CCWG ACCT Meeting #2 (16 December 2014)

Attendees:

**Members:** Alan Greenberg, Giovanni Seppia; Julia Wolman; Alice Munyua; Cheryl Langdon-Orr, Olga Cavalli; Roelof Meijer; Pedro Iva Silva; Becky Burr; Robin Gross; Par Brumark, Eberhard Lisse, Izumi Okutani, James Bladel, Jordan Carter, Leon Sanchez, Mathieu Weill, Steve DelBianco, Samantha Eisner, Susan Radell, Tijani Ben Jemaa, Thomas Rickert (22)

**Participants:** David Maher; Sivasubramian Muthusamy; Jonathan Zuck; Thomas Schneider; Adeunmi Akinbo; Samuel Rugi; Michael Benaudis; Finn Petersen; Barrack Otieno; Vrikson Acosta-Velasquez; Greg Shatan; Rafael Perez Galindo; Yasuichi Kitamura; Guru Acharya; Subramaniam Diraviam; Arun Sukumar; Bill Drake, Alain Bidron, Kaveousss Arasteh, Avri Doria, Beran Gillen, Edward Morris, Evan Leibovitch, Keith Drazek, Lars Erik Forsberg, Malcolm Huity, Mark Carvell, Martin Boyle, Olivier Crepin-Leblond, Olivier Muron, Philip Corwin, Rudi Daniel, Stephanie Duchesneau, Tony Holmes, Tomohiro Fujsaki, Matthew Shears (36)

**Staff:** Marika Konings; Bart Boswinkel; Berry Cobb; Grace Abuhamad; Adam Peake Theresa Swinehart,

**Apologies:** Kristina Rosette, Isaque Joaquim

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

Proposed Agenda:

1. Welcome & Roll Call
2. Membership Updates (including Advisors)
3. Coordination with CWG and ICG
4. Work Area Updates
   - WA1 – David Maher / Samantha Eisner
   - WA2 – Steve DelBianco
   - WA3 – (coordinator TBD)
   - WA4 – Eric Brunner-Williams
5. Draft Work Plan: Steps and Milestones
6. Upcoming Meetings Logistics
   - Tuesday 23 December at 06:00 – 08:00 UTC
   - Tuesday 30 December 19:00 – 21:00 UTC
   - Tuesday 6 January 12:00 – 14:00 UTC
   - Tuesday 13 January 06:00 – 08:00 UTC
   - Face to Face Meeting in Frankfurt on 19-20 January 2015
   - Tuesday 13 January 19:00 – 21:00 UTC
   - Tuesday 3 February 12:00 – 14:00 UTC
   - Working Sessions at ICANN52 (TBC)
7. AOB

Notes and Action Items 16/12:

1. Welcome and Roll Call
   - Cheryl Langdon Orr and Alice Munyua are on the audio line but not in AC room.
   - Please complete your SOIs

2. Membership Updates (including Advisors)
   - 2 expressions of interest for ATRT Expert
   - Advisors will be announced any time now
   - Diverse group (150 people!)
   - ALAC will appoint a co-chair

3. Coordination with CWG and ICG
Coordination call

The CWG Stewardship sent a letter with identified issues for feedback.

CCWG-Accountability will seek to have a draft response to the CWG-Stewardship questions by mid-January, but this response will be subject to further change by CCWG-Accountability as it continues its work.

4. Work Area Updates

- **WA1 – David Maher / Samantha Eisner**
  - Lots of progress
  - ACTION: group to go to Subgroup1 wiki page and provide comments on the document before the next call
  - ACTION: Subgroup 1 will be repurposed to take on defining the term “accountability” in relation to the questions posed by Mathieu to the mailing list (David and Samantha are willing to lead this effort)
  - The repurposed group will also Investigate the concept of public interest

- **WA2 – Steve DelBianco**
  - Started work with staff document summarizing public comment, added Malcolm Hutty’s work, and added a “supported by” column.
  - ACTION: review the inventory list compiled by WA2 and suggest either additions to or deletions from the list
  - Need to have better rationale for each item
  - Next step will be to work on individual items and dig deeper (maybe will need more volunteers)

- **WA3 – (coordinator TBD)**
  - Avri Doria volunteers as coordinator

- **WA4 – Eric Brunner-Williams**
  - Goal of the group is to create a sufficiently broad list of contingencies and scenarios.
  - Suggested to draw-up a list of generic contingency plan questions, and build on the BC stress tests.
  - ACTION: Colleagues to help build a comprehensive list of contingencies by the next call.

5. Draft Work Plan: Steps and Milestones

- ACTION: Mathieu to identify a tentative Work Plan that will include timeline for legal review
- 3 items for conclusion:
  - Additional feedback welcome
  - Populate work plan (with help from Berry Cobb)
  - Additional consideration to legal expertise

6. Upcoming Meetings Logistics

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The face to face meeting dates dictated by need to fit with timing of ICANN 52 Singapore and adequate time after the end of year holiday period.

Precedent set for CWG-Stewardship regarding travel support.

Members will be supported, a SO/AC chair may appoint an alternate if a member cannot attend

7. AOB

Notes from Meeting 1 are here: https://community.icann.org/pages/viewpage.action?pageId=50823987

Transcript

The transcript is available here: Meeting2_16Dec.pdf
Recording
The Adobe Connect recording is available here: https://icann.adobeconnect.com/p71upntm07u/
The audio recording is available here:

Documents Presented
20141215 Accountability steps milestones.pdf
Work Area 2 Accountability suggestions [draft 3].pdf

Chat Transcript
Marika Konings:Welcome to the Enhancing ICANN Accountability CCWG meeting of 16 December 2014
Adebunmi Akinbo:Good Day
Pär Brumark (GAC) Niue:Hi!
arasteh:I am on my desk waiting to be called .
Grace Abuhamad:we are starting to process dial outs now @Arasteh
Yasuichi Kitamura (At-Large):Good evening, everyone.
Tijani BEN JEMAA:Hi there
Philip Corwin:It's too early...good morning
Bill Drake:Phil, ICANN for breakfast is good for you
Mathieu Weill, ccNSO, co-chair:Hi everyone
Thomas Rickert (m, NCA to the GNSO Council):Hi all!
Avri Doria:hi, no microphone capability?
Martin Boyle, Nominet, ICG:Hi all
subramaniam:Hi all
Izumi Okutani:Hi all, Avri, my understanding is we dial in if we want to speak.
Jordan Carter:hello everyone
matthew shears:hello all
Avri Doria:thanks
Bruce Tonkin:Good evening all
Beran Gillen:morning all
James Bladel:Good Morning every one
Jordan Carter:So this is quite peculiar, ... oh, there we go, Mathieu is speaking
Mathieu Weill, ccNSO, co-chair:Standby - sorting some dialing in & out issues
Tijani BEN JEMAA:Grace, I'm dropped
Grace Abuhamad:we will dial out again
Tijani BEN JEMAA:can u plz make them call me back
Tijani BEN JEMAA:Thx
Tijani BEN JEMAA:I'm back
Tijani BEN JEMAA:I'm back
Evan Leibovitch:Me too. Just joined.
Rudi:rudi daniel
David Maher (PIR): David Maher in the AC

Marika Konings: All, please note that you can update your name / affiliation in Adobe Connect by selecting in the menu of the attendee pod 'edit my info'.

Marika Konings: As noted by the chairs during the last meeting, everyone is encouraged to include in brackets your affiliation, if applicable.

Jordan Carter (.nz, ccTLDs): Thanks for the reminder, Marika

Jordan Carter (.nz, ccTLDs): Marika! apologies.

Marika Konings: No problem :-)

Alan Greenberg (ALAC): A co-chair will be named prior to the next meeting.

Izumi Okutani: Izumi Okutani (ASO) - thanks for the reminder Marika

Alan Greenberg (ALAC): Very annoying noise

Evan Leibovitch (At-Large): Adobe Connect Christmas theme.

Alwynne Wilbur: Grace I cannot hear with the computer speakers. Can you send me a password for the conference line?

Grace Abuhamad: is this a problem for all?

Adebunmi Akinbo (.ng ccTLD, DNS Africa): Yes...

Grace Abuhamad: @Alwyne try unmuting your speakers on the top left

Thomas Schneider: I can hear you on the speakers.

Suzanne Radell (GAC): Grace, I'm not having any rouble hearing audio via Adobe

Grace Abuhamad: ok thanks all

Grace Abuhamad: @Alwyne I think you might have your speakers muted

Beran Gillen (ALAC): @Grace not having any issues either

Jordan Carter (.nz, ccTLDs): Why are we talking about the deadline the ICG has for the Names proposal on this call?

Beran Gillen (ALAC): @Jordan I believe we are discussing our response to the letter they sent the CCWG

Steve DelBianco [GNSO - CSG]: CWG is just for IANA functions: protocols, number, and root table

Evan Leibovitch (At-Large): I would not talk speed at this point. We are mid-February and still haven't started talking substance yet.

Evan Leibovitch (At-Large): Mid-December, sorry.

Evan Leibovitch (At-Large): Still making the transition from conscious to awake.

Beran Gillen (ALAC): a possibility could be create a separate sub-working group within the CCWG for the response. This would be more efficient IMHO

Roelof Meijer: I probably missed something, but why are some names on the doc presented in blue and some in black print?

Marika Konings: @Roelof - those in blue link to the Statement of Interest. Those in black have either not completed their statement of interest yet or it has not been linked yet.

Adebunmi Akinbo (.ng ccTLD, DNS Africa): How can that be addressed? Sol, I MEAN.

Evan Leibovitch (At-Large): @Roelof, you can change your own colour. In the upper right of this block is a drop down menu, and one of the choices is "my chat color"

Keith Drazek: The January 30 deadline issued by the ICG was directed to the CWG-Transition, not to this group, but there's a recognition that the work of the ICG can't be completed and the transition effected without our WS1 being completed.

Roelof Meijer: @ Marika: I sent my statement to the ccNSO council as part of the appointment procedure. Did you get it from them or do I have to send it to you separately?

Keith Drazek: No objection.

Roelof Meijer: No objections to the proposed procedure

Roelof Meijer: objections...

Evan Leibovitch (At-Large): In the document, blue just indicates links to Statements of Interest. Black is for those who don't have those links done yet

Marika Konings: @Roelof - could you please send it to Grace as well?

Jordan Carter (.nz, ccTLDs): no objection
Roelof Meijer: @Marika: will do, thnx

Izumi Okutani: No objection about the proposed timeline

Bruce Tonkin: As a suggestion - given the large number of participants it would be helpful to keep the email traffic down to send administrative notes to Grace

Matthew Shears: very useful doc - thanks

Bruce Tonkin: for example note to join particular working groups

Izumi Okutani: I support your suggestion Bruce

Beran Gillen (ALAC): I second that Bruce

Keith Drazek: +1 Mattieu

Izumi Okutani: I support it Mattieu

Jordan Carter (.nz, ccTLDs): +1 Mathieu

Roelof Meijer: +1 Mathieu

Bill Drake: SURE

Samuel: I support Mathieu

Rudi: +1

Arun Sukumar (CCG Delhi): agree with Mathieu

Samantha Eisner: yes

Jordan Carter (.nz, ccTLDs): I think the "public interest" as far as ICANN is concerned is ICANN being a loyal servant and support of the needs of the constituencies organised under its umbrella. It serves the "global public interest" by serving those specific communities, not by imagining it "knows better" or anything like that.

Keith Drazek: The term "public interest" or "global public interest" should be linked to ICANN's bylaws and targeted mission, not an overly broad focus.

Keith Drazek: +1 Jordan

Beran Gillen (ALAC): +1 Jordan

Izumi Okutani: +1 Keith

Jonathan Zuck: I think the BC suggested a definition of "public interest" quite some time ago that was based on ICANN's mission. Steve D, do you have it handy?

Izumi Okutani: about the scope of public interest

Matthew Shears: +1 Jordan and Keith

Evan Leibovitch (At-Large): How long has ICANN been around, with this term in the bylaws, and this fundamental concept is still subject to debate.

Samantha Eisner: +1 to Keith; also the work on defining the public interest as set out in the ICANN Strategic Plan includes the limitation of "bounded by ICANN’s mission"

Steve DelBianco [GNSO - CSG]: we proposed this definition: Public Interest (for ICANN) is limited to teh Availability and Integrity of Registrations and Resolutions. See this CircleID post: http://www.circleid.com/posts/to_serve_the_public_interest_you_first_have_to_define_public_interest/

Jordan Carter (.nz, ccTLDs): That’s nice, tight, elegant, and goes to the point of what ICANN is for. Nice work BC/Steve.

Evan Leibovitch (At-Large): I don’t agree with Jordan’s definition, as it applies to ICANN. Because some constituencies are treated differently from others (ie, ACs versus SOs)

Bill Drake: might be a bit narrow to some

Thomas Schneider: a comment on "public interest": the public is not just the members of ICANN’s constituencies. it is ALL citizens and users of the world.

Leon Sanchez (ALAC): I remember there was a suggestion to open a fifth working area. Has there been any follow up to that?

Jordan Carter (.nz, ccTLDs): My fear always is that ICANN will use the notion of "public interest" to do things or lead towards things that aren’t what its stakeholders want. That's why I think the idea that ICANN should use the phrase is completely unhelpful.

Bill Drake: hard to believe this question is still twisting in the air without any analytical review of the relevant literature and traditions etc

Roelof Meijer: @ Steve: that does not look linke a definition of "public interest", but as a formulation of the scope of public interest for ICANN

Thomas Schneider: as a function of this, the concept of "public interest" needs to be better defined in the context of ICANN. This issue has also been raised in the discussions of the relation of ICANNs mandate and activities with regard to human rights and international law.
Evan Leibovitch (At-Large):+1 Bill

Bill Drake: to me, the risk of gotcha doesn't make it inherently a bad idea.

Matthew Shears: what happens to ICANN's mission of "The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers..." if the IANA contract is awarded to another operator?

Roelof Meijer: We will not succeed, I fear, as in my opinion there is no such thing as (the) public interest, at least, not on a global (public) scale. Publics differ, and so do the interest within one "public" and between "publics"...

Jordan Carter (.nz, ccTLDs): @Matthew - nothing, necessarily - it depends whether ICANN remains the policymaker (insofar as it already is).

Roelof Meijer: We will not succeed, I fear, as in my opinion there is no such thing as (the) public interest, at least, not on a global (public) scale. Publics differ, and so do the interest within one "public" and between "publics"...

Bill Drake: I am really only familiar with the usage in telecom regulation, particularly in the US. I would be interested to learn whether and how the term has been defined and deployed elsewhere around the world, in different arenas.

Bill Drake: which would take a real study.

Becky Burr: +1 Roelof

Thomas Rickert (m, NCA to the GNSO Council): Roelof, would you kindly explain your position and get in the queue?

Jordan Carter (.nz, ccTLDs): I agree with what @Thomas is just saying right now - and so my suggestion is that it's just about serving the needs of the communities whose functions it is there to help coordinate. I don't think it needs to be any more complicated that that. But this is ICANN, so of course it will be...

Bill Drake: Thomas please don't add public interest to the already overtaxed human rights discussion.

Vrikson: Good morning, afternoon, evening or night to everyone :)

Matthew Shears: Understanding what "in the public interest" is key to how the Board determines what it may or may not object to.

Jonathan Zuck: +1 Bill. We need a REALLY narrow definition of global public interest to have any hope of succeeding.

Samuel: I beleive the best thing is to develop some principles to be followed.

Bruce Tonkin: Just posted a link on the mail list to a paper on public interest from one of the strategy panels. It helps relate public interest to ICANN's role.


Jordan Carter (.nz, ccTLDs): yes, @Matthew - and if we don't define it in the manner I suggest we need to define it another way that is also really narrow. Otherwise it becomes a stick with which the board can beat the community, so to speak.

Thomas Schneider: @Bill: since this formulation is used in the AoC, we will have to deal with it. Or as an alternative: we could develop a new AoC that does not talk about PI but about human rights and international law...

Samuel: to ensure what we call public interest is protected.

MICHAEL BENAUDIS: Good afternoon to everyone.

Samuel: some metrics to demonstrates improvement or growth.

Samuel: or continous re-engineering process which minimise.

Jordan Carter (.nz, ccTLDs): @ Thomas S - I think that way lies much that is difficult and not really ICANN's ambit. But that's just my opinion.

Roelof Meijer: Thanks, Mathieu!

Evan Leibovitch (At-Large): I have generally defined the concept of "public interest" simply to remind that there is a public (or multiple publics) affected by ICANN actions that is not here by direct financial self-interest. There is a duty to protect stakeholders who are not aware of their stake.

Keith Drazek: I agree Mathieu, well said...

Jordan Carter (.nz, ccTLDs): +1 Mathieu.

Samuel: negative impact to the society though may not necessary cheap but beneficial to society over a given period of time.

James Bladel - GNSO: And with reasonable response times (<500ms).

Jonathan Zuck: +1 Steve. Mission must dictate definition, not the other way around.

Roelof Meijer: That definition is far too narrow: how about financial accountability?

Adebunmi Akinbo (.ng ccTLD, DNS Africa): +1 Steve

Jordan Carter (.nz, ccTLDs): +1 to Jonathan's point re Steve's verbal point.

Roelof Meijer:... as an example...
Pär Brumark (GAC) Niue:+1 Steve

Thomas Schneider:@the current speaker: unfortunately, this is not so simple: if you have to define who gets the right to use a .gay or .islam or .wine, there are human and other rights that are involved and where ICANN’s decisions may have an impact on the rights of people. We can not ignore this any longer...

Matthew Shears: we need to have this discussion as it will be key to how, in particular, we undertake work in the medium to longer term as it relates to workstream 2

Barrack: agreed

Roelof Meijer:@Thomas: agreed

Jordan Carter (.nz, ccTLDs): human rights are involved in a string being available in the DNS?

Leon Sanchez (ALAC): Agree with Thomas Schneider

Thomas Schneider:@jordan: well since the introduction of the new gTLDs: actually: yes!

Jordan Carter (.nz, ccTLDs): “v happy to move on and save this discussion for the list/later - thanks Chairs”

Leon Sanchez (ALAC): When resolution and registration crosses with rights of third parties, then wider definition is opened

James Bladel - GNSO: Not sure I agree with Thomas. ICANN’s public interest is limited to technical & operational concerns. Policy concerns are important, but layered on by other groups & interests.

Bruce Tonkin: Jordan - the “stick” works both ways actually. The community can just as easily beat the board with definitions of public interest :-)

Jordan Carter (.nz, ccTLDs): Bruce, I think that may have been just what I was doing. :-)

Steve DelBianco [GNSO - CSG]: link to the doc: https://community.icann.org/download/attachments/5141327/WorkArea2%20Accountability%20suggestions%20%5BDraft%5D.pdf?version=1&modificationDate=1418610739000&api=v2

Mark Carvell GAC UK Govt: Agree with Thomas Schneider about ICANN community’s respect for rights when developing policy that determines the evolution of the DNS.

Julia Wolman, GAC, Denmark: Agree with Thomas Schneider

Jordan Carter (.nz, ccTLDs): o.k. - that is def govt interest, and I don’t disagree with it in the broadest sense. I just am trying to tease out the grounds on which the ICANN Board might reject ideas for improved accountability because it thinks they aren’t in the “global public interest” - I can’t imagine an approach to accountability that would be contradictory to human rights concerns, but that could well be part of the necessary tests.

Roelof Meijer: @Grace/Marika: I know this is Steve speaking, but is there any way the room can show who is speaking (through Adobe or phone)?

Grace Abuhamad: There is no way we can show this unfortunately. But yes, this is Steve DelBianco speaking

Jordan Carter (.nz, ccTLDs): could you make the speaker a “presenter” Grace?

Keith Drazek: we need phones muted

Thomas Schneider:@Jordan: :-) my intervention was not directly related to the decisions of the board, but to all activities of ICANN in general. And do not forget: governments (and public administrations) have the obligation to protect their citizens and inhabitants right to privacy, freedom of association, expression, religion, etc. (In Europe we have a convention on this and a court where a citizen can sue if we don’t protect his rights...)

Roelof Meijer: How about writing “Steve DelBianco speaking” in the ”discussion notes” pane?

Adebunmi Akinbo (.ng ccTLD, DNS Africa): Someone has cold,...kindly advice that he mutes.

Jordan Carter (.nz, ccTLDs): @ Thomas S - yup. :)

Grace Abuhamad: ok we can do that @roelof and @jordan

Roelof Meijer: @Grace: excellent

Arun Sukumar (CCG Delhi): thoughtful and may i add, comprehensive, suggestions

Jordan Carter (.nz, ccTLDs): Thank you for an excellent summary @Steve and for the work you have put into this.

Matthew Shears: excellent steve et al

Jonathan Zuck: +1

Barrack: +1

Olga Cavalli - GAC 2: +1

Suzanne Radell (GAC): Joining others in thanking Steve DelBianco for his efforts; very comprehensive effort.

Thomas Schneider: +1
Jonathan Zuck: like the basis for WS1. Just needs to be leverage sufficient for WS2.

Stephanie Duchesneau (GNSO/RySG): steve - is this document intended to just reflect mechanisms suggested during the prior public comment periods, or may it be filled out with additional thoughts?

Jordan Carter (.nz, ccTLDs): So we can add ideas, but also elaborate - is elaboration the job of WA2?

Stephanie Duchesneau (GNSO/RySG): Thanks, agree that this is a great jumping off point.

Philip Corwin [GNSO/BC]: Good work so far by both groups.

Robin Gross: still waiting to get in to the audio line.

Grace Abuhamad: @robin do you want a dial out?

Robin Gross: now I'm in.

Jordan Carter (.nz, ccTLDs): I appreciate @Steve's argument being made now about the dividing line between WS1 and WS2. I think we might need to resolve some of these (the categorisation) in Frankfurt if they are contentious.

Samantha Eisner: As there is work done to broaden the potential application of these items could also include answering the question, for each item proposed, wo whom would this make ICANN accountable and for what?

Matthew Shears: Do we need a WA 5 into which all this scoping work feeds in and which we build on with new and or elaborated ideas, etc.

Tijani BEN JEMAA: Yes please Steve.

Jonathan Zuck: +1 Accountability work will continue for a long time so the community just needs to be empowered over time.

Keith Drazek: +1 Jonathan.

Sivasubramanian M: Are we forming a WA5 to gather WS2 points as also points to be taken as long term Accountability points?

Jonathan Zuck: I think the point is to simply include the reviews which are demanded by the AoC. They're not NTIA specific.

Thomas Schneider: Kavouss is right: the current AoC is not carved in stone and might develop into something "more multistakeholder" in the future...

Sivasubramanian M: Work Area 5 to gather and loosely consider in parallel Work Stream 2 areas.

Keith Drazek: The AoC would need to be adjusted/amended. The key is to enshrine the accountability and transparency reviews, etc. into the bylaws and ensure ICANN is obligated to it. Let's call it AoC 2.0....

Olga Cavalli - GAC 2: +1 to Kavouss's comments.

Matthew Shears: +1 Keith.

Bill Drake: AoC really needs a serious relook. We did an IGF workshop on AoC and globalization and there were as many views about what to do as there were panelists.

Jordan Carter (.nz, ccTLDs): +1 Keith.

Guru Acharya: The AoC can be between Contract Co and ICANN.

Jordan Carter (.nz, ccTLDs): AoC/ATRT is a rabbit hole we shouldn't go down at this stage.

Alan Greenberg (ALAC): @guru, that would increase scope and responsibility on Contract Co. SUBSTANTIALLY. I thought the idea was to keep its scope narrow.

Bill Drake: Jordan isn't that going to be even harder than avoiding a def of public interest?

Jordan Carter (.nz, ccTLDs): Bill - I mean right now.

Jordan Carter (.nz, ccTLDs)::

Jordan Carter (.nz, ccTLDs): As in, on this call, this evening.

Bill Drake: Ah.

Avri Doria: I can help with 3 if there is no one else.

Matthew Shears: AoC is a key issue we are not going to be able to duck given the signatories.

Grace Abuhamad: @Avri -- as coordinator?

Avri Doria: If needs be.

Guru Acharya: +1 for Avri.

Adebunmi Akinbo (.ng ccTLD, DNS Africa): +1 Avri. I will support Avri.
Evan Leibovitch (At-Large): me too

Yasuichi Kitamura (At-Large): same here.

Steve DelBianco [GNSO - CSG]: the stress tests suggested by the BC are pretty simple. See http://bizconst.org/StressTests

James Bladel: Steve: Scenarios seem to focus on actions taken by ICANN/Board. But there could also be an accountability scenario where an action is NOT taken by ICANN, despite overwhelming community support/call for action.

Evan Leibovitch (At-Large): Or when AC advice is rejected.

James Bladel: Evan - there are procedures for that (Scorecard / Board vote)

Roelof Meijer: I do apologize, but have to leave the call due to another appointment

Jordan Carter (.nz, ccTLDs): I think that what you set out, Mathieu, makes lots of sense. So +1, if you like.

Philip Corwin [GNSO/BC]: Key point Steve

Sivasubramanian M: If we are asking legal opinion to determine what is and what is not possible, then it would limit discussions at the WG stage. At this stage, we need to discuss issues and solutions without constraints and without limits

Leon Sanchez (ALAC): Agree on not calling lawyers in just yet

Alan Greenberg (ALAC): I tend to disagree. There is no reason that we should not understand what hard rules are.

Keith Draze: I think we should identify an INDEPENDENT legal expert as soon as possible. We can then decide when to engage them on specific questions.

Adebunmi Akinbo (.ng ccTLD, DNS Africa): Thanks Grace

James Bladel: They have an “out” from decisions reached via Arbitration as well.

Keith Draze: I don’t believe we should rely only on the experts identified by the PEG. We have the opportunity to identify and engage our own, in addition to the PEG experts.

James Bladel (GNSO): I would characterize it as “semi-binding” arbitration.

Alan Greenberg (ALAC): We need legal understanding of what the law is. NOT what we are trying to accomplish.

Robin Gross: completely agree, Keith.

Bill Drake: in addition to the PEG experts

Evan Leibovitch (At-Large): +1 Steve

Alan Greenberg (ALAC): @James, can you point to where this is. I do not recall seeing it and the work “binding” is in contracts.

James Bladel (GNSO): @Alan - not in the contracts, but I believe in the bylaws. The board will cite its responsibility to protect the organization from fiduciary or liability risks.

James Bladel (GNSO): @Steve: the Berkman Center report (part of ATRT 1) discussed the Membership idea, if I recall correctly

Vrikson: Legal issues is like a trasversal axe that crosses all other areas

Steve DelBianco [GNSO - CSG]: @James -- good point. Let’s look into that

Greg Shatan: Nonprofits can have members, but that is a major structural difference, not merely a definitional one.

Avri Doria: there have been various discussion of this in detail, by lawyers and scholars. It would be good to gather those, do a synthesis and get some legal advice on that synthesis.

Mathieu Weill, ccNSO, co-chair: I will close the queue after Alan to move on, point is well taken

Alan Greenberg (ALAC): Concept of having members to “fix” the problem is well known. Difficulty has been to identify a group of “members” that we (as a group) can agree with.

Alan Greenberg (ALAC): I will cede my spot!

Alan Greenberg (ALAC): I said what I wanted to raise in the chat.

James Bladel (GNSO): Agree, who is a “member”? Registrants? CIRA defines them as such.

Mathieu Weill, ccNSO, co-chair: thks

Keith Draze: The group of “members” could be the leaders of the ICANN SO/AC/SG/C’s. They are elected/appointed by the community. What better way to ensure ICANN is accountable to the community?

Greg Shatan: Calling in the lawyers too late is a bigger problem than calling them in too early. Legal advice is a dialogue.
Alan Greenberg (ALAC): REAL challenge is to find a set of members to avoid what we have come to call capture, while still ensuring that they are relatively well informed.

Jordan Carter (.nz, ccTLDs): We don't need to resolve all this at this meeting

Jordan Carter (.nz, ccTLDs): can we leave it for later?

Avri Doria: we may also need to discuss what fiduciary means, as this has been the magic board on solutions.

Arun Sukumar (CCG Delhi): re: steve's point ICANN bylaws may not define who a member is but the California law under which it is incorporated does.

Avri Doria:.... magic word for the board ...

Greg Shatan: @Arun -- that's not correct. ICANN is not a membership corporation. Members are defined in the bylaws, where a nonprofit has members.

Arun Sukumar (CCG Delhi): ironically, that definition leaves it as a functionality of the corporation's bylaws - so clearly this will not be the first time that the Board has tackled the problem :

Arun Sukumar (CCG Delhi): @Greg: yes, you're right, i was just typing that out

Olga Cavalli - GAC 2: +1 to Kavouss comment

Edward Morris: There are two types of California public benefits corporations: those with members and those without members. By far, the most common type of CPB corp. are those with members.

Greg Shatan: @Arun, the current Board has probably never considered the issue of members. If at all, this was considered when ICANN was established.

Greg Shatan: Edward -- statistics on whether membership corporations are more common in California than non-member organizations?

James Bladel (GNSO): @Keith - I like your idea for defining "members". Keeps things simple.

Greg Shatan: Membership is generally driven by the goals and mission of the organization.

Arun Sukumar (CCG Delhi): @Greg yes, was referring to that. If I'm not mistaken, then the Board resolved the issue of voting rights through a resolution rather than through a provision in bylaws.

Arun Sukumar (CCG Delhi): @Greg yes, was referring to that. If I'm not mistaken, then the Board resolved the issue of voting rights through a resolution rather than through a provision in bylaws.

Edward Morris: Greg, following the LA meeting I asked the California Secretary of States office for the exact numbers. I'm still waiting for response other than "most have members". I'll give a call later today and try to get that information to you.

Greg Shatan: In New York State, it's my experience (no statistics to back it up) that membership nonprofits are less common than non-member organizations. Given recent changes in NYS nfp laws, there is a movement by member nfp's to becoming non-membership organizations.

Edward Morris: Interesting.

Greg Shatan: This is because membership organizations are much more unwieldy in decisionmaking.

Greg Shatan: I have incorporated one NFP that fought and lost being classified as a membership organization (a community wind ensemble).

Greg Shatan: I am on two NFP boards now considering dropping formal membership from the structure....

Edward Morris: Interestingly, in California a new creature - a benefit corporation - was established that were ICANN to be created today might be an alternative to the PBC.

Greg Shatan: Clubs, fraternities and neighborhood organizations tend to be membership organizations. Charities, museums, etc., tend not to be.

Keith Drazek: Excellent work in a short period. Thanks very much to the leaders and contributors.

Grace Abuhamad: Notes from meeting 1 are here: https://community.icann.org/pages/viewpage.action?pageId=50823987

Keith Drazek: ... and of course the Chairs and ICANN staff.

Grace Abuhamad: I'll add meeting 2 at the conclusion of this call

Cheryl Langdon-Orr: Thanks all bye until next week then

Olga Cavalli - GAC 2: many thanks! bye

Leon Sanchez (ALAC): Thanks everyone. Great work!

Mathieu Weill, ccNSO, co-chair: Many thanks all for your contributions! Very substantive and promising!

Jordan Carter (.nz, ccTLDs): Thank you for an excellent meeting

Sivasubramanian M: Thank you.

Jordan Carter (.nz, ccTLDs): good night

Evan Leibovitch (At-Large): bye!
Robin Gross (GNSO-NCSG): bye
Izumi Okutani: thank you!
Cheryl Langdon-Orr 2: bye
Vrikson: Bye
Avri Doria: bye
Lars Erik Forsberg: bye
Rudi: thank you
Martin Boyle, Nominet, ICG: Thanks & bye
Bruce Tonkin: bye all
Pär Brumark (GAC) Niue: Bye!
Adebunmi Akinbo (.ng ccTLD, DNS Africa): BYE
Finn Petersen - Denmark - GAC: bye
Adebunmi Akinbo (.ng ccTLD, DNS Africa): Odabo!
MICHAEL BENAUDIS: Thank you
Beran Gillen (ALAC): bye