

**ICANN Transcription  
CCWG New gTLD Auction Proceeds Working Group  
Thursday, 7 September 2017 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording CCWG New gTLD Auction Proceeds Working Group Call on the Thursday, 07 September 2017 at 14:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Attendance may be found at: <https://community.icann.org/x/aWzwAw>

Recordings may be found at: <http://audio.icann.org/gnso/gnso-new-gtld-auction-proceeds-07sep17-en.mp3> AND <https://participate.icann.org/p4gkpt3chr/>

Coordinator: The recording has started.

Julie Bisland: Okay, thank you. Well, good morning, good afternoon, and good evening everyone. Welcome to the CCWG New GTLD Auction Proceeds Call held on the 7th of September 2017. In the interest of time, there will be no roll call. Attendance will be taken by the Adobe Connect room.

If you're only on the audio bridge, could you please let yourself be known now? Hearing no names, I would like to remind all to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise.

And with that, I'll turn it back to our co-chair, Erika Mann. Thank you.

Erika Mann: Thank you so much and if you check the agenda, you will see that we do have some apologies today. Carolina can't be with us, (Elliott Snyder), John

Levine, and Becky. All of them are not with us today and I wonder if Asha is joining us. She's not on the call right now. It would be nice if she would join us. Maybe if somebody could send her a quick message just checking with her if she can join because we are later talking about the board letter and it would be nice to have one board member with us.

Could somebody be so kind just send her a quick message maybe? Thank you so much. And the next item on the agenda is the question about -- sorry, somebody wants to talk? No, okay. The question about the conflict of interest declaration. Just remind you, please be so kind, always check if you need to, you update your conflict of interest declaration. You have seen the letter and we will talk about it a bit later from the board.

It continues to be an important point for the board and probably for some other community members as well. So please be so kind always check this. Somebody want to maybe make a point about the need to update it and want to raise a point here? No, okay, then we pick this up later when we talk about the letter.

Next item on the agenda, let me check quickly is the review we drafted, the objectives and the examples we received so far, and Marika, would you be so kind and give us a short overview where we are and what we need to decide?

Marika Konings: Yes, thank you, Erika and I'll just pull up the mind map that was circulated earlier this week. So we've divided this agenda item basically into three different sub-items and it may be easiest indeed to go through those in that manner, just seeing the documents so we're all focusing hopefully on the same part of the document. I'll release it now but at least you know what we're in principle talking about under the first item, the I item, which relates to the draft -- re-drafted objectives.

So what you see on the screen is basically the latest version that was circulated that aims to address some of the feedback and discussion that has

taken place on the mailing list as well as at previous meetings. The way it has currently been reorganized in this manner, so there's an overall heading of specific objectives new GTLD auction proceeds fund allocation are and then it has the four different bullets that we've seen before. They were before differently organized and noting as well that in the longer document, there's also the disclaimer at the end of course. All of this at the end of the day is determined by ICANN's mission.

So I think that question that we're asked with regards to this specific part is whether this is an estate that the group feels comfortable accepting this at least as a preliminary agreement as the objective for fund allocation, noting that of course we still need to have a discussion on the open internet and also still questions in relation to ICANN's mission and how that fits in with the objectives. So those are of course still all factors that may have an impact on the ultimate final wording.

But I think at this stage, we're looking at are we at a stage that at least we can preliminarily park this part and move on and start focusing on some of the other aspects, one of which is the definition of open internet, which is the next item on the agenda. And then also a review of the examples. And again, if you scroll down in this document, you see a lot of bubbles and colors, which are basically the different examples that were put forward by people when we originally did the survey, asking what kind of projects do you think should be funded by auction proceeds.

I already made an initial attempt to categorize those along the different objectives that we had originally identified. Some of this may need to be reorganized based on where we land with the objectives statement. But again, a next exercise would then be to actually start looking at these examples and then make a determination, first of all, whether the CCWG believes that those examples fit underneath the objectives that have been identified. But then also more importantly, whether those examples are consistent with ICANN's mission as the second cast in that regard.

So I think that's where we're currently at. I think the first question relates to the draft objective statement. Do you people feel that is at a stage that you're comfortable with parking this for now or is further work needed on that?

Erika Mann: We do have some new colleagues so maybe just to give you a little bit of insight. We developed this method of working of always showing where we are, this mind map in particular. We have some detailed background information about each topic and so everybody who is new, I would encourage to look into it, and Marika, maybe we can be helpful in guiding these new participants and helping them to find all the information. Because I assume once when you come in now, it's maybe a little bit hard to follow and understand where we are and how we approached our topic.

The second I think it would be good during the discussion about the open internet, which is the next topic I will debate, I saw in particular from Tony Harris but from some others as well, making recommendations and explaining with regard to various topics, the projects, which could be financed. And I think we should bring this and include these points, Marika, if colleagues agree in the examples, which we already started to capture.

So I think it would be good to do that. Alan, I see you raised your hand. Please.

Alan Greenberg: Sorry, this was in relation to Marika asking is this better than what we had before or something to that effect. I think we're getting closer. I certainly had a hard time linking some of the sub-ones to the main one when the benefit to development distribution evolution was a main one and the others were sub. This I think makes a lot more sense.

Looking at it now, however, I suspect we might want to take the third one and merge it into the first one because it really is a subset of the first one. So other than repeating the phrase, the internet's unique identifier systems,

perhaps the first one can add another phrasing including benefiting the structures or something like that.

Other than that, I think we're getting somewhat closer to a pretty inclusive set of restrictions -- of objectives that are of course then constrained by the mission and scope. Thank you.

Erika Mann: Yes, I think this makes sense, Alan. Again, for those who are not familiar with our method of working, you have to scroll up, totally up where you see these four (unintelligible) a little window with explanation. So just follow-up and you will find a point Alan was just talking about. Can we agree on the point Alan just raised? I see Sylvia is supporting him. Shin, you want to say something or are you supporting him? Is this supportive? Seems to be.

Marc Gauw is supporting. Okay, Marc Gauw, I think we have a lot of support. So let's do this, Tony Harris please.

Tony Harris: Yes, I just want to say that I support -- I think it's a good motion from Alan.

Erika Mann: Perfect. Marika, have we captured it?

Marika Konings: Yes, so I put in the chat, so from what I understand, the first bullet would be reworded so it would read benefit the development distribution evolution and structures that support the internet's unique identifier systems.

Erika Mann: Sylvia just put in the chat room I think identical phrasing. Alan?

Alan Greenberg: I think that doesn't quite parse well when you remove the first three -- or sorry, when you remove the -- it's not clear where the support is just for the structures or -- sorry, I'm trying to read it and it's scrolling off the screen so I can't see it. Yes, benefit the development that support the internet's identifiers doesn't quite flow but I don't think we need to wordsmith it on the

call. If the intention is that we do something like that, that's moderately good English, then I think we can fix it as we go forward.

Erika Mann: I agree. You worry not about the way it is framed but you're worried about the English language. Yes, we can work this out and just to do a re-drafting and then the English speakers maybe can have a look at it and just say it's okay. Okay, any other points with regard to this topic? So we can put this aside for the moment, yes?

Perfect. Then the next item. Marika, please, give us a short introduction where we are.

Marika Konings: On the previous item, so I can take note that we have a preliminary agreement on the proposed objectives and I'll send out as well as part of the notes an action item for anyone that wasn't on the call to indicate if they have concerns or objections to that. But as I said, we'll just park this as well with the other preliminary agreement and I think we'll probably starting creating a wiki page or a document where we start capturing all the preliminary agreements so that we have those together and then at the end of the process come back to those and indeed address any inconsistency that may exist or any rewording or fixing that needs to happen.

So the next item...

Erika Mann: Wait a second. Marina is asking a point if you mentioned the project because they're important too. Yes, of course. We have to in a separate document and Marika was just talking about sending -- and she already started working on it and we will send it to you as soon as possible an overview about all of the agreements we reached so far and the outstanding points, which we still have to review.

And Marika, I would recommend to add to this list as well all the examples, which we already captured. A little bit different point but just put this in so

that colleagues can review them and can see them again. Marika, are you still with us?

Marika Konings: Yes, I am.

Erika Mann: Good, okay. Next item, open internet, I think it was.

Marika Konings: Yes, and I'll just note that Alan proposed a very brief or minor update to the language that seems to capture Marina's point. So I'll go ahead and add structure/projects, which seems to address the comments that have been raised.

So on the next item, some of you -- not everyone -- may have seen the draft that was circulated just prior to this call and actually, Erika, I probably will just hand it back to you as it may be better for you to take people through this latest draft, which as I understand, tries to bring together the different definitions, suggestions, and edits that have been made to the various versions that have circulated on the list. Of course, our thanks. It's been a very good discussion. Erika has attempted with this draft to bring all these different aspects together, which are now in the form of a preamble that would basically precede the objectives statement. So Erika, it probably makes sense for me to hand it back to you for you to explain what people are looking at and any questions or issues that may still need to be addressed.

Erika Mann: Yes, sure. So what I have done, I have reviewed all the comments you send and I try to bring them into a single preamble, which I think captures all the points that were raised. I left out very few, which I think go beyond our obligations, even for a preamble, like for example net neutrality. So precise examples, which touch on areas, which not relate to our particular -- to ICANN's particular role I left out. But otherwise, I took in everything and we can debate it if you think -- if you believe that certain important points are missing.

So the key point I took was a very nice summary from Sylvia and then I put in all the together from (unintelligible), from Tony, from Daniel, from (unintelligible), everybody who sent comments, I put them into the aspect, which I think would make the most sense. So it is now a kind of let's say philosophical preamble, which (unintelligible) hopefully for the future and gives potential future evaluator a kind of framing when they have to take position.

I would love to read it to you but I can't read it to you because I can only see half part of the text only. But let me see if I can manage in moving it around. So the first part of the preamble talks about why an open internet preamble is needed but why it is related to the ICANN bylaws mission as well. So it's a combination between the definition of the open-end internet in relation to ICANN bylaws and to the mission statement.

And then I took the bullet points. The bullet points were originally drafted by Sylvia so aligns with ICANN mission and core principles to support our community and activities, et cetera, to create social and economic values for the open internet at large. So these are language which were already there and then I put in language, which I found (unintelligible) brought forward and which I think fit nicely in these kind of bullet points.

Now, if you don't like bullet points, we can translate it later into different kind of language but I think this is actually quite nice to have it in bullet points and it gives -- makes it easier to read actually. The last one is the one, which I edit, support a network of networks. The language network of networks for example came from Elliott so we have to take a decision do we want just to say support a network of support and network of networks. And I edit as well somewhere else the point about infrastructure, a point Tony Harris raised for example in particular in relation to developing countries. I took out, Tony Harris, the concrete example because I think that would make much more sense to have them included in the separate annex, which we are drafting

about which Julie will capture and we are drafting about all these different examples.

It put in open standard and open access. This was point raised by many colleagues but even in particular I didn't include this point about not having any -- no, I think he mentioned to have no acceptance of intellectual property wise. Again, I think it's not an issue, which is so relevant for our particular environment. So I left it out. But everything else I found which I, from my understanding, I think it is relevant, is kept here. And then at the end after these concrete examples, I picked up a point again, which came from Elliott but from some other colleagues as well.

Again, the last part is a broader (unintelligible) a little bit back to the introduction remark and has a more philosophical touch and talks again about the need why it's such an open internet concept as needed and I hope this kept (unintelligible) the point you raised. I give back to you and I hope we can have a discussion about it. Tony Harris, please?

Tony Harris: Yes, just in relation to the comments I submitted and thank you for including them, I did see an email today very annoyed with what I said. I don't know if the person is on the call. But basically when I was talking about alleging internet users in developing countries on the availability of generic TLDs, I was not promoting a free campaign or free advertising for some specific (unintelligible) domains, which seems to be what this person understood.

But simply, many people even here in Buenos Aires don't know that they have an option to register any generic top-level domain names, with possibly the exception of .com and .org. So there is still a lot of awareness to be created and domain names is what ICANN is about really, at least what we're dealing with. And the second point with regard to internet exchange points. There was a comment I think from a concern from Marilyn on this and I'm not proposing that we fund (amkicks) in Netherlands or (lynx) in London. Those are huge internet exchange points. They certainly don't need our help. They

could actually probably be funders but I am -- my idea was a small island perhaps or a developing African nation might need an internet exchange point, which is not for profit and you would have connected perhaps a municipality, a local school, and perhaps a cooperative. Many times, internet service is provided even in Argentina by cooperatives and they are not for profit.

So I just thought I'd make those two clarifications. Thank you.

Erika Mann: Thank you, Tony. I think I included both your points and the one, which was raised by Alan as well about infrastructure. I even included your particular example because I was worried that about the internet exchange rate, I was worried that otherwise the text will be not understood what actually is said here. In all other cases, I excluded concrete examples because I think it's better to annex them and then they can be explained in much more detailed language.

But please have a look at it and if there's something missing, just I think we sent a document to you now, it's Google Document, to everybody so you can add complete language and recommendations you would like to see changed. Alan please.

Alan Greenberg: Thank you very much. Just a comment on internet exchange points because I think I was the one who originally brought the issue up. They are something, which are high on the priority list, for at least some RIRs and at certainly, the RIRs in developing regions and the RIRs in the numbering community is part of ICANN. So let's not forget that. Thank you.

Erika Mann: And again, please review the text. Let us know if you have difficulty. Those who have difficulty in reading Google documents, we can certainly send it to you in different forms. Ching please.

Ching Chiao: Thank you, Erika. This is Ching Chiao speaking. Just looking at the document that you've been working on, I tried to in the beginning add to add the point. The four points originally in Sylvia's, the definition. So up to the point number four in the need of funding, that particular one, I think the group is trying to work at a higher conceptual level to give -- trying to offer the definition.

And I think point number five -- I'm sorry, the point number five and six, I think those are great points but I'm just flag out this thoughts here is that whether, for example, point number five, potentially this could be considered as whether it's needed to be listed as a standalone point or that number one concern. Number two is that whether this will trigger a further debate on this type of activity should be supported by original ICANN budget or should this be used -- should the auction proceed fund to be used here. So I'd just like to flag that out is that we probably -- point number five and six we are talking about specific -- although it's very important, we are talking about very close to what ICANN should be doing in their original -- the operational budget.

So this might trigger another few rounds of debates. Just like to point that out.

Erika Mann: I think Ching raises an important point. The last two bullet points, I think we need to -- I would really urge you to review to see if you would either recommend to have them somewhere else or to reframe them. And I just will read these to you so that -- because not everybody might be able, if you have the same difficulty like I do, to see them on the screen in a coherent way, it might be difficult for you to see what we are talking about.

So the one bullet point is alert internet users, particularly in developing countries, of the availability of generic TLDs that it can equip them with a unique identity. I think it is a super important point because you have to keep in mind the DNS market is competing against many other players in the

internet and only the DNS offers what is called here unique online identity, which I think is (unintelligible).

But the question Ching is asking, is there something which shall be funded out of the fund or if it's not something ICANN shall fund from the ordinary budget. Now, we know it's difficult to get something like this funded out of the ordinary budget so we have to talk about it and consider it. And the other bullet point is support a network or network of networks that is stable, scalable, agile, secure, profitable, sustainable, and ultimately (unintelligible) supports open access, future (unintelligible) developments, and open standards. So these are the two points. Ching is just saying we should question ourselves if they shall be included in these list of bullet points.

And then there might be one I might have overlooked, Ching, because they were originally the only four. So there is maybe one other, which we -- I guess it's the one about internet exchange points, which were put forward by Tony Harris. So we will have to look at this one as well, shall this stay in the list.

Next one is Sylvia. Sylvia did the original drafting. Sylvia, please.

Sylvia Cadena: Thanks, Erika. Thank you very much for all your work to put all the conclusions together. It is very challenging but it helps me think a little bit more clearly so I really appreciate the effort. I think that Ching has a good point that maybe was also mentioned by someone before -- I can't remember who -- about having examples that are more concrete about potential content proposals to be included probably in a separate section so the preamble can be a little bit more philosophical (unintelligible) and then concrete examples like the IXP and the other thing about domain names can be included along with the many other examples that have been shared.

From my experience managing a grant program, the more examples you provide, the more chances that people will actually submit that example of a

grant proposal. So I'm not a big fan of giving examples because you're more or less a – saying to people how to solve the problems and then all of them (unintelligible) looking after or trying to get (unintelligible) solutions actually (unintelligible). So the use of specific technology for the specific technologies. Might hinder that the capacity of people to actually think I am eligible for this or not, and then (unintelligible) building a proposal. So I think having all the examples on a separate sections and keeping the preamble a little bit more (unintelligible) a little more (unintelligible) will probably help. I think that the examples are very good. I particularly of course like the one about the (internet) exchange point because that's something that Alan mentioned as the area we are working on them and supporting them, finding them and providing capacity for many of those in developing nations. So yes, we are very interested, but probably don't - I agree with Ching that those two might look better on a different section. And I also think that the last paragraph is needs a little bit of working. I think there's some repetition from other parts of the (unintelligible), but that's minor thing. Thank you, Erika.

Erika Mann: Thank you, Sylvia. I think you raise an interesting point which we have to consider has triggered me to rethink the character of the example. So if I understood you well, you are worried that these examples might guide future groups which to want to apply for funds actually to take them as examples they would use to apply for the - for funding. So maybe we should consider and think about, yes, I think it's a very good point. So maybe we should think about these examples as examples we might not want to attach, or me will attach to the light version of this document. But we will keep them for the evaluators because I think these example might guide the evaluators in the future in case they have a border case and they don't – they're not completely certain how they want to judge it. So this might be a kind of just helpful for evaluators. Go ahead, Sylvia

Sylvia Cadena: That's an option – that's a good option. Also you could have like a Frequently Asked Questions section and that on that have a long list of examples that say that the list of examples is not exclusive, that this is just some of the

examples that (unintelligible) and that is up to applicants to review the objectives, the preamble and whatever other requirements that the process will request so they would get – so they prepare a proposal that (unintelligible), I think. I think the (unintelligible) the imagination of people is just that if you put them out there at the beginning most people would kind of copy and paste and say since we are asking for money for (unintelligible), and you will find more or less exactly the same wording that you have trying to guide people. So a lot of the grant programs are trying not to be attached to a specific technology so the specific solutions because technology can change. It is changing with the IXP, for example, there are otherwise (unintelligible) to provide future application for or improved developments (unintelligible). So then you might have that referring to one specific thing (unintelligible) locking into one technology it uses a little bit of a innovative thinking that people can bring into (unintelligible) which is a lot more exciting, I guess. But that's my opinion, so I'm gonna make a (unintelligible).

Erika Mann: Yes, I think it makes a lot of sense. And you have support from (unintelligible). I see many comments raised Marilyn, but I want to go first to Alan and encourage Marilyn maybe to raise her hand, if she can raise them so that we can hear. It's always sometimes difficult to hear and to listen at the same time to follow the chat room. Alan, please.

Alan Greenberg: Thank you very much. I think this is a really important discussion, but I think it's very premature. The examples, you know, sorry. When we finally come to putting together information for both the evaluator and for prospective applicants, we have to make sure that we are not prescribing exactly what should apply, but examples and make sure particularly for the evaluator that we are not restricted things by means of the examples. So we're going to have to make sure that we have a nice range of sizes for whatever size range we allow and different kinds of things. And yes, the examples may end up being used as proposals, but you know, if they're are good examples, that's fine. Presumably other people will be innovative and come up with completely new ideas. But I think that is very premature. The examples here are for this

group to try to get a feel around what kind of projects are we going to accept so that we can then structure the words properly. So I'm really not worried about the publicity campaign at this point or the instructions to the evaluator, but us coming to closure on what we want to do. You know, there's a lot of work that's got to be done towards the end to make sure that the outward facing information is indeed appropriate. But I think that's the cart before the horse right now, thank you.

Sylvia Cadena: Thank you, Alan. I see we have Samantha who joined, who is with us today. Sam if I could ask you a little bit later, I want to take first Marilyn and have a debate about a topic she is raising. But if you would be later, be willing to comment on the open Internet concept as a preamble the way we have done it right now, and if you could just in case there's some concern you have from a legal point of view, if you would be willing to raise this concern, I would appreciate it. And maybe (Asha) is with us right now in a little bit later as well. I see she was trying to join the call. Marilyn, please.

Marilyn Cade: Thank you. My name is Marilyn Cade, I am a business executive. I've been involved in ICANN for many years and I feel that because I'm going to make a couple of comments that may or may not be popular with everyone, I apologize for joining this group only recently. Perhaps I should've joined it earlier. I am only a participant and I want to acknowledge that. I am not the official CSG representative, Tony Harris is. I'm going to speak about a couple of things that really concern me that come with perhaps some historical perspective to take into account.

I would ask that you reconsider the idea of using the term Open Internet, Open caps, Internet caps, recognizing that if you just do a search right now, on your smart phone or your iPad or your laptop, the first eight to ten responses you will get identify open Internet with net neutrality. One suggestion I have for you is please think more creatively about the terminology. I'm not objecting to the concept, I'm just noting that in Europe and in the US – I'm not saying it's everywhere – but at least in some

countries open Internet is identified with net neutrality. That's not what you're talking about. And so. I made a couple of suggestions. I think also you should think about calling your focus the "Open and interoperable Internet". Internet capitalize, interoperable, not capitalized. I think you need to be very careful about how others will judge us that we need to be very careful about how others will judge us on using a terminology that brings (burden and work), so to speak, that's my first point.

The second point I'm going to make is the Internet is a network of networks. It is not a network. It is a network of networks. That definition is a long-standing, recognized definition over the life of the Internet. A single network can meet all of the definition of being stable, scalable, agile, secure, profitable, sustainable, that's not the point. The Internet is capitalized Internet, a network of networks. Please stick with that respective. We have worked on that for all of the years that have created the Internet. My final point is just going to be, look these funds were amazingly created without expectations. There is a expectation of what they would be spent on, but they need to be spent on the full ICANN community. Not advancing GTLD marketing. Advancing all of the TLDs, and I understand if you're a proponent or you were introducing a new GTLD that of course you want to market new GTLDs, but let's respect that the CCTLDs is are just as important for the stability, reliability, sustainability of the Internet as a new GTLD might be. So, when we spend the money let's spend it with ICANN overall in mind. Thanks. And thanks for the opportunity as a participant to speak. I go on mute now.

Erika Mann: Of course, thank you, Marilyn and welcome to our group. Good to have you with us. What I would recommend these three points which you made, you will receive the Google Doc. Just put (unintelligible) immediately. And if you want to refrain, do so like on the open Internet, you make a point, just put in the comment on the side if you find it different terminology you want to use. I think we're all aware about the context how open Internet is used. That's why we tried to reframe it. But if you think the danger is too high and colleagues agree, then I think that will be certainly willingness to change it maybe. But

just put it in the document if you have any word that you think is better terminology to use, please be so kind and put it in. In a moment I think we can - the way we described open Internet, but that's my personal opinion. I think there's no confusability with the debates we had about net neutrality. But that's my personal opinion. I don't want to shut down any debate, so please go in and have a look at it. And as you can see, on network of networks - of networks I already have both possibility options included. So just delete one of it and then we can move forward and see if other members are participate – participants are commenting on this one. I saw Tony Harris, I think Tony Harris, you dropped your hand.

Tony Harris: Yes, well actually Marilyn was quite clear about the network of networks. Actually the only comment I wanted to make on that was with regard to future oriented developments and the possible need for funding and research because we have the problem of the digital object architecture now, the DOA, just being heavily promoted within the (ICU). And as – well perhaps as an alternative to the DNS, but there are technical groups that already apparently have the solution to integrating the DOA and the technology into the DNS. And there may be some need down the road for funding for this research and actual testing. I just thought I'd mention that because it's quite a big subject out there. Thank you.

Sylvia Cadena: Marilyn, do me a favor, nobody is changing any definition. These are points which I took recommendation from different colleagues. That's why you have network a network of networks. So let's not – we don't need to have a debate about it. I think we have a good agreement now that we want to have network of networks, but everybody please review. I didn't delete anything, so I just left the two recommendations, which I saw which came from different colleagues. So there's no judgment in it. So, please read it again and if there – if you want to change something, let's do it. I would love to conclude this debate here about open – the using open Internet. I would rather prefer that you put comments in the document or you send comments either to myself or to Marika so that we can have next time discussion about it. The question is

do we want to delete open Internet and if we want to delete it, what is the other wording we want to use to capture what we want to say? Sam, can I ask you now, maybe to give us some background and some comments about your thinking?

Samantha Eisner: Sure, thank you. This is Sam Eisner from ICANN legal. Just to be clear, we haven't had internal conversation at ICANN amongst the organization or with the board really to frame a position on this, but from watching the traffic I can give you some of my reflections on the issue. First I really take Marilyn's comment that you shouldn't be using the term open Internet as a defined term with caps, I appreciate the way that she rephrased it because I think trying to create that sort of definition or a defined term really could create some confusion and it causes a lot of potential that we be trying to find a term that – as she's pointed out – is already used in multiple ways and could itself put some of the adherence to the mission at issue. For some of the specific items that I see on the list, you know – we are – I think we need to step back again. But funding for Internet infrastructure, even though it's related to ICANN's mission in some ways because again, we do – we are part of the Internet ecosystem, there are other parts of the Internet ecosystem that do Internet infrastructure. Infrastructure is not part of ICANN's mission and so it's not clear that the auction proceeds could be used appropriately in order to support building out infrastructure. That – and we can't create a definition of a term that would be – that would allow for that to happen because it really -- from my reading of the mission -- it's not appropriate. And so, I think, you know, there could be other items that are more aligned with mission or less aligned, but I just wanted to flag some of those concerns as you go through it. But I would again heavily support Marilyn's suggestion that we not try to create a new definition for this term. And Erika or - Erika, if you're speaking, I can't hear you. I don't know if anyone else can hear me.

Marilyn Cade: I can hear you, Sam.

Sylvia Cadena: Yes I can hear you, Sam.

Samantha Eisner: Erika, we cannot hear you, your mic does look active, but we are not having any audio. Would you like us to dial out to you?

Erika Mann: Can you hear me now?

Samantha Eisner: Yes, we can.

Marilyn Cade: Yes, we can.

Erika Mann: I was just saying, Sam, I think it would be good if you would be so kind to review the text (unintelligible) and just put in your comments, the comments you raised right now and probably there some more where you have concern or where you would love to add. I think this will help us to avoid any future difficulties such in a preamble typically has a quite prominent character in any documents. So we want to be sure that we understood your concern and we can have an informed debate in this group. So, would it be possible that you could add this point onto the document?

Samantha Eisner: Yes, I can do that

Erika Mann: Okay, I would appreciate this very much. Do we have some other colleagues who want to raise - I see Marilyn, is this a new hand or an old hand? It was an old hand. Marc Gauw, you said something, could you answer my question to Sam #could you maybe raise your question? Marc Gauw, please?

Samantha Eisner: Erika, Marc Gauw also posted his questioning the chat. I'm on not sure if he has audio at the moment.

Erika Mann: Okay, but he raised his hand as well, so Marc Gauw can you hear?

Marc Gauw: (Unintelligible).

Samantha Eisner: Mark, I think we hear you, but you're very faint.

Erika Mann: Marika, can you read the question?

Marika Konings: Yes, of course, this is Marika, so Marc Gauw's question is for Sam and he asked is the action proceeds funds are awarded in a one-time portion and may face the risk to perceive to have a wider scope than strictly ICANN's mission. Then in Holland you can ask the technical authorities for upfront tech ruling. I guess it is the same in the US.

Erika Mann: Sam, would you like to answer?

Samantha Eisner: Sure, Erika, I was typing into the chat, but I'll let, but I'll put it on the record here. So within the US – and I don't know specifically about rulings of this type, but I know that there are some types of pro active processes that we can do with the IRS to get things like private letter rulings and things like that. And they might not always be binding if there was a later task, but there is some processes that we can go through. But I think that one of the things that we have that I'm seeing come up within the auction proceeds conversation is it's not really just about the IRS part, I mean, if there is a determination by the IRS that we've gone outside of our mission puts our tax-exempt status at issue. But then there's also the broader ICANN community. And so, if there's not agreement amongst the board and amongst the community that a certain activity is within ICANN's mission, whether or not this group wants it to be done and whether or not we could get a proactive ruling that doing something that we all think might not be within mission that something that's appropriate to do which is an odd thing to go to the government to say. There is that broader issue of the community's ability and individual members' community members' ability to challenge ICANN for violations of bylaws. There has to be agreement that this is what's supposed to happen, that these are the types of activities that are supposed to happen. And that is, I saw - I'm recalling James Gannon's intervention earlier this week. The CCWG on accountability worked heavily to create a more limited mission. And so, if this conversation

really is about what should ICANN's mission be, we need to phrase it in that way and not try to use this to expand ICANN's mission through an auction proceeds exercise.

Sylvia Cadena: Yes, I think that's important point and we have to have this debate, Sam, so please review the document and just see that there is no possibility included that through legal court cases the mission statement might get expanded because the auction proceeds opened this possibility. I don't actually believe that there's an introductory, or this preamble will lead to do something like this because we – everything else and even in the context of the preamble you see everything to refer back to the mission and to the bylaws. But nonetheless I understand your concern and I think it is important that we get this right. So please put all the key points where you have particular concerns into the document. Daniel Dardailler and we will try Marc Gauw again. Daniel Dardailler please.

Daniel Dardailler: Hi, Sylvia, can you hear me?

Sylvia Cadena: Yes.

Daniel Dardailler: Okay. I'll tell you my question anyway. So I just wanted to add that it's one thing to consider the things that are in line with the mission in the sense that there are also working for the (unintelligible) that are completely independent of ICANN. That are below the ICANN layer in a sense. In other words (unintelligible) itself. They are clearly out of scope for the simple reason that this could be in the end funding infrastructure that is not used at all by ICANN or let's say by competition layer. So we have to consider that the thing has to be aligned with the mission in the sense that they have – that their – their success has to benefit ICANN in the end, which is not the case for everything below the ICANN layer.

Erika Mann: Yes, good point, Daniel Dardailler, (Ken) – I wonder if we can conclude this debate here. So the - Marika, maybe you want to summarize our action point.

I think one is to review the document, everybody please and ideally in the room, if you can do it in Google Docs, we will send it to you of course as well by email and then just please to send us your comments back. The second is some will have a special task to review it in the light of the debate today to avoid any potential legal cases, but to keep the spirit of what we try to achieve here intact. The wording about open Internet we already have some recommendations here in the chat room, please be so kind, put them in as a comment and as a replacement of the term if you want to agree to have a replacement, please put it in the document as well. I think these were the main tasks which I took from here. And then of course the bullet points where (Ching) raised concern and then some actually are not or shall not be part of the bullet point list, please review them as well and see they say shall they be moved elsewhere, or shall they be deleted? Marika, did I – I saw you, I come to you in a second. And to Nadira Al-Araj as well. Marika, did I capture all the points?

Marika Konings: Yes, this is Marika, I've captured them as well in the right hand side in the form of action items and they thing align with what you just (unintelligible).

Erika Mann: Perfect. Sylvia, please and then followed by Nadira Al-Araj and then maybe we can conclude the debate and come to the next item with the board letter. Nadira Al-Araj, please.

Nadira Al-Araj: Yes.

Erika Mann: Sylvia dropped from the list. Sylvia are you gone?

Sylvia Cadena: No, I am on, I just dropped my hand because I was next to speak, but if it was Nadira Al-Araj, just let me know. I follow your orders.

Erika Mann: Never follow orders, not a good idea. Sylvia, please.

Sylvia Cadena: Thank you Erika, Samantha just one comment. I think that your recommendation, if I am understanding correctly are referring to the possibility of the auction proceeds to be managed directly by ICANN (unintelligible) the organization through our unit or through a program that is found as part of the organizations. In one of the conversations that we had before I had (unintelligible) several times the issue about understanding what are the financial mechanisms that exist in the US framework -- or the California framework -- that applies that is possible to use that will be more facility? I offer one example that is (unintelligible) the foundation manages for donor advice funds and there are two mechanisms there. And then it is a donor advised fund that are in line with a particular mission of an organization but that can actually deviate a little let's say and avoid issues that we are mentioning.

There are other things like -- I can't remember the name -- it is an open foundation, if I'm not mistaken, or I can't remember but I can look into the recommendations of the suggestions that I made before. I think that conversation about what is out there in terms of mechanisms that can be used that can allow for this kind of funding to be managed in a way that supports the ICANN mission but is not restricted to the designation that was defined a few months ago, and that it might change in the future (unintelligible).

I think it is a valuable - it would be a valuable contribution for this group and I don't think we had yet to the point to decide or have all the ducks in a row to be able to effectively make a recommendation to help the board (unintelligible) that defines how it's going to be managed directly by ICANN (unintelligible), you know, it is not appropriate to have them managed through a separate program. And I'm not saying that (unintelligible) is the way to go, I'm just - it is the one that we used when the idea was happening and I was in charge of both taking the pledge money from the organization, so that's the one I know.

But I'm sure that there other options and I know that there are large companies and other large organizations in the US that are using that kind of mechanism to have their own (unintelligible), so to speak, or, you know, to support projects that are of interest to the organization. So I just don't want to think that this is the only way to go and it would be great to have that information from someone that has more experience about the US (unintelligible).

Erika Mann: Let me take Sam first and then I'll come back to you, Nadira Al-Araj. Sam, please.

Sam Eisner: Thanks, Nadira Al-Araj. This again is Sam Eisner for the record. You know, one of the primary principles is it doesn't matter if it's ICANN that's distributed the funds or, you know, managed through ICANN or if it's done through an external organization. ICANN's responsibility of making sure that the funds are used in an appropriate way, because they are ICANN funds at this point and that ultimately however down the chain they're used, whoever distributes it doesn't change, and that includes the mission adherence.

So there's not going to be a change in ICANN's responsibility over that, whether it's done internally by ICANN or done externally. So I just wanted to make sure that we were clear on that part.

Erika Mann: Yes. And you will be so kind to put this again in the document when you would argue we have to reframe certain language too wide and the possibility of misunderstanding in your view. Yes please, Sam?

Sam Eisner: Thank you. Sorry to interrupt. I just want to confirm, (Xavier) and I working on a presentation regarding those different types of structures that could be used for funding and the differences among them, so this is actually a point that we've already built into that presentation when we're finished with it and ready to deliver it. So this is something that we're committing to writing in other places too.

Erika Mann: Yes. Nadira Al-Araj, you are next. I see - I don't see you anymore. I'm not sure, did you drop your - or do you want to say something anymore? Nadira Al-Araj? Okay. We might have lost her. Apologies for this, Nadira Al-Araj. I'm sorry. There's a debate in the chat room, which I think is...

Nadira Al-Araj: Hello?

Erika Mann: Are you back?

Nadira Al-Araj: Yes. I just had one quick comment so that actually I'm not sure that we - that our group should be authoring the definition for open Internet. I think that it is - that this is beyond our scope. However, I do see and acknowledge the necessity for the group to have some sort of internal definition for the group itself so that it can act upon. So actually I think that the language should be in a way or another change.

For example we could say that this is the definition that we as a group are going to use rather than saying that we are offering the definition for the open Internet. Or we could say that the aforementioned introduction and for the purpose of the work - for the purpose of the cross-community working group this is the definition that we are going to use rather than offering a broad definition for the open Internet. Thank you.

Erika Mann: Thank you so much. Just again, maybe for those who were not always with us, this is not a try to define open Internet, it is more an approach to define how ICANN and the auction proceeds the application, the future applications, fit the framework of the broader Internet connection. So it was really difficult for those who just joined to understand where we were coming from. So therefore please do me - do us a favor: review the document, put in your comments, and then we can have another informed debate about it.

I think we all understood where you're coming from with your concerns about the term of open Internet and some other points but please put this in the document. There's another debate emerging in the chat room and we will have to capture that as well, Marika. This is about shall infrastructure be financed or not. (Yosef) made the comment, (Tamara) made a comment, and (Mikey) as well, the need to finance it, something (unintelligible) look into. We don't have to define this all but we need to look into it.

Alan, I have you next on the list.

Alan Greenberg: Thank you very much. I just wanted to say - agree with something Marilyn said. I'll say it somewhat different words. No matter how carefully we define a term like open Internet to restrict it to be just what we mean, other people will completely ignore our definition and use the definition that they are familiar with or they want to either push forward or reject.

So after a lot of experience of trying to define common words to mean something different in documents, it just doesn't work. People do not accept it and will go on in their own way, so I think we have to accept that this phrase has to be ditched and we need to find - if we want to include the concept, and I support it, we need to find some different words which are not going to be confused by someone either maliciously, deliberately or accidentally. Thank you.

Erika Mann: Thanks, Alan. I think this is well understood. We will work on this and hopefully the - when we have our next call in two weeks' time we can come to a conclusion on this one. So everything will be sent to you again. Please put comments in. Either try to summarize it at the end again and we'll make a recommendation. We will send it out next earlier so you can comment on the draft recommendation as well ahead of our next call. I'll promise it will be earlier. This time it was very complicated.

So let's move, if you agree, I don't see any objection, let's move to the next point, which is the board letter we received from (Steve). Asha, I'm wondering if you would want to...

Marika Konings: Erika?

Erika Mann: Yes?

Marika Konings: My apologies. This is Marika. But before we move on to that item, can I maybe just make one suggestion on the examples that we didn't really cover that I know people want to discuss the board letter, but would it be a suggestion that I take the examples that are currently in the document, the ones that Tony Harris proposed, put them in a Google Doc, create another column next to it and see if people are willing and able to go into that and kind of start commenting, you know, how they see the examples consistent both with the preliminary agreement we have the draft objectives as well as ICANN's mission so that people start matching the two so we can actually see, you know, are all those examples in line with what the group believes is consistent with the objectives as well as the mission and which ones are not?

And that may then help us, you know, have a further conversation on narrowing down the list of examples that people believe fit within in the objectives as well as ICANN's mission. Is that a possible way of moving forward on that discussion?

Erika Mann: Yes, I think that's a good idea. But then I would recommend to have all the other examples which we have already captured as well on the same list. So you start with Tony Harris and then below Tony Harris's you have the other so that everybody has an understanding of what we have already captured.

Marika Konings: Of course.

Erika Mann: Does that make sense? Yes, perfect.

Marika Konings: Yes.

Erika Mann: Okay. No disagreement I see in the chat room. Okay fine. Asha, I would love to come to you because I would assume you had a debate about the letter on the board. So maybe you would love to give us a little bit of flavor about the letter which was sent by (Steve). Are you able to talk or are you in a room...

Asha Hemrajani: Yes. Hi. Can you hear me?

Erika Mann: Wonderful. Yes we do.

Asha Hemrajani: Can you hear me now?

Erika Mann: Yes, Asha, we do. Please.

Asha Hemrajani: Okay great. Thank you, Erika. So this is Asha Hemrajani for the record and I'm the board liaison to this group. And yes you're right, we did have - did take our time to come together - put together this letter to respond back to the CCWG.

I mean first and foremost, we did start off with the - a note that we are happy to see that the CCWG, that the people in the CCWG are understanding the legal and fiduciary constraints that we have. I see a great understanding of that amongst the group members and I'm very appreciative of that. So.

And also we wanted to take this opportunity by sending the letter. Really the purpose was to address the clarifications that you guys had raised, and I hope that we have addressed them in the letter. If we haven't, now is a good time to let us know.

Then we talked about the 5% nominal goal. I think we're pretty much in alignment here. We're not dead set on a figure. We're more wanting to raise

the awareness that we shouldn't - we should be aware of the fact that we should control costs as much as possible. It's not really - to me, in my mind, it - of course it very much depends on the type of mechanism that we use to disburse the funds, but having this kind of goal, objective at the back of our heads that we should be as efficient as possible I think would serve everyone well.

And then a couple other areas such as the what is or what isn't - what is or what is not within the mission, and we've had that discussion in the first part of this call -- I'm sorry I missed the first 20 minutes -- but I can take - I can understand from the chat room discussions there's been quite interesting debate and discussion about open Internet. I definitely agree with Marilyn's interventions on that point.

And then also there is a point we made about a conflict of interest. So I - we've written you the letter. Now we would love to hear what the group's feedback is on this. And I'll stop here.

Erika Mann: Okay.

Asha Hemrajani: Can you still hear me?

Erika Mann: Okay. Is there somebody who would love to pick it up? Yes it's fine. Thank you, Asha. Someone who would love - we have not much time left so we will have to have a more informed debate next time. We have 15 minutes left and there are two other items on the call we want to touch on. I mean maybe we should open a debate because we had some discussion about the conflict of interest.

I think we sense in the letter there is still some concern that there might be reshaping of the - of our approach. I find when you look at ICANN, every - like many said before, to some degree everybody has a conflict of interest or let's say everybody has an interest in something because that's why you're in

ICANN and that's why you're debating and participating in the various working group. And the same is true for the board.

I mean it's like in the board you have only neutral board members which have no particular interest in certain subjects. But that's why you do the declaration of interests where you declare that either you yourself, which I haven't seen so far, but more your organization might want to consider in the future to apply for a fund. In most cases, it's not even certain.

So my approach to this topic actually would be I wouldn't want to exclude anybody who considers that his or her organization one day might apply, but to be transparent about it. And whenever you see a change coming up or you sense your organization might want to do it, to declare this. I think that's the best we can do to be open and transparent about what we do in excluding everybody who might potentially - or whose organizations potentially might want to participate.

I would consider this is the framework of ICANN probably going too far. And I have not even experienced it I must say in other funding environments I participated. Typically the declaration of interest was always sufficient. So we might want to have a maybe even a misunderstanding here how we sense the way (Steve) or the board framed it but it would be certainly good to - not to have such kind of potential misunderstanding between us.

Asha, I see you want to say something.

Asha Hemrajani: Yes. Thank you, Erika. So I wanted to add a few points here on the COI and then I would like to invite Sam to chime in if possible on the COI part. I think the - it's laid out quite - it's laid in the letter quite clearly but perhaps it would be worthwhile to elaborate a bit more.

Our concern is that - is on the perception of conflict of interest, not on actual - not only on actual conflict of interest. So while we didn't specify that we would

want - we would insist on members who have conflict of interests to drop out of the group, the point - one of the points we are trying to make here is that there should be some discussion amongst the members of the CCWG that if we note that there is a member who has a very strong perspective or point of view on a particular topic, then there has to be some kind of perhaps prior discussion on what we would - what should be done in those circumstances.

And that really is the key point here. So I'll ask - I'd like to ask Sam if you could chime in here as well.

Erika Mann: Maybe I'll take Ching first. He's on the list. And then Sam I'll come to you because Ching might want to raise a point which you might want to comment on as well. Ching, please.

Ching Chiao: Hi, Erika, this is Ching. And thank you, Asha, for the explanation. So I'll probably pass because I mean Asha, you know, in her statement in the last part actually that was my question is about what ICANN would do if, you know, there's a potential violation or, you know, what, you know, ICANN would do if there's, you know, a clear, you know, conflict of interest take place. So I'll pass. That's actually my question. Yes. Thanks.

Erika Mann: Thank you, Ching. Asha, please. Sorry, Sam? And, Asha, you probably want to take down your hand. It's an old hand. Sam, please, if you want to comment on this one.

Sam Eisner: Thanks, Erika. Again, this is Sam Eisner from ICANN Legal. So I think Asha's discussion around the perceptions issues is correct and I think we wouldn't assume that everyone who has a strong viewpoint on a particular topic or a particular issue would be conflicted when it comes to making decisions on that issue, but it was laid out in the letter. There was a discussion about that the perception issue as well as being really transparent about things.

So, as described in the letter, the board already has an obligation to take actions without conflict of interest and so you'll see at times that the board will - there will be board members who recuse themselves from conversations and other types of documentation around board decisions. There are also internal practices where sometimes board members are actually excluded from the room during certain types of deliberations or conversations because of their conflict of interest.

If there isn't transparency around that type of conflict among the board - among the CCWG members, that could actually create the ability for the whole process itself to be challenged later, and that's one of the things we're trying to mitigate against.

So we want to make sure that when people outside of the process look at this and, you know, two years down the road after there have been application, et cetera and we have reports on who received the funding, the people don't look and say, "Oh well of course they - X person lobbied for this to happen within the group or for this type of funding to happen because, look, they've applied for that exact type of funding."

Those are issues that show the conflict interest or show the potential for a conflict of interest to be there. And so if any person who participating thinks that - you know, we recently had just on today's call, we had a conversation about funding infrastructure projects.

If there's - if anyone who's participating on the call has an interest in having infrastructure projects funded in the future, maybe they want to be declaring that and say, "Look, this is the viewpoint from which I come. This is what I'm saying this - this is why I'm saying this or this is one of the reasons that I'm saying this. So take my comment and take my input with that in mind." And that's one of the ways that we can get transparency on the record to show how this group dealt with conflict of interest.

Erika Mann: This was very helpful, Sam. I have three and I think we had already examples where colleagues exactly did what you just mentioned. So I think there's principle and understanding about such an approach you mentioned in your - the last part of your comment. I have Marilyn and Alan and then we have to conclude this discussion and have to pick it up next time. Marilyn, please.

Marilyn Cade: Thank you so much. Marilyn Cade speaking. I'm just going to suggest -- and I apologize again, I'm joining the group late, I've read as much as I can -- I've read all the interest statements of all the board members and I also - and they're with the declarations of interest and the SOIs, and I'll just say as a comment to everyone on the group, if you haven't update your SOI in the last three months, maybe you ought to go do that. That's just a little comment because I personally learned myself that I hadn't kept my SOI as up to date as I should.

But I say this, I wonder, Erika, if you and your co-chair might consider having biannual, so twice a year, maybe that's, you know, a long term, but a briefing from ICANN Legal, Samantha, on what a conflict of interest is, why - what the purpose is, et cetera. We've had it on the call but, you know, a lot of people aren't here. Maybe a formal 20 minute legal briefing would be a standard thing, in particular in this CCWG that we ought to do.

It's just an idea, but I think it has some merit because, you know, I looked at the attendance so -- hey guys I do a lot of research before I joined the group - - you might go look at your attendance records and you'll see that not everybody is able to attend every meeting, but maybe we have a requirement that people attend the briefing or they tick the box that they watched the webinar from a presentation from ICANN Legal about what a conflict of interest is. Thanks.

Erika Mann: Thank you, Marilyn. We would look into this and we'll pick it up again. Alan? And, Asha, I think we're getting too late but let's check. Alan, first.

Alan Greenberg: Thank you very much. Sam gave the classic example of if you push for X to be an acceptable project, then you apply for a lot of Xs, that is going to be suspect if you haven't made it really clear ahead of time. The other one which perhaps is less obvious is we're going to have to make a recommendation on the structure, and there are a lot of people in this group saying we should look at external structures that already exist to do it.

So in a similar vein, if you push very heavily for rules associated with selecting an external structure and you're going to be one of the bidders and you've proposed things ostensibly quite innocently which allow your organization to make the criteria better than others, that's really a conflict of interest and that's one of the ones that should be declared.

Now the people who understand funding structures are really good participants in this call - in these calls, so we don't want them to leave, but that's the kind of potential conflict that has to be declared and really upfront. Thank you.

Erika Mann: Asha, can you keep it short?

Asha Hemrajani: Yes very briefly, I think we've gotten our point across. I think the point here is that this group needs to have a serious discussion or a debate on this subject, and I like - I support Marilyn's idea I think about having a session. I don't think that would be too much of a problem for Sam or (Xavier). I think it would be worthwhile to spend a little bit time to talk about the possible pitfalls of not taking this seriously enough.

Because, as Sam mentioned, and I want to reiterate and echo what she said, it's the perception and it's also we don't want to have the work of the CCWG under jeopardy sometime down the future, sometime down the road. So I just want to stop here, and I think we should all take this in a positive light. We should not take it in a negative way. The point is to preserve our work and to preserve the sanctity of our work. Thank you.

Marika Konings: Erika, this is Marika. Are you talking? We don't hear you.

Erika Mann: Can you hear me now?

Marika Konings: Yes we can.

Erika Mann: That's so bizarre. So I just said we will take this of course in a positive light. We looked into this topic many times seriously. We will review the declaration of interest, understand - and try to understand if we will put in such a kind of lecture about this topic and how we will do it. And I think that the topic is understood. We will make a recommendation how to deal with it and we will discuss it next time.

The last two point - I think the last item -- we'll skip, Marika, the one about the - we wanted to have an input from ICANN Finance and Legal -- I think we're still waiting about it, so once we have it we can put this on the agenda. Any other point you wanted to raise with regard to this topic, Marika?

Marika Konings: No. This is Marika. I think Sam already indicated that she and (Xavier) are working on it, and I can check with them offline when they expect to have that ready to make sure we can add it to the agenda for the meeting closer to that date.

Erika Mann: Yes. Perfect. Let's do it. And then the last item on the agenda is the announcement of our next call, which is 21st of September, same time, 2 o'clock UTC. With this, I think we can stop, if nobody wants to have an urgency - urgent matter. No? Okay, then I wish you all the very best and we can stop the recording, and thanks so much.

Woman: Thank you.

Woman: Thanks everyone for joining. (Kim), you can stop the recording. And everyone have a great day.

END