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IRP IMPLEMENTATION OVERSIGHT TEAM SUBGROUP MEETING

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>> Let's wait until two minutes passed the hour or three minutes passed the hour. We'll get started soon, I hope. Thank you.

(captioner standing by).

>> DAVID: Hello, everyone, it's David Mcauly speaking and thank you all for joining. I'm trying to determine if we have a quorum present, and so let me count for a minute and just take a look.

I see Sam has joined. Thank you very much.

Let me just take one more look here at some notes. So let's begin. Can I ask that the recording get started, please?

>> This meeting is now being recorded.

>> DAVID: Thanks, very much. Thank you to those who have joined. Very happy to see you. Let's just note that number one on the agenda is to discuss administrative matters, and let me ask if there is anybody who is participating on the phone who is not in the Adobe Room, if they would please identify themselves now.

Not hearing any, let me ask of those gathered -- just one moment. There were just two phone entries that we heard. Could I ask if anybody is on the phone who is not in the Adobe if they would please identify themselves.

Okay. I just assumed those folks were in Adobe already. If anyone has an update or a change to their statement of interest or anything to note about their statement of interest,

could they please do so now?

Not seeing or hearing anything.

Let's move on to agenda item number two, and before we do that, Kabus, you were expressing a concern about a quorum. I believe we are at quorum now and I think we can proceed, if you feel otherwise, Kavouss, could you comment now.

Your hand is up, take the floor, please.

>> I have no problems, the reason we need the quorum, I don't think that eight people or nine people are sufficient for quorum -- unless it is that this is the result of this number, and ask them how they want to take it, it is up to them. But I think for the meeting, this is all issue, still there are some issue, I hope that people would not push a lot from their own view and give (?).

>> DAVID: Okay, thanks, Kavous, I think we have enough to go forward, and the way that we're handling this now in my view is both with a combination of the list and the calls, and so I'm hoping that we can move forward. And thank you for that.

So the second item I put on the agenda was just a request for volunteers on issues, and then Greg had the good idea of creating a sign-up sheet. Bernie is taking some steps in that respect, so I'm going to ask if he would comment on that right now.

>> BERNARD: Thank you. Brenda, could we bring up the sheet. All right. Thanks, everyone. You've seen the email of the Google Doc is up and we've got it in the window here. Let me try to make that just a bit bigger.

Nothing too fancy here. We've got the comment groups on the left-hand side for analyzing, and everyone has editing rights here, so if you want to pick up a topic, you just need to write your name in there that you'll be having a look at that particular topic, and then the staff and David will be handling updating the status as we go along.

The only point that we may want to have a look at is if we got the comment grouping right, and I'll run through them very quickly just to be sure everyone understands them, and I do understand that on some screens this may look a little small, so let me try to get that a little bigger again.

So, the comment groups we've got -- and I'll get to you in a second, Kavouss. 45 days, consensus policy, discovery elements and statement, joinedder, notice, under the heading of other, and these are alphabetically, sort of, and not by importance.

On-going monitoring, under other, we have payment of fee, under other we have WTO rules for least developed countries.

Under Pamel we have renewal, we have conflict of interest, we have repose, we have retroactivity, we have retroactivity substantive standards, we have standing, bracket materially affected, and we have translation and interpretation.

So after going through everything we've got for comments and discussions on the list recently, this is what we thought would handle the various comments. Kavouss, over to you.

>> Thank you. Just understand what I was volunteer for or being of the topics that you have already discussed, and you just want to put them in the document, so again within the issue of relevant see to do what, to talk about the four or five or months, or specifically what is issue? Maybe I have missed something, and I apologize, but remind me what is the issue off of this. Thank you.

>> DAVID: Thank you, Kavouss, it's good request for clarification from you, so thank you very much for that.

What we're looking for here is for people to volunteer and to take an issue and lead the discussion, and so Bernie has just done this. I've been tied up most of today. Usually I have a little bit more time to get ready before a call starts and I would have filled in some of this information, but obviously I've taken the lead on a number of these issues, but there are other issues -- so person analyzing -- the person analyzing column will be filled in probably tomorrow morning by me with my name in certain places. Malcolm's name will appear beside 45 Days and beside Repose if that's okay with Malcolm, but you'll see my name in some of them, but there will be some left.

What we're looking for with the some left, is if people would please volunteer to look up the issue and simply lead the discussion. As much as I've done with some of the memos I've sent on email on things like consensus policy, et cetera, and what I typically do is indicate who has made comments in this respect and put a link to their comments what the issue might be, what recommendations I might make.

There is a template that I've used that's in the email and I'd be happy to resend something along those lines if needed, but where I don't think we have anyone analyzing yet, and I'll start at the bottom and go up just because it's a little bit easier. Translation and interpretation. I don't believe that's being handled yet. Other WTO rules for least developed country, I don't think anyone is handling that. Other, payment of fee, I don't think that's being handled. Other, on-going monitoring, I don't think anyone is handling that. And discovery evidence statement, I don't think that's yet been taken.

Some of these will be a little bit more complex, like Discovery Evidence of Statements, and some of these, and I'll use the example of on-going monitoring -- I'm sorry, other-on-going monitoring, will be fairly simple. If I'm not mistaken that came in from the ALAG asking for on-going monitoring of ARP, and I believe the bylaws say it will be subject to a review similar to the ATRT review every five years or so, and so that's what we're looking for.

And then the status column would simply show, you know, Underreview, or being being prepared for first reading, et cetera, that's what we're looking for here, Kavouss, does that answer your question?

If you're speaking Kavouss, we can't hear you.

>> Do we need somebody to use the discussion because the reason some of the issues (?) and what do you need? What I heard was the WOT rules for the least developed countries and I wonder what is that issue? And the other issue may be more of a accepting substantive standard, so which activities, the other material I got and what the issue is, but I don't think we need to regroup or day to day, but it was from the day that you had the first -- where are you supposed to -- (?) thank you.

>> DAVID: Thank you, Kavouss, what I'm looking for, this is sort of a personal initiative of mine and I'm modeling on what Greg has done in the Jurison group. I'm looking for two things. You're right, I mean, I can raise the issues as the lead of the group and I've done that in a number of instances, but I worry sometimes that it's not fair to the group that I take the lead on everything, in case people get worried that we're getting one point of view, sort of making recommendations and things of that nature.

And the other is, I could use the help, to be honest with you. Today is a good example. Normally I would put a couple hours of preparation into a column, and today I put none into this call just because things have -- you know, I'm just tied up here in my office, a little bit unexpectedly, all day. So that's just the way that happens.

So it's in the nature of help, too. So that's where it's coming from.

I'd like to ask Bernie if he was finished with his comments on this sign-up sheet? I am indeed. Thank you Bernie, what I'm going to ask him to do, is if after the call, if he could put out the list the link to the document, and I'm just asking if people will take a look. And if they can, take an issue -- I'm sorry. Maybe not after this call. Bernie wait until you and I coordinate tomorrow. Malcolm I hope you don't

mind if we put your name in on 45 Days and Repose, but then once we fill in the blank -- once we fill in that column on the person analyzing, then I'll ask Bernie to put this out on the list with a link to the sign-up sheet so people might take a look and see if they had could help out taking the lead.

Malcolm, if that's not okay with you --

>> MALCOLM: That's fine with me.

>> DAVID: Okay. Thank you. And Bernie is that okay with you?

(silence).

>> DAVID: Maybe not given I've already sent the link to this list --

>> DAVID: That's okay. I missed that then, that's fine. People just be aware that we're going to fill in some of the things we're already discussing and I'll try to have that done by tomorrow. Thanks, Bernie, no problem.

I think we can move to agenda item number 3, which is to come to a final discussion, is my hope, of the timing issue. This is not a request that people comment on every facet of the argument, but in the last couple of weeks, both Malcolm, as lead and with a certain point of view, and Liz with a different point of view, have made some entries on the email list. I'd like to sort of give each of them a chance to restate them briefly, and then if Malcolm as lead to try to help us figure out where we are on the timing issue, it's possible we can close it now, or maybe we have to close it on the list. But in any event, I'll first you turn turn it to Malcolm, if that would be okay with Malcolm.

>> MALCOLM: Thank you. I think we've had a very full discussion of this subject. We've arrived at a consensus on 120 days after the person had become -- or was aware or ought to reasonably have been aware of the harm that they've suffered, then I can have us trying to present consideration of any specific problems that that might have and that was the time that was allocated for Liz to come up with an email on the subject, but from my reading of that, I don't see any -- that that discloses any concrete problems, just a difference in perspective.

From my perspective, the essential thing is that the IRT purpose which purposes that all material effects (?) are able to challenge ICANN's challenge system for compatibility with bylaws is fulfilled, and that cannot be achieved if a party is not able to file a challenge, even if they act immediately that they have been harmed.

So, I accept the advice from our independent people counsel, that is said that the knowledge of the (?) must be the

starting date for the -- for the timing issue, and I certainly do not believe that it can be moved before the person even became affected and therefore had the rights to bring a challenge, so that's my perspective.

>> DAVID: Thank you, Malcolm. Liz, would you like to comment in addition to your mail?

>> LIZ: Yes, David. Thank you so much and thank you Malcolm. I think from an ICANN standpoint, we are -- we believe that we've relayed our position and objections on this issue in our half meetings and also through email.

We, at this point, we think that it's, you know, we think that the removal of an outside bar creates a material change to what was put out for public comment, but at this point, we also think if the IOT wishes to proceed with putting this out there, ICANN will not stand in the way of the IOT putting it forward and putting the proposal to the community for input.

We definitely think that this is something that should be provided to the community for input, and it's beyond just a Malcolm and Liz issue, so that -- having said that, what the next step would be and how this would get updated, I don't know if there is going to be any direction, or if you intend to have direction specifically about updating this role and, I think we'd like a little bit more information on that part.

>> DAVID: Thanks, Liz. This is David speaking. And I will answer the latter part first, and I'll ask Bernie to come in and comment afterwards if I misspeak anything here with respect to the rules or how we're supposed to proceed, but it's my understanding that what Malcolm would do as the lead in this issue is come to the list and say, you know, this has been a discussion. Here is the request for first reading on the timing issue, and he would state what it is. You know, I think 120 days from the date a person is materially harmed or should have been recently aware of being materially harmed, and we would wrap up what we discussed from that perspective and put it out for first reading. And then, we would as a group come to consensus which lists are in the call to your point, and we would go to (?) for a change, once we come to what we believe is consensus, we would go to. Is ivoli for a rewrite on the rules to take into account what we agree on this phase of the implementation oversight team and put that rewrite of the rules out with some commentary from us as to what we've done, you know, sort of a final report from our group. That's what I understand. Bernie, if I misstated or got that wrong, please correct me or comment if you wish.

>> BERNARD: Thank you, David. I don't think it's a question of being wrong. It's a question of there is always an

option for another public comment if the group so feels it necessary. Thank you.

>> DAVID: Thanks. So, I would assume then that we would decide that, not based on the timing thing, but once we've come to a closure on all of the issues that we have in front of us, not all the issues, but all the issues with respect to rules, I don't think that would prevent us from going to Sivoli for the rewrite. We can even do that in steps if we wish, but prior to wrapping up our roles treatment, I think that we should discuss among ourselves need for another public comment. I take it Liz, that's what you're looking for, is that correct?

>> This is Sam. I'm here with Liz, and I think that that is -- we'd want to evaluate the rules across to see where the substantial changes have been and if they're so substantial that another (?) is warranted and that's a typical process from ICANN, and from an ICANN internal position is that the removal of our Period of Repose that was previously put out for public comment would be something that would be so significant that would require a further public comment, and there might be other things that we see within the rules changes, are too, and then hopefully we have the IOT would go through and identify some of the areas that we wish to highlight in a communication to help focus the public comments that we would receive on those areas of changes.

>> DAVID: Thanks, Sam.

So, I appreciate your point of view. I think where we can move forward. In the debate on timing, I had suggested some possible workarounds, but I think that I better not mention them now and just do it on List as we move forward maybe and what we get to the discussion of second round of comments.

So why don't we -- unless anyone else has a comment on this issue, I think we can move to the next agenda item.

And hearing or seeing none, why don't we move to Item Number 4 which is an update of what's available, the what ICANN legal and policy teams are doing with respect to the SOs and ACs and also Sam made a good comment about charting up the process timeframe.

So if there is anything else -- or anything new, rather, Sam, that you wanted to say, this would be your chance.

>> Thanks, David. So just to confirm, we're working on the charting right now. We've started coordinating with our policy colleagues, letting them know that we're working on the charting and trying to time out, and drafting some specific questions to ask in our outreach to the SOs and. A Cs, we're working with them on those items, so we're hopeful of more

updates, but it's all in process of based on what we were talking about last week.

>> DAVID: Okay. Thank you, Sam. Is there any comment or question about that?

Hearing none and seeing none, we'll move to Agenda Item Number 5, titled on the agenda, first reading on a certain number of issues. The first of which is joinder. Let me just pull up my document here.

And on the joinder issue, you've seen the slides that I sent before, and basically where we have come down on joinder is that anybody that participated in an underlying expert panel proceeding as a party would receive notice from an IRP claimant, and they would receive a copy of the notice and a request for an IRP, two separate things, but together they constitute the body of the request for IRP.

And, they would be to get the document, that they would have such people that participated below would have a right to intervene in the IRP, but the procedure's officer of the panel would have the final say on how that is executed, whether as a party or as an amicus brief, and the procedure's officer would be exor thed to do their best to stick within the timeframes that the bylaws call for in handling IRPs.

And we have agreed to eliminate something I raised, and that is that people participating (?) would be considered parties for the limited purpose of costs on frivolous claims or frivolous argument, so that would be -- that last bit is no longer part of it, and so we agreed to strike that. I think we've agreed on this joinder approach, and I think what this could constitute a first reading, but I'm open to comments, questions right now so the floor is open.

Okay. Seeing none and hearing none -- I'm sorry.

>> I'm sorry. This is Sam. Can you -- can you recall the date where the final joint approach was sent?

>> DAVID: No, but I can do it after the call or tomorrow morning I could try and do it. I'll send something to the List about where this all came from.

>> Okay. Sounds good.

>> DAVID: I need to just take a moment to write a note. Okay. Just make a note. Almost done. Thank you.

So moving on, Panel Conflict of Interest.

Now, as Bernie's sign-up sheet indicated, this is probably turned into more than one issue, and the first point in the slides is one where I -- one where it appears that we're no longer of one mind, and it has to do with the panel's term.

And so, I think it's fair to say that this is still under discussion, so what I have sent forward as the suggested

treatment on this is that there be a term limit of five years as is stated in the bylaw for panelists, but that my original suggestion, that an additional term be available, was no longer part of our recommendation. There would be no renewal, but on the List, it's happened -- and I believe that Malcolm and Aubry, Malcolm primarily and Aubry support were supporting that position, and that position being that there be one term with no chance for renewal, and I was of the view that there could be two terms, but I didn't feel that strongly about it and backed away and said that's fine, we'll take your approach, because on that particular call that's really the only point's of view that were being expressed, and that's how we went.

But, then on the List, Greg came in and thought differently. Aubry has been reconsidering her position, and so I mentioned recently on the List, that I'm still of the view that another term would be good just because of the bylaw, interest in having people who are experienced with ICANN, knowledgeable, et cetera. And Sam, I think had pointed out in one of the chat, that it's not ICANN that makes the decisions anyway. The SOs and AC nominate the panelist, while the board has to approve them, that approval can't be unreasonable withheld.

So I invite people to comment on this now if they would like to, and I'm thinking of people that might be likely would be -- well I'll call you first in a minute Kavou, is, would be Greg, Aubry and Malcolm. Kavouss you have your hand up first, so why don't you take the floor.

>> Yes. Talked about one term of of it, is that right.

>> DAVID: The bilaws did not not pick up the advantage that there should be a renewal. I think it's silent in that respect. I can actually read it I'm sorry?

>> No. No. Sorry. I do not want to bother you to read it. Is it that one term of five years you have two terms each of two years and in order to have continuity of the situation and (?), half of the people that renew in the second term will have already experienced in the panel. I think it's an issue we'll discuss many times, (?) and essentially where the problem has to have some sort of continuity with whatever you do (?) would be from the quorum and from the situation so you have all sorts of continuity of somebody that has sufficient experience of why it has been brought. Thank you.

>> DAVID: Thanks. Excuse me. Thank you, Kavouss, David here. I think we are trying to get continuity in this. I appreciate your point. You're making a good point, that continuity is important. With respect to two terms of two years each, the bylaws do speak of five years. We have in the

background, a separate discussion going on about staggering terms and having some panelists begin with three years, but we think that maybe giving them an option for a full term after that may solve that particular bylaw's issue. I think you're right, Kavouss, but we have to have a five-year term as I read it.

So I'm next going to turn to Greg -- oh, I thought Malcolm -- nevermind, Greg's hand is up and he's next in the cue.

>> Thank you, David. I'm working from a tablet which doesn't put people's hands in order, but so in any case, I'll go next. I believe that there should be more than one term. I think we stick with the five-year term that's called for in the bylaws, you know, we don't necessarily want to get into changing the bylaws. I would suggest, as I have before, that a single (?) would be allowed. We can even have more than one be allowed.

My view is the integrity and independence are kind of essential parts of the job description, and I'm perhaps somewhat less cynical than some, and I would not believe that the panelists would expressfully or underhandedly try to shade their opinions and findings in order to, quote unquote, keep their jobs as panelists if a renewal came along.

It's true, perhaps, that a lame duck who has no chance of being renewed in their job is going to be more free, but I think there is -- if the freedom was inherent in the job description and in the understanding, and if people have highing have a sense of personal integrity, and frankly, if we were to be bringing in panelists for a single term, and we believe these panelists but for the ability to have a second term, there is -- if, in fact, they have the ability to have a second term, that these same panelists will go from being an independent person with integrity to pandering to keep their job, we probably shouldn't have those panelists in there even for an hour or a week because we're clearly so dubious about their moral and ethical compass, I frankly just not that dubious, and frankly there are lots of ways in the world to turn a term like this as a panelist into other positions and that there is always a chance that after the term or that there is something that could be made of it, but I think more than anything else, the way people advance their fears is by doing the best job they can and by being persons of integrity and by exhibiting independence when that is called for, and exhibiting proper -- proper judgment.

Furthermore, since everything here, I think, is going to be a three-person panel, the chance that any one panelist,

essentially, throw the game, is a U.S. term, I believe, which I apologize for, but that really is another check and balance against a panelist wanting to see a particular outcome rather than letting the fact take them where they go.

So, long story short, or maybe long story long, I'm confident enough in our panelists and in human nature that I believe that a renewal term would be appropriate and would not result in judgments being made that were not high integrity and independence, but instead were of evidence of pandering and trying to impress those who would renew their position.

Lastly, I think it's important to have continuity and experience. I don't know how many IRPs any panelists were here in two years, three years, four years, I think we'll be better off with panelists who have been around. They may decide they don't want to do it and they've had enough, but for those that want more and are getting the glue, so to speak, those are the panelists that we want continue.

The (?) RP panelists go on essentially forever, so there is really no -- I just don't share the concerns that others do that somehow we're going to, you know, prejudice the system by having the rules system that we have. Thank you.

>> Greg, thank you. I'm going to go to Malcolm in a second, but before I do, I would like to just mention to Aubry that I would be interested if you would like to speak because you were on the fence, but before that, Malcolm, the floor is yours.

Malcolm, if you're speaking, we can't hear you.

>> MALCOLM: I'm sorry. Is that better?

>> DAVID: Yeah. That's better.

>> MALCOLM: Thank you. Sorry. I was on mute.

Clearly, one of the most important features for the is that it be truly independent.

Now, I must say that I agree with Greg that I would hope that the selection process would weed out anybody who had the low-ball fiber that they would deliberately defer a case that they had no faith in or judgment, but nonetheless in bad faith deliberate the decision such as to (?) with ICANN, such a person really doesn't belong in the position for five minute, just as Greg says, and I hope that we would manage to avoid that.

You cannot be sure, but I would hope so.

But, I don't see anything like black and white terms as Greg does. Independent to say (?) in compliance fields, the independence area is a highly studied area of corporal governance had a that has many long-standing good practice recommendations in it it, and whether or not the person who is

supposed to be independent is beholding to another important for a renewal of their position, is one of the key markers thereof lack of independence. This is not just me saying this, this is a widely recognized marker.

And there is no specific (?). I know I was being maybe slightly rye when I was pointing out from the list to Mike I think it was, that for the -- probably the best explanation of this could be found in paper 38 which spoke about how the most important protector of the independence of the supreme judges of the null created -- the newly to be created U.S. Supreme Court would be their permanence had in office, so that's making the same point.

Nonetheless, I do recognize the arguments that are being made on the list about the importance of -- of having people in place for long enough that they build up a good understanding of the system and a good level of expertise.

And personally, I would have been happy if the -- if the five-year cap had been seven years, for example. Unfortunately, that's not allowed. So I wonder, and I don't know if there are any on the email on the list this afternoon, this afternoon in UK time, this morning your time, in which I looked -- I wondered if there was some alternative mechanism that could be got at for -- for preserving that sense of -- or that characteristics of there being the panelist not being beholding to anyone for renewal while ensuring that they're satisfying this concern about ensuring that they're in a post longer than five years. If five years is longest allowed by the bylaw, but thought by this group to be too short of a time to be adequate, to build up an adequate level of expertise.

So, I wonder if, actually, rather than going for no renewal, we might say that renewal is automatic. If we can deny a discretion in (?), if we stop both ICANN and the SOs from (?) removing someone at the time, saying oh, we think it's time for fresh blood, or anything that's not an overt retaliation or (?) decision, but nonetheless a purely arbitrary exercise of discretion.

If instead we said the renewal would be automatic or renewal would be automatic there was there was removal for cause of the panelist, then that would satisfy the arguments is that I've been making about the value of no renewal for independence.

By another route, I'm at a route that would also seem to satisfy the concerns about allowing people to be longer in office to build up a greater level of expertise, so I offer that as a possible alternative approach to it.

>> DAVID: Thank you, Malcolm. David here. To answer

an immediate question though, I have been tied up all day and have not really seen the mail from this morning, so my apology, but hearing you now, I think that has promise, and I'm going to ask you a question about it, but first, Kavouss had his hand up.

>> I think in the chat as well.

>> DAVID: Right. But I'd like to go back to the cue.

>> Yes. Sorry. I apologize maybe not so clear. (?). During the absolute independence -- I have been working with many people during (?), I don't think you could put absolute independence. Independence is a relative issue. It's that (?). So we should not push too much for independence, but understand of continuity.

In my view, if it can work from the concept of not in (?) having all parties (?) then it would work out how it would without catching this issue of independence -- can we -- (?) that all members of the panel should be new person. How could we (?), at least half of them or two-thirds or some of them have a fraction of them to be always different, and (?) in order people maintain this continuity. Is that an experience (?), the issues of the panel and the (?) of the panel, in my view is almost a null issue. It's different from what it is today because another person said (?) it would work out to have -- to agree to have (?). Help with a (?) standard.

>> DAVID: Thank you, Kavouss. Aubry is next in the queue.

>> Thanks, this is Aubry speaking. I wrote most of what I was going to say on the issue in the chat. I still sort of remain on the fence though. I still tend to the single term.

I think there is a fine line. When Greg speaks of it, he draws a short boundary between pandering and remaining independent. There is a whole middle ground of having accepted the mindset and become sympathetic orant thetic to see it over the course of five years, and so why one might not be pandering in any conscious way, they have -- they have joined the tribe and have drunk the cool-aid, so I worry about that aspect of Greg's.

I worry -- I don't really have a problem with that if it's all the SOs and ACs that are evaluating and deciding, but as long as there is a choke point that is in the board's hand that says, yay or Nei to a choice and that can be for a stated reason that may be similar to or different than a reason that, gee, this one is always, you know, this one is always the primary author or always the one that questions us hard, is always the one, is something that can be used as a reason to not renew, so I really still very much (?), with no intention

or (?) on anyone just human behavior, I tend to be very much still in the stable, long enough term. So five years is great. Even ten years is fine in my mind, but not anything where they have to appeal to a power group that can say yes or no. Thanks.

>> DAVID: Thank you, Aubry. Greg is next in the queue, then after Greg I'll make some comments and we'll move on. We have 12 minutes left in this call.

>> Hi, this is Greg. I recognize there is a spectrum, but there is also a spectrum of harm, if you will, of losing talent, and I think that -- I'm not sure that they kind of will have drunk the Kool-aid as independent panelist, and I think we have the requirement that the panelists not be active in ICANN in a number of stated different ways.

So for instance, if I wanted to be a panelist, I would have to resign from all working groups and from leadership of the IPC and possibly from the IPC as well, so we're actually talking about people kind of undrinking the Kool-aid in a sense, which is I think yet another check and balance on independence, is that we're looking for people that are kind of able to cope with ICANN based on, you know, prior knowledge or the like, but not part of the Kool-aid drinking club or any of the several Kool-aid drinking clubs that exist, each with their own an tipthy or whatever the opposite of that is.

Again, I like Malcolm's approach, I think it kind of comes committal on the issue. You can have a -- and if we don't want to change the bylaws and recognizing as an additional hurdle, having the five-year renewal, essentially the mechanical -- basically, taking any kind of kind of broad discretion or any reason to any reason or no reason, which I can, and possibly the SO and ACs as another event, if this is something they want to get rid of, this is favorable to ICANN.

I think this is a type of concept, but other than for something stated and for a fairly significant reason, they'll continue to their second five-year term without having to pander at anyone or with any pandering, probably would be counter-productive and certainly not productive, and I think that's a way to solve the issue of keeping people around long enough that is really useful and yet removing any incentives or any significant amount of incentive for them to shade their opinions or their behavior in order to (?) favor.

So I think Malcolm's is coming to a middle, and I think Malcolm is in the middle, I think that's a good place to be.

>> DAVID: Okay. Thank you, Greg. I see that both Kavouss -- Malcolm, I thought your hand was up, but Kavouss I'm going to give you the panel, but please try to keep it brief.

I realize this is not yet ready for a first reading, but go ahead, Kavouss.

>> Good afternoon, this might be where coming from, right by, and your problems someone 2 times 3 and one is 2 times 4, and maybe 2 times 4 and maybe you take tangential from some companies and it's too long, and I'm sorry to say that I don't like (?) but (?) there is one term and ten years it is too long. Really, it is. (?)

>> DAVID: Thank you, Kavouss. The original -- the term of five years for a panelist is in the bilaws and I think that's what we have to work with right now, but I also note to this group, even though this issue is not ready for first reading, Kavouss raised a good point about we have to take steps and we're considering steps, but not all of the panelists, except at the beginning, not all of the panelists renew and that's the ICANN -- Sam originally gave us the idea for staggered panels and I think that's something we have to pursue somehow. It's a very good point.

So, let me just say this about the whole issue of panel conflict of interest. It actually is a couple of issues. I think I need to recache this and I'll do it on list and try to break out the term thing into one separate bucket and deal with the rest of that slide separately.

And I'm going to try to get us to close fairly quickly.

But the idea that Malcolm suggested, automatic renewal I think has some promise in it, except the fact that we're dealing with five-year terms, so with automatic renewal I think we need to put some procedures in there such as the SOs or ACs, you know, have the right to bless it.

I think ICANN should have a chance to request SOs or. A Cs, not to -- I mean, there should be some kind of a process that there is a -- that even if the renewal is "automatic" except for some circumstances, that it's clear that how that circumstance works and who has a say in it. Aubry had a good point too. It's a difficult issue. I need to rethink and rework for the list.

The course of this call is fair and this is a pretty crisp discussion of what is going on here, so thank you for that.

(captioner must sign off) thank you!

(Completed at 2:55 pm cst)

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