CCWG ACCT Meeting #50 (25 August)

Attendees:

Members: Alan Greenberg, Athina Fragkouli, Becky Burr, Cheryl Langdon-Orr, Eberhard Lisse, Izumi Okutani, Jordan Carter, Jorge Villa, Julie Hammer, Leon Sanchez, Mathieu Weill, Par Brumark, Robin Gross, Roelof Meijer, Steve DelBianco, Sebastien Bachollet, Thomas Rickert, Tijani Ben Jemaa (18)

Participants: Avri Doria, Barrack Otieno, Chris LaHatte, Christopher Wilkinson, David McAuley, Finn Petersen, Greg Shatan, Jonathan Zuck, Jorge Cancio, Kavouss Arasteh, Martin Boyle, Nigel Roberts, Sabine Meyer, Simon Jansson, Sivasubramanian Muthusamy, Tom Dale (16)

Legal Counsel: Michael Clark, Rosemary Fei, Stephanie Petit

Staff: Alice Jansen, Bernard Turcotte, Berry Cobb, Brenda Brewer, Hillary Jett, Laena Rahim

Apologies: Olga Cavalli, Julia Wolman

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

Transcript

- Transcript CCWG ACCT #50_25 August.docx
- Transcript CCWG ACCT #50_25 August.pdf

Recording

- The Adobe Connect recording is available here: https://icann.adobeconnect.com/p3h6lgmpgrp/
- The audio recording is available here: http://audio.icann.org/gnso/gnso-ccwg-acct-25aug15-en.mp3

Proposed Agenda

- 1. Welcome, roll call, Sol
- 2. Preliminary ICANN Board Comments http://forum.icann.org/lists/comments-ccwg-accountability-03aug15/msg00006.html
- 3. CWG requirement on Separation CCWG
- 4. Human Rights discussion
- 5. Feedback received by group Members on Second Draft Proposal
- 6. ICANN 54
- 7. 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.

2. Preliminary ICANN Board Comments

Board is scaling up efforts and involved in this. They announced steps that are important for us to be aware of: 1) seeking external counseling input that will be inserted into forum; 2) reaching out to third party experts on governance to assess impact of proposal; 3) they will be using these briefing materials to build their comments. They provide useful examples of concerns e.g. change of role of ACs and new powers that are being granted, risk of paralysis and IRP related concerns.

We have been trying to organize calls with the Board but have not been able to find a time. Concerns that dialogue is not taking place. Board announcement might turn discussions into expensive battle of experts instead of dialogue.

Feedback:

- Part of comments are positive. The fact that they are seeking advice should not be criticized but their comment is a warning; we should not be destabilizing delicate balance.
- Impression of feedback should have been given earlier in process. Why did they not seek experts feedback earlier? This may delay in process. What are we negotiating?
- Board proclaimed desire to discuss issues in BA but no follow up in Paris. What of Bruce's attendance to calls? We need an open and constructive discussion with Board. There needs to be understanding behing report before submitting additional comments.

- It is normal for the Board seek its own advice. If it implements what we propose and somehow it does not work, ICANN will crash. Important not to create a biaise.
- Can't argue with wish to have solid and capture-proof model. What we have come up with needs to be looked at carefully. Board taking that on is a good thing. How we deal with problems they identify will be interesting.
- There is a problem of misunderstanding we have always had Board members with us. They understand what we are doing and it is their responsibility to evaluate. We need to dialogue with Board. The Board has no interest in collapsing our work they have concerns.
- We have to determine how we can improve dialogue with Board. We can't ensure we will come with a stable proposal to the end. We have minority statements, comments in disagreement etc. We need to see how we will honor that.
- Next steps is to bring together group to start working on IRP and rules of procedure. Expert report could be extremely damaging and counterproductive.
- It can be extremely helpful if Board comes up with feedback to identify gaps (e.g. staturory rights on first proposal). If the Board comes back to us with counter proposal, based on misunderstandings or information they did not get access to, it will be disastrous. We need to be careful about overall impression of dialogue. We should avoid that Board signals to outside world is that it is derailing transition or community discussion. Suggestion to get back to Board to make the door wide open for dialogue. We should be forthcoming and we suggest writing the Board a letter to avoid complications.

On corporate advisors, we should share concerns we see with the Board that ICANN has come us with idea of public experts. We did not go far enough in eyes of some advisors with our proposals. Two scenarios can happen: 1) external advisors agree we have not been far enough; 2) external advisors say we went too far - it will be perceived as Board asking for less change.

- It is legitimate for the Board to seek advice but there is value in scheduling a meeting with ICANN Board's legal experts to avoid misunderstanding s.

ACTION ITEM - CoChairs to write correspondence to Board Chair and Board liaison that recognizes legal independence in advice but urges a closer collaboration especially with respect to legal experts. A draft will be circulated on list.

3 CWG requirement on Separation CCWG

- Stems from ICG report that states that separation process is kicked off by a working group based on CCWG proposal. Should we build separate process or can we use existing mechanism to set up group?

Feedback:

- It is too early to discuss separation and for CCWG to get involved in matters. Suggest that Cochairs discuss with CWG leadership.
- Where is it noted that we need to specify process?
- ICG proposal states that CCWG needs to define process.

ACTION ITEM - Cochairs to send an email to group with references included. Put status of discussion in email and seek confirmation of approach or go with different proposal.

4. Human Rights discussion

Progress includes two discussion starter documents: first draft on high level objective and background briefing. We are in process of closing doodle poll for call this week.

Feedback:

- We should be concise and high level.

Progress accomplished in upcoming weeks will be shared with CCWG.

5. Feedback received by group Members on Second Draft Proposal

Opportunity to relay initial feedback.

Feedback:

- Simplicity of community mechanism. IPC discussion on contract enforcement. Discussion happening on unintended consequences which is a goo d sign.
- --> We identified potential ambiguous reference in revised mission. Edit proposed to Core Values.

ACTION ITEM: Greg, Becky, Steve to follow up on IPC discussion.

- Preliminary discussions within GAC: core value 7, voting power of work (participation or not), unclarity on what it is being suggested. Working on ST 18 and core values language.
- Current model is not ALAC's preference but can live with it. Comparison between current bylaws and changes is needed.
- --> Synopsis is on its way.

ACTION ITEM: Alan to relay ALAC concerns on proposed Bylaws revisions

6. ICANN 54

CCWG-ACCT 16 Oct Friday 09:00 - 17:00

Possible engagement session on Monday afternoon either in conjunction with ICG or CCWG alone

CCWG-ACCT 22 Oct Thursday 08:00 - 10:00 --> Touch-base to see where we stand with chartering organizations

7 A.O.B

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Action Items

ACTION ITEM - CoChairs to write correspondence to Board Chair and Board liaison that recognizes legal independence in advice but urges a closer collaboration especially with respect to legal experts. A draft will be circulated on list.

ACTION ITEM - Cochairs to send an email to group with references included. Put status of discussion in email and seek confirmation of approach or go with different proposal.

ACTION ITEM: Greg, Becky, Steve to follow up on IPC discussion.

ACTION ITEM: Alan to relay ALAC concerns on proposed Bylaws revisions

Documents Presented

- Preliminary ICANN Board Comments.pdf
- CCWG-2ndDraft-FINAL-3August.pdf
- Draft of High Level Objective.pdf
- Human Rights Briefing_Discussion paper.pdf

Chat Transcript

Brenda Brewer: (8/24/2015 21:30) Welcome all to the CCWG ACCT Meeting #50 on 25 August at 6:00 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

Bernard Turcotte Staff Support: (8/25/2015 00:53) hi all Mathieu Weill, ccNSO, co-chair: (00:54) Hello everyone! Sabine Meyer (GAC - Germany): (00:56) hello everyone! arasteh: (00:56) Hi Brenda

arasteh: (00:56) hl mATHIEU arasteh: (00:56) wECOME BACK

Mathieu Weill, ccNSO, co-chair: (00:57) Thank you Kavouss

arasteh: (00:57) Hi doctor

Pär Brumark (GAC Niue): (00:57) Hi all!

arasteh: (00:57) Hi Dotor

Eberhard Lisse [.NA ccTLD Manager]: (00:57) Good Morning. Please note that I have a hard stop at 07:40 due to work comitments

Alan Greenberg: (00:58) That was fun!

Athina Fragkouli (ASO): (00:58) hello all :)

Julie Hammer (SSAC): (00:58) @Alan Indeed!!

jorge villa (ASO): (00:59) hi Athina, hi all!

Michael Clark (Sidley): (00:59) Hello all

Alan Greenberg: (00:59) Julie, a meeting at a rational time for you (if you are home)!

jorge cancio (GAC Switzerland): (01:00) Hello all!

Jor: (01:00) hi all!

Jor: (01:00) oh, thats not quite my name

Sabine Meyer (GAC - Germany): (01:01) now you're doing it yourself, Jordan :)

Jordan Carter (.nz, WP1 Rptr, ccTLD member): (01:01) :)

Cheryl Langdon-Orr: (01:01) sorry guys at a wake missed the dial-out

Eberhard Lisse [.NA ccTLD Manager]: (01:01) Are we waiting formsomething?

Becky Burr: (01:02) good morning from DC

Sabine Meyer (GAC - Germany): (01:02) Sorry to hear that, Cheryl.

Jonathan Zuck (IPC): (01:02) Whoo hoo!

Jonathan Zuck (IPC): (01:02) Hey, I just turned 50 too!

Jordan Carter (.nz, WP1 Rptr, ccTLD member): (01:02) fifty down, a thousand to go?

Cheryl Langdon-Orr: (01:03) Np I can drink burbon and listen at the same time

Julie Hammer (SSAC): (01:03) Alan...Absolutely! Incredibly civilized!!

arasteh: (01:03) n 150 max.

Rosemary Fei (Adler & Colvin): (01:03) Hello, everyone.

Jonathan Zuck (IPC): (01:03) 50th meeting on my 50th birthday. That's GOT to be a good sign...right?

Brenda Brewer: (01:03) Barrack Otieno on phone only

Rosemary Fei (Adler & Colvin): (01:03) Happy Birthday! Sabine Meyer (GAC - Germany): (01:03) Happy Birthday!

arasteh: (01:03) Grec seems to be sleepy

Thomas Rickert, CCWG Co-Chair: (01:03) Happy Birthday, Jonathan!

Leon Sanchez (Co-chair ALAC): (01:04) Happy birthday Jonathan!

arasteh: (01:04) Happy Birth day Jordan

Alice Jansen: (01:04) please mute your line if not speaking

arasteh: (01:04) All the best and good luck on WS2

Jordan Carter (.nz, WP1 Rptr, ccTLD member): (01:04) it is Jonathan's birthday

Jordan Carter (.nz, WP1 Rptr, ccTLD member): (01:05) Mine is in a few weeks :)

Athina Fragkouli (ASO): (01:05) hey

Athina Fragkouli (ASO): (01:05) happy birthday!!

jorge cancio (GAC Switzerland): (01:06) I guess we all share this objective: "...achieved without destabilizing or weakening the delicate balance ofthe stakeholders in the ICANN multistakeholder model, the Board is carefully reviewing theproposals to ensure we believe that they can maintain this balance and that there is a safe, stable way to implement the changes."

Jordan Carter (.nz, WP1 Rptr, ccTLD member): (01:07) is anyone from the Board on this call?

Jordan Carter (.nz): (01:07) I wonder if anyone can tell me when Bruce was last on one of our calls, for instance?

Jordan Carter (.nz): (01:09) and... didn't the Board appoint the external advisors, who included a corporate governance expert?

Alan Greenberg: (01:09) No, the Board originally was supposed to appoint them, but the community refised to accept that.

Jordan Carter (.nz): (01:10) oh that's right, it appointed the PEG that appointed them :)

jorge cancio (GAC Switzerland): (01:13) I feel it is natural for the lead of the existing organisation (the Board) to express concerns and reservations on changes of the present way the organisation works. And it would be rationale to take those concerns seriously and look into the feedback and the further details they have announced they will provide to us.

Asha Hemrajani: (01:13) Finally managed to get in. Hello everyone

Asha Hemrajani: (01:13) Happy Birthday Jonathan

Jonathan Zuck (IPC): (01:13) Thanks folks!

Steve DelBianco [GNSO - CSG]: (01:17) in addition to these general points, we also expect the board to suggest new text for the WHOIS/Directory Services review we are importing from the Affirmation of Commitments

jorge cancio (GAC Switzerland): (01:17) +1 to Roelof

Eberhard Lisse [.NA ccTLD Manager]: (01:18) I agree with Roelof, and what does this discussion hel us with our work?

Jordan Carter (.nz): (01:19) my bottom line is as an important interested party, it would be worth encouraging the Board to have the dialogue with the CCWG in more than "written comments" mode... it's the lack of that that is my source of concern, not what has been written in this comment. The comment reminds of the need for dialogue.

Jordan Carter (.nz): (01:19) because if that happens after the public comments close, and there are serious concerns, then we risk the 9 October drop dead deadline

Eberhard Lisse [.NA ccTLD Manager]: (01:20) Talking about it during this call, I mean?

Eberhard Lisse [.NA ccTLD Manager]: (01:20) We need to see their output

arasteh: (01:21) Some of the comments are not only negative but positive such as expressing some degrees of concerns about the Sole Member Model the details of which are even not clear to many of us

jorge cancio (GAC Switzerland): (01:22) The critics may be constructive or not, the key is the underlying problem they are able to identify or not - that is what the CCWG has to consider carefully, as the opinion of the existing lead of the organisation is also a valid and relevant point of view -

arasteh: (01:22) Mathieu,

Cheryl Langdon-Orr: (01:22) I agree Thomas

arasteh: (01:22) Thomas is on the same page that I suggested to you

Mathieu Weill, ccNSO, co-chair: (01:22) Thanks Kavouss, me too ;-)

Jordan Carter (.nz): (01:22) yep there are positive things here and negative ones

Asha Hemrajani: (01:23) @Jordan, your point about having more direct dialogue with the board is a good one. I understand that we will have a call together with CCWG chairs this Friday?

arasteh: (01:23) We should take care of all comments and not criticizing the Board why they made such comments

Mathieu Weill, ccNSO, co-chair: (01:24) @Asha: I had the impression that was cancelled?

Asha Hemrajani: (01:24) @Mathieu, do you know why it was cancelled?

arasteh: (01:24) If they do not here and now they would make once the final proposal goes to them

Mathieu Weill, ccNSO, co-chair: (01:24) @Asha: no

Asha Hemrajani: (01:24) I was not aware

Jordan Carter (.nz): (01:24) Asha: discussion definitely a good thing. But we've been trying since the end of July and it is almost September, that's all

Asha Hemrajani: (01:24) Let me check

Mathieu Weill, ccNSO, co-chair: (01:24) Thanks Asha

Jordan Carter (.nz): (01:24) Good to see you on the call, too!

Steve DelBianco [GNSO - CSG]: (01:25) Agree with your analysis, Thomas

arasteh: (01:25) Therefore I suggest to have a dedicated call with them to further explain some of the points such as delicate balance

Asha Hemrajani: (01:25) @Jordan, sorry I missed the first few minutes, was not able to get in.

Jordan Carter (.nz): (01:25) A dedicated call is a good idea

Becky Burr: (01:25) Important to note that next step on IRP is actually to convene work with ICANN, ICANN counsel, our counsel etc

arasteh: (01:26) The issue of increasing Role of advosory committee

arasteh: (01:27) I suggest that the Co-Chairs prepare a darft based on the discussions of today share it with CCWG on maling list with a deadline of few days. Communicate that to the Board

arasteh: (01:28) Organize a specific or dedicate call with the Board seeking clarifications

Tijani BEN JEMAA: (01:28) Dropped

Jordan Carter (.nz): (01:28) I have lost Tijani

Athina Fragkouli (ASO): (01:28) Good idea Kavouss

Brenda Brewer: (01:28) Tijani's line disconnected..will call him back ASAP

jorge cancio (GAC Switzerland): (01:28) +1 Kavouss

David McAuley (RySG): (01:28) very low audio

David McAuley (RySG): (01:29) inaudible

Brenda Brewer: (01:29) Tijani is back on

arasteh: (01:29) We need to be objective and maintain the healthy environments with the Board

Eberhard Lisse [.NA ccTLD Manager]: (01:30) What's the rush?

arasteh: (01:30) We should work together in a positive, objective and friendly manner

jorge cancio (GAC Switzerland): (01:30) That is it: look for the objective elements and forget about the subjective aspects

arasteh: (01:30) At the end they are the entity who have the right to comments on the whole proposal

Avri Doria: (01:31) it mkaes sense that they should get their own legal advice in making their decisions. Just as we were not comfortable using their lawyers, they might not feel comfortable using ours.

arasteh: (01:32) I strongly believe that the Board made / sent their comment not at the wrong time.

arasteh: (01:32) It is right that there was 7 Board Members in Paris but nothing prevent them to make their comments

arasteh: (01:33) I think we should immediately seek clarifications on some points

arasteh: (01:34) We need to mention in our reply that CCWG EXPECTS TO RECEIVE THE RESULTS OF THE bOARD SEEKING ADVICE

arasteh: (01:34) Mathieu

Jordan Carter (.nz): (01:34) I apologise that I need to leave the call in half an hour or so, at the top of the hour

Avri Doria: (01:35) But except for Bruce, all Board members participated as individuals not as Board reprsenttives. I think the comments they made, some of which we took in, someof which we didn't, give us a clue as to their concerns. I think we shuld thank them for this and move on.

arasteh: (01:35) I suggest that any message to the Board be first shared with CCWG

arasteh: (01:35) bUT WE MUST ACT IMMEDIATELY

Mathieu Weill, ccNSO, co-chair: (01:36) Thank you for your suggestion Kavouss. I hope I have captured it correctly in action item

arasteh: (01:37) yES yOU DID IT WELL

Steve DelBianco [GNSO - CSG]: (01:38) the Function Review and Separation Process is discussed on page 14 of our 2nd draft.

arasteh: (01:39) tHOMAS

Jordan Carter (.nz): (01:40) I would be happy with us recommending that the CWG should do a charter for such a CCWG, for transparency and clarity purposes

arasteh: (01:40) i DO NOT THINK THAT ccwg NEEDS TO INTERVENE AT THIS STAGE

Jordan Carter (.nz): (01:41) very very bad audio with Cheryl

Jordan Carter (.nz): (01:41) :(

Cheryl Langdon-Orr: (01:42) yes I will type

Brenda Brewer: (01:42) Cheryl's line is still connected.

Cheryl Langdon-Orr: (01:42) I muted

Cheryl Langdon-Orr: (01:42) exactly Alan!!!

Jordan Carter (.nz): (01:43) The source of the question is indeed important.

Cheryl Langdon-Orr: (01:44) and we also need to note that we have a Cross Community Working Group on Chartering Cross Community Working Groups

Avri Doria: (01:44) it says it will be derived from the CCWG process - Annex L

Avri Doria: (01:44) 1390 in the ICG report

Jordan Carter (.nz): (01:45) I don't think we should require anything here either.

Jordan Carter (.nz): (01:45) It's just important for there to be a transparent approach - the whole chain of separation needs to be predictable, known, set out etc.

arasteh: (01:45) The Separation Process is the sole responsibilty of CWG and not CCWG

Jordan Carter (.nz): (01:46) Except where they have kicked it to us - which they had...

Alan Greenberg: (01:47) 390 says that the recommendations need to be approved by the Board and by the same acct mechanism as we are using for other powers.

Athina Fragkouli (ASO): (01:48) thank you for this clarification Avri

Steve DelBianco [GNSO - CSG]: (01:48) here is text of ICG para 1390: If the IFR determines that a separation process is necessary, it will recommend the creation of a Separation Cross Community Working Group (SCWG). This recommendation will need to be approved by a supermajority of each of the GNSO and the ccNSO Councils, according to their normal procedures for determining supermajority, and will need to be approved by the ICANN Board after a public comment period, as well as a community mechanism derived from the CCWG- Accountability process

arasteh: (01:49) AVRI+1

Steve DelBianco [GNSO - CSG]: (01:49) it mentions Community Mechanism

Greg Shatan: (01:49) I've been participating in the CWG as well, and I think the ICG may have made too much out of the language in the CWG.

Alan Greenberg: (01:50) Para 390 in thre CWG proposal

Greg Shatan: (01:50) It is essentially a misreading of the CWG proposal....

Avri Doria: (01:51) 1401 does indicate the creation of a fundmental bylaw on the SCWG

Alan Greenberg: (01:52) @Greg. I agree. They were just saying to use the same decision process as we are using for other powers, but at the time it was drafted, they (and we) had no idea what that mechanism would be.

Jordan Carter (.nz): (01:52) makes sense, ta for the clarification

arasteh: (01:52) aRE WE WRITING AN ESSAY?

Jordan Carter (.nz): (01:52) my apologies but I have to leave now.

Sabine Meyer (GAC - Germany): (01:52) have fun at the webinar:)

arasteh: (01:53) wE ARE ccwg and not research institute

Jordan Carter (.nz): (01:53) My perspective on human rights remains as it was -- absolute minimum language possible in the bylaws and that the true work on HR must be WS2.

Jordan Carter (.nz): (01:53) night all

arasteh: (01:53) Jordan + 1

Mathieu Weill, ccNSO, co-chair: (01:56) Apologies, I have to leave now for the ccNSO webinar. enjoy the rest of the call

David McAuley (RySG): (01:56) @Jordan +1

Sébastien (ALAC): (01:57) Please don't reintroduice wording that is already in discussion the global document (like private-sector lead...)

David McAuley (RySG): (01:58) Thank you Leon

Leon Sanchez (Co-chair ALAC): (01:59) Thank you David!

Leon Sanchez (Co-chair ALAC): (01:59) and thanks to Nigel!

David McAuley (RySG): (01:59) Yes, lots of effort ny Nigel

David McAuley (RySG): (01:59) by Nigel that is

Steve DelBianco [GNSO - CSG]: (02:04) THanks, Becky. My sense is that we need something in the Mission and Core Vlaues that explicity says contract complaince is not "regulation of content"

Greg Shatan: (02:05) I agree with that, and I would extend that to "contract enforcement" as well.

Becky Burr: (02:06) to be clear, the IRP has no effect of any kind on GAC advice

Becky Burr: (02:06) ok ALAN yes will get it this week

Steve DelBianco [GNSO - CSG]: (02:06) +1 Alan. We really need a comparison between current bylaws Article 1 and proposed Mission and Core Values.

Becky Burr: (02:08) Steve and Greg, let's discuss further -

Alan Greenberg: (02:08) In particular, we discovered almost by accident that there had been changes introduced in the current revision thatwe object of VERY STRONGLY. Removal od phrase "where feasible and appropriate" in several core values.

Greg Shatan: (02:08) Becky, happy to do so.

jorge cancio (GAC Switzerland): (02:09) ST18 ist still under discussion - clarifying language could be helpful

Pär Brumark (Gac Niue): (02:09) Agree with Jorge and kavouss.

Cheryl Langdon-Orr: (02:10) I wonder why *if*such ALT language can assist why now the GAC should not propose post haste

jorge cancio (GAC Switzerland): (02:15) there are other inconsistencies in the report: for instance there are places where the IRP is called an arbitral body and others where it is said that it's no international arbitration instance... just search for "arbitration"...(pages 39, 42 and 50 for instance)

jorge cancio (GAC Switzerland): (02:15) page 38 I meant

Thomas Rickert, CCWG Co-Chair: (02:18) Let me thank Sébastien, who has gone through the report and provided us with valuable comments. Thanks!

Sébastien (ALAC): (02:18) Thanks

arasteh: (02:18) Jorge

arasteh: (02:19) What do you mean by Page 381?

Sabine Meyer (GAC - Germany): (02:19) it is page 38, I believe.

arasteh: (02:19) Ok tks

arasteh: (02:19) Sorry for mis reading

Cheryl Langdon-Orr: (02:20) good call... Thanks everyone... bye for now... Talk soon...

David McAuley (RySG): (02:20) Thanks all, bye

Athina Fragkouli (ASO): (02:20) thank you

Pär Brumark (Gac Niue): (02:20) Thx all!

Alan Greenberg: (02:20) Thanks for the extra 30 minutes of sleep I now have!

Sabine Meyer (GAC - Germany): (02:20) bye!

Asha Hemrajani: (02:20) Thank you. Bye

Greg Shatan: (02:20) Back to bed...

Rosemary Fei (Adler & Colvin): (02:20) Bye, all.

jorge cancio (GAC Switzerland): (02:20) bye and thanks!

jorge villa (ASO) 2: (02:20) bye all!

Martin Boyle, Nominet: (02:20) Thanks & bye