

CCWG ACCT Co-Chairs and Lawyers (8 January)

Attendees:

Co-chairs: Leon Sanchez, Mathieu Weill, Thomas Rickert

Legal Counsel: Holly Gregory, Rosemary Fei

Staff: Alice Jansen, Bernie Turcotte, Brenda Brewer

Transcript

- [Transcript _CCWG ACCT_CoChairs-Lawyer Meeting_8 Jan.doc](#)
- [Transcript _CCWG ACCT_CoChairs-Lawyer Meeting_8 Jan.pdf](#)

Recording

- The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p4ut6hlvtxh/>
- The audio recording is available here: <https://icann.box.com/shared/static/r8i3r0wuagr02n3chvs1elzp17gpnsy3.mp3>

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.

HJGregory - reasoning for call - at this critical time in the project want to discuss if the team could be more useful to the process. Concerns regarding the edition of documents since their comments are not being included. Also need greater clarity about which of our comments get posted. Uncomfortable with the certification requirements but this should not apply to the drafting of documents. We would also expect to understand what is expected for implementation so we can reserve the resources accordingly. Finally need guidance on Maraketch given participation by phone would not be practical.

MWeill - Thank you for your directness. Looking at your questions. On integrating comments - the timeframe did not allow us to work with smaller comments. The co-chairs initially focused on any major comments.

TRickert - we are going through different phases. Making too many changes in any version of the document would cause concern to the community. Going into details too much can distract people from focusing on the major issues. So a balance must be found between what legal and staff can do.

HJGregory - we understand your concerns but wanted to ensure that our concerns were clear. This being said we would recommend posting our comments to the entire group and that the group is our client. Often we are not involved on an issue does not mean we have opined in any fashion. There may be a misconception on the level of comments from the lawyers wrt the 3rd draft.

MWeill - we are editing the 3rd version currently - we have to consider your input more up front. But we have to find a way to make this efficient for everyone. Given we are working on recommendation by recommendation we could ask for legal comments on a per recommendation which has had a first reading.

HJGregory - this sounds like a good idea, but the answer to dealing with lawyer comments is not to ignore them.

TRickert - We agree with you but we have been working to incredibly tight schedules.

RMFrei - we need to understand why our comments are taken or not.

TRickert - Understand but the new interactive approach should handle this issue. Documents that go out after the first reading will include all the lawyer comments. We should also document which comments are accepted or not.

HJGregory - this sounds acceptable.

MWeill - next implementation

HJGregory - support using the details to implementation. At some point the implementation cannot be made by the full CCWG. Also understand the cost implications for ICANN. As such implementation should not be done with the full group.

MWeill - was not the strategy of oversight groups for implementation not ok.

HJGregory - concern that using the same group of people for oversight and uncertain they can get above trying to line edit vs checking for consistency.

MWeill - Understand that this is a challenge and there is no way around it. This is in part because of community experience with other implementation exercises having generated unexpected results.

HJGregory - Would encourage the co-chairs to help the oversight participants that the process is going to be different - it will not be interactive drafting - lawyers will draft the documents and the oversight will group can comment on if it matches the guidelines. We will get there. Implementation needs to be a different process.

TRickert - Implementation is about ensuring that the group's wishes and the work product. But understand we have to streamline to make it efficient.

HJGregory - Marrakesh - we have real concerns that we can be effective via the telephone. Understands it depends on what the requirements are given where we are.

MWeill - currently expecting ICANN55 to scope WS2 and would not expect lawyers would be required for this. There would also implementation work on WS1. So we do not expect the draft Bylaws will be ready for ICANN 55.

HJGregory - one approach could be for us to book refundable airline tickets and as time progresses we can decide if we are needed. As such we should make reservations which can be cancelled.

MWeill - the IRP skill set would be needed in Marrakesh - but we would expect that the total number of lawyers on the ground would be less than previously.

RMFei - I will probably sit this one out if the focus will be IRP. So I will wait to figure this out.

HJGregory - what could we be doing to help you more.? please let us know.

TRickert - thanks for the offer we will need to think about it some more. Things are moving quite a bit, commenting adhoc on every suggestion that is circulated. After the first reading we publish this to the list and lawyer comments would be best there.

HJGregory - agree with this.

HJGregory - maybe the first step should be to reach out to Jones Day to understand their risk analysis of this.

RMFei - also not everything is black and white - there are some judgement call.

TR and MW - in case the lawyers have concerns about provisions that currently exist in the Bylaws, and may not be within the CCWG remit, they should discuss with JD first.

RMFei - on current process for reviewing changes to recs.?

HJGregory - we should review materials from scratch?

TRickert - the lawyers would share their high level comments on each recommendation / agenda item after 1st reading, then provide detailed feedback after 2nd reading . best to get your input after the first reading where you can insert your comments. Acceptable?

HJGregory - yes.

TRickert - certification of human rights question. The reason it makes sense to certify this because ICANN believes it is opening significant risk. Need to understand vs current risks.

HJGregory - need to understand what you mean by human rights.

HJGregory - this is it for us.

Conclusion of the call.

AC Chat Transcript

Brenda Brewer: (1/8/2016 09:36) Welcome to CCWG Accountability Co-Chairs/Lawyers Meeting on 8 January 2016 @ 16:00 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>

Holly J. Gregory (Sidley): (09:59) Good day to all. Rosemary will be participating only by phone.

Brenda Brewer: (10:02) shall we start recordings?

Brenda Brewer: (10:02) recordings are started.

Brenda Brewer: (10:04) I can call Rosemary if you provide her number!

Brenda Brewer: (10:07) Rosemary has joined phone line

Bernard Turcotte Staff Support: (10:59) bye all