COPENHAGEN – ccNSO Guidelines Review Committee
Sunday, March 12, 2017 – 13:45 to 15:00 CET
ICANN58 | Copenhagen, Denmark

KATRINA SATAKI: Where's Stephen? Well, unfortunately I do need see Stephen.

UNIDENTIFIED MALE: He's back. He's not [inaudible]

KATRINA SATAKI: Okay. So he will be back. Yeah. Shh. We've done great work, I think. Sorry?

UNIDENTIFIED MALE: [inaudible] falling asleep.

KATRINA SATAKI: Was going to fall asleep. No, that's not the reason to fall asleep now. Those of you who are here heard our discussion – the council – about travel funding. There might be some developments and probably something that we have to take into account for our travel funding guidelines.

We do not have any specific agenda for today. I wanted Stephen to tell us more about his work on rejection action guidelines because he has the first draft.

Stephen, are you ready to give some update now, or do you need some time to wake up?

Okay. Great. Yeah, this is something that is very hot on our plate at the moment. Stephen?

STEPHEN DEERHAKE: As you know, I've been pondering EC stuff with a great deal of seriousness since October. Along the way, I've prepared a number of documents that I'm happy to share with anyone that are helping me understand what the process is involved.

As you also know, my initial thought was to do a single guideline to cover all the possibilities contained in Annex D, and that's clearly not feasible. So the idea now is to split out the guidelines, the first two of which will be a guideline for the approval process, which is the simplest of the Empowered Community processes that are available to us in Annex D, and following that with the rejection petition process, which is considerably more complicated.

I wasn't anticipating having to do an approval process right at the start because I really didn't think we would have an approval

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process come our way, but it seems the Board couldn't resist temptation. They've decided to alter a fundamental Bylaw. So we will have to have that approval process guideline. I've actually switched the priorities, and I'm working on the approval process guideline. I should have a draft of that out, I think, about ten days from now for circulation in this group.

As I pointed out in the previous meeting – not everybody was there – ECA will have to run a forum for the approval action at the Johannesburg meeting. So not only does the ccNSO need to be prepared to act on this because the Council will have to make a decision as to whether or not they're okay with this Bylaw change, but also the ECA has to have its act together because, as is said, we have to run the forum.

I'm happy to share any and all material I've prepared if anybody wants to dive into this stuff. It's not complete in that I haven't analyzed all of Annex D. I've just been focusing on the first two: the approval action and the rejection petition. I'm happy to share whatever I've got if anybody is interested. That's all in here.

KATRINA SATAKI: Okay. Thank you. Bart?

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BART BOSWINKEL: Maybe in addition to what you've been doing, you've seen it on the upcoming meeting on Tuesday, I believe it is – the accountability session. Trang will present some of the workflow, and that's a very helpful one. I don't know if we've shared it already with the GRC. It might be useful to do.

STEPHEN DEERHAKE: I think it'd be very useful, Bart, to share that with this group.

BART BOSWINKEL: Yeah. It is what Stephen has done, say, in analyzing the document. Trang – ICANN staff has done it as a workflow document. If you match the two, it shows the logic but also provides the detail you need to really build a guideline. She's done it for two processes, again – the rejection approval – and again it shows from start to finish what needs to happen.

KATRINA SATAKI: Maybe we can have it on the screen.

BART BOSWINKEL: [Youk], do we have remote participation?

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UNIDENTIFIED FEMALE: We have three people attending remotely, but they're also in the room as far as I can tell. There are three persons attending remotely, but all three of them, apart from [Costel] are in the room.

BART BOSWINKEL: What I will do is put them on the screen, but I'll share them with the e-mail list a well. That's probably the best way to do it.

KATRINA SATAKI: So far, Stephen, have you identified any existing guidelines that we will need to change? I'm not talking about the rules of the ccNSO, where we have this redress mechanism, but some others.

STEPHEN DEERHAKE: Not yet. Certainly not with the approval. Approval is pretty straightforward. I am concerned about our decision-making speed, however.

KATRINA SATAKI: Okay. While Bart is looking for this document, there are a couple of questions I wanted to ask of you guys about the process. Are you happy with the way we work, let's say? Any ideas how to improve things? Currently, we have Stephen working on the

Bylaws. Then we have some other informal working groups working on travel funding and on – all of a sudden – yeah – the Council guideline.

As I already sent information to you – well, it's on relevant note – I sent you the questions I asked Göran, I hope that he raised with them with the NomCom – the question about NomCom Councilors. If a Councilor does not perform, is there any mechanisms that helps us to get rid of that Councilor? We raised the issue with NomCom, which would probably mean they need to run another process.

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: Exactly. Yes. Did you manage to locate it?

BART BOSWINKEL: Yeah, I found it, but now I'm –

KATRINA SATAKI: So about the process – any ideas how to improve the process?

BART BOSWINKEL: May I make one suggestion? At the next meeting, following this face-to-face, we take stock where we are with respect to all the different ones and just list them because at least I'm losing track of where the GRC is at with all the respective guidelines and reviews, etc. Probably if I lose track some others have lost track as well.

KATRINA SATAKI: Some of us have never been on the track.

Okay. I'm not talking about the GRC. Absolutely not. I think we're doing very well.

Eduardo?

EDUARDO SANTOYO: Thank you, and good evening. Good afternoon to everyone. [inaudible] Katrina, we can implement that. When we sent the invitation for the next meeting, we sent with the invitation. The agenda and the documents that we are going to discuss within that meeting will be useful, in my case, because I haven't had access to the wiki space. I don't know why. I received a few months ago a note from the ICANN staff saying they were going to be in contact with me to make the arrangements in order to allow me to have access to the wiki. I haven't had that

conversation ever. So I don't have access to the documents before the meeting.

KATRINA SATAKI: No, no, no, no. It's impossible, sorry, if your Internet is working. Maybe it's not because of some confusing similarity of the strings. If your Internet works, you have access to our wiki because it's public.

EDUARDO SANTOYO: If it is possible, it would be great to have.

KATRINA SATAKI: It definitely works. Yeah, I agree that it's good to have all the links in each e-mail. The problem is that sometimes we do not know how far we'll be during our meeting day. So sometimes we come up with an agenda too late, just because we're still working on documents. So I agree it would be great, but it's not always –

EDUARDO SANTOYO: We usually receive two or three e-mails in advance. The first one says, "Hey, please provide your agenda for the next two weeks in advance." But the week before, we also receive an e-mail just

reminding us that we are going to have a meeting next Monday. During the last one, we could have some [inaudible]

KATRINA SATAKI: That's Friday.

EDUARDO SANTOYO: Yes, on Friday it'd be great, but today I was receiving this on Sunday. Sometimes it's very difficult to receive a document on Sunday at 9 P.M. in order to read it on Monday at 7 A.M.

KATRINA SATAKI: True. Okay. That's one of the things that we need to work on.

I see that Bart has found the document.

BART BOSWINKEL: Yes. [inaudible]

KATRINA SATAKI: Yes, David?

DAVID MCAULEY: While Bart is doing that, I'll just make a point. Subject to what Eduardo said, I think by and large the process is pretty good. I like Bart's idea. Let's take stock next time; an intercessional

session where we take stock of what we've done and where we need to go. I know Annex D that Stephen is working on is a real thicket, and it'd be nice to hear what help you might need or what time it might take – those kinds of things. But by and large, subject to what you said, Eduardo, I think the system is working pretty well for the committee.

UNIDENTIFIED FEMALE: Bart, sorry to interrupt. Could you please send me the slides? Then I can make sure that the remote participants have them as well.

KATRINA SATAKI: I will send it.

UNIDENTIFIED FEMALE: Okay. Thank you.

BART BOSWINKEL: Sorry. I just send the slides to the GRC.

UNIDENTIFIED FEMALE: Okay.

BART BOSWINKEL: Those who are on the call in the Adobe Room, if you can hear me, you'll receive the slides shortly. We'll go a and start at slide 12, which is a very condensed version, if you can read it, about, effectively, the rights and thresholds of all the Empowered Community rights. I found this one of the most informative slides included in the whole package. It'll be presented during the accountability session.

What you see is community-initiated actions. That's Board removals, Board recall, mediation, community IRP, and community reconsiderations. These are all community powers. The way to do it is all defined in Annex D.

Then you've got the ICANN-Board triggered actions. This is where we're at right now. One is the fundamental Bylaw amendment. That will happen by the end of the Johannesburg meeting; articles, asset sales, PTI, governments' actions, etc.; very important as well. ICANN and IANA budget rejection actions. Again, these are ICANN-Board triggered actions and ICANN operating-their-strategic-plans actions. So it's not just the budget. It's also the operational plan. Yeah, five years.

Then you see the threshold, etc. Now, this is what you will see in more detail, which is in the package I just sent you. This is how, at a very high-level work flow method, a fundamental Bylaw amendment procedure works.

As Stephen said, in Johannesburg or by Johannesburg, the Empowered Community is supposed to have the procedures in place to make this happen because one of the things that's the difference with the rejection actions is, if the community does nothing, it will pass. If the approval process – if the community does nothing, nothing will happen. So that makes it easy in a way. But it means you need to have the procedures in place. Otherwise, nothing will happen.

STEPHEN DEERHAKE: We need to have our act together.

BART BOSWINKEL: Yes.

STEPHEN DEERHAKE: I have serious concerns about that, but that's for another discussion.

BART BOSWINKEL: It's part of the discussion already starting late this afternoon with the ALAC, GNSO, and the GAC. Where are you? Because we all depend on each other.

STEPHEN DEERHAKE: Yeah.

BART BOSWINKEL: It's at the same level, and now you have it. But Trang will allude to this on Tuesday – how this looks: the ICANN IANA budget rejection action procedures. Why they couldn't find anything? Another definition?

STEPHEN DEERHAKE: $[40] million in legal.

BART BOSWINKEL: Yeah. Again, this lays out the land, and together probably with your document you got two ways of looking at it and to build the procedures around it. I don't know if it's included in your document. What is very important with respect to the rejection actions is probably Annex D and some of the five questions asked – standing, etc. – to initiate it. You've got five…

STEPHEN DEERHAKE: That's the section where rejection petition has to be "reasonable."

BART BOSWINKEL: Yeah.

STEPHEN DEERHAKE: Yeah. I've got that covered, too.

BART BOSWINKEL: That's what we just said. So be prepared. This will be presented in more detail, far more than I am able to do, by Trang on Tuesday.

KATRINA SATAKI: Okay. Thank you. As you can see, it was fairly difficult to read. But you have it in your mailbox, so you can read it. It really adds a lot of clarity to the process.

Speaking about other communities and their readiness for these actions, I think that we can be very proud of the Guidelines Review Committee and the work that we've done.

Okay. Maybe it's not unique to the community, but really, thanks a lot for all this heavy lifting because, really, it's very, very important.

David?

DAVID MCAULEY: Thank you, Katrina. I would like to comment on something that's related, but it's not quite the same and has to do with a role that SOs and ACs will have with respect to IRP. Is this the

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time to talk to that? It's not something we contemplate for a guideline because it's pretty ephemeral in a sense.

What I'm getting at – I'm coming at this as the lead or the rapporteur for the Implementation Team for the new IRP – is that one of the things that's going to come our way is – pretty quickly – ICANN is going to release what's called the expression of interest form or letter for people around the world who would like to serve as members of the Standing Panel in the IRP. There'll be a Standing Panel of at least seven jurists, or basically professional arbitrators. There'll be a standing panel that the IRP process that has just been adopted on October 1st that will hear cases.

When that expression of interest goes out, there'll be people applying. ICANN will release the expression of interest, but it's up the SOs and the ACs to nominate the panelists, to vet all these resumes that come in and do whatever else they want to do – interviews or whatever it is – to decide who the panelists are. That means SOs and ACs need to work together to do that.

When I say it's ephemeral, this is something that will happen this year. I understand from ICANN Legal that the expression of interest's first draft will be out maybe this week. Then it'll come to us for the Implementation Team. We'll work on it and go back to them. But it'll be released by ICANN probably within the

month – five or six weeks. Then the resumes will start to come in. So that's when that process will start, basically; to start looking at people that can serve on a Standing Panel.

So I don't know that we need a continuing guideline. Maybe we will if there's a need to backfill for people who might quit or whatever. So that's going to come our way. That's why I wanted to mention it. It's ancillary to what Bart was just talking about.

KATRINA SATAKI: Thank you very much. We spoke about IRPs sometime ago. It was definitely before Christmas time. Since you're very deeply involved, you agreed to look into it. Thanks a lot for this update.

It depends on if there is a need for an internal process. Apparently there is. We will need a guideline, yes.

DAVID MCAULEY: It might be informal, but there'll be a need to decide, "Okay, how are we going to approach this?" for this, the ccNSO. And there'll be the secondary question: "How are we going to approach this?" We, the SOs and the ACs.

KATRINA SATAKI: The second one is the most complicated, unfortunately. I do not have a response to that.

Bart?

BART BOSWINKEL: Maybe it's an idea to unpack it a little bit in the sense of: do the SOs and ACs – because I haven't looked at it, I have no clue how it works – need to reach agreement on the seven panelists? That's the first question. So that's the end of the game, so you know where you're heading to. Then you can do some backtracking instead of moving forward.

So what is the ultimate decision? Who makes that?

DAVID MCAULEY: The SOs and the ACs. The Bylaws are very brief. If you want to look at it, it's 4.3J, I think, on establishing the Standing Panel. Basically, it says the SOs and the ACs will nominate the panelists from among the people that reply to the expression of interest. That's it.

Now, one of the things that we will do as an implementation team is help in this process, but it's the SOs and ACs' role to do that, to nominate the people who are going to serve on the panel.

BART BOSWINKEL: So maybe, just from a process point of view, if you could answer or even raise the question: "Should it be done jointly or should they appoint each one? What does the final decision look like?" and you have some modalities around it, then it's easy to work it because then all the SOs and ACs know where they need to end up. Because if you don't, that's the ultimate question: does it need to be done jointly? Because then the SO/AC who is lacking is determining the pace.

DAVID MCAULEY: Right.

BART BOSWINKEL: So it's more a matter of educating each other and saying, "Look, we need to have our act together." once you know what the end game is.

DAVID MCAULEY: Thank you, Bart. That's a very good question, and that has occurred to me. One of the things I'm doing now is giving an update – I did to the CCWG meeting Friday and I'll do it to the ccNSO and the GNSO – on this IRP business, and I will add that to it. But I'm basically saying what I'm saying here: this is coming your way. In fact, we sent a letter to the SOs and the ACs, saying, "This is coming your way." So that's a good question.

One thing I can say is: give some thought to how you want to do this. I think there are seven SOs and ACs, if I'm not mistaken. That's a nice number because there has to be at least seven –

BART BOSWINKEL: Question again. This is maybe a detail that came up. I think it was apparent this morning. Is it all the decisional participants or it is the SOs and ACs?

DAVID MCAULEY: SOs and ACs.

BART BOSWINKEL: Okay.

DAVID MCAULEY: So that includes SSAC and RSSAC.

BART BOSWINKEL: Yeah.

DAVID MCAULEY: Now, I don't know that they'll want to be involved in this process. I would assume, under the Bylaw, that they don't need to be.

STEPHEN DEERHAKE: They probably won't play.

DAVID MCAULEY: They probably won't play.

STEPHEN DEERHAKE: At least SSAC, I don't think.

DAVID MCAULEY: In which case, five SOs and ACs will then have the job to come up with picking seven nominations.

By the way, the process ends or rolls out is the SOs and ACs are nominating. The ICANN Board will then confirm. They have an obligation that they can't unreasonably turn somebody away. So it's sort of a hybrid in a sense. The SOs and ACs nominate a panel. They pick, and then the Board confirms it. So that's the way the system works.

In my updates, I'm going to add this. The Bylaws are very perfunctory. This is what they say. But there's a lot to it, as you can tell from what I'm saying here. There will be a process, even if it's an informal process, of getting together to work this through. It's actually quite important, I think, because that's how the IRP becomes fully upstanding with the new standards in

place. Now we need to get a standing panel in place. Finally, ICANN may consider putting out to tender the administrative support; the Secretariat, you might call it.

KATRINA SATAKI: I think, if that's SOs and ACs, and there are seven of them, seven panelists is not a coincidence.

DAVID MCAULEY: Is what?

KATRINA SATAKI: Not a coincidence.

DAVID MCAULEY: Minimum. It just says a minimum of seven.

KATRINA SATAKI: I said – shhh. Okay. Stephen, please.

STEPHEN DEERHAKE: David, I'm not familiar with Section 4 because I've been engrossed in some other parts of the Bylaws. With respect to the EC stuff I've been looking at, it's very specific as to who the entity is representing the SO and the ACs in the ECA that's

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making decisions. It sounds like there's less specificity with this stuff. It's not saying the SO Chair or the AC Chair. It sounds like it's much more nebulous.

DAVID MCAULEY: It is. I have the Bylaws up. I'll go get the section and read it. It basically is just the SOs and ACs. In about a minute, I'll get to that section and…

KATRINA SATAKI: Thank you, David. Keep digging. And, yes, this is one of the questions we might discuss with the GNSO tomorrow because apparently –

BART BOSWINKEL: It would work. David, as you know – David?

DAVID MCAULEY: I'm listening.

BART BOSWINKEL: The ccNSO and GNSO Councils will meet tomorrow afternoon, and it's not just with them but also with the GAC and with ALAC, effectively, this afternoon. One of the items that has been put on the agenda by the ccNSO is: where are you with respect to the

implementation of the new Bylaws? This is one aspect. Maybe it might be an idea to allude to it and use these meetings to inform them. So you are invited to attend the 5 P.M. meeting with ALAC this afternoon, and, tomorrow, the lunch with the GNSO, and with the GAC, where this is one of the topics as well. I don't know whether it will happen or, say, this will be raised, but it's a very good example where you can see that the SOs and ACs together need to get their act together.

DAVID MCAULEY: Right. I have planned to be at the meeting at 5:00 today, but possibly from offsite because I have another meeting offsite. If I did that, I wouldn't have audio necessarily. So maybe I need to cancel that and just stick around and be here –

BART BOSWINKEL: [inaudible] the other way around. Look, this is a very late request. Say, Katrina, do you feel comfortable just to raise this and say, "This is one of the items that definitely needs a continued discussion with the ALAC and the others?" Then you don't need to be present if there are details. Then we just – or she can't point to you. That's probably easier.

DAVID MCAULEY: I'll chat with you after this session. I will be at these sessions as needed and I'll make the point because it's going to become urgent fairly quickly because ICANN is going to release that expression of interest soon. I'm saying within four to six weeks. One it gets out there, then people will look at it, so they're going to start responding within two to three to four weeks after that. And they will come. I have a feeling there'll be a pretty healthy response. This is something that arbitrators like: to get on a Standing Panel. It's nice to be on a Standing Panel because you have a retainer, and then you have access to complex, interesting cases that pay fairly well. It's what these people do. It's brain teasers. It's interesting stuff.

Anyway, I'm almost to the –

KATRINA SATAKI: I'm still amazed by the process. They're going to have this call for expressions of interest, and SOs/ACs have to select. And we learned it from David.

DAVID MCAULEY: Do you want me to read the parts of the Bylaw? It's very brief. It'll tell us what our job is.

KATRINA SATAKI: I don't believe you.

DAVID MCAULEY: What?

KATRINA SATAKI: Okay. Yes, please.

DAVID MCAULEY: It's in Section 4.3.

KATRINA SATAKI: Yeah. It's the independent review process for covered actions.

DAVID MCAULEY: It's what?

KATRINA SATAKI: For covered actions.

DAVID MCAULEY: Okay.

KATRINA SATAKI: Independent review process for covered actions, Section 4.3

DAVID MCAULEY: I'm sorry. I –

KATRINA SATAKI: No, no. That's fine.

DAVID MCAULEY: This basically says ICANN will issue a call for expressions of interest from potential panelists and work with Supporting Organizations and Advisory Committees and the Board to identify to solicit applications from well-qualified candidates.

The next session says the Supporting Organizations and Advisory Committees shall nominate a slate of proposed panel members from the well-qualified candidates. That's' it.

Then: final selection is subject to Board approval. That's it. It doesn't say Empowered Community. So we should have a process – informal, formal, whatever.

KATRINA SATAKI: And who will select qualified…

DAVID MCAULEY: You mean –

BART BOSWINKEL: [inaudible]?

KATRINA SATAKI: Yeah. What will be the criteria? Who is qualified to be a panelist?

DAVID MCAULEY: Well, this just says that ICANN will issue the call for expressions and work with Supporting Organizations and Advisory Committees and the Board to identify and solicit applications from well-qualified candidates.

It'll be up to the SOs and ACs to determine who's well-qualified. In other words, they're going to get, let's say, 100 applications, and from that, they're going to nominate seven, according to their –

KATRINA SATAKI: But in the expression of interest, they need to set criteria.

DAVID MCAULEY: They will.

KATRINA SATAKI: So the question is: who is determining what that criteria?

DAVID MCAULEY: Well, the expression of interest will call for things – Sam Eisner and I have been working on it, but basically it's up to ICANN Legal. It'll be an expression of interest calling for things like – I think it does have to be a lawyer. They'll have to describe their training. This document is not done yet, but I believe it will say: "Why do you want to do this? What's your experience? Where have you done it?" There's supposed to be diversity in this panel: geographic and legal background. In other words, it's not supposed to be all common-law countries. It should be common law, civil law, and whatever else there might be. There's supposed to be some diversity. This will all factor into that. It's going to be the standard law degree and experience – arbitration experience, judicial experience, if it comes into play.

KATRINA SATAKI: It is much more than an expression of interest.

DAVID MCAULEY: I'm sorry?

KATRINA SATAKI: It is much more than an expression of interest because when someone says "expression of interest," it is just a few –

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DAVID MCAULEY: It'll be detailed.

KATRINA SATAKI: Yeah.

DAVID MCAULEY: If it's like a draft that I've seen last, it's going to be pretty extensive. I gave a draft that suggested this is the way we ought to go. I don't know if that's the way it is, but if it's anything like that, it will draw fairly detailed statements of expression of interest.

STEPHEN DEERHAKE: I assume ICANN Legal has taken the point on this.

DAVID MCAULEY: Yes. They're taking the point on the expression of interest business. All I did was take a stab at a draft, but not on the nominations, obviously.

I'm sorry to visit this upon us, but it's in the works.

KATRINA SATAKI: No, it's nice you did it now because it would be a way bigger surprise when ICANN issues the call for expressions of interest. It just informs us that soon we'll need to select seven of 2,000 applicants.

DAVID MCAULEY: That's my concern. That's why we sent a letter to the SOs and the ACs, and we're now briefing here.

STEPHEN DEERHAKE: Any other surprises?

DAVID MCAULEY: No, not that I'm aware of.

MIRJANA TASIC: Sorry, Katrina. Mirjana Tasic speaking. Again I have a problem. We got a bunch of papers with everything written inside. You need after that some principles on how you will select or how you will choose one between 100. You have to have some kind of –

UNIDENTIFIED MALE: In the call, as I understood.

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MIRJANA TASIC: Where?

UNIDENTIFIED MALE: It's in the call, [inaudible] criteria.

MIRJANA TASIC: There will be criteria.

KATRINA SATAKI: Absolutely, yes. So at least at the end it will be some kind of physical job to make a selection. It will be easy to select the proper candidates.

UNIDENTIFIED MALE: Let's hope so.

KATRINA SATAKI: Maybe we can use that – what was the name of the system that was shooting? I forgot. For the new gTLD process, there was a –

STEPHEN DEERHAKE: Digital Archery.

KATRINA SATAKI: Yes, Digital Archery. And then we do the Digital Archery thing.

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DAVID MCAULEY: Then we have to have a process to pick the archer.

KATRINA SATAKI: I forgot about [inaudible], yes. Yeah, that just isn't surprise. Thanks. I think we'll have to discuss it with others.

UNIDENTIFIED MALE: Another new guideline?

UNIDENTIFIED MALE: Yeah.

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: We don't know.

UNIDENTIFIEID MALE: Okay.

KATRINA SATAKI: Actually, we don't know because apparently this is something that SOs/ACs have to do, not –

UNIDENTIFIED MALE: SOs [inaudible]

KATRINA SATAKI: No, it's not an internal process. We can't have guidelines to guide others. Well, we have propose something, of course, because others –

BART BOSWINKEL: This goes back to the final point: what is the decision and who takes the final decision? How do you reach it? Then you can do it. You build it on that one. Build it up or backtrack and then you know the role of the ccNSO itself.

DAVID MCAULEY: This just says that the SOs and ACs shall nominate a slate. You can agree among yourselves, SOs and ACs, that we'll get one to pick and you get one to pick. It's up to the SOs and ACs to decide.

UNIDENTIFIED MALE: [inaudible]

DAVID MCAULEY: Yeah.

KATRINA SATAKI: But then you cannot about diversity.

DAVID MCAULEY: Mm-hmm.

KATRINA SATAKI: Of which I'm not a big fan of, but…

UNIDENTIFIED MALE: I assume we're selecting the review team members? SOs selecting? Can they send them proposals?

KATRINA SATAKI: Well, according to the Bylaws, each SO and AC can select three, and those three go to the Review Team. We can of course propose more, but then SO/AC Chairs decide whether to extend or invite more people onboard or not.

So the process is much clearer. Here it's totally unclear.

DAVID MCAULEY: Can I make one more point? The IRP won't stop working. In other words, until there's a Standing Panel, what would happen if someone files an IRP is they just use the process for picking

panelists that's already in place for the IRP that already exists. That would work.

The advantage of a Standing Panel going forward is that you will have a Standing Panel of arbitrators who become familiar with the ICANN esoterica – all that kind of stuff – so you will have a rather learned panel of arbitrators – at least that's the theory – as time goes on.

In my opinion – this is just a personal opinion – the sooner the Standing Panel is put in place, the better for ICANN, the better for an informed IRP process or a more-informed IRP process. If it takes some time to get from here to there, that's not going to stop anyone's ability to have an IRP heard.

There's another part to this. I'm working on new rules with my committee, rules of procedure. They're not done yet, but before they're done, the existing rules are being used. So IRPs are able to be convened and heard and held and all that. And they're under a new standard as of October 1st of last year --- the new standard where the IRP looks at substance as well as process.

So it's not the end of the world if it doesn't get done quickly, but it should get done quickly to make it a good, informed IRP that we all wanted when we suggested the new Bylaws.

KATRINA SATAKI: Yeah, but it says ICANN shall, in consultation with the Supporting Organizations and Advisory Committees, initiate a four-step process. So "in consultation." They cannot do that unilaterally. And "four-step process." Actually, in the Bylaws you have some of the requirements defined already, so they just –

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: Yeah, that's true, of course. But we just need to formalize them for the calls of expression. And everything is in consultation. ICANN in consultation with the Supporting Organizations and Advisory Committees shall initiate a tender process for an organization to provide administrative support for the IRP provider.

DAVID MCAULEY: There is a provider now – the International Centre for Dispute Resolution. The tender process is, in my opinion, of the same nature. If ICANN wants to tender for new admin support, they certainly can. Maybe it would be good, but that's not going to hold up any IRP because there is an admin support in place right now.

I recall, from my discussions with ICANN Legal, that one of the reasons it's the International Centre for Dispute Resolution is, back when they tendered for and got support, the ICDR, as it's known, was one of the few that was willing to allow there to be supplemental rules to take account of ICANN's odd, idiosyncratic things.

So you're right. That's part of the four-step process. There's a tender process. That may or may not happen again. If it happens, that's good, but it's not going to hold up IRPs.

KATRINA SATAKI: In any case, yeah, it's a four-step process to establish the Standing Panel. And in consultation with the supporting… Have I missed any consultation?

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: It's certain that they're going to announce the call quite soon.

DAVID MCAULEY: For expression of interest? No. They're going to come out with a draft quite soon, maybe this week. That will come to the

Implementation Team – us – and we'll turn it around fairly quickly, I hope.

BART BOSWINKEL: Does that go into public comment?

DAVID MCAULEY: No. I don't believe it has to. Not the expression of interest.

BART BOSWINKEL: So effectively your Implementation Team is the consultation of the SOs and ACs.

DAVID MCAULEY: In a sense. I wouldn't want to characterize it that way. If it's anything, it would be of the chartering organization for the CCWG. This is all very esoteric. If I'm boring you, let me know. The Implementation Oversight Team was created under the CCWG, but then when the Bylaws were passed, we became an entity under Bylaw 4.3. It actually calls out this team and says we will be stood up. So we're no longer part of the CCWG. We exist under the Bylaws now.

So maybe it would be the SOs an ACs, or maybe it would be the chartering organizations for the CCWG. It doesn't say, and wouldn't want to venture a guess, to be honest with you. I think,

since this is an ICANN function, us getting at a look at it and turning it around is good enough. But that's just me speaking personally.

KATRINA SATAKI: I like the way you put it. Interesting. Okay. Thank you very much, David.

DAVID MCAULEY: I thought it would just be a couple minutes, but you're right. This is more complex than I sometimes even realize myself.

BART BOSWINKEL: It's on the working plan list.

KATRINA SATAKI: Okay. Anybody else would like to inform us about something? No? No?

UNIDENTIFIED MALE: [inaudible]

KATRINA SATAKI: Yeah. Unless somebody else wants to say something, we still have a lot on our plate, and apparently even more things are coming.

To summarize, we have travel funding that's currently on hold. Maybe we can move with that. But okay, currently we will put it on hold. Then we have Council elections, and during the accountability session, we're going to discuss it with the community, as well as some questions we raised: in what capacity do we elect Councilors and whether they want this right. Actually, I think in the Bylaws there is a right to recall Councilors. So whether they want this right and, if yes, how to address it.

Then we have approval actions and rejection actions. We'll have a lot of – this one it's not even clear how to address and whether that's any internal thing – yes, Stephen?

STEPHEN DEERHAKE: Following on the approval action and the rejection action guidelines, we also have a single member Board removal action guideline, a guideline for spilling the entire Board, and I think there are two more that follow on after that. There might be three more. It might be two but I'd have to look.

KATRINA SATAKI: To sum it up, there's really a lot of work. At some point, we'll have to start addressing the rules of the ccNSO, which is going to be very challenging work.

Thank you very much. Enjoy the rest of the meeting. Please be in the room during the GRC update and during the accountability discussion, for the people need to see and know their heroes. And you are. You really are heroes. Thanks a lot for your work.

Thank you. Bye.

[END OF TRANSCRIPTION]