ICANN Transcription
CCWG New gTLD Auction Proceeds
Wednesday, 18 September 2019 at 14:00 UTC

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JULIE BISLAND: Good morning, good afternoon, good evening, everyone. Welcome to the CCWG New gTLD Auction Proceeds call on Wednesday, the 18th of September 2019.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom Room, and if you're only on the audio bridge at this time, would you please let yourself be known now? And I do have Ching noted as audio-only. Anyone else? Okay, hearing no names, I would like to remind all to please state your name before speaking for transcription purposes, and please keep phones and microphones on mute when not speaking to avoid background noise. With this, I will turn it over to Erika Mann. Please begin.

ERIKA MANN: Thank you so much, Julie. This is Erika. So, let's go and after we have done point one, let's do a quick check whether we have done agenda item one, whether somebody wants to make an update concerning the conflict of interest declaration.

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Marika, I see that you want to talk to me about something? Somehow I can't go to Skype right now. I don't know why. I can't get disconnected from the screen and open a second one. So, give me a second to sort this out. Apologies. Somebody wants to make a declaration concerning conflict of interest? No. Okay. And Marika is saying nothing urgent. Thank you, Marika. Let sort this out so that we can chat if something is needed.

Okay, then let's be so kind and let's move to the next agenda item. What you see here is an update of the agenda which we have sent you. Please be aware we had some last minute recommendations coming in, and we have all included them, including yours, Maureen. I haven't seen you yet being a participant, but we have included them all so we can talk about it today, and hopefully we are able to come then to a conclusion by the end of this session today that we can talk or we want to carry this forward. And we have this on the agenda item as point four.

Let us talk about the item one by one, and hopefully we can get this all done today. Julie, Emily, I don't know who is showing the document. I can't see the beginning of the document, neither can I scroll. Maybe that's true for everybody on the call. Have I lost you all?

EMILY BARABAS: Hi, Erika. This is Emily from staff. It's a screen share in Zoom, so there's not scrolling capability for anyone else, but I can scroll through the document as you speak. It looks like we're starting on page 12 of the report.

ERIKA MANN: No, we are going back to the agenda please. I want to have the agenda again just to explain briefly the agenda, but then I need to see the agenda from item one until the end, and this I can't do.

Thank you so much, Emily. Yeah. Here is the agenda and here you see on the point topic item 2, these are all the clarification which are still outstanding, and we will talk through them one by one. Most of them I believe the leadership team has sorted out or at least has a recommendation how to deal with them, but we, nonetheless, need to talk about them. So, having said this, let's go to the first item now.

Emily, please. Which would be the item clarification about the use of language? And now it's gone again.

EMILY BARABAS: Hi, Erika. Did you want to keep just looking at the agenda, or do you want to look at the relevant text in the report as we go through the item?

ERIKA MANN: Right now I want to see the agenda so that I can read the topic and then I come back to you, and you would be so kind and show what we are talking about.

EMILY BARABAS: Okay, one moment.

ERIKA MANN: Thank you so much. If it is easier for you, Emily, you can read it. It's not a conflictual item. Okay, here we are. So, that's the first topic we like to talk to you about briefly. There's not much to discuss. I believe we already discussed it and we have sorted out most of the issues related to it, but we just want to draw to your attention that sometimes – and there are two things which we need to do.

First of all, we have to ensure that throughout the document we always use the same language, and second, we want to draw your attention that there's one occasion where the language will be slightly different but this is just because we will take the original language from the Board. So, what we just want to discuss with you and draw your attention to is the clarification about the use of language in relation to ICANN's mission. So, what we have agreed in the past in consultation with the Board was to use the language must be consistent with ICANN's mission. And there's one occasion where we are going to quote the Board and we will quote the whole text which is, "The Board is responsible for making sure that ICANN's mission is observed at all points throughout the process, and any disbursement mechanism must have processes and procedures to ensure that auction proceeds are used in a manner that contributes directly to ICANN's mission."

So, here's a slight change. I don't think so it is relevant but we want to draw your attention to it. So, instead of consistence with ICANN's mission which we are now recommending to use throughout the whole document, here we want quote from the

Board where it will differ lightly. Is there anything else, Emily we want to add to this point?

MARIKA KONINGS: Yeah. This is Marika. I just flagged this in the chat as well. I said this particular quote comes from a section in the report that provides an overview of the input that the ICANN Board has provided. And as far as I understand, that is all copy/paste, but staff will take an action item to double check that this is indeed copy/paste and we may be making even more clear that this is copy and paste text. It's not something that the group has developed or is recommending. This is indeed context that's provided and it's not in this section that talks about the CCWG's responses to the charter questions and recommendation, which, as you note, use the consistence with language.

ERIKA MANN: Yeah. Thank you so much for this, Marika. I just wait a second just to hear if maybe Becky wants to add something, or Sam? I see both on the call, in case they want to jump into this discussion or if they can accept that we will have the language throughout the document must be consistent with ICANN's mission, and of course we will keep the language as it is quoted from the Board and as reference to the point Marika just made. I'll just give you a second in case you want to –

BECKY BURR: I think we're in agreement that the quote from the Board should be whatever the language is that that is in the Board transmission.

ERIKA MANN: That's Erika. Becky, I believe this was you. Yeah?

BECKY BURR: Yeah. Sorry, this is Becky.

ERIKA MANN: No, problems. Becky, are you saying we shouldn't use the language "must be consistent with ICANN's mission" on [inaudible]?

BECKY BURR: What I'm saying is that the CCWG can use the language that it likes to use throughout except this particular provision is a quote from the Board's communications. So, I think that the language that is in it now, assuming that staff double checks and it is indeed copy/paste text, should remain as it is.

ERIKA MANN: Okay. Thank you so much. I think this clarifies this point. And then Marika will check anyhow internally that the – first of all, the language will be used consistently throughout the document and in case somebody else will make an internal point, I'm sure Marika will then draw our attention to it.

Okay. Let's go to the next item then. Just let me check quickly the chat room if somebody … participants, anybody raising hands?

Not the case. Okay. Then let's go to the next item please. Emily, are we now talking about page 17?

EMILY BARABAS: Hi, Erika. Yes. There's actually three items here that are sort of bundled on page 17, 19, and 22 and they have to do with responding to charter questions 3, 5, and 10 from the perspective of Mechanism C.

ERIKA MANN: Yes. So, this is Erika again. So, here we wanted to do the following. If you remember, when we did the charter questions – and can we see the document? Is it possible for you, Emily, to show the document? You can show it with the additions I already have made because I will talk about it, so just that everybody reminds what I'm talking about.

What we have done, if you remember, we had identified the charter question in relation to A and B, and we [inaudible] with regard to C and practically ruled out D because we came to the group –

UNIDENTIFIED MALE: [Inaudible]

ERIKA MANN: Sorry? Okay, that D would not be really relevant. So, we have clarified A and B, and C was quite vague. Then after we reviewed the public comment period, we identified that there's part of the

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constituency who favors C. So, you remember we then brought C back into the discussion. And now we have to add the language to C, and I did the first draft here but this will have to be reviewed by you, so we would send the document to you after the call today so that you can review it, and there will be probably first and internal review by staff. Because I just at this last minute and so staff will want to review it first and ensure that everything is coherent what you have said before and then we will send them to you.

So, this is concerning charter question 3, which was what safeguards are to be put in place to ensure that the creation of the framework as well as its execution and operation respect the legal and fiduciary constraint that has been outlined in this memo.

So, I just added some language here. I took practically the language between [inaudible] had already used in this regard to Mechanism A, and then I modified it and identified topics which are going to [defer] in Mechanism C in case this would be the recommended mechanism.

Can we see the other charter question? What you see here in red is my additions. The black is the original version. Can we see the – yeah. This was an internal – can I see the question? The beginning of this particular…? Yeah, charter question 5, what conflict of interest, provision and procedures need to be put in place as part of this framework for fund allocation? Again, you see I added here few points which we'll have to be reviewed by staff and then have to be reviewed by you all.

Just scroll down, Emily please. Up, whatever you prefer. Here you see the addition and then comes Recommendation 10. To what

extent, and if so, could ICANN the organization or a constituent party be the beneficiary of some of the auction funds? Again, I took a language which we have debated at the very early phase. We had an exchange with Sarah and I took some of the language and language which I found in the practice between other foundations and the mother ship. So, it's nothing I invented but I took a language which I found and found might helpful for our case. But again, it has to be reviewed by staff and then by all of you. Is there another one, Emily, or are these the ones?

EMILY BARABAS: That's it, Erika. Thanks.

ERIKA MANN: For right now, there's nothing to do. We just like to draw your attention to these three charter questions and that we had indicated and set. We still need to fill in language for Mechanism C, which would be an ICANN foundation in case we are going to recommend it, but we need to fill in the language here. The recommended procedure is staff will review it next, and then as soon as possible we'll send it to you ideally today, latest tomorrow.

Let me check if we have somebody who wants to … Marika, Emily, have I forgotten something here? Marika, Emily?

EMILY BARABAS: Hi, Erika. I think you covered everything on this item. Thanks.

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ERIKA MANN: Thank you so much. Okay. Then let's go please back to the original agenda. If you all agree there's nothing to discuss further here, but please indicate if you would love to raise a point here. Just give you a second. Okay, there seems to be not the case.

Now, let's move now to page 22 from the document, and here we have a clarification of text regarding separation of auction funds and ICANN's operational budget. Marika, can you make the introduction here, please? Marika, do I still have you on call?

MARIKA KONINGS: Yes. This is Marika. Sorry, I was on mute. But I think, actually, Emily is better position to introduce this one.

ERIKA MANN: Apologies. Emily, please.

EMILY BARABAS: Hi, Erika. On page 22 we had a comment – it was a general comment from Marilyn but I think this is where it fits most appropriately, in which she raised that there might need to be additional clarification about the maintaining the integrity of keeping the auction fund separate from contributions to the ICANN operating budget. And we have some proposed language that just came in from ICANN finance that hopefully speaks that issue and makes it a little bit more clear. I can drop that into the chat and we'll include that in the next iteration of the report for everyone to review as well.

ERIKA MANN: Thank you so much, Emily, and I believe we have now Xavier with us. Xavier, I believe the language came from you. Would you like to read it and/or comment on it?

XAVIER CALVEZ: Hi, Erika. This is Xavier. Can you hear me?

ERIKA MANN: Yes, perfectly well.

XAVIER CALVEZ: Thank you. Yes, thank you for the opportunity to comment. I saw the comment and the question from Marilyn. I provided the language that is, the overarching principle of the auction proceeds not to be used for the purpose of funding ICANN's ongoing activities. And I suggested to – insert that language at the very beginning of the answer to the question #10 because it's really an overarching principle and hopefully then gives context to the rest of the answer, but I would like that Marilyn and others can review the edited version of it to ensure that the clarification that Marilyn was pointing out would be useful is actually there as a result of having inserted that comment, because I'm not completely sure what she were suggesting needs clarification.

So hopefully that helps, and if more is needed, I'm happy to maybe discuss directly with Marilyn or others that had that concern as well. Thank you.

ERIKA MANN: Thank you so much on this. Since I believe there's one person on the call – I think we should read the text. So, Emily posted the text consistently with the independent purposes of auction proceeds as stated in the Applicant Guidebooks, the general use of the auction proceeds should exclude the funding of any ICANN ongoing operational activities. The auction proceeds are funds that result from circumstances that are unpredictable as to their occurrence, repetition, extent and sustainability. As a result, they cannot support the management of ongoing activities which require predictable and sustainable funding.

Marilyn, are you hearing us? Would you want to comment on this one? Are you fine with this?

MARILYN CADE: I'm generally fine. I think it's actually not consistently but consistent and it's not – it should be ICANN.org, I think. But generally, I think this is what I was looking for and I'll just explain why. Because I have to explain what we're doing to people from the three constituencies in the CSG who don't follow this and this kind of information which maybe very clear to us because we're in this up to our boot tops, not everyone is. So, I'll take another look at it but I think generally it conveys what I was looking for.

ERIKA MANN: Okay.

MARILYN CADE:	But Erika, but it should refer to ICANN Org, right?

ERIKA MANN:	Yeah. It's understood. And let me just wave one point. Xavier, let's assume the way you have phrased it, which I believe is very elegant because it believes the auction open in case ICANN would want to participate in a major project and I mean ICANN Org. Let's assume the topic which was discussed many times like a root zone update, which would require millions of money and ICANN would want to participate, ICANN can participate. So, the language the way it is currently framed would not prohibit this.

XAVIER CALVEZ:	Correct, Erika. This is my understanding as well because what you described would be an exceptional one-time exercise and opportunity that would not in my view as qualified as ICANN ongoing operations.

ERIKA MANN:	Exactly. I totally agree, and that's why I like this language. I just want to have the confirmation from everybody here. Either you stay silent and I assume you agree with this language, with the slight modification Marilyn made instead of ICANN Org, and in case you don't like this, Xavier, please let us know. And I just want to watch the participant that they are all fine with it, so in case you are not fine with it or you want to see it further modification, please let us know now.

UNIDENTIFIED MALE: Hello?

ERIKA MANN: Who is it please?

SOSSOU YAO AMEVI AMESSINOU: It's Sossou Yao.

ERIKA MANN: Okay.

SOSSOU YAO AMEVI AMESSINOU: As for me I'm looking for a modification there right there.

ERIKA MANN: Would you be so kind please to just to repeat again what you just said? It's very [inaudible].

SOSSOU YAO AMEVI AMESSINOU: I said I'm okay for all the modifications done there for the language.

ERIKA MANN: Okay. So, you're fine with it? Thank you so much.

SOSSOU YAO AMEVI AMESSINOU: Not with the language.

ERIKA MANN: Somebody else who would not like this?

CHING CHIAO: Erika, this is Ching. Can I speak very briefly?

ERIKA MANN: Sure. Anytime, Ching.

CHING CHIAO: Sure, thank you, Erika. This is Ching. Reading from the text – and, sorry, I'm only reading from the original word document on page 22 – and seeing the text here, it gives me the impression that I should be providing an angle here. Reading from the text which still a very fresh to me, sorry to speak this, but it seems that it's very logical and reasonable for ICANN to be in a position or in the text say, be eligible to apply for the fund if Mechanism C is chosen because it's an outside independent organization which every applicant, including ICANN itself, is being treated kind of equally in the process, meaning that everybody including ICANN itself is an applicant.

But if you look at, let's say if eventually Mechanism A and B were chosen, and then it seems to me that in the logical sense – and maybe I'm wrong, please correct me – but everything that ICANN does and ICANN as an applicant in Mechanism A and B, whatever they are doing, my understanding is that they will definitely fulfill

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the mission – I mean create and maintain by itself. So, it seems to me that those wordings seems that we are being very careful and also making sure that the community knows that the ICANN follow it too, but if let say ICANN itself is an applicant under Mechanism A and B, I don't see any kind of additional like requirements or responsibility shoulder on ICANN itself, because it itself needs to be bound by the ICANN mission for whatever it's doing. So, it seems to me in a logical ways that there's nothing much ICANN can do under Mechanism A and B as an applicant because as an applicant, they are doing will be bounded by the ICANN mission itself. So, I understand fully that from Xavier's point of view there's need to be the division and recommission of this responsibility and the other requirements. But, in fact, it's that there's not much ICANN can do as an applicant under Mechanism A and B. So, let me stop here, but thanks for hearing out.

ERIKA MANN: Thank you so much for your point. I think that's a very valid one and from a legal point of view, it's an interesting one. Because you are right, in the case of A, it is an in-house, in the case of B, it is joint venture with second entity, and C, it is outsourced. Although it is an ICANN foundation, it still a much more independent unit than in the case it in-house as a separate department. This will have legal consequences.

I believe that something – Sam, you want to comment on it right now? If you like to, please do so, but maybe that's something you want to reflect upon a little bit longer. The language which Xavier has recommended, which is a very elegant language because it allows in principle in case ICANN would want to and in a one-off

project want to participate in a bigger project with different partners.

So, Ching is making the point under Mechanism C is not seeing any conflict there, but with regard to A and B, he would see something. So maybe that's something you want to talk about right now or you want to reflect upon and do later. Sam, please go.

SAMANTHA EISNER: Thanks, Erika. I need to reflect a little bit about the bigger issue but I want to confirm. So, if there is a foundation, ICANN cannot apply for funds from the foundation that's set up to support ICANN's charitable mission. ICANN can't do that. ICANN could using the trench system access funds if needed under all the different issues that we discussed prior when the money is held by ICANN but once that money is transferred to the foundation, ICANN is not able to make an application for that. That just isn't feasible. So, we want to go back and look at this issue a little bit more.

ERIKA MANN: Yeah. I will check in a second because I see that more comments are coming in. I think that's a topic we should check because my understanding is completely different. Much mine is in accordance with Ching. Although, practice from companies which have a foundation and where the mother ship can actually participate not as a standalone unit but in cooperation with other partners. So, but that's something maybe you would want to check.

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I see Ching coming in, and then please allow me to check the chat room. Ching, you want to say something? Ching, I can't see the Skype, apologies.

CHING CHIAO: Yeah. Thank you. Thank you again, and also thank you, Sam, for the response. I totally understand your point on Mechanism C and I also if everybody sees the value to reflect a little bit more on the text put together by Xavier on Mechanism A and B. I think it's worthwhile to think a little bit more on – but I also want to emphasize there that my point is that – again it's a personal position. I do not see ICANN being excluded from this funding exercise under Mechanism A and B. Just the point I'm trying to make is trying to make sure that the wording is logical in making sense. So, thank you.

ERIKA MANN: Thank you so much, Ching. It's Erika. I misunderstood you due part of this thing you said, apologies for this.

So, we have Marilyn. Marilyn is saying, "I think it would be very difficult for ICANN to receive auction funds under Mechanism A and B. One reason that the CSG has been favoring Mechanism B is to have more independence," and I agree with Ching's comments.

Maureen is saying, the new text explain that Org would only access auction funds due to unusual, unpredictable circumstances. I'm okay with the inclusion of this text. So, what we have to do here – Sam, it's something very well need your review

here. Just go and have a chat with Xavier. I believe the language is correct. I really like it with the addition Marilyn made, but just ensure that this language applies to A, B, and C. Can we ask you to do this, Sam? Sam, yes, please. Is it a new hand?

SAM LANFRANCO: No.

ERIKA MANN: Apologies. Go, ahead, Sam. Why do I see – go.

SAM LANFRANCO: I'm having trouble with the phone.

ERIKA MANN: Okay. Is it working now?

SAM LANFRANCO: Go without me.

ERIKA MANN: Okay. Can you put something in the chat room?

SAM LANFRANCO: Yes.

ERIKA MANN: Oh, thank you so much. I will review it. Okay. Emily, back to you. Can we just summarize maybe the action item here and put a timeline to it so that we know when an ideal case when we can put this item to rest?

EMILY BARABAS: Hi, Erika. I think our action item here is for Sam in ICANN Legal to verify as she spoke to the situation in which ICANN would be an applicant once the funds are transferred into a foundation and make sure that the language is consistent with that. And for everyone else, I think just to review proposed language and provide feedback if they have any additional concerns. Thanks.

ERIKA MANN: Thank you, Emily. Can I make an additional comment to it, to the action item? I think what we would love to see if this language applies to A, B, and C. If it's consistent for all three mechanisms, and if there's a modification needed from a legal point of view with regard to a particular mechanism, it would be good to hear about it.

Okay. Who is taking the next item about the – what are we doing having next? So, the next one is page – on page 30, question regarding interest and return on investment for auction proceeds. So, this was a question I believe from Marilyn too, which was put forward through Xavier and Xavier clarified it. And we have a language here, of the $233.5 million in auction proceeds, $133 million are proceeds from the .WEB auction. The resolution of the .WEB contention set is being challenged through ICANN's

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accountability mechanisms. $36 million was allocated to the ICANN reserve fund. As of 30 June 2019, the net return on investment was $10.5 million. Therefore, the total auction proceeds as of 30 June 2019 are $208 million, of which $133 million are proceeds from the .WEB auction.

So, Xavier, can I give this point to you? So, it was about the question this item whether – what is total amount available for the allocation of funds. Xavier, would you like to add something to this item?

XAVIER CALVEZ: I hope it's clear the movements that have been occurring on the total amount of proceeds. The original amount of proceeds of $233 million or so is broken out by each of the auctions on our website, if anyone would want to see the details of that. And then, if there is more information that would be useful separately relative to the investments of these auction proceeds, I'm happy to elaborate on that to different time. And otherwise, just a quick comment that those funds – as soon as they have been received from the auction providers, they have been allocated into an investment account at an investment management firm. We use three different firms on which we split the funds so that not any one single firm holds the auction proceeds just to minimize risk. These auction proceeds are invested as for the investment policy that's also here on our website, which is very conservative, so that there is no loss of principal or loss of the auction proceeds themselves. It's relatively minimal in investment returns that occur considering the fact that there is a very low risk, but it's relatively steady returns that occur and that's what the nearly $11 million

represent. I'll stop here and see if there's any further questions on that information. Thank you.

ERIKA MANN: Thank you, Xavier. I'm checking the chat room. I can't see anything coming up here and in the participant neither. So it seems to be fine. The question I do have, is this a language we want to include somewhere in the document as a reference, or is this a point which we'll take for our internal information? Is this something we want to put into the document?

EMILY BARABAS: Hi, Erika. I can let you know what's in the current document. We've actually added this additional detail as a footnote to page 30 where there's some background information and a sentence that says that the total net proceeds to date are $233.5 million. The reason we added that additional text was in response to a comment from Marilyn asking for additional detail around that number. So hopefully that additional footnote provides the context and answers the question about return of investment that she put forward. Again, in the current draft it is included as a footnote in the text now. Thanks.

XAVIER CALVEZ: Erika, this is Xavier. Sorry to interrupt. I may have misunderstood Emily. Emily, did you say $233 million is the current amount? Because that's not the correct number.

EMILY BARABAS: Hi, Xavier. It looks like the 233 is the total auction proceeds and 208 was the … Oh, sorry. Of the 233, 208 – sorry, I misspoke – is the total auction proceeds as of the 30th of June 2019. So we'll look at that original text and just make sure that the text in the body of the report is consistent with the footnote because that may also need a small update.

XAVIER CALVEZ: Okay. Thank you.

ERIKA MANN: I still have one further question to both of you, to Xavier and Sam. Are you okay that we include the total quote here which we have here, but separates the [draft] portion or shall we just talk about the $233.5 million without getting into the differentiation which you have provided here?

MARILYN CADE: Erika, it's Marilyn. Could I?

ERIKA MANN: Marilyn, yes, please.

MARILYN CADE: Could I comment before Sam and Xavier respond? I just want to explain why I asked the question. One of my colleagues on the list sent me a private e-mail and said, "Well go look it up. Here's the link." That's not really the point. The point of my asking is – again,

I keep coming back to this – we have to address both the deeply informed and the not yet informed. So I hope we can keep this explanation because it's important for people to understand and, frankly, you can't spend a lot of time on the more detailed report and not necessarily fully understand what the status is.

So when we read that the resolution of the .WEB contention set is being challenged, all of us understand that means that money is not really yet free to be disbursed, but not everybody will understand that. That's why it's important particularly if they're new to this topic. That's why it's important I think to just include this brief explanation and then maybe insert – Xavier, if you'd agree – the link to the page where additional details can be found. But I do have a question for Xavier. The $133 million – I'm correct that those are not available for disbursement until the resolution of the contention set, right?

XAVIER CALVEZ: That would be correct, Marilyn.

ERIKA MANN: Marilyn, are you done? Marilyn?

MARILYN CADE: I'm done for now.

ERIKA MANN: That's what I mean. Sorry, there was silence, so I wasn't sure what is happening. Apologies.

Then let's bring this together. My first point is, Xavier, are you okay that we will now agree with Marilyn. I think it would be good if you can quote this.

Second point is follow-up of Marilyn just set and [your answer] to it, do we need to have to mention in the footnote that the $133 million will have to be parked until his decision has taken concerning .WEB?

XAVIER CALVEZ: I agree. For the reasons that Marilyn stated, I think I would also recommend that the entire footnote is inserted somewhere in the report as a reference, exactly for the purpose of providing the understanding of what we are talking about in terms of pool of money.

I think that we have offered language about the restoration imposed by the current accountability mechanisms in play relative to .WEB so that it is understood that there are proceedings going on that therefore make these specific proceeds unavailable for distribution until those accountability mechanisms are resolved and completed, and therefore the sums become available again. So I think we can review with Emily and Marika the language [inaudible] in the document to ensure that both aspects are correctly reflected. And to Marilyn's question, of course I think it's useful to insert the link to the website where the breakdown of the 233 original amount of auction proceeds are indicated. Thank you.

ERIKA MANN: Okay. Thank you so much, Xavier. I believe you have an understanding here. Emily, do you want to summarize the action items so that we are all on the same page?

EMILY BARABAS: Hi, Erika. Joke is taking notes, so I don't know if she prefers to read out the action item but I'm happy to speak to what I heard during the conversation.

ERIKA MANN: Marilyn, is this a new hand or is it your old hand?

MARILYN CADE: Sorry, it's an old hand. I'll take it down.

ERIKA MANN: Thank you so much. Okay, back to you, Emily.

EMILY BARABAS: Thanks, Erika. What I was hearing was that staff will take back to coordinate with Xavier and make sure that the report accurately reflects this additional information and includes the link as well with additional details. Is there anything else we should be capturing?

ERIKA MANN: The question whether we want to make an additional comment concerning the $133 million proceeds from the .WEB auction that

they currently will have to be parked. That's something Xavier and Legal will have to review if they want to see this being expressed in this text.

EMILY BARABAS: Got it. Thank you.

ERIKA MANN: Thank you so much too. Okay, there is no other hand raised. Nothing I can see in the chat room. I have missed concerning this item.

Okay. Now let's take the next outstanding item which is suggested additional text in Annex C on page 37 related to "The purpose of the grant application must be in service…" It's the original language. "The purpose of the grant application must be in service of ICANN's mission and consistent with the commitment and core values set…" Oops the text is moving. I lost the text. "Set out in the bylaws."

Then Maureen pointed out in an e-mail that is current discussion with [inaudible] triggered related to public interest and she recommend to include the language she and Sam then came back with the recommendation. Emily, back to you. Maybe you want to explain this in more detail this item.

EMILY BARABAS: Hi, Erika. I think you introduced it pretty clearly. We had a suggestion from Maureen given the recent discussions about the

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global public interest to include reference to global public interest in the Annex C where the commitment and core values set out in the bylaws are mentioned, and Becky suggested this original text. So I don't know if either Maureen or Becky have anything else to say to that or if others had feedback on that suggested text. Thanks.

ERIKA MANN: Thank you so much, Emily. Indeed it was Becky and not Sam. So let me check. Becky, do you want to comment on something? Are you fine with this? Maureen, are you okay with this? Anybody else who is not feeling confident with the addition? Then please let us know or put it in the chat room.

BECKY BURR: Erika, this is Becky.

ERIKA MANN: Becky, go.

BECKY BURR: I don't have strong feelings one way or another about including it but Maureen had suggested that change and all I did was offer just a friendly amendment if that goes forward to just tweak the wording a little bit, but I think it's really up to the CCWG on whether the existing language of the report is changed at all.

ERIKA MANN: Yeah. Thank you so much. Julf is in the chat room: "As I wrote in my e-mail, I'm concerned it opens another Pandora's box of definitions." I feel a little bit like Julf, I must say, because to define global public interest is nearly impossible – very, very hard. But I'm open to where this group wants to take it. But you will have to let us know now, shall we include it? We do have a little bit time but maybe you want to comment on it right now.

There's Maureen and followed by Marilyn. Maureen, please.

MAUREEN HILYARD: Thank you, Erika. I'm happy with what has been included at the moment in light of the fact that – what you're saying is absolutely correct. Public interest has been involved, included but not discussed I think to the extent that it is going to be discussed under the current public comment. I would just like to see that it is included because like going down the track, perhaps the wording could be tweaked but I think the public interest is really important to include into the actual statement. Thank you.

ERIKA MANN: Thank you so much, Maureen. Marilyn, please.

MARILYN CADE: Well, I guess I'm going to kind of stumble around here. I asked a question – and I really apologize, Marika, Emily, I should have sent you a heads up before the call – but it's my understanding – I'm looking at it – that ICANN, the Board, is moving ahead with a public session. There's a discussion paper developing a public

interest framework. There is a GPI toolkit. There is a schedule published which calls for a public session doing ICANN66. So I'm really confused about – are we ignoring that and thinking we don't have to take it into account?

ERIKA MANN: Thank you so much. Actually, the recommendation is opposite. Marilyn, the recommendation would be to include it. There's a slight hesitation by Julf and [inaudible] on my end because on my side more because it's very difficult to define and it's a process which is starting right now. And to Julf, he's hesitant that it opens a whole new Pandora's box of discussion and comments we may receive, and then we will have to deal with. So I'm fine with whatever this group wants to do. It's not a major concern I have. It's just I wanted to raise my point.

MARILYN CADE: Look, I'm not expecting us to define it. That was why I was referencing the discussion paper and the fact … I can't tell if the public session is actually scheduled, but maybe the way to approach this is to say something like taking into account the decisions that are taken by the Board as a part of the call for public comments on developing a public interest framework. So it's clear we're not developing it. But we're also not acting like we're in the silo and we're not aware that this discussion is going on.

ERIKA MANN:	I agree. We can do this. Julf, I believe this would satisfy to some degree your concern as well. So will just put in, "Taking into account…" and the reference which we have currently in the text, and then we put in a footnote. Around the footnote, we can explain the reference better and then following the debate, depending on whatever we hear, we can even put something into the guidance and the transition phase in case we want to do so once we become clearer to and understanding what actually might come out of this consultation. I think that's a good recommendation, Marilyn.
	Let me have a look … Becky is writing something: "There is no effort to define the GDP in a static way." Yes, that's understood.
	Nadira was confirming what Julf was saying.
	Becky made a different comment which is – I can't scroll back.
	Maureen: "Public interest is in ICANN's mission already." Exactly.
	Okay. Can we follow this approach? Just let me check if somebody else wants to comment on quickly. Marilyn, a new hand or old hand? It seems to be an old hand. Okay, with the addition of what Marilyn said, can we agree upon this? Emily, do you want to summarize it?
EMILY BARABAS:	Hi, Erika. Joke, did you want to summarize?
ERIKA MANN:	Oh, Joke. Yeah. Who wants to do it?

EMILY BARABAS: It sounds like it's me. I think what we said was that we were going to capture a reference to the ongoing work regarding the global public interest in a footnote and that that can be fleshed out if the work progresses further in the time before the final report is published. Is that correct?

ERIKA MANN: Yes.

EMILY BARABAS: Okay.

ERIKA MANN: Marilyn has a slightly different recommendation for the text instead of including those. Marilyn, if you would be so kind to put this in the chat room the text if you are able to type. Otherwise, just say it again so that staff can take note and can write it down.

Yeah. I think we are fine. Becky has to leave us. Okay. I think it's all done. We can go back to Marilyn and just clarify the text again, but I believe we have an understanding here.

Okay. Then let's have a review on the next item, which are the outstanding questions for ICANN Org and Board. I believe, Marika, you will give an introduction here. Just a reminder to all of you, these three questions which we have sent a while ago to Legal, to Sam, and to Xavier, and they relate it into the Board, and they relate it to different topics. We haven't received yet an

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answer. We are waiting to receive the answer from these three entities and we will have to follow up. But maybe you want to give and maybe you want to show again if we can do this, the letter which we have [sent] so that everybody can remember what we have done a while ago. It's always difficult to remember if one can't see the document. At least for me, I'm a very visual person. So you remember that's the document, the letter we have sent to the Board. Here we are talking about different things to the Board. We had asked about the discussion we had about a basket approach. If there's anything which – an argument against a basket approach, remember the basket was shall we separate certain topics or certain regions in particular basket so that they can only be approached either by participants, applicants from these countries or which have interest in a particular topic. Then we have the discussion about the list of examples on the questions with certain concerns which we have raised even back to the Board here just to clarify a few points, the community which we wanted to hear from the Board, if they have particular concerns the way we have currently drafted and framed. Then on Mechanism C, we have to question if there would be a new narrow board related to Mechanism C would be created if this would be in conflict with the overall ICANN Board.

And then for Xavier, we had the question which some of you were concerned about and wanted to see a cross-comparison between A and C. Then some of you wanted to understand if all of the grants will have to be listed in the tax filings.

To Sam, we had the same like to the Board concerning the basket approach, and the same like we have to the Board concerning the

question whether a new board and ICANN Foundation small board would be in conflict in liability issues or other issues in conflict with the currently existing ICANN Board.

Marika or Emily, anything to add here we're just missing?

MARIKA KONINGS: Thanks, Erika. No, I think you covered everything that is included in here. I just know that Sam posted in the chat that the Board's reply should be coming shortly and that ICANN Org's response will follow after that. I think the one thing that the group may need to consider is if or how the responses to these questions are expected to impact the current draft of the final report as well as the survey we're intending to launch later this week. Maybe some of the responses would change people's perspectives or may change the description of some of the mechanisms or at least the details, so I think that's something that the group may want to consider maybe on the next agenda item when we talk about next steps and how to factor the input that's still forthcoming into that.

ERIKA MANN: Thank you so much, Marika. Maybe we have to postpone the survey depending when we receive the replies from the ICANN Board and from Xavier and from Sam.

Let me check quickly the chat room. Okay. That's the one which you mentioned, the reply from Sam and participant. Marilyn.

MARILYN CADE:	Thanks. I just had a question which I think we discussed elsewhere but I'm not seeing it under 2. I wonder if we should include it. It's there but it's a little bit vague. It says, "What kind of safeguards would the Board want to put in place to ensure legal and fiduciary obligations of the ICANN Board will not be challenged?"
	I was wondering if we wanted to have a question that we considered about how the linkage – that is the practical linkage, the operational linkage – between the independent Board for the foundation and the ICANN Board. For instance, there are situations where there's ex officio Board members or liaison Board members, etc., and I wondered if we would want to include a question back to Sam asking – and I guess ICANN Org as well – and the Board asking if there are operational mechanisms like that that would help to address concerns and particularly the integrity that we all understand needs to exist between the two, between ICANN Org and independent foundation Board.
ERIKA MANN:	Thank you, Marilyn. I wonder how we can do this. Maybe Sam wants to put something in the chat room. I mean one way of dealing with it is we wait for the reply that we receive based on the current letter. Then once we have received it, Marilyn, we can put the points you have raised, we can put them in the guidelines for the transition team in case the survey comes to the conclusion, the indicative survey comes to in a majority outcome will be that Mechanism C is recommendable. Because in case of Mechanism A or B, it's not going to be relevant because there will be no

Board, unlikely there will be a Board. And I see you say, "Yes. That works well." Thank you so much.

So here action item would be – wait a second. Sam is saying something. Okay, perfect, Sam. So we will wait for the reply and then in case Mechanism C will be selected as the number one choice, we will then have to come back in reviewing it and we have to put in particular recommendations to the guidelines.

Yeah, I think we have an agreement here, but I want to go back to – Emily, it was you or was it Marika here, or Joke? Who is doing the action item, so that we have a complete agreement and understanding about this item?

EMILY BARABAS: Hi, Erika. I think our action item here is to for everyone to review the responses from Board and Org once they come in on this issue. And then if additional questions are required, to follow up so that the CCWG can formulate those questions for further discussion. Thanks.

ERIKA MANN: My recommendation was in particular then to consider in case Mechanism C is selected then to put the more detailed – not questions – but the more detailed recommendations in the guidelines for the next transition team. Because I don't believe they've become very detailed and narrow, and I don't believe we will still have to go back and forward and sort this out, but we can then hand this over to the transition team.

EMILY BARABAS: Perfect. Thanks for the clarification.

ERIKA MANN: Let me just check chat room in case somebody is saying I have said something nonsense. No? No further hand raised, so I believe we have an understanding here.

                        Okay. Now let's go back to the next item of the agenda please.

EMILY BARABAS: Hi, Erika. The next agenda item is next steps regarding the selection of recommended mechanisms. I believe that Marika is going to speak to that.

ERIKA MANN: Can you just make sure that we all can see it, Emily? I'm not sure. I can't see this part of the agenda. Maybe others can see it neither. Let me check. Maybe I changed my format. Okay, thank you so much. Marika?

MARIKA KONINGS: Thanks, Erika. Emily, if you'll stop sharing your screen, I'll share the timeline that we also shared with you on the last call. This should hopefully look familiar. I think we shared it on the [last] call, and after that we also shared it on the mailing list. So basically, if you look down to today's meeting, so Wednesday, 18th of September, this was the call where we were going to discuss any

major concerns that were identified as part of the review. We just went through those outstanding items and I think we managed to address all of those, although in certain cases we're still working on some language. Of course, as a next agenda item, we're also discussing the question of whether a public comment period is desirable on the proposed final report before it gets submitted to the chartering organizations for their consideration.

As discussed, the idea is that by Friday, and that will give everyone some time to review updates that are made to the report. Also review the additional language that Erika has developed in relation to Mechanism C, that on Friday we would be able to launch an indicative survey on the mechanisms. The idea would be that the members and participants are basically asked to respond to the survey by indicating whether or not they think it's desirable that either one, two, or three mechanisms are recommended to the ICANN Board based on that responses, while a follow-up question would be for members to rank the mechanisms in their order of preference for recommending to the ICANN Board.

So the idea would be that members and participants would be given more or less a week to fill out the survey which would allow us to publish indicative results of the survey by Friday, the 27th of September. Then we would have some time for CCWG members to consult with their respective groups. Again, this would be an opportunity to share what the thinking of the group appears to be with regards to the preferred mechanism as well as whether there's a direction of recommending only one mechanism or potentially two. Again, in considering your next agenda item on the

public comment, we may even need to break that down even further if there's support for another round of public comment and the question may be do you already in that proposed final report want to narrow down things further? We currently have three mechanisms – should that go down to two or even one for the public comment period? Of course, there's the question as well for the final report, whether there's a desire to have one recommendation or whether there should be two or maybe even three, and then in the end leave the determination to the ICANN Board to make.

So that gives members some time to consult with their respective groups. The idea would be then we would re-launch the survey on the mechanisms by Monday, the 14th of October. Basically, I think the leadership team would announce or launch a consensus call or potentially indicate the indicative results of the survey for the group to review, which would then be included in the proposed final report or the final report that's either published for public comment or submitted to the chartering organizations by the 25th of October.

Then there would be a session at ICANN66 where either the report is presented to help people prepare their public comments, or alternatively it would be serving the chartering organizations an opportunity to learn more about what's in the report, potentially ask any clarifying questions.

That is basically in a nutshell the timeline we have proposed as we already noted under the previous item. The group may need to consider whether the responses to [inaudible] questions to the ICANN Board as well as ICANN Org have a potential impact on

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this timeline and the ability of members to respond to the survey. I think second of all, there's of course this notion indeed of whether or not there's public comment may also to a certain degree impact the timing or, more specifically, the way that the survey will be structured and how to approach that. I think that's all I have, Erika. I think you already have your hand up, so I'll hand it back to you.

ERIKA MANN: Thank you, Marika. Can we see the agenda? I know you have everything on here so it's fine. Just one item I have, Marika. Based on the discussion to date, based on the fact that we have not received, for example, the replies from the Board and the replies from Xavier and Sam concerning the questions which we had put forward, so we have to be careful that really we receive them before September 20. In case we don't receive them ahead of September 20 – because they may have impact on the indicative survey, we want to be a little bit flexible about the timing. So, how much [inaudible] round do we have concerning this agenda? How much can we move it still around to meet the final deadline, which we don't want to change?

MARIKA KONINGS: Thanks, Erika. I think there's definitely some margin in the launch of the indicative survey and publishing the results because, as I've said before, I think we're looking at the moment at least a very straightforward survey that shouldn't take anyone more than a couple of minutes to fill out, although it does presume that you've read the latest draft of the final report and are crystal clear on what the different mechanisms mean and what they don't mean.

Because I know we've had some confusion around what is part of mechanism and what elements are actually the same for all the mechanisms. I think we will definitely encourage everyone to make sure that you've reviewed the report and I think there is indeed some languages coming on some of the items we discussed today that may provide further clarity on whether or not there are certain hurdles or differences between the mechanisms. But as said, that survey is pretty short, so if members are willing to be able to fill it out in one or two-day period, we can of course shorten that and make that a bit more dependent on the input that is received.

Secondly, of course we now have I think a two-week period in which members are able to consult with the respective groups. But that is of course something that hopefully members have already done leading up to where we are now and probably something as well we could already start doing even without the survey having launched and the responses having been received. I think those are two areas where we can potentially shorten the timeframe a bit. Even the re-launch survey on the mechanisms, there is an 11-day period there. Again, it's the same survey we're launching, and the hope is that by the time that the survey would launch, members would have very direction on whether or not they want to adopt their original input. And again, the survey itself is intended to be really short and it shouldn't take that much time. So I think we definitely have a bit of margin there to shorten the current timeframes if CCWG members agree.

The one thing I think we may want to think about is whether we should also include or schedule an additional call that would allow

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for either follow-up questions once the responses are received or some further clarifications that are needed so we could potentially think about scheduling the next call in a two-week timeframe that would basically be before or in the time period that members are expected to consult with their respective groups, so that would still allow for some dialogue and some potential fine tuning before we move to the re-launch of the survey.

So, that's it in a nutshell. There is flexibility but of course it requires the support and buy-in from the CCWG members because it does mean that they will have to carry out their action items in a slightly shorter time.

ERIKA MANN: Thank you so much, Marika. That's good to know that we have the flexibility. So there's just one thing I want to remind you all. We agreed to have these two surveys, so the first one will be indicative survey. But between second one, we really want to give you the time to ensure that you have more time to talk to your constituency. So in the case you will see a disparity between the tendency, what you would like the mechanism you prefer and the sense you get from your constituencies, you are able to adapt to it. That's why we have this two, the indicative and then as Marika said, we should have a call afterwards – absolutely, Marika – and then the second survey before we then come to the consensus call. I think that's fine. I don't see anybody who wants to talk about it so we have an understanding here. We shall talk a little bit about the consensus call, Marika, just to indicate the procedures here. I'm happy to do it but please feel free to talk about it.

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I'm just checking quickly – there are no comments in the chat room so I believe we have an understanding about the timing. Then let's have a quick introduction into the consensus call and the procedure. Marika, you want to do it?

MARIKA KONINGS: Yeah, sure. Actually, I had put my hand up because I just remembered that –

ERIKA MANN: [Inaudible].

MARIKA KONINGS: No, no, no problem at all. Because I remembered that was one of the other items we wanted to talk about. If you just give me one second, I'll pull up the language from the charter that talks about the consensus call and the requirements that are in place in relation to this item. And again, what I'm sharing on the screen now is just one particular section. Hold on one second.

So, this is basically the part of the charter that talks about the decision-making process. As you can see here, the group is expected to act by consensus. That's the objective here and the recommendations in the report. The aim is to come to a consensus on that. Either full consensus or consensus, that is something that needs to be determined, but that is the objective here.

What the charter calls out is that at the point where the Chairs need to make a call for consensus, at least my understanding of that process is that at some point – and again, the survey is a tool in helping the leadership team making that assessment – the leadership team will either on a call, or preferably on the mailing list say, "Based on where we are today, all the input we've received, our understanding is that we have either full consensus or consensus for these recommendations." That is then the consensus call, which allows for members as well as participants to say, "Well, actually, I think you got that wrong. I don't think we have consensus because X, Y, and Z."

The charter is specific, though, that their specific attention needs to be given on making sure that appointed members of the CCWG are able to participate in that consensus call. So, I think the Chairs will take specific care, both, I think, when the survey is launched, but also when the consensus call goes out, that members are aware of this, and are in a position to respond to the consensus call, and indicate if they believe that the Chair or the leadership team got it wrong, and some further consideration needs to take place on whether was full consensus achieved, was consensus achieved, or actually none of those, and some further consideration need to happen.

I think one of the questions – and again, it probably already leads us into the second agenda item – is should you decide that another round of public comment is needed before you're in a position to finalize the report, one of the questions is do you already want to have that consensus call now, and basically share in the final report what level of consensus has been achieved, so

that the broader community can already see in which direction you are leaning?

You may recall that in the initial report, I think we put a statement in there that says, "No formal consensus call was taken, but the sense was that at least the group was comfortable in putting the report out for public comment." Again, based on your conversation, on the next agenda item, you may also want to consider, do you already want to include a firm level of consensus in the report, for the different recommendations, or is there a preference at this stage to have indication of level of support?

The Chairs could indicate, "Based on our assessment of level of support, we think there is consensus or full consensus, but we have not conducted a formal consensus call yet. That will happen after the review of public comments, and that will be included in the final report." So, again, I think that's, in a nutshell, the consensus call process and the steps, and some of the considerations that the group will need to make in determining how to move forward. I hope that's helpful, Erika.

ERIKA MANN: Yes. Thank you so much. This explains why we have these two – the first indicative survey's followed by a second survey, and then the consensus call. As Marika indicated, the question to you, of course, remains. Are we able to come to a conclusion? In case we want to go to another public comment period – and we will talk about it in a second – before we go to such a public comment period, are we able to narrow it down to, ideally, just one mechanism, or do we want to wait until we hear back? In case we

go for a next round of public comment, do we want to wait, and then come to a final conclusion, after we have reviewed the public comments? With this back to you … I'm looking if somebody is willing to either confirm our thinking, or reject it, or modify it.

MARIKA KONINGS: Erika, if I maybe … Just one thing. I just want to also make sure that people understand that determining consensus by the Chairs is not necessarily an exact science. It's not because 10 people raised their hand on one side, and only one on the other side – that is what is the determining factor. It's a more nuanced process, where the Chairs will also look at the makeup of the positions. Do they all come from one specific community, or is it broadly supported across the different chartering organizations. It's a more nuanced process that will take place.

I said, the survey will help inform that consideration, as well, of course, all the conversations the group has had, and any other input that may be provided between here and now. I just wanted to make sure as well that people understand that it's not just a question of counting noses, as some people say, but there's a bit more to it.

ERIKA MANN: Yeah. Thank you so much, Marika. Absolutely correct. It's a balancing act, which we then will have to do. And of course, there's always the option … I hope we can avoid this, and I hope we have a true consensus between us, but if we don't have it, of course, those which have a different opinion can always go for a

minority opinion, which will be published, too. But I hope we can avoid this, and I hope we have a common understanding between us.

Vanda is putting something in the chat room. Let me see if I can see it and find it again.

[Maureen] is thanking you for the explanation.

Nadira, yeah. She's confirming it.

Marilyn is saying, "Helpful." Yeah.

And Vanda, "Would be good if we can have a preference after the first survey." I agree with you, Vanda. It would be ideal. Somehow, I'm pretty certain, after the first survey, we'll have a better understanding. Okay, somebody else is typing. No, that's Vanda. I don't think that anybody else is typing.

Okay. Thank you so much. I believe we have an understanding here. We keep this agenda in case a major modification is needed, because we received the replies back from the Board, and some may [relate]. We will then talk about it. I don't expect it to happen, but in case it happens, we will then talk about how this will have an impact on the agenda. But we left enough space in it, so I believe we should have enough flexibility, so we should be fine.

So, Marika, we have an understanding here. Do you want to summarize the action items? I think we are fine. We don't need to summarize them in this case.

MARIKA KONINGS: Yes, correct. I think the only thing … Staff will probably coordinate with our colleagues to see when the responses are expected to be forthcoming, so we'll adjust the timing accordingly, and we can, of course, liaise with you, Erika, and [Ching] to update the overall timeline and function of receipt of the responses.

ERIKA MANN: Yep, that sounds perfect. Okay, then let's take, I believe, the last item on the agenda, which I remember well is the question related. Shall we go for a second public comment period or not? We had some exchanges by e-mail, and I believe we should do it, just because we did quite some modification. In case the indicative survey and the next survey will contradict what we have published in the first public comment period concerning the mechanism, I believe we are safer if we do it, and we don't have conflicts arising because we haven't done it. I remember that some was from a legal point of view a while ago, arguing for it too.

     I don't like it, because it again postpones the agenda, but we are probably on the safer side if we do it. Marika, I like to give you to introduce the topic, and the consequences – in particular time-wise –and then, I'll have to hear from colleagues here what they think about it. Marika, back to you.

MARIKA KONINGS: Yeah, thanks Erika. You're probably all aware that, per the guidelines, the only requirement for the group is to have public comment on the initial report. However, having said that, that

doesn't prevent the CCWG to organize additional public comment periods, if it believes that is necessary or deemed helpful.

To give you a little bit of insight into how that's typically dealt with in other working groups, is that normally a group will assess … After they've reviewed the comments on the initial report, and they have their draft final report, they make a determination of whether the changes they've made are so substantial that it would warrant another opportunity for the community to weigh in.

Obviously, there are always changes that are made in response to public comment, but if certain changes are made that the community didn't even have a chance to weigh in on, or they're not necessarily directly the result of public comment, some groups prefer, indeed, then, to have another opportunity.

I think we typically call it the proposed final report, to give the community another opportunity to say, "This is what we're now … After your input on the initial report, after our further deliberations, after other considerations we've made, this is now what we think is the proposed final report that we'll be submitting to the chartering organizations. But before doing so, we want to give you a last opportunity to look at this, and flag if there's anything that you think we've missed, or that you think is unacceptable."

I think, in doing so … Again, if that's the direction where the group goes, you probably may want to give some further consideration to what are some of the specific questions you would like to obtain input on? I think you probably want to avoid that. People just repeat the same comments that you've responded to already before. Of course, we will direct people to the work the group has

done on the initial review, to avoid duplicative comments to be submitted, that the group already considered and addressed.

Again, you may want to consider about what are the specific questions you want to ask, that will help you finalize the report, and confirm that the report is in line with the broader community's expectations.

Then, of course, doing another round of public comment will add a certain amount of time to the finalization of the process. We currently have … I think the standard timeframe for public comments is 40 days. I think there is an accepted practice as well, when a public comment period runs across an ICANN meeting, that some additional time is added to compensate for that. Of course, then, there's also time that's needed for staff to summarize the comments, and develop the public comment review tool, and then, for the group as well, to review those comments, because there is a responsibility on you as well to review and respond to those comments.

I think you may recall – and I think on the initial report, of course – that that took quite a bit of time. Maybe here in the case of a proposed final report, you are able to demonstrate how previous input was considered, so maybe the focus will be different, but again there is definitely time that is needed for the group to go through that process. So, I would say that you're looking at a minimum adding two months, probably, to the finalization of your report.

One thing I did want to point out as well, that I think you're all aware. Again, Sam can correct me if I'm wrong there. Regardless

of whether the group undertakes a public comment period here, once the report goes to the chartering organizations, and assuming that all the chartering organizations adopt the final report, and it gets submitted to the ICANN Board, the ICANN Board will also typically undertake a public comment period before it considers the report for its consideration. That, I think, is regardless on whether or not the group decides to have a public comment period on the proposed final report or not.

I think that's, in a nutshell at least, staff's understanding of the requirements and the options that the group has. Now, it's, of course, up to you to decide which approach to take.

ERIKA MANN: Thank you so much, Marika. There were two questions coming in from Maureen and from Stephen. They would love to have access to an updated version of the report. Stephen's similar. I wonder if this is already helpful to see the current report, or if you want to wait until it's finalized, which is maybe better, because if it's not finalized, it might still cause some difficulties in your group, and we will have to go back and forward in explaining things. But Marika, maybe you want to review these two questions and then comment on it. In the meantime, let me check if somebody wants to raise a question. No, I don't see. Oh, Marilyn, yes. Marilyn, please.

MARILYN CADE: Thanks. Thank you, Marika, for that explanation. I've already said this, but I will restate it here. It's my view that we did make certain changes in the initial report, based on the public comments, but

we have done substantive work since then that has created new text, new elaborations. I do think we need to take public comment on that, in order to finalize the report that we're putting forward.

My question is, if we can structure the call for public comments along the lines that I think you were indicating – so, "Here's how we addressed the public comments we received. Here's the new work we did. We ask you to comment on the new work." If that's possible to do, that should help streamline both the submission of comments, but also the analysis of the comments, I would think.

ERIKA MANN: Thank you, Marilyn. Exactly. That's our thinking. If we are able to do it, and if staff is able to do it, it needs to be some … It depends, of course, what kind of questions we believe we should focus on as a team, but that's exactly the thinking behind what Marika just said. Marika, you want to add something to it? I believe you are muted.

MARIKA KONINGS: No, nothing at this stage. Just to note … Maybe I spoke prematurely, and maybe Sam can comment as well, but I was speaking from the practice of the public comment period prior to Board consideration, that is a required step in the context of policy development, final reports. Maybe there is some flexibility here, but again, I guess it's really up to the Board, then, to decide. But again, maybe Sam can confirm what requirements, if any, exist.

ERIKA MANN: Sam, go ahead. I saw you raise your hand.

SAMANTHA EISNER: Sure. Thanks, Marika. This is addressing the issue of whether or not the Board will require an additional public comment prior to Board consideration, if there was already a public comment on this new version of the report before it goes to your chartering organizations for approval. There is not a specific requirement for this in the CCWG process. For example, with the Work Stream 2 work that just came out, that went from public comment to the chartering organizations, then to the Board.

I think that if there was public comment prior to the chartering organizations considering approval, I don't think that Board ... And I, of course, can't speak for them, but I do not think that there would be an additional requirement for public comment over the same report. Just for that to be considered.

ERIKA MANN: Sam, just maybe to clarify your point, are you saying that for a second public comment period, the consensus then would have to be built following the review of the second public comment, or are you saying we have to wait what the Board decides about a public comment period—a second one?

SAMANTHA EISNER: I think that this really isn't necessarily about the Board deciding on public comment. The Board typically doesn't decide if items should or should not go out for public comment. A lot of times this

comes out of the process itself. This is where the CCWG should consider the extent to which further substantial changes … What we're talking about now is have there been substantial changes to the report, significant enough from the first public comment to put it out for public comment again before it moves through the process?

So, now the question that should be asked of the CCWG is, "What else to do you need to do to make sure that you don't really have too many more significant changes coming after the next public comment?" [Inaudible] would be avoidable, to make sure that you don't have to go out yet again, or that there's an argument by someone that you should go out yet again. We have seen already in processes from ICANN, that we've had people external to the process challenge ICANN on the basis of not going out for further public comment on something.

The goal is to make sure that this is as successful a report as possible, and to make sure that if someone is going to levy a challenge, it's not on a procedural thing, but on a really substantive issue, that hopefully won't exist. So, to the extent you can be as clear as possible in the next iteration of the report that goes out for public comment, for example, on whether there's a sense – even if there's not a formal consensus call, but a sense of, "This is where we're thinking of making the recommendation to the Board of, 'Choose between A and B, choose between A, B, and C,' or the recommendation is likely to be, 'Just go with A.'"

As long as that stays the same in what comes out after, once you get past the chartering organizations, that wouldn't be a substantial change. I think it's about taking enough steps to make

sure that your final report is as final as possible before it goes out for public comment. And then, we'll, of course, be working closely with Marika and this team to make sure that where there could be those issues, that we identify and help phrase the wording in the report, sufficient so that it wouldn't have to go out yet again on things that we know are likely to come up.

ERIKA MANN: Yeah, understood. I think we are all in violent agreement. And we have to be here super and crystal clear that if we go for a second public comment period, we only do this with regard to very narrowly-defined items and questions, and that's it. We're not opening the whole box again. Totally agree. I think we are all in agreement. To Marilyn, confirm this, too. I see nobody opposing it in the chat room, so I believe we are clear.

Just let me ask different question in a moment, because Marika, you posted something in the chat room, in Skype. If I go to Skype, my Zoom will collapse today. So, I don't want to go back in, because then I have to reboot the whole system again. So, just put this in the chat room here, and then I can take it from here.

Can we see … I think we have an agreement here. I would recommend once we have the first indicative survey, we will discuss the question whether we go for a next round of public comment period. We will discuss it again. Until then, you have time to reflect upon it. You don't have to do it today. And I believe a lot will depend, as well, on the emergence – what we see concerning the recommendation for the various mechanisms.

In principle, I believe it's good to go for a second public comment period, to avoid any potential conflicts in the future, but we need to define the questions clearly, and we have to scope it very well, and very narrowly. But I believe we have the time to do this after the final decision about this, after the first indicative survey. Can we see the agenda again, please? Are we at the end of our topics? Marika, you wanted to say something, please.

MARIKA KONINGS: Thanks, Erika. One thing to notice … If no decision is taken now, we, of course, won't be able to adapt the survey, factoring in where or not there's public comments. I think for now in the survey, we're just assuming that what goes into the report is kind of final. As discussed, if there's a decision to have a public comment, we could potentially stage the survey and ask the question, "The proposed final report that goes for public comment, should that already narrow things down to one, or maximum two mechanisms or not?"

Again, I don't think it's … People prefer to take a bit more time to think about the public comment. We can just leave it as is, because if our aim is to have the report that goes out for public comment as close as possible to what is sent to the ICANN Board, it probably makes sense to treat it in that way as well, and use the questions as what goes into the final report.

One thing to flag … What I put to you in the chat was that Xavier has indicated that if there's some time left at the end of the call, he could speak to one of the questions that went out to him as part of

item 3. That might be able to take one of the things, already, off the list. That's what I just wanted to flag to you.

ERIKA MANN: Thank you so much, Marika. Let us check if we still have a sufficiently large group with us. Yes, we do. There's one item, as well, maybe, Marika, you want to mention. Do we have a confirmed session in Montreal? Do you we have more clearance about it? Is it confirmed?

MARIKA KONINGS: We currently have a session that's scheduled on Wednesday, 6th of November, from 3:15 to 6:30. However, noting that, I think we are on track to either publishing the proposed final report for public comment or submitting the final report to the chartering organizations, depending on what you decide to do with the public comment period. I'm not really sure if we will need that much time to present the final report.

So, we can work with leadership team to maybe shorten that meeting. I think there's also, at the start of the meeting, some overlap, I think, with the Council administrative meeting, so we may have to shave off some time at the start of the meeting in any case. So, I think we'll need to discuss how much time we think is needed to present either the proposed final report or the final report, but I doubt we will need 3 hours and 15 minutes to do that. But we can discuss that further.

ERIKA MANN: Yeah. Let's discuss this – not today, but when we have the next call, let's look into it. Xavier, take your time. We have 10 minutes left. I hope everybody stays. Go ahead, Xavier, please. Xavier, can you hear us? Xavier, are you muted? Is he still with us, actually? Yeah, he is.

JULIE BISLAND: He is, Erika. I'm trying to unmute his mic, but Zoom is not letting me.

ERIKA MANN: Poor guy. Have you muted him?

JULIE BISLAND: I'm trying to unmute. Xavier might have to put something in chat. Sorry.

ERIKA MANN: Okay. For now, we have some difficulty in reaching him. I then recommend we wait for his written reply. I wish you an excellent day, and you will receive the follow-up concerning the call and the summaries as soon as possible, and all the items which we discussed, which have needed some follow-up actions, will be indicated, like staff is always doing this. Thanks so much. Have an excellent day, and excellent evening, and let me go back to Julie.

JULIE BISLAND: Thank you, Erika. Thank you. Today's meeting's adjourned. Everyone, you can disconnect your lines, and I hope you have a good rest of your day or night.

ERIKA MANN: Bye-bye.

JULIE BISLAND: Bye, Erika.

[END OF TRANSCRIPTION]