ICANN Transcription
CCWG New gTLD Auction Proceeds
Wednesday 21 August 2019 at 14:00 UTC
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JULIE: Good morning, good afternoon, good evening, everyone. Welcome to the CCWG New gTLD Auction Proceeds call, on Wednesday, the 21st of August, 2019.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge at this time, would you please let yourself be known now? I already have noted that Becky Burr is on the phone only. Anyone else?

All right. I would like to remind all to please state your name before speaking for transcription purposes and please keep your phones and

microphones on mute when not speaking to avoid background noise. With this, I will turn it over to Erika Mann. You can begin, Erika.

ERIKA MANN: Thank you so much, Julie. Welcome, everybody. Let's go to Point 2 of the agenda. Anybody who wants to make an update concerning the conflict of interest declaration?

No? Not the case? Okay. Then let's move to the next item, which is the next step regarding selection of recommended mechanisms. We in the leadership team have prepared an overview of how we believe we will have to review the various decisions which we have to take to come to a conclusion.

Marika, are you able to show it? There you are. Would you be so kind to read it as well and explain the various stages we identified, please?

MARIKA KONINGS: Yeah. Thank you very much, Erika. What you see here on the screen is a number of proposed steps that leadership has developed in order to try and move towards possibly one mechanism as the final recommendation or possibly two. I think this is also something we discussed in one of the previous meetings as a way of trying to assess whether there is support for doing that.

The proposed process for doing that would be to use a ranking survey. We've done that before, I think as you know, to try to see where most support was for the different mechanism. I think that was also the

inspiration used as a way of narrowing down the preferred options in the initial report for public comment.

The idea would be that, once leadership and the CCWG are of the view that the content of the report, and especially, of course, the descriptions of the different mechanisms are in the near-final stage, we would conduct an indicative ranking survey amongst the CCWG members. That would be those that have been appointed by the chartering organizations to represent their groups in this effort to basically indicate whether there would be support for putting one or two mechanisms forward to the ICANN Board.

The idea would be then that the outcome of those results would be shared with the CCCWG, and that would then allow members the opportunity to share those results with their respective and confirm whether or not the outcome of the survey would align with the expectations of the different chartering organizations. We would also accompany that with a more detailed or an updated version of the newsletter, so we would also provide further details on what has been updated in the report and what changes were made as a result of the input received or in the public comment period on the initial report.

This update would of course also be released to the broader community so everyone would be aware of where the group was at and what the expected next steps in the process.

Once everyone has had a chance to consult with their respective groups the idea would be then to rerun the survey in a more definitive form amongst the CCWG members. Then the leadership team would review

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those definitive results and assess the level of support. I think you can probably compare this to the consensus call as outlined in the group's charter.

Following the leadership's review of the results, they would basically confirm their assessment of the consensus achieved the CCWG members. As I said, I think that aligns with the consensus call as described in the CCWG's charter. That would allow then the group an opportunity to indicate if they would have any concerns about the consensus level that would be assigned to the final recommendation.

If full consensus is not achieved, there would be a timeline by which minority statements could be submitted by those wishing to do so. Then, once we're on through that process, the CCWG would either submit the final report to the chartering organizations for their consideration or publish a post-final report for public comment.

I think, as you may recall, that is another decision the group will need to take. I think, once we get to the last agenda item, which looks at how to get to the final report, we've proposed a timeline as well for making that determination. Again, depending on the outcome of that consideration, the final report would either be directly submitted to chartering organizations for their approval, or there would be another round of public comment, following which the group would review the input received and make a further determination of what changes, if any, would need to be made.

So I think that's, in a nutshell, what the recommendation.

ERIKA MANN: Marika, I wonder whether we shouldn't turn the agenda around and should show immediately the scheduling which we have done, which is our last item on the agenda. Maybe it complements nicely actually what we have done here, instead of having it the last item on the agenda.

Can you do this? Do you mind running us through this quickly?

MARIKA KONINGS: No. I just know that Judith has her hand up. I don't know if Judith wants to wait until we quickly go through this.

ERIKA MANN: Do you want to maybe wait until we have finalized this, or do you want to do it right now?

JUDITH HELLERSTEIN: Sure, I can wait. I just a question on clarifications.

ERIKA MANN: Okay. Then let's wait and then we take these two together. Okay? I'll come back to you.

MARIKA KONINGS: Okay. Thanks, Erika. We're skipping now to Item 7: the steps to finalize work by ICANN 66. This is a timeline staff has put together based on the status of current work. I think the aim or objective is to finalize the work before ICANN 66. The hope is that we're able to finalize work on items

that we're discussing today at the latest by the end of the week. There are a couple of proposals that are going to be discussed and items that have been worked on. The hope is that, at the latest by the end of the week, we'll be able to finalize those items.

Staff will then go ahead and integrate the language that has been agreed upon on the draft final report, review it as well for any kind of inconsistencies that may have resulted from those updates. I think we also discussed to include a glossary in the report. I think what we probably would – I would need to have a look at the latest version as the group reviewed it – adopt all the redlines from the previous version so you could more easily review the report and see what updates have been made since that last version and this one. That would hopefully result in a final version for review.

Then we would give the CCWG almost two weeks to review that final version. Here would really like to ask you to focus on any issues of major concern. We don't want to reopen issues that have been previously discussed and decided. It should really focus on, is there anything in there that you or your group cannot live with? Of course, if spot any grammatical errors or any inconsistencies, we'd be more than happy to take those on board as well and address those. But the focus should really be, is there still anything in there that would prevent you from supporting either publishing the report for public comment or submitting it to the chartering organizations.

Then we would have another call on the 18th of September, where we would then review and discuss any major items identified. As you can see, there's a week between that, which would potentially allow as well

for addressing any concerns on the mailing list or clarifying any issues that may have been flagged. That would be also the moment where we hope to get your input on whether you think a public comment period is desirable.

At that stage, staff could as well compare versions between the initial report and the final report so it also gives you a better insight into what has changed as a result of public comment so we're able to make an assessment of whether that rises to the level of changes that have been made that couldn't have been foreseen in the initial report or the comments that the group left there that might warrant an additional round of public comment.

Once we've done that, the idea would be to launch then the indicative survey on the mechanisms because, by that stage, the report should be in a basically near-final stage. We would give people a week to do that and then publish the results. Again, the CCWG members would then have, I think, one or two weeks to consult with their respective groups, and then would relaunch the survey results based on the outcome and the assessment by the leadership team on the results of that.

It's a fairly a tight timeline, so we do hope that everyone is able to live with that. Of course, it does require you to reach out to your groups, to spend time reviewing the report. This would basically get us to the 25th of October as a deadline for finalizing the report based on the definitive survey results. At that stage, we would either publish it for public comment or submit it to the chartering organizations for their consideration.

We currently have already foreseen or put in a placeholder for an ICANN 66 session on Wednesday, the 6th of November. We currently have two slots that run basically from 3:15 to 6:30. One we get closer to the date, we may want to review whether that whole block of time is needed or whether we need to reuse that time or reallocate it in a different way, especially if the focus is presentation of the final report to the community.

So this is what the proposed steps that leadership team has put together are. I think, with that, I'll hand it back to you, Erika.

ERIKA MANN: Thank you so much, Marika. I think this is much nicer to have the discussion about the schedule because it complements the first item on the agenda.

Let's get back to the – I believe it was Agenda Item 3. Can we go back and see the slide? I give the floor to Judith, please?

JUDITH HELLERSTEIN: My comment was on that, as we saw on the slide (and on the other slide I think it was clearer), we're going to have a survey of the mechanisms where the members are going to vote on. Nothing will have changed, but then we're going to be asking people to vote again. It seems to be that they will already have discussed with the people within their group – since I'm in At-Large, we would already have discussed within At-Large – prior to doings this survey. But even if we are split, I don't understand the idea. Are we voting again as, "Well, hey, we saw

the answers to the survey. Do you still think your choice is right?" Is that what you're looking at? To confirm people's choice? Or are you pressuring people to pick another choice because the survey results said, "Well, 75% of people said this," or, "It was split 50/50"? I am not exactly clear on what the second survey is doing.

Also, my other question is, so we're not going to put forward two mechanisms? We're only going to put forward one? Thanks.

ERIKA MANN: Judith, when we reviewed this (the leadership team) we believed it's good to have two phases. First of all, keep in mind we are not voting. So, none of us, please, let's not call this a vote. It's not a vote. What we do is we are reviewing in a survey the outcome. We don't want to call it a vote because that's not what the typical procedure is.

We believe it's much easier to have two phases because it gives everybody more time for reflection. The first is indicative. Let's assume the outcome is super clear: 90% in favor of a single mechanism. Then we pretty much have an understanding of what we believe is going to happen. There needs then to be still the discussion with the various communities. But if the outcome is close to 50/50, it is much more difficult. So maybe more time is needed for reflected, for even internal discussion, with the different SOs and ACs.

So we believe it's good to be a little bit more cautious here and prudent and just give us all more time. Some may even want to change their opinion based on the discussion they will have with their community.

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Keep in mind, not all of the SOs and ACs may have had already in-depth discussion. So I wouldn't take the discussion you assumed on what is clear in ALAC has taken place. I think you want to be a little bit more careful and prudent and not assume there's a similar discussion which happened elsewhere. So let us be just careful. My recommendation is to keep the current schedule and not change it.

Let me look for who else wants to comment on this one.

Alan, is it you?

ALAN GREENBERG: Yes, it is.

ERIKA MANN: Go ahead. I'll go on mute.

ALAN GREENBERG: Two questions. Number one, you're talking about a survey of members, but then you're using expressions like "an ALAC position." Is this a survey of the AC/SOs, where we're expected to have a single answer? Or is this a survey of the members? Because, certainly within ALAC, we may well find that members have different opinions from each other and it may not be possible to come to a single one. But the question is, are we talking about a survey of members or a survey of AC/SOs?

ERIKA MANN: Alan, the discussion we had in the leadership – Marika and [Sheng], please correct me if I'm not saying this correctly – was that the first was an indicative survey by CCWG's current members, the members who are on this call. But then the second one we hope will reflect the discussions these members had after consultation with their respective group. Hopefully, they can report back a single opinion. If this is not possible – to report and come back to us with a single opinion, then we will have to decide what we do with this.

ALAN GREENBERG: Okay. Because #4 says "members." Now, it may be that all the members have come to a single opinion and they all vote the same way, or they all complete the survey the same way, but the wording there says "members," which could allow for a difference among them. So all I'm asking for is real clarity because it does make a difference if the members are not in a position to have a single opinion.

So I'm just noting that. Currently, it does say "members," which I'm happy with because members could all vote the same way, should they choose. But they are not necessarily required to. The CCWG rules, I believe, say, if we take a definitive survey of members, it is a survey of the members, not of the groups which they represent. So that's in line with the charter.

The second point I was going to make is, when you do this survey, I would really think, for each of the mechanism, you ask to rank them but then you also ask, "Can you live with this?" because that will give us a measure of, can we to close to unanimity? We're working on a really

right timeline here, and I think that might give additional information that would be useful when we try to consider when we analyze the results. So, in addition to the ranking, a yes/no for each of the options, and "Can you live with it?" Thank you.

ERIKA MANN: Excellent point, Alan. Thank you so much. Yeah, we have to clarify Item 4. I believe we are clear on Item 1 and 2. We are not really clear on when we rerun the mechanism, so we will have to clarify, again, the language on what the CCWG charter actually requests us to do. I read it, but I must admit I forget this part. Then we will accordingly clarify this point. But we still do hope that, in a very ideal situation, the members will reflect what their constituencies want them to do. If it's not the case, okay. That's a different situation then. Yes, we will add the point about the question on whether they can live with the outcome, despite that it might not reflect the individual position. I agree with you. Good point.

I'd like to go back in the meantime quickly to Marika, just to say if I have forgotten something, and [Sheng]. Marika and [Sheng], please?

MARILYN CADE: Sorry, Erika. I have my hand up.

ERIKA MANN: I can take you first. No problem. I just wanted to see if I said something wrong with regard to the point I just made. But go ahead, Marilyn.

MARILYN CADE: Thanks. Well, I'm probably raising a similar point to what Alan just raised. Each of the – I'm only speaking as a member appointed from within the GNSO … Yes, Marika, I read your comment that we're supposed to be keeping the chartering organization informed. I got that part. Believe me. But actually we're keeping a part of the part that [sent] us informed … It's very complicated to suggest that we would have a vote by the GNSO policy council. I think each of us – I'm just looking at the names … So it's Elliot, Jonathan Frost, Jonathan Robinson, and a few others here – I'm not going to go through the names – on the GNSO. We will keep reporting back to the groups from the GNSO community that sent us, but I very much doubt that we would get a consensus vote from the policy council very easily, given that there's a lot of disparity between the positions that are being taken at this point.

I'm not going to comment on other groups, but I will just make a comment that there's a lot of disparity as well on the attendance records. I think that of different participants. That's up to them, but I think we have to take that into account and think about how much time is needed for each of the groups to be able to digest what we're trying to put forward.

But my primary concern is the expectation that we would have a vote among the individual appointed participants from any particular group, as opposed to representing the point of view that we've already been able to put forward. Thanks.

ERIKA MANN:	Understood, Marilyn. I give the floor to Silvia. I see Marika's point. Well, that's correct, Marika. I'll come to you in a second, but let me take Sylvia first. Please, Sylvia.
SYLVIA CADENA:	Thank you, Erika. I think the comment that Alan made are very important in terms of hoping to bring closure to this process. If people can't live with that, then these deliberations will continue in a never-ending story. I think that one of the discussions on the mailing list can also appease some of those challenges to agree on a mechanism because, as discussed on the mailing list, the idea is that, independent of the mechanism, there should be a set of criteria that all mechanisms will have to comply with. Right? So those slides that were shared by ICANN staff that compare the mechanisms and which ones are in compliance with this or with that. Using that as part of the information to make that decision could help bring closure to this process because, the more this is extended, the more time it takes for the actual funding to get to the people that are needing it to make this happen.

So I hope that we can bring a sense of urgency that it's not going to be prefect, that it's impossible to agree on everything. But as long as the implementation thing takes these guidelines seriously and brings all of those components to the design of the operation of the mechanism, any mechanism should actually be able to deliver based on that. It would be their ingenuity and their innovative approach to make it work. So I think we could use that poll or indicative surveys approach to help bring this process to closure. I hope we can push our groups in this direction. Thank you.

ERIKA MANN: Thank you so much, Sylvia. Alan, this is a new hand?

ALAN GREENBERG: Yes, it is a new hand. Just a quick comment that, as Marika said in the chat, at the end of the day, this is going to go back to the ACs and SOs to ratify whatever we come up with. Hopefully we'll come up with something where we have a significant majority agreeing and not a 50/50 split. If it's 50/50 split, maybe that's the rationale for submitting two things for the Board.

With regard to what Marilyn is saying, this group has no jurisdiction to tell an AC or SO how to behave. So, if the ALAC chooses to have a unified vote, a single vote, for all of its members, voting the same, or chooses not to, or the GNSO says, "We have memberships from stakeholder groups. They do whatever they want," that's their business. This group can't tell an AC/SO [what to do], so let's not spend a lot more time talking about it. Thank you.

The charter acknowledges that by saying votes are among members, not constituent groups. So I think we're okay.

ERIKA MANN: Yeah, I think we are okay, too. I just checked the charter quickly, but I want to do it again with a little bit more time.

Marika, you had various items, so please go and just review in particular the topic on do we have to change language, in particular with regard to

Point 4, which I believe we had to do. We have to clarify this here. Then the timing, which we have done, is quite prudent, so we should keep it as it is. But just please reflect on the points raised just a minute ago. Go ahead.

MARIKA KONINGS: Thanks, Erika. I think Alan made a lot of the points that I tried to make in the chat and I wanted to reemphasize here. I think maybe the only clarification we may want to make here is the cut-and-paste in the language with regards to the expectations of members vis-à-vis their appointing organizations. I think at least for me the takeaway is – hopefully members may feel the same; again, maybe that's also a message that leadership could send to the members, as I don't think everyone is on today's call: to outline the proposed next steps and the expectations of members to consult with their respective groups. As Alan said, this is probably really for the members to start the dialogue with their respective groups on what is coming down the pipeline, what the next steps are, because, indeed, even though the consensus is to assess, based on the membership … The whole idea behind this structure is that having the membership's view or having direct dialogue with the appointing organization would increase the chances of support from the chartering organization.

Of course, that doesn't take away that there may be disagreements, even within groups. But again, I think this survey will hopefully demonstrate that and would allow members as well to provide that feedback and indicate, "We've discussed this with our respective

groups, and we just don't agree. These are the different viewpoints." Or maybe there is a clear preference that comes forward.

So hopefully indeed in general everyone agrees with this process, this could be also be a starting point for the membership to start engaging with their chartering organization and start preparing them as well for what is coming their way because, of course, at the end of the day, the chartering organizations will need to review this and will presumably rely on the members that they have appointed to this effort to brief them and indicate to them why they should give their support to the recommendations or maybe why they shouldn't.

ERIKA MANN: Thanks, Marika. In the meantime, I received a note from Maarten is saying that the auction proceed work is on the Board's agenda for discussion in early September, which I think fits quite nicely. We then will not have had the indicative survey outcome, but you will have already a good understanding of where we are.

Maarten, do you want to say something concerning this item?

MAARTEN BOTTERMAN: Sure. Actually, now Becky and I are trying to continue to provide feedback on we think is what the Board's position is and what's important from the fiduciary perspective and the bylaws' perspective. We will continue to do so, but there's also been some new developments, as you know, over summer that we have never discussed with the full Board before. We want to make sure that what they think

makes sense is a shared opinion. Therefore, we'll come formally to the questions you asked after that Board meeting in early September, still well in time before your [house] September meeting. In the meanwhile, we'll continue to contribute feedback from our best ability.

ERIKA MANN:　　　　　　Thank you so much, Maarten. For everybody, the reference Maarten just made to some of the questions we sent forward to the Board you will have seen. These are the questions that came up during our last rounds of discussion, where certain points were raised. Wherever we had, from the leadership team, the feeling of "This has to go to the Board for clarification," we sent this forward to the Board so that we can't get input and don't have a surprise at the very end when everything is finalized and then the Board comes back to us and tells us, "That's not something we believe is a good approach." So this was just a reference Maarten just made, nothing to discuss because we had discussed all these items before. I just wanted to remind you.

So we have an understanding here, I believe. We keep the language as it is: Items 1, 2, 3, 4, 5, 6, 7. We clarify 4, and we check as well for action items, Marika and Joke, if we need to clarify as well that we are in accordance. I believe we are, similar to Alan, but we want to ensure and read the language again from the CCWG charter.

Do you want to summarize the action items? Who is doing this today? Is it you, Joke? Or is it Marika?

JOKE BRAEKEN:	Hi, Erika. I'm taking notes today. I have noted down that we need to clarify Item #4 and also review the language from the charter. Thank you.
ERIKA MANN:	Yes, and we do the review on #4 based on the comments and we can review the discussion – we have the transcript – and the view from Alan, in particular from Alan and in particular from Marilyn, because both raised these items. Then we review as well what you did and Sylvia said so that we have everything captured. Yes, on the last item it's correct. We have just to check again that the charter is in line with what we are doing.
	Okay, perfect. Anybody else want to comment on something I have overlooked in the chatroom?
	No, apparently not. If there is, you have the time to scream now before we move to the next item on the agenda.
	No? Okay. Then let's go to the next item on the agenda. Why I can't see the full screen anymore? That's strange.
	Are you still there, [all]? Hello?
UNIDENTIFIED FEMALES:	Yeah.
JUDITH HELLERSTEIN:	Yeah, we're still here.

ERIKA MANN: You're still there. Good. Because suddenly it was totally silent, and I had all kinds of pop-offs showing up on my screen, like I wasn't there anymore. Okay, good.

Next item on the agenda. Can we see the agenda, please, first?

MARIKA KONINGS: Hi, Erika. I already switched to Alan's document. It is the community involvement in the process. The proposal that Alan [inaudible].

ERIKA MANN: Okay, perfect. I didn't see anything. Everything was black on my side. Okay, Alan. Please take over this action item.

ALAN GREENBERG: Thank you very much. Staff asked me and Erika – I put my hand up to do it – to try to summarize or clean up the document, the Google Doc, that had been put on that had a very large number of comments – many of them overlapping, many of them conflicting – and [give editing] suggestions. So I tried to pull this together where it seemed appropriate finding a middle group when there were slightly conflicting things or there was one person saying something but everyone else saying something else, but I still was left with a fair number of options. What I have here, what I sent out last night, is that document, highlighting the ones where, assuming the rest of my edits are accepted, we have some

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decisions to make. I'd like to go through them right now very quickly and see if we can come to closure on it.

The first one was, what do we call this? I've used the term "panel" and noted that "committee" was suggested by some for specific reviews. We call these things working groups. I think a panel is a reasonable term. It's different from the other terms we use. I've used "panel" throughout this document for both of these groups. Unless there's any objection, then I suggest we just go ahead with that.

The next one is that an edit had been made to the document saying that the periodic review panel, the annual review panel – this is the first one we're talking about – may include community volunteers. I thought it was pretty definitive that it would include community volunteers, perhaps some others also, but would be made up mainly … So I'm assuming that "will" is the operative word, not "may."

Again, I'll pause if anyone wants to comment on this.

ERIKA MANN: I'm watching, Alan, the chatroom, just in case somebody wants to make a comment. I don't see anybody, and I don't see anything related to this item in the chatroom either. But I will mark it. Vanda is saying it is okay for her. [Eurid] is saying the same. Sylvia, too – no, Sylvia is commenting on the panel, but [Eurid] and Vanda. Go ahead.

ALAN GREENBERG: Okay, thank you. The next item is an issue of whether participants may be compensated. This is a comment that Marilyn had made, and she

included a relatively extensive comment on it, saying that compensation does not mean necessarily a salary. It can be a nominal token amount – a few thousand dollars, perhaps – commensurate with the amount of work that we're expecting.

I believe Marylin was the only one suggesting that. I didn't see a lot of other support for it, but I didn't want to exclude it completely because it's a pretty big concept. In general, I don't believe, other than for the Board, ICANN provides any compensation, other than paying for travel expenses and things like that, for anyone working on any of these committees. I think that includes the PTI Board. I'm not sure if there's any compensation for that. I don't think so, though.

So the question is, do we keep in the concept, which was introduced at a relatively late time, or do we take it out all together? My recommendation would be to take it out, but it's a substantial issue.

ERIKA MANN: Marilyn, you want to comment on it?

MARILYN CADE: Yes. Thanks. I do want to comment on it. I know everyone read my comment, so I won't go back through them. Maybe we could just change this to say, because we're talking about the program review … Can I just verify "panel" – if we're in agreement on using that terminology – because it's neutral and it's not already embedded someplace in ICANN? Right? Am I right, Alan?

ALAN GREENBERG:	Well, I heard no objection to that.

MARILYN CADE: Okay. I would be happy to say, "Participants in the panel could be compensated," and leave it open for … I've posted that I believe we need to go for public comment. An honorarium is not the same thing as a salary, but it does compensate people. It also obligates them, as I noted in my extensive comments: You sign up for this panel, you sign a document saying you'll be neutral, and you don't have conflicts of interest. We all have to acknowledge that the SOIs we complete at ICANN don't actually have any real, factual information in them. And yes, that tone in my voice was intentional.

So we could just say, if others would agree, "Participants could be compensated based on the work expected," and this could be further developed by the implementation team.

ERIKA MANN: Alan, I believe that's a good recommendation. Then the next implementation team, based on the finalization, can make practically a final decision upon this. But back to you. I see a comment from Carolina, which confirms Marilyn's point and Sylvia … yeah – no. She's related to the panel. It's a different point. So I don't see anybody opposing what Marilyn just said. Quite the opposite. So, back to you, Alan.

ALAN GREENBERG: Okay. So I will leave it in, change the "should" to "could," and make a comment saying this could be a nominal – sorry what's the expression?

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– fee in consideration of the work, not a salary. So I'll add some words and put it into the next thing.

I noted a comment in the chat from Steven, saying, ""Panel" is a new term that isn't generally used in ICANN." Yes, it is. That may be the reason we're using it. But note, in any of these things, the name we use in our report is not necessarily the name that will show up in the final thing. We often rename things to make it standard or to make it fit in with other things. I don't think we should get hung up on the name.

ERIKA MANN: Yeah, I agree. Alan, just one second. Joke, can we put this on an action item please as well so that we ensure this reflected in our guidelines, too, so that this language here is explained there for the implementation team?

JOKE BRAEKEN: Thank you, Erika. I made a note that Alan will adjust the proposed language regarding the role of the community. He will change "should" to "could" and will add further clarifications. Then you were saying that you would like to add an additional action item regarding language to be added for the implementation team?

ERIKA MANN: Yeah, clarification – absolutely – on this item. We need to clarify this.

ALAN GREENBERG: Yeah. I already have that note here, anyway.

JOKE BRAEKEN: Thank you.

ERIKA MANN: Perfect. Back to you, Alan.

ALAN GREENBERG: All right. Thank you. The next major significant item is the composition of the group. Here we had another of comments. Some of them were quite conflicting. The original proposal called for two members per AC/SO. It's been modified to say it could be up to two members, so an AC/SO does not necessarily need to find two. Moreover, any AC/SO may choose to not participate at all. The wording may need to be cleaned up but that is the intent. So the current proposal says zero, one, or two members per AC/SO.

There were some comments saying certain ACs and SOs don't need to participate. I'm not sure we want to make that decision for them. They're fully able to make the decision that they don't need to participate and don't have any input themselves.

There was a suggestion that we have more GNSO members. That was from Elliot. I'm not quite sure he provided a real rationale for why the GNSO should have more stake in this, other than that the money came from a GNSO-type program. But I'm not sure that is a rationale for why

the GNSO should have more say in how the program is run once it is actually chartered. I look for input for that.

The other comment is that there was a statement about that there be independent selected people and there be experts. I wasn't sure if these were two different groups or the same group. I'm taking it to mean that the independent people are in fact the experts because, otherwise, we're potentially going to end up with an absolutely huge group here, and a huge group is not practical, either for making decisions or in funding travel for face-to-face meetings and things like that. So my preference is to try to keep it a little bit lean and say that the four other people are the experts who might participate.

I'd like to open that up right now. We have Maarten and Marilyn.

ERIKA MANN: Alan, let's take the first item first, which was the GNSO, and then let's move to the second item. So comments with regard to the GNSO. Maarten, was this you? And Marilyn? We don't Elliot with us today, but I believe we have Jonathan.

MAARTEN BOTTERMAN: Mine is not on the GNSO, so if you want to take that first.

ERIKA MANN: Yeah. I'd like to take this first to get it off the agenda. Marilyn? GNSO?

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MARYLIN CADE: I'll make a comment about GNSO, but I wanted to make a comment about the independent as well. I don't see the rationale to have more GNSO than anyone else. I think we got to get over this idea that then money "came" from the GNSO. It didn't. That's not where the money came from. It came from a process established by ICANN At-Large. I don't mean At-Large organization but At-Large. But the money doesn't belong to the GNSO, and we need to get away from that thinking. I'm sure that two highly committed, vocal representatives from the GNSO or any other SO/AC would be able to contribute.

I think there needs to be independent representatives from the larger ICANN participants—

ERIKA MANN: Marylin, I'll take you in a second on the independent. Just give me a [second] to close down the GNSO.

MARILYN CADE: Sure.

ERIKA MANN: Since we don't have Elliot with us, do you mind, Jonathan, if I ask you what your thinking is about this?

JONATHAN ROBINSON: Thanks, Erika. I'm happy to give a personal opinion. I haven't really canvassed anyone on this. It seems that there really isn't a case for or

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against at this stage. I don't feel strongly to advocate for I, so I'm probably going to remain a little neutral on this at this stage. I can't give you a definitive answer. I'm sorry. I know you'd like something, but I can't really speak on behalf of GNSO, and I don't have a strong view on this one. Thanks.

ERIKA MANN: Okay. Thank you so much. That's already helpful to know you haven't heard about a strong view, which I believe is helping Alan.

Alan, I think you can just keep as it is currently, and then I'm pretty sure, when [Olive] will review it, we can come back to this item, if the worst case, if we have to do it again, which is fine, too.

Then let's move to the independent. Maarten, I believe, is first, and then Marilyn.

MAARTEN BOTTERMAN: Thank you. As said earlier, they will be reacting, obviously, later. But right now, the current thinking is – I just want to reemphasize that – that the panel shouldn't interact with the independent panel during the evaluations. I think that's important to keep that [clean] for many reasons, just to bring that back that that's really what we take away at the moment.

The second thing is that I also want to suggest simplicity as much as possible out of respect for the work done. But currently they do this with just one community panel. Putting out more community panels is

stretching itself. But that's just, again, also from my side, the current thinking based on the [inaudible].

ALAN GREENBERG: Sorry. As far as I can tell, Maarten was commenting on the 5th bullet of this panel and then the existence of the second panel all together but not on the composition of this panel. Did I mishear Maarten?

MAARTEN BOTTERMAN: No. The composition of the panel is for us a new thing that hasn't been discussed for. The composition for the necessary independent expert panel was discussed before, and we see this as a given. The composition for, in a way, a kind of policy implementation panel is new for us. I have no opinion about [it]. It's just new and it'll be new within ICANN.

ALAN GREENBERG: But you were saying "independent from the" … something. I think you're talking about independence from the group that is going to select projects.

MAARTEN BOTTERMAN: Yes. When there's an independent project assessment panel, the panel of experts, while that's doing it's work, it shouldn't interact with another panel—

ALAN GREENBERG: So that's Bullet #5 here, not this one.

MAARTEN BOTTERMAN: Okay. No problem.

ALAN GREENBERG: Here we're looking at the composition of the panel. I think there was some acceptance there should be the ability to appoint some experts to this group who may not be part of the ICANN community but understand how things like the Auction Proceeds Program should operate and to judge whether it's doing a good job or not.

                          There was another comment from Marilyn that we should "independent members from the ICANN community." I'm not quite sure what those are.

ERIKA MANN: Alan, before I take Marilyn, keeping Maarten's point in mind, because we may have to come back to them, can you just maybe refer back to the exact bullet point you are talking about and just read the sentence which we see on the screen?

ALAN GREENBERG: Are you talking to me or Maarten?

ERIKA MANN: To you, Alan.

ALAN GREENBERG: We are discussing right now the first bullet point, then composition of what we're calling the APRP – that is, who is on this potentially annual review group that will decide if things proceeding well or not. This has nothing to do with the selection of projects at this point.

ERIKA MANN: Exactly. You're absolutely right. So then let me take Marilyn. Maarten, if you have a point and want to come back to this one, please feel free. But let me take Marilyn first.

MAARTEN BOTTERMAN: Sure. No problem.

MARILYN CADE: Thank you, Erika. I think we could combine what I suggested, which is four independently-selected members from the larger ICANN participating community. By the way, this is not a criticism, Alan. I just want to comment that I suggested the Board select those. But, on the statement that says "plus up to four external member chosen on their expertise in granting processes," what I was trying to accomplish here is adding expertise – it could come from inside of ICANN if there are people who do have granting process evaluation – remember, this is evaluation, so it's not just expertise is granting but also in evaluation … But maybe we could just combine those two statements, the point being independently selected members who could come from the ICANN-participating community or could be externally selected based on expertise in evaluating granting processes … I'm really sorry I –

ERIKA MANN: Marilyn and Alan, I believe we have to clarify volunteers so that we absolutely are crisp and clear that what we're talking about is the annual review.

MARILYN CADE: Exactly.

ERIKA MANN: It's a kind of meta-review which is judging what the real evaluation team which are evaluating concrete proposals and then making the judgement for payments and monitoring the projects. What this annual panel is doing is judging it against the original goals and seeing if something is totally off-rail. Are they going in a totally wrong direction? Or, in case there is nobody applying for a project, something needs to be done. Maybe the goals are misunderstood. So it's a kind of an adjustment panel. So we just need to be clear. They are not evaluating projects.

MARILYN CADE: Erika—

ALAN GREENBERG: May I try to summarize?

ERIKA MANN: Sure, but let Marilyn go first because she has a point.

MARILYN CADE: I just wanted to clarify that that was my entire point here. This has nothing to do with who wins the awards. It is about the process. That was why I made that comment that expertise in granting is not sufficient. It has to be expertise in evaluating as well.

ERIKA MANN: Alan, back to you. Thank you, Marilyn.

                          Alan?

ALAN GREENBERG: I'm just writing a note on this.

ERIKA MANN: Okay.

ALAN GREENBERG: I have no problem merging the two because, in my mind anyway, with picking experts, there's no prohibition about them coming from within the community. So I don't think what I was suggesting is at odds with what Marilyn is suggesting at all.

                          In terms of what this group is doing, it's not only looking at whether the projects that were selected and funded were the right ones. It's also going to be looking at the overall administrative processes. We may go

after a year and find they haven't given out any money because they can't get their act together. That's something that we're going to be able to comment on. So we're looking at the whole process, not just the selection process. I think I tried to capture that, saying that in the overall description of what the group does. It's evaluating the granting process, the whole thing from A to Z, not just the actual project evaluation.

But I think I understand. We're looking for experts who have some understanding of evaluating granting, evaluating processes like this, and I'll try to put some words together that will capture that.

I think that we have general agreement that the Board will select those people. The AC/SOs will propose people, and the AC/SO chairs, should there be more people proposed than there are seats, will be selected by the AC/SO chairs, comparable to how specific reviews work.

ERIKA MANN: Yeah. Just a second, Alan. We have comment from Becky. I will read it. "I hope the panel is not charged with deciding whether the selections were right. That opens up a huge risk. Then question is, are the funds being used in furtherance of the specified purpose? It's critical to stay away from project-level analysis." That's correct. That's typically never done.

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ALAN GREENBERG: In my mind, "right" means they followed the criteria, not that they made the right decisions among all of which follow the criteria. So I think we're all violently agreeing with Becky.

ERIKA MANN: Yeah. Okay, Alan. Take the next item.

ALAN GREENBERG: We have Sylvia's hand up.

ERIKA MANN: Apologies. Sylvia, please?

SYLVIA CADENA: Thanks, Erika. Just to give you an example of the MacArthur 100&Change grants that give 100 million dollars – they gave $800 million this year, and this year they're going to give one grant – they way to this evaluation is the process is separate from the monitoring and evaluation of the projects. So the implementation team can assign a consultancy firm for [inaudible] and monitoring and evaluation of activities, to keep track of milestones and how they're using the money, and all that. That is not necessarily something that a panel or people that are not on the project management side of things or grant management side of things could comment on. Maybe what these people will require is expert opinions on the technical issues that those projects will be raising.

So I think that, if this text goes too much into the actual nitty-gritty details of how that monitoring and evaluation of the process in each of the projects (to implement it) goes, then we might end up with difficulties. It depends on the size of the grant, the scope, and the length, and the timeframe that these projects will take. So maybe it's better to provide the guidance but without going into too much detail because this is depending on a lot of other information in terms of how many grants, how big they are, how long they are, how deep they go, etc. I fully support the idea of having a panel and we use the process as a whole, but if it goes into each and every one of the grants associated, then that is a different mechanism.

Normally, with larger donors, what they do is that external evaluators are consultants that are hired in, and they're not done all at the same time for the whole grant pool but only a selection of projects. They select a sample. Otherwise, it's way too expensive.

So just a couple of ideas on how not mix evaluation of project implementation with evaluation of the process of allocating grants.

ERIKA MANN: Yeah.

ALAN GREENBERG: Thank you, Sylvia. Certainly my experience is exactly what you're talking about. The mechanism, whatever we pick, is responsible for evaluating how each project is going.

Now, the reports they generate may well feed into this committee. If all of the reports come out saying none of the projects are working very well, then that indicates we have an overall problem. But we're not looking at the specific project. If there are words here which implied we were, then please privately or on the list let me know because that was never the intent here. I'm not quite sure what words gave you that impression that it might mean that. So if you could follow up with any comments, let me know.

All right, I think we have clarity on the first bullet. The second bullet is that the prime function is to perform the annual, starting in Year 2, of the operational processes. So I think we're now describing again what we just talked about. I don't think there's any controversy there, and I think we're all in alignment.

ERIKA MANN: Alan, we are in alignment. Sylvia was making a very valid point in saying we should avoid any language and that both of us need to review this, which would call for anything like that this would review panel would intervene in the work [inaudible] evaluation team is doing for evaluating projects and monitoring these projects because that's what they do. They're not just evaluating. They're monitoring. So nothing should, in this review panel, intervene in this work. It's totally—

ALAN GREENBERG: Yeah. Erika, we're all in violent agreement, I think. My question to Sylvia was if she could point to the words which made her think that we might be looking at that. Then we'll clear them up.

SYLVIA CADENA: Thanks, Alan. Just a clarification. The reason why I said what I said in the comment that I made is that my understanding is that, when this working group, this CWG, closes and we wrap up the report and we send it out, we are out of this loop and we will not have chances to explain what we meant. So, if there is any chances that this can be misinterpreted by the implementation team, then it's better that we try to tackle it here.

To be honest, this is not the view when I see on the Google Doc. I see the one with all the comments that is impossible to read. When I change it to the new one, then I don't see some of this text. I don't know how to change it to actually see what you have on the screen to be able to make specific comments on the wording that you came up with. Or maybe I'm clicking on the wrong one.

Anyway, I will contact you directly by e-mail to try to clarify. It's just to make sure we don't leave room for reinterpretation of what we tried to say and dump all our project problems on the folks that will be doing the implementation. It's just that.

ALAN GREENBERG: Okay. Noted. So there was nothing there. You just want to clarify in the final document that we are not implying that if someone were to choose to read it that way.

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In terms of the document, I sent out both a PDF and Word document last night. Feel free to comment on the Word document and send it to me or the list.

All right. The third bullet is: The function is over and above any internal review of its processes performed by the selected mechanism or financial audits, but these other reviews may feed into this. I think that was just clarifying that this is not a financial audit. Is does not necessarily replace any internal reviews the mechanism may choose to have as good business practices. But those, of course, are information that might feed into this.

Marilyn, is that a new hand?

MARILYN CADE: Sorry, no. Let me try to take it down. Thanks.

ALAN GREENBERG: Okay. Bullet #4: The panel will provide reports to the ICANN Board, the mechanism, the ICANN community, and the auction and the evaluation panel (the one that follows). So we're just saying, where does the output go from this?

The last item is the one that is controversial. Therefore, the whole thing is bracketed. That says that the project evaluation group, the one that is evaluating applications, may seek guidance not on a specific project but on the wording of the criteria it's been given to make sure that it is making decisions in line with the intent of the criteria.

This was objected to by a number of people. I think Maarten's comment goes to that that he made just a few minutes ago. A number of other people suggested that this is something we want to keep separate. It's better to have the evaluation group making decisions which are not in line with the criteria but consistent throughout the period than to take a chance of any mingling of the decision process on projects with this community group.

So I haven't heard a lot of support for it. Those are the negatives. My recommendation at this point would be to scrap this entire item since there are significant negative comments and not a lot of support. I haven't heard a lot of support expressed for it. So, unless I hear otherwise, we will scrap this bullet completely.

ERIKA MANN: I'm checking the chatrooms. Nobody is raising a hand. I believe you are [right]: just not scrap it and then it is done. We can still put it in guidelines and we could say that's a topic we discussed. If the implementation team feels tempted to review this item, that's the thought which we had behind it. So we could—go ahead, Alan.

ALAN GREENBERG: Sorry. May I suggest that Maarten raise the issue with the Board? Both Maarten and Becky indicated they thought the Board might object to this just because of the potential or the optics that the selection process might be polluted with community input, even if they keep the words out of it. So, if the Board in fact feels this is something which is

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potentially dangerous, if only for the optics, if not the reality, then let's just take it out and not give another task to the implementation group.

ERIKA MANN: Sure. I don't care, actually, personally—

ALAN GREENBERG: Becky says the Board feels strongly. Then I —

ERIKA MANN: Becky and then Maarten? Should we take it out? You're fine with it?

MAARTEN BOTTERMAN: Yeah. I think this is an excellent solution at this point. The [pillow] makes sense, but don't make this a vulnerability. Don't build a vulnerability in there, I would say.

ALAN GREENBERG: Okay. I'll note we're an hour and ten minutes into a two-hour meeting and we still have a while to go.

ERIKA MANN: Yeah.

ALAN GREENBERG:	All right. Now, there was a comment about why we should two panels instead of one. The rationale for when Erika and I first discussed this is that both the composition and the workload is such that the second panel, the one saying, "Do we need major directional changes in the program?" – in other words, the second panel is essentially looking at the decisions that are being made by this committee, by this working group, and by the implementation group and saying, "Fine. That's what we thought in 2019/2020, but it is working? Do we need some significant changes in the direction, or are we on track?" So it looked to me and Erika that this was a different kind of function with a different composition and a different workload and that we should try to merge the two together.

This is not unlike, with PTI, that there could be a group triggered to do a major reevaluation and that's different from the regular evaluations that are done by the Customer Standing Committee and things like that. So that's why it was done as a second group. Of course, it is open.

But let's talk about the function, and then we can talk about whether it's a separate group or not. But this one, as I said, was to look essentially at all of the decisions made and, is this working well? We made the decision that it should be an internal department or a foundation – whatever mechanism we choose. Someone has to look periodically and say, "Was that a right decision? Is it working? Or is it bogged down or if there interference of whatever?" So this is the group that's doing a critical evaluation of the overall "How things are working and do we need major substantial change?" Not tweaks, but perhaps a major change.

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There were two suggestions , one that this be done every three years. The other suggestion is that it be triggered by the previous committee. I'm suggesting also the OEC (Organizational Effectiveness Committee) might trigger it itself if it felt that there is significant reason why the program has to be looked at.

So these are the two things that. Every three years was the first suggestion. I think Becky suggested that it be triggered by the first group. My inclination at this point is to recommend that we take the second option and scrap the regular every-three-years.

ERIKA MANN: Alan. Did you just say to take the trigger point by the first group and otherwise not to do the major evaluation of the three years?

ALAN GREENBERG: Well, what I'm suggesting – I think Becky is agreeing – is that it can be triggered two ways. One is that the APRP, the panel we spent the last 40 minutes discussing, can trigger it. In other words, in its annual evaluation it says, "Hey, things really aren't working well. We could look at the program overall, not just make minor tweaks." The second way it could be triggered is that the Board Organizational Effectiveness Committee can, just on it's own, without being recommended, decide it's time to do this. It's not required to, but it can.

ERIKA MANN: My recommendation would be definitely to keep it in, even if nobody triggers it. Now, you can have a point where you can say, if nobody

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triggers it, the first major review will be after five years. But you need one. That's my experience from all big funds. I participated in many. There will be a point where you definitely need it, where you need a complete review. This is an in-depth review. It takes time. It's not like the annual review, which is a light touch and should be light touch. It shouldn't be heavy. But the one which is after either three years or five years is a heavy-lifting one. So I would recommend it should stay in. It can be triggered earlier, but it should stay in. If it's not triggered, it should stay in as mandatory, at least after five years.

ALAN GREENBERG: Okay. We of course don't know how long this money is going to last. When we started this process, there were people who said it shouldn't even be lasting five years. I'm not sure that's true.

ERIKA MANN: [inaudible]

ALAN GREENBERG: So what we're hearing here is an agreement that it should be triggerable by the annual group or by the OEC. Now I see a number of comments in the chat and Erika, saying, "But also there should be a mandatory timeframe."

ERIKA MANN: If it is not written, there must be one. Absolutely. After five years, at least.

ALAN GREENBERG: All right. Can people comment on that? Marilyn said she wanted to speak.

ERIKA MANN: Yeah. Exactly. Marilyn?

MARILYN CADE: Thanks very much. I suggest that we have an extremely light, "So, how are you doing, boys and girls?" approach to Year 1, not a real review in any way. But I did propose a requirement of a three-year review. Erika, I know that five years is in larger funds, but I think we're a mid-sized fund. Larger funds often have only a five-year review. I was thinking more about a three-year review.

                         One more thing here. This is not a criticism. It's just a comment. The members of the Board Organizational Effectiveness Committee often change because the membership of the Board changes and appointments to this committee change, so I prefer to see – I think it'd be easier for me to market – the idea that it's a standard three-year review, which presents the information to both the community and the Board Organizational Effectiveness Committee. It just makes me feel more confident that we're then able to defend the progress.

ERIKA MANN: Okay. I read similar comments in the chatroom. There's a preference more for three years. Some are saying even two years. I think two years

is really too short. If you have annual reviews, you don't want to do a major one after two years because it's really a lot of work. So three years sounds reasonable. It can triggered earlier, but a mandatory requirement would be after three years.

Back to you, Alan. I can't see anybody else, Marilyn.

ALAN GREENBERG: I put my hand up because I'd like to make a substantive comment on my own behalf, not as the editor.

ERIKA MANN: Yeah, I'll give it back to you. Go ahead.

ALAN GREENBERG: First of all, three years implies that there'll be one after three years. The first year is going to be almost a lost year because it's going to take time to get this process going, which means you're really only doing it after close to two years of real operation. I think that's far too soon. That's Point #1.

Point #2. In the bylaw revision we did under accountability, we said specific reviews must be done every five years. With every other type of review within the organization, the Board has some wiggle room and discretion to delay or to do it in a different way. In the wording we put in there, we gave the Board no discretion whatsoever, and it's been generally agreed that that was a big mistake. So I would object strongly to doing it again here.

I think we could say that we could make a recommendation that, after three years or four years – whatever the number is we come up with – the OEC consider whether to initiate a review. Or it could be every three years, subject to Board approval. But I think we need to leave some level of wiggle room here and not do it just based on an absolute timeframe.

Now, that being said, as I said, I think three years for the first one is too soon. Four years for the first one and then three years afterwards with wiggle room I'm happy with.

ERIKA MANN: Alan, let me argue against it. I really prefer a mandatory requirement, really based on 30 years of experience. It is really never good to leave it up for an entity to take a decision and then to trigger something. They should be able to trigger and request an earlier major review if it is really needed. But if it is not needed, it should be a mandatory requirements after three, four, or five years.

This is important for internal audits, too, because it's not just what the annual team is reviewing (the panel is reviewing), but here you go really into internal audits, which is a crossover [or] really a review of all the processes. You will review again all the financial streams. You review the request of conflicts which arose, even conflicts with evaluators. And it's a standard best-of practice, which must be done. I don't think it's a good idea to leave it open so it's only triggered by the Board or by the review panel. So I don't think that is [adequate] to [inaudible] processes.

ALAN GREENBERG: All right. So we take both of these options and merge them together. I strongly suggest the first one be four years and three years afterwards.

ERIKA MANN: I agree.

ALAN GREENBERG: Any objection then? So we keep both of these options in, merge them together somehow, and make it four years plus three after.

MARILYN CADE: No, Alan. Sorry, Erika. May I speak?

ERIKA MANN: Of course. Apologies. Did I not see your hand? Go ahead.

MARILYN CADE: I don't understand what just happened. What happened to me, watching the list, was support for three years. Then I heard Alan saying, "No, no, no, no. I want to go with what I prefer." So I don't get it. I don't—

ALAN GREENBERG: That's not—

ERIKA MANN: [inaudible] for the first year, Marilyn. But Alan [inaudible] for the first term—

MARILYN CADE: Let me finish, please. I don't get it, okay? I really don't. Everyone else suggested three years and then, Alan, you're exercising some kind of preference that, because you're the author, you get to say, "No, I prefer four years." I don't agree. I do not agree.

ERIKA MANN: Alan, take it.

ALAN GREENBERG: Thank you. What I suggested was four years for the first interval because the first year is going to be essentially a lost year in terms of actual operation and therefore doing it after three years might not give enough information. So I suggested – I'm not trying to rule – that the first one be four years and then three years thereafter. That's what I suggested.

I also thought I had heard of support for keeping in the fact that this could be triggered at an other interval by the annual review panel or by the OEC. That is what I suggested. If people disagree with the first interval being four instead of three, I'm happy to keep it all three. I wasn't trying to make any decisions. I was trying to summarize.

MARILYN CADE: I really appreciate that, Alan, but I'm just going to say that a gap of zero to four is far too long. If we could agree that it's three years, then I would feel much more comfortable.

ALAN GREENBERG: Okay. The comments I'm seem to agree that four years for the first one – remember, it can be triggered earlier if things seem to be going awry. If anyone other than Marylin is saying that four years … Okay. So we have …

ERIKA MANN: Alan, take the three years. It's totally fine. Keep it. Then it is maybe a lighter review for the first three years. Then they can do [inaudible] after six years.

ALAN GREENBERG: Okay.

ERIKA MANN: It's not a point to fight about.

ALAN GREENBERG: All right. I just hate wasting money on these things, but three years it is. And we keep the early trigger?

ERIKA MANN: Yeah, we keep the trigger, I would recommend. Everybody agrees on the trigger? If there's something that annual review teams identifies as a major problem, then it could trigger much earlier a complete review.

ALAN GREEBERG: But the first one is mandatory after three years.

ERIKA MANN: Okay.

JUDITH HELLERSTEIN: Quick question.

ERIKA MANN: Judith, is it you?

JUDITH HELLERSTEIN: Yes.

ERIKA MANN: Go ahead.

JUDITH HELLERSTEIN: Quick question. When you say "mandatory after three years," what happens if – I think we should keep the early trigger even for the first one – after the first two years, they feel like it's going off-course?

ALAN GREENBERG: The early trigger is there. Period.

JUDITH HELLERSTEIN: Okay. I thought you said the earlier trigger is not going to be there for the first one.

ALAN GREENBERG: No, I did not say that.

JUDITH HELLERSTEIN: Okay.

ERIKA MANN: [inaudible]

JUDITH HELLERSTEIN: All right. Sorry.

ALAN GREENBERG: All right. And we give the OEC no discretion to be flexible [after] the three years. That is correct?

ERIKA MANN: No, we don't. We don't give them discretion.

ALAN GREENBERG: Okay. The next item is, [as] part of this review, this group will decide whether the annual review panel should be continued or not -- that was suggested by somebody; I don't know who – and any further details would be decided by the implementation team.

At this point, we've gone through it all. I think we're complete. I have what I believe are marching orders for the next revision. I will get that out within a day or so. I turn it back over to you, Erika.

ERIKA MANN: Thank you so much, Alan. I believe we are clear. Joke, do you want to summarize action items on this item, or do you rather prefer to do this after we have seen the next version from Alan?

JOKE BRAEKEN: Hello, Erika. I took notes of the discussion and then made a very general action item that Alan will update a proposal regarding the role of the community based on today's discussion. The different discussion points have been written down in the notes. Just as a reminder, the notes are meant to help you navigate through the content of the call, but they're not really a substitute for the transcript or for the recording. Thank you.

ERIKA MANN: Yes, absolutely. Thank you, Joke. I think we should make, in the action item, a general point that we check whether some of the discussions we had right now need to be clarified in the guidelines so that we just need

to put in some language for the implementation team. But we can do this only once we have seen the final document. Just put this in as a placeholder.

JOKE BRAEKEN: Thank you, Erika. I will do so.

ERIKA MANN: Thank you so much. Okay. I'm checking again if somebody wants to raise and make a comment here.

Not the case. In the chatroom, neither. Okay, Marika. Back to you. We can take the next item on our agenda. Can I see maybe the agenda, please?

MARIKA KONINGS: Yes, Erika. Hold on. I just need to switch between documents. I actually wanted to make one suggestion because I think our next item is in relation to the individual appeals mechanism, where we already had some discussion on the list: to maybe first go to the other item that we have in relation to the independent evaluation panel, as there we have not had discussion yet, noting that we have half-an-hour left in this call. So let me just …

ERIKA MANN: Absolutely.

MARIKA KONINGS: Move that [up].

ERIKA MANN: So we're just changing the order of the agenda. Yeah, we had a lot of discussion in e-mail. We had a long discussion by e-mail exchanges about the question of how independent the evaluation panel can be described. Marika and staff did a long evaluation of different documents and I had sent some of the documents which are used in international organization on how they approached the topic about independence and then staff came up with a proposal and I have evaluated – unfortunately, I did it a little bit later – I have to apologize – because we have negotiations in the company, in the firm, this week with clients so I'm a little bit stretched. So, I reviewed it a little bit late and made some changes and this is the latest document.

We haven't discussed this. We have a small group which is working on this topic. It's Jonathan, Alan, Marilyn, Vanda, and two or three others. You have to remind me, please, Marika that I'm not missing somebody. So, we haven't discussed this yet because I was late in sending it out. It's now gone out to the group but it would be nice just to get a quick understanding from you all if you like this language because then it's easier for the small group to continue working on it and hopefully we can finalize it this week.

So, I'm going to read the text to you and then maybe just clarify a bit what we believe we should put into it. So, that's the following text. Regardless of which mechanism is chosen, an independent evaluation panel will be established. The panel responsibility is to review and

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evaluate project applications. Neither the board nor staff will be taking decisions on individual application but will instead focus its oversight on whether the rules of the process were following by the independent panel, if conflict arise related to the legal and fiduciary obligations. So, that's the point where they practically will intervene.

Members of the independent evaluation panel will be selected based on their expertise, not affiliation nor representation. ICANN participants are not excluded from applying to serve on the independent evaluation panel but they can only be selected if they would have the required expertise and have demonstrated that they have no conflict of interest that could influence or be perceived to influence decisions.

[inaudible] to be given during the implementation phase, that safeguards are in place to ensure the independence of the members of the independent evaluation panel is ensured. There's something missing at the very end so we have to tweak the language a bit.

So, that's what we have put in. Then there is a footnote which I want to read to you as well. The CCWG has based itself on the following definition of independence. Independent is typically defined as a quality that can be possessed by individuals and is an essential component of professionalism and professional behavior. It refers to the avoidance of being unduly influenced by invested interest and to being free from any constraints that would prevent a [inaudible] course of action being taken. So, this pretty much summarizes our discussions.

Now, we had some indirect comments, if I remember this well, by Elliot and – Jonathan, please remind me – by Jonathan which probably would

have preferred a different language. We don't have Elliot with us today and I don't see Jonathan neither, so maybe let's not [define] a discussion because we will bring the debate back to our group. But just give you some time to reflect upon it and to let us know what you think about this. We have a hand up from Judith. Is it you, Judith, or is it just an old hand? And Marilyn, is it a new one?

MARILYN CADE: It's a new one. It's very quick.

ERIKA MANN: Go ahead, Marilyn.

MARILYN CADE: I didn't recall what Jonathan's … I don't know if anyone else does. I didn't recall what Jonathan's concerns were. If it's possible to recapture them … Because he's off at – he announced he was leaving for a registry call and I think probably Elliot is traveling. So if anyone recalls what the concerns were, that would be very, very helpful.

I just wanted to say, from my perspective, from the CSG, I think this is a very neutral and balanced representation. Just to comment about if we can eventually reach agreement on this, then I think this will be a helpful recommendation to the implementation team.

ERIKA MANN: Thank you, Marilyn.

MARILYN CADE: Thanks.

ERIKA MANN: We have from Joke, the complete reference about the small team. Marilyn, [inaudible], Vanda, Ching, [inaudible] and Jonathan and Elliot and myself. So, this is the group. And if my memory is correct – but I want to be very, very careful here – but I believe it was either in the chatroom or in an email exchange with Jonathan, not expressly, but not even concern but was wondering whether if we want to have a complete independence for the people from the community who are serving in any kind of panel. In this context, I think he raised a point but I'd rather prefer, since this goes back to the team and Jonathan is part of the team, he can raise his point directly instead of me interpreting what I have read. I'd rather prefer this. But it's good to hear that you like this, Marilyn, and I don't see anything else here coming up. It's something else – Maarten, do you want to comment and Alan?

MAARTEN BOTTERMAN: Yeah, sure.

ERIKA MANN: Go ahead, Maarten.

MAARTEN BOTTERMAN: Just to say that [inaudible], of course, that this is important and it's also important to be very clear what expertise and what independence really means. Fully aware of the importance to get clarity on that beforehand, rather than during the process. And for sure we aim to provide more insight from our part after the workshop, the Board Workshop, as well.

ERIKA MANN: Okay. Thank you so much, Maarten. Alan, please.

ALAN GREENBERG: Thank you. I just wanted to note that, although Elliot is officially part of the group, he hasn't been able to make any of the meetings recently, either the whole working group meetings or the small group meetings. I'm hesitant to quote Elliot but my recollection is that he was quite adamant that the group selecting projects be composed of people from the ICANN community, so representatives of ACs and SOs, that kind of thing. That's my recollection and I won't say I'm quoting him, but I'm pretty sure that was his position which was, as we've heard, strongly opposed by others. Thank you.

ERIKA MANN: Yes. Thank you so much, Alan. That's my recollection as well. I do agree. But we have modified it so members of the community can participate based on their qualifications and their knowledge which hopefully will be something he can support. Jonathan's point was a little bit different. So, I believe we have an understanding. If somebody wants … Sylvia, I'll

take you in a second and Marilyn. I see you both. Marilyn, you want to comment or is this an old hand?

MARILYN CADE: It's not an old hand, but let's hear from others. Let's hear from others before I speak again.

ERIKA MANN: Yeah because I have you first. Sylvia, then, please.

SYLVIA: Thanks, Erika. I was typing very slowly in the chat that I would rather include the word proposals or applications on the actual [inaudible] on the back of the panel because that word, evaluation, might again become confused with evaluation of projects, not project [inaudible], not project proposals. So, although it is included in the text description, it might be good to keep that in mind for the [inaudible].

Then, [Katalina] made a comment about who selects the people that are participating in this sort of panel and there were some conversations in the chat about needing volunteers and [inaudible] that people volunteer. It will be very good, depending on the actual scope of [a grants] call that says it's the first round of funding to be given to the first objective of the [inaudible] – I don't know. But depending on what the implementation team decides. Then, the volunteers that you need not only have to know about grant management or project management or things like that, but they also have to know about the subject matter. So, it will be important to make sure that on the call for volunteers, the

expertise required is clearly described and that is dependent on what the round of applications will be. And that normally tends to change to a certain extent every now and then.

So, it may be worth considering how to include a couple of words in that volunteer [spot], that members of the panel [pack] in terms of their expertise. Thank you.

ERIKA MANN: We can approach this topic from two angles. I would love us to avoid the word volunteer because we're talking about experts. Now, the experts can come from the ICANN volunteer community – that's what we are saying – but they are experts. So when they apply for it, they are experts. I would rather prefer we keep the language related to the experts, and instead once you shift the language and you talk suddenly about volunteers, it becomes – it's a different line of approach we have selected so far. So, we are not excluding anybody from the community. That's what we are saying here. But they need to have the expertise.

Now, you raise another point which I believe we have to put in the guidelines because I don't think we should take any decision about it. But once we have taken the decision about the mechanism, then the implementation team will indeed have to look at the first call for experts. This is something they will have to do. It will be very different, I assume, if it is for example a foundation or if it is in-house, the processes will be different so we will have to put in something for the implementation team as a reminder that's what they have to do. They will figure it out themselves. But we still should put this in.

If this is happening, what you said – sorry?

SYLVIA: Thanks, Erika. I do agree with the use of the word expertise and experts, which you mentioned. I see that there are no volunteers on the text which is very important. This is exactly what I was trying to say.

The point that I was trying to raise, the clarification that I think might be worth adding, is that the expertise, there are way too many experts in ICANN community, on absolutely everything. So, what I was going to say is that the expertise should be linked to the actual round of funding that is going to be given. Those guidelines should include that. So, it's not expertise as a whole because then it would be [inaudible] for an implementation team or whoever decides who appoints these people how you select them. If you get 100 experts, how you appoint them. And they are all offering their time and their support and everything else.

So, to tackle that thing about [inaudible] definition, that the expertise is about the actual round of funding [inaudible], let's say. But it would be that they appoint these experts – sorry, I'm not going to use the word volunteer. But say they appoint these experts for the first selection process and it takes a few months of their team in a year and then they have to step down and be appointed again in case the next call for the second year changes or something like that, but have mechanisms to do that. But the expertise should be linked to the subject matter that the round of funding will address. Thank you.

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ERIKA MANN: Totally correct. Thank you so much for the additional clarification, Sylvia. You're absolutely right. Joke, we need to add a sentence here. I can work on this as a first draft based on what Sylvia just said and then it goes to the small team for review and then the small team can evaluate the complete language and we can put this forward to this group. Sylvia, I will send it to you once we have finalized. And Marilyn and [Caroline], we will – but you will receive it anyhow. Once we come up with a proposal and a final language, we will send it to the whole team here and you can review it. Thank you so much, Sylvia. Good point. It needs to be particular done for the first call for experts. You're absolutely right.

Okay. I have understood this. Marilyn, is this a new hand?

MARILYN CADE: It was but I'd like to withdraw it so we can move forward.

ERIKA MANN: Good. Thank you so much. Marika?

MARIKA KONINGS: Thanks, Erika. Just a point of clarification here. I had actually understood, from the small team conversations and also some of the materials we reviewed in relation to how other organizations do this, that the selection of experts would actually be done by the mechanism and whether it's the board that oversees the mechanism or whatever part of the mechanism would be able to do that. That's what I had actually taken away and I think we're now talking about the

implementation team doing that selection. I don't know if there is a concern there, then, again, with the kind of conflict of interest coming in and whether it would be more appropriate for the implementation team to maybe focus on the criteria and the characteristics that experts would need to [inaudible] and then have the selection process actually be run by the mechanism itself.

ERIK MANN: Absolutely correct, Marika. Sorry if I confused it in trying to understand what and [inaudible] what Sylvia was saying. You're totally right. Implementation team is not doing it. But my point was the implementation should be doing what Sylvia was recommending and clarifying the point that the first call for experts needs to be very specific and really clear about the request of knowledge. Sylvia was making the point it may be important to have this included either here or somewhere else where it's clear before it goes to the implementation team. So, you're totally right. Neither Sylvia nor I is [inaudible] the implementation tool should do the selection of experts. We're all in agreement here.

Joke, are you able to – Marilyn?

MARILYN CADE: Sorry. I keep trying to not me, not me, not me.

ERIKA MANN: Not you, okay. We have this clarified. Joke, do you want to summarize the point?

JOKE BRAEKEN: Hi, Erika. I took an action item that we should clarify in the guidelines once we took a decision on the mechanism, that the implementation team will need to draft a first call of experts and this call needs to be very specific on the requested knowledge linked to the actual round of funding.

ERIKA MANN Joke, we just clarified this between Marika and myself. It's a little bit different. Let's do this action item points and clarify it after we have finalized this call, if everybody is fine with it. We have to modify this action item point, Joke. I have taken notes about it. Can we do this afterwards?

JOKE BAREKEN: Absolutely. Thank you.

ERIKA MANN: Thank you so much. Okay, next item, Marika. Marika, have I lost you?

MARIKA KONINGS: No, I'm here. I was just moving the slides around. We're going back to item five which was the proposed text for the individual appeal and mechanism. This language was circulated on the list based on input that was received on an updated proposal that Sam had helped put together. I think at least, if I can summarize, I think there's general

support for the rewording that's proposed here which basically indicates that the group discussed the topic of whether an individual appeal mechanism should be created or not. But after having reviewed how other organizations deal with this, as well as considering that the complexity that it might bring, that the group is not recommending creating and individual appeal mechanism, but instead that there is an expectation that a response is provided to applicants, information is provided as to why a project was not selected.

I do know that there were a couple of comments as well that focused on assistance, potentially for applicants, and ensuring that information and materials would be available to help applicants in their preparation. And instead of maybe trying to fit that in here, maybe staff can have a look and see that in the context of the implementation, a guide is provided. If we can make a recommendation there that notes that as part of the implementation of the program, the effort should be undertaken to ensure that informational materials are available to assist applicants in their preparation and maybe, in that way, cover that aspect that several of you have commented on.

Again, this is the language that went to the list. Of course, if there are any further comments or concerns, I'm happy to hear them.

ERIKA MANN: Alan?

ALAN GREENBERG: Thank you. I caution … I recommend extreme caution in putting words in print saying that the applicant can ask and we will give them the reason why it was not accepted. Projects may not be accepted for a lot of reasons, many of which are not going to be determinable after the fact. There may well be conflicts in the group, disagreements. Projects may be rejected for reasons associated with who the applicant is, what their prior experience is, or simply we ran out of money in this round. It's likely that one cannot give a definitive reason why that we are willing to put in writing. So, I really caution you about that. It's just loaded with potential problems. Thank you.

ERIKA MANN: Thank you so much, Alan. I agree. Let's avoid this point. It's not typical in funds that a reason is given. Somebody else? Marilyn, please.

MARILYN CADE: I agree with Alan. I think we're overreacting here. Some ideas seem to be trying to recreate ICANN, the organization, and to this process. I don't think that's a good idea. I look forward to hearing from others but my experience is when you don't receive a grant, you get a notice saying you were not approved, period, end of discussion. Here's the next round announcement. Please consider applying again. But no "you didn't have the right constitution of your members", "you didn't meet all of our criteria", etc.

Now, I will say my experience is in grant making and perhaps a different process than the ISOC or the IEEE, etc., but I think if we are creating any kind of an appeals mechanism or "you didn't do this right, you didn't do

that right" we're opening this process up to huge liability and delays on being able to do our job. You apply for a grant, here's the facts, here's how you apply. Let's be clear on the facts. Here's how you apply. You were not awarded. Here's the next round. Just move forward.

ERIKA MANN: Thank you, Marilyn. I see in the chatroom points raised by Sylvia, Judith, and I believe Sylvia. They raise the point that feedback is important but not appeal. I agree. There can be … What is typically done is a kind of standardized [inaudible] which is sent back to all of everybody who participated in an application process but it shall not go into justifying why a particular project was not accepted. That's the point I believe we are making.

I think what we need to do, because this is something really the implementation team needs to review, so we should be clear about our intention and our goal and what we want the implementation team to do but that's clearly [a text] the implementation team will have to review. We have to be very clear here but we shouldn't go into micromanaging the processes because they may want to select a different feedback mechanism than we may have in mind. So, feedback, yes, but not justification. That's what I believe we are currently saying.

What we have to do next is to … Apologies. I have Marilyn, Judith, and Alan. Please let me know if they are old. Just let me know. Marilyn, old hand? Okay, taken down. Judith?

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JUDITH HELLERSTEIN: Yes. I don't think we should have an appeals process, but I do think that people should be given some feedback, especially they could be saying all monies were awarded this time or anything. It doesn't have to … We could have no appeals process but we could say – get some feedback that will help them apply again, so then they could be successful the next time, and if they misunderstood something, then they would know, "Oh, okay, let me now know what to do and I can apply again," and I think that is very helpful, especially for applicants who have not done this before. I'm supporting feedback on the application but no appeals process. Thank you.

ERIKA MANN: Okay. That's a topic we will have to take to our next call. So, what I recommend to do here, Marika, is to do a rewording based on what we have heard, as much as we can do it, and then continue the discussion in the meantime via email so we can hopefully get an agreement on the text. But keep in mind that the finalization of this particular item will have to be done by the implementation team based on the mechanism. So we are giving guidance here but we must allow a certain modification concerning the point of feedback, because this will need legal clarification, too, because if a feedback becomes too precise it can be, in legal terms, very conflictual. I experienced this. So, we want to be careful here. So, do we have an agreement here? Alan and Marika, new hands?

ALAN GREENBERG: I would like to comment.

ERIKA MANN: Go ahead.

ALAN GREENBERG: I really would like to see examples of what feedback is as opposed to reasons and how feedback would not be reasons. I think we're adding huge amounts of workload if we're going to have to provide feedback to every rejected applicant. There may be a very large number of them. And the feedback may not be something we want to put in writing. That's a huge caution. We may be able to cover liabilities by having a condition of application saying you give up any rights to take legal action over it. Some of those clauses don't hold up in courts in various other jurisdictions. We could try. I think, by the way, that should be a requirement in any case, regardless of whether we have feedback or reasons or whatever. But I really think we're opening up a can of worms in terms of both workload and liabilities if we provide anything related to the feedback or reasons. Thank you.

ERIKA MANN: Thank you, Alan. Sylvia, please.

SYLVIA: Thanks, Erika. Sylvia here to respond to Alan's comments. I think what he said is absolutely right. That's one of the reasons why I provided examples of the appeals mechanism and how difficult it could be. If you get a few applications, then working through feedback might be easier in terms of what they did right or what they did wrong or how they can

do better or whatever. But let's say the following year the actual theme or the focus of the round for funding changes and it's not, I don't know, a specific DNS solution, type, or protocol, or whatever this funding is looking at, then the applicants that applied from the previous year will not be eligible to apply for the next. There is no guarantee that the cycle of reapplication [inaudible] will actually be helpful or the feedback will be helpful because if we are serious, if the implementation team and the people that implement the mechanism are serious about incorporating feedback, the [inaudible] with time, right?

And if you get hundreds of applications, then the challenge of actually providing something that is consistent across. So, I think the point that [inaudible] made about if the guidelines are clear, then there is less need for providing feedback is important.

To be honest, in our experience with the grants that we have, the people that ask or receive more feedback are actually the people that are accepted for the rounds because the selection committees normally have a lot of qualifications that they want to see on project implementation. Some of our selection committee members come with very good solutions to people that are rejected to say to them, "This is a great idea but it's not mature enough. Could you answer this, this, and this specific question and [inaudible] proposal?" They are very clear on that but we need to have a very strong selection committee to be able to do that feedback loop process and [inaudible] perfectly possible in the grant application process.

Someone – I can't remember who – on the mailing list mentioned the application processes that are like two stages, [inaudible] just left, but

[inaudible] they submit a basic idea first and then if they are selected, then submit a proposal. So, there are mechanisms to actually work through the feedback so that people don't lose a lot of time in the application process. And those type of feedback are normally more engaged with the program in the future and have the program developed.

So, there are very fine lines there and that's a lot of [inaudible], but I think that what Alan said about the liability and the can of worms is something that we really, really have to be very careful about. Sorry if I took too long. Thank you.

ERIKA MANN: No, that's fine. That's fine, Sylvia. Thank you so much. I think the leadership team, we are able, based on the comments you made – and I believe we have a general agreement how we want to take this forward. So, we will do a redraft, will circulate it by email so you can comment on it. Marika, I have seen your hand or are you fine with the point I just point, the final?

MARIKA KONINGS: Thanks, Erika. I had already posted some proposed updated language in the chat but I think [inaudible] send it to the list.

ERIKA MANN: Yeah. Let's do it by email. Thank you so much for this. Okay. I think we are done. We finalized our work today, so there is no other item on our agenda, correct? And we are already over time. So, let me thank

everybody. Thanks a million. We will take the forward by email, and then based on how fast we are, we will have our next call. Marika, please remind us about the next call.

MARIKA KONINGS: Thanks, Erika. The aim is now to finalize those last pieces that we discussed today on the list by the end of this week and then we follow the timeline that's here on the screen which would mean our next call would be Wednesday, the 18th of September at 14:00 UTC.

ERIKA MANN: Okay. Thanks a million. Have a great day, everybody, a great evening, great morning. Back to you, Julie.

JULIE: Great. Thank you so much, Erika. Everyone, this meeting is adjourned. You can disconnect your lines. And to all, have a good rest of your day or night. Thank you.

ERIKA MANN   Thank you so much. Bye-bye.

[END OF TRANSCRIPTION]