

**CCWG-Accountability Work Stream 2**  
**Jurisdiction Meeting #45**  
**6 September 2017 @ 19:00 UTC**

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>> Check.

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>> CHERYL LANGDON-ORR: Cheryl on audio. Be back with you in a minute.

>> GREG SHATAN: We will be getting started in just a minute.

>> GREG SHATAN: Hi everyone. Gets get the call started.

[Being recorded]

>> GREG SHATAN: Thank you. Hello and welcome to the CCWG accountability work stream 2 jurisdiction work extreme meeting number 45 September 6, 2017 at 1900 UTC.

We will that was the welcome. That covers the first item on the agenda. We will briefly review the agenda. We will get into substance as we do the agenda, not as we redo it.

We will be doing administration for our minute and then three aspects of issues as we are trying to really spend all our time talking about issues. So recommendation or at least as residing with proposed issues.

First we will go back to our OFAC recommendation first draft which people have been working on over the past week assuagingel doc. Next -- as aGoogle Doc. Next we will go over the next sort of set of proposed issues. There are several proposed issues relating to provisions for choice of law in certain ICANN agreements. Both choice of governing law and venue.

So, we will discuss that. Then we will take a look at our revised proposed issues list. Which at this point we need to understand is a list and not intended to be kind of a master of all nuances.

And we will discuss next steps for proceeding.

Then, we will have a few minutes for ALB and then we will adjourn hopefully after a productive call.

So going into our administration, I'll first ask if there are any changes to statements of interest?

I see no changes to statement of interest.

I do want to congratulate Avri Doria of a future statement of interest change as she joined the ICANN board at the end of the object due do by meeting as the annual general meeting closes every board turns over "we hope that Avri will continue to contribute, but obviously her angle will be a little bit different. But knowing Avri, not much different at all.

So definitely just want to mention that. I see Cheryl's applause there and I share that as well and Tarzan and Milton as well.

So let us turn next to see somewhat more on a more mundane note, before we get to mundane notes, Milton was just unapplauding his hand.

On the mundane note do we have anyone on the audio bridge only?

I hear nobody coming in from the audio bridge.

And let's just see, do we have any phone number only participants in Adobe chat that need to be turned into people?

I don't see any so we are good there.

We can get into the substance of the meeting. If we can put up the OFAC recommendation first draft into the Adobe chat. If you want you can follow this in the Google Doc as well.

You may want to make this a little bit larger in your window. It should give everyone scroll control.

So there aren't too many comments in the document yet. We should look at those comments.

Obviously we want to keep -- obviously we want to keep working on this.

But also trying to finish.

Or get it more firmly done. It takes at least as much time as this.

I will move unless anyone wants to talk earlier in the document I will move down to where comment number 1 is.

Paul asks or says, I believe this is incomplete as I read the implementing recommendations of OFAC restrictions apply to all quote unquote tease within the United States. My understanding is foreign entities within the U.S. based branches are also potentially covered. That should be readily findable fact to get that right.

If anybody knows to a greater certainty that the answer, that would be great. If not, I can take a look at that. We can also ask ICANN legal. But hopefully it's -- I think Paul is correct, this is just a more narrowly written paragraph plus one that needs more refinement because this is still in some ways a first draft. Even though it's been around for a couple of weeks now.

So it will take care of that. Let's move on to the next comment or change in the document.

There's a comment here. Number 2.

Not surprisingly.

Regarding the statement, the last sentence which is of the RAAA application process. In the section for that document. The last sentence should be amended to require ICANN to require an OFAC license.

If the other parties otherwise disqualified to be a registrar there's a comment on the side I would strengthen this.

They should not just be required to apply but best effort secure the license. I've added those words into the text. But that's of course up for debate and discussion.

I will say that best effort can sometimes be a very high bar. It may end up with reasonable best effort. Depending upon how you interpret the term best effort I you to do just about anything. Milton made a comment here in the email before that it should be otherwise qualified to be a registrar November FDN or special designated national. We can add that as well.

So the next comment, obviously I'm watching for hands. And the chat as well.

Sorry to see some people have not read the paper yet. We only have a few weeks left. People need to keep up with the reading.

Fairly real time basis.

The next comment, number 3, we are referring here in the to that case where there's certain non U.S. registrars that mentioned oh OFAC and conditions online. There's a comment again from Paul rosen flag while the language is inapt or maybe inapt shouldn't we have an indication from someone are somewhere that there's an actual problem without making an issue out of it I replied to Paul that it would help if the two registrars enforced the provision or even know it was there.

It would also help if there's other examples, particularly where actions have been taken. Versus just what TNT say. So certainly would want to get a little bit more into that.

I see Milton says I you sound like him talking to students. I'll take that as a compliment. Because Milton is a distinguished professor and I'm a simple repertoire. And Jorge just be glad I'm not using the syncretic method. We will get more discussions going.

Tarsy go ahead.

>> FARZANEH BADI: I had a cursory report of this so if it's mentioned I'm sorry to have over looked it but I didn't see anything about the transparency of the OFAC license request process. As I mentioned before, ICANN should be more transparent when it applies for OFAC specific license, they should be more transparent about the process, when it has a request. And how long -- well not how long it will take, but it should give like general information to the party on behalf of which their action for an OFAC license. I doesn't see that in the all right. And, also, there's one of the things that I have mentioned, I didn't report it specifically as an issue. Because I don't know how to overcome that problem. You can just disregard a this comment but there might be

some financial difficulties when people that replied in countries want to the U.S., to ICANN for transacting devices with another issue which I don't know how to come up with a solution for it that's why I doesn't mention it further. But if someone can come up with a solution that would be good.

>> GREG SHATAN: Thank you farcen aI think at the end on if that paragraph, there's reference, I can be helpful and transparent in the OFAC licensing process. So that may be what you're looking for. Although this, this is a draft and we're looking for more.

Let's see. So it should be there.

Page 3 David says. Yes.

It says ICANN can be constructed to be helpful and transparent to the process of deciding to seek a license in the license process itself.

I think at some point here we also had a con tension that ICANN did not notify applicants who needed OFAC to benefit from OFAC licenses. It did not let those registrants know that these were being requested. Somewhere in here it says something like that. I think we need to get to whether that is actually accurate. I don't know if Sam or Bernie remembers where that is, if I have Bernie here. So that will be helpful to just fin point that point as well.

Sam eyesner go ahead se internally involved with that. That process within the new GTL program and I understand there were some applications from one entity that each had a related OFAC issue, the same OFAC issue because they were from the same entity but from my understanding the applicant had been told that ICANN was in the process of seeking an OFAC license and the OFAC licenses was eventually granted.

To the point around transparency it could make sense to have ICANN type that the opposition that I cab is in the process of seeking out a license and keeping transparency around that. Farcy's point about not keeping people in the dark, in the process is helpful in making sure people know where they stand in relation to any specific ICANN process and can if there's a reason there's a delay that OFAC licenses do cause a delay that can then be communicated to the applicant about what's going on.

>> GREG SHATAN: Sorry I was talking to the mute button. And thank you Sam, those are helpful comments and suggestions. And bringing up the paragraph, last paragraph before the recommendation on the transparency issue as we will cover that as well. And there's also registrars and OFAC, Sam do you know anything if there have been instances where that has come up where we needed ICANN needed to get an OFAC license to allow registrar to sign up? SO.

>> Samantha: I believe as I did some of the research to come and prepare to talk to the group I gave earlier there was a mention of one registrar we needed to obtain OFAC license for and we did. If but I believe the concept of transparency around that process to the applicant and whatever process be it, for a new GTLD if we open up another round or when we open another round in accordance with the community process or other ICANN to do, I think the same

obligation of ICANN meets needing to let them know we are going to get a license or going to seek a license makes sense.

>> GREG SHATAN: Great thank you Sam.

Let us move to the next page in comments. I'll note the highlighted comment which a bit repetitive of what I said in the chat. That we need more concrete or proven examples of the issue of non U.S. registrars foreigning or refusing to do business with entities covered by OFAC or for that matter seeking licenses to deal with entities that they believe are covered by OFAC.

We do want to make sure that we properly discuss that concept.

The next paragraph is the general license paragraph. And there are no comments in here on this general license paragraph but I believe I saw some discussion of it on the list perhaps from Milton. Or if anybody, I think wants to comment on this. If not I'll mention what I believe I saw on the list. Some concerns that this paragraph or rather section does not go far enough. And should either recommend straight out that ICANN seek general licenses. For whatever it identifies or we identify. Or is identified as types of transactions and classes of persons that would require general license. Others who felt that while we couldn't -- shouldn't go all of the way to the conclusion that the language nonetheless should be or more stronger to encourage ICANN to move to that and not make it people felt this was a more vague study recommendation. And I think by implication of concern that recommendations to study things often end up with nothing more than studies. So, I don't know if anyone else has any comments on this. I'm not challenge channeling other people. Thomas from the list. But I'd be happy to hear what anyone else has to say on this. Milton mule ear please go ahead mm yes thank you Greg, I can hear an echo.

So, I'm going to talk -- there we go. That's better.

I think this is pretty important that we just straight out make a recommendation that they get a general license much I think general license in everyone best interest here. ICANN would have less work to do. I'm not legally in the issue but reading the language about the Internet services exception to the export controls it seems all you have to do is remove the words referring specifically to the exception for domain name registrations. It's actually given what I know about U.S. policy objectives at the time, I'm not even clear why that exception was in there. Perhaps somebody knows something about that. But the rationale for creating that general license was indeed that you know Internet is generally a force for freedom and openness. And it made no sense for the U.S. to be kind of restricting Internet access to countries that we don't like or sanction because they are authoritarian and are preventing their people from having access to things like the Internet.

So, it's very simple and clean to simply ask they remove the domain name exception. And indeed I think Greg is right. That ICANN has to explore what that actually entails in terms of commitment of time and resources but that's kind of their problem. If they report back to us that you know it's just too difficult, the Trump administration can't go along with it for political

reasons, that's bad. But it's -- it shouldn't stop us from making the recommendation. The ability to irk that has to be dealt with down the road. Thank you.

>> GREG SHATAN: Thank you Milton. I see Sam's hand is up next Sam go ahead. Many SO thanks just on reflection. This is not reflection of an official ICANN position of the potential of the recommendation but I wanted to fly a couple of issues. If there was a recommendation that came out and said ICANN must seek a general license, that would -- the ability to actually take on that recommendation or the boards ability to accept that recommendation might be impaired because from the staff's side we would have to flag that could be substantial issues with that. I want to flag that some of the issues that I see. This is without really working it up or having too many conversations about it.

So moving towards a general license be it as going to the section that Milton was talking about and a seeking to have certain words removed or a few words added, or seeking a general license that required a different act of regulation, those actually are lobbying activities. And we don't know how long it would take to get that done. We don't know how much work it would take to get it done. So the premise that just getting a general license would reduce the work for ICANN isn't necessarily true. The amount of work and effort it could take to need to even do the licensing process, because there's not necessarily a process. It becomes a lobbying activity. If we want to ask the government to change or put in new legislation, legislation is a very broad term because in this aspect it contains changes to administrative directors. That has a direct I impact on I continue can and whether we have to pay status and pay fines for exceeding lobbying activity. But if there was a recommendation that says ICANN should look into the feasibility of getting a general license in some sort of reporting back on it, or something, there might still be concerns on that but it wouldn't be something that could put a hold on or from the ICANN org side we might feel the need to flag for the board as something that might not even be feasible to accept as a recommendation. I wanted to add that in. Because their still are -- there SO still could be significant issues and their still has to be discussion about the amount of resources it can take to ask for a again really license is worth the community resources that it would take. There's a broader conversation around that that has to be raised so the recommendation I would request from my perspective be issued in a way to allow for that conversation to happen and doesn't predispose the outcome.

>> GREG SHATAN: Thank you Sam.

I think that it seems we need to find or at least maybe need to lower explore how strong a recommendation we can make with regard to steps that can be make taken with the goal to be a particular result based on the results of the steps going up to that goal. Been getting a general license is nothing like getting a specific license. It requires change in regulation which means dealing with government agencies at basically the policy making level.

So, not that it can't be done but it's probably a six figure process financially as well as other things.

So it's not a small ask. But I think ultimately, the idea is to try to make it at least the presumption that that is the end on of the result of the process. Milton please go ahead.

Mm I just need to reply I think. I'm not sure I understand Samantha's point. So, I understand, we are making a recommendation. We are saying we would like for this to happen. Samantha is presenting us with practical constraints that might prevent that from happening. That's fine. I don't see how that stops us from making the recommendation. I don't understand how it has any bearing on it.

If I recommend that you know, as a policy that everybody in the world has Internet access, after 20 megabits of that up to people to accomplish that as best as I can it doesn't presume an outcome it's just the direction we want to go. If indeed ICANN determines they would get into trouble in terms of their status by lobbying too much that's clearly a constraint we would have to respect.

If they determine that the political environment is too hostile it and would never happen that's a constraint we would have to respect. I don't know how that has any bearing on the desirability of the recommendation.

You know in terms of presuming an outcome or predisposing an outcome in addressing David's comments I have trouble understanding this. I don't have any why it's not desirable to have an outcome of general license for domain name registrations. I have no argument against that. So we are indeed recommending an outcome. Again, that doesn't bear on its feasibility and where we will actually be able to get the U.S. government to be able to do that. It's not under ICANN's control it's not under our control. I think the need for recommendation still stands.

>> GREG SHATAN: Thank you Milton. This is Greg Shatan. I think just briefly, if I understand Sam's concern and some of this may be language, how it's phrased, that for the board to accept a flat recommendation that ICANN go and get a license, a general license, that the board would then be committing itself to the process to enter directly into the process of getting a license.

And that rather than taking steps to look at cost benefit analysis and likelihood, so that may be the issue kind of the you can lead a horse to water but you can't make them drink and the recommendation they drink is the problem.

I don't want this to be a weak recommendation but we need to see if recommending a result, it did seem some recommended an outcome rather than all necessary movement towards the outcome but discretion based on what the movement he shows.

So I think Milton I see your comment here you say general license is most desirable outcome and we recommend that ICANN pursue it within the bounds of feasibility. That's getting closer.

Without getting bogged down in technical, what you mean by general license. A general license has to refer to specific types of transactions and specific classes of person.

So registry agreements maybe one type of transaction and registry a type of class of person. And registrars would be a separate general license and domain name applicants is a third and anyone else there may be others. So we need to at least define things probably at the level.

But not get more bogged down than that.

So, anything else on this point?

On the last these last three paragraphs are highlighted in blue I actually intended to delete. They ended up kind of Plunked on to the end of the document by accident. They were on my slush pile at the end of the document and just didn't get deleted.

But there's some comments on them anyway. Just going to the issue of whether registrars or subsidiaries of ICANN, which I said were not. And, also, next comment ICANN comments and registrars majority based outside the U.S. Maintainer of domain name is ICANN for the customers. I'm not sure that is technically correct.

Questions about customers are subject to OFAC should be partial or total.

Well I think again, the issue is whether the customer is, if it's the registrar or registry or registrar they are subject to OFAC as if they are themselves in a country or subject to the regulations. But I don't think they are subject to enforcing OFAC against third parties if they are not themselves entities in the U.S. or r or U.S. entities. In any case I don't want to belabor that point. Is there anything else at all on the OFAC recommendation?

Anybody would like to bring up at this time. Tarsy please go ahead.

>> FARZANEH BADI: Thank you Greg I remember last week meeting we talked about the general OFAC license. And I was arguing that ICANN should recommend that ICANN speak as general OFAC license and at least there should be there Steve pointed out that the CCWG recommendation board has to consider these recommendations. So, it's not like that it's not that if they are binding but they have to seriously consider these recommendations we are making.

I'd like to, if ICANN in the end decides not to seek a general OFAC license I would like to see the reason. And I want to, because I can see that this can go, we can just recommend this and then there will be like long delay and about there will be nothing done. So if it's possible, I'd like to see like more congressmen looking into this issue than just recommending to like consider seeking an OFAC general license.

>> GREG SHATAN: Thank you fairisy. I think that as we draft this part of the recommendation we will need to beef it up. I think there definitely needs to be mention of things, transparency involvement of the community and reporting back. Maybe some high level discussion of criteria such as cost benefit analysis is and it just can't be that the recommendation to do everything feasible to get it to happen just goes into a long dark tunnel and what comes out of it is either an application or general license not a application. But the effort to begin in earnest or a sorry, we couldn't do it.

Clearly this needs to be, we need to have some parameters around how this would be done.

You know at a policy level. Obviously we are not implementing this. Bernie please go ahead.

>> BERNARD TURCOTTE: Thank you Greg. Just a note, similarly on the other review processes and recommendations.

Someone mute please.



These are nothing towards lightly and as for [indiscernible]

Perform there are reports that are published versus the implementation of the recommendations and how it's going and what things are. So, I fully understand the transparency requirement. But it's not as if these things go into a black box then we just see a green or red light. There are reports that are published and I think it was a little different for work stream one that is results of our work were actually all integrated into the bylaws. So that was an mediate result if you will. Thank you.

>> GREG SHATAN: Thank you Bernie. Good point.

Kavouss I see your hand is up. Please go ahead.

Kavouss we're not hearing you yet.

It may be that you're muted because your microphone was open at the same time as Bernie was trying to talk.

>> KAVOUSS ARASTEH: I am.

>> GREG SHATAN: I hear you now.

>> KAVOUSS ARASTEH: Yes you hear me now.

Yes?

>> GREG SHATAN: Yes.

>> KAVOUSS ARASTEH: Okay yes. I have two questions. First of all I am not still clear the circumstances under which we are general case and specific.

General license or specific license. And still I don't know with respect to the history or use of and what cases U.S. based non U.S. based and similar like this.

So I'm not quite clear on that. Second, as I mentioned elsewhere, the term recommends has specific connotation.

Yes. And much we are talking that we recommend the board to do something, they may look at the recommend station they may say okay, thank you. We seed that this is not feasible and about not do anything. In work stream 1 our recommendation is different scope and application. We recommend and recommendation turn into the bylaw into the applications. So I don't know that they put recommendations here.

So we have to be clear what what we mean by recommended. We should not use something very weak because otherwise even if we agree all after everything which I hope we arrive at, to agree on the language in the so called recommend or recommendation if it goes how would be the next step? And the third question I have, I don't understand why the general license requires legislations?

And why general license has more work and not beneficial in the accordance to some it is not through that less work is involved. I am not clear on that.

Thank you.

>> GREG SHATAN: Thank you Kavouss I think we can get into this on more detail on the list. Since I'd like to get to the rest of the agenda.

But very briefly, a general license is in fact a statement that is part made part of the OFAC regulation that is what a general license is and it requires the regulatory body, which would be department of treasury I think, to change the regulations to amend the regulations for OFAC. That is where general licenses are enacted.

General licenses cover -- don't cover specific transactions they cover types of transactions between classes of people.

Or classes of entities.

Specific licenses are applied for directly with OFAC and cover basically a single transaction for a period of time.

Between 1 U.S. entity and 1 OFAC covered entity. So that's the difference.

So if we could I think we are done with this and we can -- let's put the agenda backup please.

We are back to the agenda and we have made it to 4.2 the set of proposed issues here. And they are really kind of 5 interlinked but different issues relating to choice of law and certain ICANN agreements.

These are all proposed issues not necessarily taken on board yet.

First is that registry agreements do not have a provision stating the governing law of the agreement. And Raphael sent around an email and I re-sent that in a document form explaining in more detail what the issues that are caused by this.

Second issue kind of a mirror of that is that registrar agreements do not have a provision stating the governing law of the agreement.

And I don't know if there are any further, if we want to make high level comments on these points. If anybody believes these are definitely issues that are first in fact issues and are issues that are within the remit of our group to deal with.

Or those that might believe the opposite.

These aren't really issues, if they are issues this is not the forum for them.

Jorge your hand is up please go ahead.

Jacques hello?

Hear me okay?

Hello. Good evening to everybody. At least in Europe and this is Jorge Cancio for the record. I would like to speak to issue -- well as a general comment, I think we can consider and where we can seek improvement in the way a the system works for registry registrars, etc. And we have made some specific inputs and when I say we, I'm referring to the Swiss Swiss registries both to the applicable law the part regarding the registry agreement and, also, the arbitration clause and other details.

So I don't know when we want to go into that level of detail now? Or whether we wait for later.

The general point is that in general registry agreements and, also, the registrar agreement are silent about the applicable law to the agreements. This creates situation of legal uncertainty we think that could be improved if regarding the applicable law we applied some sort of increased flexibility for the parties to choose what the applicable law is to the agreement. And, also, if we apply a principle subacid ATRT meaning that only those aspects that are really needed for the ability of the system are regulated in a uniform fashion and that we leave as much room as possible for applicable initially law to be considered as applicable law to the agreement. So I'll leave it by that for the moment.

Thank you.

>> GREG SHATAN: Thank you lower a. Are there any other implants on this point? Let me just finish reading the different points Jorge kind of preshadowed or for shadowed some of those as well.

Issue number 3, that the I in arbitration of the registry agreement there's a lack of choice in the arbitral body and jurisdiction of arbitration. I believe there's one size fits all or maybe two sizes fits all depending upon certain governmental and IGO registries getting a different choice. But they get a different flavors basically. Vanilla or chocolate. But not a general choice or negotiating point.

2.4, lack of governing law provisions could lead to court more likely choosing their own law as a governing law.

This is a potential issue that has been raised. And I think we unlikely the first three issues is not issues relating directly to the language of the contract. But more to the effects of not having governing law. Maybe related to some of the issues brought up in Raphael's comments. I think we would want the look back a some of the more detailed discussions of whether this is the case and how ports deal with contracts without governing law provisions.

So that is the issue number 4 or proposed issue number 4.

And last, proposed issue is, that provisions regarding venue, that is the place, for hearing disputes in registry agreements is limited to one specific venue with flexibility aloud only in contracts with governments and other special cases. This is maybe what I was thinking of when I was talking about the arbitration provision. We will need to get the details in front of us, but the first order of business is kind of to look at these issues and begin to consider when in fact these are all issues. You may disagree as to whether in fact these are issues at all whether they

are issues within our remit and whether, given resources, whether we take on a you will if on these issues. Milton has comment, may I ask are 4.2.1 through 4.2.4 basically all the same issue?

Not really. 4.4 is really kind of an issue that may fall under both 1 and 2. In that it's a kind of a problem statement about why having a -- why having no governing law provision is troublesome that would cover both. Arbitration issue is kind of more specific one.

That you know is kind of separate. But they are all related. There's definitely intertwinement here. I think Raphael who is ill and couldn't be with us had some reason he thought it was important to separate these registry agreements issues and registrar agreement issues and we will need to kind of unpack that. Kavouss I see your hand is up please go ahead.

>> KAVOUSS ARASTEH: Yes my question is that the issue that registry agreement or argument and thought have any government law. Was it a intentional not to have it? To have it flexibility? What is be a conceptual that it will provide some rooms for selecting something. What was the reasonable that this was not on. Do we continue to have that for future reason. So if this is not clear the answer that we are -- and I don't know what are the solutions of this to cover that. Is it a short coming? Some people say yes. Some people say no. If it's a short coming do we need to look for a remedy or do we not need to look at that. If the question is, why was it not in initial stage any governing law in this agreement. What does constructive way to not have or no need. Thank you.

>> GREG SHATAN: Thank you Kavouss. I believe that Sam at some point earlier in our set of meetings answered that question. And we do have Sam on the quality. So maybe I can just ask her to briefly recap her answer to that question.

Sam is that possible?

Se sure this is Sam eyesner I don't have the run responses but we will get those recirculated to the group or the links to them Wiki recircumstance alated we answered this question in writing and maybe it was a follow up. And I know jack knew plan put in a really well stated input into the group on the list on the same point.

Not having choices of law in the agreements was actually something that was negotiated and intentional years ago as I can was moving into its role of taking -- doing the contracting with registries, etc. So there was flexibility to allow the registrars and registries to be where they needed to be and do the work they wanted to do. And gave the flexibility for the political ability of national a law where appropriate not hard code all of the registries and registrars that were contracting with ICANN to have to commit to operating under California law. That in and of itself wouldn't be really appropriate with the global nature of the Internet. Just selecting any other single regime of law may similarly not be appropriate. I just wanted the add in this a flag that any changes to the registrar or registry agreement, if there were recommendations coming out of this group that the registry or registrar groups or agreements needed to be modified or should be considered to be modified to put in these provisions I think the question that Milton asked in the chat which is what do the registries and registrars think of this is really important because each of the agreement specimen identifies it's own amendment process and much the

regular trees or registrars are not supportive of a change, there's a very long process to try to get a change in over the objection of the registries and registrars into this model agreement.

So I think this is one that if this group thinks it's important to address these issues, that registries and registrars should be involved in those conversations because that would likely give any recommendation that comes out on that actually chance to be implemented because of the registries and registrars as a whole aren't in support the recommendation likely couldn't be implemented over their objection.

>> GREG SHATAN: Thank you Sam so it sounds like this is a situation where there's pros and cons.

And, also, we have to think about who this is intended to benefit. And if it's intended to benefit the registries and registrars, we -- it's not up to us necessarily to feed them their medicine nor can we.

So we need to determine if this is in fact an issue. And whether the solution is in fact a worse issue.

Jorge please go ahead.

Jacques yes. Hello. This is Jorge Cancio for the record again. I just want to follow up on what Sam said. If I think that it's of course absolutely an crucial to hear registries and registrars and to, if we were to make any recommendations on these issues, they would go to the public period and I would expect we would very carefully listen if listen to their inputs. Because as Greg said I think he said we are not going to decide on how to feed them their medicine, do they want -- they don't want it.

But I think that we at the general level we see that registry agreement for instance, the model agreement is silent on this issue. And this might not be as flexible as we think. As Sam mentioned before. Because it really leaves us in a situation of uncertainty. At least not the registry is in a situation where there don't no if in a case of this agreement, the Californiaian law will be applied or not. And if we add to that, the venue normally will be California and so on and so forth, this creates a situation where some commenter said, the might be reluctant to really go into court proceeding or arbitration are procedure. So what I'm saying, is to really recommend that the flexibility are there for the parties to use. So that's not an imposed uncertainty or imposed silence but that the parties are really able to choose. What the applicable law is. And that they also are able to choose whether some parts of the contract that relate to essential functions which have to work the same way in all the registries have to be bound to Californiaian law. But other functions which might have to do with intellectual probably protections, might have to do with privacy, with data protection or might have to do with eligibility requirements pursuant to the relevant national law, that those issues are dealt under the national law.

So again, I think the at least our proposal or our ideas go into the direction of clarifying that there's freedom to the parties that there's really flexibility and that we have a principle subsidiaries and those issues that really are relevant for the local and national or even super

national community as in the European Union are really dealt with under the applicable local law and that we don't put the registries in a situation where they have to choose between uncertainty interpretational construction of their contracts under Californiaian law. And the and abiding by the national laws that apply to them where they are based.

So that's the thought behind it.

Thank you.

>> GREG SHATAN: Thank you Jorge I think that raises a lot of open points, essential things to consider when they are issues or concerns that you know we really supported. And, also, think about the other issue subsidiarity what registries and registrars there's an amendment process for the agreements and CCWG is saying they should be one way or the other is not necessarily going the change anything.

Kavouss I'll go to you and then worry over time.

>> KAVOUSS ARASTEH: Yeah we are top of the hour I don't want to continue I wish you could keep this issue on the agenda for the appropriate time to discuss it to continue we are not quite clear to see it here you have decided to weigh that express or other way around. I don't want to take the time of the meeting out because it is already one hour finished. Thank you.

>> GREG SHATAN: Thank you. It was issue is still definitely on the table. It will be developed the theories of potential issue. So hope we can work on them on the list. I'll try to put something together that puts them on the list. You know we are not at the point as we were with OFAC where we could just put a draft recommendation out and start commenting on it. But I will try to develop a document with the various inputs that we can then use.

Lower jay I think that's a new hand. So if you can be brief. But if that's an old hand, even briefer.

Old hand.

Very good. Well it's 4 minutes after are, unfortunately we won't have the time to review the master list but you have all received copies of it in PDF and Word form. You should all have access, if you can access Google Docs access to the document to comment on it. So please do. The OFAC comment is in a Google Doc as well. That was circulated in the along with the agenda, the link to that. And so you should all be able to go into that. And I strongly encourage people to work on that. Because that being the first one out of the gate hopefully is also the first one we can say is essentially at a stable draft position when we get there.

So, let's continue to work on this issue. And start keying up the next set of issues as well. We will see what those are. So I athank you all. And we will adjourn this meeting at the time. Let's stop the recording.

Bye