CCWG ACCT Meeting #66 (10 November @ 12:00 UTC)

Attendees

Members: Alan Greenberg, Athina Fragkouli, Becky Burr, Cheryl Langdon-Orr, Fiona Asonga, Jordan Carter, Jorge Villa, Julia Wolman, Leon Sanchez, Mathieu Weill, Olga Cavalli, Par Brumark, Robin Gross, Roelof Meijer, Samantha Eisner, Steve DelBianco, Sebastien Bachollet, Thomas Rickert, Tijani Ben Jemaa (19)

Participants: Andrew Sullivan, Cherine Chalaby, Christopher Wilkinson, David McAuley, Edward Morris, Erika Mann, Farzaneh Badii, Finn Petersen, Gary Hunt, George Sadowsky, Greg Shatan, Harold Arcos, Jonathan Zuck, Jorge Cancio, Kavouss Arasteh, Keith Drazek, Malcolm Hutty, Mary Uduma, M atthew Shears, Megan Richards, Niels ten Oever, Padmini Baruah, Pedro da Silva, Phil Buckingham, Philip Corwin, Ron da Silva, Russ Mundy, Sabine Meyer, Seun Ojedeji, Steve Crocker, Tatiana Tropina, Tracy Hackshaw (32)

Legal Counsel: Holly Gregory, Ingrid Mittermaier, Michael Clark, Rosemary Fei , Steven Chiodini (5)

Staff: Alice Jansen, Bernard Turcotte, Berry Cobb, Brenda Brewer, Grace Abuhamad, Hillary Jett, Theresa Swinehart, Alain Durand, Bart Boswinkel, Laena Rahim, Marika Konings

Apologies: Avri Doria, Eberhard Lisse, Julie Hammer, Izumi Okutani, Martin Boyle

Please let Brenda know if your name has been left off the list (attendees or apologies).

Transcript

- Transcript CCWG ACCT_10 November.docx
- Transcript CCWG ACCT_10 November.pdf

Recording

- The Adobe Connect recording is available here: https://icann.adobeconnect.com/p6hnh4cn65a/
- The audio recording is available here: http://audio.icann.org/gnso/gnso-ccwg-acct-10nov15-en.mp3

Agenda

1. Welcome, Roll-call, SoI
2. Reach conclusion on outstanding questions relating to Revised Mission, Core Values & Commitments
3. Executive summary produced by writers
4. Power to reject budget and strategic/operating plans document produced by writers
5. IRP implementation oversight
6. A.O.B

Notes

These high-level notes are designed to help you navigate through content of the call and do not substitute in any way the transcript.

Opening remarks

- We are due to deliver first set of deliverables for public comment by Sunday. We need to close outstanding items

- Extra call planned for Friday at 06:00-08:00 UTC to wrap up conclusions

- Important to stay focused on discussion how writing is consistent with requirements instead of focusing on wordsmithing

Revised Mission, Core Values & Commitments

Agreement on notion and consistency with requirements is needed.

ICANN should not use contracting authority to regulate behavior downstream in ways that are not within mission. ICANN should limit obligations to g oals
that within mission. We are having problems with word "regulate". Voluntary public interest commitments is an example of concern. Would prohibition on
regulation get in the way?

  Post Dublin language - it is language intended to inform work to be undertaken by drafters.

- Language on contract not constituting regulation

- Language to enable or facilitate reachability over Internet nor shall it regulate

- On Malcolm's language, suggestion so strike "strictly". Use "shall not regulate services". We don't have clarity of what services means. Consensus
policy is outside of prohibition.

Without in any way limiting the foregoing, ICANN shall not regulate services (i.e. those offered by web servers, mail servers and the like)that use the Internet's unique identifiers or the content that those services carry or provide. The prohibition on regulation of services that use the Internet's unique identifiers or the content that they carry or provide does not act as a restraint on ICANN's authority to negotiate, enter into and enforce agreements. Consensus Policy, as defined in "Consensus Policies and Temporary Policies Specification" in the 2013 Registrar Accreditation Agreement, is outside of such prohibition.

--> Concern in public comment that this language can be interpreted as preventing ICANN from enforcing contract. Suggestion to proceed initial language with addition of sentence to address public concern. ICANN should not use contracting authority to regulate content and behavior of DNS registrants.

- Clarify that ICANN is not using authority with respect to registries and registrars to regulate registrants.

- Intent is to not influence how registrars deal with registrants

- Point of confusion: we have not articulated in a granular way what we mean by ICANN shouldn't use its authority to regulate registrants' behavior.

- Try to take stock of agreement within our group i.e. want to avoid ICANN making regulation

AGREEMENT:

    - ICANN should stay within its articulated and limited mission.

    - In furthering its mission, ICANN has ability to enter into and enforce contract with registries and registrars

    - Specification 1 in registry agreement and specification 4 RAA as they are currently written include description of consensus policy that is within ICANN's mission.

    --> Concerns: specification 1 unclear for some.

    - ICANN should have ability to impose obilgations exceeding mission except for voluntary commitments.

    - ICANN should not use its contract with registries and registrars to regulate registrant behavior with regards to subjects that are outside of ICANN's mission as defined in the picket fence

DISAGREEMENT:

    - Should ICANN have the ability to enter into and enforce volunteer contractual commitments that registry applicant has

    voluntary provided. ICANN must have ability

    ACTION ITEM - Define areas of consensus on this.

    Define what ICANN can do and not what it can't do and delineate areas of agreement.

    ACTION ITEM: Becky to write up language to include confirmed areas and discuss outstanding items on Friday

Executive Summary

ACTION ITEM - Provide comments on executive summary by closed of business today. Comments should be submitted via email. Comments should not address wordsmithing.

Summary is designed for those who are not deeply involved in this. It has to be representative of our work and readable

- Is the content clear and does it represent our point of view?
- If so, is there any way it can be more clear?
- If not, how can we make this more clear and simple?
- What isn't being communicated?
- If the visual doesn't work for you, please say why, and also provide input, information or solutions so we can make it better.

Feedback:

- Term Designator will source of confusion

--> We need to discuss branding. Would empowered community be more apprrppriate?

- Suggestion to use "Empowered Community"

- On Fundamental Bylaws, escalation process should not apply here. There should not be petition step. Approval has to happen as part of process. Keep
conference call and potentially community forum but no petition step. It's a co-approval process.

- What is official status of modeL?

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> Sole Designator model is our model of reference. We should talk about empowered community. Designator is only term we can use in legal context

CONCLUSION Comments will be needed by November 10th - 23:
59 UTC on mailing list to enable us to make changes in time. This applies to feedback
from lawyers and advisors. Focus on messaging, not wording. We have agreed to refine Fundamental Bylaws process and to use "Empowered Community" instead of "Designator Model"

ACTION ITEM - Jordan to send language on Fundamental Bylaws on list

Budget

Xavier is working on framework for defining caretaker budget. Writing Team has summarized budget process. we have resolved all issues that were raised in public comment process.

CONCLUSION: Agreement on budget

IRP Implementaton Oversight

Call for volunteers to join oversight Team. This Team would be tasked to oversee lawyers work with regards to drafting of Bylaws, rules of procedures,
selection of panelists etc. We are looking for 5-7 volunteers. Skill-
based assignments. We encourage Omnudsman and representaton from ICANN Legal department to join this effort.
This group would provide guidance
to lawyers and oversee drafting. Any outcomes would go to full CCWG for discussion. Becky Burr has volunteered for this group.

AOB - none

Action Items

- **ACTION ITEM - Define areas of consensus on this.**
- **ACTION ITEM: Becky to write up language to include confirmed areas and discuss outstanding items on Friday**

- **ACTION ITEM - Provide comments on executive summary by closed of business today. Comments should be submitted via email. Comments should not address wordsmithing.**

- **ACTION ITEM - Jordan to send language on Fundamental Bylaws on list**

Documents

- **DOC:** Mission Contract 9 Nov 2015 comparison.docx   **PDF:** Mission Contract 9 Nov 2015 comparison.pdf
- **PDF:** Summary of the Work and Recommendations of the Cross Community Working Group on Enhancing ICANN Accountability-0.8ToCCWG. pdf

Adobe Chat

Brenda Brewer: (11/10/2015 05:16) Welcome all to CCWG Accountability Meeting #66 @ 12:00 UTC! Please note that chat sessions are being archived and follow the ICANN Expected Standards of Behavior: http://www.icann.org/en/news/in-focus/accountability/expected-standards

Brenda Brewer: (05:47) Kavouss will be on audio only.

Holly J. Gregory (Sidley): (05:55) Greetings!

Bernard Turcotte Staff Support: (05:57) hello all

Rosemary Fei (Adler & Colvin): (05:57) Good morning, all.

Bernard Turcotte Staff Support: (05:58) Reminder - please MUTE your microphones if not speaking

Sabine Meyer (GAC - Germany): (05:59) hello everyone!

Mathieu Weill, ccNSO, co-chair: (05:59) Hello everyone

Pär Brumark (GAC Niue): (05:59) Hi everyone!

Thomas Rickert, CCWG Co-Chair: (05:59) Hello all!

Olga Cavalli - GAC Argentina: (05:59) Hi form Joao Pessoa

Cheryl Langdon-Orr ALAC - APRegional Member: (06:00) Hola Olga

Olga Cavalli - GAC Argentina: (06:00) hola Cheryl

Cheryl Langdon-Orr ALAC - APRegional Member: (06:01) So sorry to be missing the 2015 IGF F2F but I am thre remotely :-)

Bernard Turcotte Staff Support: (06:01) Olga you mic is on

Olga Cavalli - GAC Argentina: (06:01) yes sorry

Sabine Meyer (GAC - Germany): (06:02) and here I thought you had joined Leon in his well, Mathieu...

Greg Shatan: (06:03) Hello all.

Athina Fragkouli (ASO): (06:03) Hello all!

Konstantinos Komaitis: (06:03) hello all

Becky Burr: (06:05) good morning

Cheryl Langdon-Orr ALAC - APRegional Member: (06:05) Evening Becky :-)

jorge cancio (GAC Switzerland): (06:06) hello from Joao Pessoa

Cheryl Langdon-Orr ALAC - APRegional Member: (06:07) Hey there Jorge

Jordan Carter (.nz, WP1 rapporteur): (06:10) hi all, sorry late, joined room 2 mins ago

Leon Sanchez (Co-chair ALAC): (06:14) hello everyone

Leon Sanchez (Co-chair ALAC): (06:15) this call is being recorded from the secret CCWG conspiration bunker in Joao Pessoa

Cheryl Langdon-Orr ALAC - APRegional Member: (06:15) Hi Leon

Leon Sanchez (Co-chair ALAC): (06:15) Hi Cheryl!

Cheryl Langdon-Orr ALAC - APRegional Member: (06:15) :)

Sabine Meyer (GAC - Germany): (06:15) hey, at least you guys have beer in the morning, Leon ;)

Seun Ojedeji: (06:16) @Leon not necesary but thanks for letting us know ;-)

Becky Burr: (06:17) Without in any way limiting the foregoing, ICANN shall not regulateservices (i.e. those offered by web servers, mail servers and the like)that use the Internet's unique identifiers or the content that thoseservices carry or provide. The prohibition on regulation of services that use the Internet's uniqueidentifiers or the content that they carry or provide does not act as arestraint on ICANN's authority to negotiate, enter into and enforceagreements. Consensus Policy, as defined in "Consensus Policies andTemporary Policies Specification" in the 2013 Registrar AccreditationAgreement, is outside of such prohibition.

Alan Greenberg: (06:20) If we were to list any specific services, it must be accompanied by "including but not limited to"

Seun Ojedeji: (06:21) Sent in my comments on Greg's suggestion on the list. No need to repeat here

Alan Greenberg: (06:22) Very difficult to follow without rexplicit language in from of us.

Rosemary Fei (Adler & Colvin): (06:22) Alan, does "and the like" at the end of Greg's draft not take care of that?

Rosemary Fei (Adler & Colvin): (06:22) Or you could change "i.e." to "e.g."

Samantha Eisner: (06:24) @Rosemary, that seems fairly unclear for what should be a clear mission statement

Samantha Eisner: (06:24) including the "and the like"

Seun Ojedeji: (06:24) "...and the like" and not limited to simply does not restirct any service regulation if the intent is to restrict ICANN from regulating.

Jordan Carter (.nz, WP1 rapporteur): (06:25) PLEASE mute your microphones

Jordan Carter (.nz, WP1 rapporteur): (06:25) if you are not the one talking

Keith Drazek: (06:25) Please mute phones and computers when not speaking. Sounds like wind in the background.

Greg Shatan: (06:25) I disagree with that characterization of the comments -- concerns have been raised about this language, though not to remove it.

Phil Buckingham: (06:26) Sorry I am late - day job !

Greg Shatan: (06:26) I don't think that addresses the issue -- or else I would not have put it in.

Alan Greenberg: (06:26) Very noisy line.

Becky Burr: (06:26) please mute if you are not speaking

Olga Cavalli - GAC Argentina: (06:26) sound is not clear

Jordan Carter (.nz, WP1 rapporteur): (06:26) am I the only one hearing a gale in the background?

Keith Drazek: (06:26) Might be Malcolm's line.

Alan Greenberg: (06:27) No, I am hearing it too. Think it is Malcolm's mic.

Keith Drazek: (06:33) Alan is trying to connect

Keith Drazek: (06:33) Alan is connected.

Seun Ojedeji: (06:34) "Intent is to not influence how registrars deal with registrants" That seem quite strange. I think ICANN may indeed have need to get registrars to behave differently to registrants

Keith Drazek: (06:34) DISAGREE SEUN

Alan Greenberg: (06:35) Sorry, my mic didn't word and steves cut out.

Greg Shatan: (06:36) and not do.

Alan Greenberg: (06:38) Everyone in brazil lost connectivity.

Matthew Shears: (06:38) yep

Becky Burr: (06:38) oh no

Seun Ojedeji: (06:38) Well within the RIR, the policy for LIR is set by the RIR and that policy affects how LIR assign resource to its end users. To fix anything in that, it goes back to RIR

Keith Drazek: (06:38) We're back

Seun Ojedeji: (06:39) there is no policy at each gTLD level other than at ICANN so where should typical end user take their issues to?

Andrew Sullivan: (06:40) @Seun: I think the analogy between the address hierarchy and the DNS hierarchy breaks down pretty fast

Andrew Sullivan: (06:40) so I woulnd't try to build that analogy too strongly

Keith Drazek: (06:40) Agree Andrew

Pedro da Silva [GAC Brasil]: (06:40) As an alternative for those in Brazil, toll free call is: 0800-7610651

Brett Schaefer: (06:41) Becky, that is not the text on the screen.

Jonathan Zuck (IPC): (06:41) brazil number: 0800-7610651

Andrew Sullivan: (06:41) Note part of the reason for this is that announcements in the routing system affect other routes, whereas names in the DNS should not implicitly affect other names

Brett Schaefer: (06:41) Becky are those the final draft language or concepts?

Greg Shatan: (06:42) Concepts.

Athina Fragkouli (ASO): (06:42) +1 Andrew - any comparison between RIRs hierarchy and domain names hierarchy should be done very carfully

Seun Ojedeji: (06:44) @Andrew noted but I guess my point is that end users (registrants) will at best be disadvantaged if they can't get registrars to behave differently and most importantly if they can't get ICANN to do so as well

Becky Burr: (06:44) this is relevant to names only

Becky Burr: (06:44) this language appears in the names space

Keith Drazek: (06:44) The "picket fence point" is a critical one for contracted parties and for anyone who wants to engage in gTLD PDPs.

Becky Burr: (06:44) agree Keith

Greg Shatan: (06:44) Please don't twist my words.

Alan Greenberg: (06:45) Spec 1 i(and corresponding RAA) is only applicable to SOME issues. For instance, PICs are outside of scope. So reference to Consensus Policy is not sufficient.

Brett Schaefer: (06:45) This seems to be going over the same ground as Greg and Malcolm did over the past few weeks. Why are we debating concepts that we will end up debating when formal text is proposed? I suggest this be pulled back until we have actual text to consider.

Seun Ojedeji: (06:46) Bye for now

Becky Burr: (06:46) agree Alan but that is not the question on the floow

Becky Burr: (06:46) floor

Keith Drazek: (06:46) Correct Becky

Becky Burr: (06:46) that's up next

Malcolm Hutty: (06:47) It wasn't a twisting, Greg gave existing action as being inconsistent with the proposed text as a reason for not adoptiing the proposed text.

Greg Shatan: (06:47) It may be inconsistent with the proposed text, but not with ICANN's Mission. Therefore, we need to revise the proposed text.

Greg Shatan: (06:47) Not ICANN's Mission.

Alan Greenberg: (06:48) What WAS within ICANN's mission may not be under new mission statements. So history and precedent under old bylaws may not apply.

Jonathan Zuck (IPC): (06:48) if theyre in the contracts, YES

Andrew Sullivan: (06:48) (Not on the call on purpose:) I hate to repeat here what I wrote in the email earlier, but the tighter mission that we've already said we like _ought_ to constrain ICANN from the wider action people are worried about (regardless of whether one things they've in fact acted that way , on which I resolutely have no opinion)

Alan Greenberg: (06:48) Thomas cutting out

Greg Shatan: (06:48) Also, the idea that "Consensus Policy" is obscure is rather odd. Though I will conceed that Becky's mastery of the subject is exceptional.

Andrew Sullivan: (06:48) (That was in agreement with Alan)

Jonathan Zuck (IPC): (06:48) yes

David McAuley (RySG): (06:49) Good term Becky - 'truly' voluntary

David McAuley (RySG): (06:51) Greg your voice fades at times

Keith Drazek: (06:52) If a Registry or Registrar has a voluntary code of conduct that is not in the contract, ICANN should not have an enforcement role. If the "voluntarily proposed" terms are part of an approval process and a subsequent contract, then I think enforcement is reasonable.

Greg Shatan: (06:52) Turned away from mic...

Becky Burr: (06:52) greg dpm

Becky Burr: (06:52) dont understand Greg

RussMundy: (06:53) It seems to me that if something is offered by registries/registars must be able to be enforced by ICANN

Andrew Sullivan: (06:54) @Russ: everything? Should ICANN get involved in web or DNS hosting agreements?

Greg Shatan: (06:54) @Becky, I was responding to David saying my voice faded.

Becky Burr: (06:54) ok, thanks Greg

Andrew Sullivan: (06:54) (I think this is the force of Malcolm's point, and I think it's a strong one. I just think we're already covered by the new language :))

Becky Burr: (06:54) What about commitments made in registry applications intended to gain the support of a cohesive community

Greg Shatan: (06:54) We are playing with the basics of contract law here.

RussMundy: (06:55) @Andrew: if the other party wants to put something in an agreement then the other party ought to be able to enforce it

Becky Burr: (06:55) does anyone share Malcolm's view?

Alan Greenberg: (06:55) Not I

Andrew Sullivan: (06:55) @Russ: sure. They already have a contract, though. Why is it ICANN's job to be the heavy?

Cherine Chalaby: (06:55) A contractual commitment is a binding commitment whether made voluntarily or not

Alan Greenberg: (06:56) If a registry says they will not allow specific content, it must be enforceable.

Alan Greenberg: (06:56) @Cherine, Yes

Keith Drazek: (06:56) If a registry says they will not allow specific content AND IT IS IN THE CONTRACT, it should be enforceable.

RussMundy: (06:56) I think one of the concerns I'm hearing is that ICANN might "apply pressure" to potentially contracting parties to "volunteer" to put something in an agreement

Malcolm Hutty: (06:57) Enforceable by ICANN? why?

Keith Drazek: (06:57) Not extra-contractual voluntary conduct.

Tatiana Tropina: (06:57) I also wonder why this shall be enforceable by ICANN

Greg Shatan: (06:57) Regulation is typically seen as the unilateral imposition of rules by a regulating authority. As soon as we mix "regulation" and "contracting" we are getting in trouble.

Keith Drazek: (06:57) +1 Becky

Steve DelBianco [GNSO - CSG]: (06:57) Agree with Alan that it would have to be enforceable IF it went into the Registry contract.   If the registry had the content rule in it's TOS, however, that might not be in the Registry contract

RussMundy: (06:57) +1 Becky

David McAuley (RySG): (06:57) Agree Becky

Steve Crocker: (06:58) Becky, you're asserting ICANN did such a thing. Please document first before basis a question on it.

Greg Shatan: (07:00) Allowing parties to walk away from any part of a contract they say is not voluntary would blow up every contract in history. That said, "gotcha" last-minute additions to previously negotiated agreements is bad behavior that we may need to deal with specifically.

Samantha Eisner: (07:00) @Becky, on the impose v. voluntary issue, would the question be enforceability of a contract if a contracted party said ICANN imposed something?

Steve Crocker: (07:00) That's fine. But with no documented previous problems, it's not very interesting. You're preventing a future problem that has never happened in the past :)

Samantha Eisner: (07:01) On the registrant "regulation", what are we trying to get to? There are existing references of how registrars, for example, are expected to receive commitments from registrants.

Becky Burr: (07:01) plenty of folks would disagree that this is only a future problem steve, but I am curious that you disagree with the principle that there should be checks and balances to prevent last minute gotchas

Steve DelBianco [GNSO - CSG]: (07:01) @Steve Crocker: read Stress Tests 29 and 30 and you'll see this isn't a hypotehtical problem. The folks who asked for those stress tests may use the new mission to challenge ICANN's enforcement of RAA

Malcolm Hutty: (07:02) @Keith, I have no problems with registrant contracts being enforcable by the registry.

Alan Greenberg: (07:02) Keep losing connectivity at igf. Some of us are listening because Jonathan is dialed in on phone, and desk mike in rook is pointing at his phone broadcasting sound.

Alan Greenberg: (07:02) rook=room

David McAuley (RySG): (07:02) I think the word "not" is missing in this part of the notes on agreement: - ICANN should have ability to impose obilgations exceeding mission except for voluntary commitments.

Alan Greenberg: (07:02) very innovative

Alan Greenberg: (07:03) We do not have AGREEMENT on what we wantto prevent ICANN from doing.

Seun: (07:03) I do have a feeling that there is an attempt to give Registras too much power to do an undo with registrants. Hopefully this is not the case.

Malcolm Hutty: (07:03) My view is clear because I want to prevent ICANN doing something: other views are unclear because they are seeking to avoid any limit

Alan Greenberg: (07:04) Even if NOT within picket fence, it is game if agreed to by both contract parties.

Andrew Sullivan: (07:04) Does it seem strange to others to have a mission statement that enumerates things the org may not do, except for a general one that the corp isn't to wander out of its remot?

Andrew Sullivan: (07:04) remit, even

Alan Greenberg: (07:04) PICs are not in picket fence

Greg Shatan: (07:05) Strange to some, not to others. Some believe the job here is to wall in ICANN.

Jonathan Zuck (IPC): (07:05) +1 Alan

Cherine Chalaby: (07:05) the mission statement should define what ICANN and not what ICANN should not do

Greg Shatan: (07:05) +1 Alan

Cherine Chalaby: (07:06) the mission statement should define what ICANN does and not what ICANN should not do

Greg Shatan: (07:06) That doesn't quite reach it. "Voluntary Contracts" is a bizarre concept.

Andrew Sullivan: (07:06) @Greg: I'm wondering why the general prohibition on adventurism isn't enough, though, if we've appropriately limited range of action.

Andrew Sullivan: (07:06) or rather, "enumerated" for "limited"

Greg Shatan: (07:06) @Andrew, I agree with you.

Harold Arcos <ALAC>: (07:06) @Rush: +1. Under multistakeholder model should have a Comite for issues related with the contents in Internet. No ICANN, no RIRs alone can decide about it. And what happen whith the laws of the countries where are origin of the content? Wha cant we do?

Harold Arcos <ALAC>: (07:07) *What

Keith Drazek: (07:07) Use the term "voluntarily proposed contractual terms" instead of "voluntary contracts"

Becky Burr: (07:07) actually, the community strongly supported the concept of icann's mission as enumerated, so unless mission says icann can do, it can't

Seun: (07:07) +1 to cherine on that. Will appreciate going from that perspective. As it seem what it should not do is taking so much time to define.

Greg Shatan: (07:07) And Becky suggested the same. But a faction resisted that simple formulation.

Andrew Sullivan: (07:07) @Becky, yes that's what I thought too.

Jordan Carter (.nz, WP1 rapporteur): (07:08) +1 Becky

Steve DelBianco [GNSO - CSG]: (07:08) Andrew -- Greg and I supported Becky's idea of just having a limited mission.

Keith Drazek: (07:08) Agree with Becky that enumerated powers have been a building block of the CCWG's work from the very beginning.

Holly J. Gregory (Sidley): (07:08) Contracts are generally voluntary although there is a concept of contract of adhesion where one party is so powerful and the other party's interest in entering into the contract is so compelling that one party can dictate terms of the agreement.

Andrew Sullivan: (07:08) (This is all what I understood from list & previous sessions. I'll go back to lurking, though. Apologies for exuberence.)

Edward Morris 2: (07:08) Agree with Becky, Steve etc.

Philip Corwin 2: (07:08) Thoughts: First, get away from the word "regulate" and focus on what you want the limits of ICANN's power to be. Certain aspects of what is in ICANN contracts are indistinguishable from traditional government regulation, and differ only in how they were arrives at (consensus policy vs. legistaion/regulation) and enforcement (contractual versus judicial/agency enforcement).

Jordan Carter (.nz, WP1 rapporteur): (07:08) Holly: that's precisely ICANN's situation.

Jordan Carter (.nz, WP1 rapporteur): (07:09) These are "take it or leave it" ""agreements""

Sabine Meyer (GAC - Germany): (07:09) thanks fo rthe explanation, Holly

Sabine Meyer (GAC - Germany): (07:09) the concept exists in German law as well (even regulatory law *g*)

jorge cancio (GAC Switzerland): (07:10) in many jurisdictions, I feel

Sabine Meyer (GAC - Germany): (07:10) but try to translate the phrase "einseitiges leistungsbestimmungsrecht", let alone type it without error ;)

Becky Burr: (07:10) @Andrew - general prohibition on adventurism, lovely

Philip Corwin 2: (07:10) Second, recognize that no matter what you put in you will not be able to fully constrain future communities/Boards, because enforcement of the limitaions is based on community powers -- and if community adopts a consensus policy that arguably goes beyond the mission statement then there is no expectation that the same community will declare that action to violate the constraint.

Greg Shatan: (07:11) I don't think we can put something in the Bylaws that essentially says "All ICANN agreements are contracts of adhesion."

Brett Schaefer: (07:11) On the Exec Summary -- In several places it says "reinforcing adherence to Human Rights protocols" I thought we were discussing respect for human rights, not adherence. And where did the protocols come in? We should revert to the agreed HR text.

Becky Burr: (07:11) i agree Greg and I don't think most of us are making that suggestion

Brett Schaefer: (07:11) Overall in the summary of proposals and recommendations, there is no reference to the recent decision to grant right of inspection to the SD or individual SOs and ACs nor the agreement to incorporate a new independent appeal of DIDP decisions for SOs/ACs and individuals.

Samantha Eisner: (07:11) +1 Greg

Steve DelBianco [GNSO - CSG]: (07:11) Staff -- could you please post a hyperlink to the SUmmary draft doc?

Samantha Eisner: (07:12) Jordan, I thin it

Samantha Eisner: (07:12) Jordan, I think it's important to remember how the contracts have evolved, including public comment, etc.

Keith Drazek: (07:12) 7.6

Seun: (07:12) sent my comments to the list on the executive summary so no need to repeat

Brett Schaefer: (07:12) on page 10, the text says that the Sole Designator does not provide the "maximum legal set of powers to the community", it provides more limited legal powers than membership

David McAuley (RySG): (07:12) I will send in Bernie, but in Dublin our counsel said that, if needed, the SD model could be supported (belts and suspenders) by contract or possibly even by a "scoping" bylaw – but this notion of adding some heft to the SD model does not appear in summary – shouldn't it?

Jordan Carter (.nz, WP1 rapporteur): (07:12) not trying to say there aren't voluntary bits added in the contracting process. and Sam, yes, I agree. But in the end it's important to be clear about where the general power relationship sits.

Brett Schaefer: (07:13) Sorry, it say that the SD provides the maximum powers.

Holly J. Gregory (Sidley): (07:13) Do you want independent counsel to review this? Not sure it is possible in the time frame of end of day.

Philip Corwin 2: (07:13) Third, recognize that the best you will be able to do now with respect to language that goes beyond consensus policies that a contracted party may wish to have in its contract, and whether ICANN should permit it much less enforce it, is going to have to be left to case-by-case determination, and may require aggrieved parties to utilize objection methods outside of ICANN.

Seun: (07:14) I hope the CCWG take comments on the mailing list in the same manner as on AC

Sabine Meyer (GAC - Germany): (07:15) Have already done so! Apparently, the stair is not a stair :D

Becky Burr: (07:15) yes Seun, don't worry

Holly J. Gregory (Sidley): (07:15) So long as Sole Designator is clearly defines it can work until you find a better name

Tatiana Tropina: (07:16) A minor comment: the Human Rights language is confusing. I have problems with "Human rights protocols". We are notsuggesting to commit to "human rights" protocols we are not committing to any instruments even. Protocols don't make sense

Tatiana Tropina: (07:16) I mean comment to the summary

Greg Shatan: (07:16) I would support having this reviewed by our counsel. Even if it's a bit of a "quick and dirty" review.

Cheryl Langdon-Orr ALAC - APRegional Member: (07:17) agree Greg

Sabine Meyer (GAC - Germany): (07:17) +1 Tanya

Sabine Meyer (GAC - Germany): (07:18) human rights and protocols are best left to the IRTF for the time being :)

Niels ten Oever: (07:18) +1 Tanya

Alan Greenberg: (07:18) Jonathan's ohne is now plugged into the room sound system causing feedback when I turned my mic on.

Holly J. Gregory (Sidley): (07:18) Can the document be put back on the screen?

Andrew Sullivan: (07:18) @Sabine: yet another word spoiled by overloading!

Jonathan Zuck (IPC): (07:19) really just the name of the enforcement mechanism, not the overall framework

Pedro da Silva [GAC Brasil]: (07:21) problem with his mic

Brenda Brewer: (07:21) Link for Executive Summary draft: https://community.icann.org/x/eLRYAw

Pedro da Silva [GAC Brasil]: (07:21) just a sec

Holly J. Gregory (Sidley): (07:21) Where can the Executive Summary document be found? Can staff provide a link? When was it posted?

Grace Abuhamad: (07:22) @Holly -- see above for link. It was sent to the CCWG list yesterday

Jordan Carter (.nz, WP1 rapporteur): (07:22) Holly - was posted on list, I've just forwarded it to you

Holly J. Gregory (Sidley): (07:23) Thanks Grace. What time? Trying to figure out how I missed it. Did it circulate with the agenda?

Alan Greenberg: (07:23) The Bylaws WILL refer to the term designator for the purposes of appointing/.removing directors

Holly J. Gregory (Sidley): (07:23) Thanks all.

Greg Shatan: (07:23) 4:42 pm Eastern.

Steve DelBianco [GNSO - CSG]: (07:24) We've distinguished between the community decision model and the ultimate enforcement step, which could be legal or Spill the Board

Holly J. Gregory (Sidley): (07:24) Thanks Greg.

tijani BEN JEMAA: (07:24) No

tijani BEN JEMAA: (07:24) We are connected

Holly J. Gregory (Sidley): (07:24) Are the co-chairs certifying to us a review of this document?

Greg Shatan: (07:25) Today is the 10th.

Greg Shatan: (07:26) Can you confirm you mean the 11th.

Holly J. Gregory (Sidley): (07:26) Thanks Mathieu. Not sure we can meet that deadline but will try.

Rosemary Fei (Adler & Colvin): (07:26) What time is "close of business" -- is that 5:00 UTC?

Grace Abuhamad: (07:26) 23:59 UTC on Nov. 10 (toay)

Grace Abuhamad: (07:26) (today)

Jordan Carter (.nz, WP1 rapporteur): (07:26) i've just sent my points on the email list

Alan Greenberg: (07:27) sound cutting out. Please put details in text

Grace Abuhamad: (07:27) that is 8PM Eastern / 5PM Pacific for the lawyers

Jordan Carter (.nz, WP1 rapporteur): (07:27) 23:59 is in about nine and a hal hours

Rosemary Fei (Adler & Colvin): (07:27) Only in ICANN would "close of business" be midnight!

Jordan Carter (.nz, WP1 rapporteur): (07:27) oh, ten and a half hours?

Holly J. Gregory (Sidley): (07:27) 7 pm eastern today

Grace Abuhamad: (07:27) yes! sorry!! 7PM Eastern

Alan Greenberg: (07:27) Note that next meeting is at 3 am brazil time. Connectivity from some hotels VERY flaky.

Grace Abuhamad: (07:28) forgot to account for time change in US

Alan Greenberg: (07:28) It is IN his mouth now !

Bernard Turcotte Staff Support: (07:28) Adobe?

Holly J. Gregory (Sidley): (07:29) So we have less than 10 hours to review 39 pages and coordinate our comments and provide to you. If our review is mant to provide quality control, I have concerns that in this time frame we may well miss something. With that express caveat we will do our best.

Mathieu Weill, ccNSO, co-chair: (07:30) Thanks Holly, understood. And bear in mind that our questions are on consistency and clarity mostly

Cheryl Langdon-Orr ALAC - APRegional Member: (07:30) thanks Jonatha

Cheryl Langdon-Orr ALAC - APRegional Member: (07:30) JonathaN

Jordan Carter (.nz, WP1 rapporteur): (07:31) +1 J

Phil Buckingham: (07:31) thanks Jonathan

Holly J. Gregory (Sidley): (07:33) Just to clarify -- the IRP drafting process will not be a group drafting process. Lawyers will draft.

David McAuley (RySG): (07:34) I woulkd like to volunteer

David McAuley (RySG): (07:34) will do Mathieu, thanks

Samantha Eisner: (07:34) I'm not on audio, but are we seeking any experts external to the CCWG?

Grace Abuhamad: (07:34) So far, only Becky has submitted an EOI

David McAuley (RySG): (07:34) I will send one in Grace

Grace Abuhamad: (07:35) Thanks @David

Holly J. Gregory (Sidley): (07:35) Yay Becky and David!

Jordan Carter (.nz, WP1 rapporteur): (07:35) volunteered?

Jordan Carter (.nz, WP1 rapporteur): (07:35) voluntold?

jorge cancio (GAC Switzerland): (07:35) just make sure that the ccwg keeps ultimate oversight

Sabine Meyer (GAC - Germany): (07:35) Katniss Everdeen'ed at this point in time, non?

Mathieu Weill, ccNSO, co-chair: (07:36) Yes Jorge, will do

David McAuley (RySG): (07:36) Good "point" Sabine

jorge cancio (GAC Switzerland): (07:36) thanks Mathieu for paying due deference to this advice ;P

Greg Shatan: (07:36) 3 am pajama party?

Cheryl Langdon-Orr ALAC - APRegional Member: (07:36) Yeah!   Thabnks everyine good call I wil probably not be able to join on Friday ut will see... Talk again soon then... Thanls everyine Bye for now...

robin Gross [GNSO - NCSG]: (07:36) bye

Rosemary Fei (Adler & Colvin): (07:36) Off to review Executive Summary!

jorge cancio (GAC Switzerland): (07:36) thanks and bye

Harold Arcos (ALAC): (07:36) Thank all

Athina Fragkouli (ASO): (07:36) bye all

Gary Hunt - UK Government: (07:37) Goodbye fro London!

Sabine Meyer (GAC - Germany): (07:37) good bye everyone!

Greg Shatan: (07:37) Bye all!