ICANN
Transcription
IGO-INGO Curative Rights Protection PDP WG Meeting
Thursday, 15 December 2016 at 17:00 UT

Note: 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. The audio is also available at: http://audio.icann.org/gnso/gnso-igo-ingo-crp-access-15dec16-en.mp3

Attendees:
David Maher – RySG
George Kirikos – Individual
Jay Chapman – Individual
Mason Cole – RySG
Phil Corwin – BC
Petter Rindforth – IPC
Nat Cohen - BC

Apologies:
Lori Schulman - IPC

ICANN staff:
Mary Wong
Steve Chan
Terri Agnew

Coordinator: The recordings are now started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to
                     the IGO INGO CRP Working Group call on the 15th of December 2016. On
                     the call today we have George Kirikos, Mason Cole, Petter Rindforth, Philip
                     Corwin, Jay Chapman, David Maher. We have no listed apologies for today's
                     meeting. From staff we have Mary Wong, Steve Chan and Dennis Chang and
                     myself, Terri Agnew.

I would like to remind all participants to please state your name before speaking for transcription purposes. With this, I'll turn it back over to Phil Corwin. Please begin.

Phil Corwin: Thank you. Phil here. I'll be chairing today's call. I note six participants, committee members (unintelligible) chat room and I'm getting (unintelligible) - could someone mute their phone please or shut off...

Terri Agnew: And we're finding the echo.

Phil Corwin: Okay. Is there anyone who's just joined us by phone who is not in the chat room?

Terri Agnew: And, Phil, this is Terri. Everyone on the phone is also on the Adobe Connect.

Phil Corwin: Okay great. Okay so basically - and let me start by - we're not at the end of the journey yet but we're at the final stage here. And I just want to thank my co-chair, Petter, and thank all the members of the working group who are on today as well as those who are not, for sticking with this project and bring us this far and producing a piece of work that I think we can all be very proud of.

It's - we know there will be some people who disagree with some of our recommendations but I don't think anyone will be able to charge that we haven't done a very thorough and well-reasoned job here. And so I just want to take this opportunity to thank my co-chair, Petter, and all the members of the working group for getting us to this stage.

We have now before us, a 91-page draft of a preliminary final report and recommendations. Just joking with staff, once we insert the charter and some other stuff we may hit the 100-page mark so it's a hefty piece of work.

I must confess, I have not had a chance to review everything that's been added since last week to this report so I think we should use this - for those who have reviewed it, this draft, and have comments on it, let's use this call to raise any questions or concerns or highlight any issues. And then I think we should - I would propose that we set a final date for feedback from members of the working group to make any changes or suggest any changes in the text and we can, you know, maybe the end of next week, something like that, right before Christmas.

And then with the understanding that once, you know, the week after Christmas or early in the week after New Year's we're going to lock this down and set a projected date for publishing it in early January. There's no sense rushing to publish it during the holidays; I think that would be a disservice to the community with all the members who are distracted and doing more important things like being with family over the holidays. But put it out early in January for the 40-day comment period.

And then we probably may not have a final report to Council by the Copenhagen meeting but that's okay, we could have a face to face in Copenhagen for final comments on the report if that's the case. And then send it to Council right after Copenhagen. So with that let me start the discussion.

The only thing I wanted to point out from the contributions I had made to this draft is that I put in some rather extensive language, which I see staff has slightly edited that begins at Page 24 which I thought that it was important not just to reference the prior documents and materials that we reviewed in the course of our work but to say something about each of them because we couldn't expect people reading this report to go and look at all of those and see what was important in there.

So what I put there is a summary of the salient points, which I think illustrates that we reached our conclusions with a background of a bunch of different

reports which had reached varying conclusions and even had some contradictory conclusions within them. So to make clear that we had built on prior work but the prior work did not dictate our final recommendations.

I will stop there. I see George's hand up so why you don't you go ahead, George?

George Kirikos: George Kirikos for the transcript. First, I'm not sure, is this the current document? Because I noticed that it's dated December 12, 2016. But the link that we were sent this morning shows December 13? So I don't know if it's been changed in the last 24 hours. I notice Mary has her hand up, maybe she can quickly answer that question.

Phil Corwin: Go ahead, Mary.

Mary Wong: I can, George. And yes, it's basically one of those dynamic headers so - and every time I go in and save it it just basically updates the date. But we have not made any changes to the text since the last one that you saw.

George Kirikos: Okay. George Kirikos again. Yes, I notice Mary incorporated the comment I sent to the mailing list last week so that was good. As to my other comments, I note there's still a few typos left. If you load the document in Google docs or MS Word you could run spell check and see that there's a whole bunch. I'll probably enumerate those to the mailing list in the next week. But the other main comment I had is to follow up on the comment earlier about the footnote numbering from Professor Swaine's report.

I noticed that Mary or somebody had gone through and renumbered the ones that were pointing to a wrong footnote like the (Supra) Footnote 5 might have become Footnote 76 or whatever depending on the new numbering. I'm not sure that that was the correct solution. Like on the one hand the entire document will be formatted the same so we'll have the same headers and footers and so on. But I think, you know, I'm a little bit concerned that if we

modified Professor Swaine's memo even to just, you know, renumber the footnotes we might introduce new errors into the document.

So that's something that we should, you know, maybe discuss whether we want to have it - a separate section, which was verbatim his report, and just start the numbering from Page 1 and start the footnotes from 1 or try to modify the document in order to have all the footnotes be renumbered in order to have the same formatting as the current document. But people might want to weigh in on that issue.

Phil Corwin: Yes, thank you, George. It was my understanding from - this is Phil for the record - from email exchanges that staff was going to fix that and that in the final published report the footnotes would be numbered in an identical manner as in the original Swaine memo. I see Mary's hand up. Did you want to comment on that, Mary?

Mary Wong: Actually just exactly what you said, Phil. You know, obviously when we pasted the whole thing in and then didn't have a chance to really go through all the formatting, but it seems to be best to just leave Professor Swaine's memo entirely as is so we will fix that. And essentially what you'll see in the annex is that where there are footnotes, the Swaine memo will be exactly the ones that he had and numbered the way he had them.

Phil Corwin: Okay great. Yes, I think that's the best solution just - and I don't think it presents any technical issues to do it that way. So all right, do others have any comments to the extent you've been able to review this document, does anyone else have any comments on any aspect of it be it typographical, substantive, whatever. Now is your chance to raise it on the call.

Well hearing and seeing no one, I won't surmise that everyone thinks this document is perfect as-is; I'll surmise that others like myself haven't had a chance to fully review it. Petter, go ahead.

Petter Rindforth: Yes, just thanks. Petter here. Just quickly wanted to say that I think it looks very good as-is right now and I perfectly agree with - I think I made a note on the mailing list also for George's suggestion. It's important that Professor Swaine's report and comments can be read as they are delivered to us so that nobody can say that we have made any changes - special changes of it in order to prove a specific point that we have in the working group. So everybody can read the report as it is and make their own conclusions compared to what we have done. So thanks.

Phil Corwin: Yes, thank you, Petter. And I'm in full agreement. So I think this - and I'm just checking the chat room to see what's come up while I've been listening to people speak. Okay and Mary said it'd be helpful if people can email the full list with their suggestions instead of doing a direct edit. Yes, I think that's - yes, let's help our staff rather than sending in - if everyone sends in different edits it's more taxing on staff than just to prepare an email that lists the edits you suggest and circulate it to everybody and that makes it easier for staff to make those final changes.

So given that there doesn't seem to be much comment on the draft now, today is the 15th of December, let me propose this for discussion. And I'm going to propose that we set a deadline for people to suggest any further edits of this draft. It could be either one week from today or it could be - which would be the 22nd, or Friday the 23rd. And I'm indifferent to which one it is.

And then when is staff off, Mary? Are you off the whole week between Christmas and New Years?

Mary Wong: We are indeed.

Phil Corwin: Okay. So all right so let's do this. Let's propose that we get everything in by a week from today, the 22nd. That gives staff a full day after while they're still working to review. And I suspect we're not getting any major edits submitted at this point for staff. And then staff is off for a week. So I'd suggest we set

the 22nd, give everybody - it's a lengthy document and there's holiday parties and people have other work, so give everyone a week to look this over and submit any suggested edits and do so by circulating an email to the entire list so that other members of the working group see that as well as staff.

And then staff is off between Christmas and New Years. And so let me look at the calendar. Hold on. So in January let's - so staff will have all suggested edits by the 22nd if they can't - let's give them until the first week of January some time - and we'll leave it to them no later than the end of the week Friday the 6th. But give them time after they get back to consolidate any comments that come in, suggestions for changes and circulate one final document that - just for everyone to look at.

At that point everyone will have seen suggested edits and had a chance to say good point or I'm not comfortable with that change. But what they're going to circulate for us to look at the week of January 2nd will be the final document. They'll get it to us by the 6th. We'll have a chance to look at it. And then the week of the 9th put it out for comment on the official - for public comment at the ICANN Website. And that would give folks until mid-February - let me just - let's say it's put out on January 9th, that would give until about the - around the end of the week - around February 17, 18 would be the end of the comment period.

So we'll have all the comments in by mid-February. The Copenhagen meeting is a few weeks later. We may have a chance to finalize the document, it all depends on the number of comments we get and the nature of the comments. I expect we'll get some very supportive comments and some which take exception to what we've recommended and we'll have to decide how to handle all of those. Some may raise legal issues or policy issues that we missed somehow so we can't really predict how long that'll take.

So that's my suggestion that we set next Thursday, the 22nd, as the final date for any member of this working group to suggest any edits to the document before us, that we expect staff to incorporate all those changes and get us a final document, not for further editing but just for our information by the end of the first week of January. And that it's put out for public comment sometime in the second week of January. Does that sound like a reasonable plan to members of the subcommittee?

And, Mary, I see your hand up. Did staff have any comment...

((Crosstalk))

Mary Wong: Thanks, Phil. So this is just...

((Crosstalk))

Mary Wong: We don't. We actually would like to express our thanks to you and the working group for being very considerate of the time that we can have to make the update so thank you very much. We did want to raise the question of the public comment period.

As I think everybody knows, the minimum period is 40 days. And Phil, I think that's what you were calculating when you looked at the January February timeframe going to Copenhagen. It is possible for a working group to have a longer comment period if they feel that the circumstances might need it. We haven't heard anything from anyone in this group about this but we thought that since we're setting dates we would raise that as a reminder in case that's something that the group feels might be necessary in this instance.

And then bearing in mind the other point I wanted to make is that we can certainly start meeting before the public comment period is closed depending on whether we get any comments and how substantive they are. I think, Phil,

you noted in an earlier call that we tend to only get the substantive comments towards the end of a comment period anyway, but we do have that option.

And so if we are doing a 40-day comment period, which is the minimum, we would have a couple of weeks before Copenhagen if we start meeting after that is done. So it seems to us that if you want to have a longer comment period, even going up to Copenhagen the schedule will allow for it so that's why we wanted to raise it.

Phil Corwin: Yes, thanks for raising that, Mary. And my personal view, and I'm open to any input from the cochair or other members of the group, is that I don't think that this report is so complicated that it requires more than 40 days. Having said that, we can always, you know, there have been extensions of comment periods that were originally scheduled for 40 days if we hear from the community that they think that's an inadequate time period.

But I think anticipating that there may be some lively discussion in Copenhagen on the report, that it would be good to have at least a few weeks to digest the comments and think about a reaction. If we had a 60-day comment period it wouldn't close until late February or early March and would give us very little time to really digest the comments and assuming the bulk come in at the end of the comment period before we got to Denmark, I think it'd be better for us and better for a useful session in Denmark to have time to consider all the comments for a few weeks before we go there.

I do agree that for right now we should assume that our next call will be toward the end or just after the close of the comment period but there's - but if we note that there's rather extensive comments before then we can always schedule something in late January or early February before the comment period closes to start discussing the comments that have come in. So I'll stop there. I see Petter's hand up. And go ahead, Petter.

Petter Rindforth: Thanks. Petter here. Just a more practical question, is it possible to, in the last minute, if we see that it's needed to extend the public comment period? Because as I see it right now it would be good to have the normal period of time but let's see what we - I mean, you never know what we will get from - especially from GAC for instance, so if we - if we have the possibilities if there are specific circumstances to extend it but start with a normal time I think that would be good.

Phil Corwin: Yes, Petter. And I've seen many ICANN comment periods that were originally scheduled for, you know, whatever the original time that had been extended due to community requests for more time. But I think we ought to start with a default position of the standard 40 days and only consider further extension which would make it more difficult to prepare for Copenhagen if there's substantial input from the community that they need another week or two to comment would be my view on that.

And I see checkmarks from David Maher and George Kirikos, which I assume would be indications of general support for the proposal I laid out. I hope I'm correct in that. So is there further oral comment on this? Yes, go ahead, George.

George Kirikos: George Kirikos for the transcript. Conceivably we could even like an information session during the comment period if that would help ensure that there's - that all the comments are received, you know, within the 40 days like we might want to have like an information session, you know, two or three weeks open to all who might want to, you know, go over the report or something like that just a...

((Crosstalk))

Phil Corwin: Are you suggesting some type of webinar, George?

George Kirikos: Right, exactly. That was what I was thinking. But, you know, that's - I'm not sure if that's typical or if people would rather just wait until the fixed ICANN meeting date in Copenhagen.

Phil Corwin: Yes. Yes, I'll ask staff. Are webinars ever held while a draft report is out for public comment?

Mary Wong: Hi, Phil, George, everyone. This is Mary from staff. It's not something that is mandatory, obviously, as we all know, it's not necessarily something that's done on a regular basis. And Steve will correct me if I'm wrong. But my recollection is that at least increasingly in recent times, we've seen a couple of things like that from a few groups. I want to say that it may have happened for the Privacy Proxy PDP that concluded. Either it happened or we talked about it and it was a different session.

So it's certainly possible. And, George, thanks for thinking of that, it's a great suggestion. Given the I guess not just the complexities of this topic but also the history of this topic and the level of community interest in this topic, it may actually be something that we might want to consider doing after we publish the initial report.

Phil Corwin: Yes, I think it has some merit. I don't know that we have to make a decision today on that, but it might make some sense to schedule a webinar a few weeks after the report is issued after people have had an initial opportunity to review it just to explain it and to answer any questions that would assist people in making their comments. So I'm open to that. I think we can determine that by email exchange and don't necessarily have to reach that decision today.

But it might be useful, we might even ask in the public comment whether - before people comment they would find a webinar useful where they could get that input in very quickly and give us some indication of how many in the community would find that helpful. So I guess we're - I'm saying we should

take it under advisement but not make a decision today on whether or not to hold a webinar in late January or early February.

And I don't hear any objections to that so all right, well, so circling back, we have, I believe, reached consensus that all members of the working group will have one week from today until December 22 to submit any further suggested edits, changes, additions to this document that we've all received from staff the other day and which is being displayed now that - and that those suggestions will be made by email to the entire list, not by submitting an individual mark up of the document that only staff sees. So that way everyone in the working group can see any comments and suggestions coming from any other member of the working group.

That staff will then have the - they have the week off between Christmas and New Years, that by the end of the first week of January staff will provide us with a final copy of the report that will contain all the accepted edits that come in from the working group. That the only review at that point will be if someone catches some typo or grammatical error; all substantive changes will be done over the next week. That final document will only be available to us for a few days for review for grammatical and typographical concerns.

That by the end of the following week it will be published for public comment for the standard 40-day period. That the working group will consider the advisability of holding a webinar in late January or early February to provide an opportunity to interact with members of the ICANN community and answer any questions they may have before they submit comments.

And that the next call will be at the call of the chairs. It may not occur until right around the end or just after the end of the public comment period, but if we get extensive input prior to the end we may well hold at least one call while the public comment period is still open to begin discussing the comments that have already been received. So I think that sums everything up. And if anyone has objections to that or think I've misstated anything,

please make it known now and otherwise that's the plan. And we can end the call in a few minutes.

Okay well no hands up, no voices heard. So we're going to wrap up here in about 2 minutes. Again, I want to thank everyone from my cochair to all the members of the working group on today's call and all the other members who have stuck with us for more than two years to bring this project to this point and this very substantial and well reasoned document that we have before us.

There will be no more calls this year. The first call in 2017 will be the call of the chairs and that you've heard the plan. Staff will circulate an email stating that plan to the working group list in the next 24 hours so that even those members who were not on today's call are aware of what the plan is. And, Mary, I suggest when you circulate that you attach the report again so it's right there and tell them they've got a week to provide input on further edits and that's the end. That'll be our preliminary report and the matter for doing that on the email list.

And then we'll next talk sometime in 2017 and that'll be at the call of the chairs depending on subsequent circumstances. So any final words, Petter? Oh and we've lost Petter. That's right, he said he had to drop off about the 30-minue mark. So on behalf of both Petter and myself I want to thank everyone for all the hard work on this and all the contributions to the document. And wish you all a very happy and healthy holidays and a very successful and healthy and satisfying new year.

And please take a little time over the next week to review this document and submit any final suggestions in regard to it. And other than that we're done for 2016 and we're on track to complete this project by early spring of 2017. And thank you all and have a great day and a great week and great holidays. Good-bye.

Mary Wong: Thanks - thanks very much, Phil, everybody. Happy holidays.

Phil Corwin: And thanks to our excellent staff for all their hard work. Good-bye.

Terri Agnew: And once again the meeting has been adjourned. Thank you very much for joining. (Lance), if you could please stop all recordings.

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