
DUBLIN – CCWG-Accountability Working Session II
Wednesday, October 21, 2015 – 17:00 to 20:00 IST
ICANN54 | Dublin, Ireland

LEON SANCHEZ: Welcome, everyone. So the two-minute warning has passed and we'll begin now. Welcome to the CCWG Enhancing Accountability Working Session II. And we have a full agenda, a packed agenda, and we need to go through very important elements in this session. So I would like Hillary to explain us the way we will be interacting. So Hillary, please.

HILLARY JETT: Hi, everybody. Just a quick few notes. Apologies for not being able to set up a classroom style meeting today, so we're going to do what we can to make sure it stays as interactive as possible. Myself and Grace Abuhamad over here will have microphones. So we're going to try and be able to get you guys microphones in time for you to speak. That said, we're going to have to stay to a pretty strict Adobe room hand raising system. So if you're not logged in to the Adobe room, please do so. And second of all, once you finish with the microphone, if you can just deliver it back to whoever gave it to you that would be helpful just so we make sure we have all of the mics in the right places. Other than

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

that, if you -- we'll keep people knowing that they need to be in the front.

LEON SANCHEZ: Thank very much, Hillary. Okay. So I'll now hand it to Mathieu for the first agenda item. Mathieu.

MATHIEU WEILL: Thank you very much, Leon. Mathieu Weill speaking. Welcome to this very engaging setup for a good thorough discussion. Really, really encourage everyone to move forward. But what we -- what we have on our agenda today and our first agenda item is to keep the discussion that we've started on Monday on basically the assessment of the sole designator and the sole member model so that we can conclude on our preferred way forward while drafting our next report. That's really, I think, one of the key aspects we need to conclude or at least move forward to a satisfactory level. We have dedicated several hours on Monday. I think we've made great progress in understanding the actual concrete differences that may happen between the two models, and that has certainly helped in the discussions that took place since then in the constituency day or in the various groups that were here in Dublin. So I think we're now in a position to move that exercise further. I would try to recap where we are, recap what we've heard from the various groups

and what could be possible. And we'll try to obviously take the discussion further from there.

So if we move to the slide that's currently on your -- on the Adobe room or on the screen, Monday we have looked at the various member models. We've see that the member models provide direct enforcement of the separation recommendation but that the CWG stewardship requirements could be met with either model. We have understood, thanks to our legal advice, that the separation process can constrain the board in the designator model and that the CWG stewardship recommendations were already requesting a form of common decision between the board and the review team. And as such that means that the sole designator model was sufficient to meet these concerns.

We have also discussed at length how member enforcement, the ability for a member to enforce certain powers in court, would imply significant length of legal action as well as cost, that there is no difference in terms of IRP enforcement in each model, and that as a consequence we've qualified as very unlikely the probability that we would have to go to court. And we have also realized -- or at least reminded ourselves that compared to board recall the court actions were extremely costly and long. That was where we were in and among the discussion.

Since then we've heard -- we've tasked our lawyers to review the CWG requirements, so I've put them on the next slide. Oh, no, that's the list of criteria. We were also discussing around the list of criteria which is here. At this point -- and this is not to close the debate, it's still very much open if something came up -- this list of criteria about enforcement, capture risk, transparency, and complexity remain the ones that are apparently quite sensible and useful for assessing the difference between the two models. And if we move forward. We have recapped on this slide the special IANA Functions Reviewed which is the process for separation. We can move to the next slide, I guess. If the special review determines that a separation process is necessary, then the special IFR recommends the creation of a new separation cross community working group which must be approved by each of the supermajority of each of the GNSO and ccNSO, the community mechanism, that would be the sole designator or sole member, and the ICANN board after public comment period, with special criteria for this decision. So that's the creation of the separation -- the cross community working group is already a joint decision. And if we move to step 3, the SCWG so this separation cross community working group may recommend actions ranging from no action to initiative of an RFP and recommendation for a new IANA functions operator or divestiture or reorganization of post-transition IANA. That's the range of options.

If this cross community working group on separation recommends a new IANA functions operator or a separation process, then this recommendation needs further approval by each of the community mechanism, which would be sole member or sole designator and the ICANN board. So when you look at this, nothing necessitates enforcement because obviously if the board refuses then we're already in the process of the co-decision. So this is just to confirm that our assessment that was made on Monday is still valid.

The next slide please. I said on Monday when we closed that we hadn't discussed transparency. And we have had feedback from group members as well as in the constituencies on if there was a need to go for a sole designator model, a request whether it would be possible to enhance transparency aspects in the sole designator model as part of Workstream 1, bearing in mind that we have transparency enhancements as part of our Workstream 2 items and that's been agreed. But if you look at the difference between sole member and sole designator in terms of transparency, members have rights in terms of transparency which are recapped on this slide. They can have access to ICANN's accounting books and records, to minutes of the board meetings, and to minutes of the board committee meetings. And our lawyers tell us that it is perfectly possible to add this into the bylaws when we are doing a sole designator model.

Which would bridge the difference in terms of the transparency criteria.

Next slide please. We've also heard concerns regarding the potential creation by the board of new ACs, new advisory committees. And indeed in the current setup the board may create, through a change of bylaws, a new advisory committee at any time, if it feels the need to do so. And some were concerned that it would change the balance of power or enable the board -- or anyone to manipulate sort of the level of objection in the future. This is just to mention this concern that we've heard, noting that changing the bylaws in the sole designator or sole member model does have the same impact, that it goes through a bylaw change with the community powers of bylaw changes, so that is a concern that is in the sole member as well as the sole designator model pretty much the same, I would say.

The next slide. We had also agreed during the Monday meeting to task our lawyers with the Avri Doria proposal to -- hello, Avri. Please move forward, Avri. Which was whether it was possible in the -- in both models actually, to align more closely the duties of the directors, the famous fiduciary duties, with the consensus decisions of the community. And you have on the screen the -- I mean the feedback we've received this morning from our lawyers which it may indeed be possible to update the articles of

associations to include the mention that the corporation shall pursue the charitable and public purpose of lessening the burdens of government and promoting the global public interest. As such global public interest may be determined from time to time by the multistakeholder communities who are an inclusive bottom-up multistakeholder community process. We can fine-tune the wording. But I think the idea is here that it could be something that may address some of the concerns that were raised about the perceived discrepancy between the fiduciary duties and the multistakeholder model -- the bottom-up outcome of the community. Also has the benefit to be clearly in line with the NTIA criteria of supporting enhancing the multistakeholder model through the IANA stewardship transition. Do we have another slide on this? I have a doubt. No.

And last but not least, Jordan Carter -- yeah, I see Jordan here -- has initiated a comparison -- a heat map, a comparison of both models to help inform our decision based on these various aspects. And if you scroll to the next page you'll see he started looking at the various differences. We have a slight difference in enforceability which we've discussed on Monday. I'm going to look at it on my screen because it's a bit small here. And for the rest at the moment we have very -- very little difference, taking into account that as I said, in terms of transparency we can

probably align both models. And that the right to dissolve the organization and the derivative action against board members are member rights that we cannot -- that we can constrain in the model by enforcing very high consensus roles but that we cannot make disappear in the member model. I think those are the main trade-offs, at the moment. And I think with that you have all the latest information about this debate. And I'd like to open the floor for questions, comments, additional updates about this comparison that you would feel important that a group is aware of that needs to be worked on. And for that, I'm turning to the queue in the AC room. I encourage you to use the AC room queue which will enable our mics, our roving mics, to be actually following you more closely. And I'm not seeing any queue. You're tired. Ah, Sam Eisner.

SAMANTHA EISNER: Thank you, this is Sam Eisner with ICANN. Can you turn back to the slide with the transparency section on it? Is this an okay time to ask about this or do you want --

MATHIEU WEILL: That's perfect. Please.

SAMANTHA EISNER: Okay, great. So as I look at this, I understand that this is kind of importing what we -- what exists in the statutory right of members in the bylaws and when we talk about inspection rights and we talk about the sole designator, I -- the way I see enhanced transparency because as I understand it in the member right, it's not necessarily about -- transparency is about a member's right to inspect to see what's going on within the organization. When we talk about inspection rights here, what we're really saying is, are we going to try to put into the bylaws a requirement for transparency around all these items? Is that -- is that a way to phrase it?

MATHIEU WEILL: So, I'm reading the text, and it says that the sole designator, the sole designator, not each individual, may be given inspection rights similar to the statutory right of a member. The sole designator would have ability to access these documents.

SAMANTHA EISNER: Right. So my --

MATHIEU WEILL: That's what I'm reading.

SAMANTHA EISNER: Yes, I read that too. But my question is about what the effect of that would be within ICANN. Because a sole designator is really just an entity through which the community exercises its rights, right? The sole -- we haven't envisioned the sole designator as a place that has other unique rights other than the ability to go to court or to -- to stand in front of the IRP, et cetera. And so when you say the sole designator may be given inspection rights, the way I read this is, is the CCWG today making a declaration that these are the types of things that should automatically be transparent? Because what happens when the sole designator is told by what -- by whatever community mechanism tells the sole designator I want you to go get these records, what's the practical effect of that? Who is actually looking at it? It's not about the sole designator, which is there for certain powers, but it's actually about saying is this what we want to make transparent? Is this what we want to make public? And so I think we have to consider -- I mean, we already have minutes of board meetings that are publicly posted, we have minutes of board committee meetings, but really around ICANN's accounting books and records, if this means something deeper than ICANN's financial statements that are already published and the other things that Xavier and his team publish, what is it that's being sought here because as I understand it, the practical effect of this would make this -- these would be -- documents would be available to the public.

MATHIEU WEILL: Well, I may be wrong but to me that is available to the sole designator and we still have the ability to define how the sole designator would do that. But it would be very helpful if you could outline exactly whether you think that means this should not be done and we should leave this as a key difference between the sole designator model and the sole member model or if you are suggesting that in principle it's a good idea but it needs to be refined? Because I'm not very clear on that.

SAMANTHA EISNER: I mean, this is for me seeing it within the past few minutes and so from -- from my -- I think we have to get clear about what it means for the sole designator to have inspection rights on this within ICANN. That's the first thing we have to understand. I -- I think that it's -- from my understanding of this, it would become something that becomes public. And so then if we're looking particularly at ICANN's accounting books and records, having an entire ledger sheet down to a line item, which is one way you could read that, being made public could impair any organization in how it does its work. So, you know, once the sole designator gets it, who would limit -- should the sole designator be limited in what they do with it, but really the sole designator is only acting on the direction of the SOs and ACs.

So that information would necessarily go to the SOs and ACs. Who is the sole designator in that instance other than the mechanism through which to get the records? So I think we just need to think a little bit more about this and what the effect of that could be before we make a statement on it.

MATHIEU WEILL:

Okay. So let's remind ourselves. We've been asked whether we can patch. A patch may be available. Could be refined. But it's up to the group to say whether it's comfortable with the patch or, actually, whether it's -- once you go to a sole-member model or the sole-designator model at this point. The next is Sebastien.

SEBASTIEN BACHOLLET:

Yes, thank you, Mr. Co-chair. I just would like to know if you prefer to under this topic before or we jump from one topic to the other? Maybe for the people have to talk about this topic, it will be easier -- it's up to you to run the meeting.

MATHIEU WEILL:

It's a good idea. Let's have questions and answer on the transparency.

SEBASTIEN BACHOLLET: Yes. I'd like to talk to another topic. But just two -- one housekeeping question. Can we have the scroll presentation on the Adobe Connect? It would be easier. And the second I am all for that. I don't think we need to really have nothing else. And all the accounting published in the public. Thank you.

MATHIEU WEILL: Thank you, Sebastien. So questions on transparency at this point?

I have Alan next in the AC room.

ALAN GREENBERG: Okay. You want me to go ahead, or are you still doing something? Go ahead. Okay. Thank you.

The way I read this or the way I perceived this is there would have to be a new community power that would have the sole designator ask for the information. And, indeed, the sole designator is essentially a bodiless entity. So the only sense it would make would be to go back to the ACs and SOs, perhaps the ones that requested it or perhaps the full group. That would be the same mechanism that would have to be used in the sole member. That is, again, the member would have to be empowered by the community to do the request. And the same confidentiality issues would arise there. Certainly, the full

accounting books include how much everyone is paid and a number of other things which probably violate laws in a whole bunch of places.

It might also disclose, you know, things related to contracts, which, again, might violate disclosure.

So there would certainly have to be some level of non-disclosure and perhaps some level of redaction just to satisfy the -- you know, the legal rules. Now, you know, maybe you could say the chairs would be subject to non-disclosure just as a director would be, presumably. I'm assuming directors have access, you know, unredacted. So, clearly, I don't think we could live with the rights of a sole member in our environment. I'm not quite sure how other organizations handle that in terms of privacy about individuals and things like that. It's an interesting question.

MATHIEU WEILL:

Thank you. I'll just go briefly to Steve DelBianco. Because in the AoC review teams, we've discussed some disclosure aspects which may be worth reminding ourselves, because there might be some similarity here. Steve, would you like to give us this information and go back to the queue?

STEVE DELBIANCO:

Thank you. I'll put it into the chat. It was on page 75 of our second draft proposal. It was created after we got comments on our first draft that the four AoC review teams -- accountability and transparency; looking into the new gTLD program; security, stability, resiliency; and WHOIS -- all four of them in the review may require access to ICANN's internal documentation in order to do the review and make recommendations.

There was a concern that we wouldn't have access to documents if there was a claim of confidentiality and non-disclosure.

So we designed a one-page process. That's on page 75 of our second draft. It would be a little awkward to put it up there. So let me summarize it for you.

"To facilitate transparency and openness, the review team or any subset could have access to ICANN's internal information and documents. If ICANN refuses to reveal documents or information that requested by the review team, then ICANN has to provide a justification to the review team. But, if the review team is not satisfied with the justification, it appeals to the ombudsman or the ICANN board for a disclosure request ruling. For documents or information that ICANN does disclose, ICANN may designate certain documents as not for disclosure for the review team," which I think speaks to the comment we just

heard from Alan. The idea that, if the review team gets access to something for its analysis, it can't turn around and publish it. If the review team doesn't agree with this non-disclosure condition, it can also appeal that to the ombudsman or the ICANN board.

The third -- and I'll get through this quickly. The confidential disclosure framework that I've just described shall be published by ICANN so that we understand the criteria ICANN will use if it wants to invoke this confidentiality and prevent the publication.

They have to describe the process and the rationale. That framework published by ICANN has to disclose the process by which a review team can request -- so we have to have that mapped out. And it shall also describe the provisions of the non-disclosure.

Finally, the confidential disclosure framework has to provide a mechanism to escalate or appeal the refusal to release documents and information to a duly recognized review team. We've been through this together. We have an escalation path, the Stairmaster, as it were, leading to an IRP where we challenge the Board's interpretation of the bylaws obligation. This review team disclosure provision will be baked into the bylaws as we bring the Affirmation of Commitments into the bylaws. It will be

available to any of the four review teams which could convene at any time but no less frequently than every five years.

So let's consider that as a workstream 1 bylaws enforceable requirement that might be a model for general transparency and disclosure.

MATHIEU WEILL:

Thank you. So I think I'll go to the queue. But what I'm interested in here is to hear whether -- and we're not going to go into the details of implementation. I don't think that's the matter here. What we're discussing is whether people believe that it's important to them that the sole designator be enhanced this way if it is to be considered or if it's unacceptable to them that the sole designator be changed this way because it's a big concern for them. It's clear we have precedent in our work about disclosure of sensitive information. And I think that's useful to know.

So still focusing very much on this question about whether it's making a difference between your assessment of sole member and sole designator, I turn to Greg. Greg Shatan.

GREG SHATAN:

Thank you, Mathieu. I can see both by the chat and what Steve DelBianco, in essence, read into the record here that there are --

you know, boundaries and reasonable standards by which this type of disclosure would take place. And I -- as I noted in the chat, it does not necessarily follow that, if a document is shared or books and records are shared with the sole designator, that it would go to every SO and AC. As I very quickly read something on the Internet, which, of course, you know -- can you really trust the Internet? -- it says that it needs to be reasonably related to the reason for the request. You can't just go in and kind of say, "I want the last 12 months of books and records. You know? Send them to me on hard drive."

That's, apparently, not the way it goes if you're a member or a shareholder exercising your right to access books and records.

So there's clearly both case law and regulation and the like around the that we can bring in if we want or we can create something a little more lightweight and tailored that will go to this. But I think that any idea that we're, basically, opening the floodgates and you know, having a -- basically, putting up ICANN leaks by opening this up, I think, is not the -- not a good way to start the conversation. But I'll note by everything we've seen here that the conversation is already started. And we're all looking for a reasonable solution. Thank you.

MATHIEU WEILL: Thank you, Greg. I'm closing the queue after Robin. And I encourage everyone to be as concise as possible regarding their interventions and focus on the big difference between the single member and single designator. The next is Brett.

BRETT SCHAEFER: Thank you. I'm a little bit confused as to you mentioned workstream 2 and the DIDP reform and transparency measures there. Are you talking about bringing some of that forward into workstream 1? Because it would seem that you would want to move forward simultaneously with a lot of this disclosure as well. And to what extent are we talking about developing that as this plan moves forward?

MATHIEU WEILL: It's so far it's not my understanding that it would extend to all documented information disclosure, which would still be in workstream 2. But that would be a restricted -- a narrowly restricted type of document, which is the same type in a member model. Because what we're discussing here is bridging the gap between the two and seeing which one is the way forward for our group.

BRETT SCHAEFER: This information you laid out here seems to be more sensitive that you would get from a document information disclosure. So it seems kind of silly to go to the more extreme level of disclosure and ignore the more regular level of disclosure.

MATHIEU WEILL: I'm not advocating in favor or against. I'm just saying that, if there's a request to bridge the transparency gap between the member and designator models, there is a way for it. That's it. We have the workstream 2 item in transparency, which we require for the work as we previously discussed.

BRETT SCHAEFER: Is it possible to suggest moving the transparency issue from workstream 2 to workstream 1?

MATHIEU WEILL: Well, I don't think that's -- we've agreed to workstream 2. I don't think it's wise thing to do at this point to add things to workstream 1. I think our workload is quite good as it is. And I don't see how it would fit the criteria we've discussed about being absolutely necessary to take place before the transition in order for the rest to follow. That's -- I don't see any new elements to change that assessment at this point.

BRETT SCHAEFER: The NCSG has done a number of studies about the ICANN practice on honoring information requests. And they found that 88% of the time they've been refused, which signals, to me at least, a significant level of non-transparency, which I think would be important for the immediate term. Thank you.

MATHIEU WEILL: Thank you, Brett.

James is next.

JAMES GANNON: Thank you. James Gannon. So, for me, this would be an absolute minimum baseline as a requirement. I would personally like to see what we could evolved this into to turn this into a more comprehensive framework.

Speaking to some of the concerns, similar to Steve, who I worked with on the confidential disclosure framework, there are many existing both legislation and existing business practice around the responsible release of documentation to both internal parties and third parties.

So I wouldn't agree that we were introducing risks here from a throwing thousands of documents out into the public. I don't

think that's the intention here. And I don't think that's how it would be used. There's existing methods to limit the exposure that extremely confidential information may need to be constrained by.

MATHIEU WEILL: Thank you, James. A quick, very quick response.

THOMAS RICKERT: Yes. We have a very long queue. We have a lot of important questions to discuss today. We have been asked whether the transparency features that a membership-based model offers can be added to a designator model. We wanted to provide with this slide the information to you that this is possible. This is just to help those that have a difficulty or that think that transparency is a decisive element between member and designator. We wanted to help you and show it is possible. We don't even need to touch the bylaws in that aspect now. You can develop all the aspects of transparency you want, and we can put them in there at whatever point in time you like with a simple bylaw change. So I would urge us not to get into a detailed discussion of what the scope of the transparency requirements should be. You should just know that, if you need transparency to be robust to opt for designator option, the answer is you can have it.

And if that leads some of you to lower your hands in the queue, we're not opposing to that.

MATHIEU WEILL: Thank you. The next is Kavouss.

KAVOUSS ARASTEH: Thank you. I think in Switzerland we have a government called Federal Council. Here I see eight. They call them (saying name) -

-
Here we call them 8-wise. 1, 2, 3, 4, 5,8.

Mathieu, I understand your strategy has dual dimensions. The first dimension is try to address the enhanced accountability from the viewpoint of the model neutrality. Once you have done that, then you want to concentrate on the model and bring the issue of the models together in order to be able to agree with the model which may be more acceptable to the community and more acceptable to all peoples. And that might be -- not exactly, that might be the sole designator. But you have to be able to address those deficiencies.

One of the deficiencies I raised about the deficiency that you have to address. And that deficiency is the separation process. I hope you find some reply to that. That is one.

And the other issue is that to see what are the other problems and deficiencies. At the end of the day, whether you have a public comment or you don't have a public comment, you -- we must have one single reference model. We should not continue to confuse the community for models and models and models. So I think the 8-wise or set, which I have to concentrate to try to do this situation. But you need to address the separations process, which, in my view, as a liaison for this group with the ICG, is one of the important points. And I have put it in the email, send it to you and to the others. And you are expected to address that situation. Thank you.

MATHIEU WEILL:

Thank you very much, Kavouss.

Next is Erika. Where are you, Erika? You're here? It's Erika, Bruce, Ed, and Jordan.

ERIKA MANN:

Mathieu, Mathieu, I have withdrawn. Similar comments like Alan and Greg made. So, if you get this right and you look into the legal requirements under the particular environment what we have to respect following on what some said, I think we will be -- at least my opinion, I think we would be fine.

MATHIEU WEILL: Thank you very much, Erika, for your conciseness and clarity.

Next is Bruce. Bruce and then Ed.

BRUCE TONKIN: Thank you, Mathieu. I just noticed of the three dot points on the Board or on the screen at least anyway, minutes of board meetings and minutes of board committee meetings. We publish those now already. Certainly, if people want them to be more detailed, then that's something that we can work towards doing.

On the first one ICANN's accounting books and records, pretty much the way the Board has been moving to use the staff is using the same standard as publicly listed companies. So we do quarterly financial reporting as well as annual reporting. And that's fully public.

We also use an independent auditor. And that auditor confirms that those numbers are correct. Now, I can see that you might end up with a scenario where perhaps the community wants to dive in on a particular number. And then probably the way to deal with that may be having the ombudsman with inspection rights or maybe even appoint a second set of auditors just to look at something. So I think those can be accommodated.

But I see inspection rights as being a little different, publishing a general ledger with everyone's salary. You know, really, you'd be looking at --

MATHIEU WEILL: Behind you have Holly. And Holly is shaking her head. So I think, actually, the inspection rights seem to be very similar to that.

BRUCE TONKIN: Sorry. What is Holly shaking her head at?

(Speaker off microphone)

BRUCE TONKIN: Oh, you mean nodding your head, not shaking your head. Is that --

UNKNOWN SPEAKER: (Off microphone.)

BRUCE TONKIN: Yeah. Nodding your head. I thought you said -- thank you.

MATHIEU WEILL: Okay. Ed Morris.

ED MORRIS:

Thanks, Mathieu.

Bruce, you have those rights. Directors have the right of inspection under California law, so you have them right now. This is basically a restatement of California Corporations Code Section 6333. These are rights board members currently have. All we'd like to do is put in the bylaws the right to the sole designator, if we go that route, to have the same right to the same records not as a normal course of business, as Sam questioned, but in the cases when the entire community, acting through the single member, feels a need for these specific records. It's not something that would be used on an everyday basis, at least as I conceive it, and as it's operated for years under the California statutes. It's something that's basically used in fairly rare situations, which is why I've come to call it the anti-FIFA statute.

If we start -- and you're going to hear that outside. The people are saying, "You make ICANN independent. Look at FIFA. Look at what happened."

This is our guarantee that that can't happen. Because if we start seeing some financial irregularities, we start seeing a board closing minutes, this is our guarantee that we can open up the

records and make sure that what happened at FIFA does not happen at ICANN. Thanks.

MATHIEU WEILL: Thank you, Ed. Then Jordan and Robin and we really need to move on to the other issues.

JORDAN CARTER: Just briefly, this is as a participant.

Thank you for the list of things that are possible from the lawyers. I think that's really helpful. I think if we want to do any work to flesh them out, we need to do so as part of our next iteration.

Some of these may need to come in, if we settle on sole designator, as a reaction to that change. I don't think anyone needs to get into a dramatic twist about it.

MATHIEU WEILL: Thank you, Jordan.

Robin?

ROBIN GROSS: Thank you. Yes. I just wanted to remind us that we previously have been working under a membership model which comes

with very significant transparency rights, and so if we are now shifting to a designator model, that's a big hole that we need to address.

That's point 1.

And point 2 is that if we are switching to a designator model, we are going to be so reliant upon access to information because our only real method of enforcement for some things is spilling the board, which means we have an even higher obligation and duty to see what is happening.

So I think we -- we simply must put this in Work Stream 1, if we are switching to a different model.

Thank you.

MATHIEU WEILL:

Thank you, Robin.

I think we'll leave it at that for transparency.

Are there any comments on the gaps between designator and member models that need to be addressed here now or that -- or that seem important to the room?

And I see --

Bruce, is that a new hand? Bruce Tonkin?

UNKNOWN SPEAKER: (Off microphone.)

MATHIEU WEILL: No.

Matthew? And I know Sebastien wanted to say a word as well, so we'll have to go back to him. Matthew Shears is here.

MATTHEW SHEARS: Thanks. Matthew Shears, for the record. Just going back to your slides on separation, there's a couple of questions that still kind of remain outstanding in my mind, one of which is, are we saying that when the board disagrees to the work of the SCWG, there's no recourse for the community?

And also, are we saying that we're creating some kind of new mechanism when we're talking about some kind of community mechanism related to the global public interest? Thanks.

MATHIEU WEILL: So on the first one, on the separation, what we're saying is that the way the separation process is described in the CWG report can be enforced in both models. It is not for us as CCWG accountability to say how this dispute or the next steps should

be addressed. It's for the CWG. So let's not do their work instead. That's what we're saying.

And so far, as a consequence, we can -- we did consider on Monday that that was not creating a significant difference on this particular power. However, there are differences on others.

Regarding your second question, I heard someone volunteering to answer here?

Jordan?

JORDAN CARTER:

Yeah. Can you scroll up to the slide that's got the piece about the public interest, please, Alice?

It's nothing to do with IANA separation. It's somewhere else. Keep scrolling. It's somewhere in that pack. That one. Stop.

So I think that's what you mean, Matthew, isn't it?

Okay. He's saying that isn't what he means.

But to achieve that, you wouldn't need a new body, no. We've got lots of bodies that can make policy and we can do cross-community working groups and stuff.

If we missed the point of the question, maybe put it in the chat.

MATHIEU WEILL: So we have Sebastien now.

SEBASTIEN BACHOLLET: Thank you. Yeah. As we are on this page, it's -- my comment is on this page and I don't want to try to make wordsmithing, but I would like to be sure that the multistakeholder community and the bottom-up multistakeholder community process are within ICANN; that we are not doing a bottom-up multistakeholder community somewhere else. Thank you.

MATHIEU WEILL: Thank you. I think it's a good point to make note of.

I'm looking at the room. I'm looking at the queue. I think we have probably put this discussion to a step where it's time to look at what the next steps are, then.

Thomas?

THOMAS RICKERT: Yes. Thanks very much, Mathieu, and we seem quite distant from the crowd up here, so it's unfortunate that we couldn't get the room made up differently. We would have preferred to be somewhere downstairs, but that couldn't be made possible.

I think that from the feedback that we got, there seems to be a lot of traction for sole designator model with potentially some

patches, and we tried to illustrate to you that there are patches available. We know that this came in very short notice, you didn't have the opportunity to digest all the -- all the information as of yet, but we would like to confirm with you that you agree in the fashion of a first reading that the sole designator approach is our new reference model, and we will then confirm that during a second reading.

You shouldn't be frightened by the issue of transparency. Again, to be perfectly clear, the question was whether we could have transparency in a single designator model. The answer is yes. We understood the request for a patch to be such that it would give the designator the same rights as a member would have.

We understand that the requests are going beyond that. Ed is asking not for inspection rights or transparency rights as a member would have, but he's asking for the rights of a director, which is quite a difference.

So I think we need to discuss this more, but you should take away that transparency can be baked into the bylaws and made possible, so that should not be a factor that could deter you from supporting a sole designator approach.

I think that in terms of taking stock, we should be doing the following.

We understand that there is some more debate required regarding the extent to which transparency should be in place. We understand that there are no further questions for the time being on the other patches that have been requested beyond the point made by Sebastien that we add that the multistakeholder bottom-up process needs to be inside ICANN, so that's a done deal, I would say.

So we think that we've offered patches that only in the area of transparency need refinement and further discussion by the group.

So let's assume that we're going to do that in the next couple of weeks. We understand you want to do that in Work Stream Number 1, so that's one action item for our group, to set up a sub-team to define the exact language and extent to which transparency is required.

But if we make that a part of our added patch to the sole designator model, let me hear from you, in the form of a first reading, whether there's any opposition to calling the sole designator model our new reference model.

Any opposition?

So there's queue forming. We would like to ask you to keep it brief so that we can get back some time. We're slightly behind schedule.

First is Matthew Shears, then Malcolm, and then Robin.

Can we have the microphone, for the record?

UNKNOWN SPEAKER: It's an old hand for Matthew. It's an old hand.

THOMAS RICKERT: Okay. I didn't spot that.

Malcolm, please.

MALCOLM HUTTY: Thank you. This is not opposition. This is conditional support. I'm not sure about when you're saying that's all the patches that are needed or so forth, whether we're moving past the point where we can propose additional supports that we need to see included in the proposal so as to be comfortable to accept the sole designator model.

So let me just say this. Let me just say clearly what we'll be expecting to see.

Fundamentally, our key requirement is that the availability of the IRP as a means of review mustn't be optional for ICANN. Now, I have just been involved -- just had discussions with our counsel this afternoon about whether it would be more certain that the sole member model or the -- or the sole designator model -- whether the sole member model would be certain or whether it would be equally certain in the sole designator model. This has advanced our thinking and we're hopeful that the sole designator model can suffice. But should it be the case that there is any question that this is optional for ICANN, that it's discretionary to ICANN in any given case, we would want to be adding in some additional patch that makes sure that it wasn't, so that there was any question that the I- -- that the -- ICANN has to enter into the IRP, if somebody wishes to bring an IRP case and is entitled to do so under the bylaws, okay?

So we can support the sole designator model, but potentially we might need a patch that -- to reassure the supports for that particular point under the sole designator model. Thank you.

THOMAS RICKERT:

Thanks. And you've issued a written statement on behalf of the ISPCP, so we're going to look into that.

MALCOLM HUTTY: Yes. Thank you.

THOMAS RICKERT: It is my understanding from earlier interventions that you made that there are some issues that might not be related to the model but that might be at a different level, so I think we should -- for example --

MALCOLM HUTTY: There are separate issues in that that relate to other things but they're not model-related so I wasn't raising them at this moment.

THOMAS RICKERT: Good. Thank you very much.

I will close the queue after Sebastien.

Next is Robin.

ROBIN GROSS: Thank you. This is Robin Gross, for the record. I'm a little bit confused about why we're beginning the conversation with, "So we're going to say we're switching, right?"

It seems to me we have to have the discussion where we go through the concerns and the comments that we've been talking

about and that we've received and then perhaps at the end of that conversation we can make that judgment call.

But I'm really uncomfortable at this level making the switch when we haven't really gone through and discussed what came in in public comment and -- and what has come up this last week.

I wouldn't be at all surprised if we do make that switch, but it just seems like such an odd way to start the conversation with the conclusion before we go through the actual analysis of the issues.

Thank you.

THOMAS RICKERT:

Robin, a quick point -- a quick response to that.

The purpose of the session prepare- -- chaired by Mathieu that we just had was to serve that purpose, to look at the concerns that were raised, to look at patches that could help with these concerns.

So should there be any additional concerns that you have that you need resolved before supporting either the one or the other model, then we should know.

ROBIN GROSS: I'm sorry. You said the purpose of what session was that?

Did I miss -- did we have a session here this week on this issue that I missed?

THOMAS RICKERT: Well, we just discussed, chaired by Mathieu, whether -- to what extent the models meet the requirements.

ROBIN GROSS: Oh, I thought we were talking about transparency only.

MATHIEU WEILL: No. It was -- maybe I wasn't clear but I was hoping for --

ROBIN GROSS: Okay. Because that's what I asked --

MATHIEU WEILL: -- once I closed transparency, so if you --

ROBIN GROSS: -- in the chat is --

MATHIEU WEILL: -- have any concerns --

ROBIN GROSS: -- what was the scope of the discussion, is it only transparency or are we going to discuss the other things as well, and so I was told only transparency, so --

MATHIEU WEILL: So I closed --

ROBIN GROSS: -- you see my -- you see my confusion.

MATHIEU WEILL: I did close transparency and asked for other aspects to be discussed, but certainly, I mean, the goal for us is to have concerns addressed, so if you have any specific concerns, please raise it.

ROBIN GROSS: Well, I think there was still a little bit of concern about enforcement of some of these powers, and I thought we were going to hear a little bit more from our lawyers about how we were going to address that and the extent to which it could be addressed.

I know we touched it the other day but I didn't think we were finished with that conversation.

THOMAS RICKERT: Robin, what exactly do you need? Help me understand. You know, you're quite -- and I'm not trying to be difficult.

ROBIN GROSS: Yeah. Well, for example, the separation issue. The extent to which we can get separation under a designator model.

THOMAS RICKERT: Okay. The slides that -- that Mathieu showed were stolen from Annex L of the CWG proposal. You know, the information in there. That's the process that leads to the separation. And it was our intent, in preparation for this meeting, to show that we can bake the process into the bylaws and make that enforceable for the -- for the community.

So that part, you can have enforceable.

The last bit, the decision that's to be made by the board, is not dictated by the CWG proposal either, so what we're saying is we can deliver in an enforceable way on what's in Annex L of the CWG requirement, and therefore, we're delivering on that condition. We're delivering on that requirement. We're not

going beyond it. We can't dictate the outcome of that decision. It's a -- you know, the community, as well as the board, need to jointly come to a decision and I think that's what -- what Mathieu characterized as a bridge that you build so that it has some wiggle room so that the process can be successfully conducted.

So we tried to address that with -- with exactly that slide deck, so are there any additional questions on that specific point?

MATHIEU WEILL:

So what I'm seeing in the chat -- and Robin addressed it -- was can we enforce the other powers. Am I correct? That's what you're referring to?

I think we need to spend some time on that.

ROBIN GROSS:

How and the extent to which and that sort of thing.

I think some of us are -- are more comfortable --

MATHIEU WEILL:

That's okay.

ROBIN GROSS:

-- comfortable than we've been but I wouldn't say we're quite ready to switch yet.

MATHIEU WEILL:

I must say I was very surprised that no other point was raised when I opened the floor earlier, so I think definitely it's fair.

So the budget -- take the budget or the fundamental -- the standard bylaw change are two of the powers that are not directly enforceable in the designator model.

Our discussion on Monday was around the idea that basically if we had -- the difference is that it cannot be enforced in court, and our discussion on Monday, one of the conclusions was, but we would probably -- I mean, going to court would take years, and there's an easier way which is to recall the board, and that's available in the designator model.

So indeed, with the designator model, you can't go to court to enforce a veto on the budget. You can still recall the board. That's the -- that is a fact difference.

ROBIN GROSS:

Yeah. And I think it's explicit that this really be teased out because the extent to which that is true has been unclear. We've been thinking we've been able -- we could get a little bit further and now it sounds like you're saying maybe we can't. All we have is spill the board on some of this stuff.

MATHIEU WEILL:

Well, if we go to the escalation process, we have all the steps before, and indeed, only if we go to the enforcement level, then we have this difference between the two models. But the rest of the stairs, it's similar. And so it's all about whether, as Roelof was saying earlier, we would really go through the trouble of a court case or in case we would really be at odds on this, we would not resort to recalling the board.

THOMAS RICKERT:

And let me just add that we've been advised that if we want to enforce any of the community powers, after having gone through this lengthy engagement and then the escalation process, if we need to go to court, in the case where the board refuses to honor an IRP decision -- I mean, they can honor the IRP decision and then we're done with it, but if they're not willing to do that, then we would have approximately five -- two to five years of a court battle in the public eye, and the alternative would be to spill the board, and if the board doesn't want to leave, we could have a preliminary injunction and get rid of the board and proceed with a new board.

And from what we understood in these discussions is that a lot of groups were leaning towards, you know, this court battle is a waste of time, it takes too long, it gives -- it damages the

organization more than a clear-cut removal of the board and seating of a new board.

I hope that these explanations have clarified things. So it remains with the indirect enforcement via board spill for some of the community powers. We've offered patches for other questions. I suggest we proceed with the queue and we close the queue after Greg.

Roelof?

ROELOF MEIJER:

Thank you. Roelof Meijer from SIDN, member of the CCWG on behalf of the ccNSO.

Since, Mathieu, you refer to me, let me once repeat my personal opinion is that it's absolutely purposeless to take the board to court on any of the powers, by the way, have the decision enforced and let them go on. If we have to take the board to court for failing to adhere to the bylaws and respecting the outcome of an IRP, they have proven to be unfit for their position. There is no other solution than sending them away. I wasn't going to comment on that.

I asked for the mic because over the last two days in the ccNSO we have been spending a lot of time discussing CCWG and CWG issues, by the way. And I have just come out of a session that I

moderated where we discussed the two models and the difference between the two models as far as you can make those clear within about roughly an hour.

And I would like to give back to you that we asked the people in the room, ccNSO members and non-members, if there were any objections against either of the models. There were a few objections. I would describe that as a small minority. We then asked the room if there was a preference for either of the two, and we got about double the amount of the people raising their hand preferring the sole designator model as compared to the sole membership model. I thought that might be of interest to tell here.

If I'm incorrectly, let me say, phrasing this, then, Mathieu and Jordan were there and they can correct me.

THOMAS RICKERT: Thanks very much. Roelof.

Jordan is next in line.

JORDAN CARTER: The only thing I would add, I guess, to Roelof's summary is that came out of a discussion where I including others spoke up

strongly in support of the single designator model. So that's just context to have.

The point I wanted to raise -- I wanted to just respond a bit to Matthew Shears' earlier point about what is the global public interest and those slides about the separation process.

Remember, the separation process the CWG asked for amounts to a co-decision point at the end where the community through some mechanism and the board co-decides on the decision to change.

And I think the intent of the addition to the global public interest reference there was to make it clear that it isn't just the ICANN board that can use the shtick, if you would like of global public interestness, which some people in the room fear, I think, but that it's a decision that would come from the bottom-up multistakeholder community, which is why I thought you were talking to the previous slide.

It would be represented in the decision of the community in making its call about whether the separation should happen. So it would be a tangible evidence of what the global public interest was representing the bottom-up multistakeholder process.

When we did the table to compare these models -- because as you all know, I have been a requirements guy. I have been

interested, first of all, in what delivers our requirements. I have started to fill it out. Not because I am a genius and I know all these things and no one else doesn't them but because I started to get annoyed with an empty table.

You have all got Google Doc access or you don't. I can't help that. I've just tried to filter out where the grays, there is no distinction at all. And where the greens are similar achievement but different methods. And the oranges are a bit of a problem from our requirements point of view.

And as I look through that table, to me, these are the criteria that Matthew set out in his slide yesterday. And to me, the model, it pushes you a little bit in the SD direction, the designator as the enforceability mechanism.

If you look at the second page of that slide, if you look at the community powers, the five community powers that are at the core of what we are trying to do -- can you scroll down for a second? Thanks, Alice -- the director appointment removal is the same in both models. It is a directly enforceable power. And for changes to the bylaws, the bylaws can grant the power to authorize changes or prevent them to a third party and that is enforceable. Our counsel have been very clear on that. And it's direct enforcement for the member.

And we know there's this issue about the budget power, that it's not directly enforceable for the designator model. So to me, that indicates a slight preference for the membership model but not one that I think is substantial for the practical reason that has already been described. We have got our whole deliberation process. We have got our whole steps of engagement going on through.

And if we have a major sort of financial showdown that's going on, litigating that through three financial years, how's that going to help anyone? How is that a practical difference in terms of the community holding ICANN to account?

So I don't see anything in these criteria which pushes me decisively in the direction of membership or of designator. I prefer membership. But I look around the room. And I look at the analysis that we've done, and I think that they are both reasonably able to meet our requirements.

And because I think they are both reasonably able to meet our requirements, I take our agreed doctrine of simplicity seriously. And I think there is a simplicity advantage in description and intent of the designator model. So that's why I prefer that model as the outcome of our deliberation.

THOMAS RICKERT: Thanks, Jordan.

Sebastien?

SEBASTIEN BACHOLLET: Thank you very much. Sebastien Bachollet. Just a question of communication. The communication will be more and more important. I think that the sole designator, it's so obscure that we need to find something else. I will not try here to do it. But I think maybe a small group can brainstorm about that to find another word for that. And I support this proposal. Thank you.

THOMAS RICKERT: Thanks very much, Sebastien.

And rest assured we have on our list the requirement for us to come up with a good name and for good illustrations to explain what we are doing with our final recommendations.

Next in line is Milton.

MILTON MUELLER: Yes. It's very challenging situation you're facing up there. There's this enormous gulf between the people sitting here and you up there, and it's very hard to interact. So the fact that you sat up there and went through, you know, seven or eight slides

in two minutes and asked us whether we had any comments and nobody responded really doesn't mean very much.

And once people start talking and they raise issues, that's when you're going to find that the real concerns and the real discussion begins. So you have to -- you have to really make room for that in your management of this meeting.

We have a number of concerns about the movement from single designator -- or from single member to single designator. I for one was not at all satisfied with the summary of the issues that we got at the beginning. There was statements that we agreed on things that I didn't really agree with. I was at the discussion yesterday. It wasn't clear that we agreed on things that was said we agreed on.

However, certainly the trend here is towards single designator and the time pressure is clearly pushing us in that direction because it seems to some people as if the board will not accept the alternative. So what you have to do is identify the key sticking points and have a full and open discussion of the way those differences in the models meet different requirements. And you really have to be sensitive to, you know, different points of view here and not just be so eager to announce that we agree on things. Maybe we can be clearer about that as we move forward. Thanks.

THOMAS RICKERT: Thanks, Milton. That's appreciated.

I think we've discussed various aspects of what you saw summarized in the previous slides during previous sessions.

I think I'd like to understand on which aspects in particular you would like to have more discussion. We see -- or we got feedback from various parts of the community saying that folks were willing to give the sole designator model a chance. You will remember that at the beginning of the session last Friday, Mathieu made a point that nobody can really make progress because we have too many moving parts. And that is true because we need some basis, some facts that we can lean on to develop other aspects.

And so I think what we're suggesting here is not to make everybody sign off on a final proposal before it's even written, nothing could be further from the truth.

I think Bret also mentioned in the chat that he wants to see it black on white before he can make a decision or before he can endorse a model. That is certainly true.

What we are trying to do here is establish what our new reference model is. That is not to say it is necessarily the final recommendation. But we need to look at what model gets most

traction to proceed on and then flesh out the detail. And ultimately it will be up for the chartering organizations to approve the recommendations or not.

So there will be ample opportunity for you as well as the community to chime in.

I think we need to take one step after the other and maybe we haven't made that clearly enough. But our suggestion is to do this in an iterative fashion by settling on the sole designator model as a new reference model should our sense of the temperature in the room be correct and then look at how we can patch that and whether concerns can be removed.

We would really like to hear points that you would like to see us discuss more.

But when we came to the NCSG yesterday, we heard that you raised one point. And I hope that you will have spotted that we tried to address that concern about the board being able to create new ACs on the previous slide. So I think if you come up with more areas that need patching, that need discussion, let us know.

This is not -- you wrote in the chat that you were channeled into a discussion on transparency to cut off the discussion. Nothing could be further from the truth. This is a good-faith attempt to

address the issues that we need to discuss before we come to --
can come to a decision.

Let's now move to Greg.

GREG SHATAN:

Thank you. Greg Shatan for the record speaking on behalf of the intellectual property constituency. I can't yet speak on behalf of the intellectual property constituency. We are still engaged in consideration. I think there's been movement. There are still concerns. The concerns are not with regard to the model, different than the concerns you've heard. I think there's been movement on those concerns hoping to continue to move. But until there is movement which allows me to speak on behalf of my constituency, I can't. But we are moving. But I can't tell you whether we will actually move yet or not. Thanks.

THOMAS RICKERT:

I'm now wondering whether you are Captain Obvious or Mr. Cryptic.

Izumi.

IZUMI OKUTANI:

Thank you. So it probably is not too much of a surprise for members of the CCWG that we support moving forward with the

single designator model given that we have been expressing our preference.

But I just want to say that -- and, again, I think there has been some perception that maybe the numbers community is in a little bit of a different situation from the rest of the SOs and ACs and that we may have less interest in enforcing accountabilities and things like this.

But throughout this process, we have been observing and hearing the concerns from the others. And we have tried to think of what is really important in achieving this in accountability, putting ourselves into the shoes of the other SOs and ACs. We don't see a fundamental difference between the two models in the fact that if we want to ensure accountability, we want to make sure that the community has enough teeth to make sure that the board listens and engages with the community and respects the board and the board respects the community opinion.

And it is just a matter of, I think, whether we have the board removal or we go through the IRP. It is just a matter of how we do it. We already have these teeth. And that's why we feel that a single designator model is actually sufficient in meeting our requirements.

Again, lastly reiterating that the most important priority for us is meeting and proceeding with smooth transition and making sure that it happens.

So any model that will be a blocking factor for us in moving forward is not -- is something that we're not able to support. But other than that, we are very flexible and we really hope that the group can move forward in making sure that the transition happens in a timely manner.

THOMAS RICKERT: Thanks very much. Izumi.

James?

JAMES GANNON: Thank you. James Gannon. So I think this will be one of the very few times I will ever be able to say are. I think we are broadly in agreement with the IPC. So while not speaking on behalf -- while not speaking on behalf of the NCSG, my read of that community is that we're probably in a very similar position where it's under discussion. I don't think that we're at the level of detail needed to be able to say that it's something we support. That patching part is incredibly important. And how those patches look and the details of those patches, I think we

need a little bit more before we can say definitely, yeah, that's something we can buy into.

THOMAS RICKERT: Thanks, James.

Steve?

STEVE DelBIANCO: Thanks. Steve DelBianco for the business constituency. The BC is just one of the groups within the GNSO. And GNSO has a total of four representatives on the CCWG and lots more in the audience. So we have already heard from two of the three elements of the commercial stakeholder group, once when Malcolm spoke for the Internet service providers and when Greg Shatan spoke as close as he could get for speaking for the entire intellectual property constituency. Working with the IPC can be very challenging.

The business constituency is also pretty challenging, but we would echo what you heard from our other two brethren in the CSG. And that is that the BC can support the designator model provided that the binding element of IRP is truly going to be enforceable. We have a separate list of several concerns we had that weren't related to enforcement but related to the rest of the proposal and bylaws changes and contract enforcement. So

whether or not exactly related to the designator member model, it would suggest that we have a very open willingness to be able to be satisfied. But the ultimate enforcement step of designator -- sole designator could work. Thank you.

THOMAS RICKERT: Thanks very much, Steve.

Alan.

ALAN GREENBERG: Thank you. I think I can say with a pretty high degree of certainty that At-Large will support this.

THOMAS RICKERT: Thanks very much, Alan.

Any further interventions on that? So with that, I'd like to close the queue and take stock. So we heard some support for the sole designator model. We heard some concerns insofar as groups want to see how this would play out. They want to see black and white whether a patched sole designator model can deliver on all the requirements they have. I have not seen any opposition against proceeding on the basis of a sole designator model and trying to make that work, making clear certainly that the decision on that is yet to be made.

I see Eberhard's hand is up. Can we get the roaming mic over there?

EBERHARD LISSE: Is that the wildcard objection I brought?

MATHIEU WEILL: Yes, that's the wildcard objection.

THOMAS RICKERT: So we note Eberhard's objection, but I don't see any additional objections to the one that's now being recorded from Eberhard. So I understand that there are no strong objections beyond the one from Eberhard for agreeing that our work in preparing the next draft proposal should be based on the sole designator concept.

So that would be our new reference enforcement model to further flesh out. So with that, I think we can move to the next agenda item, and that is another discussion on the removal of individual board directors. You will remember that we had a chart that we looked and which was -- at which was not entirely finished and we would like to add to that and hopefully be able to mark that green at the end of that part of our conversation today.

UNKNOWN SPEAKER: Leon was chairing the next part?

LEON SANCHEZ: Thank you very much, Mathieu. Thank you very much, Thomas. So our next agenda item will be discussing on the removal of individual board directors. We had a very thoughtful and thorough discussion in our previous meeting on this subject. Some adjustments to the table that was presented were suggested and have already been built into these new table, and I'd like to handle the mic to Steve DelBianco so he can walk us through the different additions that were made to this table and of course explain us how this would play into the model. Steve.

STEVE DelBIANCO: Thanks, Mathieu. In this role I'm simply acting as a rapporteur from a process that started at the Los Angeles meeting when we did breakouts to develop the decision model. It continued Saturday morning here in Dublin with another breakout on mapping those decision models to each and every power. And then on Monday, just two days ago, when the CCWG met, there was a lively discussion of splitting out the differences in board removal between individual directors appointed by an AC/SO, which is 4A in the table in front of you, and then 4B, removing an

individual board director who had been appointed by the NomCom.

With the best intent of the last 24 hours, I did my best to gather what input had come out of Monday's discussion, both that which was offered verbally and then asking people to respond to emails. So this is my best understanding of where I think we are, and I'm happy to be corrected if we've miss it a bit.

So what you have in front of you is just a few of the rows from the entire table, the row 4A, 4B, and for reference I left 5 in there. And below that was a series of detail to describe it. So the table helps to understand the context, but perhaps it would be better if we just scrolled down a little bit to the detail in row 4. It will fit easily on the screen, and thanks for doing that, Alice. And Chris Disspain provided this summary of the work that his breakout group did on Saturday to say that a director who was elected or appointed by a single AC and SO, how would they go about to remove that director because they felt the need to do so before waiting for the term to expire.

So a petition for removal would arise in the relevant SO and AC. That would happen -- that particular SO would do so on the basis of whatever criteria they have in mind. They would organize a briefing call within their AC or SO to establish whether there's support from other members of that AC. If they

feel that there is, and they provide a rationale, they've got to inform the director that we're talking about and give them a chance to respond. So presumably the rationale for removal and the response would come back to that AC and SO to decide whether they want to move to the next step. The plan here is that a simple majority of, say, the GNSO in the case of one of the ACs and SOs, a simple majority would be enough within the GNSO to convene a community forum. And that would be for the discussion to proceed there. The forum would not necessarily have to be face-to-face. It could be an online Adobe-hosted. All rationale would need to be provided in writing and the director again given a chance to respond, not only in writing but verbally. After the community forum, the GNSO in this case would send every other AC and SO a request, a written request in email, asking them for comments on the notion of the removal. Other ACs and SOs would provide written comments and then and only then the GNSO in this case would make its decision. The prescription here is that it would need a 75% majority, however it counts its votes, and in the GNSO we have a wonderfully complex system of counting votes. You'd be amazed. Each of the other ACs and SOs would have their own way, but the notion here is to have a three quarter threshold to take the action provided under the bylaws to remove that director.

After taking its vote, the AC and SO would publish its results with an explanation if the director is in fact removed. So Alice, if you scroll back to the table, thank you, you can see that 4A, which I just described in detail, in the context of 4B, which is the NomCom. NomCom is more of a community-driven process since it didn't come from a single AC and SO. Again, it would be a petition that could begin anywhere, and as long as two of the ACs and SOs support the petition, that would be enough to proceed to have a conference call. If you have the conference call under the rules we've described earlier, again, the director himself would have an opportunity -- herself would have an opportunity to respond. We'd document, translate, record it. And then it would take two to decide to move to the community forum, which could be face-to-face. Again, could be online hosted with Adobe, fully documented. The member's expected to attend and respond, if they wish. And then finally, the decision to remove the NomCom-based director would require the support of three of our decision-making ACs and SOs, provided that no more than one objected to the removal.

And that would be a walk-through of individual board directors removal. So happy to turn it back to you, Mathieu, to manage the queue.

LEON SANCHEZ: Thank you very much, Steve. I'm not Mathieu, Steve. I'm just Leon. I would like to, of course, open the floor for comments or questions. I see Tijani and Brett. Could you also use the Adobe Connect room so we can, of course, follow an orderly fashion queue. So Tijani next.

TIJANI BEN JAMAA: Thank you very much. My power ran out so I cannot use the Adobe Connect. Tijani speaking, for the record. I do agree on all what Steve said. I was in the group and this is exactly what we -- what we put upon. I would like to make it simpler for the NomCom appointees. It is exactly the same procedure than removing the whole board except for the number of -- of approval or number of support. For the whole board, we put five -- four support. For the NomCom appointees there is only three support. Thank you.

LEON SANCHEZ: Thank you very much, Tijani. Next in the queue I have Brett.

BRETT SHAEFER: Thank you. I just want to confirm with Steve that this is based off of all of the SOs and ACs having -- participating in the structure, correct? So would these ratios change if that changed?

LEON SANCHEZ: Steve.

STEVE DelBIANCO: Thank you, Brett. This was drawn up, these numbers, these thresholds, were drawn up Saturday morning at a time when we assumed we could have up to seven ACs and SOs. There's always been an understanding that some wouldn't want to participate in some decisions, and that's one of the reasons the thresholds were where they are. But if there's been subsequent information that there may be an AC or SO who permanently wants not to exercise a decision, I think we could consider revising those numbers. And I think that answers your question.

LEON SANCHEZ: Thank you very much, Steve. Are there any other questions or comments in regard to individual board member removal? I think -- are you raising your hand, Chris? No. Okay. Just making sure. Good.

So I think we can go -- oh, Robin, you just raised your hand. Please go ahead. Robin. Can we have a mic for Robin, please? Yes. Big apologies to all.

ROBIN GROSS: Thank you. This is Robin Gross, for the record. I just wanted to verify, because we went over it so fast, that we are not now proposing that there be criteria or cause or anything like that for the removal. Okay. Thank you for that.

STEVE DeLBIANCO: Robin, there must be an explanation. And if you scroll down in the document, each of the columns is laid out and they require full written explanation for the reasons of decision. But there isn't a set of limited criteria.

LEON SANCHEZ: Thank you very much. So no one else on the queue. We can move to our next agenda item which will be Affirmation of Commitments, and here I would also like to hand the floor to Steve so you can take us through the progress that was made on Affirmation of Commitments. We also had some discussion on that and some comments received. I think Steve, you could please walk us through. I'm not sure if the document is ready. There it is. So Steve.

STEVE DeLBIANCO: Okay. I'm just going to bring up the right document so that I can see it well. Alice, if you put in the chat the link to this document, it was shared about a week ago. Okay. Our job was to analyze

the public comments that came in on our second draft proposal with respect to one aspect of our Workstream 1 work which was to bring the Affirmation of Commitments, both the commitments and the Affirmation of Commitments reviews, into ICANN's bylaws. This was in direct response to stress test 14 which evaluated the fact that absent the IANA contract and the leverage that it gave the other party on the AoC could walk away with 120 days' notice. The Affirmation of Commitments, you may know, is this bilateral agreement between NTIA and ICANN that either party can quit. There's no risk really that ICANN would quit the Affirmation of Commitments as long as the IANA contract would be put at risk but once the IANA contract is no longer a point of leverage, there's a concern that the AoC could be dropped. This was acknowledged early on by the board, the CEO when they testified in Congress. They're very happy with the idea of bringing the AoC into the bylaws, and I have to say there's been a lot of harmony on even the words that we use when we brought it over. This has gone rather well. In the public comments, however, I did have to deal with some differences and divergence of opinions, some requirements to try to clarify things. So I think it's easiest if we go straight to the areas where the work party that's involved here is seeking the consent or seeking the input from the entire community. So to do that, Alice, it's called options for consideration by the full CCWG, it's page 5 of the nine pages in the PDF that was

circulated last week and is on the reading list. And I realize the frustration that very few of you can read what's in there in the Adobe, but with the links that Alice is providing, I'll do my best to walk you through the part where the decisions need to be made.

The first one was on page 5, and it's a question about the next round of gTLDs, new gTLDs. As you all recall, one of the four AoC reviews is a review of the new gTLD expansion we've just had. And it's a review to determine whether it enhanced the consumer trust, consumer choice and competition, and evaluation of the application and applicant evaluation program. It's a pretty comprehensive review. It's one of many reviews, but it's one that's obligated in the AoC.

As the Work Party 1 working on this brought comments in after the first draft, we had comments that explicitly said, let's try to bring -- let's make sure that ICANN has addressed the concerns that were raised in the review before we launch a second round. And that led to paragraph 575 which said, "Subsequent rounds of new gTLDs should not be open until the recommendations of the previous review required by this section have been implemented." And the board alone did not support that line and wanted to retain the discretion about when to start the new round with regard to which recommendations were implemented or not.

After that comment came in, other parties who perhaps had missed this one line in paragraph 575 -- and I understand that can happen -- also came in with an agreement with the board. And this was one of the more constructive interactions with the board. We worked pretty closely with Rinalia to suggest how do we preserve the community's preferences about which recommendations get done and which don't until you launch the first round, preserve the board's discretion on which recommendations to accept, because that's already baked into the AoC, and come up with a decision? So in front of you in yellow, at the top of page 6. If you could scroll to the choices. Thanks, Alice. We have two choices we wanted to present to the full CCWG. Option A, which was to retain that paragraph that I read earlier, which would require the implementation of accepted review team recommendations before opening the next round. And I did say accepted recommendations because our proposal says that when the review team comes up with recommendations, the board has to have the ability to approve the recommendations. We can't force them to implement everything since there are implementability and cost considerations and that's the way the world works today. If the board makes a decision to ignore a recommendation of the review team we do have a tool, reconsideration and IRP if the community can come together and say that we disagree with the board on this decision.

So option B says to replace the paragraph 575 with a new text, and this is supported by and preferred by the board. It said, "For each of its recommendations this review -- this review team should indicate whether the recommendation, if accepted, must be implemented before opening a subsequent round of gTLD expansion." So it puts the onus back on us, the review team, to suggest that when we list our recommendations for the next round, we have to indicate this must be implemented, should be implemented before the next round is open. On one of them we might say, this implementation -- this recommendation should be implemented before applications are evaluated. Another might say that this particular recommendation has to be implemented before the delegation of the first of the next round of TLDs. So if you catch my understanding, it will be up to us to make specificity.

Then our entire package of recommendations go out for public comment, and then they get conveyed to the board after they've addressed public comment. At that point the board may disagree, and if they do we have an opportunity to express our disagreement with the board through public comment, through reconsideration and through IRP. So I'd like to get a sense of the room, and Chair Leon, how did you want to sense the room on option A versus B? Take a straw poll and make it easy? Take a

queue and listen to input? Have me answer questions? I'll leave it to you.

LEON SANCHEZ: Thank you very much, Steve. Well, first of all, I'd like to thank you for your work and thank the working party for this work and, of course, ask for your opinion on which is the option that actually have more traction within the working party so that could also help sense the temperature in the room. So which would -- which one would be the preferred option?

STEVE DeBIANCO: Thank you, Leon. We did not do a formal poll or numbers. This was done over two successive phone callings. My sense is that the room was comfortable with B as an option, puts the onus on us and still preserves our ability to challenge the board's denial.

LEON SANCHEZ: Thank you very much. So your sense is that option B was the one that got more traction within the group. So now I would like to, of course, open the floor for questions or comments. And I would allow, of course, Steve to freely reply to those questions or comments. And first in the queue I have Milton Mueller.

MILTON MUELLER: Yes. I find it hard to make a choice between these two options, although if I had to, I would choose B. I think what we're talking about here is really a policy issue. You're getting into a fine grain decision about when we do new TLDs, instead of focusing on the long-term issue of ICANN's governance structure and accountability. Indeed this is one of the fundamental flaws with the way the whole Affirmation of Commitments has been dragged into this transition process. We are basically -- the Affirmation of Commitments was kind of a -- an accountability fig leaf that the U.S. government negotiated directly with ICANN in the period when it was still -- had oversight authority as kind of a little baby step towards more independence for ICANN. And I think, you know, I know that the committee didn't go this way, but I think that that whole affirmation framework should have been thrown out and we should have started, you know, with a clean slate and gotten real accountability structures. But knowing that you didn't go that way, I don't understand why we're getting enmeshed in a debate about when and where and how we do new TLDs when we should be focusing on much higher level, more structural issues about how ICANN has accountability.

STEVE DeBIANCO: Thank you, Milton. Bringing the Affirmation of Commitments into the bylaws is one of our easier tasks. And in fact, in

burdening us on doing that easy task by bringing the greater issues up is not going to move this ahead any further. I mean, you did say at the beginning of your comment you thought B would be acceptable, so I'm happy to accept that and move on so we can talk about the things that you really want to talk about:

LEON SANCHEZ: Thank you very much, Steve. Thank you very much, Milton. Next in the queue I have James Gannon.

JAMES GANNON: Thank you, Leon. Just want to offer my support for option B. I believe it's a more practical option and it gives greater flexibility to review teams to be able to produce recommendations which are more practically implementable.

LEON SANCHEZ: Thank you very much, James. Next on the queue is Jonathan Zuck.

JONATHAN ZUCK: Sure. I think somewhat to answer Milton's point and to endorse option B, I think we've learned some lessons through the ATRT process that we made far too many recommendations, haven't

prioritized them, and I think that some responsibility has got to fall back on the community to think of those time frames.

And to answer your question generally though, Milton, I think that part of what we're trying to do in building a more accountable ICANN is build the lower bar versions of accountability as well as these sort of hard-core enforcement and escalation models when things don't go our way. So, I mean, there's been constantly attention in the CCWG between sort of enhancing the engagement model with which the community engages the organization and then the enforcement models upon which they impose their will on the organization. And I think that finding a balance between the two has been the trickiest part, frankly, of this entire exercise. And so bringing the AoC reviews in is at least a way to create a baseline for how that engagement might look going forward and the significance to that engagement on things like the new gTLD program. So I think it makes sense that it's there. I think there's broad consensus on it, and I think it does make sense to make it as practical as possible at the engagement level.

Good. So option B, Steve, would be the way forward.

And I'd like now to hand over the floor to Mathieu for the --

STEVE DelBIANCO: Two more. Two more.

MATHIEU WEILL: No. There's two more issues on AoC.

LEON SANCHEZ: Oh, I'm sorry.

MATHIEU WEILL: We're not done yet.

LEON SANCHEZ: I'm sorry.

CHERYL LANGDON-ORR: Don't rush it.

STEVE DelBIANCO: Two more. And I --

LEON SANCHEZ: That was magic.

STEVE DelBIANCO: That was magic. Thank you very much.

Team, the same document that you loaded, the same PDF that Alice gave you the link for, please scroll to Page 7. It's the very next one. It's number 2 and it refers to the review teams, the composition of the four review teams today.

In our draft proposal on Page 74, we said that review teams are established to have both a fixed number of members and then an open number of participants, not unlike this CCWG has worked, right? The members were appointed by the ACs and SOs but anyone can participate. And I'm sure that's true of many of you in the audience.

Each AC and SO participating in the review can suggest up to seven potential members for the team and the group of chairs of the ACs and SOs would select a group of 21 to be the review team and that would be the members whose travel and staff support would be there, although participants could continue to attend and influence the process through lists, meetings, and totally transparent proceedings.

This particular proposal is, well, different from the current AoC. The current AoC leaves it to the chair of ICANN and, in a couple of cases, the chair of the GAC to select the members of a review team and it's imprecise or I would say it's vague about how many should come from each part of the community. Unfortunately the chair of the GAC and the chair of the board

have shown some discretion about putting people on review teams, potentially in proportion to where there's interest and where the particular issues affect them the most.

Commenters in the second draft proposal suggested this would be a drastic reduction in representation from the status quo. It was a suggestion to rethink the composition to increase the presence of an affected constituency.

Let me give you an example. If we did a review of the success of the new gTLD program, that matters one heck of a lot more to the GNSO than it does to the CNSO -- ccNSO or the ASO. It may matter a lot to the ALAC and to the GAC. But you can see what I'm suggesting here is that certain parts of the community could have a greater amount of interest and a greater amount of concern.

Composition they said would dilute the GNSO influence if it had only three and the limit would mean that some constituencies would not be represented.

So let me -- what we've got here is a table that staff prepared indicating the people that were on the last four review teams that were composed and executed by ICANN, and then in the bottom in yellow is the recommendations with two options.

So if you're able to scroll to the bottom of Page 7, Alice, where the yellow text is, I can quickly summarize the two options.

One option is leave what we had in the second draft. That's easy. What the second draft said is it's three from each AC and SO and that's all, so if a particular AC and SO only had one or none, the review team ends up with fewer people even if another AC or SO had more who were interested in serving.

Option B is to change the paragraph that would allow the AC and SO chairs to select more than three from any given AC and SO, if any of the 21 member slots were not allocated to others.

So the revised paragraph is shown there, that "Review teams are established to include fixed and an open number of participants. Each SO and AC participating in the review may suggest up to seven prospective members for the team and the group of chairs would select a group of up to 21. They would balance it for diversity and skills and allocate at least three of the member slots from each participating SO and AC that has asked for three or more.

In addition, the board may designate one director -- board of directors as a member of the review team."

The effect, which is the underlying text near the end, is that if there was an oversubscription of ALAC members who wanted to

participate and there were open slots among the 21 because SSAC didn't have anybody, well, then that would be three more, potentially, from the ALAC or one from the ALAC and two more from the GNSO. It's an element of flexibility since we're bringing this into the bylaws.

So Leon, I could turn it back over to you to manage the queue.

LEON SANCHEZ: Thank you very much again, Steve, and I would just like to we run the process that we did.

I would ask you for your opinion on whether -- which of the options have more traction.

STEVE DeBIANCO: I don't believe that either option had a significant majority. We're somewhat split on this so I wouldn't characterize -- that's one of the reasons we brought it to you.

LEON SANCHEZ: Good, good.

So now the queue will be open for comments and questions, and of course then we'll call for your opinion on whether we should move forward on option A or B much.

So first in the queue, I have Sebastien Bachollet but I don't know, Keith -- okay. Sebastien.

UNKNOWN SPEAKER: (Off microphone.)

LEON SANCHEZ: Okay. Keith.

KEITH DRAZEK: Okay. Thank you, Leon.

This is Keith Drazek, for the transcript.

I would normally type into chat but I've lost power, so dead battery.

UNKNOWN SPEAKER: (Off microphone.)

KEITH DRAZEK: I know. It's good for everybody.

So Steve, in response to this particular point, I like the flexibility. I like the idea that an interested group could, you know, make sure that interested members can participate. Particularly if there's a dearth of interest from another group.

But -- and bear with me here. I have not served on a review team so I don't know how decisions are made. I assume it's by consensus. I assume that there's -- you know, there's a process there.

So the question is: If you have multiple or significantly more participation from one SO or AC, how does that impact, potentially, the consensus call?

In other words, do you need to establish sort of an equal base among or across the various groups participating, you know, as far as the consensus calls goes, but still have the participation of other members? Just an open question. Thanks.

STEVE DeIBIANCO:

Keith, what I'd like to do is defer to Cheryl as one of the folks on the front table who has been on an AoC review team because the AoC didn't specify what rules must be used. So the review teams as they've been formed have adopted their working rules.

Cheryl?

CHERYL LANGDON-ORR:

Thanks, Steve. Cheryl Langdon-Orr for the record.

Yeah, consensus is what tries to prevail, but fear not, in not only the AoC I served on but the one that I basically shadowed and

watched extremely closely that followed, there is not an assumption that coming from a particular AC or SO brings unanimity of thought. I mean this -- it is a matter of independence and acting in the best interests of.

I mean, you are really having a fearless and frank discussion about the issues that are raised by the community for your review and you're engaging with the community to find out where the issues rise, and then group work and subgroup work is allocated.

So it is almost a nonissue because it is the diversity that is its strength, and in fact, that means that a little flexibility, providing you don't have a ridiculous leveling of one over another, can actually act in your favor.

KEITH DRAZEK: Okay. Thanks very much, Cheryl. This is Keith. Very helpful. And I think with that clarification, I certainly support the flexibility option. Thanks.

LEON SANCHEZ: Thank you very much, Keith. Next in the queue is Sebastien Bachollet.

SEBASTIEN BACHOLLET: Yes. Thank you.

First, I think, Steve, you must be precise on what is the current AoC.

If I remember well, the ATRT is the chair of the board and the chair of the GAC, and the other review team are the CEO and the chair of the GAC.

That the difference between the two type of review, if I am not mistaken.

STEVE DeIBIANCO: Sebastien, thanks for yielding just one moment.

You're describing the AoC. In bringing the AoC into the bylaws, since our very first draft we have enhanced the community's ability to control processes like the reviews. So from the very beginning that started in December of last year when we brought them over, we empowered the community to select the members, not the chair of the board and the chair of the GAC. So we made that change a long time ago.

SEBASTIEN BACHOLLET: No. Steve, but when you present the situation, you say that the chair of the board was selecting with the chair of the GAC the

whole review team. That's what I wanted to be precise that it's only for the ATRT.

STEVE DeBIANCO: Thank you. So you're correcting me about describing the existing AoC and I appreciate that. Thank you.

SEBASTIEN BACHOLLET: And it was nothing against you. Just to be clear and on the same page.

And my point of view about what is the solution, I have no big deal. My only concern is that if we get more diversity in one solution than the other, I prefer the solution with more diversity possible. Thank you.

LEON SANCHEZ: Thank you very much, Sebastien.

Next in the clue you have Alan Greenberg and then Julia, so Alan.

ALAN GREENBERG: Thank you very much.

I must admit I -- from the work group -- the work party, I remember somewhat different options, and I thought we had a restriction on the first one that was lower than 21.

Can we scroll back so we can see the four tables?

Those tables show -- the number on the first line show the total number of people. If we extract the people that are not from ACs and SOs, which is what -- what the selection criteria is talking about below, the numbers actually range from 11 to 13.

That was -- those workgroups were reasonable size. If we're talking about a group that starts with two or three people from each AC and SO, potentially, with a total size of 21, plus someone from the -- one or more from the board plus experts, that's a huge group.

It's not clear that you get a lot more active workers by increasing the size of the group. You do make decisions a lot more difficult.

I think those are -- the numbers we have in both of our options are really overkill and I think we should be targeting groups --

Now, I understand the chairs of the ACs and SOs in their decision-making process could select a much smaller group, but each of them are going to be under pressure, certainly from any of the groups that are involved in whatever the subject matter is, to ramp up and get an overall group that's much larger.

So I'm not really happy with either of those two options and to be honest, as I said, I -- I recall something a little bit different but I didn't check the documents after they were revised so that's my own fault.

But I think we really need to be targeting much smaller groups.

Flexibility, but much smaller groups.

STEVE DeLBIANCO:

Alan, if I could respond, I was the rapporteur on this and I do remember you mentioning on a phone call that you had a preference to be fewer, but our job was to review all of the public comments that were submitted on our second draft proposal. Not a single public comment mentioned that 21 could be too much. And 21 is a maximum. It's not the minimum. It's "up to."

And then on the comment, we worked very hard to go through all the public comments and they all had to do with the composition issue, that a particular AC or SO would hate to be unrepresented if it had a dire interest in a particular item.

So with all respect, I wrote that in my notes that you said, "Well, while we're at it, why don't we cut it to 14?" But that wasn't what the public comments said and it's not what we're trying to decide.

ALAN GREENBERG: I certainly accept that. I also ask, however, that this chart have the number of AC/SO members that show on it instead of just the total number.

All I'm saying is we didn't include within the proposal any information on the current AoC reviews that have happened, and I don't think there was a real perspective that 21 was a much larger number than before. So I'm really worried that we're putting something which may reflect the public comment but that isn't going to be an operate -- a functional vehicle for doing proper reviews. Thank you.

STEVE DeIBIANCO: Alan, I'll promise to do this. When -- if we pick one of these two options and we put it up for public comment for our third draft or for the chartering organizations to consider it, we will note the fact that it's up to 21, and if the chartering organizations wish to say that they believe it's too big, well, then you with the ALAC, one of the chartering organizations, could make the point that it needs to be reduced.

But please keep in mind it does say "up to 21." There's an opportunity for the chairs of the ACs and SOs -- and that's us --

to say that, you know, "We tried one of these reviews, we had 21 people, it was too many, we need to cut it back."

I'll also promise you that this table you see in the middle of that page, Page 7, I'll promise you that will be in the next document that we produce. Thank you.

LEON SANCHEZ: Thanks, Steve.

I think that Alan wanted to react to that, but he's got no microphone, so would you mind if we go to Julia? Okay. Julia?

JULIA WOLMAN: Okay. Thank you.

UNKNOWN SPEAKER: (Off microphone.)

JULIA WOLMAN: Okay. Thank you very much. I just want to state the importance of having diversity among all groups in the review teams. This is crucial so we don't have an imbalance in any ways. Thank you very much.

LEON SANCHEZ: Thank you very much, Julia. I'm closing the queue with Avri and next on the queue is Samantha Eisner.

Sam?

STEVE DeLBIANCO: Leon, I did want to note that diversity was in both the old and new proposal, the requirement for diversity, and I don't know enough about this, but it's possible that you get greater diversity with a greater quantity of people. I don't know.

LEON SANCHEZ: Thanks, Steve. Sam?

SAMANTHA EISNER: Hi. This is Sam Eisner from ICANN.

I just wanted to reiterate one of the points that was raised, and I'm not sure where it's reflected within the public comment but it -- or within the public comment analysis but it also goes to this, that within the board's comments they raised the point of the need for really the development of a full set of operational standardization work to go along with the reviews that would include things like the -- the review size and everything.

I think it's important, in terms of making sure that our bylaws are workable, to have standards that we know that reviews will

work through and that community members have the opportunity to weigh in and work on, but if there are things that we think might be flexible or fluid, it's not really good practice to embed those into the bylaws to then have to go through and continually change if we see, for example, two years down the road, 21 might not be right. If there's a way that we cannot embed that into a governing document but into a document that we have agreement upon how we'll consider and change that, because we need to make sure that we don't embed processes into the bylaws that we find that we need to change because they haven't been tested, what worked for budget reasons, or other things, and so we keep some flexibility while meeting all the commitments as well as the community expectations.

LEON SANCHEZ: Thanks, Sam. Next in the queue is --

Oh, you want to react to that, Steve?

STEVE DeBIANCO: Sam, I'd like to work with you on a sentence or two to put in our next draft to reflect an intent of the company to work up operational standards to improve the workability of reviews. Because I doubt that those standards will be developed before

we publish next month or so, so I -- I don't know what else to do with that, other than note that the corporation wants to provide operational standards. And if it turns out those standards clash with something we've put here, then we'll have to revise that.

I don't think these will be in the fundamental bylaws. There was no request for that. So they're much easier to change if we end up having done something wrong. Thank you.

LEON SANCHEZ: Thanks, Steve. Avri?

AVRI DORIA: Hi. Thank you. Avri Doria speaking.

First of all, I'm actually rather glad that we're moving the -- the AoC reviews into the bylaws. I don't think that they were a fig leaf that should have been cancelled so I'm very glad that we're keeping them, because I think that they have shown that they do work to improve things. They don't perform the miracles of being the solution to all problems as soon as they happen.

I don't -- I actually like the fact of "up to three." I think it's fine that they should be able to add the experts and such that they would need.

Having worked on one, you know, it's like most things. You have too many people. It really doesn't matter because there's only a few that actually do the work. Like, you know, most of you up there.

I think one of the things that the ATRT review -- review was, indeed, open like this is, but had nowhere near the participation dynamics that this does, but I expect that next time it happens, we would see this kind of dynamics where there would be 21 members and, you know, a variable number of participants that had to be taken.

So I would really recommend going for the simpler model that just says three, assume that it's open to participants, state -- in fact, I think we did. I didn't go back and reread the paragraph now, but I believe that it was open to participants. And then kind of move on from it, because it is, in a sense, a nit.

LEON SANCHEZ: Thank you very much.

STEVE DeBIANCO: Avri, that was a vote for A, I believe, then.

AVRI DORIA: Yeah. But not a vote, just an opinion.

[Laughter]

LEON SANCHEZ: Good. Thanks, Avri. So I think that we --

MATHIEU WEILL: There's one last item, I think, for the AoC.

LEON SANCHEZ: Yes. We still need to --

STEVE DeBIANCO: I'm hard pressed to know what we just figured. We had an A and a B and some other comments unrelated to this A and B, and I'll need some guidance from the chair as to how to interpret what the full CCWG wants.

Do we do that at second reading?

LEON SANCHEZ: Yes. I suggest we let people sleep over this so we can come back to it tomorrow and actually have a way forward that -- a more clear signal from everyone.

STEVE DeBIANCO: Okay. One last go.

LEON SANCHEZ: Mathieu, you want to say something?

MATHIEU WEILL: I'm just saying maybe we should state which option would be for second reading. Was that option B getting more traction?

LEON SANCHEZ: Yes. I'm sorry. Option B?

Okay. So we will be considering option B for second reading tomorrow. Any objections to move forward this way? Okay. Good.

So can we go through the next point on AoC, Steve?

STEVE DeLBIANCO: This will be the last one I need to bring up. If you are running a clock, just let me know how long we have. This is on page 8 of the document. If you go to the top of page 8, this is to the question that's been hotly debated since the beginning of our work. There was this notion of whether we lock in and how much more you want to lock in this notion that ICANN is a California-based corporation and whether you lock in some notion of how easy or difficult it is to ever have that be changed.

And there was a split in the public comments on this. So because there was a split, we need to put it to the full CCWG. The reason the Affirmation of Commitments group even took this up is because this question originated when we look a look at one of the Affirmation of Commitments that's not related to a review team. It's Affirmation of Commitments 8B. I will read it to you. "ICANN affirms its commitments to remain a not-for-profit corporation headquartered in the United States of America with offices around the world to meet the needs of a global community." So that was a commitment ICANN signed in September of 2009, and they have kept that commitment. The CEO testified in a U.S. congressional hearing. They were very happy moving that into the bylaws. We took a look whether that needed to be done.

In our second draft report on page 36, we covered this and we indicated that the Article 18 of ICANN's existing bylaws already covers the fact that ICANN is a U.S. corporation headquartered in California. And we said that because of that, it didn't need to be moved to a fundamental bylaw for three reasons.

We said that the community designator as sole -- the community mechanism as sole member or designator must approve with a 2/3 vote any change to the articles of incorporation. And they already state that ICANN is a California non-profit public-benefit corporation. That reason says that 2/3 vote of

members/designators would be required if the articles of incorporation were to be changed. I'll ask our legal counsel to verify that this was true of member when I wrote it. But is it also true of designator? The articles of incorporation don't say the word "designator," but they say the word "member."

A few of you know that. ICANN's existing articles of incorporation would require 2/3 of its Members, capital M, to approve a change to the articles. While you check that, I'll wait.

The second one -- a second reason that we decided not to make it fundamental is that the community could block any proposed change to ICANN's bylaws, Article 18, which already say, quote, "The principle office for the traction for the business of ICANN shall be in the county of Los Angeles, State of California." So that's the second way in which the community can control it. And then I would suggest the split was we had three commenters who felt strongly that Article 18 of the bylaws should be fundamental which requires affirmative approval. Three did not. The working -- the work party 1, we believe that this should be considered by the full working group because it's a matter also being discussed in work party 2 and fundamental.

Option A versus B. A was to retain our draft to designate Article 18 of the bylaws as a regular bylaw, a status quo. Option B would be to designate Article 18 as a fundamental bylaw. And

there was a preference in our group when we analyzed the comments to retain it as Option A.

Leon?

LEON SANCHEZ:

Thank you very much, Steve. So option A would be the one that got more traction, right? Good.

Now I'd like to open the queue for comments or questions. I see Julia's hand is up, but I'm not sure if that is an old hand or a new hand, Julia.

Old hand? Good.

Next in the queue would be Brett Schaefer. Brett.

BRETT SCHAEFER:

Thank you. I just -- it occurs to me that as we're considering the next stage in this evolution of ICANN, whether that's membership, whether it's designator, whether it's something else that we think about later on, we're always doing that in the context of California law.

And if we contemplate changing the jurisdiction of ICANN, does that call on the question the models that we're discussing and what is applicable under the law of the new jurisdiction? Meaning should it be a fundamental bylaw to change when such

a basic question -- excuse me, when such a basic question could give doubts as to the applicability of the model we've spent so much time talking about?

STEVE DelBIANCO:

That's the reason that we addressed this so carefully because commitment 8B was in the affirmation. The only question, Brett, was whether -- well, belts and suspenders. We have belts. We already have suspenders because it's in the articles of incorporation, the bylaws already. We have belts and suspenders. Do you also need super glue to keep your pants up?

But moving Article 18 to be fundamental, it requires an approval as opposed to the ability of the community to block it. This is one of the few areas of this entire accountability process where designator/member has an ability to stop something as an articles of incorporation change and as a bylaws change.

I don't know if there's anything else we have worked on that has those two -- belts and suspenders is available for the community to stop ICANN from doing something the community doesn't want it to do.

LEON SANCHEZ:

Thanks, Steve.

Thanks, Brett.

Next in the queue is Alan Greenberg.

ALAN GREENBERG:

Thank you. Making it a fundamental bylaw effectively puts the member criteria that's in the articles of incorporation back in because it does make it required that the designator now approve.

The whole argument I find rather moot however because, clearly, if we are going to change to a new jurisdiction, we're not going to change these bylaws, we're going to incorporate a new corporation with a new set of bylaws and new articles of incorporation of incorporation somewhere else. So I don't really see the difference.

If it makes people more comfortable making it fundamental, make it fundamental.

STEVE DeBIANCO:

Alan, was that a desire to make it fundamental or you don't care?

ALAN GREENBERG:

I don't much care, but I don't object if it makes other people feel better.

STEVE DeBIANCO: Would you object if you heard that it made a lot of people feel very uncomfortable?

ALAN GREENBERG: Say that again.

STEVE DeBIANCO: Would you care more if you learned that making it fundamental makes some commenters extremely, extremely concerned with the proposal?

ALAN GREENBERG: Yeah.

LEON SANCHEZ: Good. So any other comments or questions on this? So the proposal forward would be to actually go with Option A, right, Steve?

STEVE DeBIANCO: I believe that's the default option since it is what we've published in the draft. And unless Becky has anything from work party 2 who is looking at the same fundamental bylaw question -
- Becky, anything to add to that?

No. Okay. So I think A is the default unless there was a feeling to move to B in this room.

LEON SANCHEZ: Perfect.

Brett.

BRETT SCHAEFER: Yes, I prefer B.

LEON SANCHEZ: We'll give you the microphone.

BRETT SCHAEFER: Yes. I prefer B. I prefer the super glue option and several other people have also expressed that in the chat.

LEON SANCHEZ: Good. So we can do a second reading tomorrow, whether A or B.

STEVE DelBIANCO: Leon, I would prefer to you as managing this queue, how do you want to sense the room and determine whether there is support for A or B? We just want to do our work on the work party and get our next draft ready to go.

LEON SANCHEZ: I would like to have a show of hands as to who actually oppose.

STEVE DelBIANCO: Of participants in the room?

MATHIEU WEILL: I would just like to mention some of the comments we received on these particular options were from governments in favor of Option A in general. And they're not in the room because they are drafting their communique. So there will not be a show of hand on that.

LEON SANCHEZ: That's true.

So I would suggest moving along with Option A. I mean, I know that there is some objections in the room. However --

[Multiple speakers]

JAMES GANNON: So based on how we have done this on other ones, you guys are looking for a feeling in the room, and the feeling in the room is Option B. That's pretty clear.

LEON SANCHEZ: I don't think so.

JAMES GANNON: Can I suggest we start a queue and go through people in the room?

STEVE DeBIANCO: Let's see if we can avoid using a queue though.

LEON SANCHEZ: We can't because we don't have the involved parties here. They are in the GAC room. The question is whether it goes fundamental or not.

JAMES GANNON: Sorry, Leon. If we are saying that we can't make a call on B because the people are in the room, neither can we make a call on A. We have to revisit it. If you are going to say no to B because the people aren't in the room, then we can't make the call. I think that's just a simple practical option to move forward.

THOMAS RICKERT: We are going to revisit it anyway tomorrow.

LEON SANCHEZ: That's what I said.

THOMAS RICKERT: But in terms of methodology, originally we hadn't foreseen to make it fundamental. We've asked for comments. There seems to be diverging views on that.

And from a chairing perspective, unless there is overwhelming support to change what we originally did, we would then retain the status of what we had.

So I think we should -- you know, from here, although I would like to be closer to you, it would look more like Option A. So I would suggest we take Option A for a second read to see what we end up with when the governmental representatives are in the room tomorrow.

MATHIEU WEILL: We will just revisit it. And with that, thank you, Steve, for the AoC update. We've now completed the review of all the items of the public comments.

We're coming to the agenda item on the work plan. And to start that, maybe Thomas can give us a brief overview of what has

changed over the last few days so that we really take stock and then assess some of the key questions we have.

THOMAS RICKERT:

Thank you very much, Mathieu. Actually, we need to discuss now how we are going to proceed. I think nobody would disagree with the statement that if we have fundamental changes to the second report that we would need to reach out to the community again.

The question is whether the changes that we're now having on our table for refinement or which form the basis for us for further refining our proposal are sufficiently diverging from what we had in the second report so that we need a third public comment period. This is not a decision for us to make as co-chairs, but we would like to discuss this with you.

You will remember that on our scorecard we had different areas that had enjoyed community support. So those didn't need major changes. Then we had areas that needed some refinement. And we -- and certainly where refinement is needed, that would also not deserve another public comment period.

But we had four areas in particular that we highlighted and that we needed the substance or the topics for the breakout sessions last week. And we even came up with answers to them.

So we discussed the community decision-making, so we refined let's say from the voting pattern to a consensus-based pattern. We looked at the budget veto question. We looked at the individual board member recall.

And we looked at the enforcement model whereby when it comes to the enforcement model, there are two aspects to it. That's number one, where you have the community pooled in one body that exercises the enforcement and then on top of that, the enforcement matter or the enforcement mechanism itself. So on the first part when it comes to whether we would have multiple or single or sole body that would be useful enforcement, there is no change. So we changed the reference model from sole member to sole designator. So that part hasn't changed. Only the part at the very end of the escalation path, i.e., the real enforcement part, has been changed in terms of reference model, not in terms of final decision from designator to a -- from a member to a designator structure.

And we would like to get some feedback from you as to how material you see these changes with respect to the need for a third public comment period.

So we have Roelof and James and Robin. And I think we shouldn't have too long of a discussion. Should we see a trend

in two or three of your comments, then we should pause and I will cut the queue then.

ROELOF MEIJER:

Thank you. Roelof Meijer, member of the CCWG on behalf of the ccNSO. First of all, I think already our problem is it's difficult to judge in this phase if the changes that we will in the end have are significant in the sense that we all agree that we should have a third round of comments. I think already within our working group we will have different opinion on the significance and the necessity to have another round.

Whatever we decide, the community will only know afterwards, after they have seen the third proposal.

If we don't file it for public comments, it will be too late if they still feel -- or if a majority of the community feels that we should have filed it for a third round of comment.

We had a discussion on this in the ccNSO this afternoon. And there was a proposal from one side. I think it was Mike Silber, in fact, who said we should reach out to the community as early as possible with a kind of a change document. So a document that would really focus on what is the difference between our present proposal and how the third one is going to look.

And that got some traction because there was also significant anxiety in the room about what would happen if we had a full third round of comments and would not be able to reach a deadline of September 2016.

So my suggestion would be that we try to come up with a creative idea which will allow us to get to the deadline in time or to reach a deadline or meet the deadline but still inform the community in an early stage of the major changes that we are now envisaging and enabling them to comment upon.

THOMAS RICKERT:

Thanks, Roelof.

I see some reactions in the group if my eyesight is good enough. I also see some comments in the chat.

There's a queue, James, Robin, Jan, Malcolm, and Jordan. Can I ask you whether any of you is willing to speak in favor of not having an additional public comment period?

I'm not sure what this waving means. Or are you exercising gymnastics?

ROELOF MEIJER:

I think you have to be a bit more specific. Do you mean a full round of comments? Like, how many weeks does it take?

THOMAS RICKERT:

Let's talk about how we shape that first. But we wanted to establish whether this group sees the need for an additional public comment period or not. And it is my sense that there's nobody in this room that wants to advocate for not having an additional public comment period.

And with that, I would ask your -- for your forgiveness to -- let's just end the conversation here, and let's look at ways to make use of the public comment -- or let's try and craft a work plan that is innovative in terms of how to best solicit community feedback.

And if you have suggestions for that, please leave your hand up. If you just raised your hand in order to speak in favor of an additional public comment period, you might as well lower it. So I see some hands going down.

So let's move on to James. James, are you passing or are you speaking?

JAMES GANNON:

No, I'm going to speak. James Gannon for the record. So, yes, I think we should have another comment period. And I believe Roelof's idea of doing a diffs document where we have something very, very clear and very, very easily communicatable

of what we've changed. And also the narrative and extremely more easy to read summary document also needs to go out with that so that we can actually successfully communicate with people who haven't been following this process, which I believe is something that we haven't done to a great extent up to this point.

THOMAS RICKERT: Thanks, James. So take-away messages are diff, still a full explanation to take people with us. Athina.

ATHINA FRAGKOULI: Yes. As a follow up to what Roelof and James said, I think if what we -- if all we are trying to do is to merge the single membership model into the single designator model and, you know, have more or less the same things only change things here and there to have the same outcome, we might get to -- might get this conclusion, that we did not -- don't need -- that we do not need an extra public comment period. Thank you.

THOMAS RICKERT: Thanks, Athina. Eberhard.

EBERHARD LISSE: If -- Eberhard Lisse, .na. If you look at creative methods, can't we not split the things that we are -- that aren't controversial that are unchanged and sort of have these things split into parts? The ones that we don't really need more comments on we can push out now and that gives us time to talk about the ones that were exchanges. I also would not terribly opposed to shortening the comment period a little bit as we have done this in the past already, over my objections. But that makes precedent, and if everybody knows something is coming and we tell them early, we might be able with cutting down a little bit on the days.

THOMAS RICKERT: Thanks, Eberhard. Jordan had indicated to me that he wants to speak although he's not in the Adobe. So Jordan.

JORDAN CARTER: Yeah, thanks. I chose that moment to upgrade to El Capitan. Whoops. Not conducive to Adobe room use. I think that given the scale -- let's look at the changes we're talking about. First of all, both of our previous proposals had membership at the core of it. If we're dropping the membership concept, I think that's significant. I don't think it's a plug-and-play moment of the detailed item. We are proposing to change the voting system into a consensus system that has a different array of voting support and influence between the SOs and ACs as what we

proposed both previous times. Both of those key changes go in the opposite direction to the vast majority of public comments that we received. So by itself that tells me that significant changes away from what public comments want mean that we have to ask people. I'm in favor of doing that iteratively. I don't support a 40-day process. I do support getting something out quickly with the key changes so people can familiarize them. I would support us looking at something like a co-process where there's some public comments being received alongside initial SO and AC views. But I think we'll make a mockery of the multistakeholder process if we don't do something.

THOMAS RICKERT: Thanks very much. We're going to hear Malcolm, Milton, Jan, Sebastien, and after that the queue is closed.

MALCOLM HUTTY: Thank you, Chair. Public comment isn't just about how long it is between when you publish your document and when you close the opportunity to send responses to us to the public. Public comment also includes what it is we're putting out for public comment. Not necessarily in terms of the substance but in terms of the presentation, legibility, clarity, and additional communications tools that accompany it. And it also includes

consideration of the time that will be needed to assess the responses to the public comment.

So when you consider those processes more holistically, I think that the idea of rushing going into it is actually likely to -- is very much to be warned against, very much to be cautioned against. I would -- the ISPCP has said that we reserve our position as to whether a public comment is needed at all until we have actually seen a final package, and essentially I must adhere to that. But personally, Jordan's comments seem to indicate -- I take those points very seriously. I'm very sympathetic to that personally, and we need to take the trouble to explain carefully and clearly and understandably to the people that receive this not only what we have done but why. There will be a big trap that we will have, having been working so much on this, to think that all we need to do is produce a set of diffs and to show that actually in our opinion there isn't that much that has changed. And we can convince ourselves of that, and say oh, look, here's a set of diffs and they're chopped up. And I don't think that will be sufficient for the public. I think they will expect to see at the end of this process something that they can understand and support. The worst thing we could do is produce something that is so inward looking with regard to how we've ended up with it. And gives so little regard to how other members of the public, including people that may not have looked at the previous

public comment periods, but are told finally this is going to be the last one and they're coming to it for the first time. If we have so little regard for how they look at it, we can expect a negative response. And then we will have to go for a fourth draft report. And that would be even worse.

What we are looking for is to make this report the last report. And so the consideration of the public comment isn't just about the time that we allow them to -- to talk. It's about ensuring that we take the trouble that that process will result in something that we can quickly and easily assess as being universal claim.

THOMAS RICKERT: Thanks, Malcolm. Jan.

JAN SCHOLTE: Jan Scholte. In shorter but words of kind of the same point, it might be a false economy if one runs into this without doing some communication work before. And maybe that communication work could also already anticipate the U.S. review process and begin to put things in language which are going to facilitate the approval in Washington afterwards.

THOMAS RICKERT: Thanks, Jan. Sebastien.

SEBASTIEN BACHOLLET: Thank you. I would like to suggest a way to do it. First we -- the comment period has specific meaning within ICANN and we need to have public inputs. And I would like to suggest that we do a shorter comment with a lot of design who show the differences between where we were at the end of the second draft and where we are now, and that will be put for public inputs. And I suggest that we don't just ask for people to write something. It could be done by the -- for example, the group within ICANN, but we can organize call where we can explain -- have inputs from the community in speaking and not in writing. It will be -- if we do that in different time zone and with different target, could be one other way to have inputs on that specific document and in parallel we can still work as a working group to enhance our document to be put for NTIA with more detail, with more -- yeah. But the enhancement of the current document, we don't need to put that to the community now. That's a proposal. Thank you.

THOMAS RICKERT: Thanks very much, Sebastien. That's been very helpful. And I think that Mathieu might have a surprise for you.

MATHIEU WEILL:

Thanks for setting me up like this, Thomas. The co-chairs and the rapporteurs, we've had a number of discussions about the appropriate timeline for the work plan. What I'm hearing from the group is that a public -- receiving public input is certainly necessary at this stage. And getting a lot of traction, that we need professional writers to help us draft very clear summaries that are accessible and get the messaging right. That is something where I know that ICANN is already in the process of trying to source this particular kind of resource for us. And then we have several options for the timeline. The one I'm going to show now is the one that I think -- so we have several. So I've asked Alice to put this one in because it's what we've heard. We had one without public comment and everything. Alice, can you show it?

So one thing we could do is -- and probably that needs to be adjusted based on the input, but we also need to bear in mind that our approval process for the report is that we would -- we have to deliver to the SO and ACs a set of recommendations which they endorse or send us back with which recommendations they do not support. And so one of the proposals that we have and that was picked by Jordan earlier would be to actually go for a public comment and probably focusing on the most important elements, here's the recommendations, the underlying details, and open for public

input at the same time as we do our initial draft -- our final draft proposal to the chartering organizations so that we collect feedback on those, the general public as well as an -- a key clarity about which recommendations would be supported or not supported by the chartering organizations. Which in turn would mean that we would be in a position to provide either the proposal to the board -- well, you never know -- or provide what is currently in our charter a supplemental draft report to the chartering organization in time for an approval -- an approval, which could take place -- that's another question, nobody raised it. But if we have this supplementary draft report to assess, then maybe we would have a need for an intersessional for those SOs or ACs that would require this to give it proper -- proper consideration.

So that's a mix of several ideas, and that's really up for discussion. So I'm going to take questions on this. Steve, did you want to add something to my description, because I know you've had -- you've given a lot of thought on that.

STEVE DeBIANCO:

Yeah, if you don't mind. I think there's plenty of people in the audience who haven't read our charter since it was a year ago, well over a year ago that we wrote it. But the charter invited chartering organizations, and we have six chartering

organizations within the seven that are -- that are in ICANN, and the chartering organizations are expecting at some point to be handed a proposed draft, a proposed final draft that we can review in their own processes and come back with an evaluation, a position, support, either for the entire report or even for particular recommendations that are in the report. And that's anticipated. And when that happens in ICANN, it is given to the ACs and SOs, the chartering organizations, with an expectation they'll get back to us as soon as is possible, but for each of the ACs and SOs it's a different length of time. GAC may take a lot longer, for instance, it may require a face-to-face. I'll speak only of the GNSO. If GNSO is given this report with a request to come back with an answer, GNSO has to look at each of our constituencies, figuring out a position on it and have that bubble its way up through the council for a resolution of support. And that resolution might have qualifiers in it. The council then has to put it out for notice. We'll have a teleconference call more than likely in the GNSO Council, provided that we have a chair by then, and we'll be able to make a vote on it. And the voting rules of the GNSO would determine whether that resolution were carried. And that entire process is going to take some time inside of just one of the chartering organizations, the one I live in.

Each of you have your own idiosyncrasies about how you will move this through to a conclusion. The notion here is that while each of the ACs and SOs are doing that, if there are people outside of the AC/SO structure who want to make their views known, let's keep that door open. That's why the public comment is in parallel.

But I do want to say this, and I'll turn it back over to you, Mathieu. If there are individuals who are part of an AC and SO and feel strongly about it, you are much better off to direct your input into the AC and SO you belong in and influence how they come back with an answer. In other words, if you're part of the GNSO, that's where you want to direct your energy so that the resolution reflects your concerns, your interests, your approval, or your disapproval. It will be far more effective to do that in the chartering orgs than it will from the strictly outside public comment process. I'm convinced, having worked on public comment analysis for at least two of the last -- two months out of the last year, I'm convinced we'll try to accommodate what the public comments say, but what our charter requires us to do, what our charter requires is that we listen to what the six chartering organizations say and get back to them quickly with something that incorporates all their concerns in a supplemental draft. And that's what's on the right end of this timeline. The idea of a supplemental draft where we could work

things out in a face-to-face meeting, potentially face-to-face, sometime in January with an effort of turning this over to the board, hopefully before February. Thanks Mathieu.

MATHIEU WEILL: Thank you, Steve. And I'll now take the queue with -- starting with Eberhard.

EBERHARD LISSE: Eberhard Lisse, .na. I don't think we can have some parallel feedback. That would call -- make a mockery out of the public comments. We either have to say this is our report and then when the public comments are in we go to the chartering organizations or we can say otherwise we must have another -- another period of where if there's changes to the -- from the chartering orgs we have to go back to the -- to a public comment. If there is significant pushback from the public comments we have to go back to chartering organization. I think that we need to look at again. That doesn't work for me.

MATHIEU WEILL: Thank you Eberhard.

Robin?

ROBIN GROSS:

Thank you. Hi, this is Robin Gross, for the record.

I've got a few very significant problems with this proposed time line.

The first is the idea that the report would go to the chartering orgs at the same time it goes out for public comment.

I mean, again, what if the community hates it and we need to make serious changes and other parts of the community have already voted on it and said they accept it?

I mean, I understand the's pressure to rush but this isn't going to work.

And another problem with it is the idea that we're going to do this analysis between December 24th and January 3rd? I mean, that's a joke, right, guys? We're not really trying to tell the world this is what we're going to do.

And the third issue is the intersessional if needed. I would just put a plug in for, as I'm known to do, that we try to do these intersessionals via Adobe Connect. I think we can get a lot -- a lot done in our regular meetings in Adobe Connect and the amount of additional time, travel time, jet lag time, work missed time that you have to catch up from when you have to do the traveling for an intersessional is -- it really isn't needed and I think we saw in L.A. at the L.A. meeting let that be a lesson to us

about what can happen when we allow for face-to-face meetings that can be more easily guided, if you will, by the board than the Adobe Connect meetings that we work in where we are in a much better position to be in control of that process.

So I have very, very, very strong objections to this potential fantasy time line. Thank you.

MATHIEU WEILL: Thank you, Robin. James?

JAMES GANNON: A question and a follow-up. James Gannon.

Has this proposed time line been passed by the SO/AC leadership?

MATHIEU WEILL: Not yet.

JAMES GANNON: Okay. Because I can see serious practical issues with it. We have a chartering organization that has indicated due to the level of the decision needed that it may not meet intersessionally.

As Robin has said, you know, we're working over Christmas and New Year breaks here. You know, I -- as a conceptual time line, it

may work, but again I have serious concerns and we've done this before where we work to potential unfeasible time lines and we end up coming out with poorer work products because of it.

I think our time lines need to be a helluva lot more realistic and really need to be checked by the chartering organizations first as to whether they're actually practical, because personally I don't believe that that may be an actual practical time line and we need to work within what our practical time lines are.

MATHIEU WEILL: Thank you, James.

And just to clear up some of the questions, the intersessional here mentioned is one where -- that would be for the charter organizations, not for the whole ICANN meeting.

UNKNOWN SPEAKER: (Off microphone.)

MATHIEU WEILL: I know. The next in the queue is Alan.

ALAN GREENBERG: Thank you very much.

I support -- overall, I support this proposal. Each of the chartering organizations has people here. I would hope that there's going to be a lot of feedback and interaction over the period of time between now and the 20th of November, or whatever the date ends up being. So we shouldn't be doing this blind. If we are, then we're doing -- then we're doing a disservice to the organizations that appointed us.

The 24th to the 3rd of January is probably a little bit stretching. I'll note the ATRT2 delivered its report on the 31st of January and there was lots of work going on, albeit by a relatively small number of people.

So I think overall -- I don't think we can slip more than another week or so past this and be realistic, so we probably need to push it a little bit past the 3rd of January to make it realistic, but not an awful lot, and I don't see how we can avoid working in parallel and I think there needs to be lots of back-channel discussions. Tijani had to leave early, but he said he would support that position as well. I suspect most of the ALAC would, but I can't speak for them at this point.

MATHIEU WEILL:

Thank you, Alan.

Izumi?

IZUMI OKUTANI:

Thank you for coming up this -- with this creative parallel time lines. I completely support this and also a comment from Steve DelBianco that -- to encourage individuals who are actually members of these SOs and ACs to try to give their input as much as possible through the SOs and ACs.

I think that would reduce the possibility of having a terribly different comment through the public comment and then the issue of converging the comments that we receive from the SOs and ACs.

And I really want to reemphasize we really can -- I mean, I know you must have heard us as the numbers community saying many times that we're concerned about the time lines, and I'm already getting so much pressure within the members of the numbers community that we really shouldn't wait already at this point. And if we're going to wait and reconsider time lines beyond this, I don't -- I'm not sure if I can convince and keep holding that we wait for the CCWG. This is really not possible.

So I've heard people say that we need to go through another public comment. Well, I have a little bit of different opinion, but I also tolerate that we have to go through the proper process.

So this is something that I may be able to, you know, think that we -- we may be able to accept, but trying to come up with another additional delay in this process from what is proposed up here is simply not acceptable.

So I expect a lot of backfire and I don't know if we can hold this within the numbers community in waiting within the CCWG.

MATHIEU WEILL:

Thank you, Izumi.

Thomas, is that a quick follow-up in response?

THOMAS RICKERT:

Yes. A lot of people have spoken to this. Let me just try to share with you what we have had in mind when coming up with this suggested time line.

I guess many of you are afraid of additional work for you individually. We want to drag the process of writing things up and polishing things out of this group as much as possible. Let's not forget we have so much information and documentation there already. We just need to tweak, rearrange, and add the bits that we've discussed to change during the last couple of days.

This can be done by means of terms of reference. We would just give -- we would put into the report the bits and pieces that we want to be added without fleshing them out, and then you shall not worry about writing it up.

We've spoken to ICANN. ICANN has lined up the resources for us to have this professionally written. A nice easy-to-read, easy-to-understand narrative. We're going to get XPLANE support for visualizations. We're going to have staff report to refine the report. So the intention is really to take you out of the process, as much as we can, get professionals to write it up, and then just double-check, so you will not have the drafting burden. You will only need to read and check for accuracy.

And this is what I think is needed. And I'm not sure whether we made it sufficiently clear that we're really trying to take away work from this group. And you all have your favorite parts of the report. You can then double-check of whether -- whether we accurately reflected what you've been asking for, but let's really make this an exercise that is a little bit more professionally led, while checking for accuracy through our group.

And I would support Izumi and Alan. I've spoken in the GNSO Council today to wake them up to the fact that we have a couple of tough days ahead of us. We can reach out to the other chartering organizations as well.

Let's try to make the workload manageable.

I think the more -- the more efficient we deal with our resources, the better. We're going to need some stamina, but we think it's workable. Otherwise, we wouldn't have suggested it.

MATHIEU WEILL: Thank you for your short comment, Thomas.

[Laughter]

THOMAS RICKERT: Pleasure.

MATHIEU WEILL: I am closing the queue after Kavouss. And next is Malcolm again.

Are you back?

MALCOLM HUTTY: Yeah, I'm here.

This seems to me to be a high-risk strategy.

I can see it working if everything goes perfectly, but you're collapsing so many things together that one thing going wrong will force us back to the start again and back to a fourth report.

This strategy of putting the chartering organizations consultation in parallel with the public consultation, well, what if the public come back and say, "Yeah, this looks fine, we don't have any problems"? Then okay. That sounds good. But what if they don't?

If the chartering organizations take diverse views, again, how is that -- how is that going to work here?

And as for the start, frankly, I don't believe the start time. And the idea of bringing in professional writers, while excellent, will add an additional step of extra time that will be needed by us to review their work, and it's entirely possible that they will have misunderstood things and we will have to iterate their draft because it doesn't accurately reflect our intentions.

So that would be another reason why the start date would slip.

So, I mean, you do what you think is best, but I caution you this is --

I'm very, very aware of the points that Izumi was making, how much pressure there is from so many quarters to get this done, but getting it wrong will be slower.

MATHIEU WEILL: Thank you, Malcolm.

Jonathan?

JONATHAN ZUCK:

Yes. Jonathan Zuck, for the record.

I'm inclined to agree that if there's a place for slippage, it's probably in the creation of the report itself and getting that right, and I think there's broad consensus in the room of that.

I think we need to take a step back from this conversation about doing the comments in parallel and just look at the structure of the chartering organizations and how that is, in fact, meant to represent the community. We're talking about the community as if it's something different. That it's people, you know, buried in Alaska that are going to come out with new ideas to solve all these issues. And I don't think that's really what the practical implications of the parallel process will be.

The truth of the matter is the charter allows the chartering organizations to make changes, to make demands for a new draft, so there will, in fact, be another draft of sorts before it's finalized by the chartering organizations.

And so for the off comment that's constructive from the community that is not represented through the SOs and ACs, it will be taken into consideration.

But our job right now is to deal directly with the SOs and ACs. We have a good sense of where the community stands and most of the community is represented in some form or another through the chartering organizations and I think it makes perfect sense to funnel those comments.

The IPC that I'm part of can be -- can work through the GNSO to make it part of their analysis. I don't think -- I think we're past the point of everybody just throwing things over the transom. And so I think that we'll find some exceptions there and they'll be worth taking into consideration but I think the process is already going to involve another draft because of the powers of the SOs -- of the chartering organizations, and so I think that we lose very little by going in parallel.

But I'd agree with Malcolm and many others, the statement that we shouldn't go out with anything until we have the document right, and I think that's the key to the success of any strategy at this juncture.

MATHIEU WEILL: Thank you, Jonathan. I'm moving to Roelof. James, I had closed the queue. Okay. Roelof?

ROELOF MEIJER: Thank you much, chair. Roelof Meijer, ccNSO and SIDN.

First of all, I -- not surprisingly, I think I support this proposal. I think it's -- the best way is to come up with this concise change document and come up with it quickly. But I'm also wondering if we're not kind of making a digital choice out of this: we either go for this or we go for the full-fledged option.

And my suggestion is that we can start with the short version and we can include questions in that consultation about the process, and if we get a lot of flack about the process, then we know that we have to go into a full consultation.

But if we get support for the process, then we will know that we will reach the deadline.

If we immediately go for the long version, we know now that we will not meet the deadline and nobody from us knows for sure what will happen then, but there's a fairly big chance that the door will be closed and it will not open for another how many years?

MATHIEU WEILL: Thank you, Roelof.

Sebastien?

SEBASTIEN BACHOLLET: Yes. Thank you.

I think one of the questions is how many comments we get from the two comment periods of organizations or people who can't have come through current organization of ICANN. And if we encourage that everybody get through AC and SOs, I am sure that there are very few left commenters on the, well, so-called public comments and it will be easier and easy to under --

I know that there are organizations who just want to be there to be on the record, but we need to try to avoid that. And if we have a short, clear document, easy to understand and then easy to comment, including for the chartering organizations, it will be good, because when you say, Thomas, that you want us to be out of some work, we will be out of some work within this working group, but we will be in for more work within our organization, within our SO and ACs, because it's where we need to do the work in this period. It's where we need to put our time. It's to convince or discuss with our colleagues in each SO and ACs. Thank you.

MATHIEU WEILL:

Thank you, Sebastien.

Andrew?

Where are you, Andrew?

ANDREW SULLIVAN: Hi. It's Andrew Sullivan.

And I will note, I guess, for the record, that I'm the IAB chair but I'm not speaking for them because I haven't consulted with anybody. So just for me.

I really appreciated Izumi's remarks about the pressures from outside community -- from other communities and I recognize that in my own community there's going to be a certain amount of pressure, but I also know that in my community, at least, we are very much in favor of the -- of the bottom-up process and making sure that the community agrees with things that go ahead, so I think that's super important. And I -- I know that this is like the positive story -- right? -- and positive path development is always dangerous, but it's the only one available. If you don't do this -- right? -- we're never going to make it. And this is all just completely critical from -- at least from my point of view, that we get to something that can lead us to the transition, because if we don't, we're going to lose everything.

You know, we don't want to face that future in disunity and I think there's been so much progress this week that if we really focus and we really get a good clear document, there is a real potential for -- for, you know, this all to yield the result that we all, I think, hope, and I just really want us to focus on that.

So despite all the risks, I think this is a good plan to do something really compressed, ask specific narrow questions on clear text that people can understand, show the differences, and just be up front with people. And I don't think it would hurt if, you know, the text were kind of floating around on mailing lists and so on so people would see little pieces here and there and they would hear about it and say, "Oh, well, I've kind of reviewed that" so they can review it again later. You know, it's really helpful if people know that.

I know that not everyone is going to review that kind of stuff, but the more sort of casual review we can get from various people, the better.

And finally, I want to say thank you so much for all the work this week. It's been great.

MATHIEU WEILL: Thank you, Andrew.

[Applause]

Kavouss?

KAVOUSS ARASTEH: Yes. I think the part that you put "report goes to chartering organizations" and "report goes to the third public comment" is a little bit misleading.

Public comment, okay, but what chartering organization would do with that? They are part of the community. Public comments. So why?

The important part is between 10th of January and mid-January, you have five days for chartering organizations to comment on that final report? Suppose you receive major comments and 20 days during the January work party everybody work day and night and put everything together in final report or pre-final, you send it to chartering organizations for three days to comment? Impossible. Thank you.

MATHIEU WEILL: Good point, Kavouss.

James, I am allowing you a last word.

JAMES GANNON: I promise it's constructive. James Gannon. And so I much prefer to do project management based on facts so I'd like to put a formal request to the co-chairs. Could you please write on behalf of the CCWG to Thomas Rickert -- to Thomas Schneider

and request that the GAC consider providing us with a response as to whether they will be able to assess their position on approving the final report of the CCWG intersessionally or not? Because then we can move forward with a factual-based discussion.

MATHIEU WEILL:

Thank you. All right. James. That's certainly something we can do.

Look. We'll put this issue to rest. I think the comments we received are extremely valuable. We think that there are some concerns about our ability to deliver a strong will to get community input, some aspects where there are different views that are expressed.

So I'd say we'll sleep on it. Maybe adjust, have another discussion on the same issue tomorrow. That's been our process so far. It has always been very valuable when we don't make decisions on the first call and have a second discussion once we've given a little bit of consideration of it. So I think that's what we're going to do for tonight before our session, which is planned tomorrow.

This is a very important aspect of what is expected from our group to be clear on the time line and the expectations. We

certainly don't want this process to be -- to remain inclusive, to remain quality driven, to maintain the characteristics that were described by Andrew about bottom-up multistakeholder. So that's something we are taking very seriously, and I think there was a lot of value in the comments we've received.

So let's reconvene on this item tomorrow. We have a few other second readings to do tomorrow. I think we will also do a recap of the various SOs' and ACs' inputs we've received during the last couple of days. I think that would be certainly useful.

And please bear with us if the agenda is not circulated tonight. Short turnaround, so we're going to adjust as we go. We'll have a prep meeting tomorrow morning, early, very early as usual. So that's going to be in your inbox a couple of hours before the meeting obviously but it's mostly second readings. And there shouldn't be any big surprise in this agenda.

Are there any other business that need to be raised? I'm seeing none in the room nor in the AC room.

I want to thank you for bearing with us in this unusual setup. I know it's not the best for engagement, but I think we've had a very interactive session anyway. It's been challenging for ICANN to adjust to our requirements in terms of meeting rooms. I know they have been doing tremendous efforts to adjust.

And I want to thank them, the meetings teams as well as Harry and Alice and Bernie in supporting us. It is extremely challenging to do meetings at such short turnaround for them. And we're blessed to have such a dedicated and wonderful support team.

[Applause]

And with that -- I hope you go out tonight and relax before we reconvene tomorrow morning. Enjoy.

[END OF TRANSCRIPTION]