

**ICANN**

**Moderator: Glen Desaintgery-GNSO  
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8:30 pm CT**

Lise Fuhr: Okay, good morning, everyone. This is the CWG Stewardship session. It's a Q&A session. So please take your seats and we will start the session now. The structure of - my name is Lise Fuhr, I'm one of the co-chair. And I have my other co-chair, Jonathan Robinson next to me. And we're very glad to see this many people.

We know it's the last day of the ICANN meeting and everyone is tired. But we hope for very good question session and we hope you have a lot of questions for us.

The structure of this is going to be we'll start with a 30-minute open mic. And we'd like to remind you this is a Q&A session so please ask us questions and not statements. And then we ask you some questions and that will be 45 minutes where we hope to get - you get your responses to our questions.

So we will start with an open mic and everyone will have two minutes to talk. And if there's no questions for the open mic we'll just go straight to the questions that we sent out in our discussion document earlier before this ICANN meeting.

So will welcome anyone who would like to come and ask a question during the open mic.

Jonathan Robinson: So, Lise, just to confirm up on the table here we've got yourself and myself as you introduced plus the different coordinators of the previous groups, the so-called RFP groups in the team plus two members of ICANN staff who are supporting us in our work, Grace and Marika.

So if you address questions to us we'll be taking those questions either as the co chairs or any of the coordinators or indeed if anyone in the room has got responses. And hopefully some or all of you were at our session yesterday - our working group session yesterday.

Lise Fuhr: Okay.

((Crosstalk))

Lise Fuhr: And you know we're listening very carefully.

Peter Dengate Thrush: Internet user (unintelligible) - Larry Strickling from the NTIA suggested that the accountability work of the CWG should be stripped out and sent over to the Accountability Working Group. I haven't heard any response to that from anybody on any of the committees. Is there a process for considering that? And do you want any input from the community on that how (unintelligible) suggestion being received and being dealt with. Thanks.

Jonathan Robinson: Yeah, Chuck's going to take a first go and responding to that. Go ahead, Chuck.

Chuck Gomes: Thanks, Peter. Appreciate the question. Chuck Gomes. You know, we really had already done that. I know it wasn't obvious to everybody but our co chairs had coordinated very closely with the co chairs of the CCWG. And we gave them a paper that described the accountability things that we needed.

So in large part that had already happened. And it's probably helpful to clarify that. We probably didn't communicate that as well broadly for the community. Now we will continue to rely on them.

And one other point in that regard, if you look at the timelines for the CCWG and the CWG, they're correlated. And that was intentional because we really can't finish our work until they finish the accountability part especially with regard to Work Stream 1 in their group.

Lise Fuhr: Thank you, Chuck. Other questions?

Greg Shatan: I'd like to add to that.

Lise Fuhr: I see, Greg, you want to add.

Greg Shatan: Greg Shatan, also a member since I'm sitting up here. To add to what Chuck has said, I think that this is an ongoing process of looking at the balance and the (unintelligible) the two groups. And I think that just in the few days that we've been here we've opened up some new possibilities in terms of what work will be coordinated with them and what they might do and where our accountability work starts and theirs stops.

And more than that, there's really an overlap in what we're doing; it's not a line-drawing exercise, it's a coordination and task sharing exercise. But I think it is something that we have - we've listened to and we had already been

thinking about already moving toward, I think that one of the great things about having an in-person meeting and so many people around who are interested in this is that we've gotten the chance to really work through a lot of things that relate to that very point. So I'm heartened to think that we are and we'll continue to see some refinement of that very aspect. Thank you.

Lise Fuhr: Thank you, Greg. Any other questions for the CWG on IANA Stewardship Transition? Doesn't look like it. Maybe...

Greg Shatan: There's coffee in the back of the room if you might need a little stimulation to ask some questions.

Lise Fuhr: Okay. I think we then should go over to the questions that we actually sent out to the community. And Jonathan Robinson will chair this part.

Jonathan Robinson: So we've set this up - as you know, there was a discussion document that came out to the community ahead of the - this - ahead of this Singapore meeting. And the document described the status of the group's work so far and attempted to set the scene. And at the back of the document was a set of nine, from recollection, questions that were posed to the community to get some responses.

We'd like to walk through these. And to the extent that there's - there are answers or comments we'd love to hear them whether they represent something coming out of a discussion from your groups or as individual responses.

We are likely to keep these questions open for no more than a week beyond this meeting because I think we need to close this down, take the responses, process them. I don't think we're expecting to do a highly quantitative analysis

of the answers. They were meant to help steer the work of the group and get a feel of where things are.

This first question is an interesting one. In one sense the answer might seem obvious but I think we ask it for the reason of trying to understand - well either you've supported or you don't and if you don't it'll be good to know why - if you do I think the thinking really is it's implicit - two things become implicit once you say yes, at least in our view, and you may want to speak to that.

One, that it has to be done in a reasonable timeframe sufficient to address what appears to be a window of opportunity. And, second, it probably - and almost certainly means that whether you're in an SO or AC, whether you're an individual, whether you represent a previous or developing position that some form of compromise is going to be needed on the way in order to drive forward to a consensus solution.

So whilst at first site it may seem like perhaps a very superficial question, there's something underlying it. What we did in the Registries Group where I have - do - where I sort of hale from, if you like, on root to being on the GNSO Council as a representative and then separately this work, is we posed this question and took a feel from the room by asking for raised hands.

So it would be great to get a - to just poll the room quickly. And if you could raise your hand if you believe that the transition should happen. And in some ways in doing that I'd like you to think about whether you support the implicit points that I made - I made, that is to say it's got to be done in a reasonable timeframe and that you accept that some form of compromise will be needed.

If you don't accept those two underlying points come up to the microphone and tell us why or speak into the microphone. And then after we've got the sense of the yeses if there's anyone who doesn't think it should happen it'd be good to hear their viewpoint as well. So if we could have a raised hand if you think that the - if you believe that the transition should happen.

Man: (Unintelligible).

Jonathan Robinson: Yes, stand up please. That would be great. Here we go. Everyone stand up if you believe the transition should happen.

((Crosstalk))

Jonathan Robinson: Well I would certainly say there's quite a few people standing; quite a large portion of the room is standing but not absolutely everyone. So...

Avri Doria: They might be abstaining.

Jonathan Robinson: They may be abstaining of course. So if you don't it would be great to hear from you why. And if you do but have any concerns about those implicit points that I made it would be good to hear from you on those. And remember when you do speak at the microphone please make sure you identify yourself and if you would like to any affiliation that you have. Go ahead.

Malcolm Hutto: Malcolm Hutto, London Internet Exchange. I believe that the transition - it would be desirable that the transition should happen with all the points that are necessary before transition being properly covered. But that is contingent support based on getting it right.

So I am uncomfortable about the - and therefore implicitly that means that you led into - about that suggested prioritizing timetable that might be seen as necessary to get it - happen to be honest. I think that transition failing to happen is a lesser evil than getting it seriously wrong.

Jonathan Robinson: Thank you, Malcolm. Go ahead.

Xiaodong Lee: This is Xiaodong Lee. I believe that transition should happen as two reason. They have no reason to reject the hospitality of NTIA. Second one is we want to prove that the (unintelligible) stakeholder the governance model is successful. And to be, you know, reasonable and deployable and to be used in the future so ICANN, therefore the naming and addressing (unintelligible). Thank you.

Jonathan Robinson: Thank you, Xiaodong Do you have any view on the timing? Do you think we are under some - do you have any view on whether we're under - because Malcolm responded that, you know, actually doing it in a rush may be worse than not doing it - I mean, that's paraphrasing a little; the transcript will record what he actually said, but do you have any view on the timing?

Xiaodong Lee: If I speak, (ICD) member I cannot give that answer. If I speak as a community member as the CEO of (Cinik), I prefer to finish that as (unintelligible). But now it is a very, very, you know, impossible to finish that before September. But I do hope we find some method to make it time short.

Jonathan Robinson: Thank you. Any other comments or points in relation to Question 1?

Bill Gibson: Good morning. I'm Bill Gibson from the Canadian Internet Registration Authority. My view on the timing is this: It's better to get it right than to get it right away.

Jonathan Robinson: Thank you, Bill. I've just got someone coming up.

Matthew Shears: Mathew Shears, Center for Democracy and Technology. Just, Jonathan, just to quibble a bit with your initial comment which is the issue of there may be a need to compromise, I'd like to think that we're all working to this target date. That is our first and foremost responsibility.

So whether or not we need to compromise I think is a separate issue but certainly we are in favor of the transition; we are in favor of working to that target date. And I think that's what we should all be doing. Thank you.

Jonathan Robinson: Thank you.

Andrew Sullivan: My name is Andrew Sullivan. I work for a company called Dyn. And I would like to ask a question of those who say it's more important to get it right than to get it by the date, why they believe that if they don't get it by the date they're going to get it at all. I think that's an important consideration that maybe some people have not taken into - have not internalized and so I would like people to consider that.

Jonathan Robinson: Thank you for that combined question and statement.

Martin Levy: Martin Levy from CloudFlare. I just want to hit the comment from a couple of days before - a couple of people before just more as a statement. We talk about times I just want to remind people that it is 231 days until that date specified by the NTIA. It's actually 231 days and one hour and 11 minutes if you want to be accurate. Just keep that in mind when you think about what we're doing. That's not many days.

Greg Shatan: That's 5545 hours, by the way.

Milton Mueller: Milton Mueller here, Syracuse University. I just want to point out that this question, one, we're probably asking the wrong crowd. There's a lot of people in Washington DC or in the United States that may have a different perspective on it and the people who participate in ICANN are probably committed to the idea of a global multistakeholder private sector based institution for global governance. And there's a lot of people who are not.

So what exactly were you - I guess, sure, if people here don't want the transition to happen it would be useful information to know that. But I wouldn't feel too confident about obstacles arising based on our positive response to this question.

Jonathan Robinson: That's a fair point, Milton. But nevertheless it's - asking this group doesn't mean we've got the world's view but it does mean we've got this group. All right let's move on to the next question since...

((Crosstalk))

Jonathan Robinson: Marika has a remote question.

Marika Konings: So this is Marika speaking on behalf of Eric Brunner-Williams who actually - that the transition shouldn't happen. He says, "I don't think a transition should happen as, one, the IANA functions contain both USG property and significant government interest which may not be disposed of except through a surplus property process; and, two, the existing contract was led competitively for a finite period. Transition transforms this."

Jonathan Robinson: Thank you for that point. Just for the transcript it think that's USC, not UAC. Correct. Is that correct, Marika?

Marika Konings: It's USG. G.

Greg Shatan: US government - that's shorthand for US government. And I would say that that's an opinion rather than a fact.

Jonathan Robinson: Understood but at least we have the acronym of the - of that correct. I wasn't sure if it was University of Southern California or United States Government. Chuck.

Chuck Gomes: Chuck Gomes again. I just want to share in the public comment period that we did in the first of December - started the first of December, as I recall, there was one comment that said they didn't want it to happen. There was another one but it was kind of a special case but there was only one comment in the public comment period that said they didn't want it to happen. But I just want to call that to your attention. There is analysis and summary of the public comments that's out there as well.

Jonathan Robinson: Thanks, Chuck. Let's move on to the next question. Are you comfortable with ICANN as policymaker also being the IANA operator without the benefit of external oversight? And that external oversight refers currently to the NTIA of course.

Sivasubramanian Muthusamy: Yeah, my name is Sivasubramanian, I am from Internet Society in India Chennai and I'm speaking in my capacity. I'm very, very comfortable with ICANN as a policymaker and being the IANA operator. And I believe that as a multistakeholder organization it has the inherent capacity to

create its own internal accountability mechanisms. So there's no need of external oversight, thank you.

Jonathan Robinson: Thank you, Siva. Xiaodong.

Xiaodong Lee: Xiaodong Lee again. I guess there is two question, first I'm comfortable with ICANN as policymaker. I think it was proved to be best practice in the past 16 years. But for a second, I'm not comfortable ICANN be the IANA operator without the extra oversight. I think we need to get the community expertise to make sure that the IANA function have the service level agreement to the community. Thank you.

Jonathan Robinson: Xiaodong, can I just make it - just clarify that in your view an effective SLA would comprise some or all external oversight.

Xiaodong Lee: Yeah, I think it's - we need to make sure and have a service level agreement but how to make sure that it is reasonable for the service level agreement and how to make sure that it was a implemented rightly.

Jonathan Robinson: Thank you.

Donna Austin: I need tippy toes. Donna Austin. So just in response to the question I've got - thanks to Cherie and the team I've got a transcript from some of the discussion we had in the Registry Stakeholder Group about this question during the week. And I'd like to channel Bret Fausett who's actually gone home. If I can just read what his response to this question was?

So he said, "I'll use the analogy of my commute. I live in Los Angeles and I have a long commute to work and I have a long commute home. And every time I get on the other side of downtown Los Angeles I have this sigh of relief

because I feel like the hard part of my day is done and now I can just coast to my destination. And I feel a little bit like that," sorry "And I feel that a little bit with when migrating from ICANN to the IANA."

"Once I get past ICANN and I get to IANA I have this sigh of relief because everything in IANA is easy, it's functional, it happens predictability. And a lot of the ICANN policies and processes seem sometimes ad hoc. So as long as it continues to function the way it's functioning for us now I'm feeling this is sort of, as a consumer of their services for 20 TLDs, that we've put them through, this is a little bit," sorry.

So it says, "Am I comfortable with ICANN as policymaker? I'm not comfortable with ICANN processes being applied to the IANA processes because ICANN processes don't work and IANA processes work. So to the extent, I'd like to see that sort of separation maintained. If anything I'd love to see ICANN work like IANA works because IANA works."

So hopefully that made some sense.

Jonathan Robinson: Thank you, Donna. Peter.

Peter Dengate Thrush: Peter Dengate Thrush. The answer is yes. I think the first part is that there is an issue that needs to be teased out in relation to policy and operation and we're going to talk about functional and structural and other separations that deal with that.

Important part of the question, as the concept of external oversight, and to answer that you really - I really begin by saying well, what does that mean and the starting point is what's the internal oversight? And when you look at what we've done in building an ICANN starting really here in Singapore in 1999,

we now include so many parts of the global community and the global Internet community and those that use the Internet that it's hard to imagine, you know, where you would go to find anybody relevant outside.

Just a quick list, it's not intended to be a summary of the structure of ICANN. But starting personally with the ccTLDs, we needed 30 ccTLDs to get the ccNSO off the ground and we got that and now we've got about 130 of the ccTLDs and we've had further CCs joining the ccNSO here in Singapore.

We started off here in Singapore I think with about 30 or 40 GAC members and now there's about 150 and we've welcomed new governments, the government of Ireland and others have joined us. The governments are well represented, ccTLDs are well represented.

I can remember the day when it was one registry and one registrar. We now have several hundred of the registries and all the registrars. So as you go through the Internet structure and the Internet user base you see that what's inside is extraordinary. And the question really is, is that sufficient given its understanding and its connection to the Internet to conduct appropriate oversight.

My answer is yes because that is the body - those are the skills, those are the people and I haven't even mentioned all the At Large structures representing the user base and the non commercial users, everywhere you look in ICANN we have tried and I think reasonably well succeeded to bring in to the debate and bring in to the oversight process those people that are important. Thanks.

Jonathan Robinson: Thanks, Peter.

Avri Doria: Avri Doria, NCSG. And we've basically been collecting our responses but it's still in formation. But basically on this one the general trend in our answers is that we're not comfortable with the ICANN as policymaker without something. Now whether it's external oversight or structural separation or the ability for the ICANN policy to have sort of the same arm length relationship that there is, you know, among the numbers and among the protocols, is more an issue as opposed to the absence of the benefit of the external oversight sort of places new requirements.

So we're not saying we must have an external oversight, what we're saying is if we don't have the external oversight then we need an at arms - at arm's length - that's it - an at arm's length relationship that enables there to be agreements very similar to protocols and numbers have. Thank you.

Jonathan Robinson: Thanks, Avri.

Stephanie Perrin: Stephanie Perrin, NCSG. And this may seem to be a naïve question to those of you who've been working 24 hours a day on this for the past few months. But I don't quite understand what we mean by external oversight because we seem to be confusing it with having a healthy robust multistakeholder participation.

When I hear what Peter Dengate Thrush just said, yes, we have many, many stakeholders within the tent, if I had a whiteboard it would be a Venn diagram here - keeping each other honest. That's not the same as having a totally independent body that has a look because there's always capture within a group.

And the purpose of having external oversight is to have somebody, and they don't have to be, in my view, un-techy as I ma, they don't have to be expert in the actual functions of IANA to do decent oversight. They're looking at

process and procedures and at the risk of sounding like a quality auditor, that's more or less the function that they're doing.

So I think you do need external and I'm not comfortable with ICANN. And that's not a comment on ICANN as a multistakeholder, that's a comment on ICANN growing into being a more accountable organization. We're on a path, we need to keep on it, and that's why the external oversight is so important. You may get through some kind of a hybrid model in the mean time because we're on a maturation curve, but we need that. Thank you.

Jonathan Robinson: Thanks, Stephanie. And I'll just make a comment that you referred to accountability and towards the end of that comment and question then it was clearly - I'm not sure if you were in the prior session but it's quite clear that there's a - as we all know, there's a significant parallel track of work going on, on accountability. So in one sense in my opinion one has to continue to look at this both of those tracks and see does that question get answered by both rather than just by the work of this group. But nevertheless we feel it's an important question to ask and relevant to the transition.

Martin.

Martin Boyle: Thanks, very much. Martin Boyle. I'm with Nominet, the dotUK domain name registry. It's a question in two parts and I think for me (unintelligible) answers are conditional answers. Firstly, ICANN as policymaker and the IANA operator, yes, so long as this is actually quite clear that the IANA function operator part of the business is exactly that, it's the function operator. It doesn't define the policy.

And so the policy bit sits separately within the relevant communities and that is very, very important. The second bit about the benefits of external

oversight, it needs oversight, we need to be very careful about ensuring oversight. That is our job. And it's the job between this group and the group on accountability.

We need to get it right, it is our responsibility to get it right. Whether that is external or not I think has to be decided. One of the major problems though I think we have is to try and make sure that is accountable to the people, the organizations that it needs to be accountable to. And for the moment it does seem to me that ICANN does provide a forum and we should be looking at that forum carefully. Okay, thank you.

Jonathan Robinson: Thank you, Martin. Milton.

Milton Mueller: Milton Mueller. So I think - I like this question. It's very simple. You can either say yes or you can say no. And I think people are kind of expounding on their solutions and talking about what forms of external oversight. But I understand you're saying external oversight here means NTIA.

Take away NTIA are we comfortable with ICANN being policymaker also being IANA operator? My answer to that is simple: No. And I think most of the people in Non Commercial Stakeholder Groups who have discussed this would also say no.

Jonathan Robinson: Thank you.

David Cake: Okay, David Cake from Electronic Frontier, NCUC. Essentially this question is another way of thinking about it can ICANN manage to - you can either take this question two ways, you can either say should we just not have any oversight at all? Which I don't think anyone feels that we should have no oversight at all or can ICANN manage to construct, you know, manage to

construct a sufficiently separate internal oversight mechanism so as to be effectively, you know, have some multiple personality or something.

I don't think we can. We can try to create a mechanism within ICANN that is sufficiently separated from the same mechanisms that created policy in the first place. But I'm not sure we can (unintelligible) if it's going to be oversight it has to have some separation from what is going on and it's very difficult to say if we can build that separation strongly enough.

Russ Mundi: Russ Mundi speaking purely as an individual. And one of the things I wanted to comment on in particular about this question is that it's very, very easy for people to get that what we have right now works extraordinarily well. Okay. It's functioning and it's past, it's efficient. When you take away the NTIA's contract then you say what pieces have we really taken away for those things that are being done right now?

And I think for the community to think about and think about it as a multistakeholder approach to things, that we want to consider - we really may not need a huge amount of oversight type of activities because when one looks at what the NTIA does right now it's not a huge amount of things.

And so when you look at the multistakeholder approach think about how ICANN has orchestrated it you may or may not agree that it should be part of ICANN. But I think one of the things I'd like to ask that people really think hard about is the multistakeholder way of thinking and doing things maybe done within ICANN or within a different organization but we've had pretty good luck with ICANN over the last 15 years. So thank you.

Jonathan Robinson: Thank you, Russ.

Bertrand de la Chapelle: I am Bertrand de la Chapelle. Director of the Internet and Jurisdiction Project. When I look at this question I would like to introduce an interesting, I believe, distinction. When we talk about ICANN we need to always keep in mind the different dimensions. I am sorry, ICANN is not so much the policymaker as the GNSO is the policymaker for the names.

Having been on the Board, the concept is that the Board validates what the GNSO does. And in this regard ICANN the policymaker, being theoretically the GNSO validated by the Board, is not the IANA operator.

The functional separation that has been introduced by the last contract, can be strengthened. I could even imagine that in a solution where what is qualified today as the CSC becomes a sort of, what I would call, a trustees group that said five people designated by the whole community to ensure the monitoring and the performance of the ongoing operations, you could even have within the structure of the umbrella of ICANN, an IANA department very nicely separated the way it is, a trustees group on top of it and nothing goes through the Board apart from budget allocation or things like that.

And in that regard, ICANN as a policymaker is not so much the IANA operator. And the functional separations inside need to take into account the fact that when we talk about ICANN we're talking about very different things. There's the community, there is the policymaking, there is the Board, and there's the operations today in the IANA functions. So I'd like us to keep in mind those distinctions.

Jonathan Robinson: Thank you, Bertrand. Seun.

Seun Ojedeji: I'm speaking on my (unintelligible). I think it's important to strike a distinction between - I mean, between what (unintelligible) standing external

oversight or (unintelligible) external oversight because one would - one could say the independent review panel could have some composition of external oversight but that is (unintelligible).

One could say the need for audits just like what Stephanie said could be required at some point but that could possibly trigger it. So nobody is - it's not a yes or no response to this particular question. But if it is a matter of whether we need a standing external oversight it would be an outright no from me, personally. But do we need a (unintelligible) oversight I think is a yes. Thank you.

Xiaodong Lee: ...I think is (unintelligible) that the community have a concern about ICANN because of the transparent and accountable issues. But we never find another one which is better than ICANN in the past 16 years. This is the first comment.

The second one is ICANN is the operator for IANA for the past 16 years but we need to clearly note that the function of IANA now is the big difference whereas before because of the new gTLD opening.

In the future that be a lot of TLD to be added into the IANA. So IANA now is really like a registry of root servers. So it will have the same function and the same concern, same security (unintelligible) as a registry of root server zone. So how to have the oversight. I think it's not (unintelligible) at this time what is external or internal. I prefer that the IANA function need to be separate from ICANN. Yeah, that's my second comment.

Jonathan Robinson: Thank you, Xiaodong. Go ahead.

Nurani Nimpuno Good morning. (Nirani). I'm going to try to avoid going into the solution space because in many ways we're still discussing principle. And in my view I think there are two principles that need to be applied when deciding the solution.

So one is a very clear suppression of operation and policymaking; those two things need to be very clearly separated. And when looking at the policymaking we need to ensure that that structure is bottom up, mature, robust and is trusted by the community. Thank you.

Jonathan Robinson: Thank you, Nurani. Go ahead.

Kurt Pritz: Hi, my name is Kurt Pritz. There's really two questions up here for me. One is am I comfortable with ICANN as policymaker also being the IANA operator. And the answer for me is yes. It's easy to say there should be more separation but I don't think we really understand what separation exists.

And in my opinion part of the reason why IANA works so well now is ICANN has a broad breadth of expertise and on complex questions having to do with different regions and handling different countries it's very helpful to walk down the hall and ask somebody a question. So I would be careful about arbitrarily increasing separations without knowing that the separations that are already mandated and in place work.

Without the benefit of external oversight I think there should be an external or some sort of backstop and not necessarily oversight. So where NTIA provides significant value to me is in backstopping IANA decisions if they're controversial. Think about some controversial delegations. NTIA could point to IANA and say they followed their processes and IANA could point to the

NTIA and say they verified that we've - and that cuts off, for me or helps avoid for me a lot of the controversy around these decisions.

And we need to find a way - a mechanism maybe like the one Bertrand proposed of a small group that provides that independent backstop and verification so that IANA can withstand any controversies. Thank you.

Jonathan Robinson: Thank you, Kurt. Last word on the question 2.

Peter Dengate Thrush: Thank you. Just - I'll also stay out of the solution space because we're going to get into that if you keep moving through the questions. Just a couple of semantic points. The question was posed in a unbalanced way in suggesting that there is a benefit of external oversight. If you take this question any further I suggest you take to the word "benefit" which is pretty loaded. What you mean is the presence or even you could say the absence of oversight.

And just to come back to my earlier point and perhaps to answer Stephanie, the question is not the externality of oversight. I just wrote down some words, what's important about oversight is that it be independent, that it be objective, that it be reviewable, that it be accountable.

So where it sits whether it's external or internal is actually not a terribly valuable issue. If they're external but completely corrupt I don't really want them. If they're external but have values that I know don't approve of, I don't care that they're external, that doesn't bring me any benefit whatsoever. So it's not a terribly helpful question posted the way it is. Although it's worked in stimulating quite a good debate this morning.

Jonathan Robinson: Thank you, Peter. Thank you, Peter. And that's a helpful way. I mean, I should say - and I don't mean this in any defensively, these questions were put

together in a relatively tight timescale ahead of the meeting so your points are well taken both in terms of the fine quality of the question and yet it nevertheless has been useful in stimulating debate.

When I read it, it was pretty clear to me that what this meant was a question around, you know, assuming IANA is within ICANN the question related to external oversight or as you, perhaps more effectively put it, independent oversight of ICANN. But I do notice that some of the answers referred to oversight of IANA.

And so I think that's a subtlety in there. It's what is the form of oversight - independent oversight of IANA? And there's Kurt's point about backstop. So we need to tease apart the oversight of IANA and what form of oversight is required and in addition should IANA be part of ICANN what the independent or external oversight of ICANN is.

So thank you very much, that's some helpful input and we can go over that. The transcript will be available to all members of the CWG. And I think there's some good food for thought there. So, Peter, your overarching point about it stimulating useful discussion is helpful.

Question 3 then, should registries, as the primary customers of IANA functions, at least in the name space, have more of a say as to which transition proposal is acceptable? Donna, go ahead.

Donna Austin: Hi, Jonathan. Donna Austin. So the discussions we had in the Registry Stakeholder Group yesterday, yes, we do think that's the case. But we'd qualify that with the fact that it's also - one of the requirements that NTIA had put in those four dot points that this solution had to be acceptable, sorry, to the registry operators. So it's in that broader context as well.

((Crosstalk))

Jonathan Robinson: Thank you, Donna.

Malcolm Hutto: No, the criteria is that transition must be acceptable to a broad consensus of the community. If there is any substantial element of the community to which transition is unacceptable then transition - then that proposal should not be accepted. So if it is - if a particular proposal is unacceptable to the registry community it should be unacceptable. If it is unacceptable to others it should also be unacceptable. The registries should not be able to dictate a solution anymore than one should be imposed upon them.

Jonathan Robinson: Thank you, Malcolm Hutto for the record.

Man: ...Hong Kong. Just a clarifying question which is have more - it's related to the previous contribution which is have more of a say than who.

Alan Barrett: ...so I think this working group is dealing with the names part of ICANN and the IANA function. So I would urge you to please try to be consistent in your use of terminology. Here you are saying should registries, as the primary customers of the IANA functions, do something. I think you're referring to domain name registries, not registries in general. There are other kinds of registries as well.

And, you know, you're the customers of the names part of the IANA function.  
Thanks.

Jonathan Robinson: Thank you, Alan. Lise, would you like to say something? Okay thank you for those clarifying comments, Alan. Go ahead, Xiaodong.

Xiaodong Lee: It's Xiaodong Lee. Registries means the Internet registries or TLD registries? So in a registry for IP address and TLD registry for domain name. So my answer is yes, especially for the ccTLDs I know that so many ccTLDs is NGO. Also the (unintelligible) of their community. So my answer is yes.

Milton Mueller: Milton Mueller. On this question I think the Non Commercial Stakeholder Group was pretty unanimous. However, we'll say that we interpreted this as applying only to names; when we say registries there we think domain name registries and when we talk about IANA functions, because we're working on the naming part of the proposal, so everything else is not referenced.

So our answer to this was pretty much what someone else just said, the proposal has to be acceptable to all stakeholder groups. There are certain parts of the solution in which you might want registries to have more of a say. But holistically as to which transition proposal is acceptable the registries cannot and by the NTIA's criteria have anymore influence than any other stakeholder group.

Jonathan Robinson: Thank you, Milton. Bertrand, before we go to you we're going to bring a question from the remote queue.

Marika Konings: So this is Marika speaking on behalf of Eric Brunner-Williams. His response to Question Number 3 is, "It would not be sensible to ignore the existing registry operators. However, to privilege the incumbents is formalizing an informal agency capture."

Jonathan Robinson: Thank you, Eric. Bertrand.

Bertrand de la Chapelle: Yeah, Bertrand de la Chapelle for the record. I quite support what Malcolm Hutty was saying regarding the final validation of any proposal and no particular different weight in terms of who accepts and who does not. What I think, again, to introduce - I hope a useful distinction is what we're talking about is not so much the final validation stage but the development and the weighing of the different options.

I think in the course of the work of the CWG and furthermore in the discussions in the ICG if there are different options and none really represent an objection by a major group but there is a strong preference by the registries it might be important to take into account a sort of qualitative weight and that's a matter for the chairs guiding the discussion to take that into account. So I think it's important to distinguish the validation phase in the end where nobody has a particular different role and the discussion phase where the position of the registries is clearly to take into account with a qualitative weight.

Jonathan Robinson: Interesting nuance. Thank you.

Martin Levy: Martin Levy, CloudFlare. I want to expand on what Alan just said about the different type of registries and just, again, maybe for the record, point out that from the protocols point of view one of the three stakeholders within - or users of the IANA functions, the RFC went for review and was published and technically the IETF for the protocol side is done.

From the numbers side, one of the other - the other 1/3 of the users of the IANA functions, the CRISP team, is for all intense and purposes, done. And this has gone to ICG.

The third users, yourselves, are not done. I don't know how to put it any other way. But, you know, this is - this is a great set of questions on the Board here but I'm going to go back to my previous point about the amount of time left and just point out to you guys tick, tick, tick. This has to get going, guys.

Jonathan Robinson: Thank you.

Martin Boyle: Martin Boyle, Nominet the dotUK domain name registry. Really, as this is such a critical operational process there is no solution if it does not get good registry buy-in. That doesn't mean to say that we shouldn't also be looking at the wider support of the community.

And I would be very concerned if the community and the registries were diverging in their areas of interest. Something is going seriously wrong because if it doesn't work for the registries then the solution is going to be broken. So we do have to give a priority to that and help everybody understand the pros and cons of the different solutions. Thank you.

Jonathan Robinson: Thank you, Martin. Seun.

Seun Ojedeji: This is Seun for the record. While I agree that maybe some level of registry consideration should be given but I think we need to be careful about setting precedence. I happen to participate in the IRR process in developing the proposal and was also following the IETF. I don't run a registry; I don't run an IP registry. And my feedback was taken as an individual.

So please, let's not do something different from what other communities have done especially in the process of taking feedback and treating them fairly. I think that is very important. Thank you.

Jonathan Robinson: Thank you. That was Seun Ojedeji for the record.

Russ Mundi: Russ Mundi again as an individual. This particular question, I hate to say it but I want to lighten the tone a little bit, reminds me of 1984. All stakeholders are equal except some stakeholders are more equal than other stakeholders. So I think the real answer to this truly is no. But there's a possible exception; and that exception would be if some part or some elements of the proposed solution had a (unintelligible) flaw to them.

And in which case there should be a number of people, I know personally if I saw it I would be yelling about it even though I have no direct association with a registry, and - but there should be many people that would note it and complain. But in the case of a particular activity I think that's the only time when the registrars, if you will, might get a bigger say if there was something technically broken about what was being proposed. Otherwise all stakeholders should be equal.

Jonathan Robinson: Thank you, Russ. That will call that question to a close at this point. Greg wants to make one comment and then we'll do that.

Greg Shatan: This is Greg Shatan for the record. I was very glad, as many in the audience were, to hear what Russ said because I was kind of stewing and thinking the same thing which is ultimately this is a question of operational excellence. And if there is concern about a plan that will lessen the operational excellence of IANA and the registries identify that and they express a reservation because of that clearly we should all be listening to them.

If there is some other reason that doesn't have to do with operational excellence that the registries might prefer a plan - one plan over the other then no, there's really no reason to favor their opinion in that sense. And of course I

would note in the sense this is also a red herring since this needs to go to each of the chartering organizations, some of which include only registries; some of which include registries, registrars and non contracted parties; some of whom include no registries.

So whatever the opinion of the registries is there will be a majority in a sense of non registry organizations that will have a say. So I think it boils down to just keeping an eye on operational excellence and anything outside of that is really a red herring regardless of who is expressing the opinion.

Jonathan Robinson: Thank you, Greg. So I think we got a pretty good feel for the room on that one. I mean, I was going to add which, in effect, you have added, Greg, that to Russ's point which was technical/operational issue. But I think the point is well taken. So thank you. Let's call that - let's draw a line under that Question 3 and move to Question 4.

We've got 4 and 5 on this slide but let's start with Question 4 which is: What does functional separation of IANA from ICANN mean to you? And here we are not referring to another operator other than ICANN performing the IANA functions but rather the internal, that is to say functional separation, in the context where ICANN is the IANA operator.

Any comments or questions on this? In fact, we could deal with both 5, which is perhaps why we put these on the slide together. Do you believe the IANA function is adequately separated from ICANN under the current operation? Is the current functional separation adequate?

Xiaodong Lee: This is Xiaodong Lee. For the Question 4, first the meaning for me is we need to balance the policymaker and the technical operation. (Unintelligible) just know that now the IANA function have a lot of technical concerns. So really

make sure that the policymaker (unintelligible) policy and the IANA function (unintelligible) and to make sure that no (unintelligible).

And also (unintelligible) VeriSign or other registry operators to make sure that the root server is stable, I mean, the database is stable. I have no question for Question 5.

Jonathan Robinson: Thank you. Bertrand.

Bertrand de la Chapelle: This is Bertrand de la Chapelle for the record. Follow up on my first intervention earlier on, this notion of functional separation is related to three layers. One is the people who actually do the processing of the request for changes and also supervise the technical automated mechanisms for changes.

This is ICANN - currently ICANN staff but it is in a specific department just like I would say the GDD has been set out by the specific department. I think the IANA functions are separated in the same way.

There is the head or the person who manages this department, currently Elise Gerich. And in the model that I was mentioning earlier this functional separation could go one leg up with something that we more or less call the CSC today but I would call the trustees group.

And this was ensure a vertical separation of operations. It could even be another building or whatever. The notion being that ICANN is an umbrella thing that has different functions and one of them is to manage the gTLD program in its implementation; another one is to provide support for the policymaking by the community and another one is the IANA function in itself.

And so in this regard it is one step removed from structural separation but it would limit as much as possible the responsibility of ICANN and the Board in particular regarding the IANA to very limited aspects. And one thing that could be explored is the conditions of selection of the person, the role that Elise Gerich plays today, who has the right to weigh in on how it is chosen. That's an interesting question.

Jonathan Robinson: Thank you.

Malcolm Hutto: Malcolm Hutto for the record from LINX. Imagine the situation where the decision had been taken to engage in structural separation and that it was met with the objection for practical technical reasons because of how it is so intertwined with ICANN; that actually can't be done.

To me functional separation is having arrangements where it would not be met with such an objection. And therefore it would answer Question 5 in the affirmative; it is sufficiently separated because we're capable of having these discussions right now. And we're not being met with that problem and.

Jonathan Robinson: Thank you.

Martin Boyle: Martin Boyle, Nominet, the dotUK domain name registry. I certainly see this question very clearly but being about the separation between the policy framework and the operational part. This is a formal requirement of the NTIA contract. And it's something that the ccTLD community thought a long time to make sure that we did not get arbitrary decisions from the IANA functions operator that weren't backed with a policy agreement.

Because it's a formal part of the contract, because it's happened, the relationship between ccTLD community and the IANA has improved. The quality of the IANA functions operation has improved. And therefore I think my answer to the question at the bottom is yes. Thank you.

Jonathan Robinson: Thank you.

Kurt Pritz: Age before beauty. I think functional separation means that the IANA function must always make decisions in compliance with existing policy. And even if the root zone management change requestor, and a number of parties in IANA agree that a change in contravention to existing policy would be better that IANA is constrained to existing policy so they can't make policy on the fly. Martin Boyle put that much better.

Another feature of separation is that IANA staff can participate in policy discussion as far as providing information because they have most often the most valuable and insightful opinions but they can not join in the debate or discussion that formulates policy. So that's a second feature of functional separation. And I said before I think the separation now is adequate and works well.

Jonathan Robinson: Thank you.

Milton Mueller: Milton Mueller: There is a recurring problem in this dialogue when we're talking about IANA and ICANN, are we talking about it is - as it is now which means the NTIA is there and the NTIA contract is there? Or are we talking about it once that is gone?

So I would have to answer the second question with another question which is when you say "current arrangements" do you mean with the IANA contract or not?

Jonathan Robinson: My sense of the question, Milton, is that it - the current arrangements or functional separation with NTIA in place.

Milton Mueller: Okay. All right because I think Martin made a very important point that not only is functional separation - actually both Martin and Kurt pointed out various ways in which the current contract requires what we now have, whether you call it functional separation or not, I don't care very much. It's clearly not structural separation.

So whatever kind of separation we have now is created by and defined by the NTIA contract. Could that be better? I think there could be some improvement in separation of the budget, for example. But, yeah, we're okay with that but we're focused on what happens when the NTIA is gone, that's what we want to know about.

And so if you say we can just remove the NTIA from the picture and the IANA function will be adequately separated from ICANN, our answer would be resoundingly no. We need something, either structural or contractual to maintain the current level of separation and perhaps to enhance it.

Jonathan Robinson: So, Milton, I'll respond to you because yours goes to the heart of the question rather than - without disparaging any of the answers - rather than more simplistic or straightforward answers to the questions. And I think it's a really good point. For me this is - this is serving the purpose that we intended to do because it's teasing out some subtleties. And to my mind this will help

inform the proposal such that the proposal can be more specific of the post transition arrangement.

So while I understand your point does - there's a weakness in the question there are probably weaknesses in all the questions as I said in response to Peter's. But it is nevertheless helping to further inform the work of the group. So to that extent it's serving the purpose and so it's very useful to me and I hope others.

Milton Mueller: ...it much the same way that others and I only just started thinking now what do we actually mean by current arrangements? And what would happen to these arrangements if the contractor is not there. So, yeah, you're right. The questions are doing their job. I'm not complaining about the question. I'm trying to go to the substance.

Jonathan Robinson: Exactly and thank you for that. Next.

Andrew Sullivan: My name is Andrew Sullivan. So just to follow up on what Milton was just saying, I - to me the Question 5 here is - the critical word in it is adequately. And so I feel pretty strongly actually that the current arrangements, yes, there's an adequate separation there and therefore that is the kind of thing that we ought to be build on.

So I like this question precisely because of that word and I think that that - the answer we just got from Milton was, in fact, yes, currently adequately separated. I like that.

Jonathan Robinson: Thank you.

Wolf-Ulrich Knoben: My name is Wolf-Ulrich Knoben. I'm with the ISP Constituency. We discussed that matter in our constituency meeting. And we would not have a final answer to that but we understand the question as being supposed that there is an internal solution and then the question is how is that run with regards to the IANA functions in terms of accountability and operational accountability as well.

So from an operational point of view I would say - I would refer to what Bertrand was saying, it was an interesting notion with regard whether we could kind establish kind of, I would say, Chinese wall internally, between ICANN and IANA. From an operational point of view I would fully agree to that, that is viable and that is doable.

From the accountability point of view, I'm personally not yet at the - in the position to say well I'm not convinced, not yet convinced that it is working that way that a community could agree to that. So that's the position what we have at the time being. And we are - what we're taking this point in this direction and putting more discussion in it. Thank you.

Jonathan Robinson: Thank you.

Bertrand de la Chapelle: Bertrand de la Chapelle again. In the expression current arrangements there is one thing which includes NTIA in the loop of the validation of the different changes. What I'm talking about here is the actual structure of the IANA operations within ICANN. And I take the NTIA part out of this. If I look at the - that was quick.

But, again? Because I was finishing. So if I just look at the three layers that I mentioned earlier the actual work that is being done by the staff, it can be - Kim Davies to put names on people and the team - you get the Elise Gerlich

(unintelligible) and you get the next level which currently (unintelligible) CCs go to a different channel.

For the new gTLDs entering in the root actually it doesn't come to the Board whereas strangely enough for ccTLD delegation and redelegation the thing comes to the Board with a certain level of ambiguity within the Board on what is the extent of this power.

I think if we look at this system today the separation is, in my view, not sufficient because of this channel that comes to the Board and the establishment of what was mentioned as a sort of China wall, is an interesting approach to say the goal is to build this China wall a little bit higher and to have this trustees group playing the oversight role or the - not oversight, the validation role in the channel. And we can discuss further the extent of their respective responsibilities on the Gs and on the CCs.

Jonathan Robinson: Thank you, Bertrand. The queue is now closed so we'll take two more inputs and that's it.

Annebeth Lange: Annebeth Lange. For me this means the systems of the (unintelligible) powers and separate branches. And in our specific case that - the IANA (unintelligible) function and leaves the policy and keeps away from the policy and leaves that to ICANN. So there should be full accounting separation and personnel operation. And even if ICANN is a part of ICANN it is essential for the trust in the market that the separation is absolute.

And as a lawyer we work about that in governance and now you see the separation between the (unintelligible) already like its (unintelligible) and executive powers. And we have to look at it in the same way. So especially I these times where we are changing it is really so important to be sure that the

separation is not only adequately, I think that word is perhaps a little - do we think it is adequately or does the market think? So we must be absolutely sure that everybody else outside our community thinks the same. Thank you.

Jonathan Robinson: Thank you.

Russ Mundi: Russ Mundi. I have looked at this question - or these pair of questions and think that this is one area in particular where the multistakeholder communities need to work hard at compromise and thinking at what will be an adequate answer both in the near term and perhaps in the longer term.

From my perspective having both read the contract, knowing a lot about the people involved in the IANA function, working with them for a long time as well as the other ICANN staff and the ICANN process and Bertrand makes a good point, there are different steps that occur for different types of things that happen.

But I believe in particular with the term "adequate" as Andrew pointed out earlier, I think the answer to both of these questions for a near term transition approach is, yes, there is sufficient separation now and it is under the current arrangements. These may need to be changed going forward but for the near term I think the answer is yes.

Jonathan Robinson: Thanks, Russ. You've ended up with the last word. That was very helpful. I mean, I am genuinely positively I think surprised is probably not the right word but pleased with the input we've got. I think it provides us with real material with which to work in the CWG and in drafting and preparing our draft proposal. So thank you very much. That was really high quality input. And although we haven't got through all the questions we've got very good input now.

We plan to, in effect, leave these questions open with the community for another week. So should you have input to the other questions we'd love to hear from you and would appreciate email submission through members or participants to the list. I trust that everyone does have access to a member or participant. If for any reason you don't, I think you can probably supply them to policy staff working with us, to Grace would take that.

So find a way to get your answers to us through a member or participant or through Grace who's working in support of the group. And thank you again for very high quality contributions. The session is now closed.

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