaudible] in our discussion.  And not pushing for particularities, who else is in favor of longer time frames than 45 days?  Thank you.

DAVID MCAULEY:          Thank you, Kavouss.  So there are -- Greg, I'm sorry, is that an old hand?  Thanks.  Malcolm, I have a question for you and that is, are you saying and I may have just misheard it, I'm doing a couple of things—I don't think you're saying or are you saying that there, there does not need to

be any time limitation to a claim of civility to make a claim? Is that what's involved?

KAVOUSS ARASTEH:     Are you asking me?

DAVID MCAULEY:     No. I'm sorry, Kavouss. I'm asking Malcolm.

KAVOUSS ARASTEH:     Okay, yes. Thank you.

MALCOLM HUTTY:     No. We weren't arguing that there should be no time limit, but we were arguing that that time limit needed to be calculated on a rolling basis. So there should be no fixed time limit.

DAVID MCAULEY:     Well, let me say a couple of things. First off, let me invite anybody else who wants to weigh on this. Certainly this issue is not done and dusted, we're not done with this, but if anyone else wants to make a comment please put your hand up. Greg, you have your hand up, because in a minute I'm going to turn to some administrative matters to seek volunteers for issues etcetera, etcetera as we get ready to close the call. So before I do that, Greg, go ahead you have your hand up, you have the floor.

GREG SHATAN:                        First, I think that—this is Greg Shatan for the record.  First I think that
we need to not just look at the simply recommendations and what we
had and what each of us might think and I think we're too short,
personally.  But I think we need to look at the comments.  I think that,
that's where we find ourselves and in a sense I feel it's a little
premature to be having a conversation or having those not wrong
because we're not in a position where we can take the comments fully
into account.

So you know, eventually we will get to this point, but I think we might
be a little cart before the horse right now, until we look at the
comments and until we consider you know an appropriate analytic
framework for trying to figure out how long is too long and how short is
too short that is based in pragmatic reality that is not arbitrary.  Thank
you.

DAVID MCAULEY:                    Thank you, Greg.  Kavouss, you have the floor.

KAVOUSS ARASTEH:             Yes, I am not really comfortable to leave it totally open and things like
we need an amount of time, so we should have time.  I don't think that
would be a productive way and I don't understand how we'd implement
it if we say unlimited time and they will see disadvantage for the people
and an advantage for some other people, so I think you have to have
some time.  And if time was 50 days or 60 days, then I think it become

to some sort of 45 days.  [Inaudible] and that is reasonable so we need to have time.  I have a difficulty in to making it open.  Thank you.

DAVID MCAULEY:          Thank you, Kavouss.   Well this all segway's along with some chat comments by Greg and Malcolm with moving forward.  The timing issue pretty clearly is going to be one of the primary things that we have to look to and so I would like if there are volunteers for issues and so let's talk about timing first.  I would be happy to volunteer or if Malcolm would like to volunteer that would make sense or maybe even Malcolm and myself sort of jointly volunteering, anything.

But I think it would be nice to have a volunteer to kind of pick this subject up and move it forward on the list and then hopefully we can discuss it in several weeks time and we'll get to the next meeting in just a minute.  But I'm looking for volunteers for this or other issues.  So I see two hands up, Greg is that an old hand or a new hand?  Old hand.  Kavouss, how about you?  Is that an old hand?

KAVOUSS ARASTEH:       No, it's a new hand.  I have no difficulties with that provided that we don't discuss on the [inaudible].  Based on the 45 days and it's believed other suggestions so maybe at the next meeting we could agree on some time and not saying that it's a reasonable amount of time, so the task of the group or whoever is meeting you or Malcolm or you should have that one.  Based on [inaudible] and any other times that are fine.  Not too long would be the second alternative, but not to coming back and saying that's a reasonable amount of time or no time given.  So that

is the guideline that people need to work on that and having a discussion at the next meeting that comes up to come to a decision. But this is a waste of time because there are so many other things that we have to do.  We used all of the meeting for this.  Thank you.

DAVID MCAULEY:              Thank you, Kavouss.  Part of what you said was a little bit muffled for me and I'm not sure I caught it all, but I do think the 45 days itself is in play based on the comments that we've received.  So what I'm asking the volunteers to do is to take the issue and look at the comments forums, sort of summarize the comments as Bernie suggested at the outset of the call.  Summarize the comments, kind of distill them, encourage enlist or on call dialogue about them and then come up with a recommendation that we could consider.  And that's what the suggestion is.

So I see that Malcolm has agreed to take the lead on the timing issue.  I will come out on the list to sort of reemphasize that we're searching for volunteers and layout what the issues are.  Bernie and I will do this together probably and seek volunteers and I'd like to encourage us to get into a hearty discussion on list because as Kavouss correctly points out, we have to get moving and move on with things.  And it would be good for us to encourage on list participation.  Having said that, Bernie could you talk to us about the next potential meeting.  You and I have talked a little bit earlier before the meeting and I forget exactly the date that we've talked that might be possible.  But can I ask you to talk about that and then I'll check with the group and see if we can arrange a call.

I'm sorry before I do that Bernie, though I see Malcolm's hand is raised. Malcolm I believe you're going to be talking about substance rather than dates for the meeting so why don't you go ahead and take the floor first.

MALCOLM HUTTY: I was talking about the next step in terms of when—and the role of the person taking the lead on this issue which you suggested before. I was going to suggest that the first steps that I would propose to take would be to seek to assemble a more detailed analysis of the comments. I don't know if you remember that at the first round of the public comments on the CCWG workstream one. The groups did a quite thorough detailed analysis that categorized the responses received on each topic with different comments into their different sections. I would propose to do that to the timing sections of the comments that were received here. So that we could get a—bring out in much more detail the specific proposals from each comment had suggested.

DAVID MCAULEY: Thanks. Thank you, Malcolm.

MALCOLM HUTTY: Would that be acceptable? Would that be egregious, appropriate first steps to take?

**EN**

DAVID MCAULEY:          I think it certainly would be.  I would encourage you to look at what Bernie's put together so that you don't duplicate—there's not duplication.  Bernie's done some very nice things so far so take a look at that and then…

MALCOLM HUTTY:          I have done but that was an overview of all the different issues and was necessarily quite limited in what it was able to put out on the timing issues specifically.  So I was going to take it to the next level of detail on that one topic.

DAVID MCAULEY:           Okay, I think that sounds fine.  If you're the lead on that issue that's your decision and so that's good.  And so we have three minutes to go, I would ask Bernie if he could just talk about a potential meeting for us, our next meeting?

BERNARD TURCOTTE:          Thank you, David.  We've got a slot reserved for Thursday March 2$^{nd}$, 1300 UPC.   And that would be the next potential call which is unfortunately almost three weeks away.  We could try and do one on the 23$^{rd}$ of February which would be two weeks away if the group prefers that.  So those are our two dates right now.

DAVID MCAULEY:          Thanks, Bernie.  And so let's ask if people have views.  My personal view is three weeks would probably be better.  I'm hoping to get an on list

discussion going and I think three weeks will probably be good.  That would be roughly a week prior to getting together face to face in [front] of reform in Copenhagen.  Probably good timing, but what do others think?  Malcolm your hand is up.  Is that old or new?


MALCOLM HUTTY:          Oh sorry, it was old but I agree with you.  I think three weeks is preferable to do.


DAVID MCAULEY:          Okay.  Kavouss, you have the floor, then.


KAVOUSS ARASTEH:          Yes, I think the 23rd of February, 1300 hours and the other meeting [inaudible].  Is there a discussing of the group and I think that time is not available.  23rd of February at 1300 hours is not available.  So think about the timing, but not that please.  I don't think that we could attend two meetings at the same time.  Thank you.


DAVID MCAULEY:          Thank you, Kavouss.  So then it sounds like we'd probably better do it on March 2nd, Bernie.  That being said, we're pretty much out of time, so I'm going to come on the list and encourage an on list discussion.  Thank you Malcolm for taking the volunteering.  I will volunteer for one of the topics.  I encourage others to do the same, and take these forward and I appreciate everybody's insight today.  I do think Greg's point that we may have the cart before the horse is fair, but I think it's a good

discussion to start into some substance on this. And so I hope this is helpful for us as we move forward to the important issue, and as I said, I look forward to our discussions. We don't have to solve this or boil the ocean in one week.

You know, we have a couple of weeks to ICANN 58 and then we'll have a little bit of time after that. In parallel, we'll be having the expression of interest that ICANN gives us, so I'm looking forward to it. There's some good works coming down the pike to get the new IRP in place and it sounds very good.

Anybody have any other business before we adjourn the call? Well, it sounds like not, so I'm going to thank everybody for participating and I look forward to seeing you on list and on the next call, and thanks very much. That's it.

GREG SHATAN:              Thank you, David.

DAVID MCAULEY:          Thanks.

**[END OF TRANSCRIPTION]**