

RAW FILE

ICANN
JURISDICTION SUBGROUP MEETING
14 JUNE 2017
1300 UTC
8:00 A.M. CT

Services provided by:
Caption First, Inc.
P.O. Box 3066
Monument, CO 80132
1-877-825-5234
+001-719-481-9835
Www.captionfirst.com

This text is being provided in a rough draft format.
Communication Access Realtime Translation (CART) is provided in
order to facilitate communication accessibility and may not be a
totally verbatim record of the proceedings.

>> GREG SHATAN: This is Greg Shatan. It's just a few minutes after
the hour. We might as well begin.

Welcome all --

>> OPERATOR: This meeting is now being recorded.

>> GREG SHATAN: Welcome all to the accountability work group two,
jurisdictional subgroup meeting number 35. June 14, 1300 UTC.

We have the agenda before us. We have covered item 1 already with the
welcome.

And number 2. Review of the agenda.

We have number 3, and then our use administration items.

Number 4. Review of the decisions and action items from the last call.

We will be following up on the scope discussion from our last call.

And then we have two items of ICANN litigation to review. And one
questionnaire response as well.

And AOB. So if there are any -- and of course a note that we have one
meeting after this before ICANN59, which will be next Tuesday.

Are there any comments on the agenda?

If there are no comments on the agenda, we will move into the
administration first does anyone have any changes to their statement of
interest? David McCauley go ahead.

>> DAVID McCAULEY: I wanted to introduce two interns who are working with me at verse sign this summer. And they will be on the call separately. They were with me last week so the names didn't show up in Adobe. But they are separately attending this week. Garret Hinck and Mr. Hister.

>> >> GREG SHATAN: Thank you, David. Welcome to the interns. I hope they find this a worthwhile exercise.

Any changes to the statements of interest? Seeing none, I see we have no phone number only participants. Is there anybody who is only on the audio bridge? I see your hand is up, Kavouss.

>> KAVOUSS ARASTEH: Yes, Greg, I hear you very poorly when David spoke the quality was good. And the level of the voice was good. But then your speaking is too slow -- I mean, too low, sorry, too low, and I hardly understand that. By the way, I am in a convention center in Canada. The line may not be good. And if I speak a little bit loudly, please do not interpret it that in any way that I can shouting. Just I want to be clear. Thank you.

>> GREG SHATAN: Okay. Thank you, Kavouss. I'm trying to speak right into my microphone. If the sound is still bad let me know and I can make some adjustments. And your situation in the conference is noted as well.

So let's move into the review of decisions.

And maybe I'm too close to the mic.

Here is the review of decisions. We did not have any decisions on last week's call. We did have a few action items. First was the staff to prepare a form learn or an email for Rapporteur with regard to the decision to invite people -- let me know. Is it background noise that is the problem or is it that I'm too low? Please let me know.

>> It's just poor quality, Greg. Your sound is low. And it's very staticky for some reason.

>> GREG SHATAN: This must be a bad connection. Maybe I'll try dialing in, I guess. This is -- it's the same phone and the same issue that -- the same phone and the same connection that I have every week.

>> Well, right now, if you're speaking up, it's not too bad. So let's try and keep up with this for now.

>> GREG SHATAN: Okay. Well, we will see what's happening.

Okay.

Next there is the second action item was to circulate a new draft of questions to subgroup based on input from the discussion, prior to the next meeting.

Well, I circulated the -- a rather large chart of all of the positions that were suggested on the prior call. It was essentially kind of raw data from the prior call. And then yesterday I circulated what I called the distillation of those positions, since a number of those positions -- a number of those positions were essentially redundant or overlapping. Just to clarify one thing about that, the distillation documents, each entry in that one is meant to be read independently. I saw that when Parminder was reviewing it, he felt that one entity was burdened by another. In fact,

there are -- they are all independent. It's just obviously Thiago submitted a revision to one of the statement, and that obviously related to the other statements in that manner.

In any event, if we could actually put up the distillation document, that would be helpful.

Oh, that's very small. I guess when I sent it around, the mark up was not in the margin.

In any case, we had a note from Jorge Constio that he was unable to attend the meeting. We had a face-to-face IGF meeting that was in conflict with this. But asked that his position would be noted. His position is in the upper right-hand corner here. And so just to briefly run through his position, I'll read it out. Essentially that we need to stick to the mandates given to the CCWG work stream by the charting orders. And the decision whether something is in or out of scope should be based on that mandate. Should be considered. Other specifics of the facts of the case and should be considered prima facia. The subgroup may reach expost case-by-case its own understanding vis-a-vis -- I lost the document in the Adobe Connect.

One second, please.

Okay.

The subgroup may reach expost IE case-by-case its own understanding, vis-a-vis a given case where there would be a question of in or out of scope. I don't think we should lose time on developing ex-antiposition of the subgroup in general terms. To distill that down further, let's say that Jorge is not in favor of deciding in either fashion, looking at the jurisdiction of ICANN as being in California is in or out of scope or should or shouldn't be considered, but rather that that should be done on a case-by-case basis, depending on the Question.

So I would see that as essentially a version of what Jorge is saying. So I have a hand up from Thomas Rickert, our esteemed co-chair. Thomas, please go ahead.

>> THOMAS RICKERT: Thanks very much, Greg. And hello everyone, again.

A few points. I think it was excellent of Greg to compile all the various formulations that members of the sub team proposed on last week's call. And it was good that he also honored Jorge's request to add his suggestion to the table.

Actually, if you look at the available, there are a lot of options on it, which I think shows excellence as a starting point for further debate on this. But given the fact that this group has discussed this issue for months now, and some who are following this group are characterizing these discussions as moving in circles, I think we need something simpler to resolve the issue and be able to move on and complete the work.

And that is why the co-chairs, so that would be Leon, Jordan and myself asked Greg for a phone call, which we had earlier this week.

And -- in order to suggest to him, and we thankfully had no issue with our recommendation that we should actually apply in this very situation the working method that I outlined during last week's call, and which I'm going

to read again from the transcript. So that every one is aware of what was discussed last week.

I said let me just remind you of the way we operated in work stream one when it came to very challenging junctions during the process. You might remember that we had different governance models, supervisory board and different legal forms that we could use for ICANN. What we did at the time, when we had different options at our fingertips, we would test the waters with the group, and say which of the options that we have in front of us do get traction? And we would only pursue those options that got position traction. And ultimately we ended up with a concept that we enshrined in the work stream of one document. It looks like we are at such a junction at this debate. There are obviously participants in this Working Group who would like to explore further whether there should be immunity for ICANN, whether the legal form should be changed. There are others who would like to explore other places of incorporation. And this are still others who would like to maintain the status quo and test during the work whether all accountability features that the accountability Working Group might be looking for, can be supported by the system.

What I suggest doing, and I guess pretty much in line with Greg's intention, is that we test the water in terms of what options get most traction. And what we see, and we are taking a look at what has been discussed over the last couple of months, is that we as co-chairs do see a result emerging, whereby most tractions in the sub team is given to a solution where we take Californian jurisdiction as a base line for the recommendation, and that is the sub dream pursue recommendations to change ICANN's jurisdiction or headquarters are Corporation or seek immunity for ICANN.

We are recognizing that there are no -- that there is no chance, if you look at various options that we have, that there would be consensus for an immunity based concept or a change of place of incorporation.

And so I would establish in the minutes of this call that we focus on the solution that gets most traction. Recognizing that this does not eliminate, as I think Avri said during last week's call, that we can discuss all issues that might arise during the deliberations. But that we actually focus on the status quo being Californian law and place of incorporation. And California and work on solutions that are founded on this very recommendation.

And this will be presented to the plenary. And the plenary can then chime in. And for those who support an alternative recommend education, this is also something that we have used multiple times in the past. There is the option to add a minority statement to the CCWG work stream 2 report for the jurisdiction section that some of you might have had different opinions on this very topic. And then the community gets the opportunity to chime in.

But I would really like us to focus on a solution based on what is outlined before, so that the group can continue with its work plan and hopefully complete its work in time, as we have discussed, so that with the

extension by one year, we actually get the whole report done.

So I would like to thank you for list niping to me for such a long statement. Rest assured that we have carefully analyzed what has been discussed in this group. We have carefully balanced the various views, and taken a look at what might be the outcome of this, and this is the result that the co-chairs favored procedurally, and as I said, this was not to bypass Greg, but this was in support with Greg, who is Chairing this group so ably.

Thanks very much.

>> GREG SHATAN: Thank you, Thomas. I think that is a worthwhile and appropriate approach as you indicated that is the approach.

We have been taking throughout the CCWG, so we have a queue. So rather than promising further, I'll hear from members of the group, starting with Tiago. Please go ahead.

>> THIAGO JARDIM: Thank you, Greg, and thank you for the observations.

I have to leave before the end of the hour so I apologize in advance.

First a couple of comments on the two documents you circulated, Greg, in which you attempted to put together different approaches for either the mandate or the work of the subgroup. I think at the end I'll get to Thomas's observations. So I said it before and I'll say it again. I see a problem in the way your document presents the different at prochs, because as I said, they treat different problems as if they were the same, at the same level.

There is a problem of issues that the group has to identify, and there is also the problem of the remedies that the group has to come up with, to -- so to mitigate issues previously identified by the group.

This is what I meant when I said that the document was conflicting remedies with issues. And it's not just a procedural objection that I raised. There is also a problem of substance. For the procedural problems identified have an impact in our ability to discuss substance in this subgroup.

To me, it is quite obvious that our ability to determine which remedy is appropriate depends on the previous knowledge of what the issues are, what the problems are, what the disease is, only knowing what issues need to be remedied can we decide whether or not one remedy is appropriate. Or to use Thomas' expression. Can we decide whether one remedy gets more traction than the other. So this was particularly incorporated in our work plan, which I shared in the list. And apparently there was consensus supporting that work plan.

Now, our mandate is also quite clear that we should discuss remedies. Identify them, and determine whether they would solve problems or not. We must do that before rejecting any possible remedy. If you allow me, let me walk you through the CCWG final report, which is a document of reference for our mandate. If you look at page 7, annex 12. In the relevant part jurisdiction. Paragraph 29. The CCWG accountability has acknowledged that jurisdiction is a multi-layered issue that has -- and has identified the following layers. One of these layers is, and I quote, jurisdiction of

incorporation and operations.

Next in the detailed summary of our mandate, this paragraph 30, which says that the main issues along which place and jurisdiction of incorporation need to be investigated within work stream 2 as long as it relates to the inference or has an impact on ICANN's ability to operate.

This is the paragraph 30 of the jurisdictional statement in annex 12.

So we have to discuss the issues that relate to place of -- and position of incorporation.

After that, you will all see that there is also this paragraph 30, this steps which says consideration -- .1, if you will. And I quote. Consideration of jurisdiction in work stream 2 includes identifying potential alternatives. Benchmarking them. So obviously, as I said before, before, we were in a position 25 for potential alternatives, or to reject such alternatives, we had to discuss remedies. Finally, I'll add a quick work before releasing the microphone, the document that you prepared, Greg, titled distillation of position, which should consolidate the different approaches thus far, to me this document is more problematic than the previous one. It conflicts remedies with issues. There is no longer separation under the different headings of proposals that related to the definition of our mandate and proposals, on the other hand, that relate to the way forward of our work. In the previous document, if you recall, there was just heading one, which was titled were what is the mandate of the group or limitations to the group's mandate. And item two, which related to the work of the sub group.

My suggestion, that I shared with you with changes in the main list, was particularly concerning the approach that the Working Group should follow, rather than any -- having any implications as regards to our mandate.

Again, it is not necessary, my understanding, to reject any remedies out hand, to be able to consider the issues that would arise if we were to follow the approach that I suggested with those changes.

I think it's clear that there is nothing preventing us at this point in time from discussing what is impact as far as jurisdiction is concerned, if we consider what the situation currently is. We don't have to speculate what the solutions will be.

And it was the approach adopted by the group or that should have been adopted by the group if we were to follow the work plan that we adopted in the past.

Well, I think I have spoken quite enough. If I may end with a suggestion now. What I would propose, if I may, would be to focus on these contentious issues, on the contentious issue, which is the place of incorporation. But from the point of view of identifying what are the problems, the problems that arise from these various situation, without any consideration about the remedies at this point. It's too early for that. We don't have enough materials for knowing what remedies would be the most appropriate.

And I would like to end with that. The approach that I suggested, that is displayed on the screen is obviously without prejudice to the outcomes

after the identifications of issues. And I think it is very much in line with what Jorge said, that we should not adopt or develop any ex-anti position that would tie our hands for the ability to fulfill the mandates.

Thank you.

>> GREG SHATAN: Thank you, Thiago, I think you ended Amply. Just a couple quick responses, since we have a long line.

First, in our work plan, item 4 D calls for this very discussion of scope, so that we are complying with our work plan in discussing this.

So that is just to respond to the judged that we veered off from our work plan. And in terms of the distillation document, these are positions that have been suggested. I didn't want to prejudice them by trying to organize them in a one fashion or another. Because that would characterize them. So I was trying to remain as neutral as possible, so that people could consider them.

I have a question for you, Tia -- Thiago. In a sense we moved on from the distillation document to Thomas' intervention, as kind of being the Question before us. So I'd like to see actually if you have a comment on that directly, so that we don't kind of lose that as the point much our discussion.

>> THIAGO JARDIM: Am I allowed to a your Question now?

>> GREG SHATAN: Please, go ahead.

>> THIAGO: Thank you. So my impression at this point and I reserve my position for a later development, if you will, is that Thomas' suggestion again relates to remedies. It has an impact on remedies. I wouldn't say it's too early, but if it's too early, it's because the group has not done its work as it should be doing. But you only entered this Working Group at a later stage. But Thomas' suggestion would again focus on remedies. So we would be, as I understood it, seeing what remedies, what solutions gets most traction. Whether it's immunity, a change of place of incorporation. And again, have we finished our examination of the issues? We haven't even finished discussing the questions that need to be discussed. And other issues that have arisen in the main list.

So we have to look forward to see which solutions have tractions, and we have to finish our track of identifying the problems. Thank you.

>> GREG SHATAN: That's more of a procedural objection much the substance of his statement was that some of those solutions that you mentioned would not ever get consensus in the group and we should focus our scope to move beyond them.

But I don't want to let the rest of the queue stay on the vine anymore.

So I think the next hand is from David McCauley. David, please go ahead.

>> DAVID McCAULEY: Hi. I think Kavouss Arasteh hand was up before mine. So I should defer to Kavouss before I speak.

>> KAVOUSS ARASTEH: Go ahead, David, I'll be at the end of the queue. Go ahead, please. David.

>> DAVID McCAULEY: Thank you, Kavouss. And David McCauley for the

record here. I'd like to state my position as strongly in support of Thomas. And I put in a chat, an email that I made on the subject. I've done this a couple times recently, in which I spoke to what I thought was a scope issue. But in addition to stating that I tip to believe as I did then, I think it's -- that I continue to believe as I did then, I think it's interesting to note that my email was back in September. We discussed ICANN's headquarters location, even though I personally think it's out of scope, a number of times. It's been a discussion that has been in peaks and valleys of various intensity. But it's A been a number of times it's been at the peak. And I think it's time to wrap up p the discussion. On the approaches that you suggested Greg, I think it's B. I can cap's formation is in California. Et cetera. You mentioned important words, status quo. I'll get to that in just a minute.

But I did want to disagree with Thiago's comments with rrp to what a reen in a it is. In annex 12 there are important predicates stated in paragraphs 26, 27, and 28 and he is right, paragraph 30 is the operative paragraph. But that paragraph says that primarily the work is, with respect to settlement of disputes within icon involving the choice of jurisdiction and applicable laws and not necessarily the jurisdiction where ICANN is located.

Later, there were "identifying the potential alternative," that came under a heading that said it will focus on settlement of dispute jurisdictions and included certain bullets.

While I personally think headquarters location is out of scope, I think it's important to state why I think we should move on now. Frankly, it seems that for such an important matter, there should be a standard. And the standard I think that is best is jurisdiction should not be changed. Headquarters, unless there is a material problem that simply capital be resolved. And there is an alternative available where that problem would not exist and no new problem of materiality would be shop. That involves an inspection, a review of laws, similar to what we did in work stream one for any number of alternatives. It's just not within our scope, our time, our budget, and I think the status quo gets the advantage in this. I think in order to change the status quo, the burden is on those who would say to do it.

Often, in this debate, sanctions, OFAC has been put on the table. So I started looking on the Internet and within ten minutes I saw EU sanctions, I saw Swiss and Australian sanctions. Sovereign nations also reserve the right to impose sanctions. That is not going to change. And with respect to OFAC, it's the application of OFAC, not looking at the paper experience, the experience has been it's not been a material problem that cannot be resolved. I think work stream 2 this subgroup, we don't have the experience, the skills, the ability to deal with important questions, reasonable questions that were rasied about immunity and Treaty status. But those are for other foras, not ours. Not for work stream two. If we're going to look at alternatives, let's go back to Sifly and look at budget. I think that would

be unwise. So I support your approach B. It's time to just say status quo is just it is what it is, and move on.

I think a holistic reading of annex 12 is that our review should be with respect to gaps that might or might not exist with respect to enforcing President accountability measures that we just put in place for ICANN.

Thank you very much. Greg.

>> GREG SHATAN: Thank you. I'll move to Parminder. I think David you explained that position. Parminder. Please go ahead.

>> PARMINDER JEET SINGH: Thank you, Greg. And thank you everyone.

I would start by saying what I put in the chat window about I find this as strange. --

>> Excuse me. Parminder, a number of us are having difficulty hearing you. See...

>> PARMINDER JEET SINGH: Okay.

>> GREG SHATAN: Try to adjust your microphone in some fashion.

>> PARMINDER JEET SINGH: Is it better now? Can you hear me now?

>> GREG SHATAN: It's still better. Still very low.

>> PARMINDER JEET SINGH: Okay. I'll try to speak but do point out that this is (Inaudible) I'm trying to follow the transcript. And find -- it seems that I'm inaudible. Okay. It's better now.

Yes, so I find it quite extraordinary that the Chairs of the CCWG and the Chair of the subgroup have come up with such a sweeping intervention, completing the dimension of our work, and I do not see much basis for that in the discussions which have happened in this group and also face-to-face in this trip.

So I'm unable to agree with that intervention. It was the Chairs and the subgroup Chairs to devise the formula that we would talk about the issues and then see how the issues can be sorted out.

I think that we have jumped to foreclose the possibility of some solution, which has not been argued how we jumped to that stage. And I think we would have to build a justification of how and why we are doing what we are doing now.

I don't agree with it at all. It's all very serious issues are being put up which creates problems for a lot of people in the world, whether it's OFAC or judgments from codes, which are projected in the future. And people are bothered about how this would be. And no one has given solutions to these large problems. And we have now said that whatever those problems are, we are not going to take up those given solutions which would be among the solutions possible in the basket. That is not understandable for me. I can't understand how some of you are not responding to the problems which are being stated. And if those are not the problems, then what are the problems that we are foreseeing in this group.

I completely am lost in that sense. So we were talking about issues. I don't see why we have jumped to solutions. What happened from the fact that the responses did start talking about immunity. We talked about incorporation of ICANN, and it has somehow triggered a panicked reaction to

stop the group from doing the work that it was supposed to do for the last one year. And a lot of people have put in a lot of effort to it.

So I just request the co-chairs to withdraw the line of action that they are proposing.

Meanwhile, what I heard was that incorporation and immunity would not be discussed. And we would go forward as these possibilities do not exist.

I want to inquire how immunity at least was also included as a possibility which was not on the table, and how can the Chairs exercise this kind of right to decide that we would not talk about -- this has not been discussed and a lot of people described this as immunity and incorporation as (Inaudible) in the US. So this kind of extreme intervention is uncalled for and should be withdrawn immediately.

And I would also like to know the status of the co-chair's intervention in the group's work. What status it has right now. And then we can decide as a group how we can follow-up on the statement which I heard earlier made by Thomas.

A few other issues, for example, some observations by David, but I think I've been talking for some time. I'll come back later. And this is all for this segment. Thank you, Greg.

>> GREG SHATAN: Thank you, par some minder. I'll move straight to Paul McGrady.

>> PAUL McGRADY: I feel like we are back where we were before we had the clarity of last week's call. Previous speakers on this call suggest that we discuss California information. We have, we have done that at great length and repeatedly. Whether or not it's in scope, we have discussed it for a long time. There simme is no conscientious to change from California.

I think we're getting confused, not agreeing with the position doesn't mean that we haven't discussed the issue. It just means that there is not agreement on it. Even if we were to agree, that California is out and some other jurisdiction is in, to be thorough, we would have to review each substantive jurisdiction Question through the lens of all 200 plus jurisdictions, and that is impractical. Otherwise we are just picking favorite jurisdictions of whoever happens to be on the call, which doesn't seem thorough to me. So as we can see, that is quite impractical and another reason why there is no consensus to change from California.

I'm concerned that this anti-California, all or nothing approach brings is close to dysfunction. If we can't agree on the Question to ask the plenary, then at some point we have to come clean and just tell the plenary that we have not been able to get to any recommendations on jurisdiction, which would be a shame, because there are some substantive questions and improvements that could be made within the scope of California law, which is currently the status quo.

And lastly, on the issue of immunity, immunity is the opposite of accountability. I don't fool we have done anybody harm by not considering adopting the opposite of what we are here to do. It would be like discussing how to improve staff opacity on the -- on a Working Group, looking at whether

or not staff should be open and transparent.

I don't think that there is an obligation to discuss the opposite of what we have been chartered to do. So I'll not waste too much sleep on that particular point.

I would like for us to just acknowledge the fact that we have talked about this and talked about this and talked about it. Either we need to come to a conclusion as a group that we have talked about this enough and we can get on with the real work, which is not being done, because we're still talking about this. Or we have to go to the plenary and tell them hey, we failed. You can give us direction on this California issue, lay it to rest or not. And then we will get back to work. Or you can just say thanks for trying, and we can just hang up our skates.

Thanks.

>> GREG SHATAN: Thank you Paul. Well stated. I appreciate the statement of your views. And relatively short order.

Phil Corwin, please go ahead.

>>Phil. Thank you, Phil, for the record. I'll be pretty brief. We will well more than a year into this exercise. Our assignment is to follow up on a decision much decision of the Phase I CCWG, which spent millions and millions of dollars creating an accountability framework that would be effective within the context of California nonprofit law. Most of us seem to believe that our job is to address further questions within that context. We have a small group within this subgroup who seem to be dissatisfied unless it comes up with a recommendation to move ICANN out of the United States and/or set it up as an International organization, which was the opposite of what the transition intended.

And at a certain point, endlessly intervening in our discussions to try to divert it back to an avenue for which there is clearly no consensus support within this subgroup, becomes dilatory and disruptive. I would hope that those who continue to do that would work with us to address the remaining issues, which are within the scope of this subgroup. We can spend years identifying this or that theoretical problem under US law and looking at dozens of alternative jurisdictions, which I am sure we will find other laws that would create other problems for an organization structured as ICANN is.

I don't believe, personally, that is a fruitful pursuit. And I'll stop there. I could go on longer. But, really, continually bringing this up is becoming dilatory, disruptive, and preventing us from getting our work done. And I don't know what the rules are in the CCWG within the context of an GNSO Working Group is an extreme recommendation. It's not worn that I'm recommending now. But at a point certain, when members of the GNSO Working Group continue to impede its ability to complete its mission, there are remedies for that.

I hope we don't get to that point. I don't know if such remedies are available in this Working Group. But it's clear that we're going to be wasting one more hour will make absolutely no progress on the remaining

issues before us, because we have a few members who simply will not accept that their desired outcome has no consensus support.

Thank you.

>> GREG SHATAN: Thank you, Phil. I hope that this two part call will end this discussion one way or the other. So far, we have only 11 minutes left. So I'll ask Kavouss and then Thomas.

>> Hello?

>> GREG SHATAN: Please go ahead.

>> KAVOUSS ARASTEH: Do you hear me well, please?

>> GREG SHATAN: Yes, we hear you very well.

>> KAVOUSS ARASTEH: Yes. I think in my view, the issue of jurisdiction is the heart of the whole process. If we fail to address this issue properly, the transition has not been properly taken place. Why the issue of change of the place of ICANN came to the table? Why? Because of the impact of the jurisdiction by which ICANN incorporation remains in California.

So rather than at this sustainable you discuss alternative places of incorporation, which I don't want to say no, don't discuss it. But instead of going to that directly, can you please or can we please exactly, properly, deeply discuss what is the impact of jurisdiction when ICANN can continue to be in California. If you address the impact, which is the worry, anxiety, difficulty of millions of people, but not this limited number of participants from one single counsel, and the millions of people Internet that we are worried about the jurisdiction because of the impact of jurisdiction when ICANN is in California.

If you address that impact, and try to resolve the impact, or minimize it, or zero it down, perhaps, we may come to the position that looking into an alternative may take another several years, knowing that the whole transition was based on the California law. Right or wrong. But that is that.

That is what Sidley pushed us in 2015. All of them is based on that. So why not reconcentrate to see what are the impacts of that? And how impacts affect the people. OFAC is one of them, an example of them, and you have to also study that. OFAC when designed in 1948 was not for the domain name. It was for something else. For some other political situation prevailing at that time. Some of the people maybe don't remember, but some others do remember why it was created. But now, it's put it automatically to apply it to the domain name.

Why not to first look at the situation and identify the impact of jurisdiction when ICANN continues to be in California. And then address subsidy of that OFAC and others. That may give us some time to really go to the heart of the problem rather than going back and forth. I don't think that the alternative change or alternative location is out of order or out of the table or off the table. It is there. But let us first talk about the impact.

Is it possible that we do that? Thank you.

>> GREG SHATAN: Thank you Kavouss. I think it's fairly clear that we have essentially two points of view here on the call. But I'll turn it to Thomas. Thomas, please go ahead.

>> THOMAS RICKERT: Thanks very much, Greg and thanks everyone for your contributions. I know that the direction that the coshares offered is not liked by everyone. And I don't expect it to be liked by everyone. But as co-chairs, we have to ensure that we, number one, follow the working principles that we have applied, and, number two, that we try to navigate this group towards the consensus recommendations in a timely fashion.

And it is -- in a timely fashion. It's not an extraordinary decision as it was tagged previously during this call. It is a decision that has several precedents. And for those who have not been around in work stream 1, you will find in the transcript and in the recordings of various meeting situations where the co-chairs had to make a determination on what recommendations should be further pursued, and which recommendations should be dropped. If you don't do that, at some point during the work, there will never be a result. And in this case, the group has already looked at various scenarios' impact. And I'll not speak to that. Some of you have commented on that in the chat. And I think that the participants of the sub team are much better placed than me to elaborate on the details.

But I do hope that despite the fact that some of you might be disappointed with this procedure, decision, that you can accept the fact that we are following what we have done from the very beginning in the CCWG in order to navigate the process to successful conclusion.

And concerns that you have put on the record will be reported when we report back to the plenary. So there is an opportunity for the plenary to comment on this. And they will also hear your concerns.

And, again, and let me make this abundantly clear. We had many, many junctions in our work where some were extremely unhappy with that proposal and it might be procedural proposals, it might be substantive proposals, could not be further pursued because they didn't get sufficient support to make it to a consensus recommendation at the end of the day, where those folks were unhappy. And they took the opportunity to add a minority statement to the final report, as seen in our charter. And there were opportunities where we put recommendations in our report where minority statements have been added to that, and were after the public comment period work was revisited. So it's not entirely ruled out that -- for the discussions make us revisit certain topics. This has also happened in the past in the CCWG. But based on the information that we have now, based on the analysis of what has happened in this very Working Group, the procedural decision, as I outlined earlier, is the one that we're going to communicate to the plenary.

Thank you very much.

>> GREG SHATAN: Thank you Thomas. I think that -- what I'd like to do at this point is to take -- well, take a sense of the consensus or a sense of the room here, after this essentially two part call. I take Thomas's

original statement back into the chat so you can see it. But the essence of course is, as Thomas put it, we are narrowing our alternatives here.

So I'd like to see green checks for those -- well, first, let's happened he will it this way. I'd like to see any objections to Thomas' statement. If you have an objection, please give us a Red Cross. If you object to proceeding in this manner, please give us a Red Cross. All right. Right now I'm seeing one Red Cross. Are there any objections -- any other objections to proceeding in the manner that Thomas suggested? sirms I heard a couple of other objections, I just want to make sure that everyone's objections are being appropriately noted. Kavouss, your happened is up. I don't know if there is an objection under that or not. I would assume not.

As Thomas noted, minority reports can be considered. I see a red X from Parminder. So I see two objections. I see no other objections. So I will take it in this -- that is the decision from this meeting, or pair of meetings, is that we proceed in the position suggested by Thomas. And approve here by the -- and approved here by the subgroup to narrow our consideration as stated. So we will post that to the list.

And then I expect this will be announced, as Thomas said, to the plenary, at the next plenary session.

So with that, it's now 10:01. And we should adjourn. And I expect with our next meeting of this group that we will be going back to the issues and looking at the issues again. And I think hopefully with a fierce focus on identifying issues and finding recommendations to make.

So objections are noted. Okay. Thomas, just to be clear, this is not a vote, but we will report objections to the plenary. So I see an objection from Kavouss. So we have three objections to note. In any case, thank you all for participating. Thaigo has an objection as well. Four objections. So I see people are dropping off as we have gone past the hour. So we will now end this call. The call is adjourned, you may stop the recording. Bye, all.

(End of call, 10:03)

Services provided by:
Caption First, Inc.
P.O. Box 3066
Monument, CO 80132
1-877-825-5234
+001-719-481-9835
Www.captionfirst.com

This text is being provided in a rough draft format.
Communication Access Realtime Translation (CART) is provided in order to facilitate communication accessibility and may not be a

totally verbatim record of the proceedings.
