

**ICANN Transcription
CCWG Auction Proceeds
Thursday, 26 April 2018 1400 UTC**

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Coordinator: Recording has started. You may begin.

Julie Bisland: Okay, great, thank you. Well good morning, good afternoon, good evening everyone. Welcome to the CCWG new gTLD auction proceeds call held on Thursday, the 26th of April 2018.

Attendance for today's meeting will be taken by the WebEx room. If you're only on the audio bridge, could you please let yourself be known now?

Okay, hearing no names, I would like to remind all to please state your name before speaking for transcription purposes. And please keep your phones and microphones on mute when not speaking to avoid any background noise. And with this, I will turn it back over to Erika Mann. Please begin.

Erika Mann: Thank you so much, Julie. This is Erika. So let me move to Point 2 or actually Point 3. Do we have any input or somebody else want to make a comment concerning update on a conflict of interest declarations?

Okay, that seems to be not the case. Then let's move on to Point 3 on the agenda and Point 4. Both are connected. So what we'd love today is quite complicate exercise, but I believe, and we believe it's absolutely essential to have this discussion today.

So in Point 3, we want to see and identify if there are further topics we need to discuss before we can make an assessment about the future mechanism which we would like to recommend for the public comment period. And then in Point 4, we'd like to identify criteria how to actually come to the conclusion about the best mechanisms.

So let us go first to Point 3.1 which is pretty easy because it's only a reference to the documents where you can find all the background information concerning the exchange we had with the - with our expert. And there's a reference to the (unintelligible) document and there's a reference to the Google document. I don't believe we need to talk about. If there - if they need to talk about the document, we can do this as well.

And then we are moving to the Point 3.2 which is we need to make an assessment what topics or issues, if any, are required for further discussion or further evaluation to actually determine the best and preferred mechanism or model for the future fund.

We had the discussion. If you remember, I believe it was last time or the time before now, a call. And I believe it was Marilyn who said we need to have both discussions because there might be some issue which we have touched on and we might either have forgotten or we have not even debated yet. So this is the time that we need to identify these kind of issues. It's just something that either we debated in the past and we need to come back or

which came up during our exchange with the expert and which we believe we need to look into.

Somebody is moving the - Julie can you please check? Somebody is showing on the screen a document which we probably don't want to see yet. Yeah, please let us stay here. Thank you so much.

So what I did just to give you an example of what I identified when I reviewed summons and the exchange with our expert where few topics which I identify. But there will be many others and we like to have a discussion with you today about it.

So there - the one which identify shall be recommend an advisory board. If you remember, the post (unintelligible) said we do have a board and (unintelligible) will be an investment back said as well. We do have a board. And they each have different purposes, but to some degree they mitigate potential conflicts which may arise. Typically in both cases even though agents are pretty free to decide what a - what kind of project they want to finance. In particular, (unintelligible) investment bank were totally clear. They're totally independent, but they need an evaluation and in the case of a conflict, they do have a board.

So the question is, if there's something we need and if yes, what kind of structure would we recommend? Could be a board from the HOAC, one member or two members from ICANN board, maybe one from ICANN the executive team or whatever we believe is recommend those.

Then we heard a topic if they need to define what supervision from ICANN means. The EIB was quite, the investment bank was quite clear in saying the commission is (unintelligible) oversight. But the way they defined oversight structure might be totally different than what is needed in an ICANN environment. Keep in mind, that (unintelligible) mechanism we are going to recommend, with the exception of the total inhouse model but maybe even

then, ICANN will need to have oversight and supervision but how this needs to be defined, the question is shall we do this? Or is this up to the next phase to do so?

Then the question arose during the debate. It was brought up by some expert. So we only have a one-off fund? Which that will need some setting. Which was in particular mentioned by (Sarah), by (Sarah Burke). Or do we want to have a longer-term fund? We discussed this, but we never came actually to a conclusion, but we preferred from the CCWG. And if yes, we will have to discuss how we want to do this.

So these are the topics I identified. But I'm pretty sure you have probably different topics you want to weigh. So it would be good if we can hear your opinion. If you have different topics, if you believe these three are indeed relevant, or if you just (unintelligible) the topics we discussed in the past.

So back to you all looking at the questions. We only see a recommendation for a one-off from (Elliot) in the chatroom.

Marika Konings: Erika, this is Marika.

Erika Mann: Marika, please go ahead.

Marika Konings: Yeah, just one thing I wanted to know. And I also put it in the chat and to help structure this conversation, I think it's very important for people to think about, you know, what issues, if any, need to be addressed or answered at this point in time before you are able to make an assessment about you know, which one is the preferred mechanism to consider in further detail?

Of course, there may be additional questions that are important. But maybe they are irrelevant of the mechanism chosen for those are one of the details that will need to be worked out once we dive into the details of the selected mechanisms. Because again, to remind you as well that the (unintelligible)

next step is based on all the information that has been provided by external experts, all the conversations we've had to date, that hopefully the group will be in a position to make a determination what is the preferred mechanism to consider in further detail. Following which would then start looking at all the remaining charter questions as well as any other issues that the group believes need to be addressed or considered and start answering those questions from the perspective of the mechanism that has been selected.

I think as we've indicated as well in the work plan, of course it is possible that once a group goes through an exercise and start answering the charter questions for this particular mechanism. Then you could come to a conclusion that will actually and we were wrong and maybe based on answers maybe this is actually not what we think is the preferred mechanism and we may need to go back. I think it is forcing that that could potentially be an iterative process. But the idea is by, kind of, trying to narrow it down and then going into the details that will hopefully facilitate the CCWG see the full picture and also being able to come of course, match that to the criteria that you determined on selecting a preferred mechanism.

Erika Mann: This is Erika. Thank you so much Marika. Do we have additional comments somebody want to make right now in the chat room just for those who can see it, just to give you a quick overview because some of you are able to see the chat room. So (Elliot) is saying he's recommending a one-off and not to have a prolonged open fund. (Nanya) is saying we should Artie move to actually making a choice about the best mechanism. He's recommending like he did before. Choice Number 1 which would be the in-sourcing model into an ICANN department. This is supported by (unintelligible). And that is actually-

(Gene): Erika this is (Gene).

Erika Mann: Please, go ahead. I can't see you. Please go.

(Gene): Thank. Yeah, thank you, Erika. This is (Gene) (Unintelligible) speaking. I'd like to maybe get everybody to think of and maybe at this point will have a clearer clarification on what the meaning of the so-called one-off fund and/or the long-term fund. I know that people are thinking about one up on maybe just this particular chunk of money. And they can spend, let's say, over X number of years and he gets sent out. And there will be no more new, revenue or other sources to be injected at a later stage. This is just one-off.

Bu there's another, at least to me. Maybe this one-off fund can be a long-term fund meaning that there is no other - no need to be indebted. But the minute the way to manage funds is to have a more like an EIB type of revolving financing way the fund would have a way to measure the, you know, the performance and so it's not just money well spent. We're glad it gets spent. But the money, you know, where it needs to go and then it will have a good, you know, it will have a good return on investment. And the fun is a one off, but it may function like a one-off for a long-term revolving fund.

So I just like to make this point to have everybody to think of or, maybe to speak or think more. Thank you.

Erika Mann: Thank you so much. (Jonathan) and please to everybody, keep in mind I can't see how is raising their hand. So either you put in the chatroom I'd like to raise the hand, or I got into the Skype. I got an alert from staff or you just interrupt me when I talk. Just be, please be aware I - somehow I can't see it. (Jonathan) please.

(Jonathan): Thanks Erika. So my first apologies because I haven't been a consistent participant. I have many gaps in my knowledge of certain point. But seeing - I mean I came in on some of the expert presentations and I found it very useful. I particularly enjoyed (Sarah)'s one, but I admit that I wasn't at all of them.

And see (Daniel)'s point and I rechecked his email where he argues for an in-house mechanism. I'm not 100% sure what question we're answering here, but I tried to listen to what you and (Ching) and Marika said. But I would say one thing though, if we were to go for an in-house mechanism, and again I'm not sure how relevant is to make this point here now, but I was thinking about having some balance to that. I can see the efficiency of an in-house, but that could be balanced by having some panel of perhaps a, sort of, board where you had external expertise in addition to the in-house.

So if (unintelligible) point of view, you balance that with some external expertise. If there's a more appropriate time to discuss this, I'm happy to do that. And then I guess finally, this group should be aware, if you aren't, but here's been a parallel discussion going on, on the ICANN reserve fund and the topic of that reserve fund - and there were - well that process is still underway. There is some clear discussion in that area about whether or not these auction funds could be used in part to top up the replenished reserve fund.

If that - I don't know how open that point is not, but it strikes me specifically in this context, if you had an entirely internally ICANN mechanism, there's a potential for conflict of interest there. So that's linked to my thinking of (unintelligible) some external balance there.

So again, as I said at the outset, I hope I'm not completely why Mark here because I haven't got the whole picture. But those are some thoughts and I'm happy to bring them in again at the point if that more relevant. Thanks.

Erika Mann: Thank you so much (Jonathan). I will come back to some of the points he raised a bit later. What I like to - I think the next one is (Elliot). So (Elliot), please go ahead.

Marilyn Cade: And Erika, if I can get in the queue. It's Marilyn.

Erika Mann: Yes, I have you in the queue now Marilyn. Thank you for letting us know. I can't see your name here.

Alan Greenberg: Yeah, and Alan Greenberg, my hand is up also if I could be in the queue.

Erika Mann: I got you. I have you now all. So the next one is (Elliot) followed by Marilyn and by Alan Greenberg. Please.

Elliot Noss Yeah I - thank you Erika. I think that on a number of these issues, well one clarifying point first. I understood (Daniel)'s discussion of in-sourcing to be community, not staff which would address some of (Jonathan) conflict issues. You know, Erika you use the work departments or something. And I put a note in the chat, I think was just a semantic issue there. I do want to, you know, we're starting to get into, again, a number of these issues that we have really been discussing for a long time. And I think Erika, I would strongly urge you to take them to some sort of straw poll right now. Just so we have a sense of where the group is.

And I say that because, you know, I think a lot of us - I certainly feel like, you know, I want to comment on a number of these things and that I am repeating myself. Sometimes for a third or a fourth time. You know, there's a group of us that are repeatedly commenting and there's a group of us that don't. That's a typical social construct.

But I would fear that we would take sort of, you know, loudness and frequency over comment as a sense of where the group is and I think that would be a terrible mistake. And so, you know, with a lot of these things, you know, unless we have new points we want to make, I really just think we should see where we are and then we might be able to focus because maybe on two or three of them, we're overwhelmingly of one voice. And maybe on two or three of them, we're split and then we can focus our comments on those two or three where we're split. Thank you.

Erika Mann: Thank you Alan Greenberg. I'll come back to it later. Marilyn please.

Marilyn Cade: I'm only on the phone. So I can't see the chat. I'll look forward to reading it. I will just express that I have very strong concerns about using an insourcing model where there's an internal department within ICANN. And I've a lot of reasons and experience for that. I also have a view that we have not thoroughly yet explored what the and fully understand what the liability risks are for either board members or ICANN staff. If they're actually running a fund distribution mechanism.

I read the work to date, but I feel like it's inadequate. And should elaborated on and that every one of us ought to make a commitment to more thoroughly understand what the liability risks are for ICANN running such a function itself versus establishing an external approach with an advisory board and the proper controls that are required to oversee that the entity is properly distributing the funds and requiring appropriate records, etc. I don't actually think EIB is a good example at all. That's an investment bank. And focuses on venture and investment. I personally think and I believe the business constituency will comment further, but I believe this is funds distribution approach.

To (James) comment that yes, the funds can be distributed over a period of time. I think that is consistent with the overall initial discussion of this. I'll just make one final comment. I think we all have to be very careful that we ourselves are really understanding when we have a conflict. And appreciating the fact that we can have a conflict, but we need to be very neutral when we examine what the implications are for the organization.

I'm not coitizing any of us. I'm just saying conflicts are sometimes hard to really appreciate. And then my final comment is to just go back. I don't actually think (Elliot), sorry to disagree, I don't think we're ready for a straw poll because that's opinion. And I think we've got to be a lot more fact-based right now. And I think one of the facts we're missing is what is the liability

implications of each of these models to the organization, to the board members, recalling that board members will change and to the staff? And also staff may change. Thanks.

Erika Mann: Thank you so much. Let me check a second before I go to you Alan Greenberg. Just a technical point. So I take it Alan Greenberg, (Jonathan) we see your hands up. Is this a new hand or an old hand?

Jonathan Robinson: Old hand, apologies.

Erika Mann: Okay, no problem. Thank you. (Unintelligible) is clarify. Alan Greenberg please.

Alan Greenberg: Thank you very much. I find some of this conversation a bit surreal. I thought, and I've attended a lot of these meetings that when we were talking about internal versus external foundation versus department, we were talking about purely an organizational decision of whether, you know, there are liabilities in doing one way. Or it is better not to set up a department and hire people if we think it's only going to last for N years.

My understanding was regardless of which of these mechanism we took - we choose to do the work, that there was always going to be a certain level of independence and following whatever rules we set in dispersing of the money, that yes, there has to be an ICANN control to audit it to makes sure that we're not violating the rules we set which, you know, involve mission among -perhaps among a lot of other rules.

But that it wasn't the deciding factor. That it was internal. It just means we're not paying someone with a check and a contract, but we're doing it by a different mechanism but we're still going to be following the same rules and presumably be - have some sort of panel, not ICANN staff or not ICANN board making the funding decision.

So I find it a little bit surreal if we're not saying oh no, if it's internal then we're going - not going to have any control over it. And it's going to be ICANN has a conflict of interest because of these issues. And similarly for - if we use auction funds for copping up the reserve, presumably it's at - that's going to be something which we will allow under whatever rules we set going forward. And that doesn't matter whether the formal body is incorporated or is purely a department within ICANN.

So I think we're conflating different issues here. And I thought we already had made that decision a long time ago that there's a certain amount of independence to how this process is going to be followed regardless of the organizational rules. Thank you.

Erika Mann: Thank you so much Alan Greenberg. So let me see if we have some more questions. Otherwise I would love to - if you allow me to comment on some of the point made. I don't see anybody else in the moment, not in the chatroom either. So give me maybe a second. I got a note from (Joe) (unintelligible). Okay, no this is not related to our discussion. Apology.

So let me pick a few points which I believe are relevant for our discussions. So one of the topic about the reserve fund. (Jonathan) raised it and it came up in chatroom and other discussions as well. I believe that's a topic really the community as a whole will have to take a decision in combination with the board and the management. Personally, and I've said this many times, I would argue it's absolutely reasonably to allow this, but how it is done, it need different approaches which need to be debated first. I have legal concerns because of the way the ICANN and the (unintelligible) and the use the argument that the fund would only be used for charitable purpose and not related to any kind of organizational budget.

So I do have some legal constraint, but I could imagine for example, that we would argue, you know, up to 50 million would be reserved for approach that ICANN can use for special projects. We can even describe the projects like a

(unintelligible) update for example. So something which falls outside of the traditional work ICANN would be support - be able to support.

So we could do this, but this is something we need to debate. I'm totally open. It's not my role anyhow to make a decision. But I would support what (Jonathan) was saying.

On the question which came up about how is in-house defined? So if you remember, we just test different models. So one was in housing. One was in building a new structure, a kind of merger between ICANN - new ICANN department in relation with a different outside entity. And then we have different options which would lead more to outsourcing models.

Now again, I believe whatever we select, Alan Greenberg is totally right. The - even if we would select a model which would request and support a new department or a new structure inside of ICANN, it would need to be independent. It would need to be equipped with people who really understand the topic and need to - would need to be a separation like the (unintelligible) department to the existing organization.

So I would believe the same requirement of oversight and independence would be needed. But it's still a difference. So Marilyn is not wrong. Of course the tendency then to be quicker in intervening if the department insource is, of course, hired. So we need to be clear what we want. And keep in mind what (unintelligible). We selected first the model that we outsource and then we felt ready to insource. So maybe sometimes it's easier to outsource work and then to (unintelligible). But again, we need to take a decision about it.

Marilyn mentioned a new point and this is a liability risk. That's a topic we sometimes came up. It's a new topic which we may need to have a new discussion with. I'm just checking if she's actually on the call with (Sam). So if (Sam) is on the call, I would love to hear her opinion about it. I can't see her

on my list. So maybe Marika and (unintelligible) would you be able to check?
Oh, there she is. Yes, I see her.

(Sam) would be wonderful to have your opinion about it. So if you either believe you have enough understanding what kind of liability risk the organization would carry dependent on the different model or if you would need to further investigate it would be good to hear you.

And these other - and then there was one confusion where I believe we have to be careful. This was a dispute between another dispute, but to your point raised by (Elliot). One and I believe it was (Daniel). So Elliot Noss when we - so far when we discuss the in-house model, we haven't said it should be run by the community. But so far it was an understanding it would be run by professional and it would be part of the ICANN organization, separate department but part of the ICANN organization. There was no discussion yet about it could be the community would run this model. So if you want us to come back to this point, we would have to come back to it.

These are the topics I had. If I forgot something, please be so kind to remind me. I'm talking in a moment for the question raised by Elliot Noss as well. Can we have a straw poll? I'm open to it. Marilyn said it's too early. It would have to be a straw poll anyhow because I believe we would have to a little bit more time and we would have to come back to it. So I'm going back to you now and please indicate - help me to indicate. (Sam) would you be willing to talk now? Could you?

Sam Eisner: Hi Erika. This Sam Eisner. For everyone who doesn't know me. I'm with ICANN legal.

Erika Mann: Thank you so much.

Sam Eisner: So I heard Marilyn's question about the liability risk to Org for having an insource model. And we haven't really done a lot of particular research

around potentials for liability. I think that there's a lot of things that we would make sure that we're in a contract with whoever was a recipient of the fund that are - there are ways that you could mitigate around that. But I know that, you know, within the ICANN system itself, the more that decisions are placed in-house, the more the decisions are placed on a focus of ICANN board and Org, the staff members. That we then have the whole run of the ICANN accountability mechanisms that become more and more likely to be activated in some instance if we're really looking at a situation where the board or the org are making the decisions around funding as opposed to be in more of an oversight area. That's something that we'd have to consider, and I can put some more thought into the broader liability issues that are separate and apart from the unique accountability mechanisms that exist within ICANN.

Erika Mann: I have Alan next but I would like to go back to Marilyn on the question because I would love to hear from Marilyn. Marilyn, is this exactly the point you wanted to raise and would you (unintelligible) this approach?

Marilyn Cade: Sure. Thanks, Erika. It's Marilyn. Look, as I mentioned before, I was heavily involved in representing the liaison between a big corporate foundation and the company that was providing the funding. And as I said before, it was a very different environment that there were very strong firewalls between the corporation providing the funding and the foundation. There was kind of oversight we've been talking about there was also the - a really big concern about making sure that there was not a liability coming back to the corporation about the management processes.

I also to set up (wave) and I'm the managing director, it's a not-for-profit organization, and the - so I got lot of insights on what kind of liability board members can assume because they are making decisions about funding and what kind of liability staff are making for performing the kind of due diligence that's required if you're disbursing funds.

And, you know, we can give grants which are not as onerous about the criteria and will be easier to monitor, to manage the reports on, but because of ICANN's unique status, I just feel that we do need to have an exploration by the legal staff and maybe event external resources about what each of the models might create in terms of any liability for either officers of ICANN org or for board members themselves. I'm sure it can be easily assessed but I think it would be extremely helpful for us to have that information before we have a straw poll on which of the mechanisms we might prefer.

Erika Mann: Jonathan, allow me just to have a quick check with Sam, if we should we love to come back to Marilyn. Or anybody else who want to have a - wants to join this discussion about liability, please indicate it if you want to join the debate about liability as well. Sam (unintelligible).

Sam Eisner: Thanks, Erika. This is Sam Eisner again. I think, and we'll go back and do a little bit more work on it, I'm hesitant to put a significant amount of effort into it at this point where there are so many options on the table. I don't think that there's anything - listening to Marilyn my initial reaction is other than the accountability mechanisms that we have, there's really nothing that's unique about an organization seeking to give funds that give ICANN additional liability when compared to other organizations in our stead.

If you put in any other entity, I think the liability quotient would remain the same but I also - I really appreciate the point that Marilyn's raising around the need to build in the firewalls that she was talking about and really build - have good structures, have good documentation, and those sorts of things that are good practices in reducing liability whatever anything - whatever it winds up looking like.

And so I think once we get to the stage of really having it's almost more of an implementation issue I think to make sure that we're really focusing the resources on building the correct types of firewalls. But we'll go back and do

a check to see if there's anything else that's unique around ICANN, but my sense is that it's no.

Erika Mann: Thank you so much, Sam. This is Erika. And let me thank you by the way for always being present. It's a great additional work and it's really appreciated by us. It would be wonderful if you could do this and keep in mind the different scenarios as well which were described by the expert, and if there is anything else which relate to potential liability risk and how to mitigate them, not just with regard to the model in house, which is maybe the most prominent and most relevant one, but I would even would appreciate it if you would look into, you know, how an immersion model what kind of liability it would mean for the organization as well, if you would also, I believe we would appreciate this every much. So thank you.

Jonathan, you're next.

Jonathan Robinson: Thanks, Erika. I'm not going to speak specifically to the liability point. I think it's really interesting and I think Sam's already given some thoughtful answers to it and it sounds like there's something more to go there. I also think Sam touched on the point of accountability mechanisms and the exposure or not to those. So I do think that's a point we should think a little further about, and it's possible that she will respond and cover that in any further input to the group.

When we talked about outsourcing or insourcing, there was reference made to Nominet and (Russell Heywood)'s input, where he talked about the movement from originally outsourcing and then insourcing. And it was suggested that perhaps we could go via that route.

My opinion on the face of it at the moment is that if the lesson has already been learned, I think we could learn it from someone else rather than repeating the same path. If that really is the right way to go, I wouldn't suggest we walk the same path unless there's a very good reason to do.

I do want to speak specifically to what, you know, a little bit about what (Xavier) asked and my thoughts on independence or not, and there was a reference made by yourself I think, Erika, to PTI. Now my view was, and possibly still is, but it's water under the bridge that PTI should have had a majority-independent directors, and in the event - for good reason it was chosen to be different. I suspect that reason would not exist here.

So I could see how a mechanism, an internal mechanism where there was executive capability within ICANN to do exactly that to execute on what the purpose of this mechanism is, but it was balanced by a majority external oversight, and that could easily be achieved with some form of community representation, as well as perhaps some specific expertise.

So I guess have a vision for if it was insourced that we would have appropriate expertise in house but with appropriate oversight from community and specialist expertise. Thanks.

Erika Mann: Thank you so much. This is Erika. (Elliott) is making a comment. I have served on the (unintelligible) committee since its inception. I think this really relates to the point you were just making, the last point you were just making, Jonathan. I agree, that's a good model. I mean, I would absolutely agree. If we would recommend a recommendation to in house the mechanism would be a good model to build an entity, kind of broad or whatever oversight advisory board or committee, where community members would serve on and would help to define the environment in the right way. I agree.

And it's a model I served on in a different entity in a very similar way. It's not always easy but it's certainly a good model. So how do we want to take this discussion forward? I have one question to you. I have identified some of the topics which are on the agenda list and I just want to hear from you quickly, shall we drop them for today and shall we continue with this discussion right

now, which then would lead us quicker maybe to the point where we can argue we are ready to make a recommendation for the best mechanism?

We don't even have to say today this is the final recommendation. It could be a kind of understanding between us. It's an interim recommendation which we feel tempted to make today but we still would need to make a full survey and we still need to ensure that all the participants which are typically without joining this debate. So it would only be an interim understanding.

But the second one there's some question which came up, and I have them on the list, on the agenda list, do we want to discuss them or do we believe they're maybe not relevant today and independently what we recommend for the idea mechanism, they can be debated at a later stage. So for example, is it a one-off or is it fund we shall continue? Do we need to make a decision concerning an advisory board? And we just discussed this by the way, and if we would - the topic Jonathan brought up and I would support. So what do you want? Shall we continue the discussion and maybe get a pulse, a feeling about how we feel about the idea mechanism today?

Marilyn Cade: Erika, it's Marilyn.

Erika Mann: (Unintelligible) Marika, go ahead.

Marika Konings: Thank you, Erika, and I think I heard Marilyn wants to get in the queue as well. I just wanted to note, and I posted early in the chat in relation to the one-off fund or long-term fund, and I referred the CCWG to an earlier agreement, or a preliminary agreement that was reached on that topic.

So maybe as we consider as part of the next conversation a potential straw poll, maybe it's worth as well to come back to some of those preliminary agreements to see whether CCWG members or participants still support those preliminary agreements or whether opinions have changed based on

the input that has been provided by external experts as well as subsequent conversations.

Erika Mann: This is Erika. Thank you, Marika. Marilyn, are you raising your hand?

Marilyn Cade: I am. I have a question.

Erika Mann: Please go ahead.

Marilyn Cade: Thank you. Marilyn speaking. Erika, can you and (Jane) clarify what your proposal is about who you plan to quote, unquote poll? Because I do follow the attendance records and we have members, participants, observers, not everybody is equally involved. I don't think it's a question of people who speak frequently, I think it's sometimes a question of who's actually able to have devoted sufficient time to follow the discussion and analyze it and then go back to their communities. So who are you planning on polling?

Erika Mann: Actually for the interim pulse I wouldn't mind to ask everybody who's participating today, but it wouldn't be a final decision. That's what I'm saying. It would be just to get an understanding how people feel, the people who are present today, and then we will do a full survey. But if you don't feel comfortable with this or people don't like this approach, we go for the full survey first. We don't take a pulse today and wait. I'm fine with both.

Let me ask quickly Marika, she can - Marika, can you be so kind just tell us who is a participant member of those which are present today?

Marika Konings: That will be a hard to task to do because I would need to pull up our list, but I can just remind everyone that this group has members that are appointed by chartering organizations. For each group I believe that is up to five members, and those are the end of the day, the decision makers. If there's a need for a formal consensus poll, those will be the ones that will participate in that regard.

Having said that, however, you know, the group is open to participation from everyone and I think that's how we've also done previous polls that we've used to assess the sentiment of the group, or positions on certain issues. Whereby the poll is open to members and participants, we do ask those that respond to identify as part of the survey, you know, whether they are a member or a participant, and of course we double check that as well with the membership list so that information is available to the leadership team, as well as the overall group.

So you already may have a sense of, indeed, where, you know, the view of certain chartering organizations may lie based on the responses from members, but at the same time also of course factoring in where views of the broader group, including participants, lies. And then of course at some point if, indeed, you believe a formal consensus poll is needed, you can definitely decide to do that, and in that case it would be limited to the chartering organization's appointed members to this group.

Erika Mann: This is Erika. Let me go to Jonathan. Jonathan, please?

Jonathan Robinson: Old hand again, apologies.

Erika Mann: Understood. So this leaves us with the question shall we - so shall we do just a quick between us open-minded, no final decision just to get an understanding between us, those which are present today, Marilyn, and then we will do a complete survey, and would this be something you feel confident or are you concerned that such an even interim and pulse understanding between us might then lead to a model which some of us will not feel confident about?

Marilyn, you raised the concern here, so can I come back to you? Shall we do it, just a quick one, or shall we not do it? Marilyn, have we lost you?

Marika Konings: While we're getting Marilyn back -- this is Marika -- I'm not sure if I understood you but I would caution against doing any kind of polling on this call, you know, first of all because we don't really have I think the mechanisms within WebEx to do and I've noted that some people already had to drop off. So it may be difficult as well for us to even assess, you know, who's present and who would be opining on what.

So if there's agreement to do a kind of straw poll, I would like to suggest that we would do that in the form of a SurveyMonkey, like we've done before, so we're able to, you know, frame the questions appropriately and everyone is clear as well what is being asked and we can determine as well who's responded and give people some time as well maybe to think about it and as well maybe consult with their respective groups. Because of course ideally, you know, even though this is a preliminary poll, it would hopefully already have some consideration of discussions that especially the members are hopefully having with their appointing organizations.

Erika Mann: This is certainly -- this is Erika -- this is certainly the more rational approach. I'm happy to do this. I see confirmation coming in for your idea from (Carolyn). So I'm fine with this. I sometimes like to get a feeling in a similar situation just to be able to move quicker and to come quicker to a solution, but I understand and that's fine with me.

So let's do the survey. Marika, would you want to make a recommendation how we want to do the survey and until then we will have the questions then actually ready, or if we need to do another round of defining the question, what I would love to avoid because I think we are running out a little bit of time and we are - I don't want us to be polls-driven all the time. So I really would want us to drive us forward to a decision. So can you be - just explain how you recommend how we shall do the survey?

Marika Konings: Yes thanks, Erika. This is Marika, and I think this takes us to agenda item four. And the staff has already started thinking a little bit about, you know,

how a survey or a poll could like and there are a couple of questions we have in regard.

And of course there is in no way a very easy way in which we could do it. You know, a very simple question could be, you know, based on the input you received today, all the information that has been provided, the deliberations, you know, legal and fiduciary requirements, what would be, you know, your preferred model to further consider and just ask people to rank that in one to four, and then obviously, you know, one kind of answer would come out of that. That would be a very simple straightforward approach of doing it.

However at the same time of course, you know, at some point when initial report is published, the group probably will have to provide some rationale to, you know, why a certain mechanism was chosen over others. So another approach that could be considered, you know, as you may recall I think based on the initial brainstorming exercise we did at one of the ICANN meetings, we also asked about criteria, you know, what are the criteria that you think are most important in evaluating the mechanism and making a determination.

So another approach could be that we kind of include those criteria in the survey and potentially also include some of the principles the board shared with us during its latest meeting and basically ask you again for each of the mechanism for each those criteria to rank the mechanisms in your preferred order of indicating, you know, which of those mechanisms most closely meet that specific criteria from your perspective, of course based on the input that has been provided external experts.

And the ranking approach could allow for, you know, seeing indeed the clear differences potentially between the different mechanisms or, you know, show as well that some of them may be closely related. It may be easier doing it in that way than making it a kind of exclusionary survey, so you're only expected to select, you know, one response. But of course, again, that's also

open to discussion if you think whether a ranking approach should be taken or whether it's kind of, you know, you can only pick one response for each question.

So again, so those are some of the options and some of the ideas. Of course, you know, you may have other suggestions or approaches that you think we should take. From a timing perspective, again, it depends a bit on how complex or how simple you would want the survey to be.

You know, staff could work on it with the leadership team in the next couple of days and, you know, we could circulate it of course for kind of a preview and see if people are comfortable with that and hopefully then, you know, kind of finalize it on the mailing list and then get that out, and we gave everyone a couple of days to complete it and, you know, then review the results with the groups and see, you know, whether there's a clear result or not and then indeed make a determination what next steps should be.

So that's a bit, you know, from a staff perspective where our thinking has been, but of course happy to hear from the group about what approach you think would go best in this case.

Erika Mann: Thank you so much, Marika. This is Erika. So next is Alan and then (Ching). Alan, please.

Alan Greenberg: Thank you very much. Alan Greenberg speaking. I would caution about just using a question - or question or questions about what model or what form you like. As this call has shown, many people have preconceived notions that an internal model implies lack of control or larger, more liability or something like that, and it's not clear to me that that is in fact correct, or a lack - an external model involves lack of control.

So at the very least it would have to be linked to what are the criteria you're looking for, because otherwise we may be making decisions based on incorrect assumptions. Thank you.

Erika Mann: Thank you so, Alan. This is Erika. I agree with you. We need to do this. Marika will send out a draft of the survey which we will do first and we will evaluate if we capture the point Alan just raised. And if we are lucky, we may be able to do this after we receive the input from Sam concerning this - the liability risk.

So, (Ching), please.

Ching Chiao: Thank you, Erika. I actually pass because that was just - actually Alan just brought up what I want - wish to say. So thank you. Totally agree with him.

Erika Mann: Yes, and you raised -- this is Erika -- you raised the point which we need to keep in mind as well when we do the survey. So we - for the recommendations we want to make for our report for Panama and then for the public comment period, we will have two approaches.

So one approach would be say this is a single model we recommend and please comment on it, and we investigated, these are our models we recommend, just one model. Or we could say this is the ranking of the models we recommend to you. So this - number one is the one - the top one we recommend but we see the others to some degree equally relevant, of course not to the same degree as the number one one but still as relevant, and please comment on all of them.

So there're different ways of doing it and I would - once we have done the survey, I believe we will have a clearer understanding about how - what we want to recommend for the public comment period. So I'm checking if there's somebody else in the list. No. So, Marika, would you love to summarize and then we can conclude a bit earlier today? Can you summarize maybe the key

to-dos and what we want to do so that we have an absolute clear understanding between us? Marika, please.

Marika Konings: Yes thank you, Erika. So this is Marika. So one action item I've noted is an action item for Sam to check on the issue of liability and whether that's different or unique to ICANN compared to, you know, what other organizations would face.

And then the other action item I've noted is for staff to work with the leadership team on the draft survey and then, based on the feedback I've hear, I see that there's support for a writing approach, as well as using criteria to map the different mechanisms against.

So staff will look back at the original list of criteria as they were established during our initial brainstorming session and see if we can derive from there a set of criteria, against which each mechanism can then be ranked, and then similarly probably also look at the board principles and see if there are any criteria that we could take from those if they're not yet covered on the list of CCWG criteria. So that may help them structure the poll.

Following that, we'll circulate that with the CCWG for your input and review and, based on the timing of that, we would then hopefully shortly thereafter be able to launch the poll. And that does bring me to the question that - of our next meeting, which was in principle scheduled for next week Thursday, and I think it's probably unlikely that we'll, you know, have the poll up and running, you know, in time for the results to be discussed during that meeting.

So the question is whether you want to go ahead with that meeting and potentially review poll - the structure of the poll and the questions or whether you believe we can do that on the mailing list and then hopefully we'll then be in a position by the time of next week's meeting or towards the end of next week to actually launch the poll and hopefully have results back in time for

the week after, during which we could then review the results and discuss next steps.

Erika Mann: Thank you, Marika. This is Erika. Two points which we need for the action items. So one would be in addition to what you mentioned. One would be needed to check can we get from Sam the - her comments concerning then liability topics we discussed today ahead of the survey, not that it's impacting the survey but it's an important point.

The second one we have to be careful of when drafting the survey that there are no questions which indirectly imply that independent models are only related to one model, for example, only to the outsourcing model and not to the insourcing model. So we have to be careful how we do the drafting of the criteria related to the survey with regard to the different models.

And then your last point, I would recommend we skip next week, because I think we need the time both for the survey and we need to the time, give sufficient time to Sam as well, but I'd love to hear your opinion. Are ready to skip the call next week or would you love us to go forward with our call next week?

Okay. The comments I see are skipping next week. Yes. Okay. So then let's do it. Then, Marika, can you be please so kind just check quickly when we have our next call, it will be in two weeks' time, but just so that we are all certain we have the day in our calendar. Marika?

Marika Konings: Yes. Thanks, Erika. This is Marika. According to my calculations that would be then the 10th of May at 14:00 UTC.

Erika Mann: Thank you so much. Anybody else want to make a different point, any other point? No? Okay then I wish you a great day, great evening, great morning wherever you are. For those who love Easter, enjoy Easter time. Please have a good time. Talk to you soon. Actually is it Easter or what is upcoming? It's

not Eastern. It's first of May. Sorry. My brain is somehow a little bit confused.
Anyhow, have a lovely time. And, Julie, please back to you.

Julie Bisland: Thank you, Erika. Today's meeting has been adjourned. You can all disconnect your lines. Thank you so much for joining today. And, (Elma), can you please stop the recording?

END