Transcription ICANN Buenos Aires

Update on IANA Stewardship Transition & CCWG Accountability

Sunday 21 June 2015

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Jonathan Robinson: Okay, let's prepare for the next session then. In fact in some ways these two sessions are linked, well in many ways they're linked these next two sessions. So are you ready to go with the recording? All right.

So here is an opportunity in this session and in the following session to hear from and talk about the stewardship transition and the associated - in the next session ICANN accountability work track.

As you will be well familiar by now I have been one of the co-chairs of the CWG, the cross community working group working on that stewardship transition so I'll go through a few slides with you and talk about the state of the final proposal.

There are some -- we have with us the members, the GNSO representatives, members on that CWG stewardship so it would be a good idea if maybe you could raise your hands so people know who else has contributed as members. The very -- I thought Greg, Avri, Donna - who am I missing, there should be...

((Crosstalk))

Jonathan Robinson: Graeme? Yeah, so - and Graeme from the registrars. So you've got one from each of - one member from each of the stakeholder groups plus of course open participation in the group.

So let me talk through a couple of the -- through the slides and make sure that -- and bear in mind as I said yesterday, I'm not sure if this was said at the outset, this is an opportunity for -- this isn't just a GNSO Council session, these are GNSO Council convened sessions over the weekend for the purposes and benefits of the engagement of the whole GNSO community. So please feel free to raise questions, bring points, comments or suggestions or items in any one within the room. There's a microphone at the front to stand up or there are microphones around the table to join in the discussion.

So we had a set of slides here. If I could -- if we could make our way through these please. I'm not sure who's controlling the slide deck. Steve, thanks. So I'm not going to dwell -- the slide deck is available to all of you to utilize in whatever way you see fit, to take to the different stakeholder groups and constituencies.

It's naturally comprehensive but I don't think we need to go through all of it in fine detail. The first slide deals with statistics and diversity of participation. And I'm not going to walk you through those statistics, I think they speak for themselves.

Next slide, please. Clearly this is all part of a process and we highlight in the middle of this the role of the CWG stewardship in producing its proposal. We heard a moment ago from the ICG and their role in bringing together the three different proposals highlighted - which are in response to the RFP from the ICG, request for proposals. And these are the three proposals.

And there are really two reasons I suppose it's worth saying here in driving the timeline, at least two reasons that drive the thinking on the timeline. One is that there is -- it is broadly perceived an openly discussed issue that there is a window of opportunity in which this transition work can be done and therefore there is some overarching, although not explicitly specified anywhere, timetable to work to, in other words to work within the window of opportunity.

In addition, and there's a sort of -- there's additional pressure which we have to be mindful of, although it's not an absolutely fundamental driver, the original RFPs were requested to be responded to by the end of January 2015 and that's (Crisp) proposal and IANA plan proposal from the other two communities were delivered in time for that initial deadline.

Now I think there's - there is and has become greater empathy for the reasons why the CWG stewardship work needed to take longer both in terms of the complexity of the proposal and the multiplicity of inputs but nevertheless it's been going on for some time now relative to the other two and so it feels like it's time to get this over to the ICG to get their work.

And of course in parallel, which will hear from Thomas about in a little while, is the work of the CCWG on Accountability. And these two come together further down the track once the ICG has worked on its work on synthesis.

But it's critical to highlight that there's the conditionality built into the CWG proposal on the CCWG proposal. And then together these two proposals are transmitted via the ICANN Board to the NTIA.

Next slide please. This next slide sets out just a set of goals and requirements which I won't walk you through in detail but clearly the overarching goal is to produce a transition proposal for the elements of the IANA function related to the domain name system and ideally a proposal that is or can be made consistent with those from the other two operational

communities. And then it needs to essentially require and meet the set of criteria laid out below.

I'm happy to go into these in any more detail but it feels to me like many of you will have seen elements of this and I don't want to be laborious in going over the detail unnecessarily so please feel free to raise a hand if there's a point of clarification or if you feel you would like more detail on any particular element of this.

Next slide please. So the slide has been pared back from one that was originally prepared but in essence it seeks to convey the point that this has been a journey, it's been a journey of compromise and consensus building through a variety of different issues including -- we've just lost the slides. Thanks. Including the evolution of the model.

So in a sense this symbolizes both the evolution of the structural models on which this proposal has been developed and has ultimately involved but there have been many areas around which consensus has had to be built and around which compromise has had to be made in order to form a unified single proposal which you see in front of you at the final proposal today.

Next slide please. And that proposal is summarized, at least from a structural point of view, in this next slide. And I think this is one worth dwelling on for a couple of minutes because it both highlights the historic position the current contract through which -- between the NTIA and ICANN and through which ICANN is contracted to run the IANA operations and the subject of oversight of the NTIA.

And the IANA, which is -- we're talking here about the left-hand portion of the slide, the current situation where IANA is run as a function, a separate business unit if you like, entity comprising staff and systems and processes within the broader ICANN operations under contract with NTIA.

Post-transition we envisage something quite significant changing place --
quite significant changing and taking place and that is the introduction of a
legally separate entity. So the post-transition IANA is not only functionally
separate but that functional separation and that separation of the, if you like,
policy and operational components of the naming system are further
separated through the introduction of a legally separate entity which we refer
to hear on the right-hand side as the post-transition IANA.

That legally separate entity in addition to enhancing the perception and
actuality of the functional separation creates a vehicle which is able to be
contracted with and therefore that ICANN and the PTI can be captured within
the terms of a contract which is binding between the two parties.

So you've got an enhanced functional separation through legal separation
and then - which includes a separate Board of the post-transition entity of
which I'll come back to and say a little bit more in a moment.

In addition, you've got oversight of the operational aspects of the
performance of that entity provided by a committee of customers known as
the Customer Standing Committee the primary focus of which is to make sure
that the post-transition entity operates effectively and efficiently and is kept
under constant review and ultimately is the subject of relevant performance
improvements over time.

About the customer service committee you have another critical component
which is the IANA functions review. And what the proposal envisages here is
that there is a periodic review intended to take place every five years to
provide a comprehensive and multi stakeholder review of the post-transition
entity.

That review we expect to be encapsulated in the ICANN bylaws and therefore
become a mandatory part of ongoing work. I said it would take place every
five years, there are exceptions to that and they are twofold. One, that in the

first instance post-transition the first scheduled review will take place after two years so there is an initial review after two years as a status check to make sure that we don't wait a full five years post-transition to ensure that things are operating and running well.

One key discussion throughout the group's work was where and how it was appropriate for multi stakeholder involvement. And the areas of consideration for that were at the post-transition IANA Board level, as that Customer Standing Committee level and at the IFR level.

Let me say a couple of things about the Board. The Board is a - well in order to understand the composition of the Board it's important to understand I guess a little more about the PTI. The PTI is a - in common terms a subsidiary of ICANN and a wholly owned subsidiary.

In legally technical terms, it's actually referred to as an affiliate because it's a public benefit or not-for-profit corporation that has ICANN as a sole member. The combination of ICANN having sole membership of the PTI and the ability to appoint the majority of Board members means that ICANN controls that subsidiary.

And I think this is absolutely critical to understand not only the fact that ICANN will control that subsidiary but the logical reason why that's in place. It was possible that through either the membership and or the composition of the Board that subsidiary was not controlled or fully controlled by ICANN.

The challenges that that produced would have been that it would require additional oversight at the PTI level. The benefits of ICANN being in control of the PTI means that we can hold ICANN accountable for the performance holy and fully accountable for the performance and operation of PTI and should there be concerns over the performance of PTI to be able to take advantage of any of the new and comprehensive accountability mechanisms being worked on by the accountability working group.

So I'm talking over these relatively fast but there are some critical concepts that were worked on hard and long to make sure that the two were appropriately interlinked. And this was the subject of quite comprehensive or fully comprehensive legal advice that the CWG took.

And we were the beneficiaries of very high quality assistance and legal advice from well-qualified lawyers in corporate governance, company law and many other relevant aspects in determining the structure.

So I'm mindful of time. We've hit the nominal end of this session. So if I could just go through the next couple of slides which just for the purposes -- with these slides do is they not only provide me with an aide memoir to talk with you but we also handed it over to you as representatives from the different stakeholder groups and or councilors from the constituencies to be able to use these as material to communicate with and discuss with your groups.

So there's one on the PTI Board as a prompt. Next slide. There's one on -- one to talk about the CSC. Next slide. Want to talk about the IFR. I've chosen to talk about them all on the main slide. Next slide please.

And then finally really what we focus on before going into a sort of discussion on this is the critical components of the linkage and coordination with the ICANN accountability. I hope I described effectively a moment ago how, with PTI down into ICANN and locked into ICANN we get to rely on and in fact need to rely on the enhanced ICANN accountability measures.

And in fact the critical five measures are listed here in Items 1-5, accountability on budget, Board and the incorporation of the IANA function review, Customer Standing Committee, and the appeals mechanism being dealt with by bees being incorporated into ICANN bylaws and products of the accountability work stream.

So Item 6 really captures the fact that all five of these need to be dealt with by a bylaw revision. And in fact I think we are due to see shortly that those bylaws, the adoption of those bylaws by the ICANN Board will be in effect necessary conditions for the transition.

So the path of the work -- we are facing right now the opportunity to approve the work of the cross community working group on the stewardship. That then passes up to the ICG who does their work and synthesizes it with the other proposals and then these all come together again ideally at or around the Dublin meeting for reconnection and packaging up as a complete set of proposals.

So I think that's a whistle stop tour in a short period of time. Hopefully many of you have had a chance to look at this report. And I see Steve has come up to the microphone so let me hand over to Steve and then come to Avri who has her hand up. Steve, go ahead.

Steve Metalitz: Thank you very much, Jonathan. Steve Metalitz. I'm a member of the Intellectual Property Constituency. I was rather concerned to see, speaking of item 5, appeals mechanisms, that the proposal is going forward now without any appeal mechanism in place for ccTLD delegations or re-delegations.

There have been such an appeal mechanism in the earlier version that it was taken out. And I understand the ccTLD members were surveyed and there were some ambiguous outcomes to that. But the fact is that there won't -- if this is approved and goes forward there won't be such an appeal mechanism. And I think there's a considerable risk if that is still the case at the time that the transition occurs. And I think it's quite plausible.

I wonder if you or other members of this working group can comment on the process for putting an appeals mechanism in place and the timetable for doing so? I'm not going to get into the substance of the appeals mechanism, although I think one big concern is who would have standing to invoke it, and

there are many parties other than governments, ccTLD registries and would be ccTLD registries that could be very much affected by a delegation or re-delegations decision. So that's one thing that's motivating the concern.

But this is really a question of how open-ended business? There will be no appeal process, what is the process for getting one and is there a time limit by which that appeal process must be in place? Thank you.

Jonathan Robinson: Thanks, Steve. I wonder if anyone else the prepared to speak to this? Is anyone else willing to make a comment or have any thoughts on this? Chuck.

Chuck Gomes: Thanks. Chuck Gomes. And I think one of the first key points to recognize is this is a CC decision to delay it. And my understanding is that they would develop an appeals process. My understanding -- and you know I can't speak for ccTLDs but as part of the working group they want to deal with all of the competing issues from different ccTLDs because they've got ccTLDs that are members of the CC and some that aren't and they have some that participate in ICANN, some that don't, and then there are governmental issues.

So they want to develop the appeals process themselves and then come back with that. But you probably understood most of that already. I'm looking over here at Lise; she may be able to help us a little bit more. Putting her on the spot.

Jonathan Robinson: So thanks, Chuck. That's consistent with my understanding. And I just would say one thing, and Steve, this is not to cut you short, but I'm just very conscious of time and just to highlight that there are a number of other sessions, there's a communitywide engagement session on the CWG; there's a big session on Monday on CWG but primarily CCWG. So there's a lot of time to cover these issues further. Just to let you know, this isn't the last word on it. But it was important to bring -- to have a session on here for the GNSO. Go ahead Steve.

Steve Metalitz: Well I agree with what Chuck said. I think it's perfectly appropriate for the CCs to take the lead. My concern is how long is it going to take and could we be a year, two years, five years into the transition before an appeal process is in place? That's a big gap in accountability from my perspective.

And the second is what is - I think it's perfectly appropriate for the CCs to take the lead but what will be the process to get input and comment at least from entities that aren't ccTLDs on whatever this appeal mechanism would be? Those I think are two significant questions that are hanging over this.

Jonathan Robinson: Thanks Steve. I'm not sure I can answer those. I think it's something that they're valid questions and something we need to be mindful of, probably take up with, to some extent, the ccNSO and the CCs, you know, what are their plans for this and how do they propose to deal with it? Avri. Chuck, did you want a last quick response on that?

Chuck Gomes: This seems like it would be a great topic for the ccNSO GNSO session. Oh I'm sorry, Avri.

Avri Doria: It's good you said that because that was good because I think one of the things, and it wasn't what I raised my hand - Avri Doria speaking - wasn't what I raised my hand on but one of the things to consider is within the whole ccNSO thing the considerations that are within country. But we have seen that the use of CCs sometimes goes beyond the country and has implications on the rest of the Internet.

The one thing I wanted to bring up is -- and I love our schedule and it really is a schedule for everything going right. But within the possibilities there are various loops of things coming back to the CWG because there are issues, there are loops within the CCWG if there are the Board CCWG mechanism.

So I'm wondering if those of you that are managing this process have actually been building out the how you deal with these various contingencies, are

there places where if this happens things come back to the chartering organizations and what precipitates coming back?

Or is that something that we've sort of said things are going to go right, we're not going to have to do any loops and just deal with them if they happen. And that's one of the things that's sort of been nagging at the back of my head for a bit.

Jonathan Robinson: Oops. Again. So, Steve, did you capture that previous item on the point for the ccNSO GNSO meeting, that would be great. And if you could get back to the support staff of ccNSO to Marika and Bart so that they're aware of that issue that we can potentially bring that up there.

Avri to your point, I think it's a combination. In some ways we're working hard to simply concentrate on getting the critical path through. I won't say we have ignored contingencies, and we spoken informally about various alternatives. But I think - well I suppose there's two issues.

If we plan for every contingency we'd drive ourselves nuts. We have to work with what we've got as it happens. But that isn't to say we haven't talked about the various scenarios along the way and thought about the what ifs on an ongoing basis.

There is some wiggle room in the timetable but given the apparent size of the window of opportunity it's tight and I think we want to continue to emphasize that rather than say but if we don't make it this opportunity and if we don't there's this. I think we're mindful of the fact we may need to but we really focusing on trying to get it through that process that's available to us now.

Okay I think I'm going to take advantage of that momentary lull to hand over to Thomas since we are already -- talking of tight timescales and we do have as I said, lots of other opportunity within the community to cover these things. So let's momentarily pause, stop the recording, if we could stop the recording

and then we'll pick up in just one moment. Can you give me a signal when we're ready to go with the next recording?

Okay we're good to go. Welcome, Thomas. A familiar face to all of you for many reasons for his tireless work on various topics so I'll just hand straight over to Thomas Rickert, co-chair of the CCWG on Accountability for an update on the position there.

Thomas Rickert: Thank you very much, Jonathan. And hello everybody. I'm Thomas Rickert, one of the three co-chairs of the CCWG Accountability. And actually I think we can move to the next slide immediately. Can we - yeah. And I would like to highlight again, you know, you know obvious that the other proposals have been finalized so the CCWG Accountability proposal is pending including the conditionalities with the CWG proposal that Jonathan has made reference to.

And I'd like to use this opportunity to go on record and express my gratitude to the CWG for adding more pressure on our group to deliver in a timely fashion.

But I think that what I have to report today actually should not be evidence of concern but rather evidence of encouragement of the excellent work of the CCWG members in further developing our recommendations.

Next slide please. Just as a little reminder, we are working on accountability enhancements for ICANN overall. And our work is actually split into two work streams; Work Stream 1 deals with those accountability mechanisms that need to be in place or committed to you prior to the transition while Work Stream 2 items are those that we can deal with in the period after the transition.

And that is not to say that we're going to put those on the back burner forever but actually we do have concrete plans, concrete items that we've collected

and are working on to ensure that the overall accountability is improved as we move on but in a relatively short time span.

But for this specific phase we are focusing on the essential part that we need to have in place or committed to prior to the transition. And also just for clarification purposes, the CWG recommendations need to be implemented. For us it's slightly different, and I think it's important for us to understand this.

For us, the NTIA requirement is that we need to have committed to or implemented, right? So we will not have everything fully fleshed out prior to the transition but we will make sure to take the necessary precautions particularly bylaw changes as requested by the -- as requested by the US government to ensure that we can't take out certain measures that we deem essential to improve ICANN's accountability.

Next slide please. So just briefly on the composition of our group, we have 26 members, 120 participants. You can see on the slide that geographic split of the group. We would certainly have loved to see more evenly spread participation throughout the world. And I will get back later to a point that we heard multiple times in the public comment period that we should be as inclusive as possible.

And I would like to encourage councilors as well as others in the room to make sure that for the second public comment period we get broader participation from ideally all regions in the world.

You can also see some figures, you know, the proposals that we are going to present do not easily develop themselves but the volunteers, including excellent support staff that we have, have worked tirelessly over the last couple of months to take us where we are today.

Next slide please. Now I'm going to run you through what we have included in our first report which we put out for public comment. And I guess that this is

important to understand. We have not published consensus recommendations of our group with our report. But we have presented to the community the current status at that time of our deliberation to seek guidance from the community whether we are on the right path or whether we need to readjust our thinking.

Given the very aggressive timetable that we are working on we could not permit ourselves to come into a situation where we find out in the very last minute that the community wants us to go elsewhere. So these were never consensus positions, these were just -- the atmosphere, the temperature in the room at the time of drafting of our initial report. And I'm going to show you that and in the remaining part of this presentation I'm going to guide you through the most important or most striking comments that we got from the community and the consequences that we established for our group and our work product.

Now we have the accountability work that we are connecting based on four building blocks. So we want this to resemble an accountability system including checks and balances, division of powers as you would have in states. So we would have the empowered community which would be the people or the legislators. We would have the ICANN Board which would be the executive. We would have certain principles, mission, core value, to go into the ICANN bylaws which would form sort of the constitution.

And we would have a judiciary which would be an independent review mechanism that would, if needed, check whether ICANN's actions as requested by the legislative - by the community are actually in line with our constitution to stick to this analogy.

And so, you know, this looks quite easy but it has been the result of lengthy negotiations of our group. But we do think that we are on the right path using accountability models that have proven to be very efficient and successful in governments and that have basically been developed over centuries.

Next slide please. So what we have is, at the outset, are these four components and they are already there with ICANN. So we are not adding to ICANN's existing. Next slide please. So I think we can move a little bit quicker on those.

So what we are thinking of is an empowered community. And this little circle that is potentially too small for you to read on your screen, that describes the composition of what we previously called a community council where the SOs and ACs are represented with a certain number of votes. And according to our thinking all groups except for SSAC and RSAC, would get five votes and SSAC and RSAC would get two votes to express the views, the will of the community when it comes to making decisions on certain items.

So we would give more powers to the community and we would go through these powers in a moment. That would be things like vetoing - the possibility to veto a budget, strategic plan, operating plan. I would be the possibility to ask for a revision of proposed bylaw changes. That would be the possibility to approve changes to what we call fundamental bylaws. And it would be the possibility to recall the entire ICANN Board or remove individual directors from the ICANN Board.

Next slide please. So you see here the removal of individual directors, the recalling of the entire Board. You see the review or revocation of budget strategic plan, operating plan and the changes that are being made to the bylaws.

Next slide please. When it comes to changing bylaws it's important to recognize the distinction that we established and that's something new. So we're not only talking about normal bylaws changes as we've experienced in multiple times with ICANN, but we actually will have two different sets of bylaws, normal bylaws where the Board after a consultation process with the community can adopt bylaw changes, and then the community has the

opportunity to check whether this is what they wanted and they would have the opportunity to veto after-the-fact changes that have been made to the bylaws and give the Board the opportunity to revisit the decision that they have made.

For very important items such as perpetuation of an independent review process in the bylaws and some other fundamental things, we established the set of fundamental bylaws. And there we said it is important for the community not only to have the opportunity to challenge bylaw changes that have been made by the Board after the fact but these need to be brought in front of the community before they are being adopted. And they require explicit approval from the community. And also there is a higher voting threshold.

Let me give you an example. There is a lot of sensitivity around ICANN not being permitted to broaden its remit. We don't want ICANN as an organization to mission creep into other areas.

At the same time we are cognizant of the fact that we're living in a rapidly changing environment and that therefore changes might be needed at some future point in time and therefore should the community wish to do that with a high threshold then there is the possibility to change those things.

But that would be actually quite hard to do so we can deem that more of us as cemented in the bylaws but we still have the flexibility if need be to change these very important principles.

Next slide please. Last point is the independent appeals mechanism, the independent review process. ICANN already has an IRP but that is often being criticized as not being robust enough. Decisions are being made only on the basis of procedural aspects. So there have been situations in which the panel has decided well the decision is wrong but all the process has been followed and therefore we can't do anything about it.

And our group felt that this was not good enough in the post-transition period and therefore we wanted to make some changes to it that makes the IRP more powerful. And that would be bad decisions are being made not only based on procedural flaws but they would be looking at all the merits of the case. We want decisions to be binding for ICANN so that ICANN just can't walk away after a decision has been made and ignore what has been said.

We want it to be more accessible, we want the cost to be relatively low. And in order for that to happen we want truly independent experts and we are looking at a standing panel of seven independent experts out of which one or three would be picked depending on the case to make decisions.

Next slide please. So for the different community powers that we have established there would be a more or less standardized escalation path. So an SO or AC puts in a petition for some of the community powers we have the need for more than one SO or AC to make that petition that you read all the niceties in our report.

Then it is being checked whether that petition meats the required threshold. And if so then it comes to voting. For certain mechanisms or for certain powers we recommend that voting should be binding from the respective communities involved. For others there might be the possibility of having votes at the discretion of those exercising them.

And if they voting threshold is met then a decision is being made and that needs to be followed through and followed by the ICANN Board. And we are thinking of different ways to make -- or to give sufficient power to the community to actually have authority to ensure that decisions are being implemented.

So at the moment, and I've alluded to that earlier, we have suggested to have a total of 29 votes. For GNSO, ccNSO, ASO and the GAC we have proposed

to give five votes to each of them and At Large, sorry. And for RSAC and SSAC we have suggested two votes. I'll get back to that point but that's just what's been on the table with our proposal. And that was also a point, as many other points in our proposal where we said we would like to get your feedback.

We have not yet made up our minds whether this is going to be lasting so we have different options on the table and we wanted to get guidance from the community which route we should take.

Bret you've raised your hands, please ask a question.

Bret Fausett: Yeah, reminds me, what are the voting thresholds here that would trigger the various mechanisms that this group can initiate.

Thomas Rickert: I would suggest that maybe, Steve, could you look them up in the report, and we'll get back to you in a moment. Next slide please. Okay so we did a public comment period. We got feedback from the community. Next slide. And this is a breakdown of those that have participated in the public comment period. So we got input from various actors, which I think is quite encouraging comment that this is not biased towards a particular interest group.

Next slide please. We've also broken down the number of responses that we got with respect to the various areas of our report. And from that you can see that some questions that we put in front of the community have gained a higher number of comments than others.

So for example, if you look at the mechanism to empower the community that got 47 comments and that is indicative of this point being very important to the community. And that's actually one of the areas where we thought we need to reconsider what we have previously discussed and what went into what we call the reference model for our report.

Next slide please. Here you see the spread, the geographical spread of commenters. And I have to say that there is obviously room for improvement so we need to make sure that we get more feedback for the second public comment period that we've planned to conduct in order to get more input from the global Internet community.

Next slide please. So when we -- we have received a couple of comments I think around 70 comments. We have used what we call the public comment review tool where all the responses are being analyzed and put into a table. So all the comments that say referring to Question A are being put in one place so that we have an easier time looking at all the responses that we got with respect to a particular item.

And then we have discussed the feedback that we got from the community in different telephone conferences from the whole CCWG and also we have some teams that have been preparing the respective parts of our report looking at the comments in more detail.

And what we could establish -- and this is quite broad but we will publish our responses to the comments in due course -- is that there's broad support for the overall accountability architecture, for basing accountability mechanisms on the four building blocks that I described to you.

Most of the commenters acknowledged that the proposals that we made would enhance ICANN's accountability significantly. And this is the purpose of our exercise, right, so that has been very encouraging to see that people do think that we are actually making a big change.

However, there have been concerns expressed so people said you should be focusing more on if you have this empowered community will make sure that the community, the SOs and ACs themselves, are accountable so that they don't go out of control. So we've worked on that but certainly we need to be more explicit in our communication as to what needs to be done and also

there needs to be done in substance and not only in messaging. So watch the watchers has been one of the central themes.

Then people have been concerned that what we suggest is too complex and that it potentially adds additional risks and that there are legal implications of our proposals. So we are -- we take good note of that and we think that some of that is perceived complexity that we have been in this knee-deep over months and therefore it's good to get some fresh eyes on our proposal saying okay, you might understand this but we don't. And if we don't how can we expect the global Internet community to understand what we're about to do? So that certainly is something that we -- we are taking to heart.

Good news is that the CWG requirements that make this conditionality to the CWG proposal that Jonathan spoke to earlier have been broadly supported. So the CWG and all of you should not expect any surprises in that regard. So we are very confident that we will deliver exactly what the CWG is requesting.

The reference model that I'm going to speak to in a moment has been criticized as being too complex. So what is the reference model? I spoke about the empowered community, the SOs and ACs, and what we thought of doing at the outset is that we would establish requirements for our work. So we did not talk about how to implement the requirements that we established requirements.

And our plan was to put the requirements in front of the lawyers and say okay now you lawyers tell us what's possible to get all of these features incorporated and make them robust under California law. So they came up with a response saying if you want to do that you should be using a membership model where the SOs and ACs create unincorporated associations as a legal vehicle to exercise community powers. So they would be what we call alter egos of the SOs and ACs or avatars for the SOs and ACs.

And people said well, we don't understand that. Why do we need these additional associations? How do we register those? What are the implications in terms of liability? Who is going to be the directors of these associations? Why do we need this additional layer of corporations basically or of legal personalities in between us and ICANN?

So we took that to heart and we think we are now on a good path and I'm going to speak to that in a moment, to make an improvement and demonstrate to the community, that we learned our lesson, that we understood the concern. And that goes hand-in-hand with the request to come up with easy to understand proposals.

Also people said, you need to make sure to be inclusive. We need to be firmer than we are on diversity. And those are points that we are working on as we continue to refine our recommendations.

We've also been criticized for truncating the public comment period to 30 days. Some of you in the room have even criticized that. And we would like to let you know that, you know, the idea of this first report again, was to get a sense of whether we're walking into the right direction. We've got that information back from you now and you will have a full 40 day public comment period starting in July and so therefore you will have ample opportunity to chime in on our proposal.

Next slide please. I will stop in like two minutes time. With respect to the membership model including these extra UAs, we thought it would be a good opportunity for us when we did our face-to-face meeting on Friday, like two days before this meeting, and let those that have ideas on how we could operationalize things, but models we could use, let them do something which would resemble an elevator pitch.

So we would get like five, six, seven people the opportunity to present their vision of where we should go without questions being asked, without any

criticism. But they have the opportunity to sell as good as they can and as convincing as they can what their ideal vision of ICANN would be.

And that was quite enlightening because we heard those voices, we didn't get bogged down with detail as we sometimes do on the mailing list, though we understood better what their concerns and ultimately what the requirements were that those established. So we visited the list of requirements that we had established earlier.

We added new points to that particularly taking into account the comments that we got during the public comment period. And we came up with something that we are now provisionally calling the empowered SO AC model whereby we get rid of this additional layer of legal entities. Lesson learned, we strike that off our list.

So our current thinking is, and again, this is not a consensus position, this is work in progress. We still need to discuss much more in depth what the consequences are. But our current thinking is that we use the SOs and ACs as they presently are. They would exercise that community powers without any need to take action directly.

And should the SOs and ACs, at some future point in time, wish to more formalized and make it more robust they would take a resolution that they come together to exercise community powers. And this resolution that goes on record would then give the SOs and ACs sufficient legal personality to have authoritative rights towards ICANN.

So that's I think what we have at the moment. We got a lot of nodding in our discussions in 48 hours ago. We are not yet there. But we're confident that we have removed exactly what concerned most of the people. And we are focusing more on the commonalities. And we will get back to the community as we move on with our recommendations, with further refining them.

And I would like to conclude by advertising the town hall session tomorrow after the opening ceremony where we together with our colleagues from the CWG will have 2 1/2 hours to explain in more depth our proposal and enter into a dialogue with the community.

Bret, we haven't forgotten you but I would suggest that we take your question off-line. Thank you.

Jonathan Robinson: Thanks Thomas. Thanks very much. I mean, you're right, we have quite some time to talk about this. Let me just tell the group what the logistics are right now. It's five past 12. We have lunch in the room and we are scheduled to be joined by Fadi at quarter past 12. Then he is going to leave at 12:45 which gives us a further 15 minutes before 1:00 when we are joined by the ICANN Board.

So we may well end up with an opportunity for 15 minutes of further discussion on this. We can have that by all means. But I suggest we break now without questions, so I'm sorry that there isn't an opportunity for Q&A but there may well be an opportunity later. We let the councilors get their lunch so that they can be back at the table, such that they're seated and available when Fadi joins.

And so if you could bear with us for five or ten minutes while the councilors get lunch. There should be enough to feed everyone in the room. I hope there is. But if you could just bear with us while we first get something, come back to the table and call the session to a close for the moment. Thanks very much.

END