
COPENHAGEN – ccNSO Members Meeting - Day 2 (pt 2)
Wednesday, March 15, 2017 – 11:00 to 12:45 CET
ICANN58 | Copenhagen, Denmark

MATHIEU WEILL:

Hello, everyone. My name is Mathieu Weill. I'm the manager of the .fr ccTLD and I happen to also be the ccNSO appointee co-chair for the Cross-Community Working Group on Enhancing ICANN's Accountability, and Enhancing ICANN's Accountability is precisely the title of this session. Maybe that is the reason why I have been asked to chair the session, I assume. Thank you very much for inviting us today to provide you an update on this very important work.

We have prepared, secretariat has prepared a session that is actually divided in two tracks. I wouldn't say two work streams. But it's basically where we are with the implementation of the Work Stream 1 recommendations that were adopted a little more than a year ago now. It was in Marrakech. And so that's going to be the first part of our session. And in the second part we will give you an update of the Work Stream 2 progress, which were the recommendations, as a reminder, are still under elaboration.

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

The panel is going to be joined in a minute also by one additional speaker, which I will not name because he's late but he has [inaudible]. We have Trang from ICANN, who will provide us the first update. It's an update about the implementation work on Work Stream 1 so that we all can see how well this is progressing. Trang, I know you have to leave early after that, if I'm not mistaken, so without further ado, you have the floor.

TRANG NGUYEN:

Thank you, Mathieu. Thank you, Katrina and ccNSO Council for inviting me back to provide you with an update on the implementation work of Work Stream 1 recommendations. The two remaining areas of implementation are the work that the Implementation Oversight Team is doing relating to the additional procedures for the ICANN independent review process. I believe that their work is currently out for public comment, if I'm not mistaken, Mathieu. And then the second area of work is the various activities that various parts of the community is taking on to ready themselves to exercise the empowered community powers that are provided for in the ICANN bylaws.

Via some discussions with Stephen and Katrina, it seems that the most relevant topic for this group would be the empowered community and what's going on around there, so today I'm

focusing my update on that topic. And this deck was created with the intention of it being, hopefully, a useful reference tool to everyone moving forward, so there is a very detailed set of appendix that's included as part of the deck that gives an overview of the multiple procedures that are related to the various empowered community powers.

I won't go over all of those slides. I will focus primarily on a high-level overview of what the empowered community is, what the empowered community administration is, and then what is the roles and responsibilities of the decisional participants that make up the empowered community.

And then we'll go through a couple of examples, one being the procedures for approving the amendments to the fundamental bylaws, which is a power that could be exercised soon as the Board is expected to be approving an amendment to the fundamental bylaws to add a new committee to the Board.

And then the other example that I'll go over today is relating to the procedures to veto the ICANN or IANA budget. The ICANN Board is expected to approve this budget in June of this year, and so that will be the trigger for the empowered community to exercise that power.

Those I think are the two most relevant powers that are coming up soon, so we'll go through them in more detail.

Let's see. I'll start with an overview of the empowered community. The empowered community is a nonprofit organization and it consists of five of the ICANN SOs and ACs: the ALAC, the ASO, the ccNSO, the GAC, and the GNSO. Those are the five SOs and ACs that make up the empowered community. Each one of those SOs and ACs is called a decisional participant in the overall empowered community context. And together, all five of them form what's called the empowered community.

The empowered community's sole purpose is to exercise the rights and perform its obligations under the ICANN bylaws, so what are those rights and obligations? Under the bylaws, the empowered community has a set of rights and obligations. The rights and obligations provided for are the right to approve fundamental bylaw changes. One of them is coming up, like I said, earlier. The right to approve any changes to ICANN's Articles of Incorporation. The right to approve any sale or other disposition of any of ICANN's assets. The right to reject PTI governance actions. Some examples of what those actions may be would be either a sale or disposition of any PTI's assets, resignation of ICANN as a sole member of PTI. Those are a couple of examples of what would be considered PTI governance actions.

The empowered community also has the power to reject an ICANN Board's decision regarding an IFR or special IFR

recommendation. IFR stands for IANA Naming Function Review. The empowered community also has the power to reject an ICANN Board’s decision regarding a recommendation to create a separation Cross-Community Working Group or any recommendations coming out of that group. Some of the powers include the power to reject an ICANN or IANA budget, rejecting the operating or strategic plans, and then any amendments to a standard bylaw change.

The last set of powers have to do with directors and community powers. The empowered community also has the power to remove either a NomCom-nominated Board director or an SO/AC-appointed Board director and it also has the power to recall the entire Board. The EC as a legal entity can also initiate a community independent review process or initiate a mediation prior to initiating a community IRP. It can also initiate the community reconsideration request. So those are the powers that the empowered community has under the bylaws.

And to exercise those rights and obligations that the empowered community has under the bylaws, each of the decisional participants will need to develop and adopt its own procedures for exercising those rights. And the empowered community administration is an administration that contains five members. It contains one representative from each of the five decisional

participants, and it is administrative body through which the decisional participants would act collectively.

The empowered community administration representatives, so those five individuals that sit on the empowered community administration, they essentially wear two hats. As representatives of the decisional participants, the representative acts solely as directed by those decisional participants and per the processes developed by [those] decisional participants.

And then the other hat is as one of the members of the empowered community administration and representing the empowered community administration, the representatives will act as required per by the bylaws for the empowered community to exercise its rights.

So this slide shows a minimum set of procedures that we've identified that the decisional participants will have to develop in order to exercise the empowered community powers that are provided for in the bylaws. At minimum, each decisional participant will need to develop and adopt a process on who can submit a petition and the process for submitting petitions.

So for example, with the power to veto an ICANN budget, once the Board approved a budget, an individual can object to that adoption of the budget to that Board action. If an individual

wants to do that, they will need to do that through one of the decisional participants. The decisional participants will have to determine how it will accept an individual's petition and then how to go ahead and process that.

The decisional participants will also have to develop a set of criteria and a process for how it would go about determining whether or not to accept a petition that an individual has come to it with. And then it will have to determine whether or not to support. If it decides to support a petition that has been brought to it, it will become what's called a petitioning decisional participant, and in that role, it will have to work with the other decisional participants to determine whether or not any of the other decisional participants will support that petition, as well.

Because in order for the empowered community to exercise any of its rights, there are certain thresholds of support that need to be met and for the majority of these rights, the support of two of the decisional participants is required to trigger the next phase of the process, which is the community forum phase. There are various thresholds that have to be met. And so a decisional participant not only would have to determine how it would accept a petition, whether or not to accept it, but also develop criteria by which it will determine whether or not to support a petition that may have been accepted by someone else.

So say the ALAC, for example, has accepted a petition to veto the budget. The ccNSO will have to develop procedures on what criteria or how it will make a decision on whether or not to join the ALAC in supporting that petition. And the empowered community process itself was developed with the intent in mind of providing ample opportunities along the way for parties to resolve any issues before these powers are exercised at the end.

Along that line of thought, each of the decisional participants will have to determine how to work with each other to determine whether or not they can reach agreement and resolve the issues before the process gets to the end, so that's another set of procedures that will need to be developed. And then along the way of this process, the decisional participants will have to determine how it will keep its various constituencies informed.

So once the Board triggered the process of approving a budget, for example, how will the decisional participants inform its constituents that the process has been kicked off? And then if it accepts a petition, how will it inform its constituents that a petition has been accepted? Those are procedures that will need to be developed, as well. And these are a minimum set of procedures. There may be other procedures that are specific to the way that each SO and AC is structured that may need to be developed, as well.

In terms of the empowered community administration, it's fairly an administrative body. Its main job is to receive and send notifications. So, for example, once the ICANN Board approves the ICANN budget, that triggers the process. What will happen is then the ICANN Secretary will inform the EC administration as well as the decisional participants that the Board has made a rejection action, and so the EC administration needs to pass on that communication to all of the rest of the decisional participants. So it acts as a body that would facilitate the communications along the process.

The EC administration is also tasked with moderating any conference calls that may happen during the community forum period and also moderating the community forums themselves. And community forums is basically a step in the process that would allow the community to come together to discuss the issues and try to resolve it, if possible, before the decision is made whether or not to go through with exercising a particular power.

The EC administration is also tasked with tallying the decisions of the decisional participants. So as I mentioned, along the process, there is a need to meet a certain threshold of support in order to progress to the next phase of the process. The EC administration is responsible for counting and making sure that the required thresholds are met along the way.

Mediation is a specific action that the EC administration can take and if mediation is triggered, the EC administration actually has a couple of tasks to perform there. It would need to appoint representatives to represent the empowered community in mediation. And mediation, that's mediation between the community and the Board, so the EC administration will select representatives for the empowered community to represent empowered community in mediation and then the Board will select its own representatives to act on behalf of the Board in mediation.

Once each side comes up with their own set of representatives, the EC administration is responsible for then selecting a slate of five representatives from both sides, from the empowered community as well as from the Board-proposed representatives. And then the Board will choose from that slate of five the mediator and if there's no agreement, then the process starts again. Those are the tasks that the EC administration has to perform if mediation is triggered.

You can see at the bottom of the slide there a note in red that the EC administration is really not responsible for monitoring activities to trigger any sort of processes. All of these rights that I've mentioned before are either triggered by ICANN, and so the EC administration will receive a notice from ICANN that there's something to do. Or the other half of the rights are triggered by

the decisional participants themselves, in which case the EC administration will receive notice from the decisional participants that they want a particular process to be triggered.

So for example, if the decisional participant wanted to trigger mediation, then they will have to notify the EC administration. So the EC administration itself is not responsible really for following any sort of activities and making any sort of decisions. It acts once notified.

This slide provides a summary of the various thresholds that I have mentioned that need to be met along the way in order to exercise the next phase of the process. As you can see, the threshold to initiate a community forum is a minimum two decisional participants and then the thresholds to exercise the right ultimately is provided for in the last column there and it varies from either three to four, depending on which right we're talking about.

I think we may have gone through too far. I'm going to take a pause there and see if there are any questions before we move on to examples.

MATHIEU WEILL: Do you want to take questions? Because maybe we can go through the end of your presentation, because I'd like to give the floor to our decisional process [inaudible] after that, Stephen.

TRANG NGUYEN: Sure. Thank you, Mathieu. I'll go through the next couple of slides. The next couple of slides presents examples or an overview of procedures as it relates to a couple of the powers that can be exercised in the near future, one of them being an amendment to the fundamental bylaws. I mentioned earlier the Board is expected to approve an amendment to the fundamental bylaw in the near future to add an additional committee to the Board.

In this case, this will be considered an approval right for the empowered community. Once the Board approves the amendment to the fundamental bylaw, which would happen after a public comment consultation process, then the ICANN Secretary will have seven days to issue a notice to the decisional participants in the empowered community administration that they will need to kick off the community forum period.

Once the notice by the ICANN secretary is issued, the EC administration will then need to direct ICANN Board to convene a community forum so that the community can discuss this amendment and determine whether or not to support it. The EC

administration can also request a pre-conference call, so prior to the community forum itself – which can be a conference call, but can also be an in-person meeting, as well – the empowered community administration has the option of doing a pre-conference call, as well. So they can request a pre-conference call in addition to the community forum or just the community forum. That community forum has to take place within a period of 30 days unless the EC administration requests that that forum takes place at the next ICANN meeting.

And then the community forum would have to be convened and completed within that 30-day period or take place at the next ICANN meeting, and the EC administration is responsible for moderating that community forum. Now, prior to that community forum, the decisional participants, the SOs and ACs, and also ICANN Org may submit written statements to the empowered community administration of their points of view on the matter on the amendment of the fundamental bylaw, and those can serve as input during the community forum itself.

And then the empowered community administration will moderate the community forum and then after the community forum period closes, which is the 30-day period or once it's held at an ICANN meeting, there will be a 21-day period whereby the decisional participants can deliberate and decide whether or not

to support the fundamental bylaw change. And then once it has made its decision, it notifies the EC administration.

The EC administration then would have to tally the counts and determine if enough support has been reached and then notify ICANN Secretary of the final decision. So that, essentially, is the process for approving the fundamental bylaw.

The ICANN and IANA budget rejection action, the process is very similar for the second half of this procedure and the only difference really is the front piece. Once the ICANN Board approves the ICANN and IANA budget, the ICANN Secretary would notify the decisional participants in empowered community administration. That would then start the petitioning period whereby any individual through a decisional participant can submit a petition on the budget and then the decisional participants will have to decide whether or not to accept that petition.

Once that 21-day petition period ends, then the support period will start, which is a seven-day period whereby the petitioning decisional participant will have to determine whether or not they can gain support from one other decision participant for that petition in order to get to the next phase, which is the community forum period. In this case, for these procedures, the

support from two decisional participants is required to start a community forum period.

If support from two decisional participants is not reached, then that next phase would not commence and the process ends. And the rest of the process, essentially, is the same as what I'd gone over.

MATHIEU WEILL:

Thank you, Trang. This was very comprehensive, so we can all appreciate how much we're now really getting prepared for these new powers. Stephen, you're the ccNSO's decisional participant and, obviously, with Trang's presentation, it's obvious that a lot of responsibilities are hanging on your shoulders. But are there any specific points you want to draw our attention to?

STEPHEN DEERHAKE:

Yeah, very briefly. I'm first going to put on my hat as the principal guideline writer for how this community is going to exercise its powers. Briefly, the mechanics will be if you have a rejection petition, for example, with the upcoming FY '18 budget, if you really have an objection to some part of it and you want this community to pursue it, the procedure will likely be that you submit your objection via email to the ccNSO chair with a copy

to the Secretariat. And then we will work with you to get it in shape because there are some specific requirements that need to be covered in any rejection petition. The likely vehicle will be via email and so on and so forth.

Putting on my ECA hat, that is my role in the empowered community administration on behalf of this community, I just want to make everyone aware that we have two things coming up. One, as Trang mentioned, the approval requests from the Board. That will require an approval forum that will be held at the next ICANN meeting in Johannesburg, time and date and format to be determined. I suspect it will be early on in the meeting, so that will definitely be happening.

And then I anticipate adoption of the FY18 budget by the Board at the Johannesburg meeting, which will then trigger the 21-day petition rejection submission period, which will then run out probably to mid to late July. And depending upon whether or not either we, this community, receives a rejection of petition of any of the communities receives one, then further action will be required as described in Trang's slide.

DAVID MCAULEY:

Decisions of process-specific expert panels. That's new. And under the applicant guidebook of the new [gTLD] program in 2012, the expert panels that decide whether there are confusing

strings or there are legal objections or community objections, those kind of objections, there was really no appeal. Now there will be an appeal to the IRP. Claims resulting from a response by ICANN to a documentary information disclosure policy request. It's basically like a Freedom of Information Act request. It's where someone comes to ICANN and says, "Can I have this document to review?"

If there is a claim that ICANN's response to that request was inadequate and amounted to a violation of the bylaws, etc., that would be able to be heard by an IRP panel. And then the empowered community, as we just heard, has a right to hear certain claims.

The IRP can also review two other sets of claims. These two sets of claims are not based upon the standard of violation of bylaws or articles. They're sort of standalone kind of claims. One is did ICANN enforce its contractual rights under the IANA Naming Functions contract? That's one area where claims can be. And then customers of PTI can bring PTI service complaints to the IRP. That's another.

This slide simply gives you a reference to Article 4 and to the establishment of an implementation oversight team. And this is a more important slide. But actually, before I speak to this, let me mention something about the implementation oversight

team. This team that I lead was created by the Cross-Community Working Group for Accountability Work Stream 1 and it's now morphed in a sense because it has been adopted by the bylaws. And so we've sort of run along with the Cross-Community Working Group and we're sort of like a Work Stream 2 subgroup but we're separate in a sense, and so we exist under the bylaws now.

This slide tells of some important things that have been accomplished and some important things that have yet to be accomplished that need to get done on this three-legged stool that I talked about. First of all, the new bylaws. That's tremendous. The new standard is in place. That was October the 1st. And so claims brought under IRP now will be brought under this new standard.

Secondly, the Admin Support Organization that I mentioned, the International Center for Dispute Resolution, is in place. That might be retendered. But for now, there is an administrative support organization in place, and so that process is moving forward.

The third element on this slide: rules of procedure are in process. Rules of procedure are extremely important. They guide how an IRP deals with a case and they can limit and expand, however they apply, they'll have some impact on how the case is heard

and decided. We have put out draft rules for public comment. The comment period is closed. We have very thoughtful, very comprehensive, and complex comments to these complex rules and we're working through those right now.

The next point on the slide is ICANN is in the process of working on and just about to release an expression of interest document to people around the world that may be interested in serving on the standing panel of arbitrators. They will probably finish their draft of that document this week, and they'll actually give it to us and the IOT first and get our thoughts on it. But I expect that that might be released to the public, I'm hoping, within the next month, maybe two. Sometimes I'm a little bit optimistic. But it is in the works and it's nearing a point of getting released.

And then, finally, there you'll see select a standing panel, and this is really important in this group. In order to select a standing panel, this is the job. This job includes a very important part where SOs and ACs have to act together. What I mean by that is if you look at the bylaws, the expression of interest that I spoke about will gather in people sending in their backgrounds, their resumes, whatever saying I would like to join. And then when they come in, they'll be vetted by ICANN and the SOs and ACs. They'll decide here's a pool that we think qualify under the qualifications listed in the bylaws.

And from that pool, whether it's 25 or 125, the SOs and the ACs will nominate at least seven members to the standing panel. It could be any number, but it has to be at least seven. So that is a job that Katrina and I have discussed. She's very happy to know about this. But that process of establishing a standing panel is very important and will be done by the SOs and the ACs acting together. Whoever they nominate will be subject to confirmation by the ICANN Board and that confirmation cannot be unreasonably withheld.

The final slide I have to show you is simply a list of some of the areas where we have some very interesting comments to the rules that we proposed. You can see from this, the rules are not limited to this, but the rules deal with time limitations within which someone must bring a claim or else lose it, retroactivity of the rules to pending IRPs, who are parties? Can people join cases that weren't claimants, etc.? What kind of discovery will there be? Will there be hearings and consensus policies? How will they be dealt with under the rules?

This is what's in [train], this is what the SOs and the ACs can look forward to as far as their involvement. It's going to be important. It'll be a bit complex. The IOT, the Implementation Oversight Team, will act as a guide along the way. We will offer our help in this process but that, basically, summarizes my presentation, Mathieu.

MATHIEU WEILL: Thank you so much, David. Very important that everyone takes away that the selection process is going to take place, the expressions of interest. We all have connects in our respective communities about potential candidates independent from ICANN, legally intensive, obviously. I think as a community, we really need to reach out so that the pool of candidates is sufficiently diverse and sufficiently skilled for the important role of this IRP. And yes, do you want to add something, David?

DAVID MCAULEY: Excellent points. I should add that I have to leave fairly quickly. I apologize for that. I won't be able to stay here for questions but I will be here this afternoon and I will be here through tomorrow in the meeting and I'll be here in the ccNSO, this afternoon, so I'm happy to discuss all things IRP as people may wish. Thank you.

MATHIEU WEILL: Yeah. You're right to mention this. You're going to join the next room session on exactly the same topic for another Supporting Organization, which shall remain unknown. Katrina, last perspective before we go for questions and answers on this

implementation about the prep work the ccNSO is actually intensively engaged in.

KATRINA SATAKI:

Thank you very much, Mathieu. My presentation will be a little bit different, and I advertised so you knew it was coming. And here we would really like to know your opinion because slowly we're working on our guidelines. Stephen already mentioned there are several guidelines that need to be in place to ensure that we can exercise our empowered community rights as a decisional participant. But here we're talking about accountability, right?

And, of course, in each guideline we try to address these issues of accountability. Currently, for example, we're working on the ccNSO Council elections guideline. And we will post it for public comment, for comments from you, but there are still some questions that we would like to ask you.

As you saw, there are certain powers that decisional participant has and we thought that probably we should have something like this within the ccNSO, as well. For example, should we, the ccNSO, have the right to remove a Councilor if this particular Councilor does not perform? I don't know if you have your cards but, okay, quick show of hands. Who thinks that, yes, we should

have this right? Please raise your hand. Thank you. Who thinks nah? Okay. Nobody. That's what we hoped for because.

MATHIEU WEILL: [inaudible] councilors.

KATRINA SATAKI: Yes, definitely. Please treat the rest as a proposal. This is just a proposal, something that we want to put on the table to discuss. Our proposal is, well, first of all, let's understand one thing. A councilor is elected from a region and, therefore, we believe that if a councilor has been elected from one particular region, then that is the right of the ccNSO members in that particular region to request removal of their selected councilor role because, well, we all should admit our mistakes as soon as we recognize them.

Our proposal is that at least three ccNSO members from that region, which councilor they want to remove, and another thing is that it should not happen less than six months after that particular councilor has been elected, just to give some time to show what's going on. Our idea was not to have just elected and two weeks later say, "No, no. We did a mistake."

And another way we think that it should be possible for the ccNSO Council to initiate the removal of the particular councilor if the councilor does not perform, and then, in any case, there

must be a vote within that particular region on should the councilor spot, should I come or should I stay?

Any immediate comments on this? Yes. I kind of expected you to comment. Really for no particular reason.

MATHIEU WEILL: We have a roving mic. We do have a roving mic.

[ROELOF MEIJER]: Maybe it's coming on the next slide so it is something you have considered. I assume you have because I seem to remember that the same process that the CCWG came up with had a kind of escalation steps, so I think before this, I assume that there will have been discussions with the councilor in question and the time for remedy and that kind of stuff. That has to be part of the written procedure I think in the end.

KATRINA SATAKI: In case the council wants to remove, yes.

[ROELOF MEIJER]: In case anybody wants to remove.

KATRINA SATAKI: If members want to remove, our idea was that if we receive request from three ccNSO members, then this request together with some explanatory note from the councilor trying to – the request should be motivated and the councilor has the right to respond and all this is sent to the members in that region and then we have a vote.

If you think there must be better mechanism to do that, yep, we are definitely [inaudible].

[ROELOF MEIJER]: Well, I always – because you could consider this to be something like firing an employee or something or representative. And I believe strongly in first having a discussion with the person in question and giving him or her the possibility to improve because maybe he or she is thinking that she’s doing very well and needs feedback and input to improve.

KATRINA SATAKI: That’s why there are six months. We would expect those members who are not happy to come to the person in question.

[ROELOF MEIJER]: I agree but maybe just expecting is not enough. I think you should make it part of the procedure.

KATRINA SATAKI: Thank you. Noted.

MATHIEU WEILL: There's a lot to look into on the Board removal process that can be, that seems to resonate with [Roelof's] point. Oh, a councilor's perspective, [Nigel].

[NIGEL ROBERTS]: Thank you. A couple of comments on this. This is the first time I've given this any sort of – well, I appreciate the presentation. The first requirement, at least three ccNSO members from the region, I just want to make the point that we need to be explicit about what a ccNSO member is because there still remains some confusion amongst ccNSO members as to what a member is. A member is not an individual who comes into this room. I am not a member of the ccNSO. It is the organization that runs the ccTLD listed in the IANA database that is the member. So that's the first thing. You may have to go back to the board of that ccNSO member in order to get the official sign-off and so on.

The second thing is I'm less than convinced that there needs to be a hard limit on this not less than six months after the election. I can see the purpose of this. You don't want to refight the election a week or two afterwards. On the other hand, as

[Roelof] said, it's not as simplistic as this. If you simply look at some of the domestic politics in the U.K. at the moment, the tradition in the U.K. is that many discussions are held both in public and in private and usually if there is a need for a person to stand down, they will be voluntarily persuaded.

And so that's really my point. I think we shouldn't say the minute six months have turned, now you can get rid of them. It may be appropriate to get rid of them after three but by persuasion.

And finally, the technicalities here. And this happened in my own family, so I know. It may be necessary to remove a councilor not for any ill behavior but for reasons that they cannot do their job by reasons of incapacity of one kind or another. Therefore, we simply need to have a very simple way of doing it, which says if three ccNSO members from the region put it before the council who then go out to the region and they vote or something like that. I really don't think we want to make it too complicated because if, for example, one of our members was sadly ill and could not do them, we want to replace them within a reasonable time and not waste six months.

KATRINA SATAKI:

Yes, thank you. Yes and no. We do not want this mechanism to be abused. For example, we know how active some members are. For example, there's a vote. They do not participate in the

vote and yet the candidate loses, for example, and then they just get mad and initiate the process of removal. We wanted to use some mechanism to prevent something like that and if a councilor has worked for six months, that would be easier for him or her to prove themselves to the rest of the community.

That's why there is some mechanism, and as you say, yeah, one of the reasons not to have elections every other month or something. But okay, we'll take into account your comment and we'll think how to accommodate the concern here. Thank you.

MATHIEU WEILL:

Thank you. So that's the last question on this because you still have a few slides, right? So then we can conclude.

[CARLOS]:

[Carlos] from Malawi. I'm worrying about the last point and I wanted to know if are all these council process in existence right now or a process will be developed for initiation by the council. And I'm also worrying about the relationship of the last point to the first one, whether if two of those council members [are] ccNSO council members, then it would be thought of as a council process or not. I'm worrying about the relationship between the two.

KATRINA SATAKI:

Thank you very much. About the possibility for the council to initiate removal of a councilor, it will happen, of course, in very rare occasions. For example, the councilor does not show up at all and does not perform by not showing up. But, for example, ccNSO members in that particular region, they do not care and do not want to initiate or do not want but just haven't initiated the process yet, and this is the way the council might address ccNSO members in that particular region and ask, "Do you still want this person on the council? The person does not show up, does not do the work, it's on the shoulders of other councilors. Well, just tell us what you think."

But probably it will be easier for you to understand the process once we have the guideline published for public comment.

NICK WENBAN-SMITH:

Hi. Nick from Nominet U.K. Was sort of hesitant about intervening in this sort of thing because you can get quite complicated sort of processes and no one wants to have more bureaucracy in and near these sorts of things. But, I mean, all these sorts of things, the devil is in the details and there are a lot of different ways you could go to get to a solution and there might be lots of different solutions, any one of which would be a reasonable way of doing things.

I'm trying to get my head around the sort of problems that this is trying to solve and whether you are going to [put it into] say a formal statement as to why it is that there is this removal process initiated. Do you give the person involved a chance to put their side of the story? And when it comes to some sort of vote in these sorts of processes, is there a sort of protections in terms of a fair process for both parties concerned?

And one thing you didn't say, I think if you did, I missed it, was it just a straight majority in terms of voting or would you be looking for some sort of supermajority in order to remove.

KATRINA SATAKI: No, just a majority. To elect a councilor, we need a majority, there's no need for supermajority to remove one. I think, I don't know, it's a proposal.

NICK WENBAN-SMITH: You can come up with all sorts of fancy ways of doing these sorts of things, so I would, one, have a proper way, but I don't want to be too bureaucratic and I think there should be some safeguards and protections there.

KATRINA SATAKI: Yeah. Thank you very much. I completely agree with you.

MATHIEU WEILL: I'm conscious of time, Katrina, so I suggest we move on to the next items.

KATRINA SATAKI: Okay. I'll move forward. Okay. Should we as a community have the right to spill the entire Board? I'm sorry, council. In this case, council. May I ask you for a show of hands? Who thinks yes? Let's get rid of all of them. Oh, okay.

MATHIEU WEILL: We have the names. Thank you.

KATRINA SATAKI: So all others think that it will never, ever get that bad? Okay. So you'll think let's forget it?

MATHIEU WEILL: Well, it's probably not a priority one expectation right now.

KATRINA SATAKI: Okay. In that case, okay, you have two.

MATHIEU WEILL: Except for Nigel.

[NIGEL ROBERTS]: I just want to point out there is a technicality here. If you have the right to spill an individual councilmember, then by definition, you have the right to spill them all.

KATRINA SATAKI: Yeah, but it's just faster.

MATHIEU WEILL: That might end up being the same thing. One by one.

KATRINA SATAKI: Okay, in that case...

MATHIEU WEILL: But in the Board's case in the bylaws correctly, there are two processes. There's a process for individual removal and a collective process. Your feedback, Nigel, is that the single council removal may be used for global removal if there was a need and that's sufficient. Okay. I like that it's getting controversial here. That's very good. Young-Eum?

YOUNG-EUM LEE: Maybe not the entire council but, Katrina, nothing on you, but maybe it may be possible to have something about the chair because the chair is decided within the council.

KATRINA SATAKI: That is correct. Okay. Who thinks that the community should have the right to request the council to change the chair? Please anonymous. Please, could you raise your hands completely anonymously?

MATHIEU WEILL: That would only apply for the next chair.

[ROELOF MEIJER]: I don't know if you formulate it the way you formulate it on purpose, but I don't think you can take away the right to request the council anything, so we can always request the council to change the chairman. The question is should you do something with it? But you're saying no, you cannot request it. I'll still, if I think it's necessary, I'll still file the request.

MATHIEU WEILL: There could be a provision to force the council to have a vote on the chair. I guess that would be possible.

[ROELOF MEIJER]: Force the council to have a vote.

MATHIEU WEILL: Force the council like a vote of nonconfidence or that could be triggered by a petition but that's similar.

[ROELOF MEIJER]: That's a different thing but still forcing the council if they don't want to have a vote, I think they will vote against changing the chair. Right?

MATHIEU WEILL: That's what happens also with the Board removal. You can be removing spilling the board for ICANN and exactly the same people might be reappointed by their SO/ACs in the NomCom.

[ROELOF MEIJER]: Oh, no, no. I wasn't meaning that. I was meaning that if it's just forcing the council to vote, it's different. It's a nonbinding thing then for the community or for the membership and that's different. You should either if there's a majority of votes or something the council is forced to change the chair, or we don't have that. But all the other measures are something in between that doesn't work. That was my point.

MATHIEU WEILL: God, you love raising nice questions. In addition to all the empowered community stuff that you have to do, it's very brave of the committee.

UNIDENTIFIED MALE: I'm actually going to say I think [Roelof] was entirely correct on this and I'm just going to say it very quickly. Up here it says, "Should we have the right to spill the entire council?" The right. Whereas the discussion on what my chair is proposing, which is perfectly sensible, it's a different proposal. I just want to give you my opinion.

It is for the council to choose who is the chair and the vice chair and it is possibly – maybe we do or don't have a guideline for this, I don't know – to revisit that at another time than the normally scheduled vice chair selection meeting. But I don't think it's for the community to do dismiss the chair. You can dismiss the entire council and that's one way of getting rid of the chair, but I don't believe it's a question of the powers and it's the powers of the council to select their own chairs and vice chairs or whose job it is, really, to run the business of council.

MATHIEU WEILL: Thank you.

SUNDAY FOLAYAN: Sunday, .ng ccTLD. Makes much more sense to remove the individual whose the chair than to quantify the fact that you want to remove the chair, which is appointed by the group who feel comfortable with that chair. Makes no sense to just remove the chair of the council as chair and not remove the individual from the council. It's an exercise in futility. Thank you.

MATHIEU WEILL: Excellent point.

KATRINA SATAKI: They can be still good person but could be a bad chair.

MATHIEU WEILL: Good. I think you have very valuable feedback here. You have another controversial question to ask? Okay. So that concludes all the work on implementation that's taking place. As you see, there's a lot of work taking place right now with a lot of details. I don't think we need to get involved in all of these details as individual members but I think it was very good having an update on that and I'm sure there will be more updates in the next sessions. And the guidance review committee is certainly the place to be right now, so I would encourage everyone to join because I think you can still participate with Katrina's work on that.

And could I presume your hard work, Stephen, and the bylaws approval that is coming our way now and that you rightfully mentioned? So that was the Work Stream 1 section.

UNIDENTIFIED MALE: Oh, yes, sorry.

MATHIEU WEILL: We need to discuss the specific reviews now and that's the ongoing continuous improvement process that we have. I'm afraid we're a little bit late so I think we need to really focus on the key issues here, but can you update us on these important exercises? Because they are the continuous improvement systems in place at ICANN.

MARGIE MILAM: Sure. I have more detailed slides, but I'm not going to go through them. I'll just go over the highlights. I'm Margie Milam. I'm a vice president in the Multi-Stakeholder Strategy and Strategic Initiatives Department at ICANN and we oversee the conduct of the reviews. And I've spoken to you at the last meetings, as well, so a lot of this is not new but I just want to bring you up to date as to where we are on the reviews.

And there's been lots of discussion here at Copenhagen about the fact that we have 11 reviews that are currently underway. The ones in orange are the organizational reviews. The ones in blue are what we call now the specific reviews that are the ones that were formally under the Affirmation of Commitments and now they've been moved into the bylaws after the IANA transition.

And there's been multiple discussions already with the ccNSO about whether to start their review now or later, and there's certainly flexibility with regards to the organizational reviews as to when those start. But with regard to the specific reviews, those dates are set in the bylaws that were recently adopted, so that's why we're in this situation where we are right now where we basically will have four active specific reviews underway. We have a call for volunteers open right now for the registration directory services, which is essentially the second WHOIS review, and that's going to close next Monday. So, if anyone would like to volunteer, the window is still open.

The one thing I will note is that there are seven individuals that have applied I think from the ccNSO, so there's already a lot of interest on the registration directory service review. But there's certainly the ability to put in more names, and then there will be a process that happens after the application period closes to select the individuals for that review team.

We also have the Accountability and Transparency Review Team, the third one, ATRT 3. There's a call for volunteers open for that, as well, and so that's the last of the specific reviews that will be kicked off.

And so you can look at these slides later. This is really one of the reasons why I like to highlight the geographic representation is that with the new bylaws, there's a new procedure for selecting review team members where the leaders of the SOs and ACs get together and submit their names and determine who should be on that list.

But part of the work that we'd like to encourage the leadership to do is to think about the diversity aspects as they develop the review team. So where does the team come from? Are the members representing all of the different regions in addition to representing the SOs and ACs? And also, is there gender diversity? And so those are just some of the things to think about. It's difficult when doing the selection process to ensure that everything is checked, if you will, that every group is represented, but that's something that now falls on the responsibility of the leadership of the SOs and ACs.

And then I think the only other thing I wanted to highlight because it's been a topic of discussion here in Copenhagen is that as part of the bylaws in the discussion about the specific

reviews, there's the notion that there are these operating standards that will define how the reviews are to be conducted in the future based, essentially, on past practice and best practices. But these operating standards are being developed with the community and there are areas where we're really going to need input from the SOs and ACs.

In particular, the issues that have been already talked about this week, how you do the selection process, for example, that's still vague and there's no real rules yet for how that should be done and that's one area. And the other area is the scope of the review team. The bylaws talk about the topics that can be covered in the review team, but there's the process for identifying how the scope is to be determined is not fixed in the bylaws. And so that's another area that could be explored in the operating standards.

And so as our department is pulling together these standards, a lot of the content will be the more mundane administrative things, but things that we really want the community to focus on are those kind of critical issues such as the selection process, the scope of the review, and the consensus that would be required for the review team to move on. So those are the kinds of things that we'll be looking for community input and just the timeline. We will be trying to put together a draft strawman, if you will, for community discussion after Copenhagen.

I think that covers the main topics. I can – there's lots of information in the slides and if you have questions you'd like to follow up on, I'd be happy to address any questions you may have.

MATHIEU WEILL:

Thanks, [Larissa]. Not sure if there's any question but I want to really emphasize one message, which is that review teams are an excellent way to get onboard with ICANN. You don't have to be an expert of ICANN to get onboard of these reviews, but it's an excellent learning opportunity because you get access to a lot of actually support from your team, [Larissa], and also cooperation across the various groups. So that's also something to consider for. I know it's always difficult to find candidates but this is really actually quite a good opportunity to get to know ICANN better and also provide concrete meaningful impact into the improvement systems. But that's more of my message on this.

I'm seeing no question for [Larissa] right now, so moving on to Work Stream 2 now. We've seen basically the structures that are getting in place and as you know, there was such a number of items that were identified as useful to enhance ICANN's accountability but not strictly necessary to be put in place before the transition takes place.

Those items are listed here, nine items, basically. [inaudible] here and I'm going to – because there were seven items and then another two that were added for consistency. I'll jump straight into this, which is not going to be readable on your screens, but this is an extract from the monthly reports from the CCWG about the Work Stream 2 progress. And as you can see, there are different levels of progress because, obviously, the various topics do not move with the same pace. The organization of the work is divided into subgroups. Some subgroups come to consensus faster than others. Some topics are hotly debated. Others are more easily defined. There's been some questionnaires and fact finding exercises so, obviously, some different progress reports.

What matters here is that there is a lot of progress being made. We had a face-to-face meeting before this ICANN meeting started last Friday. We're clearly at a turning point where the various pieces are finally, the puzzle is setting up. We have good momentum in many of those orange areas that you are seeing here. It may be a little early to talk about this. The choice we've made for this session along with the other appointed members is to focus on the items that are currently open for public input.

But obviously, the question section, if you have any question on the other topics, they will be most welcome. And at any time, if you have questions, reach out to me, reach out to the ccNSO

members. We're always available to answer any questions. If you want to engage in one of the subgroups, it's open for everyone and actually looking for volunteers in many areas.

The active consultations of Work Stream 2 are number one, a public comment on the draft recommendations to improve ICANN's transparency. The public comment on the draft recommendation on the guidelines for good faith associated with the removal of an ICANN director. I'm sure this is going to be of very high interest. It might be used if there was a removal process for ccNSO councilor. And a fact finding questionnaire related to ICANN's jurisdiction.

And maybe we'll start with that questionnaire, [Rosalia]. If you want, do you want this or do you want me to keep it? Oh, yeah, we have the transparency first. We have this in there later. It's just a problem – of here's the questionnaire. There we go.

[ROSALIA MORALES]:

Hi, everyone. Related to the jurisdiction work that we've been working in the working group, this questionnaire that you see on the slide is currently available for public comment. It has been available since February 9th and actually it's been circulated to the ccNSO list on February. To get the responses, we need emails that identify who the responder is, who's providing the answers to the questions, and the organization that this person

represents in order to have a better idea of the different community members that are participating and how the jurisdiction is affecting or not affecting them in any way.

Overall, there's an interest in understanding how the fact that ICANN is currently under the California U.S. law, how that would affect its accountability and work overall and how can that affect the community members. It's four questions overall. The last question is divided in two parts. All your comments are very welcome. It's a time for the ccNSO to participate, for your voice to be incorporated in this analysis, and we invite you all to participate at this point until April 17th.

It's available in six languages and can be answered in any of the six languages in ICANN, so it will be in order to increment the amount of responses and participation from the community.

MATHIEU WEILL:

Thanks, [Rosalia], and this is really about trying to find out whether there are any issues to solve or aspects of jurisdiction to keep, by the way because there are both questions about how it affects positively on accountability the various stakeholders. Anything you have in your histories of disputes or relationship with ICANN that you think are related to jurisdiction that have affected the way the interaction took place is an experience that the group is trying to gather in order to avoid the ideological

discussions and work on the basis of real issues, if any. That would be really a way for ccTLDs to express the voice of reason that some are expecting promise.

So that's the first one. Then there's the good faith guidelines, and I'm turning to Jordyn for that short introduction about how best to remove a director without being sued.

[JORDAN CARTER]:

Right. I'll try and do this really quickly since we're running a little bit late. I don't have 7,000 slides with writing that you can't read, unlike one of the presentations earlier today.

This is about the community power to remove ICANN directors. During the debates in Work Stream 1, we said that we don't want there to be some list of causes that we have to fulfill to remove directors. It has to be for any reason in case we lose confidence in them, whatever it is, there are no reasons. And people will write that they might get sued if they try to get rid of a director, if they try to remove a director. So there is an indemnity if you're acting in good faith to do a director removal and ICANN, through its insurances or whatever, will make sure that you don't face a penalty for any illegal action.

So this is about protection of the community. It's about reducing the risks to us to using that accountability power to remove a

director if we feel the need to do this. And so coming back to good faith, what these guidelines do is say if you follow these, you're probably acting in good faith. If you do what these set out, you're probably acting in good faith. And that's useful to know because it means you're less likely to be facing a legal bill if we ever go down that route.

The philosophy, really, has been to keep it simple, to try and create some guidelines that are consistent for all the directors, but to leave freedom for us to develop our own processes and to meet the legal standard required. ICANN Legal has checked these draft guidelines and think they're probably okay, and there's now a public comment running on this.

This is what the guidelines are. This is the guidance. It can be for any reason. You have to believe that what you're saying is true. You have to write down what it is. There has to be enough detail so that facts can be verified if they're asserted. Evidence provided, references to the bylaws if that's the issue, and to be respectful. That is the core of the guidance. That seems reasonable to me.

And then the second point is that we should have our own procedures, which the GRC is developing for considering removals and reasonable timeframes, period of review, consistent and transparent voting, and documentation of the

process, which I know is on the GRC agenda. Right? It's a part of the work that you guys are doing.

The public comment is open. It's open until the 24th of April. The document that sets all this out is mercifully short and easy to read. And if you don't like or do like any of those points, it would be great to get some public comments on them. That's the update.

MATHIEU WEILL:

Thank you, [Jordan]. So that's, I think, the best example I've seen so far of a simple recommendation in the accountability group. The document is actually three pages long. It is very, very short and sweet. Now, moving to this other consultation taking place, it's about transparency. I have a confession to make. The transparency report is not as short as the good faith report. So why are there so many recommendations on transparency? Because if the community is to be empowered, it has to be aware of what's going on within ICANN in order to be able to, if necessary, challenge this decision in front of the IRP or as one of the community powers.

There are several aspects of enhancements to ICANN's accountability being suggested and recommended in this group, in this document. A significant set of enhancements of the document information disclosure policy from ICANN. This is an

existing policy. There have been a number of studies about the success rate, the topics for ICANN to review, and there's a number of suggestions there. There were several requests in the previous rounds of comments in Work Stream 1 to increase transparency of ICANN's interactions with government, improve the whistleblower policy, and the transparency of Board deliberations.

In a very little level detail, what is expected to be enhanced in the DIDP? Clearer procedures and especially narrowing the set of exceptions that allow for ICANN to not disclose information, which is considered by many to be quite large, considering the mission of ICANN. That's a key aspect, which I encourage you to review because that obviously applies to potential documents that you would have to request if you were in disagreement with ICANN or that another party would have to request and that might actually be about the ccNSO or aspects of your relationship with ICANN. So it's quite important that we look at this carefully.

There's potential of getting closer to open contracting rules that public organizations are very familiar with, legally privileged information, and, of course, a lot of monitoring and data tracking of the DIDP itself, data-driven DIDP they would say now.

Transparency of Board deliberation, I think there is actually interesting progress being made. There were a number of workshops this week being broadcast, which is an improvement, but there are a set of recommendations about this in the report. And the suggestion is to disclose ICANN's interactions with governments in a more public manner. There's discussion whether that's already a case or not, but I think this is something that is of interest to us as ccTLDs to be aware of how and when ICANN interacts with our respective governments. It can also be of interest to us if we are part of government, obviously.

So closing date is April 10th. Comments are most welcome. I really encourage you to review this and provide inputs. Liaise also with your respective stakeholders, including governments, to make sure they're aware of this. It's been discussed while in the GAC, but not every country is represented in the GAC. This is also an important aspect with a lot of work being done by a small but very dedicated group of volunteers.

Those were the three items that we have in place. Before opening for questions, I'd like to update also on an interesting question, which is when is this going to finish, if ever? So first thing is it has to finish. We will have to bring that to a close at some point. But if you think of it, Work Stream 2 started in Helsinki last year. It has been nine months.

We know how long a PDP takes. I think you can safely assume that a group like this with nine important topics like this can be expected to last at least a duration of the same order of magnitude as a PDP. So I think considering this, the progress is pretty good. Obviously, it is not going to end by the end of fiscal year '17. I mean, for some technical reasons, that's how it was written at the beginning in the budget and so on, but I think no one seriously believed that it would be closed by then.

I was pleased and I had the pleasure to announce to the Board that one of the main risks of the fiscal year '18 operating plan and budget, which was labeled something like Work Stream 2 expenses may be delayed beyond fiscal year '17, so it's no longer a risk because it's fact. So that's lowering the risk level for ICANN.

The process for that, however, is going to include, obviously, the chartering organizations like the ccNSO, and it's important to be aware of what's going to take place there. The CCWG is going to review its timeline, provide a work plan at least to the extent of our knowledge, and send a comment to the budget, a public comment period, but also write to the chartering organizations to suggest to request their support for this request.

And the request will be basically we don't need more money, we just need more time. So it will be basically about carrying over

the budget that had been allocated to the Work Stream 2 over to fiscal year '18. A lot of this is potential budget for legal advice. We haven't actually used much of it. We're way below budget in any of the item lines that you can find, by the way, in the monthly report, as well. So it shouldn't be an issue.

There's only the question of staff support. Obviously, if the group ended its work by the end of fiscal year '17, then staff support would be free to support other topics and that's mainly the specific reviews. But we think we can find an arrangement by funding this extra staff support through the potential legal cost or something like this. So the request will come to you and it will be a request for supporting this budget request but also a second topic that is very important, how do we come to the chartering organizations for approval of nine sets of recommendations, basically?

And our group's approach to this is not to wait until we are all finished and drop on Katrina's desk a set of 265 pages of recommendations and say, "Please approve this within 30 days." We thought about it and we thought, well, Katrina might be okay but maybe other SOs and ACs will not like it. And so the approach we're having is more of an incremental approach for the various reports and recommendations and that's why you see several calls for comments so that everyone gets familiar with these issues.

We will do a final call for comment when we're approaching completion in order to do all the consistency checks that need to take place. Obviously, there might be relationships between the ombudsman group and some of the staff accountability group, for instance, that might be an issue. We'll reserve time for a final call for comments but only focused on the last consistency checks, and then we'll go for the chartering organizations.

So that's our plan. That's going to be part of the request we send to SOs and ACs probably during the months of April so that we can be aligned or at least confirmed that we're aligned on the work plan by Johannesburg and, obviously, on the budget side that needs to be approved in Johannesburg, as well. So that's setting the expectations.

We're really willing to hear from you about the work plan, about that question about funding, which is a question for all of us, as well, and, obviously, on all the questions you may have regarding the topics themselves. I see a question. Excellent. We actually have 15 minutes for questions. That's excellent.

[KRISHNA]:

Okay. Good afternoon. I am [Krishna], legal officer of [.in] registry. I have a few questions, like more than four questions indeed, so let me start with the good faith topic that you have put on [track] exactly. [I gave my] comments also to the [GAC]

exactly indeed, but I thought it could be better I could discuss with you this good forum now. The first phrase of [removal] being a very narrow portion to the extent you say that may be for any reason.

It is quite, it's very, what I can say? It is a means [inaudible] reasons can be taken to consideration. I will suggest that it could be defined clearly what could be the causes or anything or give an example of what could be the reasons that removal can be taken up into consideration because any reason will be like it's too open and we don't know what is an exact reason could be. Right? That is the first aspect.

Second thing, speaking of good faith exactly [you are providing] indemnification to the person who has made the complaint, who has brought the issue to the SO or anything. But indeed [tomorrow] if it comes to the notice that the complaint indeed is false or that it has been taken up or brought up for certainly any personal issues or something like that, [tomorrow] is there any process for withdrawal of the indemnity? So that it is not made express in that draft indeed [I thought] because when you're providing indemnity, you could also say that in case tomorrow if it is noticed by ICANN that indemnity provided was being wrongly obtained by the person indeed. So would you withdraw the indemnity?

[JORDAN CARTER]: Thanks for the question. On the any reason point, it was very extensively discussed in the Work Stream 1 point, right? And the reason to be clear about it being any reason was to avoid a decision failing on a technicality, so being wrongly specified or someone are arguing that they were just outside the bounds of the permitted cause. But if it's frivolous, like I don't like how your hair was done today so we're going to remove you from the ICANN Board, the way the process is meant to deal with that is not by ruling that out as a grounds. It's the collective sense of this room in saying, "Go away. We're not going to support you. We're not going to be able to agree with that." And now I've forgotten what your second point was. Sorry.

[KRISHNA]: Excuse me.

[JORDAN CARTER]: I've forgotten what your second question was.

[KRISHNA]: Second one is [relating to] indemnity. I mean, you are providing indemnity to the person who has brought the notice to the SO or anything to the process exactly indeed that the [inaudible]

tomorrow if it goes for legal action, this person should be indemnified. But what I'm proposing is tomorrow if it comes to the board that whatever this person has made a complaint or brought to the [note as evidence] whatever he has given is false indeed exactly, even after your due verification process, later it comes to know that, tomorrow what will be the [stand of ICANN] to withdraw indemnity during the [core process or anything] or what could be the protection you will give for the director indeed? I mean, it goes [inaudible] a little bit [inaudible] issue.

[JORDAN CARTER]:

I think the indemnity doesn't prevent the director taking legal action and it doesn't prevent them getting a settlement. All it means is that the person who raised the issues in good faith won't be paying for it. So you might argue that reduces the threshold for people, that it might mean that they're more likely to seek a removal than they would be without. And that's the intention. The upside of that is that if people have a concern with a director and the director is a rich director who can afford good lawyers, they aren't deterred from exercising this community power.

The bad thing is that it might lead to an increase in frivolous efforts, but it doesn't prevent a court finding that the allegations weren't true and the protection only applies if the person who

raised them thinks that they are true and so on. So I think it's just a balance, right? And that's where this balance has landed. I'd really encourage you to raise these points in a brief public comment on the document. Yeah. Thanks.

MATHIEU WEILL: Thank you. Leonid?

LEONID TODOROV: Thank you. Leonid Todorov, APTLD. Maybe it's a side question, but I was just wondering, it seems to me some element is missing in this overall picture of public comments and new structures and it was just briefly mentioned by Mathieu. I was wondering what are we going to do with [such an] institution as ombudsman.

I mean, to me, ICANN's ombudsman is like that cardboard figure with which you can take a photo at a certain point of time. And Jay Daley once even promised me to have me meet with that ombudsman but before he did so, ombudsman had been gone already.

My question is what's the role of the ombudsman in this new accountability structure? How to make sure that that ombudsman will be a real ombudsman in that full sense of the word? Thank you.

MATHIEU WEILL:

Thank you, Leonid. That's a very good question. The review of the ombuds office is part – so reviewing the ombuds office role in the new setup is part of the Work Stream 2 subgroups. At the same time, there was an ATRT 2 recommendation to conduct an external review of the ombudsman office within ICANN. ICANN very kindly agreed to launch this study and have the Work Stream 2 subgroup act as a steering committee for this review.

The review is just starting now. The evaluators have been selected. They were here at the beginning of the week. They interviewed a number of stakeholders. Probably it would be useful for you to have a call with them. Maybe they could interview you. That would be simply very helpful. And they have, I think, very tight schedule like they need to deliver their draft report by end of April or beginning of May. And once the conclusions are shared, it's certainly going to go for public comment. And based on the public comment, the subgroup will take over and move on to recommendations.

So this is very much on our agenda. It's not as mature as those three items we discussed, but I certainly encourage you to liaise with Sebastien Bachollet is the reporter of this group and he's trying to guide the evaluators so they meet people with

firsthand experience of this system. Are there any other questions?

[KRISHNA]:

[Well, I'll] take one more privilege to ask you one more regarding the [DAPP] exactly. It's regarding the [inaudible] policy where I just noted that this policy will be extended upon the stakeholders, that is registries, registrars, and governments indeed. It was noticed in that policy. I just want to clarify whether this extension will, what can I say? Every stakeholder will have their own policy indeed exactly to look into such matters exactly. Will this not be interfering or being encroachment on their site exactly? Your extension?

MATHIEU WEILL:

There's indeed a very legitimate focus on what are the exceptions and what are the privileged information. What are business confidential information. What can be disclosed, what cannot be disclosed. I'm not a lawyer, so I wouldn't dare go into this. But it's described very carefully in the document that's posted for public comment: what's the current situation, what's the proposed changes. Really encourage you to have a look at that. This is a concern that we've been discussing so the proposals are a new balance around this, but your view would

be very welcome in the public comment around this. There may be time windows, as well. Yes. Yes. That's part of the process.

Okay. I think we are right on time. I want to thank all our panelists, including those who had to leave for other duties, for sharing this information. I'm really looking forward to the evaluation survey to see how we can make these interactions, I mean, focus on the interactions. It was really great having this discussion on the potential guidelines. Certainly, there are more lively discussions to have on this, and it was very valuable input that you provided. Keep participating in this, and I think this session will reconvene in an hour. Is that correct? So in an hour. Stay with us for the ccTLD news. Best part of the ccNSO meetings. Thank you very much.

[END OF TRANSCRIPTION]