

# WP1 Meeting #16 (6 July)

## Attendees:

**Sub-Group Members:** Alan Greenberg, Antonio Medina, Avri Doria, Farzaneh Badii, Finn Petersen, Greg Shatan, Jonathan Zuck, Jordan Carter, Jorge Villa, Keith Drazek, Malcolm Hutto, Mark Carvell, Philip Corwin, Robin Gross, Roelof Meijer, Steve DelBianco, Thomas Schneider, Tijani Ben Jemaa (18)

**Staff:** Adam Peake, Alice Jansen, Bernard Turcotte, Brenda Brewer, Grace Abuhamad, Kim Carlson, Laena Rahim

**Apologies:** Kavouss Arasteh

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

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## Transcript

- [Transcript WP1 Meeting #16\\_6 July.doc](#)
- [Transcript WP1 Meeting #16\\_6 July.pdf](#)

## Recording

- The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p5h51rc5k75/>
- The audio recording is available here: <http://audio.icann.org/gnso/gnso-wp1-06jul15-en.mp3>

## Proposed Agenda

### 1. Review of Agenda.

### 2. Discussion of Report Draft Content - AOC Reviews into the ICANN Bylaws - v1 to discuss

*Steve, Avri and others have prepared the attached draft for CCWG discussion. The intention should be to tease out the content, get common understanding of it, and make a decision which would be either:*

*a) we can agree as WP1 that the content is ready for forwarding to the CCWG for discussion at a meeting - either on 7 July or on 14 July or in Paris.*

*or*

*b) we need to do more work on this, and discuss at a subsequent WP1 meeting.*

### 3. Volunteer Update & Next Calls

*We will discuss the update on who is doing what, see if anyone else wants to join any of the strands of work. We will then confirm the agenda for our next three calls.*

### 4. Any Other Business

**Call One.** 90mins, Monday July 6 at 13:00 - 14:30 UTC

## Notes

CCWG ACCT WP1 #16 - 6July 2015.

Version public comment version 2, and the update on bringing the AoC into the bylaws, and review of the next 3 calls.

Any other business?

Steve. Analyze public comment, update our proposal and the update thereview tool to explain what has been done.

How to compose the review teams the potentially controversial issue.

The red text explains the context. The blue text, explains that if the AoC has reviews underway at the time of these changes coming into effect, then how to handle that is considered. Not to imply that we should delay the ATRT3 review due to begin 2016.

Both to explain the changes made.

Concern that we did not require the board to implement all recommendations. And we explain that there may be reasons for not implementing (implementability or cost,). And note that a reconsideration or IRP could be brought if such a decision taken by the board.

Understanding that Board and staff we actually moving towards what we are already suggesting, and ATRT3 is due to start 2017. As to the question, the third is, are they implementing the intent of the recommendation?

Comment: Understand some wish to start pushing the ATRT3 to 2017, but not in agreement with that. There are issues over the timing, if it is beginning to beginning timing then we are not yet in agreement.

A proposal by staff to review the review processes, open public comment, and some discussion of CCWG submitting a comment. But the default if not clear direction from the comment period would be no change.

Opportunity to clean up the process, and use the accountability process, perhaps thru a sub group or calls to do this.

Action: interested members to discuss/resolve timing of start of reviews

The blue text describes an implementation detail for later.

Chapeau, applies to all four parts of the review. Shifts the task to staff to provide updates every year. Requires lawyers on both sides to work on this.

How specific do we want to be in specifying how many in a review team, where drawn from, and whether they are voting. Come back to this. Not the Board and GAC chair deciding on members, but the SO/AC, including concerns about diversity etc.

Access to ICANN internal documents. Board comments noted concern about the sharing of sensitive or confidential information, but who decides what is confidential?

Some things that the whole review team might not be made privy to, but some sub-set of.

If not ICANN's sole discretion, then may be asked to explain that process.

Past ATRTs have reviewed confidential information, a form of verbal NDA used in those cases. May need another sentence.

Review team should say how they reached consensus and the degree of consensus, and should respond to public comments.

Response on individual comments may be too hard, but all comments should be reviewed. And the bylaws should include the degree of consensus.

Text: the review team shall assess the extent to which prior review recommendations have been implemented. Past ATRT team had to check on all 4 review teams, comment this was too much work. So intent is to say each review team assesses extent to each its previous review team implemented.

And this easier because of the transparency and accountability report ICANN will publish annually.

Action: Alan to provide language offline to clarify the red text (page 7)

The ATRT has the special responsibility to terminate the other reviews and if necessary and to recommend new reviews in the future as needed (e.g. ending whois to be replaced by a review of directory services).

There were several public comments that were concerned an ATRT could just terminate reviews with no observations for public comment on that. 3

observations: 1. The recommendation to end to start new review goes for public comment. 2. If the board accepts/rejects that decision the community can review and challenge. 3. to eliminate or add a review is an addition to the bylaws, so are subject to community challenge and review,

Complete review within one year of initiation. Based on ambiguity in the AoC. Some reviews are on topics with potentially unlimited scope, this suggestion keeps the review bounded.

Is the word "initiation" defined? From the final selection of the members. One year of convening (ok as revised text)

5 years from when the report is given raised concerns, stretched out too long, the reviews being too far apart. Might also be mentioned in the chapeau text.

Measure the 5 years from beginning to beginning (convene to convened), rather than end to beginning. And this should apply to all four reviews.

Competition, trust, consumer trust. Ensure WP2 picks up the malicious abuse, sovereignty concerns and rights protections, text and is carried over to the core values.

Board concern that WHOIS locked in, response prepared for the PC review tool.

OECD guidelines do not have the force of law. May need to ensure this is worded properly. Not stating that this is binding, but just a body of international expectations we should take into consideration, and could say that this may not be binding. Are we binding ICANN to the OECD privacy principles without any review?

Answer may be to take out "legal constraints". And perhaps best discussed in a sub-group.

Not existing policy and seems to be suggesting it is such. Needs to be examined.

IANA Functions Review. Need more help from the CWG members to ensure we have the right words as this becomes a fundamental bylaws, including the chapeaus.

Fairly confident that meeting requirements, but Avri will check with CWG.

Action item. Avri to check language with CWG

Review membership. How to reflect diversity. How to represent the interests of GNSO constituencies, would it unbalance the whole review.

The GNSO is very visible in their submissions. Talk to other and start to hear regionalization issues, multilingual aspects, start to ask for stakeholder rights. Get three votes, for example, but can subdivide them as you.

How to keep diversity etc, but still have the SO and AC determine the participants. And new text, that the group must be as diverse as possible, this not from the AoC.

Diversity before expertise and willing to work, is problematic. There was a triage for previous reviews.

Agreement on expertise and willing to work. Membership not rigidly defined in the past. But is trying to be fully representative, then have to accept that a single seat for a the commercial stockholders will not achieve that. Need to focus on goals...

The proposal doesn't have the Board and GAC chairs, but passes to the community. So the suggestion is for an open group like a CCWG, but one that cannot be swapped by a single group.

Not reflected in public comment that some govt want a significant role for the GAC chair in selection.

Need further discussion for resolution.

Status of work. Seeing volunteers (thank you).

Mix of volunteers looking at the balance of powers and weight.

1. Jonathan for budget and plans. Not for the others.

No sub-lists. just individual work, with work coming back to the lists.

Call one Wednesday was to address powers, if people have been able to do the work.

Wednesday to address the voting balance and structure of the council

Friday, community powers. Monday, bylaws again.

Action item. Avri to check language with CWG

Action item: Alan to provide language offline to clarify the red text

(page 7)

END

## Action Items

Action: interested members to discuss/resolve timing of start of reviews

Action: Alan to provide language offline to clarify the red text (page 7)

Action item. Avri to check language with CWG

## Chat Transcript

Kimberly Carlson: (7/6/2015 05:22) Welcome to CCWG ACCT WP1 Meeting #16 on 6 July! 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>

Jordan Carter (.nz, rapporteur): (06:56) morning

Roelof Meijer (SIDN, ccNSO): (07:00) Hi Jordan

Roelof Meijer (SIDN, ccNSO): (07:00) and hi all

Bernard Turcotte Staff Support: (07:01) Hi all

Alice Jansen: (07:05) Steve, could you speak closer to the microphone?

Jordan Carter (.nz, rapporteur): (07:06) much better thanks

Jonathan Zuck (IPC): (07:08) ATRT3?

Jonathan Zuck (IPC): (07:09) Did we resolve this issue of revies as a group to see if we should inject into the meetings debate?

Jordan Carter (.nz, rapporteur): (07:09) Jonathan can you join a speaking list and flesh out that question when we do the speaking list?

Jordan Carter (.nz, rapporteur): (07:10) Steve, I agree with your analysis as mentioned just now

Jonathan Zuck (IPC): (07:10) Sure. Didn't know if it was for WP1.

Jonathan Zuck (IPC): (07:11) That's what's beingproposed which is currently up for comment

Grace Abuhamad: (07:14) 2 days left. Here is the link to the Public Comment Jonathan is referring to: <https://www.icann.org/public-comments/proposed-aoc-org-reviews-process-2015-05-15-en>

Jordan Carter (.nz, rapporteur): (07:15) we don't need to and shouldn't solve this as part of WP1, in my view

Jonathan Zuck (IPC): (07:16) agree Steve. It's a side issue. I

Jonathan Zuck (IPC): (07:16) I'll bring it up on the main call. WP1 might not be the place Jordan, as I said.

Jonathan Zuck (IPC): (07:17) you may be right Alan. It isn't mentioned at all

Avri Doria: (07:18) Jordan, I felt I had to respond to implications Steve attached to the change I had recommended.

Jordan Carter (.nz, rapporteur): (07:18) Avri: no that was fine, but I also feel fine we have moved on :)

Avri Doria: (07:19) me too

Jordan Carter (.nz, rapporteur): (07:19) Happy to come back to that part

Keith Drazek: (07:22) bad audio

Jordan Carter (.nz, rapporteur): (07:22) Someone destroying the audio

Avri Doria: (07:23) I can hear Alan

Jonathan Zuck (IPC): (07:24) agree. the language is clear enough and we can have a question alongside it about confidentiality

Jordan Carter (.nz, rapporteur): (07:25) if we could have a suggestion about who else's discretion would be involved that might be useful, but not essential from my point of view at this point

Jonathan Zuck (IPC): (07:25) review team's? chair?

Jordan Carter (.nz, rapporteur): (07:26) this text doesn't specify

Jordan Carter (.nz, rapporteur): (07:27) it leaves open subgroups or co-chairs or whatever

Jordan Carter (.nz, rapporteur): (07:27) just says that whatever the group, they should maintain confidentiality, which seems reasonable

Avri Doria: (07:27) in retrospect I believe we did discuss the confidentiality of the issue on the open list, but not the confidential issue itself.

Jordan Carter (.nz, rapporteur): (07:29) I think that would be a helpful addition

Farzaneh Badii: (07:29) could I ask what "sensitive information" is?

Avri Doria: (07:30) Farzi, e.g. information that may touch on personal information of any employee. for example in review of things like whistleblowing.

Avri Doria: (07:31) ... that may touch ...

Farzaneh Badii: (07:31) oh thanks Avri, do we have the example in the doc?

Farzaneh Badii: (07:32) sorry didn't have time to look at ! confessions of a volunteer!

Avri Doria: (07:33) no. one of the things that ATRT2 did recommend was a better, discussed by community, set of transparency guidelines. We have recommended default transparency with specific exceptions being possible for a set of named, and enumerated reasons.

Jordan Carter (.nz, rapporteur): (07:33) suggestion - just use the title "The review team shall assess the extent to which prior Accountability and Transparency review recommendations have been implemented."?

Jordan Carter (.nz, rapporteur): (07:34) happy to keep text as is, personally

Jordan Carter (.nz, rapporteur): (07:34) Fine with Avri's suggestion since it is "should"

Jordan Carter (.nz, rapporteur): (07:38) surely we don't need to go into that level of detail in the bylaws?

Jonathan Zuck (IPC): (07:38) agree

Jordan Carter (.nz, rapporteur): (07:39) the point is also that it just has to be consistent

Greg Shatan: (07:39) I tend to agree with Jordan. I don't think we even need to specify the period of measurement.

Jordan Carter (.nz, rapporteur): (07:39) this prevents the staff choosing "different" so-called "initiation" points from review to review.

Malcolm Hutty: (07:39) perhaps "should aim to complete" - to avoid suggestion that a failure to complete on time constitutes a breach of the bylaws

Jordan Carter (.nz, rapporteur): (07:39) can we pick up the pace a little?

Jordan Carter (.nz, rapporteur): (07:39) Malcolm: "should" already gives that wriggle room don't you think?

Malcolm Hutty: (07:40) mine would clarify that point

Jordan Carter (.nz, rapporteur): (07:40) yours would weaken the point slightly

Jordan Carter (.nz, rapporteur): (07:40) it should not aim to complete in a year, it should complete in a year

Malcolm Hutty: (07:40) ok, well I don't feel strongly

Greg Shatan: (07:41) No thanks....

Jordan Carter (.nz, rapporteur): (07:42) I see this as five years from start to start, and because a report is due no later than a year, it's also five years from end to end

Jordan Carter (.nz, rapporteur): (07:43) all - I would hope we can wrap this up in the next 20 mins. Can we please keep comments as brief and to the point as possible?

Jonathan Zuck (IPC): (07:43) I'd really like to find an alternative to using reviews this way. We need some kind of IAG team instead I think.

Jordan Carter (.nz, rapporteur): (07:43) [I support Avri's proposal, in other words.]

Jordan Carter (.nz, rapporteur): (07:43) What is an IAG team, Jonathan?

Jonathan Zuck (IPC): (07:44) implementation advisory group

Jordan Carter (.nz, rapporteur): (07:44) I SUPPORT FIVE YEARS BEGINNING TO BEGINNING

Jonathan Zuck (IPC): (07:44) subset of the review team that stays on top of it

Greg Shatan: (07:44) Seems like a no-brainer.

Jordan Carter (.nz, rapporteur): (07:44) (A moment of Kavouss.)

Jordan Carter (.nz, rapporteur): (07:45) None of this is set in stone - only bylaws

Jonathan Zuck (IPC): (07:45) we would probably need to be explicit about that, Alan

Jordan Carter (.nz, rapporteur): (07:46) Agree with change to cycle on page 5

Jordan Carter (.nz, rapporteur): (07:46) these notes changes on page 6 seem helpful, thanks

Jordan Carter (.nz, rapporteur): (07:48) If we change to frequent rounds, we will change this review. No problem.

Jordan Carter (.nz, rapporteur): (07:51) suggest just keeping the reference but removing legal constraints language

Jordan Carter (.nz, rapporteur): (07:53) Is ICANN's policy truly inclusive of the OECD requirements? If so just make it that "Such existing policy also includes requirements regarding privacy as defined by the OECD in 1980, as amended in 2013."

Jordan Carter (.nz, rapporteur): (07:53) \*guidelines not requirements

Avri Doria: (07:53) international guidelines

Jordan Carter (.nz, rapporteur): (07:54) If ICANN policy is not inclusive of these guidelines, delete the whole reference...

Steve DelBianco [GNSO - CSG]: (07:54) "requirements regarding guidelines" is an oxymoron, Jordan. We could just say "includes guidelines regarding privacy"

Jordan Carter (.nz, rapporteur): (07:55) I meant replace "requirements" with "guidelines" in my draft para.

Jordan Carter (.nz, rapporteur): (07:55) Let's do a subgroup

Jordan Carter (.nz, rapporteur): (07:55) Please

Jordan Carter (.nz, rapporteur): (07:56) rather than talking on this without further study

Jordan Carter (.nz, rapporteur): (07:56) bring it back to a subsequent call

Bernard Turcotte Staff Support: (07:56) have to go to another call - bye all

Jordan Carter (.nz, rapporteur): (07:56) (i.e. let's not debate the merits now...)

Avri Doria: (07:57) It is one that only 1 constituency found bothersome. Privacy is a commitment of ICANN.

Jordan Carter (.nz, rapporteur): (07:57) PLEASE can this go to A SMALL group for discussion? We have no basis for a useful discussion of this right here right now

Alan Greenberg: (07:57) Good luck Jordan

Avri Doria: (07:58) I am finding this attack on privacy concerning.

Avri Doria: (07:58) ... on privacy ...

Jordan Carter (.nz, rapporteur): (07:58) it is not fair on the rest of us to go into the detail of this right now.

Avri Doria: (07:58) this is elevated rhetoric. is it my turn.

Jordan Carter (.nz, rapporteur): (07:58) for instance: I have no idea whether Greg is right or say this imposes new obligations. Or arguments otherwise.

Jordan Carter (.nz, rapporteur): (07:59) I'd like us on WP1 to have a discussion of this after some proper preparation

Jordan Carter (.nz, rapporteur): (08:00) the way this is drafted does say ICANN's existing policy includes the guidelines so clearly more work to do

Jordan Carter (.nz, rapporteur): (08:00) and then we can have a debate on this with some notice, in the next 2/3 calls?

Greg Shatan: (08:00) Why bring the OECD guidelines into this at all?

Jordan Carter (.nz, rapporteur): (08:01) Do we still need this IFR text?

Jordan Carter (.nz, rapporteur): (08:01) Did the final CWG-Stewardship paper detail this in some more depth?

Alan Greenberg: (08:01) It is the COMMIT TO ENFORCE that I find problematic if it is not already policy.

Jordan Carter (.nz, rapporteur): (08:01) I thought that it did

Avri Doria: (08:01) At this point, I think they are all fine

Jordan Carter (.nz, rapporteur): (08:01) Good to double / cross check

Jordan Carter (.nz, rapporteur): (08:04) we have 20 minutes for this discussion max

Jordan Carter (.nz, rapporteur): (08:05) historically, how big have these review teams been?

Jordan Carter (.nz, rapporteur): (08:07) and why can't we just put up both options and ask for feedback?

Avri Doria: (08:10) Shouldn't we be diverse? is that a problematic statement?

Robin Gross [GNSO - NCSG]: (08:11) I agree with Alan. Diversity is a good goal, but not the primary goal.

Jordan Carter (.nz, rapporteur): (08:11) Nobody has set it out as a primary goal, have they?

Avri Doria: (08:11) I see them as all equally important. I do not believe you can have a full set of skills without diversity. Skill is always from a particular PoV.

Jonathan Zuck (IPC): (08:11) +1 Alan, Robin. We need to prioritize expertise.

Jordan Carter (.nz, rapporteur): (08:13) there is no difference between this doc and what was emailed. I think Steve verbally suggested something along those lines, Alan.

Jonathan Zuck (IPC): (08:13) And I actually think we might get better diversity (and get new voices) by prioritizing expertise

Alan Greenberg: (08:14) The difference with the community council votes is that with votes, you can have fractional votes. You can't do that with people.

Jordan Carter (.nz, rapporteur): (08:16) my inclination is expertise / work, rather than representativity in these reviews

Jordan Carter (.nz, rapporteur): (08:16) and we can't make these so large as to be dysfunctional

Alan Greenberg: (08:16) I noted on the list that the ALAC put forward an IP Attorney for the Whois Review. I suspect a few other of the members were as well. So WHERE you come from is not necessarily indicative of what your background is.

Jonathan Zuck (IPC): (08:17) right!

Greg Shatan: (08:17) A sorting hat would be nice.

Thomas Schneider: (08:18) for your information: we have not discussed this in detail in the GAC yet, but at least some GAC members signalled in BA that they would want the GAC (chair) to continue to have an important role in the selection of the review teams.

Jordan Carter (.nz, rapporteur): (08:19) Do we need to have some further discussion on this and bring it back to our call next week?

Greg Shatan: (08:20) Thomas, do these members want the GAC chair to participate in picking non-GAC members? If so, why?

Jordan Carter (.nz, rapporteur): (08:20) the earlier discussion took too long: so we couldn't work it through

Thomas Schneider: (08:21) Tnx Steve. As i said, we did not have time to go into this in detail. I guess there is some flexibility about what the exact role of the GAC will be - as long as there is one. Some GAC members will participate in the Paris CCWG meeting, so i guess that this will be discussed then...

Alan Greenberg: (08:21) Jordan, can you also add me to the group on removing individual Board members?

Robin Gross [GNSO - NCSG]: (08:22) I'd like to be added to the discussion on a council v. mechanism

Adam Peake: (08:24) Call Two. 2 hours. Wednesday July 8, 18:00 - 20:00 UTCCall Three. 2 hours. Friday July 10 at 19:00 - 21:00 UTCCall Four. 2 hours. Monday July 13 at 20:00 - 22:00 UTC

Jonathan Zuck (IPC): (08:24) I'll try to have something to present on Wednesday then

Adam Peake: (08:24) messy...

Adam Peake: (08:24) Call Two. 2 hours. Wednesday July 8, 18:00 - 20:00 UTC

Jonathan Zuck (IPC): (08:26) oh wait, I might not make the call on Wednesday

Robin Gross [GNSO - NCSG]: (08:27) yes, let's have a discussion to do this.

Jonathan Zuck (IPC): (08:27) put me down for Friday I guess

Jonathan Zuck (IPC): (08:27) yes

Keith Drazek: (08:28) I will have Recall the Entire Board ready on Friday

Robin Gross [GNSO - NCSG]: (08:29) thanks, Jordan.

Kimberly Carlson: (08:29) Thank you everyone

Jordan Carter (.nz, rapporteur): (08:29) always happy to push ;) see you folks

Avri Doria: (08:29) bye

Adam Peake: (08:29) thanks

Adam Peake: (08:29) byw

Adam Peake: (08:30) (bye)