

CCWG-Accountability
Meeting #11 - Monday, 9 February
Chat Transcript

Brenda Brewer: (2/9/2015 16:31) Hello, my name is Brenda and I will be monitoring this chat room. In this role, I am the voice for the remote participants, ensuring that they are heard equally with those who are "in-room" participants. When submitting a question that you want me to read out loud on the mic, please provide your name and affiliation if you have one, start your sentence with <QUESTION> and end it with <QUESTION>. When submitting a comment that you want me to read out loud of the mic, once again provide your name and affiliation if you have one then start your sentence with a <COMMENT> and end it with <COMMENT>. Text outside these quotes will be considered as part of "chat" and will not be read out loud on the mic. Any questions or comments provided outside of the session time will not be read aloud.

Mathieu Weill, ccNSO, co-chair: (16:46) Welcome everyone to this working session !

Brenda Brewer: (16:49) No remote audio participants at this time.

Alice Jansen: (16:59)

<https://community.icann.org/display/gnsocwgdtstwrdsdp/Letter+from+CCWG-Accountability+--+28+January>

Bruce Tonkin: (17:01) Hello ALL,

Cheryl Langdon-Orr: (17:02) hey @bruce

Beran Gillen -ALAC: (17:02) hello Bruce et al

Bruce Tonkin: (17:02) I am happy to act as a Board liaison with the finance team for both the CCWG and CWG with respect to getting budget information. Steve Crocker and I met with Xavier Calvez on Saturday to discuss this requirement and we hope to have some information available by the end of hte week,

Cheryl Langdon-Orr: (17:02) excellent news

Martin Boyle, Nominet: (17:03) @CLO +1

Bruce Tonkin: (17:04) If anyone has more detailed on what they are looking for - I will convey that to Xavier - I also have an understanding of how the fiancne system is set up and can help set expectations on teh type of information that is easily available.

Jordan Carter (.nz, ccTLD member): (17:04) Is this a requirement of this group (CCWG), or of the CWG, or both? Who is leading the specification of the financial info required? I would have thought it was the CWG.

Bruce Tonkin: (17:05) I would have thought so Jodran - but they seem to be busy working on Contract Co.

Cheryl Langdon-Orr: (17:05) @bruce I think you should read this info / request to the meeting audio record

Bruce Tonkin: (17:05) IN any case happy to help liaise for both groups in this area.

Jordan Carter (.nz, ccTLD member): (17:06) I am happy they are working on robust models and I really wish that community members would stop belittling the work of models they don't support.

Milton Mueller: (17:15) Bruce, board members conflict of interest with regard to different models is well understood by all I think.

Mathieu Weill, ccNSO, co-chair: (17:28) @Siva is this an old hand ?

jcurrarin: (17:28) <QUESTION> John Curran, ARIN. Would it be helpful if the CCWG would identify the specific "stress test" driving each CCWG proposed mechanism?? That might allow both the CWG, and community, to understand the specific use case for each and confirm matching expectations...

Sivasubramanian M - in room: (17:28) Yes, old hand

Mathieu Weill, ccNSO, co-chair: (17:29) @John, we have this on the agenda, that's what we are doing

Mathieu Weill, ccNSO, co-chair: (17:29) Item 6

Sivasubramanian M - in room: (17:30) Corrections to the transcription of my intervention: I DON'T UNDERSTAND WHY SLAs ARE DISCUSSED IN THE CONTEXT OF ACCOUNTABILITY. IT IS MORE OF A CONTRACT AND COMPLIANCE PROCESS. AND ACCOUNTABILITY IS MUCH BROADER THAN PERFORMANCE INDICATORS AND how PERFORMANCE STANDARDS ARE MET. I THINK WE SHOULD HAVE SLAs, BUT THE SLAs AND COMPLIANCE OF SLAs DO NOT QUALIFY FOR DISCUSSION ON ACCOUNTABILITY. THAT'S MY VIEW.

jcurrarin: (17:31) Mathieu - So what was the answer from the CWG folks? Did they indicate that it would be helpful?

Keith Drazek: (17:33) For the record, the Jones Day memo is input to the CCWG, not advice.

Mathieu Weill, ccNSO, co-chair: (17:33) @John, I thought Your question related to CCWG, not CWG ?

Mathieu Weill, ccNSO, co-chair: (17:33) Will share it with them anyway

Cheryl Langdon-Orr: (17:34) well noted @keith

jcurrarin: (17:35) My question was whether the CWG would find it helpful or useful for the CCWG to specifically identify the "stress test" behind each proposed CCWG accountability mechanism.

Samantha Eisner: (17:35) It is advice, though we know it's not the advice that the CCWG is seeking from external counsel

jcurrarin: (17:35) Knowing whether that would be useful would be informative to the CCWG in organizing and communicating its

work.

Mathieu Weill, ccNSO, co-chair: (17:35) @John : I misunderstood your question, my apologies. Will engage with the CWG co chairs directly to ask. Sounds like a good idea

Bruce Tonkin: (17:37) Also just to be clearer - it does not represent an ICANN staff or board view. It is advice from the external law firm that routinely provides advice to ICANN. It has not been discussed with the Board and I saw it for the first time on the CCWG mailing list and forwarded to the Board,

Keith Drazek: (17:37) Thanks Bruce. Good to know.

Cheryl Langdon-Orr: (17:37) thanks for helping us understand that @bruce

Milton Mueller: (17:39) Jones Day is an "external law firm that routinely provides advice to ICANN" ;-) understatement of the day, thanks Bruce

Bruce Tonkin: (17:40) You are welcome Milton.

Milton Mueller: (17:40) Jones Day's Joe Sims created ICANN with Jon Postel and they've been joined at the hip with ICANN ever since

Bruce Tonkin: (17:41) Agreed - they have indeed been instrumental in creating the current bylaws.

Bruce Tonkin: (17:41) My understanding is that much of the original work was done pro bono

Milton Mueller: (17:42) Yeah, they cashed in later

Milton Mueller: (17:42) it was a good investment

Robin Gross [GNSO-NCSG]: (17:42) It is the position of ICANN's lawyers. That is all.

Bruce Tonkin: (17:43) Agreed Robin. Presumably they put their reputations behind the quality of that advice as well.

Bruce Tonkin: (17:44) I fully support the group being able to get advice from a law firm that is not the law firm that created the original bylaws and has been involved in providing advice on most changes.

Aaron Pace: (17:44) Thanks Bruce

Milton Mueller: (17:45) one of the interesting things about Joe Sims is that he was not a member of the California bar

Robin Gross [GNSO-NCSG]: (17:47) is this the part where we ask the Jones Day lawyer about its advice?

Matthew Shears: (17:47) If additional issues are raised (for example further variations on the models that require legal advice) I assume that we could run those by outside independent counsel

David McAuley (GNSO): (17:48) +1 on using same firm

Robin Gross [GNSO-NCSG]: (17:49) so when do we speak with the Jones Day lawyer about its position stmt?

Bruce Tonkin: (17:49) The Jones Day lawyer that provided the

advice is Kevin Espinola (<http://www.jonesday.com/kbespinola/>) who is a member of the bar in California according to the Jones Day website.

Robin Gross [GNSO-NCSG]: (17:49) I want to ask him some questions about his reply.

Robin Gross [GNSO-NCSG]: (17:50) on the record

Roelof Meijer (ccNSO) in the room: (17:51) @Steve: excellent point, they missed that completely

Robin Gross [GNSO-NCSG]: (17:51) indeed

Matthew Shears: (17:52) we should not start ruling out WP1 community empowerment issues without additional independent legal counsel input

Robin Gross [GNSO-NCSG]: (17:52) can someone please answer my question about if we are going to be able to question the jones day lawyer today?

Thomas Rickert (co-chair, m, GNSO Council, eco Association): (17:53) Robin, I just spoke to that.

Bruce Tonkin: (17:53) @robin suggest asking the chairs via a microphone.

Leon Sanchez (Co-Chair-ALAC): (17:53) @Robin the floor is open for questions

Robin Gross [GNSO-NCSG]: (17:54) I didn't hear that answer, Thomas. Are we able to question him today in here?

Thomas Rickert (co-chair, m, GNSO Council, eco Association): (17:54) Sorry if I was not clear enough. Happy to get back to it - we will discuss the questions in Jordan's session, which is about to start in a moment

Robin Gross [GNSO-NCSG]: (17:54) thanks, Thomas.

Keith Drazek: (18:01) Glad to hear ICANN has agreed to pay for our independent legal advisors.

David McAuley (GNSO): (18:01) +1 @Greg

Robin Gross [GNSO-NCSG]: (18:01) Hey, Greg, I'm a California lawyer. just fyi

Avri Doria: (18:09) Robin, i though he was talking about the CWG.

Robin Gross [GNSO-NCSG]: (18:11) I'm a participant on that list also and contributed to the document. just fyi.

Matthew Shears: (18:12) Thanks Becky - would it be possible to do a side by side so we can see where your proposals differ from actual text or provide references

Milton Mueller: (18:14) good idea Matt

Roelof Meijer (ccNSO) in the room: (18:15) @co-chairs: any chance of a 5 mins coffee break when we're about half way through? I am sure it will enhance accou -I mean enhance quality and interaction..

Matthew Shears: (18:16) + 1 Roelof

Mathieu Weill, ccNSO, co-chair: (18:16) @Roelof : we might do a consensus call on your idea ;-)

Roelof Meijer (ccNSO) in the room: (18:17) Thank you!

Keith Drazek: (18:20) +1 Jordan. WS1 must enable and secure the community's ability to effect WS2.

Jordan Carter (.nz, ccTLD member): (18:22) yep. And in the end both WP1 and WP2 will consolidate back to the full CCWG, and WS1 will be a unified set of proposals

jcurranarin: (18:29) <QUESTION> (post-break) John Curran, ARIN. Is it possible to structure this work based on the list of stress tests? In specific, develop a comprehensive list of stress tests and then work down that list to determine what mechanism or mechanisms would be applicable for each situation, and therefore whether it is CWG or CCWG item and whether pre- or post- transition?

Thomas Rickert (co-chair, m, GNSO Council, eco Association): (18:41) We will discuss the stress tests a bit later

jcurranarin: (18:42) Thomas, Becky was presenting. Becky was asked about the distinctions in work. She replied "SO JORDAN AND I HAVE TALKED ABOUT THIS. THE DISTINCTION IS QUITE ARTIFICIAL AND THERE ARE THINGS THAT COULD FALL INTO BOTH."

jcurranarin: (18:42) My question is addressed to Becky, in response to her statement about the distinguishing the work categories.

Jordan Carter (.nz, ccTLD member): (18:43) The stress-tests will have to be checked against existing and proposed mechanisms, whether they are being developed by WP1 or 2, and whether they are part of WS1 or 2. If they are currently in WS2 and will be necessary to solve a stress test, they will have to move into to WS1

jcurranarin: (18:44) Jordan - that's one way to do it, but that's not the only one. One could structure the work directly off the requirements, and consider the meeting the stress tests to be the requirements.

Sabine Meyer: (18:45) I would say that developing esp. review and redress mechanisms should mostly address day-to-day occurrences, not stress test scenarios.

jcurranarin: (18:45) Given the ample confusion over the work categories, it is reasonable to ask Becky how she can tell her WG efforts from the WG-1 efforts.

Sabine Meyer: (18:45) (Sorry for interjecting, John and Jordan.)

Jordan Carter (.nz, ccTLD member): (18:47) No probs, Sabine. John, good points. There is no only way to organise this. I am not sure if we have collectively done enough work to get the division of work right, as I mentioned before. I personally will

think about your suggestion.

jcurranarin: (18:48) Steve just asked the equivalent... what the requirements driving this work, and how do we know we've got what is necessary and sufficient, but no more in the name of simplicity.

jcurranarin: (18:51) It is unfortunate that CCWG doesn't accept questions via remote participation (and rules each remote question out of scope); the underlying issue of "how to organizing the work" remains unsolved and the community in the room will seek clarity.

Jordan Carter (.nz, ccTLD member): (18:53) The question has to be answered - only speaking for myself, I don't want to try and answer it on the fly, because I am not confident it is super easy.

Sabine Meyer: (18:54) Interesting remark, Steve. I would have considered "standing" to be a question of community empowerment. But then I have not been following the two working parties.

Mathieu Weill, ccNSO, co-chair: (18:54) @John : i'll carry your question / suggestion next

Jordan Carter (.nz, ccTLD member): (18:59) @ Sebastian - this AoC inclusion is one of the things listed in our paper (WP 1 paper)

Samantha Eisner: (19:00) To Sebastien's point, there may be some issues for which escalation/redress measures could be community/actor specific and could be addressed through individual agreements; but there are also some things that we seem to be looking at that are establishing a compact between ICANN and the whole of the community - we could take a look at issues as they come up through that test (individual v. collective impact)

Matthew Shears: (19:04) + 1 Jordan

Cheryl Langdon-Orr: (19:07) indeed that makes perfect sense @jordan

Robin Gross [GNSO-NCSG]: (19:08) I've got a question for the jones day lawyer

Keith Drazek: (19:08) Robin are you in the room?

Robin Gross [GNSO-NCSG]: (19:08) yes

Robin Gross [GNSO-NCSG]: (19:08) my hand is up in AC

Leon Sanchez (Co-Chair-ALAC): (19:09) We will come to you when Bruce finishes @Robin

Robin Gross [GNSO-NCSG]: (19:09) thank you.

Robin Gross [GNSO-NCSG]: (19:17) so it sounds like the law does provide for the members to over rule a board decision. but that isn't what the memo stated. the memo stated the board has total control.

Leon Sanchez (Co-Chair-ALAC): (19:19) That is why is important

for us to have a working session with Kevin and clarify this issues

Matthew Shears: (19:19) I think that session should be open for those interested

Phil Buckingham: (19:19) definately a further topic . So the members can have a majority "vote" to override ?

Samantha Eisner: (19:20) @Robin, the memo identifies that membership could be a way to approve the budget and other things. See the bottom of page 2.

Alice Jansen 2: (19:21) ST-WP link - <https://community.icann.org/display/acctcrosscomm/ST-WP+--+Stress+Test+Work+Party>

Leon Sanchez (Co-Chair-ALAC): (19:22) @Mathew, you're welcome to join if your in Singapore :-)

Jordan Carter (.nz, ccTLD member): (19:22) @ Robin - I think the memo shows some strange thinking in a particular piece of detail

Jordan Carter (.nz, ccTLD member): (19:22) will discuss with you after

Alice Jansen 2: (19:25) you have scroll control

Matthew Shears: (19:29) is there a link to the doc that is on the screen? thanks

Alice Jansen 2: (19:30) You can find it on the ST-WP's doc page at - <https://community.icann.org/display/acctcrosscomm/ST-WP+Draft+Documents>

Matthew Shears: (19:32) thanks!

Keith Drazek: (19:33) +1 Mathieu....the question of legal risk to the organization is critical, particularly after any existing immunity and/or protection from the USG is lost.

Alice Jansen 2: (19:36) (we are on page #4)

Matthew Shears: (19:40) would just like to say that this is great work on the stress tests

Jordan Carter (.nz, ccTLD member): (19:47) it sure is eh

Leon Sanchez (Co-Chair-ALAC): (19:52) thanks everyone!

Alice Jansen 2: (19:52) thank you for your participation!