

**ICANN
Transcription
CCWG Auction Proceeds call**

Wednesday, 19 December 2018 at 14:30 UTC

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Coordinator: Excuse me. Recordings have started.

Julie Bisland: Great. Thank you. Good morning, good afternoon and good evening, everyone. Welcome to the CCWG New gTLD Auction Proceeds call held on Wednesday, the 19th of December, 2018. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. If you're only on the audio bridge could you please let yourself be known now? And I currently have Carolina and Becky Burr on audio-only.

Xavier Calvez: Xavier Calvez is on audio-only as well.

Julie Bisland: Thank you very much. Anyone else? Okay, well hearing no more 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. With this I'll turn it back over to Erika Mann. Please begin, Erika.

Erika Mann: Thank you so much, Julie. This is Erika. Hello to everyone. And I'm very happy to see, despite we are already a week ahead of Christmas-time that we still have so many with us today. We want to keep it quite short because

today I don't believe we need time, it's more an orientation call how to move forward and we need your input to be able to do this. So we go therefore first to Topic 2 on the agenda, which is the question if there are some updates concerning the conflict of interest declarations? No, that's not the case. Okay.

Then let us move to Item 3 which is the discussion about the high level overview of public comments which we received. I believe, Emily, you will be able to explain the document. We don't want to go too much into details, although we maybe need to discuss few items which are very new to what we have debated in the past and we may want to draw attention to these facts. But otherwise Emily, are you able to explain the document? And I believe you have sent the document already to all of our participants. But maybe just explain and show how it is done and what to look out for. Emily, are you on the call? I see you're...

((Crosstalk))

Emily Barabas: Erika, yes...

Erika Mann: Oh there you are, wonderful.

Emily Barabas: So everyone should have received a copy of this document with the agenda. It's the – formatted as the standard public comment review tool that working groups use to examine public comments and begin their analysis of the feedback that's been received. So the public comment staff report has been published on the public comment forum and the forum is now closed. And that (unintelligible) for the community and this is a version that focuses on the review table. So I'm going to sync the document so we can just take a quick look at it together.

So as you can see the document is organized into a series of tables and those tables each cover specific topic areas. So, for example, certain comments focused on a specific annex or a specific charter question. Some

of the comments are not organized that way, some of them were just sort of free form text answer and in those cases staff attempted to organize the comments around the topics that the statements focused on, so you may say ellipses inside the text showing essentially that a comment is broken into pieces and sorted into different sections based on the focus.

And there are some, you know, cases where a comment says that it is focused on, for example, Initial Report Section 2 but when you actually look at the content of it it does (unintelligible) charter question. I think we have an open line. Okay perfect. Thanks.

Erika Mann: Emily, this is Erika, yes, I'm trying – Emily – Emily, I'm trying to disrupt you. Just one issue, would somebody be able to show what you are talking about? This will make it so much easier for our members to follow what you are talking about. Possible? In a moment, I'm at least still seeing the introductory page so maybe if you could just take one example of, yes, exactly, so this makes it then so much easier for everybody to see what you're talking about.

Emily Barabas: Sure.

Erika Mann: Thank you so much. So I was just showing you the table of contents to give a sense of the breakdown of the topics. But now let's dive into exactly what we're looking at for each of these tables. So most of the comments were focused on recommendations or responses to charter questions or the annexes but there were some specific pieces of feedback in this and those are included in this first table here, mostly from the Board that focused on some of the narrative sections of the initial report, those initial sections.

So here you can see at the top of this table in dark blue it just indicates the overall topic Initial Report Section 1-4. And then the columns of the table are the number of the comments which is just to make it easier to reference them when the discussion is happening. The second one is the excerpt from the comment itself from the original text so it's an excerpt, it may not be the full

text of the comment but it is word for word. The third one is the contributor so that's who submitted the comment.

And then the fourth column – this is sort of a standard template of a way that the working groups sort and analyze that work. And you can see now that it's just – no one else's has been done here other than putting the column – the comments in these tables. So the working group has the opportunity to code these comments to indicate whether there's concerns, there's divergence expressed, there's agreement with the contents of the initial report, or perhaps a new idea has been raised.

And then there's a space for the working group to produce a response how it plans to deal with the comment or (unintelligible) and that can be filled out as we go along. Judith has her hand up so maybe I'll just pause for a moment and then I can provide some additional information about the text in gray at the top of the table. Judith, please.

Judith Hellerstein: Yes, this is Judith Hellerstein for the record. I was a little confused about the color coding on top and was wondering if you can give an explanation because we don't seem to have used it in the document but it's on every section and so could you explain that? Thank you.

Emily Barabas: Thanks, Judith. This is Emily Barabas again from staff. So yes, so this is basically the template that we use. And this is really just setting us up to be able to fill this in. So it's not necessarily each and every one of these rows has concerns, divergence, agreement and a new idea expressed, it's more that as we go through we can pick and choose these highlighted items and then fill in the text in this box so it's basically just setting the group up to do the analysis that will happen as the review of the comments takes place. Does that make sense?

Judith Hellerstein: Yes, that's great. Thanks so much.

Emily Barabas: Perfect. Thanks. So in gray at the top of each section you'll see a section summary which explains just very high level what these comments are speaking to. So for example, here the comments in this first table address the Sections 1, 2 and 4 of the initial report.

And then there's a couple of sentences in each section that just give a very brief overview – staff has produced this – of what's the comment so in this case actually all of the comments came from the Board and it says, "Board comments on these sections of the initial report elaborate on the Board's position regarding issues addressed in the report, provide guidance on next steps and future work, reiterated advice previously provided by the Board and seek clarification on specific items contained in the report."

So there's no judgment or analysis here, it's really just a very high level summary of what you can expect to read in the following comments. And that's repeated throughout the document so I'll just scroll ahead a little bit so you can see the next table.

So on Page 5 here you can see the next set of comments are focused on charter Question 1 and under that, preliminary Recommendation 1 and guidance for the implementation phase for Question 1. The section summary just provides charter questions, text, the preliminary recommendation text and the guidance for implementation text and then again provides a brief overview of the comments and again, it's organized in the same way.

So again, right now we're just setting up the work to be done and we're going to be discussing today how to tackle that work. This does not include analysis at this point, it's just the setup of the document so that analysis can take place as we move forward. Do if there are any other questions happy to answer them and otherwise I'll pass it back to Erika. Thanks.

Erika Mann: Seems to be no other questions. Thank you so much, Julie, and sorry, Emily, and Joke for the great work which you have done. I'm aware that the two of

you in the moment are alone and doing this work; Marika is on vacation. And it's just an immense work so thank you so much that you have been able to compile already all the documents and you have put this together nicely in this document.

So the next step is actually what we want to talk about if there are no further comments concerning the way the comments are formatted and how we will do the color coding. If there are no other comments related to it I would like to move to our next item on the agenda which is already the next steps for reviewing the public comments because that's the key part now. So without going into details, we had the leadership call on Monday and just to describe to you – and Ching, please join in the discussion just to describe some of the topics we saw what we need to – what we need to review and how we need to respond to it in the very near future.

So we figured out that we have comments received which reply directly to our question and which give us guidance. Somebody has a mic open. Can somebody mute please? So in this case it's relatively easy, we can make a recommendation how to integrate the comments and how to edit or how to draw attention that it might not fit into the original way we raised the question.

But then there are some comments which we have received which are completely new not related directly to the questions we have asked and neither related to some of the discussion we have had in the past. In this case, we need to have a fresh debate and a fresh discussion about it but the first step would be of course to identify those points and then to discuss between us how we want to deal with these kind of topics. And the last item we found that some of the comments relate more to the next phase, the phase we had called originally to the implementation phase.

And in this case I think it is important that we identify these topics then make – and have a debate between us if there is agreement that they don't relate to our debate and our discussion but rather to the – what we have called in the

past the implementation phase. And if we have agreement then we will have to find a way how to include these topics into the – I believe we called it implementation guidelines. So these are the three area.

First one would be the comments we received relate to our question and we have to respond to them; second would be completely new ones are raised; and the third one would be comments which relate more to the implementation phase instead to our phase. This work needs to be done and we want to make a recommendation to you and we hope that you can agree to it. So our idea was that the leadership with the help of course with the staff we do a first draft in just identifying these three topics, I was just talking about, not going into details and making recommendations, just identifying them, and then making a recommendation how to discuss this.

We then will have to decide between us if it's a work which can be done quickly or if there's work which needs more time. Do we need to build subgroups which are dealing with these topics or we can – can we do this in a coherent debate between us? So these are my – a recommendation from my side and from Ching and from the leadership team what we discussed. And I'd like to have your input.

There's one topic which I want to take ahead before I give Elliot and Daniel the voice, there's one recommendation which you have to keep in mind which comes from the Board and we have debated this before in our team as well which relates to the discussion we are now going to have and the Board was saying in case we are departing from the original draft public comment then we will have to very likely go for a second comment review, which I totally do agree but it's a debate we need to have. Elliot, please. Elliot?

Elliot Noss: Thank you. Yes, I was just unmuting. So I have no comments on the form of what you have described, you know, but, Erika, I want to share some of the things that I raised with you offline. And I feel that it's important in light of the full body of comments.

For me, something that was always, I think, expressed throughout our process, and I apologize for not insisting that this be more expressed in our initial report, but, you know, that was the fact that I felt it was always clear that for many of us what we were discussing was a structure where members of the community would be the ones who were reviewing and deciding on the grants.

The document was silent on that. I took that as implied because we had never discussed much of any other alternative and that had been so much a part of our discussion for the, you know, year and a half or whatever it is that we've been together. Now, you know, I think I understand that I'm to read the document as silent on that point which totally puts these structures in a different light.

And, you know, I think that – so there's two things I'd ask in this meeting. The first is, you know, I'd like it confirmed explicitly that the document is silent on who actually reviews and decides on the grant and if the document is silent, then, you know, I really want to understand is that what, you know, the whole working group understood as well. It's kind of an – am I crazy or, you know, what did I miss?

And I say all that particularly light of the body of the comments which overwhelmingly were all about how to deal with things like conflict of interest and separation from the Org. To me, simply being expressed about the fact that it should be a group from the community that is deciding – reviewing and deciding on the grants addresses so many of the comments, both directly and indirectly. And so you know, I'd like to throw that back into the room and hear people's thoughts on it. But, you know, I'm gravely concerned about this. And if that didn't make sense, please let me know.

Erika Mann: Elliot, this is Erika. Again, my personal comment on this one, no, I think it make absolutely sense what you have said and we discussed it and the topic

came up many times but we haven't taken, at least in my understanding, a clear position. And we haven't made sufficiently focused on this particular item. But I believe it's – but again it's my opinion – I don't believe it's a big issue because it comes up in the – first of all your point is raised here today so it will be recorded. Second, many of the comments which we received relate exactly to this very point so it will have to be something we have to discuss and certainly not a point which is going to be forgotten.

Now the only – having said this, the only caveat to it is that of course we haven't made a particular recommendation. But I would recommend, Elliot, if you agree when we are going to debate these kind of topics then we will have to make – we will have to take a decision what kind of agreement we can reach in this particular group and then we can see is this departing completely from an understanding we have achieved so far or is it part, although it stayed silent in our public comment period, is it still part of our informal understanding that this was something we informally had (unintelligible) so we need to review some past documents, Emily and Joke, to be able to do this fairly as well.

But I agree with you, it's a super important point and I believe we will find a solution on this one and in particular in the light of all the comments we received with regard to this point. Elliot, do you want to comment on this – I believe your hand is raised again.

Elliot Noss: Yes, please. You know, I think what I want to say is that the reason that I read it as implied in the document is because I really felt that there was not a contentious issue in our group, there was not a lot of debate on the other side or, you know, I couldn't even – I couldn't remember either the discussion or the person who was opposed to that. I felt like that was – there were a lot of items through the course of the cross community working group that we had vigorous debate on; this was not one of them to me.

I don't know who's on the other side of it. I would love to hear from anybody in the, you know, on the meeting today if they were on the other side of it. I never once heard or had discussed staff being the party that reviewed the applications and decided on the disposition. I mean, I would have been jumping on the tables if I had. And if there was extensive discussion on that, then I profusely apologize but I remember none of it. The only caveat is, you know, I was – I had my hips replaced, I was absent for probably a two-month period and then a little spotty for another month or so, but boy, that's been gone for months and I just – you know, this really to me it's kind of like please identify who's on the other side of this issue.

You know, and I'm not saying that to you, Erika, but to people on the call. You know, you can see in the chat right away, and in other people's comments on the chat, I mean, you know, who's on the other side of this issue?

Erika Mann: Elliot, it's Erika. I believe your point is well taken and I don't remember it neither. So and you see in the chat room there is great support with your comments. Let me move ahead, we can come back to this point but maybe we don't need to come back to it because we have many chances to discuss it when we debate about the procedure ahead and about the comments we received. But let's go first, Elliot, if you agree to Daniel and to Martin. Daniel, please.

Daniel Dardailler: Yes, can you hear me well? Can you hear me well? Erika?

Erika Mann: Yes, perfectly clear, Daniel.

Daniel Dardailler: Okay thanks. I think my comment goes along what Elliot said which is more (unintelligible) when we had a working group with participant from various members or constituency (unintelligible) and then we move to the space where we are today which is a more wider review, it's really not well sort of seen that people that have participated in the working group come out after

the final report we reopen should discuss in the working group and sort of agreed on some consensus.

So I don't (unintelligible) situation where I see all these comments that goes in various direction on the mechanism and I'm a bit surprised that we haven't heard about those comments before while we were working on them.

Erika Mann: Yes. Thank you so much, Daniel. I believe that's common procedure a little bit, I've seen this in other working groups happening as well after the public comment period so I'm not really totally surprised. Martin, please.

Maarten Botterman: Yes, just to make sure that there's clarity. I think with regard to whatever mechanism the independence of the evaluators is just a very important point as what we tried to get across in our feedback on this. I think that that should be considered. And no, there was never – assume staff will do it beyond the function staff would have as administrative supportive function to make sure that applications are complete, etcetera. So but the mechanism itself independent of that an independent evaluator seems to be crucial.

Erika Mann: Thank you, Maarten. And...

((Crosstalk))

Erika Mann: Yes, go ahead. Who is this? Emily, is that you?

Becky Burr: It's Becky...

((Crosstalk))

Erika Mann: Becky, please. Please, Becky.

Becky Burr: Yes, I just want to reiterate Maarten's comment, because the Board has been commenting all along about the significance and the imperative that

evaluation be independent. I think frankly the Board had contemplated this really as an independent experts Board applying the community developed criteria. I suppose that there are other ways to achieve independence but from a – from the perspective of avoiding disputes having a, you know, a process that is unsalable and fulfilling various obligations with respect to that, I just want to emphasize the independence of – the critical nature of the independence of the evaluators.

Erika Mann: I'm just looking at – it's Erika – I'm looking who is writing in the chat room. If there's somebody in the chat who would love to talk please let me know and if you can't raise your hand either just disrupt the call or put in a comment here in the chat room and then I can take you. So I believe maybe there are two items we need to discuss, not today, so one issue is that we have more or less explicit understanding that the community would be involved in the review process. We never discussed how this involvement shall happen. The second item is what Maarten and Becky raised that there shall be an independent review.

Now, I believe that once we have the time to discuss this topic there can be different variations how the combination between independent review and between community involvement can be structured. And I believe that's something we can sort out; we do have the intelligence and most participants in this who have participated here do have expertise in funding environments as well so I'm sure we can sort this out.

My question now to you is do you want to discuss this topic further today or can we – can the leadership team identify all the items, come back to you in our – during our next call with recommendations about the three original topics I had recommended we need to evaluate, so what fits into the draft recommendations the way we have drafted them, what is completely new, what is – what needs to go – to be moved to the implementation phase and then Julie, Emily and Joke, I would recommend we add a fourth item what

was implicit discussed but still needs to be worked out which would relate to the topic Elliot just raised.

Would this be something you feel comfortable with and once we have seen this document we then can continue to discuss this particular item but all other items as well which we received in the public comment period. Okay, I don't see anything. And the topics we're still discussing the items which we debated before on the topic Elliot raised. So I assume that you are confident that the leadership team will do a first review and then based on the first review we will continue this particular discussion but all other items as well.

I see Daniel has his hand. Daniel, is it a new hand? Emily is sending me a note that this might be a new hand. No? Okay. Okay, then let's move forward. Emily, do we have a recommendation until when we can do this? Can we do this already during our next call? Do you have, and Julie and Joke, the time to review this?

Emily Barabas: Hi, Erika. This is Emily Barabas from staff. So I think that that's something that perhaps staff need to take back when Marika's back from vacation tomorrow and we can schedule a timeline and a work plan for getting this initial analysis done noting that ICANN's offices are closed for the holiday week but then perhaps we can schedule the next meeting...

Erika Mann: Yes.

Emily Barabas: ...to closely follow that initial analysis completion.

Erika Mann: I think that's a good...

((Crosstalk))

Emily Barabas: ...once we have a good timeframe established for you. Thanks.

Erika Mann: Yes. It's Erika. I think that's a good recommendation, Emily, let's do this. Marika is back next week – not next week actually you're right, she's back tomorrow so we can schedule another leadership call as early as possible and then we can review the discussion from today, our goals and then so we can send a revised document back to this group as early as possible. Maybe you want to talk about the next item because it relates directly to this point, Point 5, the meeting schedule. Would you want to talk about it, Emily?

Emily Barabas: Sure. Thanks, Erika. This is Emily Barabas from staff. So this may depend a little bit on the initial analysis and the amount of work left to do for the group after that's been completed. But we're wondering if it would be helpful to think with the group whether it makes sense to continue to meet every two weeks on a regular fixed timeframe, whether that's something that works for people in general or whether a different sort of meeting cycle would make the most sense so if people have initial thoughts on that, that's welcome so that we can do some planning. Thanks.

Erika Mann: Yes, Emily. And this is Erika. Maybe you want to mention as well or I can mention it briefly in the leadership team we discussed as well that we like to have a clear understanding how long we want to continue shaping this agenda. So my, and during the leadership call we came to the conclusion that it would be nice if we are able as a team to deliver, you know, clarification about these topics which are brought up in the public comment period until Kobe, that we don't sit longer on these in doing this work so that we can clear increase how we need to move forward.

For example, do we need to have a new public comment period? Are we totally departing from the first draft? Or are these just minor points which the SO and AC and the GNSO can support without a public comment period? Do we have to go for a public comment period? This depends a little bit on the signals we receive from the Board as well. So our understanding is let's finalize the major part of our work in Kobe, so let's do most of the work ahead

of Kobe and then we already ask staff to evaluate that we can get at least half a day for us in Kobe scheduled so that we can finalize our work.

Having said all this background coming back to the main question Emily raised was, are you fine in continuing schedule until Kobe, calls are each second week, would just be something you can support. Kavouss, please.

Kavouss Arasteh: Yes, I agree with you that Kobe would be our end of the (tunnel) and we don't need to work beyond that and I think that is every two weeks meeting perhaps we should put if necessary. I do not agree to have another public comment, the more public comment the more comments come, people always want to comment on anything and then we have to review that all, we have to (ignore) that, usually we cannot ignore comments from public therefore I suggest that we do not have any other public comment and we end to this business in Kobe. Thank you.

Erika Mann: Thank you so much, Kavouss. Yes, I think that's the ideal scenario. Let's hope it is going to be workable. We will find this all out. I'm just looking the chat room, Elliot is writing, "We will have no choice give the initial discussion. It is material enough that public comment is," yes, Elliot, yes we will see. If it is something completely new we will have to go very likely for a new public comment period, I agree. But let's see.

I think we need to advance in our discussion and then in the meantime staff is putting documents together just to see what kind of guidance the – we can get from past CCWG review period and from – and I would ask you as well all to reach out to SO and AC to get informal understanding what is the best procedure. But currently we keep the two options open either we need to go for a new public comment period but if it's not needed and we can in a completely transparent and justifiable manner find an agreement between us we may not have to do it.

So but back to my main question to Emily – main question, we keep the calls each second week. Then is Wednesday for you a good time, the same time as we have today? Maureen, do you want to make a comment? Yes, Emily is saying we can take this off list and we do a poll. Thank you so much, Emily. Let's do it like this, I agree, it's too difficult to do it on the call. Thank you for saying this. Anybody else on the – wants to make a comment? No? Okay, then let's move to the next item. I hope I haven't overlooked anyone.

So the next item would be next step for work plan towards final report. Emily, do you want to report what we had discussed?

Emily Barabas: Sure, Erika. This is Emily Barabas from staff. I think you covered a lot of it actually in your discussion of the previous agenda item. But I think as we do this initial analysis we'll be able to sketch out a little more clearly what steps we'll need to follow to get to the final report and that will partly depend on the changes will be to the content of the report.

As I noted in the chat, there is some feedback from the Board that indicates that if the report changes significantly as a result of the analysis of the public comments, the Board encourages that second public comment period. There's nothing in the working group charter that speaks to that specifically or in the guidelines for CCWGs but that is sort of the best practice if there are big changes.

But I think this will be an evolving process but the main point of this agenda item is to let everyone know that the leadership team is working on developing a work plan with the different scenarios so that we can have something to present to the group with a bit of a timeline for completing the work of the group and getting things over the finish line so to speak. Kavouss, is that a new hand?

Erika Mann: I believe – it's Erika – I believe that's an old hand but I'm checking. Kavouss, is this a new hand? No it seems not. I believe it's his old hand. Kavouss? No. Okay.

Yes, I agree with you, Emily, I think we will – it's a work in progress and we will find out during our discussion and evaluation of the various comments and understanding if there's major disagreement between us if there's never disagreement how we want to carry the – and integrate the comments then the process is pretty simple but if there's disagreement in particular with regard to new comments we may have to go to a new public comment period. But let's indeed evaluate the situation once we progress more and we have a better understanding.

Okay, last item on the agenda, if there's no further comment with regard to this point it would be Point 7, reconfirmation of membership. We had in our call in the leadership call this topic came up. I believe it was Emily, I believe it was you who brought this up and if I remember it right you had a discussion with Marika. And the point was that we had lost over time some members and some groups which are important for this discussion and debate.

And then the question is do we need to receive a reconfirmation from the SO and ACs and understanding that some of the members who haven't joined as frequently as they should have maybe – shall be replaced or the members are just reminded about the importance of the work. So it was just a discussion between us, do we need to do this or do you feel confident that we have sufficient members with us who can shape this agenda? No? No comment on this item?

Okay, then I recommend just think about it. Elliot is saying "sufficient" – I believe the sufficient, not sure if it relates to the calls or to the question whether we have sufficient members. I would recommend just think about it and we can pick this up at the end of our next call. Elliot says it relates to members. Yes, I believe so too but I sense there's some concern in the –

coming from Marika and staff in particular and I want to take this serious so just think about it and if you believe it is sufficient then we can certainly – can express it.

Okay, the only thing we need maybe, Emily, do you want to take this offline as well or you want to have a decision today about the next call and then the other calls you do in the poll? Or do you want to do the next call in a poll as well, in a survey overview?

Emily Barabas: Thanks, Erika. This is Emily Barabas from staff. I think the leadership team will maybe take this offline and follow up on the mailing list about the meeting schedule and next steps and timeline for the analysis. I think we have enough feedback here to get us started and we can certainly circulate over the mailing list some options for a regular meeting time. I believe the regular meeting time we previously had now conflicts with the EPDP schedule so we would just need to identify a time that works with other groups as well. But...

((Crosstalk))

Erika Mann: Yes, wonderful. And to staff, we can do this. Please review the chat room, there are some comments which are very valuable with regard to the question if we shall review the membership list and I think they're all extremely important shall be kept so please put this in the – I don't know if you always review the chat room in this case please include these comments.

Okay, any other point? Anybody want to raise a different item? No? That's not the case. Then okay, I wish you a happy time at the end of the year. For those who are having Christmas have a fun Christmas time, enjoyable with your family; for all the others just enjoy some days off. And we see each other again and talk to each other at the beginning of the New Year. Wishing you all the very, very best. Take good care. And back to you, Julie.

Julie Bisland: Great. Thank you so much, Erika. And everyone, today's meeting is adjourned. You can disconnect your lines. And have a good rest of your day or night.

END