

**ICANN
Transcription
New gTLD Auction Proceeds CCWG Charter Drafting Team
Thursday, 26 May 2016 at 13:00 UTC**

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Attendees:

ALAC

Alan Greenberg

ASO

Sylvia Cadena

ccNSO

Will not be participating in the drafting team

GAC

none

GNSO

none

RSSAC

Brad Verd

SSAC

Russ Mundy
Lyman Chapin

Board

Board Liaisons

Erika Mann
Asha Hemrajani

Board appointed staff advisors
Samantha Eisner

Apologies:
Jonathan Robinson
David Tait
Tony Harris
Olga Cavalli

ICANN staff:
Marika Konings
Lauren Allison
Vinciane Koenigsfeld
Julie Hedlund
Terri Agnew

Terri Agnew: Good morning, good afternoon and good evening. Welcome to the New gTLD Auction Proceeds CCWG Charter Drafting Team taking place on Thursday the 26th of May, 2016.

On the call today we have Alan Greenberg, Russ Mundy, Lyman Chapin and Sylvia Cadena. The board liaisons on the call today are Erika Mann and Asha Hemrajani. I have listed apologies from Jonathan Robinson and David Tait.

From staff we have Samantha Eisner, Marika Konings, Julie Hedlund, Vinciane Koenigsfeld, Lauren Allison and myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you, Alan.

Alan Greenberg: Thank you very much. And welcome to the meeting. We have a pretty large agenda today and our target at this point is to try to have a draft charter ready so that it can be discussed in Helsinki.

Marika, are we still operating on the rule that we have to have submitted it a certain numbers of weeks before?

Marika Konings: This is Marika. Actually that's a really good question. I mean, I think the – for the normal ICANN meetings it's 15 days; for this there actually hasn't been a specific communication as we are running in a different format. But I think as always, you know, the earlier the better.

Alan Greenberg: So 15 – that's 15 calendar days or working days?

Marika Konings: Yes, yes I believe it's 15 calendar days.

Alan Greenberg: All right so that means the discussion of auction – that means the meeting starts on the 27th so in theory we have to have this out and mailed by the 12th of June at the worst. In practice if we get it out late I don't think they're going to cancel our session but that's certainly not something we should aim at.

So that means we have a limited number of meetings to get something close enough that we feel comfortable saying it's a draft and having – excuse me – having discussions so that certainly is our target.

The first item on the agenda is principles derived from the review of public comments. And according to Marika we're going to finalize these principles today and discuss how they go into the charter. And who is taking us through that part of the agenda? Is that Marika or is that Russ and Erika? I see Marika's hand up.

Marika Konings: Yeah, this is Marika. We did go through these last time around, the action item for the drafting team was to, you know, review these and indicate whether there were any others that needed to be added. And as well to think about how these should be integrated into the charter.

I know there was as well a specific action item, and it's the second bullet point under this item, in relation to the diversity, and I think I believe it was Asha who volunteered to draft some language on that. I don't know if that has already happened. I know that in the draft charter that was circulated there are a number of areas where I think the aspect of diversity or diversity and representation is mentioned so may also be worth, you know, reviewing that.

But I think the main question indeed for today is is there anything else that needs to be added to these principles and then, indeed, discuss how are these to be translated into the draft charter or is the draft charter as currently written does it already cover these elements sufficiently.

Alan Greenberg: Yes, I see two hands up. And I have a – put myself in the queue as well.
Erika.

Erika Mann: Yes, can you hear me?

Alan Greenberg: We can.

Erika Mann: Wonderful. So what – I think Marika outlined the discussion we had last time on the goals we set ourselves for this call. So what Russ and I – and please correct me if I report this wrongly but I think what we said last time we weren't fully certain if the guiding principles should be incorporated directly into the charter or if they should be annexed.

I thought about it a little bit, and I thought if you look at it from a more holistic point of view probably it would be better to incorporate them. But I don't have an absolute preference. But I would probably prefer to have them incorporated. That's it, Alan. Back to you.

Alan Greenberg: Thank you very much. Russ.

Russ Mundy: Thank you, Alan. Oh thank you, now I have my mute off. I agree with Erika. Having given it a bit more thought I think that having directly in the charter is good including the references to some of the – especially the mission statement and values because of the, you know, the not quite finished state yet with the CCWG work and...

((Crosstalk))

Alan Greenberg: Yes, Russ, you're fading out I'm afraid.

Russ Mundy: Oh I am sorry. Is this any better? One, two three.

Alan Greenberg: Slightly better for me.

Russ Mundy: Okay.

Alan Greenberg: If no one else is complaining it may just be me.

Russ Mundy: Okay good. Thank you, Alan. So I think the direct incorporation is good for most of the things. I do have to apologize, I had not had an opportunity to go back and review the session notes from ICANN 52 to see if there was anything in there yet that needed to be looked at. I will try to do that but I ask others to also try to review that session to see if there was any other principles that we think should be included in the charter from that earlier session. Thank you.

Alan Greenberg: Thank you very much. I put myself in the queue. Three of them, transparency, accountability, and conflict of interest, well transparency and accountability I think are implicitly there because of how we establish and, you know, all the meetings are open, we publish everything. So I'm not sure we need to explicitly use those terms, but they're implied by some of the other requirements we have.

Conflict of interest, in this particular case, I think we clearly have to mention explicitly. And the third one, lean and effective, I'm not sure we can have lean and effective at the same time as we use the normal ways of populating CCWG. So I think when we get to the charter we need to talk about that one because if that is indeed a principle then I think we may have an interesting conflict. So I'll go ahead with next is Asha.

And I see Sylvia said she's already shared her comments about this, perhaps you can either put them into the chat or come and speak to make sure that we haven't forgotten what they are because I must admit I don't recall what you said. Asha next.

Asha Hemrajani: Yes, thank you Alan. So just to address what Sylvia is talking about, she's already shared some comments on the legal document from Sam but she's also shared with me her input on the diversity because the both of us are working on it together. And I have sent her my comments back and my draft on that as well. And so the two of us need a little bit more time so we'll be working on that and hopefully we should have something done by the next meeting.

The – on the guiding principles I wanted to agree with what – to referring back to what Erika mentioned. For my own personal perspective, I think that I have a strong preference for the guiding principles being incorporated into the body of the charter because I think they're so important. I agree with – I can – I don't agree with her, I think I can see what you were leaning towards or what you mean – what you're referring to rather, Alan, when you talked about the guiding principle, lean and effective.

I mean, this cluster of principles, rather. I can understand where the challenge might be. So I think it's worthwhile to spend the time to actually do this – to work – to flesh out the clusters of principles and then to really work on them because I feel that will actually set the tone for the rest of the

charter. So that's my personal preference for having them in the body of the charter. Thank you.

Alan Greenberg: Okay thank you. I see Erika's and Asha's hands up but I think those are old ones. So where do we stand at this point? There seems to be agreement that the principles should be explicitly referenced in the charter. I've noted that at least one of them may – we may have some difficulty doing that. And diversity is still being worked on and we will have that for the next meeting I'm presuming. Russ, I see your hand up, go ahead.

Russ Mundy: Thank you, Alan. I wanted to just make a quick comment about the lean and effective principle. And what I believe was the dominant piece in the public comment was pointed towards the operation of the eventual dollar distribution process, as opposed to a lean and efficient operation of the CCWG process to get us to where we have, a financial distribution process.

I don't know if that difference...

((Crosstalk))

Russ Mundy: ...or if it's useful but I think that's what I got anyway out of the public comments.

Alan Greenberg: Thank you. We seem to have an open microphone somewhere. Yes, if that was referring to the principles of the final process, which we've now determined is not the CCWG, then I have no problem with those at all. And if the intent was all of those are principles that should be incorporated into the final process, then I completely agree, they should all be explicitly mentioned as requirements for the CCWG to ensure are in its final outwork product. Erika. Or is that an old hand?

Erika Mann: No, it's a new one.

Alan Greenberg: Go ahead.

Erika Mann: Just confirm what Russ said – just to confirm what he said, it related to the disbursement of the money. And I think it's right to have this included. I had a chat today with Xavier just to check again with him that the way the disbursement can be done in the future and how it might relate to existing financial and in particular audit procedures. It will be very important to stick as closely as possible to established – to established procedures.

So I think if we could connect the lean and effective to maybe the accountability language then maybe we can – we are probably close what we, you know, sufficiently close what the writers of the comment meant and the way we, as a team, can incorporate it into the charter. That's the way I would see it, Alan. I'm not sure if you would agree to this.

Alan Greenberg: Sorry, it's Alan. I'm sorry for leading us all astray. I took these as principles for the CCWG, not the eventual process that the CCWG comes out with so I apologize for leading us astray and going into an area that wasn't relevant. I agree completely as requirements for the final process, all of them need to be there, and I think we need to specify to the CCWG that they can't omit them. So I don't think there's any question there.

Erika Mann: Okay perfect. Perfect, thank you.

Alan Greenberg: And we have an open microphone somewhere if staff can try to find it. And it seems to be gone. Is there anything further we need to say on this? So we have four principles which are clear, diversity, there's working on, and the mission statement and values could be included but these – principles of disbursement. I'm not quite sure what we mean by principles of disbursement.

I would have thought that's going to be one of the major work products of the CCWG so I would certainly say that it has to be – I'm not sure we want to call

them principles but the process to be used is indeed I think the major work product of the CCWG. So I'm not sure how they can avoid talking about it but I'm not sure what words we put into make that clear.

Lauren, go ahead.

Lauren Allison: Hi, Alan. Thanks. Just in relation to the ICANN 52 session of the principles, that should actually be ICANN 53, that was the Buenos Aires session. There were several comments in the public comments that said that they agreed with the principles that related. I got those. I have them and can type them into the chat if that would be useful.

Alan Greenberg: It certainly can't hurt if you can do that easily. Asha.

((Crosstalk))

Asha Hemrajani: Yes, thanks Alan. The – regarding the principles for disbursement, you raise a valid point. On the diversity part that I'm putting together with Sylvia's help, is I – from my perspective I've divided the diversity into two buckets, if you will. One is on the diversity of the members/participants/observers of the CCWG. And the other aspect of the diversity is the diversity of the applicants who apply for the funds.

And I was actually thinking about these words, in fact, when I was drafting that – the principle for disbursement, as in one of the principles for disbursement would be that we ensure that there's as broad a spectrum of applicants as possible and there is not, you know, it's not focused on or concentrated only on one type of applicant or applicant from one country or one region and so on.

So I'm not – so I was just mentioning this because I'm not sure if principle for disbursement is the right phrase but this was just an example of where principle for disbursement could be a correct way of describing it, for

example, as in one of the principles of disbursement would be that we ensure diversity of the applicants. Your thoughts on that?

Alan Greenberg: We have every Erika next.

Erika Mann: Colleagues, there was an interesting point in the discussion today with Xavier which I want to mention here because it might be relevant for what we want to recommend. So he said, and keep in mind he wasn't involved – not in all of our discussions but he was always receiving information either from Asha, myself or from (unintelligible) and from the team.

So he said something interesting, he said what he thinks will have to be done that the disbursement of the fund the current ICANN – so his department because they are overseeing the money, will probably still have to verify. Now I said to him that we haven't discussed this what this would mean. And I asked him to have based on the document he and Samantha sent to us already, you'll remember I think it was a two-page document, maybe Lauren, maybe you can resend it again. So that he would have to clarify this – what this would mean actually.

I'm just mentioning this here because I think we should have him maybe on our next call so that he has time to look into this and can give us the advice after he has time to consult with the audit firm and with the internal team because I'm not sure how we could incorporate this because if we would incorporate this in the charter it would have to be a kind of, I don't know, financial oversight or kind of chapter or something like this.

But, Alan, I'm just mentioning this here so that we can put this onto our to-do list.

Alan Greenberg: Yes, thank you, Erika. I'm starting to feel we should be deferring the details of this discussion until we actually start working on the charter because we're going to end up having the same discussion as we start looking at the words,

making sure that we're incorporating it in a proper way. In that particular case I know I made a comment on the draft charter that I disagreed with what Xavier was saying because I think that is necessarily the only way that ICANN can fulfill its duty. So I'm not sure we want to be that prescriptive but I think that's best deferred until we actually talk about the charter itself.

Sylvia, you're next.

Sylvia Cadena: Thank you, Alan. (Unintelligible) well I shared my comments on the mailing list about the principles and also about how I understand the diversity concept. And I think it will be really useful (unintelligible) made on the mailing list to take into consideration because if someone doesn't – is not able to participate in a conference call then the comments on the mailing list are not part of the next conversation or if I am not appending the key – making a big effort to make those comments and participate if they are not taking into consideration I don't see (unintelligible). So I would really appreciate if the information on the mailing list is taking into consideration (unintelligible) our conversation.

And on the issues around the disbursement of principles and discussing the financial department, I think we are probably jumping ahead a lot. And that is – it is not necessarily that the working group will actually decide that ICANN itself would make disbursements, they might actually decide to establish a different mechanism.

And I don't think that we need to give too much ammunition for leaning over – I mean, for the drafting team to lean over and say oh this is the way it should go. So the working group should have at least the principles to work on how the funds will be distributed or managed or (unintelligible) necessarily mean to already start discussing how the disbursement is done because depending on the mechanisms chosen everyone has different due diligence processes and legal processes to incorporate.

So starting discussing at the draft team those vehicles actually taint the discussion in terms of principles on the framework for the actual working group to work on. So I think it is important that we focus on the framework that we want the working group to work on and make sure that those considerations that are taken into account, and not jump too much ahead to make recommendations (unintelligible). I don't think so, from the department that ICANN (unintelligible).

Alan Greenberg: Thank you, Sylvia. I think you're agreeing with what I said that Xavier was being very prescriptive as to how ICANN should make sure the money is being spent according to the rules as opposed to simply saying the drafting – the CCWG must ensure that it – that that happened without specifying necessarily the process by which ICANN will use to do that. And I see Erika agreed with in the chat.

I don't think we have any new hands at this point. I would like to suggest that we go on to the next item and make sure that as we go – start going over the charter we are using it as a checklist to make sure that we're addressing the issues that we said we thought need to be incorporated. If there's no objection then the next item is the review – no, draft text on diversity, we don't have this week. And the next item is Item Number 3 on the fiduciary and legal constraints.

And the first item on the agenda is update from Sam on modifications to the briefing note based on design team input. Sam. Is Sam with us?

Terri Agnew: This is Terri.

((Crosstalk))

Samantha Eisner: This is Sam coming off of mute, sorry about that. So the modifications to the briefing note have been a bit delayed due to the bylaws drafting work. But some on this call know that the bylaws have gone back out so we're going to

be able to have this document turned for you by the – within the next week so that it can be discussed further. I'm sorry for the delay, we've just had many other things going on. So we'll get it returned with the inputs that have been received.

Alan Greenberg: Thank you, Sam. I can't imagine what else you might be busy with right now. That's a joke related to bylaws if any was not quite aware.

Samantha Eisner: Just a few things. Thank you, Alan.

Alan Greenberg: The next item then is Erika Mann will come back and tell us what the board thinks about what our constraints are and what extent do we have flexibility to use the funds. Erika.

Erika Mann: So we haven't discussed it at the retreat. We had such a full agenda. We had bits and pieces of the discussions but they didn't really focus on the auction proceed process. But we have it on our agenda in Helsinki. So Asha and I and the team – the subteam is working on preparing a background information document for the board. And then we will have an exchange in Helsinki. We already opened an informal exchange with Steve on this topic, who was very keen in following what we are doing and is very much interested in the topic himself. So I have to apologize, we have to delay this to Helsinki. Is okay?

Alan Greenberg: Well it's going to make it rather difficult for us to have a draft charter because this is one of the really key sections that will guide the CCWG and how much flexibility it has. So I guess we'll have to put some bracketed language in and get input from the group at the same time as the board is deliberating. Will the board likely have had this discussion before the public meeting?

Erika Mann: Yes, we will – we are trying to get this in as early as possible.

((Crosstalk))

Erika Mann: What I would recommend we exactly proceed as you just recommended and Asha and I can we try to have at least with the core team maybe informal exchange with the board with the core team before Helsinki so that we have a feeling where the board might tend to go. And then we can (unintelligible) maybe if we send some (risk) how the board might respond we can (unintelligible) maybe some of the language we have selected and chosen. Will this work?

Alan Greenberg: I guess it's going to have to. I mean, clearly if the board decides we should have some flexibility and we don't need to go by the letter of the mission, then we have a conflict between the board and what our current legal advice is. So that will obviously have to be resolved before we can put anything in a final mission.

So the extent that we can get a heads up at least a few days before the meeting to put together some slides or something like that to make sure that when we're asking for input from the community they have some idea of what the range of possible inputs are, I think that's going to be really essential. So the earlier you can get us anything, even if it's only an informal, you know, sense of the board...

Erika Mann: Yes.

Alan Greenberg: ...but factoring in of course the legal advice which the board is bound to consider, I think is going to be really essential.

Erika Mann: Right.

((Crosstalk))

Alan Greenberg: Sorry, go ahead, Erika.

Erika Mann: ...we will get this done, Alan. We will get something to this team before Helsinki around the core topics, we will get this done so that we have a feeling.

Alan Greenberg: Okay. Thank you very much, Erika. Sylvia. Sylvia's hand is now down. Then we'll go to Asha.

Asha Hemrajani: Yes, thank you Alan. So I'm sorry I missed part of what – that just – that little discussion you were having earlier about getting the slides done on time. Can you summarize that, Alan and...

((Crosstalk))

Alan Greenberg: Yes, certainly. One of the tasks that we were hoping to have a report on from this meeting was a discussion that didn't happen in Amsterdam in the board on how much flexibility we should have – or the CCWG and the final mechanism should have in disbursing funds. The legal advice we have so far, the legal note, says that we have to be very strict in terms of only things that adhere to the ICANN mission can be funded.

Whereas there was a question of can we in fact be broader than that and be in line with what the message was in the Applicant Guidebook, which we're not, you know, which was not a legal statement but nevertheless said projects of value to the Internet community in general or something like that. So the question is can we in fact be wider than the current legal document implies we can and that is a – that's an important part of the guidance we have to give the CCWG. And at this point we will now not have it in time to publish the draft charter.

So we were looking at ways that we can get some information at least a day or two ahead of time to make sure that when we have the public meeting we can provide them with a little bit more insight than we have today.

Asha Hemrajani: Yes, understood. Okay.

Alan Greenberg: Marika, go ahead.

Marika Konings: Yes, this is Marika. And I think that probably already takes us into the next item as well because I think the whole idea of having a draft on the table will hopefully assist in the effort of actually indeed identifying which are sections where...

Alan Greenberg: Have we lost Marika?

Asha Hemrajani: Yeah, suddenly disappeared.

((Crosstalk))

Alan Greenberg: There is no part of the world immune from line drops.

Alan Greenberg: Certainly not Costa Rica.

Terri Agnew: And we're dialing back out to her.

Alan Greenberg: And if we can disconnect the old line. Done. We'll give Marika a moment to come back on.

Marika Konings: Hi, can you hear me now?

Alan Greenberg: Yes, we can.

Marika Konings: Connected by Adobe because the phone, I don't know, I just – it just (unintelligible) me but I couldn't hear anything so I'll try this way.

Asha Hemrajani: Can you start from the beginning, Marika?

Marika Konings: Yes. So as I was saying, I think this may already take us into the next action item but the whole idea about the draft charter is as well that the drafting team, you know, individual members or through the board liaisons is able to identify within the charter which are specific areas where either the further community discussion is needed or where still we're waiting for input.

So hopefully that will aid the group in, you know, narrowing down which are the specific items that you believe need to be specifically discussed with the community in Helsinki. So hopefully as well that draft will help Erika as well as Asha to take that back to the board and get at least some indications indeed on which areas, you know, you may think are problematic as currently written or may need more work or where you believe that as it's written it accurately reflects, you know, what has been spelled out in the legal and fiduciary memo.

And I think similarly, hopefully Sam will have some time as well to review what is currently in there to see if that aligns with, you know, what is in the memo. What is currently in there is what I've taken basically from I think the short note that she had already shared but as that is being updated will be important as well to specifically reflect, you know, what the updated memo is going to say and that aligns, you know, the two pieces align.

Alan Greenberg: Yes, thank you Marika. I'll note that the CCWG is going to have to do work on this specifically if the board comes to an agreement with our legal advisors that in fact we do have more flexibility than just for the mission, that doesn't require the CCWG to have rules with more flexibility. The CCWG itself could decide to narrow that and only fund projects that are closely aligned to the mission. But of course if the board decision is the other way then it doesn't have the flexibility of widening it.

So, you know, clearly there's – if the board or if the board decides that it is reasonable to consider having more flexibility the working group still has a lot of work to do to actually make the decision of where to put the final results.

Shall we go ahead with the – with the next item then on the charter? I haven't had a chance to look at email in the last 14 or 16 hours. Do we have input from – I know I've put some comments out. Do we have input from anyone else on the charter itself yet? Marika or anyone who's read the mailing list? Have we lost Marika again?

Marika Konings: This is Marika. I didn't – no, I think I'm here.

((Crosstalk))

Marika Konings: Instead of going to the phone I have to go to the computer. No, I didn't see any other comments come in as far as I know. I do note – and I just pulled up the first that (unintelligible) your comments are not visible so I'm going to produce an updated version so we can at least use the one that you marked up...

((Crosstalk))

Marika Konings: If you give me one second...

Alan Greenberg: Okay.

Marika Konings: ...I'll do that.

Alan Greenberg: Or I can talk about them as we come to each point if you wish. If I pull them up.

Marika Konings: Yes, it's probably helpful to see them on the screen.

Alan Greenberg: Okay.

((Crosstalk))

Alan Greenberg: We'll give you a moment. Even though it was a long agenda we actually do have – we seem to be making good progress. This is a 90-minute meeting I believe, correct?

Terri Agnew: And, Alan. This is Terri. We had it scheduled for an hour.

Alan Greenberg: Oh.

Terri Agnew: If everybody's times allows we are able to go longer though.

Alan Greenberg: I thought it was an hour and a half in my agenda. But maybe...

Erika Mann: No, it's one hour.

Alan Greenberg: Then we're not making that good time. It was – whoever put it into my agenda put it in as 90 minutes.

Marika Konings: So this should work better. You should see now your comments on this version that's up...

Alan Greenberg: Okay.

Marika Konings: ...on the screen.

Alan Greenberg: Thank you very much. All right I think let's go through it section by section and if – I'm assuming other people have at least had a chance to scan this, if not make comments. If not, then this may be a futile exercise. But let's – work on that assumption. I had no comments on the problem statement – we're in Section Number 2 in the problem statement. I don't know if anyone else would like to raise anything. Give people a moment to raise hands if necessary.

Goals and objectives? Nothing. All right now into the scope. The first item is the one on essentially verification. And it says, "While noting that ICANN will maintain ultimate responsibility for confirmation of all disbursements." I found that rather prescriptive and if ICANN decides – if the CCWG decides and the board decides, for instance, to set up a foundation then I would assume that ICANN will not be verifying the actual disbursement but will rely on the contract it sends, the terms and conditions of the providing of the funds to the foundation and presumably audits, at least on a test basis, but would not actually go in and inspect the books and do the work itself.

So I, you know, I found this very prescriptive and not necessarily the way it would be done. I see Erika's hand, go ahead.

Erika Mann: Thank you, Alan. (Unintelligible) was my question to Xavier as well. I think it depends on the structure. So if it is going to be a fund and then the fund will have probably the responsibility and will be audited separately. But there might be different structures. So I think the – this is the kind of, you know, caution is – very caution approach which is probably good to select right now because we have no idea about the future structure.

So I think this is a point we will have to review when we know the structure. Right now we can only put into the charter the principles which will be independently – however the structure will look like in the future they definitely have to guide the process. So we guide an independent fund but it will guide a different structure as well because for, I mean, for – and there is one other issue which I think Xavier still needs to clarify to us.

I think there is an understanding that even if it will be in fund there might be still not clarified responsibility with the current ICANN structure. Now if this is correct then the methodology between the current structure and its responsibility and the funds will have to be clarified as well.

So my advice would be to review this and only select the guiding kind of guiding principles again which will have – which will override, you know, whatever kind of structure will be selected in the future.

Alan Greenberg: Thank you. Sam.

Samantha Eisner: Thanks, Alan. I agree with much of what Erika said. And I think that there are a lot of details here that are going to depend on what the ultimate structure becomes and the vehicle that's used for the disbursement. No matter what, at the first level of disbursement, right, so if ICANN is making based on the CCWG recommendations 300 different disbursements to individual entities or one large disbursement to a fund or foundation, at the very minimum, ICANN bears responsibility for that initial disbursement.

If it were to go to someplace like a fund or a foundation or something, then the issue becomes what are the governance requirements that ICANN may maintain or might have to maintain to make sure that that fund lives up to the responsibilities, as you mentioned, it could be through a contract or could be through other means. And that might be where we go to auditing requirements or other, you know, types of participation and governance activities.

But I think that the word of all disbursements, I – we have to consider this as disbursements that are made by ICANN in the first instance, and then it triggers the issue of governance over what happens elsewhere. And so I think that there might be a little bit more read into this statement than is necessary but it brings up all the different questions that we just have to figure out the right wording to use in this charter so that we don't raise the same level of concern that you've raised.

Alan Greenberg: Yes, thank you, Sam. My second point in my comment was I think this should be a separate bullet point in any case. But I would assume – since we don't know what the CCWG is going to recommend in terms of how to structure

this, I would think that what our – the design teams and the charter’s instruction to the CCWG is it must ensure that the ultimate disbursement of the funds meets the – or satisfies whatever restrictions are put on the use of funds by ICANN.

So that includes the first disbursement to a foundation, if there is one, but it also includes the ones downstream. So I think that’s the kind of way we want to word it to simply say the CCWG must consider it regardless of what methodology it uses for recommending disbursements for the funds. Erika.

Erika Mann: Yes, you're right. I agree with you and Sam. That's a good way of looking at it. And how it, you know, how we want to – how we want to define the (corridor) of principles which will guide the disbursement, this will be, for example, just comes to my mind we don't want to lose the tax status so whatever, you know, however the disbursement will be done in the future we have to guarantee, we have to find a way to guarantee that it will be, you know, maybe not touched on.

And so there are other principles as well which we have to include, yes, I think that’s a good way of looking into it.

Alan Greenberg: Okay thank you. Any more comments on third point? Seeing none, the next one is the CCWG should seek inputs on the process and disbursements under limitations that will support ICANN’s tax exempt status. Again, I think that is one that we are trying to do ourselves and I’m not sure we’re going to be asking the CCWG to do that again, but I’m not sure about that.

I didn’t make a comment on it explicitly but reading it now are we really going to give the CCWG that flexibility? Certainly we can leave it in today but I suspected we are in fact going to restrict the CCWG by the time they are formed. Sam.

Samantha Eisner: Yes, I think that this – from the way I understand this point I think we could make it better formed that they must continue to (unintelligible) but the limitations that might be there in order to preserve the tax exempt status and seek guidance if necessary and not put on them the full obligation of continuing to seek inputs but it's a preserve and seek information when necessary type of principle.

Alan Greenberg: Okay thank you. Erika. Oh sorry, you put your hand down.

Erika Mann: Yes, and I can keep it short. Yes, I think you're right. And I think even on the – if I remember this right – in many discussions we had on the CCWG which touched on this issue there was never an – somebody raising the point that we don't want to keep the current tax status so I think it is a kind of basic element which we want to preserve. And I think you're right, we should mention it already.

Alan Greenberg: Okay thank you. I mean, clearly the board is not going to exercise its duty to approve recommendations which would allow someone to challenge ICANN's tax status. So it's simply prudent for the CCWG to make rationale recommendations from that context but, yes, I think we should include it.

The next item is a small one but it shows up throughout. I only made one comment. The wording in the recommendation as written is, "The CCWG should include limitations on the use of funds to campaign for candidates for public office or attempt to influence legislation."

Should is a word that's normally used saying they have some discretion. I would have thought this, and a number of the others are – should be musts. But this may be a style issue in how we write our charters. So I'm going to either defer to Marika or ask her to comment. I would not think this is an item the CCWG has any discretion over whatsoever. Marika, go ahead.

Marika Konings: Yes, this is Marika. Just to note that this actually came from the document that Sam shared with the group so she's probably in a better position to...

((Crosstalk))

Alan Greenberg: Thank you. Sam, do you want to comment or you leave it up to us to pick the right word?

Samantha Eisner: We can discuss what the right word should be.

Alan Greenberg: Okay.

((Crosstalk))

Samantha Eisner: ...turning it into a more restrictive word. But I leave it up to the group. I think the principle itself is understood.

Alan Greenberg: Okay, thank you. The next item is, "CCWG should maintain high standards of conflict of interest practices including the adherence of a conflict of interest policy and maintaining up to date statements of interest." I have no problems with that whatsoever. Sylvia, go ahead.

Sylvia Cadena: Thanks, Alan. Sylvia here. I just wanted to recommend about the previous one, sorry, Alan, sorry my hand showed up late.

Alan Greenberg: That's okay.

Sylvia Cadena: About if the comment before that the funds for campaigns (unintelligible) also to be clear that was not only in the US. So that funds for any – can you hear me?

Alan Greenberg: Yes, we can.

Sylvia Cadena: I was just saying that on the comment about include limitation on use of funds for campaign for candidates for public office, we discussed in the previous conference call, and (unintelligible) on the mailing list that it's important to clarify that is not only for the US elections, that also elsewhere.

Alan Greenberg: I – well it's certainly true. I didn't read anything into this that that would imply it's only for US elections or candidates for office, but I have no problem specifying, you know, that it's wider than the US, I just never would have imagined it would only be the US. The only time that I thought we had to worry about US explicitly was when we made reference to the formal tax code in the US and the terms under which ICANN has tax exempt status.

And that one certainly we want to make clear it's not just the US. But this one I didn't think there was a need to explicitly widen it. I have no problem if we want to but I guess I didn't read into it that it possibly imply that it wasn't worldwide.

Sylvia Cadena: Well, Alan, if you don't mind me clarifying I think that is important because if some of the principles, for example, or how the working group defines those allocations for funding are around issues that relate, for example openness of the Internet that might be construed differently in the translations it can be pursued or perceived more as (unintelligible), you know, challenge political process or (unintelligible) advocacy that might get into a different, you know, very different perception.

And that is particularly relevant in the (unintelligible). So I think it will really good to make it clear that it applies if that's okay, if you think it's not necessary or if there isn't any other place in the charter where we can say that this applies geographically or something like that more generically that would be good. However you think is more appropriate.

Alan Greenberg: That's an intersecting comment. I hadn't thought of it that if someone applies for funds to pursue freedom of speech that could be viewed as trying to

influence legislation or things like that. Marika, do you need any more guidance as to what to put there or do you feel comfortable that you can somehow word-smith this? Marika says she's good.

All right, next item on the draft is maintain high – or conflict – high standards of conflict of interest. And I don't think there were any hands on that one. I didn't have any explicit comments on it.

The last one on the first page is, "The CCWG should require the administration of disbursement process necessary oversight will be funded by the auction proceeds." I certainly have no problem with that. We're not asking ICANN to fund the process. But the question I had is do we want to set limits on how much overhead can be allocated or do we simply want to say they have to keep it lean and mean? Asha, go ahead.

Asha Hemrajani: Yes, thank you Alan. I am in two minds about this actually, because I've worked on many nonprofits before and nonprofits that I've worked on we had very strict rules as to what percentage of our funds that we collected from the public could be used for overhead. So in some of the nonprofits I worked on, there was a very strict guideline of 5% to 10%, some of them was 5%, some of them are 10%.

And I've actually done some research on this when we first started talking about the auction fund disbursement, and looked at – there is a Website, now I cannot recall what it's called, but it's – it contains information of all the nonprofits in the United States and they actually talk about best practices. And the figure of 5% seems to consistently come up.

So I'm in two minds. On one hand I think it may be possible or feasible for the DT to say, you know, that 5% would be the limit. On the other hand, the DT can say, well, as long as you follow the lean and mean or rather the lean and effective principle then the CCWG themselves determine what that percentage of overhead – maximum percentage of overhead should be.

However, if we choose the second option, I'm – I'd be inclined to add some text along the lines of if the CCWG chooses that's fine. However, we would – we as – in the charter we could mention something about, you know, using industry standard best practice as the guideline and not just on some arbitrary figure but rather being – looking at what the other nonprofits are doing in terms of what the maximum threshold is for overhead – administrative overhead and trying to stick with that.

Alan Greenberg: Thank you.

((Crosstalk))

Alan Greenberg: Thank you, Asha. I would suggest that putting in an absolute number in is not our business, that the CCWG has to do its homework and decide whether there's a number or simply a more generic statement. I'll turn the call over to Sam but I'll note we'll out of time and we still do have to have some housekeeping items that we have to look at so, Sam.

Samantha Eisner: Thanks, Alan. Quickly, I agree with you that no number should be put in here on this. I think one of the items that came out of the note that Xavier and I had circulated earlier was that the amount of overhead actually could be different depending on the robustness of the process that's needed and the choices that are made in the selection. So we could consider even including in here a note for the CCWG itself to balance the amount of fees that might be necessary to maintain their recommendations as part of how they evaluate making those.

And then also to consider industry standards and everything when they move forward.

Alan Greenberg: Yes.

Samantha Eisner: So I agree we shouldn't put a number in because we just don't know what's needed yet.

Alan Greenberg: That's – thank you very much.

Asha Hemrajani: Alan, can I quickly – Alan, can I quickly respond to that?

Alan Greenberg: Yes, please.

Asha Hemrajani: Yes, so I'm okay with that, like I said I'm in two minds. I'm okay with the second option which is we don't put the figure, but I'd like to add in that industry standard requirement in there so that there is some study done, there is some due diligence and some effort made into finding out what the industry standard is and then trying to – try to reach that goal as far as possible, thanks.

Alan Greenberg: Thank you, Asha. I think that means you're going to have to – you're going to have to volunteer for the CCWG.

Asha Hemrajani: Happy to do so but I'm not sure if I can as a board member, but I'm happy to some words around that

((Crosstalk))

Alan Greenberg: Oh yes you can, there's a provision...

Asha Hemrajani: I can?

Alan Greenberg: ...to come in the charter that allows that. Sylvia, one last word and then we go on to housekeeping. Cannot hear you, Sylvia. We seem to have lost Sylvia and she did put a comment in the chat, "Overhead will be different depending on the due diligence review monitoring..."

((Crosstalk))

Sylvia Cadena: Hello, can you hear me?

Alan Greenberg: Yes, we can.

Sylvia Cadena: Sorry, Alan. What I was saying is that on the comment that I shared on the mailing list, I made a differentiation between the terms that we are using. We keep referring to the disbursement process, that's when the confusion starts about the CCWG thinking that they are a selection committee and making decisions about who gets how and what. So I think it is important that we broadly seek a little bit of advice if what the right word is. I think it would be allocation of the – a proportion or something like that. But it would be better to review that so that we we've left room for confusion.

And on the overhead side I add a comment on the chat about that the – it depends on the number of allocations that they ICANN will do as an organization and it will depend on how many things ICANN will manage directly. So for example, if ICANN decides to do one big funding allocation to one fund, let's say, that will manage the whole lot or to do three, three (unintelligible) depending on whatever decisions, the due diligence process they review and monitoring rules will change.

So it will be very different. It could be as down as 1%, if it is a single one transaction. It could be up to 30% if the ICANN goes to more granular. There are universities that go even up and manage funds for up to 60%. So it is very different and it depends on the due diligence process and exactly how much you want to get back in terms of reporting and total share with the community and understanding how the money is actually being used. So it's not a decision to be taken lightly and is very difficult to set up a percentage (unintelligible) exactly how the allocation or a proportion of the funds will look like. Thank you.

Alan Greenberg: Thank you, Sylvia. Marika, I'm going to turn it over to you to talk about the housekeeping items of both Helsinki and future meetings, which unfortunately we do have to briefly consider here.

Marika Konings: Yes, thank you, Alan. And just for everyone's information I did add an action item that hopefully you're all able to review the draft charter ahead of the next meeting and share any comments or proposed edits that you may have in a similar way as Alan has done.

On the Helsinki meeting, this topic has now been upgraded to a cross community topic session, which is scheduled for Tuesday the 28th of June from 3:15 to quarter to 5 local time. I've worked with Alan and Jonathan to get a description of the session in. I think as you all know the objective is to have a draft charter ready and available for discussion during that meeting so that will be the focus.

You know, as we mentioned before, possibly will be able to pull out some specific questions to guide that conversation or make it a more open kind of forum where, you know, anyone can raise whatever they want to talk about. But probably closer to the time we'll get a better idea of how we can best structure that discussion and how to organize it, but at least for now it's on the agenda and a description has been submitted so hopefully we're good on that one.

Then in relation to the meetings going forward, Jonathan and Alan have suggested a couple of modifications to the original schedule we had due to their availability so the proposal is now to have the next meeting next week, 2nd of June at 2100 UTC. If that is a difficult time for everyone there is a possibility to consider the 3rd of June possibly. So if possible can you maybe put some green ticks or red ticks in the AC room so we at least have an indication whether that time works for those of you that are on this call and of course we'll also send out a notice to the group.

That would basically mean no meeting on the 9th of June and then with the following meeting scheduled 16th of June at 1300 UTC and the 23rd of June at 2000 UTC if required or if we haven't finalized work by then.

On that note as well for the 2100 UTC meetings, I'll probably reach out to Asha and Sylvia, which I think are particularly affected by that time to see as I know you're both doing a lot of travel to see whether that is still suitable for you or whether we should even consider changing the time but that's where we're...

Asha Hemrajani: Can you say that again? Sorry, can you say that again, what time was it?

Marika Konings: Second of June at 2000 UTC is what's currently proposed for the next meeting.

Asha Hemrajani: On no, that's not possible. That's 4:00 am for me.

Marika Konings: So maybe I can suggest that we then do a Doodle poll for the 2nd of June or 3rd of June to see if we can find a time that works for most, although I am conscious that doing a Doodle poll usually caters to those that are based in the US and Europe, so yes, because Sylvia indicates that's 7:00 am and does work for her.

So I think we just need to take this back to the leadership team. If maybe others can indicate whether 2nd of June at 2000 UTC if that works...

Asha Hemrajani: Did you say 2000 or 2100?

Marika Konings: Twenty-one hundred.

((Crosstalk))

Asha Hemrajani: Oh 2100 is our normal time.

Marika Konings: Yes, correct.

Asha Hemrajani: Oh I thought you said 2000, okay.

((Crosstalk))

Asha Hemrajani: Well I would...

Alan Greenberg: Go ahead, Asha.

Asha Hemrajani: Sorry, go ahead, Alan.

Alan Greenberg: No go ahead, Asha.

Asha Hemrajani: Yes, 2100 is our normal time, which is 5:00 am for me. I don't prefer it so if you can do a Doodle poll that would be great. If not, I can live with 2100 but I thought you said 2000.

Marika Konings: Sorry about that. Can others maybe as well indicate using your green tick markets whether that works?

((Crosstalk))

Alan Greenberg: I won't try to put a tick mark but for me I will just about be boarding a plane at that point depending on exactly which hour we pick and how early the plane boards so I may or may not be able to make that meeting. Probably would not.

Asha Hemrajani: Can I ask if it's – if it's possible for the same time as right now? That means...

((Crosstalk))

Asha Hemrajani: ... 1300 UTC.

Marika Konings: Yes, but I think that is a really bad time for Sylvia so I think that's why we are rotating partly around the 1300 and 2100 UTC.

Alan Greenberg: Okay, may I suggest since we're way over time that we need to try to find a time and some of us may not be there, I think that's reality. I'm somewhat troubled that that's our last meeting before the official deadline for submitting something, and I see no way of us having a draft charter out of one more meeting. Are we willing to accept that? Or do we really need to schedule an extra meeting over and above what Jonathan and I had tentatively accepted?

I will note I'll be traveling for the next – for about 12 days after June 1 so there's – whether I'll be able to make any of those meetings is going to depend on the detail timing and how good my connectivity is.

Marika Konings: Yes, and this is Marika. So let me maybe take that back then to Jonathan as he will be chairing to see what his availability is for the week of the 9th of June. I think he indicated – or one of the reasons we're changing is that at least on the 9th of June he's not available so maybe he has other dates during that week. And, you know, Sylvia notes as well maybe we can all agree to try and, you know, work on this on the mailing list and, you know, be able to make progress on the calls.

And it looks like Sylvia has agreed that 1300 UTC would work for her as well. And I presume, Alan, that would work better for you as well as it's just a few hours earlier and I'll double check as well to make sure that works with Jonathan as well and hopefully we can then settle on 1300 UTC for the 2nd of June.

Alan Greenberg: It may not work for me for other reasons but I will...

Marika Konings: Okay.

Alan Greenberg: ...if I have to miss it I'll make sure my comments are sent in ahead of time and I'll trust they will be considered.

Marika Konings: Okay, yes, I just need to confirm that at least Jonathan is available to chair.

Alan Greenberg: Any other comments before we adjourn? Thank you all and, Marika, in terms of future meetings maybe we do want to consider hour and a half meetings. I notice we said for the 16th we were talking about 90 or 120 minute but perhaps the earlier ones as well. Given that I'll leave it up to you and thank you all for participating. We've made some progress and I guess we're going to have to do a little bit of running to get closer to something that we'll have to talk about in Helsinki.

Thank you, all. Bye-bye.

Asha Hemrajani: Bye, Alan, thank you. Well done.

Terri Agnew: Thank you. Once again the meeting has been adjourned. Thank you very much for joining. Operator – (Angela) if you could please disconnect all remaining lines and have a wonderful rest of your day.

END