Adobe Connect Chat for CCWG Accountability F2F at ICANN59 -

Morning Session – 25 June 2017

Brenda Brewer: (6/25/2017 07:57) Hello, my name is Brenda and I will be monitoring this chat room. In this role, I am the voice for the remote participants, ensuring that they are heard equally with those who are "in-room" participants.

Brenda Brewer: (07:57) When submitting a question that you want me to read out loud on the microphone in this session, please provide your name and affiliation if you are representing one, start your sentence with <QUESTION> and end it with <QUESTION>. When submitting a comment that you want me to read out loud on the microphone, once again provide your name and affiliation if you have one then start your sentence with a <COMMENT> and end it with <COMMENT>. Text outside these quotes will be considered as part of "chat" and will not be read out loud on the mic.

Brenda Brewer: (07:58) Any questions or comments provided outside of the session time will not be read aloud.All chat sessions are being archived and follow the ICANN Expected Standards of Behavior: https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_resources_pages_expected-2Dstandards-2D2016-2D06-2D28-2Den&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=MQ3xbZQL7nwL61k4EZ-oEKZoEwW9LVHj6KPj-44KCl4&e=

Brenda Brewer: (07:58) Welcome to CCWG Accountability Face to Face Meeting at ICANN59!

Brenda Brewer: (08:30) Please stand by, we will begin soon. Thank you!

Jordan Carter: (08:39) Hi everyone - here we go again!

Benny Samuelsen / Nordreg AB: (08:40) sound gone

Louie Lee: (08:40) sound gone for me too

ICANN RP - VIDEO: (08:41) We're looking into the audio issue. Please stand by. Thank you.

ICANN RP: (08:42) Sounds is back

Louie Lee: (08:42) Thank you. audio back

Benny Samuelsen / Nordreg AB: (08:42) thx

Kavouss Arasteh 5: (08:55) Thomas, Tks for your explanation and descriptions on why the works need to be continued . However, I believe there were other reasons that you did not explain such as working method and ,,,,,

Jordan Carter: (08:56) I think there was also the issue of volunteer exhaustion after the WS1 effort

Thomas Rickert, Co-Chair: (08:59) Kavouss, I am sorry I did not exhaustively respond to your question. I will reach out to you during the coffee break.

Kavouss Arasteh 5: (09:02) what the co-chairs expect from us in this regard

Kavouss Arasteh 5: (09:03) Anyhow thanks to staff in working out on this which is highly appreciated

Jorge Cancio (GAC Switzerland): (09:14) question: where can we consult the current draft of the supplemental rules of procedure and how the public comments have been considered?

Bernard Turcotte Staff Support: (09:15) @Jorge
- https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_display_WEIA_WP-2DIOT-2B-2D-2BIRP-2BImplementation-2BOversight-2BTeam&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=x95zfc0aK9azWNGooPVY8XTIX9kHK6hCCRjVqV-sIp0&e=

Keith Drazek: (09:16) Question/Request: Can we get an update from ICANN legal/policy on the status of the IRP Standing Panel Expression of Interest document and communication? When will it be issued?

Jorge Cancio (GAC Switzerland): (09:16) @Bernie: thanks for the general link - I'm not able to find the specific docs I mentioned therein

Bernard Turcotte Staff Support: (09:17) on it

Bernard Turcotte Staff Support: (09:18) @Jorge the public comment should give you everything - https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_public-2Dcomments_irp-2Dsupp-2Dprocedures-2D2016-2D11-2D28-2Den&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=VsRK002qngsH0D-MQj8NvP5Wf-Ds_Lj9R7ZNEi-MkkI&e=

Jordan Carter: (09:18) @Keith, will put that question to David and the room once the slides have been run through

Keith Drazek: (09:19) Thanks Jordan.

Jorge Cancio (GAC Switzerland): (09:19) @Bernie: thanks; I see that the public comment period report is still pending...

Bernard Turcotte Staff Support: (09:21) @Jorge - the IOT group is still working on addressing the comments and hopes to be done by the end of summer I beleive

Bernard Turcotte Staff Support: (09:21) Documents and exchanges are on the list archive

Jorge Cancio (GAC Switzerland): (09:22) Just for the record: Switzerland, as well as Spain and AFNIC made comments on linguistic accesibility of the IRP procedures - something very important to ensure access to the global ICANN community

Bernard Turcotte Staff Support: (09:25) Yee these questions have been noted and not addressed yet

Kavouss Arasteh 6: (09:26) Thomas, May you kindly ask David to speak into the mic

Thomas Rickert, Co-Chair: (09:27) Thanks, Kavouss! Done!

Kavouss Arasteh 6: (09:29) DaVID,Pls kindly speak about the criteria of those who may be eligible for considerations at SO/AC

Jordan Carter: (09:31) @Kavouss, I will read out this question and ask David to respond - and then we'll move on to CEP

Sivasubramanian M: (09:32) Unless there are unspoken and unseen merits, I have some concerns on some aspects of the summary:1. The idea of constraining ICANN to its bylaws figures very prominently in the summary, defined as one of the pillars, not really a supportive pillar, but sort of a not so well thought of negative command, " Don't allow ICANN to exceed its mission"2. The standing panel is to be trained by ICANN on DNS technical matters. For argument, wearing a skeptical hat across the table, who in ICANN would train the standing

panel? Staff? Board? Community? Which part of the Community? Would it stop with training the panel on DNS? Or, extend to impart notions on what would constitute an acceptable ruling and what would not?How independent would the IRP be , if the training is provided by ICANN and support is provided by ICANN?

Sivasubramanian M: (09:37) Who 'picks" the Standing panel? Could the Standing panel selection also follow the same process as that of the conventional Jury selection in a court room? Thinking aloud, the Board picks one, Staff pick one, Community picks one, three others picked by other Internet non profit organizations, and one picked by external Internet users?

Jordan Carter: (09:38) Siva - what I picked up from the presentation is that the panellists are picked / nominated by the SOs and ACs, and the Board formalises their appointment. Worth checking direct w David tho.

Kavouss Arasteh 6: (09:44) ED ,Please elaborate more the concept of " Small Claims"

Kavouss Arasteh 6: (09:46) Ed ,wouldn't be a risk if the same people be given two tasks?

Kavouss Arasteh 6: (09:46) Pls elaborate

Sivasubramanian M: (09:46) Jordan, in that case, the ultimate selection is done by the Board, It is fine, if the Board has a hands off formal role in formalizing the choice of the Community, but in practice this would not be the case. For argument, it could be argued that the Board picks all Standing panelists in this process. There is something that require attention here: In this scenario, all panelists are nominated by the ACs and SOs, who would rule on cases where ICANN is either the appellant or defendant. The panel needs to be picked by ICANN + other organizations + some entity or establishment totally external to IT.

Kavouss Arasteh 6: (09:47) One more question , you ask the CCWG " Input" on what context pls

Sivasubramanian M: (09:48) ... an entity non-governmental and totally external to IT

Kavouss Arasteh 6: (09:51) Ed ,it seems that you are engagded in an Impossible Missions ,is that what you convey to CCWG?

Steve DelBianco [GNSO-CSG]: (09:52) Good report and questions.   I have no direct experience with CEP so hard for me to comment

Kavouss Arasteh 6: (09:55) Leon, I have askdd few other questions, if time permit pls raise them with Ed

Leon Sanchez: (09:55) will do Kavouss. Thanks for your kind consideration

Sivasubramanian M: (09:57) CEP: Who would pick (from among the standing panel) the one member of the panel, who would serve as the neutral member?

Sivasubramanian M: (09:57) ICANN or the other party?

Kavouss Arasteh 6: (09:58) SECRETARIAT, My adobe is repeatedly interrupted and I log again thus pls delete all Kavouss and just retain one

Brenda Brewer: (10:00) Thank you, Kavouss. Just one of you now!

Kavouss Arasteh 6: (10:02) Co-Chair, don?t you think that there is a need to establish and put a limit of may 3 minutes for each intervention

Lori Schulman: (10:04) Agree with Alan about By-laws.

Lori Schulman: (10:04) Let's make them work and evolutionary

Malcolm Hutty: (10:04) @Alan, it may be conceivable, or even likely, that the outcome has financial implications for either or both sides, but it's not conceivable that the IRP will award money damages. That's not within the powers of the IRP

Alan Greenberg: (10:06) @Malcom. Of course. But the Board's remediation may well include a transfer of money...

Benny Samuelsen / Nordreg AB: (10:06) lot of lags on the sound

Benny Samuelsen / Nordreg AB: (10:07) and the adobe connection in general

Sivasubramanian M: (10:09) CEP Comment: Why exclude the neutral Standing panel member who has participated in the CEP, from the IRP, after he or she has had the oppotunity to be well informed about the issue now brought before the IRP?

Brenda Brewer: (10:10) Coffee Break. Meeting will resume at 10:30, local time. Thank you.

Brenda Brewer: (10:33) welcome back!

Steve DelBianco [GNSO-CSG]: (10:35) SOAC Accountability comment page is at https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_search-3Fclient-3Dsafari-26rls-3Den-26q-3D-3A-2Bhttps-3A__www.icann.org_public-2Dcomments_soac-2Daccountability-2D2017-2D04-2D14-2Den-26ie-3DUTF-2D8-26oe-3DUTF-2D8&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=cUfAcRdOZi1vDWoZJinwbboUkZb9Sg1F_4OB2K1Iyf4&e=

Steve DelBianco [GNSO-CSG]: (10:35) Our published draft report is at https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_en_system_files_files_ccwg-2Dacct-2Dws2-2Ddraft-2Drecs-2Dimprove-2Dsoac-2Daccountability-2D29mar17-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=BtBKEzJR0i4vW1Fd6SzW4DJ1A6BQwYafdjTcN9EspVI&e=

Stephanie Duchesneau - Google: (10:36) I have a retirement card for Chuck Gomes on the back table by the door. Everyone should take a minute to sign and share a memory :)

Cheryl Langdon-Orr (CLO): (10:38) noted ...thanks Stephanie...

Stephanie Duchesneau - Google: (10:39) thanks steve!

David McAuley (RySG): (10:39) During my IRP presentation Niels asked about possible cost shifting in context of CEP process. Bylaw 4.3(e)(ii) provides as follows: "The CEP is voluntary. However, except for Claims brought by the EC in accordance with this Section 4.3 and Section 4.2 of Annex D, if the Claimant does not participate in good faith in the CEP and ICANN is the prevailing party in the IRP, the IRP Panel shall award to ICANN all reasonable fees and costs incurred by ICANN in the IRP, including legal fees."

Stephanie Duchesneau - Google: (10:39) it's been moved to the card by the water bubbler

Niels ten Oever: (10:43) Thanks a lot David! Is 'good faith' a defined term in the bylaw or in broader legal terms?

David McAuley (RySG): (10:44) broader legal term Niels

David McAuley (RySG): (10:45) During my IRP presentation Kavouss asked about standing panelist qualifications. Bylaw 4.3(j)(i) provides as follows: "There shall be an omnibus standing panel of at least seven members (the "Standing Panel") each of whom shall possess significant relevant legal expertise in one or more of the following areas: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration. Each member of the Standing Panel shall also have knowledge, developed over time, regarding the DNS and ICANN's Mission, work, policies, practices, and procedures. Members of the Standing Panel shall receive at a minimum, training provided by ICANN on the workings and management of

the Internet's unique identifiers and other appropriate training as recommended by the IRP Implementation Oversight Team …"

Niels ten Oever: (10:45) Thanks David - seems like with this wording financial reasons should not have a discouraging effect on access to due process.

Malcolm Hutty: (10:54) Agree with Alan Greenberg on Best Practices: what is appropriate for ALAC may not be appropriate for a GNSO constituency or for (e.g) GAC

David McAuley (RySG): (10:56) I was also asked about IRP standing panel diversity. Bylaw 4.3(j)(iv) says: "Reasonable efforts shall be taken to achieve cultural, linguistic, gender, and legal tradition diversity, and diversity by Geographic Region …"

Sivasubramanian M @ 59: (11:03) "Good Practices" sound better, sounds more sincere

Steve DelBianco [GNSO-CSG]: (11:03) Sec 4.4 on Organizational Reviews: The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (i) whether that organization, council or committee has a continuing purpose in the ICANN structure, (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness and (iii) whether that organization, council or committee is accountable to its constituencies, stakeholder groups, organizations and other stakeholders.

Kavouss Arasteh 6: (11:08) I also recommend to endeavour to meet the concerns expressed by the Board

Jordan Carter (.nz): (11:08) You can find the Board comment on these SO/AC accountability recommendations here: https://mm.icann.org/pipermail/comments-soac-accountability-14apr17/2017-May/000007.html

Kavouss Arasteh: (11:12) In reply to Alan, I would say that is is a well known practice to say, " Best Practice " is understood and thden define that

Steve DelBianco [GNSO-CSG]: (11:14) that ICANN meeting planning staff take the following steps prior to each Annual General Meeting (AGM):   (p. 9) ICANN staff should ask the chairs of all SO/ACs whether they want to hold an Accountability Roundtable to discuss SO/AC accountability. If a majority of SO/AC chairs agree, ICANN staff would schedule a 90-minute public session at the next AGM, open to all SO/AC/Group chairs, and joined by ICANN CEO and Board Chair. The ICANN board chair would designate a moderator for the session.

Christopher Wilkinson (CW): (11:14) Agree with Malcolm. Against MART for those reasons. CW

Kavouss Arasteh: (11:14) As for mutual accountability; let us make it optional first, if it works well and at thenext review we could decide diffrently such as a need to do that

matthew shears: (11:16) there may be occassion when sharing practices may be a useful exercise then we might consider that the ART (not MART) be an optional measure subject to the approval of the SO/AC Chairs, for example.

Christopher Wilkinson (CW): (11:16) In an earlier posting (a long time ago) I suggested Mutual Transparency Round Table. CW

Kavouss Arasteh: (11:17) Perhaps the issue of doing it pin public comment to be separated from the main issue

Malcolm Hutty: (11:18) "Roundtable discussion on cross-cutting issues" would be more what I had in mind. We need to get away from any sense that this is a body that SOAC leaders report to or need to satisfy

Sivasubramanian M @ 59: (11:19) This conflict concerning mutual accountability could become unimportant, if on the whole the Community processes gradually move away from SILOs to Cross Community processes

Jordan Carter (.nz): (11:21) We have done that for the use of the Community Powers, Steve - agreed. It's the broader picture of the organisation as a whole that we need to build into the process somewhere, and that I thought the MAR might be able to help with.

Sivasubramanian M @ 59: (11:22) For e.g. if we work towards making a 4 day meeting with one and a half days of independant AC/SO schedules and two and a half days of Cross Community meetings.

Steve DelBianco [GNSO-CSG]: (11:23) Thanks for that clarification, Jordan

Jordan Carter (.nz): (11:23) Siva - yes the new meeting approach is helpful in breaking people out of the silos

Sivasubramanian M @ 59: (11:24) Such an overall shift would postively reflect on the independant AC/SO accountability process, as each AC / SO bring their independant work invariably to the Cross Communitty table.

Sivasubramanian M @ 59: (11:24) or a Cross Community House

Kavouss Arasteh: (11:27) Doing Mutual accountability on optional basis certainly would help but whether do it publicly or non publicly is another issue as I explained

Lori Schulman: (11:30) I am happy to volunteer for transparency subteam. Please add me to the list.

Cheryl Langdon-Orr (CLO): (11:33) staff can you copy and paste the chat section from during our ACSO Acct update and send it t Steve Farzi and I so we can use as Ref

Brenda Brewer: (11:34) Yes, Cheryl, will send

Olga Cavalli - GAC Argentina: (11:35) It coudl be useful to have slides about this presentation

Cheryl Langdon-Orr (CLO): (11:37) thx Brenda

Kavouss Arasteh 3: (11:38) Michael : do you expect that CCWG establish criteria on the sensitivity or otherwise?

Michael Karanicolas: (11:38) Hi Kavous - Yes, establishing specific criteria for when information should be withheld is an important part of what we're trying to decide

Olga Cavalli - GAC Argentina: (11:38) Michael no slides for your presentation?

Leon Sanchez: (11:39) @Kavouss does that answer your question? Do you still want me to read it?

Michael Karanicolas: (11:40) Olga - no, sorry

Brenda Brewer: (11:41) documents of this meeting can be found on wiki here; https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_Kb3RAw&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=kbiQDH54980u4nTPfwdloDLY6-6F24x0ArAvhdeDvvc&m=d8CLqwAx3JD2kYSzP0chy73h_Qg_3Wl69IMN3eFzssI&s=ZpUoMbrlR3MS2HSNpSnJlzwqvTCLTjitGAgiL-ol6Us&e=

Olga Cavalli - GAC Argentina: (11:41) @Michel no worries thanks

Kavouss Arasteh 3: (11:42) Leon, pls also ask Michael, what he expects from us in determining what doc. to be available . These should have been advised by the group and not coming to us to start

Christopher Wilkinson (CW): (12:02) <COMMENT> the subgroup was advised some time ago that their extreme concept of transparency would be impractical. The current debate - interesting use of time as it may be - reflects a lack of flexibility, even expeirence.of the subgroup lin several respects.<COMMENT>

Greg Shatan: (12:03) The document needs to be clear that it is not associating itself with the Open Contracting Initiative; the best way to do that is to avoid using the term. Even more than "best practices" it is a term of art at this point -- whether or not it's capitalized.

Brenda Brewer: (12:06) Lunch Break, reconvening at 1:30 PM.

Brenda Brewer: (12:07) Please note: Catered lunch is provided for CCWG Accountability Members and Participants only. Thank you!