TRANSCRIPT

Framework of Interpretation Working Group
12 April 2012

Attendees:

ccNSO:

Ugo Akiri, .ng

Martin Boyle, .uk?

Becky Burr, NomCom (Vice Chair)?

Keith Davidson, .nz (Chair)?

Stephen Deerhake, .as?

Eberhard Lisse, .na??

Paulos Nyirenda, .mw ?

Nigel Roberts, .gg?

Bill Semich, .nu?

Dotty Sparks de Blanc, .vi?

Cheryl Langdon-Orr, ALAC?

Staff Support and Special Advisors:

Jaap Akkerhuis, ICANN / ISO

Kim Davies IANA

Bernard Turcotte, ICANN

Apologies:

Bart Boswinkel, ICANN

Chris Disspain, .au

Patricio Poblete, .cl

Suzanne Radell, GAC

Keith Davidson:	Okay, everybody. Well, I think it's two minutes past the hour, so we should make a start. Hello, everybody, and welcome. We have some apologies, and, Kristina, you have a list of those present. Can you tell us who is here and who --
Dotty Sparks de Blanc:	I can barely hear you. Can everybody else hear him?
Unidentified Participant:	Yes, I can hear.
Eberhard Lisse:	I can hear very well.
Keith Davidson:	Okay, Kristina, can you give us a list of who is present and who has apologized?
Kristina Nordstrom:	I will. From ccNSO on the call we have Martin Boyle, Becky Burr, Keith Davidson, Stephen Deerhake, Eberhard Lisse, Paulos Nyirenda, Patricio Poblete - no, sorry, Patricio is an apology; Nigel Roberts, Dotty Sparks de Blanc. From Liaisons we have Cheryl Langdon Orr, and from Staff Support and Special Advisors we have Jaap Akkerhuis, Kim Davies, Kristina Nordstrom and Bernie Turcotte. And apologies from Bart Boswinkel, Chris Disspain, Suzanne Radell and Patricio Poblete.
Keith Davidson:	Okay. And any further apologies received by anybody? If not, then I assume that as a correct record of those present and that the apologies be accepted. We have in front of us the meeting notes from the last meeting of the 15th of March. Bernie, is there anything in particular from those minutes that isn't otherwise covered on the agenda?
Bernie Turcotte:	I don't believe so. Fairly straightforward, I think, from what we discussed based on the transcript, so I kept it simple.
Keith Davidson:	Okay. Any comments from anyone regarding those meeting notes? If not, can we consider them accepted and move on to item 3 on -- oh, sorry, I missed a step on the agenda, an approval of tonight's agenda. Does anyone have any suggested changes? Is there any modifications to the agenda? If not, we'll consider the agenda approved and move on to item 4 on the agenda, revocation. And having a look at the first draft, and I assume people have had an opportunity to read the first draft of the revocation document, noting that there is no recommendations at this stage. But let's have a look through and see if we can agree with the general methodology that we've used here. And we can talk about possible recommendations a little later on. So, Bernie, do you want to talk us through this?
Bernie Turcotte:	Yes, sir thank you. Sections 1 and 2 are rather boilerplate. One is cut-and-paste from the DRDWG recommendations. Section 2 is the same as from the other

documents, so I'm not going to spend time on them unless people have specific questions at this point. I'm not hearing anything, so I'll move on.

Section 3 is basically, as we usually do in these documents, highlighting the sections from -- in Section 3.1 at least, RFC 1591, what we've been talking about. 3.4, the issues are stuff we've discussed. 3.1.2 is Section 3.5 of RFC 1591. The issues are stuff we've discussed. 3.2, GAC Principles 2005 relating to delegations and redelegations. I mean, there's not really anything perfectly aligned with revocation, but I did try to peel off the things that were possibly relevant. And so that's our usual Section 3. Are there any questions? All right. Section 4 --

Keith Davidson:	Before you go on, Bernie, I think someone joined the call just a moment ago.
Kristina Nordstrom:	That was Bill Semich.
Bill Semich:	Hello.
Keith Davidson:	Hi, Bill. Sorry, Bernie?
Bernie Turcotte:	Hi, Bill. Section 4, Relevant Procedures, starts with our usual note. These procedures are only presented for information and current practices and not considered as applicable policy statements for the FOI. The only thing that is relevant to what we're talking about in the IANA procedures that are documented and online is in understanding the ccTLD delegation/redelegation procedures. The website is quoted there and basically requesting confirmation from contacts. I'm sure we all know this stuff by heart, so I'm not going to go through it.

Section 5 is Analysis of IANA Reports on Redelegations. Here I've tried to keep it simple. IANA reports on redelegations do not always note or document that consent was provided by the incumbent manager or ECNTC for the transfer. In such cases almost never explain why it is not documented. Because of this, it is difficult to obtain a clear understanding of how many redelegations are unconsented by the incumbent manager. Additionally, minutes of ICANN board meetings which deal with the redelegation of ccTLDs rarely document redelegation is unconsented. This being said, there are a number of relevant cases presented in the ccNSO's DRD working group final paper on unconsented redelegations which can be found at --.

So, basically, this is rearranging of words we've all seen before and quoting the DRDWG report saying there are certainly cases that raise questions about unconsented redelegation. Any questions on Section 5? |
Nigel Roberts:	Yeah, I've got one.
Bernie Turcotte:	Yes, sir?
Nigel Roberts:	It's actually not on Section 5. Can somebody please send me this in .pdf format. The RTS that I've been sent is unreadable on the computer that I'm using.
Bernie Turcotte:	Can someone do that, or do you want me to publish that?
Keith Davidson:	I'll attend to that while you continue with the document, Bernie.
Bernie Turcotte:	Thank you, sir. Any other thing on Section 5? Okay.

Eberhard Lisse:	We need the document movable. I can't scroll back, I can't -- if I want to read what's happened, I can't go back.
Bernie Turcotte:	Okay, maybe it's a question of control. Kristina?
Eberhard Lisse:	Thank you.
Bernie Turcotte:	All right. Anything else? Okay, having attended to the practical minutia, we get into the issues. Summary and Analysis of Issues in Section 6. 6.1, there is no policy basis for a transfer redelegation that is not consented by the incumbent manager, an unconsented redelegation. There are documented examples in IANA reports among consented redelegations such as .ae. As per the recommendations of the FOI working group regarding consent, there is no policy basis for the transfer of the management of the ccTLD without consent from both the incumbent and proposed manager.
	So, I thought it was important to lay that out right upfront, given the discussions we had in Costa Rica and just setting the basic understanding. Are there any questions on 6.1? All right, I'll take that as being okay.
	Section 6.2, and there we start having more fun. Section 3.4 of RFC 1591, only in cases where the designated manager has substantially misbehaved would the IANA step in. Substantial misbehavior and IANA stepping in. Applicability to delegate ccTLDs. 6.2.11, the statement, "Only cases where the designated manager has substantially misbehaved would the IANA step in," would support the interpretation that this would apply to delegated ccTLDs. Nigel?
Nigel Roberts:	I had to take the time to turn the mute off.
Bernie Turcotte:	Yes, thank you.
Nigel Roberts:	Without trying to make a point in favor or against the interpretation, I don't believe that the statement that you've put, that the statement supports one particular interpretation is correct. Designated means somebody who has been designated is about to become the manager. So, if the designated manager, i.e., the manager who has been chosen but is not yet the manager, has somehow misbehaved, for example, by lying on an application, then that is grounds for stepping in. So, it is equally possible to construe this in a different way to the way that you say. So, I don't think the statement in itself is evidence one way for the construction that is being placed on it. Whether or not that is the true construction or not, I leave open, but I don't believe that 6.2.1.1 is correct.
Bernie Turcotte:	Okay. Well, I sort of understand your point, Nigel, but it was my understanding from Costa Rica that we agreed that 3.4 would apply to delegated domains, and this is what I was trying to do here. So, if there are better suggestions to that and I'll be glad to take them. Maybe Nigel and I can work with Becky offline and come up with something that will be more palatable to everyone.
Keith Davidson:	Let's listen to Eberhard first.
Bernie Turcotte:	[Go ahead], Eberhard.
Eberhard Lisse:	I don't have an issue. I actually agreed that it only applied to the application process, but since it is so easy to behave, to run a technically decent operation and to register domain names, I will be willing to live with this.

Bernie Turcotte:	Thank you, Eberhard.
Keith Davidson:	Thanks, Eberhard. Nigel has his hand raised again. Nigel?
Nigel Roberts:	While I could also live with this, I think, Eberhard, you've got to be careful that you don't, by saying what you just said, open the door to an approach to other interpretations elsewhere in the document that is dangerous. Just because you and I can live with the possible interpretation doesn't mean it's the correct interpretation from what's written down. I would suggest that we are looking here to try and get an interpretation of what's written down and not to write new policy that we could live with. And I'm not making a point either way for either interpretation. I'm making a strong plea that we stick to the remit of the group, which is to interpret the existing policy on the basis of what we think it means and not on whether we like what it means or not.
Keith Davidson:	Thanks, Nigel. Eberhard?
Eberhard Lisse:	I don't see this any difference.
Nigel Roberts:	In this case, probably not, but that's my point, as you know.
Eberhard Lisse:	So, don't stop me. We must not come to a circular thing that we repeat ourselves and do this again and again and again. I am -- my position is if the group interprets this to mean -- it means the designated manager means the manager even if he's delegated, I can go along with that. I'm not going to vote against this. I am, however, feeling, and I was advancing this in the past, that this only applies to application process. But I'm not going to be opposing multiple interpretation.
Keith Davidson:	Okay. Bill?
Bill Semich:	Yes, I feel kind of -- not just kind of -- I think Nigel's point of view is important and I think, as you had proposed earlier, Keith, or maybe Bernie proposed, maybe Becky and Bernie should take another look at it.
Keith Davidson:	Okay. I think that seems like a reasonable course of action. So, Bernie, Becky and Nigel can work on some wording and we'll rewrite that on the next call. Thanks. Bernie?
Bernie Turcotte:	Thank you. Yes, that's fine, assuming Becky and Nigel are okay with that?
Becky Burr:	Okay.
Nigel Roberts:	Yes, if I'm included to that, yes, that's perfectly fine.
Bernie Turcotte:	Excellent, all right. 6.2.2. IANA stepping in. Given the term revocation is used in Section 3.5 of RFC 1591, it would seem clear that the interpretation of step in would seem to encompass more than simply redelegation or -- sorry, I meant to write revocation there. I'll fix that. Any thoughts on 6.2.2.1? Okay. 6.2.2.2. Many IANA reports on redelegation document significant long-term efforts by IANA in many cases where there are problems with the operation of a ccTLD. It clearly establishes a tradition of (1) ensuring the security and stability of the Internet by the IANA contractor; and (2) the IANA contractors deploying all means at its disposal to assist in resolving issues with incumbent

operators subject to VOI working group recommendations to prevent documented issues.

And if that's not clear, what we're talking about is making sure we're in line with the other recommendations of the VOI working group, which I agree can be written better, now that I re-read it right now. So, 6.2.2.2. I see no hands, I hear no calls. All right.

6.2.2.3. Given the only formal mechanism available to the IANA contractor for dealing with ccTLDs are delegations, transfer and revocation, and that the only ones which can apply to a delegated ccTLD are transfer and revocation, it would seem reasonable that IANA stepping in would include these options. If the incumbent manager is unwilling or unable to provide consent for a transfer, the only formal mechanism left to the IANA contractor is revocation. 6.2.2.3. I see Nigel.

Keith Davidson:	Before handing over to Nigel, can I ask Nigel if --
Nigel Roberts:	It's taking its time to unmute.
Keith Davidson:	Okay. Can I ask you if you received the .pdf, too, Nigel?
Nigel Roberts:	Let's have a look. I can actually scroll up and down what's on the screen, so that is actually helpful. Let me have a quick look and download that. 6 -- but while I'm downloading e-mail, 6.2.2.3 I think is a little, shall we say it's conflating two things. I'm not sure I disagree with it. In fact, I'm pretty sure I don't disagree with it, but --
Bernie Turcotte:	That almost means that you agree with it, although you may not be happy with the way it's phrased.
Nigel Roberts:	That's exactly what I'm trying to say.
Bernie Turcotte:	Okay.
Nigel Roberts:	You've got transfer and revocation. I also think IANA stepping in is more than just transfer with consent or revocation.
Bernie Turcotte:	Oh, I think I'm making that point later on. I'm just saying those two --
Nigel Roberts:	Yeah, I'd like to see that point made first.
Bernie Turcotte:	Okay. Well, I don't have an issue with that. You know how it is when you write these things on a first cut. I mean, if you're dealing with it later on sometimes, you don't think about shutting it in, but, yes, certainly, I don't have a problem with that.
Keith Davidson:	Bernie? Oh, sorry, Bill Semich just raised his hand, too. Bill?
Bernie Turcotte:	If you're speaking, Bill, you're on mute.
Bill Semich:	There I am. I'm talking to myself. I'm a little confused by 6.2.2.3. I do think there are two issues here that could and perhaps should be separated. One has to do with the formal mechanisms, blah, blah, blah, and the other has to do with the unwilling or unable. On the issue of the formal mechanisms includes, I hadn't thought that we had all agreed that stepping in included revocation. It includes

lots more, as you mentioned, in 6.2.2.4, solving problems, fixing things up, but I'm not sure we had specifically said, oh, and by the way, if none of this works, revocation is an option.

Now, I'm not saying I disagree with that being an option, I'm just saying it's not something I recall us having discussed as a group and coming to a conclusion on.

And the second issue is, I recall that when we discussed if the incumbent manager could not -- was unable to provide consent, that could be reversed, that it would in fact not be consent. Unwilling is one thing, although even unwilling I think we decided does not include consent.

It would seem to me that if someone is unwilling to say okay, that means they're not saying okay.

Bernie Turcotte:	I don't think anyone is arguing that point, though.
Bill Semich:	Well, if you say that the incumbent manager is unwilling to consent for a transfer, the only formal mechanism left to the IANA contractor is revocation. Are you saying the IANA contractor should move to revocation or are you saying that the IANA contractor can do nothing?
Bernie Turcotte:	I'm not saying either. All I'm saying is that if it's a delegated domain, there are two possibilities. There is transfer and revocation, and if there is no consent from the incumbent, then it cannot be a transfer. This is what we all agreed to and what we started with in 6.1. Therefore, the only formal mechanism left if there are issues is a revocation.

Now, if your concern is that it -- I'm not stating it as there is a process around those things, which I think I try and describe in great detail later on, I can certainly accept that and we can try and clarify that. |
Bill Semich:	Well, I can say the formal mechanisms left to IANA are to do nothing, or in the event of a showing of whatever the language says, the causes of revocation, serious -- what is the words? One is serious misbehavior and the other is generally screwing up.
Bernie Turcotte:	Substantial misbehavior, Bill.
Bill Semich:	I'm sorry?
Bernie Turcotte:	Substantial misbehavior.
Bill Semich:	Substantial misbehavior is the one for revocation?
Bernie Turcotte:	Substantial misbehavior is a clause in 3.5 of RFC 1591, and it was my understanding from Costa Rica that we agreed that the very last resort, but still an option for the IANA contractor, is revocation.
Bill Semich:	So, in this particular section we're specifically only referring to the process of stepping in under the substantial misbehavior section of 3.5?
Bernie Turcotte:	3.4, yes, that is correct.

Bill Semich:	Yes, 3.4, okay. So, in this case -- now I lost my place. Where is it -- incumbent manager is unwilling or unable. So, in the event IANA steps in, we are saying they can do all the things in 6.2.2.4, which is try and deploy all the means at its exposure and so on and so forth, correct.
Bernie Turcotte:	Exactly.
Bill Semich:	But then we're also saying if the incumbent manager is unwilling or unable to provide consent for a transfer, why would there be a transfer under substantial misbehavior and stepping in?
Bernie Turcotte:	There is no transfer. There could be a revocation.
Bill Semich:	So, why do we event mention that in this context? I'm just a little confused about what's going on in the 6.2.2.3. How many things are we throwing into this bag?
Bernie Turcotte:	Okay. Well, I'm confused by your point, but I'll try and walk through it. The only formal mechanism available to the IANA contractor for ccTLDs, as far as I know, are delegation/redelegation, what we call now transfer, and revocation, which is the point of this document. Those are the only three things that are the formal things the IANA contractor can do with respect to ccTLD, as far as I know.
Bill Semich:	Unless we, as perhaps Nigel would call make policy --
Bernie Turcotte:	Do that (inaudible) --
Bill Semich:	Yeah, and say things like resolve the problem.
Bernie Turcotte:	Well, I think that was the point of 6.2.2, saying that there is a history of IANA working with ccTLDs, and we are trying to set up 6.2.2.4, that really we're not talking about making any kind of policy. So, 6.2.2.3 talked about, again, we're not making policy; there have always only been three things which the IANA contractor can do with respect to ccTLDs apart from housekeeping and management issues, and that is delegate one, transfer one, and revoke one. That's the only thing, as far as I know, that is covered in RFC 1591. Unless --
Bill Semich:	What you're saying is stepping only includes these three things.
Bernie Turcotte:	Yes.
Keith Davidson:	Can I have some clarification? A number of people have had their hands raised for a little while, with a view to any or all of the three with their hands raised being able to clarify.
Bill Semich:	Yeah, let's move on.
Keith Davidson:	Yeah, Becky, then Eberhard, then Nigel. So, Becky?
Becky Burr:	Actually, I think Nigel should go first and then I'll go after that.
Keith Davidson:	Okay, Nigel?
Nigel Roberts:	Thank you for giving me the floor. It sounds like we're colluding, which we're not. I think you're just reading my mind. There are three things that IANA can do, but only one of those three things comes under the heading of stepping in. Transfer is not stepping in, in my opinion, and I think 6.2.2.3 is confused and really needs

to be teased out in much more simple language. Maybe set into three different paragraphs or something.

The issue is this: IANA stepping in is -- revocation is a subset. It is included in the set of stepping in, which is the formal thing it can do that's stepping in, but there are other things. Just picking up the phone and saying fix your name servers, which are not in any of the three. But transfer has got nothing to do with IANA. IANA merely executes the transfer.

Bernie Turcotte: Well, to a certain extent, IANA only executes a delegation, also, but, listen, first cut, what I'm getting from this is we're not arguing on the core content; we're arguing the way it's presented, and I think I've taken on some of the information. And I absolutely have no problem rewriting it to make it clearer. Eberhard?

Eberhard Lisse: Becky was actually first.

Becky Burr: I do think this is a form issue, not a -- I understand Nigel's point. I think that this just needs a little redrafting.

Keith Davidson: Okay, thanks, Becky, and Eberhard?

Eberhard Lisse: I have a little problem with 6.2.2.3, unwilling or unable. Unable is not substantial misbehavior. If it's incommunicado, that's not substantial misbehavior. I think we should look at it when we redraft this.

Keith Davidson: Okay, thanks, Eberhard. Nigel had his hand up --

Bernie Turcotte: Just to be clear for Eberhard, I was not stating that that was the case, and that is part of the redrafting problem, I agree.

Eberhard Lisse: Excellent.

Keith Davidson: Okay. And Becky now has her hand raised. Becky?

Becky Burr: I'm sorry, I was meaning to take my hand down, not put it up.

Keith Davidson: Okay. Okay, as noted as an action point, 6.2.2.3 needs some further drafting. I guess on the basis of 6.2.1.1, if we have the same subgroup, Nigel, Becky and Bernie working on that, that would probably be reasonably appropriate. Nigel? Did you have your hand raised, Nigel?

Nigel Roberts: Yeah, I'm not hearing you when I'm pressing the star, 7 buttons, and so on. I'm just getting ahead of the game for .4 and .5.

Keith Davidson: Okay. Okay. Bernie? Bernie, you're still on mute.

Nigel Roberts: While he catches up, I'll make my point, because it's quick.

Keith Davidson: Okay.

Nigel Roberts: I would like to see the word "intent" in .4 and .5 replaced with "purpose." I'm not -- I think reading "intent," unless we've got something written down saying what John thought at the time, is akin to crystal ball gazing, but I think we both know the purpose of 1591 was.

Bernie Turcotte: If Becky has no problems with that and I don't have a problem with that.

Becky Burr:	I'm okay with that.
Bernie Turcotte:	All right.
Keith Davidson:	Bill is (inaudible). Bill?
Bill Semich:	Well, since we're suddenly talking about 6.2.2.4 and .5 without having Bernie read it, maybe you don't have to read it now. Bernie, there is a typo or small editorial issue, "The FOIG believes it is consistent with the --" and we may say, "-- purpose of RFC 1591 to interpret IANA stepping in as the IANA contractor continues --" that should be continuing "-- with the traditions of …."
Bernie Turcotte:	Thank you, excellent. Noted.
Keith Davidson:	Thanks, Bill. Okay, Bernie?
Bernie Turcotte:	All right. 6.2.4, which we've already dissected to some part. With the changes now will read, "The FOI working group believes it is consistent with the purpose of RFC 1591 to interpret IANA stepping in as the IANA contractor continuing with the traditions of (1) ensuring the security and stability of the Internet and the ccTLD; and (2) deploying all means at its disposal to assist in resolving issues with incumbent operators. Do we have other comments on 6.2.2.4?
Keith Davidson:	There doesn't appear to be.
Bernie Turcotte:	All right. 6.2.2.5. The FOI working group also believes it is --
Bill Semich:	Oh, actually, sorry. I thought we had made the decision to expunge the word "operator" in all our documents.
Bernie Turcotte:	Oh, that's right. It's supposed to be manager. Apologies.
Keith Davidson:	I see Nigel has his hand raised. Nigel?
Nigel Roberts:	Yeah, I'm on 5, where we're talking about -- where we mention the IANA contractor.
Bernie Turcotte:	We're not there yet.
Nigel Roberts:	All right. Well, I want to talk about it when we get there.
Bernie Turcotte:	Okay. Let's close off 4. Anything else on 4? We're replacing incumbent operators with incumbent managers, quite correct. All right, 6.2.2.5. The FOI working group also believes it is consistent with the now called purpose of RFC 1591 to state that revocation should be a last resort option for the IANA contractor. Nigel?
Nigel Roberts:	Okay. I'm going to offer an alternative and hopefully that will find favor. The FOI also believes it is consistent with the purpose of RFC 1591, so that's not changed, to interpret the existing policy in such a way that revocation is a last resort option. The reason behind my proposed change is that whether you believe we should use the word "IANA contractor" or not, and we probably should, I don't think it adds anything to name it. And to be perfectly honest, we want to look at this in a broad brush approach.

There is some doubt of whether ICANN might be an IANA contractor in six months' time. There is some doubt whether the IANA contractor on its own has any power to do anything except write a report for the US Government to make a decision on. I'd kind of not like to add these things in unless there is a real reason that that phrase is there. Just simply mentioning it today because we know that's who probably would do it. Does that make sense?

Keith Davidson: It makes total sense to me, anyway, Nigel, and I agree, that the point that 6.2.2.5 is making is revocation should be the last resort, and it doesn't matter who is executing that or when. So, point well made, and I think we can probably accommodate the change of ticks similar to what you see, I think, Nigel. I see Stephen has his hand raised. So, Stephen?

Stephen Deerhake: I just wanted to concur with Nigel's restatement of that.

Keith Davidson: Okay, thanks, Stephen.

Bernie Turcotte: And I have no problems with that, too. I think I've noted it, so I'll try to get that in there properly.

Keith Davidson: Okay. Continue, Bernie.

Bernie Turcotte: So, that concludes Section 2.2. Moving on to Section 6.2.3, Substantial Misbehavior. All right. Section 3.5 of RFC 1591, not trying to confuse everyone, but follow through with me here. We are talking about Section 3.4 in 6.2, but I'm referring to Section 3.5 in 6.2.3.1, deals with the requirements of the manager to do a satisfactory job operating the DNS service for the domain. It would then seem logical that the substantial misbehavior referred to in Section 3.4 of RFC 1591 would target non-DNS-related issues.

So, what I'm trying to say here is satisfactory job of operating the DNS and methods for dealing with that are covered in 3.5. And I believe that what we're talking about in 3.4 are things that are not covered by that. Thoughts, questions, comments?

Keith Davidson: I think Nigel is indicating he disagrees with it and has his hand raised. Nigel?

Nigel Roberts: Okay. I believe I'm already not on mute; is that correct?

Keith Davidson: That's correct.

Nigel Roberts: Good. First of all, putting it in a trite manner, if you give me half an hour, I can think of half a dozen ways of substantially misbehaving with the DNS. So, I don't agree with the premise of 6.2.3.1, that it would seem to target non-DNS-related issues. I think it's neutral as to whether it targets DNS-related issues or not. What it targets is misbehavior of any kind, and misbehavior that is of a quantum that is substantial. So, I think 6.2.3.1, although I see what you're trying to say and, again, perhaps we all know what we're talking about, but I just think it doesn't help and doesn't add anything.

Keith Davidson: Though perhaps referring to substantial misbehavior, referring to not just the DNS would be more appropriate. Is that what you're suggesting, Nigel?

Nigel Roberts: I just don't think it -- I think you don't need -- when you've got a phrase of substantial misbehavior, you don't mean -- if you say substantial misbehavior is

misbehavior that is substantial and it includes DNS and non-DNS. It doesn't help, it doesn't add anything. It just means substantial misbehavior of any kind.

Bernie Turcotte: Okay. So, if I'm understanding you, Nigel, we're just talking about striking 6.2.3.1.

Nigel Roberts: That's my proposal. I think it's otiose and I think it confuses.

Bernie Turcotte: Okay. I'm not strongly attached to that.

Keith Davidson: Yeah, I think I can appreciate where Nigel is coming from, and just looking at the list, I think Martin is also indicating, and Cheryl also are in really strong agreement, and Bill. So, I think we can take it as read that we need to do some modifying to reflect that.

Bernie Turcotte: What I take away from that is 6.2.3.1 is being struck.

Keith Davidson: Yeah, thanks. Please continue. Nigel, do you have your hand re-raised or -- I put his hand down, so, yes, please continue, Bernie.

Bernie Turcotte: Okay. 6.2.3.2. The only other requirements prescribed for the manager in RFC 1591 are Section 3 of RFC 1591. The major concern in selecting a designated manager for a domain is that it be able to carry out the necessary responsibilities and have the ability to do an equitable, just, honest and competent job. I'm just going to go through these, because these are just quotes from RFC 1591.

Section 3.1 of RFC 1591. The key requirements is that for each domain there be a designated manager for supervising that domain's name space. In the case of top level domains that are country codes, this means that there is a manager that supervises the domain names and operates the Domain Name System in that country.

6.2.3.2.3. The manager must, of course, be on the Internet. There must be Internet protocol, IP connectivity to the [named] servers and e-mail connectivity to the management and staff of the manager.

6.2.3.2.4. There must be an administrative contact and a technical contact for each domain. For top level domains that are country codes, at least the administrative contact must reside in the country.

6.2.3.2.5. Section 3.2 of RFC 1591. These designated authorities are trustees for this delegated domain and have a duty to serve the community. The designated manager is the trustee of the top level domain for both the nation, in the case of a country code, and the global Internet community.

Section 3.3, RFC 1591 under point 6.2.3.2.6. The designated manager must be equitable to all groups in the domain name that requests domain names.

So, basically, these are the non-DNS-related things I could identify as requirements from the manager in RFC 1591.

Keith Davidson: And I think Nigel has his hand raised.

Nigel Roberts: And the reason I've got my hand raised is I think we've missed a very clear exposition of what we're looking for here. By taking 6.2.3.2.1 -- gosh, I'm sorry, running out of breath -- and looking at its mirror image, that's the definition of

	misbehavior. If somebody does an inequitable, unjust, dishonest or incompetent job, that's misbehavior perhaps.
Bernie Turcotte:	Well, I'm not trying to define misbehavior in this section; I'm trying to identify the sections that might help us define misbehavior and significant misbehavior. So, I think I'm in line with you.
Nigel Roberts:	I'm not saying that we should change any of 6.3.2.1. What I'm saying is that when we get down to -- let's see, where do we get to when we get to the end of that? Before -- maybe after the summary of requirements, before the analysis of requirements, we simply say somewhere in there that where misbehavior might lie.
Bernie Turcotte:	Nigel, as usual, you're way ahead of everyone, so give me a chance to catch up here. Let's finish 6.2.3.2. Are there any other points on 6.2.3.2 and its subpoints?
Keith Davidson:	There doesn't appear to be.
Bernie Turcotte:	Excellent. Okay. 6.2.3.3. So, what I've done here is basically try and summarize the points brought up in 6.2.3.2, i.e., as far as just core requirements. Designated manager for domain is that it be able to carry out the necessary responsibilities and have the ability do an equitable, just, honest and competent job. Operate the Domain Name System in that country, e-mail connectivity to manager and staff of the manager. There must be an administrative contact and technical contacts for each domain.
	For top level domains that are country codes, at least the administrative contact must reside in the country involved. The designated authorities are trustees for the delegate's domain and have a duty to serve the community. The designated manager is the trustee of the top level domain for both the nation, in the case of country code, and the global Internet community.
	And, finally, the designated manager must be equitable to all groups and domains that request domain names. So, I don't know if there are questions. I thought it was just a question of trying to compact those so we're looking at the key points. Anything on 6.2.3.3 and its subpoints? Stephen?
Stephen Deerhake:	With regards to 6.2.3.3.4, with requirements that the administrative contact at least must be in country, what do you believe the interpretation is if duty evolving health issues, the current designated administrative contact is unable to continue to reside in country (inaudible) of healthcare?
Bernie Turcotte:	I'm not talking about (inaudible). I'm just resuming what the requirements are.
Stephen Deerhake:	You're just rephrasing what's in --
Bernie Turcotte:	Exactly. That's what I said and I'm not trying to analyze them at this point.
Stephen Deerhake:	Okay.
Keith Davidson:	And Martin also has his hand raised. Martin?
Martin Boyle:	Thanks for that. 6.2.3.3.3 appears to put a slightly narrower interpretation than comes from 6.2.3.2.3, which specifically [names servers]. Is there any reason for that?

Bernie Turcotte:	Yes, in the way the section 6.2.3 was originally structured, I was trying to make the point that we're trying to deal with non-DNS-related issues, so that was the reason we're going there. Depending on how we restructure, I may broaden that point, as you are saying. Does that answer your question, Martin?
Martin Boyle:	That's fine, thanks.
Bernie Turcotte:	Thank you, sir. Okay, I don't see or hear anything else, so let's dive into 6.2.3.4. The Analysis of Requirements. 6.2.3.4.1. The designated manager for domain is that it be able to carry out the necessary responsibilities and da-da-da. And a logical requirement that a manager must exist and be able to carry outs its responsibilities. I tried to keep it simple. Thoughts, and we'll take these one-by-one, since now we're into interpretation land. So, 6.2.3.4.1.1. Eberhard?
Eberhard Lisse:	Yes, in fact, I would like to have the ability to do -- take this off, must not be able to be honest, it must be honest, as far as I'm concerned, and so on.
Bernie Turcotte:	I'm sorry, Eberhard, I didn't quite understand the point you're trying to make.
Keith Davidson:	Eberhard?
Eberhard Lisse:	In the interpretation, in the analysis, you say the manager must have the ability to be honest. I believe that he must be honest, not just be able to be honest.
Keith Davidson:	Oh, I see, in 6.2.3.4.1, you're saying the last piece is, "and have the ability to do an equitable, just, honest and competent job," and your suggesting it shouldn't be "the ability to," but "must be able to do an equitable, just, honest and competent job."
Bernie Turcotte:	No, he's saying be honest, but I think if I go back to the original text we're quoting in Section 3 of RFC 1591, is the major concern -- so, right now I'm reading from 6.2.3.2.1: "The major concern in selecting a designated manager for a domain is that it be able to carry out the necessary responsibilities and have the ability to do an equitable, just, honest and competent job." So, I was trying to match up to that and not rewrite.
Keith Davidson:	It's a direct quote here.
Bernie Turcotte:	So, I'll look at it, but I think it might be -- I might be unable to fit Eberhard's point, although I think I understand it quite well.
Keith Davidson:	Okay, Martin and Nigel both have their hands raised, so maybe points of clarification. Martin?
Martin Boyle:	Thanks. I fully agree with Eberhard. "Must have the ability to do an equitable, just, honest and competent job," the requirements have to be that they are actually doing it. Otherwise, it just doesn't seem to make any sense. I can do an honest job, but if I'm actually not doing the honest job and I'm not actually meeting the requirements that are sitting in the document.
Keith Davidson:	Okay, it sounds not unreasonable, I think, Martin. And Nigel?
Nigel Roberts:	Yeah, first of all, I agree with Martin and I agree with Eberhard, but this choice of phrase, "be able to do a just, equitable and honest job," "have the ability to do just, equitable and honest job," is actually pointing to something by way of

interpretation of this document, which is that these requirements are to be applied at the choice of manager time. Because the implication is that there will be a requirement to be just, equitable, honest and competent, but the requirements are being applied before they're actually doing the job. So, a prerequisite to doing a just, equitable and honest job is that you're able to do that. So, this is actually pointing to the other interpretation. All these requirements apply pre-delegation time. Otherwise, these tenses wouldn't be being used.

Keith Davidson: Okay, that makes some sense, too, that further clouds the issue. Thank you, Nigel. Bill has his hand raised and then Eberhard. So, firstly, Bill.

Bill Semich: Yes, this sort of brings us back to my previous concerns about mixing the IANA stepping in concept with the revocation concept and misbehavior. It's conceivable that misbehavior would be, for example, an incorrect showing of the admin contact being in the country, or an incorrect showing of being able to be equitable, just and honest, or an incorrect showing of several other things, as Nigel points out. The language here is targeted to the decision-making process of assigning, delegating the domain name and not to finding misbehavior after-the-fact. It's just an observation, so it's possible we need to go back to the drawing board on some of this.

Keith Davidson: Okay, thanks, Bill. Eberhard?

Eberhard Lisse: I think Nigel's point is quite correct. At selection time, one should look for people who have the ability to do this, but at serious misbehavior time, equitable, just, honest and competent count as the opposite of misbehavior. So, at operation time it doesn't make sense -- you have the ability but don't do it. At selection time it makes sense to say you have the ability. So, maybe we should figure out a way to split this.

Keith Davidson: Okay, point well made. And Becky, your hand is raised. Becky?

Becky Burr: This is the point that we always get to here, and normally I try to assume that John was acting with specific attention in choosing particular words, but I think that the language, the equitable, just, honest and competent stuff does come up in the context of the selection. Although 1, 2, 3 and 4 below are not exactly parallel to that, they do sort of sound in that. So, I understand why we want to sort of pull this apart, but it seems to me that what we've got is in the heading a description of what you would choose somebody for, and then an explanation, 1, 2, 3 and 4, or 1, 2 and 3, about the -- why they need to be just, honest and equitable and competent.

I just think that the -- we're parsing this in a way that is going to make this a document that is very hard to be useful.

Keith Davidson: Okay, thanks, Becky. Nigel, is your hand re-raised or did you just not put it down? If it is re-raised -- no, thank you. Martin?

Martin Boyle: Thanks. I must admit, I actually do have an awful lot of difficulty in separating in my mind why you would have a set of criteria for choosing your operator and then not considered criteria were key when he became your operator. It just -- again, it doesn't make sense to me. You've chosen the person to be able to do the equitable, just, honest and competent job, but at that point you stop. Now, certainly Becky's point that then that which follows helps you interpret what equitable, just, honest and competent job really means, but I have no really clear identification in anything that follows, that picks up on words like just and honest

and competent. So, I do see a value in that 2.3.4.1 paragraph of actually reminding everyone in underlining those four qualities are actually important qualities for the definition of the job. And this is going to then substantively help us interpret whether something is a substantial misbehavior or not.

Keith Davidson: Okay, thank you, Martin. Nigel?

Nigel Roberts: Did you call me?

Keith Davidson: Yes, I did.

Nigel Roberts: Yeah, I can't hear when I'm pressing the mute off button, so I was trying to do it in advance. I didn't hear you call. I agree with Martin, and in fact that refers to what I said on the chat a couple of minutes ago. The ongoing requirement is implicit in the purpose of the policy. However, it's perfectly possible for me to say I'm going to give away my car, I'm going to give away a piece of property. I want to choose somebody who will treat it right. Once you've given away the property, you can't -- or you don't want any further, day-to-day minutiae, but you can say perhaps, "If you don't want it anymore, you have to give it back to me." And these are the kind of analogies that could potentially apply.

But I don't want to get too deep into it, because it's becoming very clear that irrespective of what happens post-delegation, RFC 1591 expects us all to do a competent job, and I think that's what we can take out of it. We are actually getting to what I call the purpose of the document, and I think that's a good thing.

Keith Davidson: Yeah, [fitting of] all the expectation, in other words. Okay, well, can we continue with the document with a question mark around 2.3.4.1.? So, rather than assigning it to re-wording, just put a question mark around it at this stage. Okay, Bernie?

Bernie Turcotte: Question mark, okay. All right.

Keith Davidson: Oh, to put it in Martin's terms, a square bracket.

Bernie Turcotte: Yes, correct. Text will now be in square brackets. 6.2.3.4.2. Operate the Domain Name System in that country. Subpoint 1. One must remember that RFC 1591 was published in '94, and that there were few registry service providers at that time. I'm going to go through the argumentation and then we'll take questions, unless it's urgent, Martin?

Martin Boyle: Yeah, it was actually to do with 4.1.1.

Bernie Turcotte: Okay.

Martin Boyle: Really, it's just a question that 4.1.1 is being, in my terms, square bracketed in the same way as [4.1.].

Bernie Turcotte: Okay.

Martin Boyle: Well, it's question. Is it actually being?

Keith Davidson: I think there is no reason why it shouldn't be bracketed likewise, because you can't have it without the fifth part of 2.3.4.1.

Martin Boyle:	Well, it does actually lead me to an additional question in that we have earlier in all these discussions identified the fact that a manager might be derelict, [in other words,] he no longer exists, and this would actually then seem to go against that. And, in fact, it being one of my concerns that somebody wanted to correct a circumstance where, for example, the company that was running it has gone under and the new operating company has taken it on, but has to go through a full revocation and delegation process to arrange for the transfer because there is no longer any designated manager.
Keith Davidson:	So, you are suggesting, if I read that rightly, Martin, that the clause needs to stand in its own right in terms of the manager must exist.
Martin Boyle:	But I think there is an underlying and bigger question in that logical requirement, the manager must exist isn't actually logically perfectly correct. As far as IANA records are concerned it might actually be the old manager which is listed, and that old manager no longer needs to exist. In other words, that might be a reason why you've not had an answer [from me].
Keith Davidson:	Okay. Thanks, Martin. Nigel?
Nigel Roberts:	Well, I agree with Martin, but, again, I think 6.2.3.4.1.1 is otiose and should be deleted. This is not interpretation of the policy; this is setting out, if you like, implementation detail. It's self-evident that a designated manager can't do an equitable, just, honest and competent job if he doesn't exist. I think we're in danger of confusing the document by putting stuff like this in.
Keith Davidson:	Okay. Let's keep the square brackets around all of 6.2.3.4.1, and continue with the document in the interim.
Nigel Roberts:	Can I offer the expression "an inevitable consequence" rather than "logical requirement," or something along those lines? It's a consequence, not a requirement.
Keith Davidson:	Yes. Okay, thanks, Nigel. Shall we continue, Bernie?
Bernie Turcotte:	Sure, I'm just writing down these words of wisdom here, and we will move on to 6.2.3.4.2, unless there are other questions.
Keith Davidson:	Well, I think Martin is signifying disagreement with the wording of consequence. Anyway, so it's just keep all of it square bracketed and --
Bernie Turcotte:	Yeah, we can certainly leave that on the list and have great fun beating up on it.
Martin Boyle:	It just doesn't respond to my initial concern in that somebody might be doing quite a competent, equitable, just and all the other assets, a satisfactory job is not the person listed in the IANA contract, and I think actually it just needs to be noted and thought about rather than just being left as a loose end.
Keith Davidson:	Yes, thanks, Martin. Yes, there maybe some hangover instances in reality of those exact circumstances in the IANA database. Okay, Bernie, please continue.
Bernie Turcotte:	Thank you, sir. 6.2.3.4.2. Operates a Domain Name System in that country. Subpoint 1. One must remember that RFC 1591 was published in '94 and that there were few registry service providers at that time. As I said, I'll run through these and then we can beat up on all of 6.2.3.4.2.

Currently, there are a number of ccTLD registries which use registry service providers to operate their registry. In many of these cases, these are not based in the country or territory associated with the ccTLD. Such providers usually offer excellent services which would be difficult or impossible to replicate in some countries or territories. As such, it would seem impractical to interpret this requirement as applying to the technical operations of the ccTLD registry.

It would seem reasonable to interpret this requirement as mandating that registry services be available to the inhabitants of the country or territory respecting local languages, currency, culture and law. It would also be reasonable to interpret this requirement as mandating that the management control the registry as well as the policy development for the registry be carried out in the country or territory associated with the ccTLD.

All right, that's all of 6.2.3.4.2, so let's take on the questions.

Keith Davidson: Okay, firstly we've got Nigel and then Bill. Firstly, Nigel?

Nigel Roberts: Hi. I've got a point which relates to subpoint 2, but then my point about the whole may clear the whole thing. So, let me just pick up on the argument I've got with .2. First of all, I think the second sentence -- no, third sentence, the one that starts, "Such," is simply untrue. And I think that this is getting along the lines of saying you can't run a competent ccTLD registry unless you're Afilias, Newstar or VeriSign. We're getting towards this [cartellate] implication here and I find that a little bit distasteful. It's perfectly possible to operate using one of several open source registries, such as FRED or CoCCA in country, if that's the desire.

Keith Davidson: I think that --

Nigel Roberts: I've got a bit of a problem with that --

Keith Davidson: (Inaudible)

Nigel Roberts: But let's just go to -- I'm sorry, I can't hear you.

Keith Davidson: There is a proviso with -- in some countries or territories, I don't think it's indicating that it applies in all countries and territories.

Nigel Roberts: That is -- I understand that it's some --

Bernie Turcotte: (Inaudible)

Nigel Roberts: -- but even though it says some, if you've got Internet connectivity, you pretty much could. But let's not debate that, because when we go to the overriding expression, "operates the Domain Name System in that country," I think that the interpretation that Bernie has placed on it is not the interpretation that was intended.

And I have to say again, we dealt with RFC 1591 fifteen years ago and understood it a certain way, and trying to interpret it in this way now would appear not to be the same way that I originally understood it.

In that country is perhaps better said as "in that domain." So, in other words, it operates the Domain Name System for the country or territory. It's foreseen in RFC 1591 that you might have proxy service. It is actually explicitly stated elsewhere in the document, so it doesn't mean you have to operate the Domain

Name System in the country, in the physical territory of the country. What it means is in the country, as in for the country and its people, and so on. I know that's kind of easy to interpret it now to say that you have to have the registry inside the country, but if you look elsewhere in 1591, it's contradicted. So, I think it means for the country.

Keith Davidson: Okay, thanks, Nigel. Bill?

Bill Semich: I think you've done a great job trying to figure out what this means, Bernie, but I have to feel that you've loaded several tons of steel on the back of a very weak mule. We have one --

Bernie Turcotte: I like that image, Bill.

Bill Semich: You have nine words and we have several paragraphs interpreting these nine words. I would strongly recommend that we not interpret this particular phrase and just leave it exactly as it stands. The Domain Name System is not a registry, and certainly back then it wasn't really a registry, the way we think of it now. And the Domain Name System does not necessarily have to be for that particular ccTLD.

It may be, and I'm saying we can't read John's mind now -- it may be that he's saying, well, there has to be a Domain Name System in this country in order for them to be able to access these TLDs that they're registering, so you need to run a Domain Name System. It doesn't mean anymore than that on the bald face of it. So, I really think we should just let this sentence lie and leave it as it is and not have any subsections.

Keith Davidson: Okay. That's a valid point of view. I think part of that issue is, yeah, the complexity of 1591 reference to act in the best interest of that country and the global Internet community, or whatever that particular phrase is. Anyway, continue -- no, I see more hands up. Paulos first and then Martin. Paulos?

Paulos Nyirenda: Thank you, Keith. I'm also not happy with the subsections in this, and I tend to agree with Bill, that probably we should let that short statement be as it is and not include these subsections. I'm not sure what "reasonable to integrate" really means in these sections. I'm not really comfortable with the section.

Keith Davidson: Okay, thanks, Paulos. Martin?

Martin Boyle: Thanks. Yes, similarly, I have a bit of difficulty in trying to cope with quite so many long paragraphs on so few words, and part of that, I think, is that you -- we've got one small collection of words that then doesn't immediately pick up on some of the things in the same section. And I wonder whether that might help us identify a collection of things that we can draw out from this in such a way that it is clear in our minds that we understand what the "operating the Domain Name System in that country" really means.

For example, all the bits about where should it be, where should it reside, the third paragraph of clause one actually does indicate quiet clearly that the operator might actually not be in country. Because it then says the administrative contact must reside in the country involved, which implies that anybody else involved in it might well not.

	So, I think perhaps if we get rid of the things that are clearly not necessary to go into detail about and then think very hard about those [key] things where it is important as being perhaps a way of moving forward.

So, for example, under .2.3, we've got sort of a list of things that we might actually include. I'm not sure I saw many of those. But the one thing that does strike me is that answerable in law in the country or the territory you are working in, perhaps it's the sort of fundamental part of what this thing is actually trying to say when it's operating Domain Name System in that country. |
Keith Davidson:	Okay, thanks, Martin. Very good suggestion of the possibility of inclusion of some of the intent. Firstly there is Nigel and then Becky. Nigel? Nigel, you are not audible.
Nigel Roberts:	Let me try again. I think the explication of 6.2.3.4.2 is one sentence or one paragraph, and the subpoints 1, 2, 3 and 4 should all go. And I think the explication goes something along the lines of makes the relevant TLD work.
Keith Davidson:	Okay, that's one way of looking at it. Thanks, Nigel. Becky?
Becky Burr:	I just wanted to clarify, see if I could get a clarification from Martin. Were you suggesting that this be interpreted to say that the TLD has to be operated from within the country, that that's what "operates the Domain Name System in that country" means?
Martin Boyle:	No. In fact, quite the opposite.
Becky Burr:	Okay, good, because I was very confused by that.
Martin Boyle:	Right. Well, sorry for perhaps not being as clear as I would have liked to have been. My point is that we have only one condition in that three paragraphs under one, which indicates what needs to be done in the country, and that's the bit that says, "At least the administrative contact must reside in the country involved." And then the only, sort of the conclusion I would have from that is that by insisting that the administrative contact should be in the country, that they are then subject to the local law, the law of that country. But apart from that, that was the only inference I felt able to draw on and I assume other people might not actually necessarily agree with me on that.
Keith Davidson:	Okay, thanks. Bernie? Oh, I'm assuming that Nigel and Becky have both just not taken their hands down, so Bernie, back to you.
Bernie Turcotte:	Thank you, sir. So, now let's conclude 6.2.3.4.2, and my takeaway from that, as we say, is that the whole thing in square brackets and we've got to do some more work on it. So, moving on to 6.2.3.4.3. E-mail connectivity to the management and staff of the manager, with the caveat that this line may be affected depending if we include the DNS stuff or not, as mentioned by martin earlier. IANA must be able to contact the manager via e-mail is what I said. So, questions, thoughts, comments?

Okay, that one sounds like it's a keeper. 6.2.3.4.4. There must be an administrative contact and a technical contact for each domain. For top level domains that are country codes, at least the administrative contact must reside in the country involved. Nigel, you've got your hand up before I'm finished, but let's go with it. |

Nigel Roberts:	I think the same principle applies to this section as applies to the previous one. We're going into too much detail here. There must be an administrative contact. That's what it means. There must be a technical contact. That's what it means. The AC must be in the country or territory concerned. There is nothing more to it than that.
Bernie Turcotte:	Okay. Any other questions? Bill agrees, okay. Nigel, do you have another point or hand is still up? Okay, so, basically what we've got on 6.2.3.4.4.3 is that we're saying just a straight interpretation of this because we've gone into too much detail, and that's it. Let us think about that and we'll put that in a similar kind of context to not the previous point but the point before that, when we were talking about operating in country, is what I'm taking away from that. Okay, I think we're okay with that.

6.2.3.4.5. The designated authorities are trustees for the delegated domain and have a duty to serve the community. The designated manager is the trustee of the top-level domain for both the nation, in the case of a country code, and the global Internet community. As noted in the FOI working group on consent in RFC 1591, the term trustee is used to describe the manager's duty to serve the community and not describes the legal relationship of the manager to the delegated domain. So, that's published and accepted.

The manager must provide mechanisms to allow for registrants and significantly interested parties to provide input to the manager. Being a trustee for the global Internet community should be interpreted as ensuring the security and stability of the ccTLD as part of the global Internet and working with the IANA contract manager to ensure this. Thoughts, questions, comments? |
| Keith Davidson: | I think we've got Nigel and then Bill. So, firstly, Nigel? |
| Nigel Roberts: | I'm getting confused by this section now, Bernie, I have to say. I can't see where the words are that are in 1591 that provide the output for a lot of this that's here. I mean, we've agreed that the word "trustee" is used in the moral sense and not a strict legal sense as in trust law, that we went over in detail in the past. But the moral use of the word "trustee" is a general duty to do the right thing. It doesn't have -- there is nowhere I read in 1591 that you must work with the IANA contract manager to ensure this. I mean, not that you wouldn't, but I don't see the specific literal requirement to do that.

Of course you should ensure the security and stability of the ccTLD, but I don't see that that's written in 1591, and I think we should be hesitant at reconstructing or constructing new forms of words which themselves can then be interpreted and analyzed and reinterpreted. I just don't see where this comes from. |
| Keith Davidson: | Okay, thanks, Nigel. I think the question or the obvious of that suggestion, or your suggestion is the need to be quite explicit that you have duties or expectations as a ccTLD manager that exist out of your country and to the global Internet community. I think Bernie is trying hard to make that point here, that this extends to more than just in country. Anyway, Bill has his hand raised, so Bill? |
| Bill Semich: | Yes, I've always read this to mean that -- in a similar way to what Nigel has said, that this is a description of -- to minimize the monopolization of the product, so-to-speak, or even do away with it, and to have fair and equal treatment of everyone, and the trustee relationship describes that. |

Although I don't disagree with 6.2.3.4.5.2 as a general concept, I don't see that it can be extracted from the language of RFC 1592. Trust relationship is one of responsibility and serving the community and not taking advantage, but it doesn't mean X and it doesn't mean Y, and in this case it doesn't mean Z -- they have to provide mechanisms to allow for registrants and significantly interested parties to provide input.

What it does mean is that the domain name must be available to be registered, and that's how you serve the community, by doing this service of registering a domain name and putting it into the zone and keeping the zone active, and making the Domain Name System work. That's the service. I can't see how it goes anywhere beyond that based on the language in the RFC and, as well, on the concepts that were prevailing at the time, which was, golly, we've got to figure out how to get name server working. We've got to figure out how to get the zones in there right and make them secure and not be corruptible, and make them propagate, and so on and so forth. That's a difficult process and it's a service.

And, again, I agree that the concept of the global Internet community means that service has to be extended to the whole world and not just be I a closed booth zone inside of a country. And I think that's the extent of the trusteeship on the global community as well.

But, again, we're all saying words like "I think." The language is not all that confusing. If we need to explicate it a little bit, I'm happy with that, but I think we are kind of over-extending the meaning of the words to try and give them current meaning and make the words conceptually able to carry something, some kind of meanings that may help in the process of IANA administering the ccTLD relationship but doesn't really -- isn't necessarily something that the actual words the RFC is saying.

Keith Davidson:	Good points. Thanks, Bill. I think, Bernie, we have some editing to do in this regard. Martin has his hand raised. Martin?
Martin Boyle:	Thanks. I can certainly understand and sympathize with Bill's point. We're back in the over-engineering, over-identifying what words mean. However, I do have that sort of one bit of concern that if all we do is just restate that which is in 1591, then we haven't done anybody any service of interpretation. As I do think that we have to give a little bit of thought as to exactly what terms like "duty to serve the community" might really mean, just picking up on the 4.5.2.
	I think I would have concerns of saying, well, you have to provide mechanisms to allow for, but you do need to try and find some way of putting in some wording that actually means the community's interpretation of what was absolutely necessary for serving then rather than me deciding I have their best interests at heart in a good old Victorian paternalist way for such definitions.
	So, yes, some simplification, but I do think we do have to put in some thought to some idea as to think what are the important issues at stake here.
Keith Davidson:	Thank you very much, Martin, for reminding us of our prime purpose here is to provide color to the policies. So, not saying anything is not really doing that. I have Nigel on the list, but I think Bernie wants the floor for a minute. So, firstly Bernie, then Nigel.

Bernie Turcotte: Thank you, sir. I want to agree with Martin, or at least that was my understanding of what we're trying to do. We may not agree with what I've said there, which are things to get the discussion started, but I think the end product, whatever it is, whether it uses these suggestions or not, needs to, as we have said always, provide color and depth. We can't simply requote the statement and say that's all it is. Then I think we would be failing in what we're trying to do. And I'm not saying it's going to be easy, but I think that is what we have to do.

Keith Davidson: Okay, thanks, Bernie, and Bill Semich is indicating agreement with that. And now we have Nigel and then Becky.

Nigel Roberts: Yeah, as I said with the green tick, I do agree with Martin has said. We must be cautious that we don't try and write horse under the picture, but that's true. But we must be very careful that we don't try and introduce the Victorian paternalism, which he quite rightly quotes, and say the IANA is the Victorian paternalist who turns around and says, "Well, you didn't consult your local Internet community." The principal subsidiary applies here. It's the manager in relation to the local Internet community that prescribes what your consultation mechanisms are, and they are different for different countries and cultures.

Keith Davidson: Yeah, fair point. So, yeah, obviously, Bernie, we've got a bit of work, a bit of editing to do here, but Becky has her hand raised. Becky?

Becky Burr: Actually, I was just going to support what Martin and Nigel said. And I agree on leaving some latitude for how you get this, how you get the input.

Keith Davidson: Okay, thanks, Becky. Okay, so, Bernie --

Bernie Turcotte: Much more brackets, yes, sir.

Keith Davidson: Yeah, yeah, yeah, and a little bit of work to do there. Please continue.

Bernie Turcotte: 6.2.3.4.6. The designated manager must be equitable to all groups in the domain that requests domain names. One must remember that RFC 1591 was written in '94 -- or should be published in '94, and that at the time there was an expectation that the majority of registrants of the ccTLD would be from the country or territory. This is no longer the case for a number of ccTLDs.

Additional, there was an expectation that a ccTLD manager would be interacting directly with the registrant for the registration and management of domain names. This did not take into account the registrar/registry business model which is now prevalent in cc space. A number of ccTLDs do have a policy that allows them to charge a different fee either based on the type of registrant in country or territory or not, registered business or not. Essentially, these are policy decisions which are made by the manager to meet the various requirements including those of local community and legal systems which could not be envisioned by RFC 1591 at the time of its publication.

As such, it would seem reasonable to interpret this requirement in the current context as the manager must publish its registration policies on the Internet for anyone to consult, minimally in all the official languages of the country or territory, and apply these policies in an impartial manner. Nigel?

Nigel Roberts: Well, I agree strongly with subpoint 5, although I would have probably written it differently, and for that reason I propose complete deletion of subpoints 1 through 4.

Bernie Turcotte:	Yeah, they were just there to support an argumentation.
Nigel Roberts:	I actually don't think they support it; I think they hinder it.
Bernie Turcotte:	What I'm looking for is a conclusion, so if that makes everyone happy, I'm happy with that.
Keith Davidson:	Yes, okay. Any further discussion? Stephen is indicating agreement, and so is Cheryl. So, I think we have a bit more editing to do there. Bernie? And I think Nigel has just forgotten to take his hand down. So, please continue, Bernie.
Bernie Turcotte:	Thank you, sir. Definitions. We are now moving off of 6.2.3 and now in 6.2.4. Definitions. Substantial, *Merriam-Webster*. Being largely but not wholly that which is specified. A substantial lie. Misbehavior. *Oxford Dictionary* -- and I've gone to different sources trying to find things that seem to fit more in our context. The action of misbehaving. Bad behavior. He has denied all sexual misbehavior. Misbehave, verb. Of a person, especially a child, conducting oneself in a way that is acceptable to others, behaved badly.
	Then I go from that to misbehavior could then be considered to be a failure to meet some of the non-DNS requirements of RFC 1591. Yes, we've got to fix the notion of DNS, but we could amend that to misbehavior could then be considered to be a failure to meet some of the requirements of RFC 1591. Let's get some questions.
Keith Davidson:	Nigel's got his hand raised. Nigel?
Nigel Roberts:	Hi. Thanks. Two things here: I think we need to do some work on misbehavior, because I think there is an element of misbehavior that is not just a failure to meet prescribed requirements. So, we will need to -- and I think this will take more than one meeting to go into this and tease that out. But I have a violent objection to your definition of the word "substantial," because if you take your definition of substantial and let's say your definition of misbehavior is approximately correct and you put them together, what that means is that somebody who doesn't quite misbehave should lose their domain.
Bernie Turcotte:	Well, that's not the intent.
Nigel Roberts:	No, but that's what I'm reading, "Being largely but not wholly that which is specified." I prefer that the definitions which say, "Of ample or considerable amount, quantity, size of a corporate or material nature, of solid character or quality, basic or essential, fundamental." So, substantial in this case means something that -- substantial misbehavior is something that is more than misbehavior, and perhaps much more. A willful refusal to correct misbehavior.
Bernie Turcotte:	And in those words, we'll be glad to use them.
Nigel Roberts:	All right. Well, I thought I'd sent something along those lines many weeks ago, but I'm sure between us we can tease that out.
Keith Davidson:	And just noting that Bill Semich is indicating his agreement with Nigel on that. Thank you, Nigel. Please continue, Bernie.
Bernie Turcotte:	All right, going off mute. So, we've got to work on those definitions and what substantial misbehavior means. Inability or unwillingness of the incumbent

manager to corrected significant issues with respect to the requirements of RFC 1591 for managers of ccTLDs, and we'll be working on that.

6.2.6.2. The IANA contractor should develop and post the procedures for determining if the manager of a ccTLD is substantially misbehaving based on the work of the FOI working group. These procedures should be reviewed and approved by the ccNSO, as they will be responsible for monitoring these. So, let's take some points on 6.2.6.2, and I think Martin is up there, sir?

Martin Boyle: Thanks. I was just wondering why we are turning to the IANA contractor to write -- to develop and post procedures for determining whether a manager is substantially misbehaving or not? It is a degree of interpretation, and I would actually suggest that it start to become almost an impossible interpretation until you've got specific examples in front of you that you can then draw on. So, I'm just being very, very uncomfortable with the idea of potentially passing the buck of getting a manual written and a manual that probably will not then have the answer to the specific questions raised. That was just my feeling as this section is read, as 6.2 was read.

Keith Davidson: Okay, thanks, Martin, and I note Nigel indicating his agreement with your statement. It is quite a dangerous night when both Martin and Nigel start agreeing with each other on more than one occasion, I think. But so noted. Bernie, please continue.

Bernie Turcotte: Okay. Just talking to that point, I guess all we're trying to do here, as we've done with the other things, is to try to navigate the universe between interpreting policy and not writing procedures. So, all I was trying to do here is telling people ahead of this we've identified some points, we've talked about substantial misbehavior, and what are some of the things that should be looked at, and over to you, IANA. And if it's going over to IANA, I agree with Martin, there may not be some really black-and-white situations. But the point is, I think there is a requirement to document what you're going to be considering in the context of your procedures. So, that's what we are looking at here under 6.2.6. Nigel?

Nigel Roberts: I just have a point of order, actually, strangely enough. What time are we carrying on till today, Keith?

Keith Davidson: Another 17 minutes, maximum.

Nigel Roberts: Okay. I'm just wondering, because I think we're coming up to quite a large chunk. Whether or not we can -- instead of commencing the large chunk, find an appropriate time to draw a line and adjourn to another occasion. That's a matter for you, of course.

Keith Davidson: Let's see. I take your point. I was hoping we could get through the document in its entirety tonight, but you're right, we probably won't be able to. So, Bernie, I think is there anything else that we need to cover in terms of the document tonight, or today?

Bernie Turcotte: Well, I think we've got plenty of stuff to work on and talk on the list, so I would tend to agree with Nigel at this point. Probably everyone is getting pretty fatigued, and the next section is a heavy chunk, so I would be comfortable with saying we've done fairly well, let's go back and get some work done and come back to it at the next meeting.

Keith Davidson:	Okay. I'm not seeing any disagreement at all, so I think we will do exactly that. So, thank you all for your input so far on the revocation document, and I think it's indicating that the approach is not unreasonable and just merely needs (inaudible) along the way, so we'll continue along those lines.
	Okay, can we move to the next item on the agenda, and that is item 5, the review of the working group work plan. This is a document that was also (inaudible). This was a document produced by Bart, who isn't on the call today, but I just wonder if everyone has had a chance to read the document and are there any comments or are we happy -- gosh, I'm hearing an echo of myself. Someone is not muted. Thank you, whoever that was.
	So, are there any comments or are we in agreement that this is our current work plan and we're on target to complete our business and within the time frames? Any comments? Any discussion? Everyone is happy? I'm seeing some ticks appear, so if -- and I think most importantly we'll refer the document on in a briefer form to the GAC, so that they are aware of our current timeline as well. So, thank you for that.
	The next item on the agenda was the IANA implementation of recommendations and a discussion of process, and I think we're going to run out of time to go into this tonight, also. So, Nigel had some very strong words to say about this unless there has been no other discussion on this. But I would encourage people to respond on this, and we'll hold over for the next meeting, unless there is any dissent. Okay. Thank you all.
	So, item 7 on the agenda is FOI response to the GAC submission on the consent document, and Bill has kindly recirculated some comments via e-mail on the list regarding the letter that we sent to the GAC. And, Bill, I just wonder if you want to speak to those comments?
Bill Semich:	Yeah, in the press of time, I believe, and I think relevant staff and the chairman were busy traveling to meetings in Asia. This letter was drafted and sent without, at least without my knowledge and I suspect without being posted to the work group list. And there was a small but important sentence in the annex to the letter which set off a few whistles and bells in my alarm system. And I have proposed changing a couple of words of that in order to make it consistent with how we've been describing RFC 1591 versus the GAC principles in the context of this working group, with the principles serving as guidelines and not as policies. And I think we've been consistent with that so far and I feel uncomfortable suddenly changing that approach. And I would strongly urge that we modify the annex and merely send it as a substitute annex to the GAC with the explanation that in deference of the need to get the letter to them quickly, it hadn't been reviewed by the members of the working group. And assuming that the working group concurs with my proposed changes, or something like it, we would include that (inaudible).
Keith Davidson:	Okay, yes. So, yes, firstly, I'll ask that my apologies be recorded for having stepped beyond the [ring] matters of the working group and sending the letter without first giving the working group the opportunity to review it. So, the question is, really, what remedial action we take, and Bill's suggestion is that we rewrite to the GAC, being more explicit. And the question is, is there any support for Bill's suggestion to rewrite to the GAC or should we let sleeping dogs lie? So, I'll invite comments from the group. I'm seeing a tick from Stephen, but I don't know whether that's an indication of rewriting to the GAC or letting sleeping dogs lie.

Cheryl Langdon Orr:	Maybe both.
Keith Davidson:	Perhaps that's something that we can discuss. I don't think there is any desperate rush for an answer, Bill, between now and the next meeting. So, I see Nigel saying he tends to leave well alone. Shall we invite further discussion on this? Yes, certainly at a minimum I would recommend that we read into our records what the wording should have been so that any further dissection of the data later on leaves no question either what we actually really meant. Bill, I see you've got your hand raised, so, Bill?
Bill Semich:	Yes, I think that's a reasonable solution. If the history and the documents that we compile and submit and are part of the complete documentation of this working group has the language similar to what I proposed, that would be fine with me.
Keith Davidson:	Okay. And we'll be writing undoubtedly to the GAC again soon, either the next chapter, so having the wording on record probably is not inappropriate.
Bill Semich:	Yes. And then in the future, if there are documents written like this, we need to be sure that they are reviewed by the working group in some way or another before they become officially submitted to groups like the GAC. Because as we just discovered, it's a little hard to turn back the clock.
Keith Davidson:	Sure. I'll take the slapping for that, Bill. I don't want to be slapped again. Stephen, you have your hand raised. Stephen?
Stephen Deerhake:	Keith, I just lost the thread here, where we stand with this. Are we now drafting a short note back to the GAC saying, clarifying that particular sentence in the appendix, or are just adding this into our record and letting it go?
Keith Davidson:	I think Bill is indicating acceptance that we should add this into our record. So, I think a note castigating me for acting without working group support.
Nigel Roberts:	Flogging of the chairman was duly noted.
Keith Davidson:	And noting what the wording should have been is probably what Bill was quite happy with, I think, not wanting to put words in Bill's mouth.
Nigel Roberts:	That works for me.
Keith Davidson:	Is that correct Bill? He's indicating a tick, okay. Thank you. And, Stephen, I'm assuming you just haven't taken your hand down. So, unless there is any other questions or comments in that regard, I'll work on some wording to satisfy item 7 on the agenda.

Our next meeting is not until the 3rd of May. That will give us time to work through the redraft of revocation, and I think if you could note in your diaries that there will also be a two-hour call, because we'll have a substantial amount to get through. And unless there is any other comments under general business? I'm not hearing anything else, then I'll declare the meeting closed, and thank you all for your participation.

And I have to say this meeting in particular, the conduct of all participants has been exemplary and has allowed us to make some really good progress in the best possible manner. It's been a pleasure to chair. Thank you all, and I don't |

know whose dog is barking, but it's obviously hungry. Thank you all and go and feed the dog.