

WP2 Meeting #6 (10 June)

Attendees:

Sub-Group Members: Avri Doria, Becky Burr, Carlos Raul, David McAuley, Greg Shatan, Jonathan Zuck, Leon Sanchez, Malcolm Huty, Paul Szyndler, Par Brumark (10)

Staff: Alice Jansen, Berry Cobb, Kim Carlson

Apologies: Paul Rosenzweig, David Post

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

Transcript

[Transcript WP2 #6 10 June.pdf](#)

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Recording

The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p5bgv4xw0rl/>

The audio recording is available here: <http://audio.icann.org/gnso/gnso-acct-wp2-10jun15-en.mp3>

Notes

A lot of substantive comments. Team will compiling comments into a comprehensive understandable document that articulates what we have heard from community as part of this process. This is the fundamental task.

Group comments together prior to addressing response/action – example A lot of support to changes to mission, commitment and core values – need to clarify mission.

Our goal will be to produce a synthesis doc on these four areas. (mission, commitments and core values, Fundamental bylaws, IRP, reconsideration)

Additionally, group has been asked to think more holistically – to what extent is enforceability is of value, what extent is the structural issues, like memberships are they worth it to the communities.

Overarching issue – whether this structure creates risk of endless litigation or dispute, to the extent that the dispute mechanism can be used for stalling.

Request for volunteers:

- Paul Rozenzweig, David McAuley and David Post have volunteered to work on IRP section
- Consider new ideas that were brought into the conversation. List these new ideas.

Call for ideas on how to organize, etc.

Suggested to separate specific points/new ideas and other points that have already been discussed in the ccwg that has not reached consensus. Then do a sort of head count. Make sure new ideas are identified – include who mentioned it.

Pens down by 16 June

- Using comment 98 as example. Work one comment as group, so when breaking out into smaller group, approach is consistent. Identify answers, questions and new ideas/questions.

We need to analyze input first - identify principles - break out comments Identify commonalities between points. Need to analyze by issue and not by commenter initially. Identify as many issues first and themes / commonality – then whether is in favor or against.

What is the expectations from the work party?

Start with “bigger” topics, and identify smaller ones along the way.

Need volunteers to find pattern match - Malcolm Huty – to identify themes/patterns on mission and core values – and will move to Fundamental bylaws – time permitting (to circulate template – for consistency)

Virtual whiteboard used once patterns have been identified. EOD Friday.

Suggestion: As a matter of time, while Malcolm works on pattern match, other can start principal discussion issues already identified: Capture, Human Right, Enforceability, Jurisdiction vs state/place of incorporation. Start a principle debate, heavy thinking.

Jonathan Zuck, David Post, Paul Rozenzweig on IRP

Reconsideration - David McAuley will identify trends, will help with IRP as well

Jurisdiction vs state/place of incorporation – some say stay in US, to be evaluated, etc – discussed in ST WP. What is the distinction? Example of Richard Hill comment regarding moving to Switzerland. No change to status quo, not change to where ICANN is incorporated. Fundamental bylaw or not? Finding balance for those who agree or disagree. Need to be sensitive on how this matter is described.

What is process for responding? Further discussion or make it a statement or fact.

Facts or principles? State significance. Use both, pros and cons.

Use a neutral tone in response.

Clarify factual context

Call for volunteer for specific issues.

Greg Shatan – jurisdiction vs state of incorporation

Regarding capture, will be addressed by Steve, Avri and Cheryl – SD asked that WP2 principle although we speak to transparency and disclosure, notice, the issue with respect to SO/AC will develop their own rules and procedures, but must inform community if the mechanism proved to be deficient or “rogue”.

Human rights – Avri Doria and Greg Shatan

Enforcement – David McAuley, Greg Shatan, Jonathan Zuck

Suggested principled discussion hold off until pattern match and trends are identified.

Seek a non-American for Enforcement topic

By tomorrow - volunteers to go through section, identify patters and identify pro/against.new ideas Others can start looking at substantive issues.

Enforcement – reference recent email from Chris Disspain. Sorting facts. Fact seem to be in dispute still. Using a designator model enforcement? Courts? Membership model? Using judicial process, courts, binding arbitration, etc.

Chat Transcript

Kimberly Carlson: (6/10/2015 06:13) Welcome to the WP2 call #6 on 10 June. 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>

Kimberly Carlson: (14:57) Hello All!

Avri Doria: (14:58) hi is the telephone code for this WP2?

Kimberly Carlson: (14:58) Yes

Avri Doria: (14:59) thanks

Malcolm Hutty: (15:00) Hi all

David McAuley (RySG): (15:00) waitng to get phone connection

Avri Doria: (15:01) yeah took a while . just got in.

David McAuley (RySG): (15:02) me too just in

Becky Burr: (15:02) Hello all, waiting to get in

Leon Sanchez: (15:03) Hello everyone

Leon Sanchez: (15:03) I can hear yo

Leon Sanchez: (15:03) you

Greg Shatan: (15:03) WP2 = Weary People 2

Avri Doria: (15:04) i like that.

Avri Doria: (15:05) Leon, it should have been: yo, i can hear

Greg Shatan: (15:05) I'm down with that.

Steve DelBianco [GNSO - CSG]: (15:08) Avri -- are you still here in Washington?

Pär Brumark (GAC Niue): (15:09) Hi all!

David McAuley (RySG): (15:09) Hello Par

David McAuley (RySG): (15:18) Good idea Steve

David McAuley (RySG): (15:18) One constarint we face is time - I assume we need to get this done pre-June 19

David McAuley (RySG): (15:19) Thanks Becky

Avri Doria: (15:25) some issues trend. some issues are loners. those that trend need to be taken together.

David McAuley (RySG): (15:25) Agree w/Avri

Avri Doria: (15:26) we need to take them together and consider them in the light of the principles we are working on.

Avri Doria: (15:27) always go back to the principles.

Steve DelBianco [GNSO - CSG]: (15:28) @Malcolm and Avri -- right! If we have a principled response on, say, capture, that will make responding much easier.

Jonathan Zuck (IPC): (15:30) Agree

Steve DelBianco [GNSO - CSG]: (15:32) Capture. Enforcement. Role of Courts. etc.

Malcolm Hutty: (15:33) Exactly

Steve DelBianco [GNSO - CSG]: (15:33) we HAVE to start responding to the trends before 16-Jun

Avri Doria: (15:34) HR in Values and mission,

Leon Sanchez: (15:34) That is right Becky

Leon Sanchez: (15:34) I have no audio but yes, that is my understanding too

Avri Doria: (15:35) we can start anytime, fairly easy to pick some of the trends. get trend volunteers, they go through the recommendations and manage a discussion..

Leon Sanchez: (15:37) I need to leave the call. My apologies. Thanks for letting me join today :-)

Steve DelBianco [GNSO - CSG]: (15:38) per Avri: Legal Jurisdiction and place of Incorporation

Avri Doria: (15:38) thanks Steve for right words, i could not find them.

Avri Doria: (15:39) voluntold - good term

David McAuley (RySG): (15:39) with what - didn't hear

Avri Doria: (15:40) it means everyone is talking about it.

Steve DelBianco [GNSO - CSG]: (15:40) +1 Malcolm

David McAuley (RySG): (15:40) thanks

Becky Burr: (15:40) thanks avri, i appreciate that

Pär Brumark (GAC Niue): (15:40) +1 Malcom

Greg Shatan: (15:43) Malcolm for President of ICANN

Steve DelBianco [GNSO - CSG]: (15:43) thanks, Malcolm, for that time box

Jonathan Zuck (IPC): (15:44) I think IPC is most interested in the IRP so I could take that

Becky Burr: (15:44) you are on Jonathan

David McAuley (RySG): (15:46) Reconsideration i can volunteer

Steve DelBianco [GNSO - CSG]: (15:46) Avri -- can you and I do capture of AC/SOs?

Steve DelBianco [GNSO - CSG]: (15:48) that's right, Becky

David McAuley (RySG): (15:50) excellent question

Carlos Raul: (15:51) you should not start with Richard Hill for Breakfast....

Jonathan Zuck (IPC): (15:53) principled or "factual"

Jonathan Zuck (IPC): (15:53) bylaw

Malcolm Hutty: (15:57) Agree, Avri, it will be delicate. I suggest pulling out themes is the most objectively analytical way of treating response, as in "Topic: jurisdiction/location of incorp. View: Becoming international is a point of principle. Adherents x,y,z. View: Jurisdiction doesn't matter so much as maximising deference to IRP. Adherents: a,b,c.

Malcolm Hutty: (15:57) etc

David McAuley (RySG): (16:01) Good points Steve

Avri Doria: (16:01) it matters for jurisdiction as well.

Malcolm Hutty: (16:03) +1 Jonathan

Avri Doria: (16:04) Jonathan, that is not what i said. that is why isad we were between a rock and a hard place.

Steve DelBianco [GNSO - CSG]: (16:04) It was Avri who suggested that CA law is probably adequate to give the community enforceable powers we have proposed.

Malcolm Hutty: (16:04) One of the aims of my analytical approach is to separate out reptition/variations on the same argument from different arguments. Then we can focus on the strongest arguments for each view. And if we can provide alternative means of satisfying the "losing" side of an argument, we can get closest to a consensus

Jonathan Zuck (IPC): (16:05) I understood and agree with you Avri. I just meant that if we somehow implied that we were "waiting" until the USG is out of the picture, we'll end up with another chlallenge, that's all

Steve DelBianco [GNSO - CSG]: (16:05) @Malcolm -- My bet is that you get your pattern match done in 2 hours, so please reserve the balance of your time for substantive work on facts/principles

Malcolm Hutty: (16:05) Perhaps phrase "losing side" was inapposite

Malcolm Hutty: (16:05) @Steve, let's hope so

Avri Doria: (16:06) just like i don't want an angry US congress, i dont want an angry Brazil.

Jonathan Zuck (IPC): (16:06) agree Avri

Malcolm Hutty: (16:07) But before that I'll do 3 passes: these are the patterns, these are the people spoke to them, then evaluation they (each individually) were very supportive to very concerned

David McAuley (RySG): (16:08) Thanks Malcolm and then once wellstarted pls send "template" along

Becky Burr: (16:08) thanks Malcolm that will be enormously valuable

Steve DelBianco [GNSO - CSG]: (16:09) THanks, Greg!

David McAuley (RySG): (16:10) lost Steve

Jonathan Zuck (IPC): (16:10) we can't afford to lose Steve!

David McAuley (RySG): (16:11) +1 Jonathan

Jonathan Zuck (IPC): (16:11) clammy

Jonathan Zuck (IPC): (16:12) Greg and Avri would be perfect

David McAuley (RySG): (16:13) I can help Avri once done with Reconsideration

David McAuley (RySG): (16:13) or help elsewhere

Jonathan Zuck (IPC): (16:14) with both facts and principles

David McAuley (RySG): (16:14) enforcement - volunteer

Jonathan Zuck (IPC): (16:14) what's the timing

Jonathan Zuck (IPC): (16:14) it's not all for tomorrow evening, right?

Steve DelBianco [GNSO - CSG]: (16:15) We need a non-American on the issue of Enforceability

Jonathan Zuck (IPC): (16:15) happy to help on enforcement

Steve DelBianco [GNSO - CSG]: (16:15) Carlos?

Greg Shatan: (16:15) I trust Jonathan and David to do a wonderful job.

Jonathan Zuck (IPC): (16:16) we'll still need HELP on the facts, however

Greg Shatan: (16:16) I think it would be helpful to recap the "assignment."

Greg Shatan: (16:16) I am always happy to HELP.

David McAuley (RySG): (16:16) +1 Greg

Steve DelBianco [GNSO - CSG]: (16:16) @MalcomIm -some of us have READ the comments already!

Jonathan Zuck (IPC): (16:16) we need to reporte out decision criteria for the larger group. here are the facts, here are the ideological considerations, now vote

Jonathan Zuck (IPC): (16:17) tag the trends

Steve DelBianco [GNSO - CSG]: (16:18) +1 JZuck. much of our work is to chrystallize the pending/terending qiestions for our proposal draft v2

Jonathan Zuck (IPC): (16:19) and the jurisdiction issue probably

Carlos Raul: (16:19) please define enforcement first.....

Greg Shatan: (16:20) I am technically a Canadian citizen (as well as US).... Does that help?

Carlos Raul: (16:20) I dont remember it for my readig of the draft as a clear and separate category

Steve DelBianco [GNSO - CSG]: (16:20) No help, Greg!

Greg Shatan: (16:20) Free maple syrup for life.

Jonathan Zuck (IPC): (16:20) land of lawyer is a totally different jurisdiction

Malcolm Hutty: (16:21) Enforceability is one of my big issues, and I'm not American, but I can't volunteer to start on it tomorrow

Jonathan Zuck (IPC): (16:21) me either Malcolm. we'll start when we can

Malcolm Hutty: (16:21) Will get to it too

Carlos Raul: (16:22) thank you to put it in cintxt with the commuity empowerment. I had lost the relation

Steve DelBianco [GNSO - CSG]: (16:22) OPPOSITE: as soon as its clear that COmmunity powers are enforceable, THERE IS NO NEED to go to court

Malcolm Hutty: (16:22) "Question: does enforceability create more or less litigation"

Malcolm Hutty: (16:22) There's a potential theme

Avri Doria: (16:22) Greg i am going to sue you for saying that.

Carlos Raul: (16:23) ok

Carlos Raul: (16:23) thank you

Carlos Raul: (16:23) y remember the Chris Dispain thread

Greg Shatan: (16:23) Now I wish I was not a legal person.

Greg Shatan: (16:23) in both senses of the word.

Carlos Raul: (16:23) very good now, reduce the likelihood of going to court.

Steve DelBianco [GNSO - CSG]: (16:24) Right, Becky.

Greg Shatan: (16:24) Thank you for being an empath.

David McAuley (RySG): (16:24) maybe that was Greg driving away

Steve DelBianco [GNSO - CSG]: (16:24) I'm already making pancakes

Greg Shatan: (16:24) No, that's what I receive for being a Canadian.

Carlos Raul: (16:24) Grade B please (the maple syrup)

Greg Shatan: (16:24) Carlos, now I know about your darker side.

Greg Shatan: (16:25) (the maple syrup)

Carlos Raul: (16:25) :)

Steve DelBianco [GNSO - CSG]: (16:25) Exactly, JZuck. COurts are essential to Designator model enforcement

David McAuley (RySG): (16:27) there is no enforcement of anything that is fully resisted short of courts

Malcolm Hutty: (16:27) Indeed, David. Pretty much by definition

David McAuley (RySG): (16:30) good to comment on way forward Becky, with calendar entries

David McAuley (RySG): (16:30) Sounds good

Carlos Raul: (16:30) sounds ok

Jonathan Zuck (IPC): (16:30) yes

Pär Brumark (GAC Niue): (16:30) OK

Pär Brumark (GAC Niue): (16:30) Thx all! Bye!

David McAuley (RySG): (16:30) Wonderful - thanks

Greg Shatan: (16:30) Thanks!

Malcolm Huty: (16:31) Thanks all, and esp. Becky

David McAuley (RySG): (16:31) +1 Malcom

David McAuley (RySG): (16:31) Malcolm