
**ICANN Transcription
CCWG New gTLD Auction Proceeds
Wednesday 31 July 2019 at 14:00 UTC**

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Zoom Recording: https://icann.zoom.us/recording/play/ReOOxB5gPh4plyy-3KaKysOuKKD6-g-h_wBeWt-UqIUGLpGxGAYqKKC4ipL9PU_V

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UNIDENTIFIED FEMALE: Welcome, everyone. Good morning, good afternoon, and good evening. Welcome to the CCWG New gTLD Auctions Proceeds call on Wednesday, the 31st of July, 2019.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge at this time, could you please let yourself be known now?

I see no one. I would like to remind to please state your name before speaking for transcription purposes, and also please keep phones and microphones on mute with not speaking to avoid any background noise.

With this, I will turn it back over to Erika Mann. Please begin.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

ERIKA MANN:

Thank you so much. Let me welcome you all. Thanks for being here today. Let me ask you whether you have an update concerning the conflict of interest declaration.

Okay. That seems to be not the case. Then let us move to Point 2 on the agenda, which is the next step regarding selection of recommended mechanisms. I will make a short introduction and will mention a few items which I believe are relevant to consider and talk about.

We had a lively debate and I'm very grateful about all of your comments by e-mail exchanges. We had a good discussion in Marrakech and we had created a small working group to help define and shape this agenda concerning this item. It was Alan, Marilyn, Jonathan, and myself working in the small working group. We detected some issues which are not even completely correct in the way the mechanisms were phrased, but these are minor issues. Maybe we have to discuss them and maybe we don't have to discuss them and just have to correct them.

Let me make a few remarks. The first one is just a quick reminder. When we created these four mechanisms, we had in mind to – can somebody mute, please? Thank you so much. So we had in mind to look at the various scenarios which are already in existence and to copy the best models which are available. We called a mechanism a model. That's why we then came to the conclusion – we had discussion with our outside experts, too – that these four mechanisms are the most-used examples. One is then in-house model. The other one is in-house model with another entity or sometimes even more than one single entity. One is the foundation, which is the most-used one. The last one is the model where a structure – a fund which is available – is completely outsourced

to another entity and is assembled by another entity. So these were the four mechanisms.

In our discussions ahead of the public comment period, in our debate at the time we saw that we had two prominent frontrunners. One was the in-house model, and the second one was the idea to merge the in-house model with another entity. The third model, the foundation, wasn't ruled out but it was favored less. When we then reviewed the public comment period, we saw that we received comments back which focused on then foundation and in particular recommended that we should bring the foundation back or favored the foundation model.

We had many comments which raised concerns from different community members and from different constituency which raised concerns about independence. Independence sometimes was a focus on that independence might be less prominent in an in-house.

So that's where we are. After the public comment period, we therefore recommended to bring to weigh these three model – the in-house model, the in-house merged with a different entity, and the foundation – in similar ways. We haven't decided yet, but we discussed to come to a conclusion. We practically have two ways in formulating a conclusion which we then can bring forward to the Board. One would be – this would be the model I would favor – to come to recommend really and truly just a single mechanism, for the weight is on the community to take the decision. The weight is on us to take a decision and make a recommendation to the Board. The second one is we create a hierarchy of two or three models, and we practically push the problem forward to

the Board and say, “That’s our conclusion. Make up your own mind, and then you take the problem and you take a selection.”

Personally, I believe it wouldn’t be good if we would go down this path because it’s much more important that the community really, truly takes the decision.

So that’s where we are. Now we have a discussion which is certainly all over the place again, even some of them raising the point that maybe the first model, being complete outsourcing, is a valid idea. My personal belief – I put this on the list of topics which Emily sent to you a while ago – is that it’s not a good idea to reopen the discussion completely and to bring this idea back. It will only complicate our issue. It will not solve the problem at all. So my idea is that we don’t do this. We really try to solve the problem, focusing on these three mechanisms

Now, there are a few other things we always have to keep in mind. Number one, which I always call in the political world, is “The perfect is the enemy of the good.” Not [inaudible] many, many, many times. It doesn’t mean much, but on the other side, it gives you an idea that you don’t have to find the ideal solution. We have to find the ideal solution we believe in, but not the absolute ideal solution, which we will probably never find. We will discuss and debate the topic forever. We have to rate these three scenarios in what is the best model for our environment and what is the model which we believe will be the one that serves the community and the ideas we would love to see emerging the best.

Yes, there's one final one, which I believe, because some of you are relatively new in the discussion ... Keep in mind that some of the topics which I have seen emerging I would say is not something we have to solve but the next phase will have to solve. So keep in mind that we have a phase which was ahead of our phase. So it was very early phase, and at time, Jonathan was the Chairperson of this group, practically shaping the policies for our work, for the goals we are tasked with. Then there will be a third phase and a third group which will follow our work.

Once the decision about the mechanism and the shape of the mechanism sphere is created, they then will have to look at what we call the transition phase. They will have to do the hardcore work and the very nitty-gritty work in shaping then the practical aspect and the more operational aspect of how this all shall function. That's why we have to help them and to build a bridge between our work and their bridge. We have to establish guidelines. These guidelines are already formulating some principles which we are not working on but which we are only telling the next phase, "These are important, but we are not the ones that are tasked in doing them."

Having said this, I'm now looking for comments and wonder who would love to start. Maybe Emily. Maybe you want to frame some of the discussions you have seen and some of the e-mails you have sent out and maybe bring them into context of the discussion of today. At the time, I will check if somebody is already raising their hand. So maybe Emily briefly and I'll check in the meantime the list – yeah, thank you, Marika. I saw your comment. Thank you.

EMILY BARABAS: Hi, Erika. I'm happy to provide a little bit more context. What I'm actually bringing up here is the e-mail that Erika sent earlier today to the group. Maybe it's worth highlighting a little bit what this e-mail contains, because maybe everybody didn't have time to read it, and just highlighting a couple of items that might be helpful for the group regarding some of the themes that came up in the e-mails.

But I do note that Alan and Elliot both have hands up, so I'm wondering, Erika, if you might want to go to them first and then I can go over this or if you prefer to go over some of these themes and take [inaudible].

ERIKA MANN: I would recommend you go over it because I can imagine that some of the topics Alan and Elliot may want to raise relates to the topic as well. Then we can have really a truly informed discussion afterwards.

EMILY BARABAS: Understood.

ERIKA MANN: If they're not objecting to it now, then I recommend you go first.

EMILY BARABAS: Okay. Alan or Elliot, if you do object, please feel free to pop something in the chat. Again, this is just looking at the aggregate of the many, many e-mails that have been sent in terms of the substance of the mechanisms and trying to distill a couple key takeaways of some of the

things that have come up, particularly some of the things that have come up that have been discussed or raised in the past. So I'm just going to highlight those. Everyone can read for themselves, of course, later, if they haven't already had a chance to do so.

There were, as Erika mentioned, quite a few comments that spoke to and raised questions about the level of independence that would exist under each of the mechanisms. The main takeaway here is that this is a topic that's been discussed quite a lot in the past. We've received quite a lot of feedback already from the Board and also ICANN org about that.

I wanted to point to a couple resources that are helpful to reference. One are the FAQ documents on the wiki. I'll pop that link into the chat in a minute. Those are documents that give questions and answers that have been out to org and to the Board in the past. They've provided responses to those questions. A couple of those questions are specifically about independence. So I encourage everyone to read those.

The other resources are the two graphics that we shared in Marrakech which show the division of responsibilities under each of the mechanisms as well as the common characteristics.

Erika, would it be helpful for me to bring those up now as reference? They're also attached to the agenda.

ERIKA MANN:

You could just bring it up but you continue talking so that people who haven't seen this before can see it, and the—

EMILY BARABAS: You know what? I'll run through the e-mail and then I'll bring them just so that people can see them.

ERIKA MANN: [inaudible] when you're talking about the issue. We don't want to elaborate of them now much.

EMILY BARABAS: So the second them is that there quite a few comments that came up that seemed to exhibit some confusion about the role of the independent panel in the evaluation of grant application and the selection of grant recipients, as well as who would sit on that panel. Again, this is something that the ICANN Board has previously spoken to quite a lot. There's quite a bit of information in the FAQs about that but I just wanted to highlight as well that the ICANN Board liaisons also highlighted in their recent e-mails in the e-mail exchanges that neither the Board nor org should play a decision-making role with respect to individual applications evaluations, and the selection must be done by a completely independent panel. That's regardless of the mechanism.

Erika, I don't know if you wanted to speak to that at all or if I should just continue along—

ERIKA MANN: Just continue along. That's a discussion which will come up. I'm pretty sure Elliot and Alan will touch on it too. Just mention the items here so

that everybody is aware of what is in this briefing note and the short one. Then just continue.

EMILY BARABAS:

Will do. The third topic is about the relative costs of implementing the different mechanisms. I note here that this was attached to the e-mail that Erika said: that the Co-Chairs have submitted follow-up questions to ICANN org on this topic and that will help to support further discussion.

The next issue was about some confusion that's been expressed between Mechanism D and Mechanism B. It seems like some e-mails have been raising versions of Mechanism D again. Just to highlight, Mechanism D was a model that envisioned outsourcing of functions to an external entity that already exists, whereas Mechanism B was a partnership between ICANN org and an external entity with some responsibilities which each entity.

The next topic, which is related, is that some of the mailing list messages seem to advocating for a form of Mechanism D and to highlight at this stage that Mechanism D has been taken off the table and that the leadership team doesn't want to reopen that at this point and there doesn't seem to be support to do so.

The final two items. There appears to be different views on the division of responsibilities in the comments between ICANN and the external charterable entity in Mechanism B and to highlight that, at this stage, there isn't agreement about a single model for those divisions of

responsibilities. So that's just to get everyone on the same page about that. I will bring up those diagrams so you can see that there as well.

Finally – this is another item on our agenda for today – there seemed to be some different assumptions and expectations about the role of the ICANN community regardless of the mechanism chosen. We'll be talking that as one of the agenda items for today as well. Just to note that the [CCWG] is considering a proposal that Alan and Erika put forward regarding the role of the community.

So those are the themes. I'll pass it back to Erika. While I do that, I will bring up those diagrams so you can see what they look like. Thanks.

ERIKA MANN:

Thank you so much, Emily. I have Alan, Elliot, and Judith on my list. Alan, please?

ALAN GREENBERG:

Thank you very much. A couple of things. First of all, I believe the only person who had raised Mechanism D once it was pointed out withdrew the suggestion. I may be wrong, but I think that's the case.

It dawned on me. We've been having a lot of e-mails in the last week or so – some private, some public – and I came to the conclusion that we have been focusing far too much on the names of the mechanisms and not on the substance of them and that any of the mechanisms that we have talked about could work and could have sufficient independence, and any of them could fail miserably. People have different views on some of these mechanisms despite all the words we've been using.

People have been talking about Option C, a foundation. Some people still seem to think it's a foundation that already exists. Some people have used the term completely independent of ICANN, and yet we have never put any words to describe how these are going to be implemented. Yes, we have some criteria, but the criteria are not specific to the mechanisms.

For instance, ICANN has experience with one affiliated corporation that happens to be PTI. It's a different function, but it's still an affiliated corporation. Its board is effectively controlled by ICANN because three out of five Board members are selected by ICANN. Well, that's clearly not independent, and yet we've never talked about, if we have foundation, what are the criteria to make sure it is indeed and independent and is not dependent on ICANN to make decisions. Some people have felt that, if we have a separate foundation, it has to have completely different staff, including finance and human resources and everything else. Other people seem to presume that, like PTI, it will sub-contract some services for ICANN.

So we're talking about the names of mechanisms, but we don't seem to have focused on all on the characteristics that will make that mechanism good or bad. Without doing that, I think there's no way we can come up with a final conclusion that is generally supported because we have very different perceptions of what the title means. I think we, on any recommendation we make, need to be very specific about the characteristics it has if it's going to succeed. Thank you.

ERIKA MANN:

Thank you, Alan. I will pick this up later. Elliot, please?

ELLIOT NOSS:

Thank you. I want to first of all add a little bit to Erika's opening comments through my eyes. I want to take that through maybe to a conclusion that will dovetail with what Alan described. First, as Erika was talking about – some of the history or the narrative – the one thing from my perspective that I think is important to add to that is that, when we took the first round of substantive comments that were essentially looking between what is now Mechanism A and Mechanism C, a number of the comments that were – particularly the registrar comment, but there were others) – critical of the CCWG's view of A were critical on the basis that they took that to be ICANN org making the decisions and that, when we provided clarity to the community that that would be, in our view, an independent panel composed of the community, support for A really did seem to far transcend that for any other choice.

I want to now dovetail this with Alan's comments. I think that's great and I agree with what he has said: that we can in any event specify the frame of the mechanism. I had thought – I've been looking back through e-mail the last couple weeks – Alan, that you had done something or pulled something out of the ALAC that had actually done that. Here was a proposal that I thought in the main looked pretty good. There might have been some puts and takes around it. Because I feel like we have now, over the course of nearly two years, often had the same discussion multiple times, I believe there is a strong consensus with some exceptions in the CCWG for Mechanism A, where the independent

panel is the ICANN community. I want to add to that last point that that would require a level of independence, both operationally – in other words, in the way that they conducted themselves – and in terms of conflict of interest, very, very similar to the way we’ve approached the Nominating Committee.

So I’d really like to bring this whole thing in for a landing and suggest we focus on that view, Mechanism A – independent community panel – and see what we get to from there because I think we have been at many different times quite near consensus on that issue. Thank you.

ERIKA MANN:

Thank you, Elliot. Judith, please?

JUDITH HELLERSTEIN:

Elliot, yes, in At-Large I organized a group to get together of the At-Large members on auction proceeds, and we did come up with, which we filed, a list of criteria that we thought that each mechanism should have because people in At-Large couldn’t agree on Mechanism A or B or C. So we looked at then the criteria. What would be needed to be done? So that’s what we came up with.

My question is more in a sense that, if we are going to outsource – looking at the chart – not this one. The other one you had put up: the divisional of responsibilities one. If you’re looking at that one and also reading what the Board has said, then, if an independent panel is going to be done for the choice for the evaluation of the proposals and, in B, it’s going to be charitable advisory fund or one of these other funds,

what really then, in looking at the comparison charts, really is the difference? Because, if we're going to be outsourcing that whole part, then there really is not that much difference between A and B. I may be missing something. I don't know what "depends on division of responsibility" is in the chart. That was my question here.

ERIKA MANN:

Thank you, Judith. I noted your precedent. Like with the other topics, we will come back to it again. Becky, please?

BECKY BURR:

Thank you, Erika. Good morning, everybody. I just want to start out by saying we, Maarten and I, have been following the very interesting conversations that have been going on on the list with a great deal of interest. We have not gone back to the Board to have follow-up conversations on this just yet. So everything I'm going to say is based on the principles that the Board has shared.

I just want to take one moment to step back on the independence issue because I think, at some level, the question of what needs to be independent and what doesn't is getting confused here. From the Board's perspective, at least, it is absolutely critical that the panel that evaluates and selects winners and losers must be completely independent – independent of org, independent of the Board, independent of community members who have vested interests or conflicts of interest. When the Board is talking about its independence priority, that is really what it's focusing on: who chooses the winners and losers in this.

Now, that is not to say that there are not lots of important roles which are not independent. Obviously, the Board has fiduciary obligations and has to be guarding ICANN staying within its mission. I think that, no matter what, there are going to be administrative tasks that org will need to do. Of course, the community through the Advisory Board or whatever has a huge role in talking about what the priorities are, looking at the material that gets prepared, the training for the independent panel, what they hear about – all of those kinds of things.

So I don't think that we're talking about that something has to be on a hill that is completely walled off and nobody has input into that. What we're talking about is just that the selection of winners and losers is completely independent of everything, including vested interests and conflicts of interest in the community itself. So that is really important. I just wanted to make sure that, when we talk about independence, we're talking about that selection panel.

ERIKA MANN:

Indeed. Thank you so much, Becky. Jonathan, please?

JONATHAN ROBINSON:

Thanks, Erika. My comment really, I guess, follows on from Becky because I'm not 100% sure what prompted her on that. It's really a question to Elliot because Elliot talked about focusing in on Mechanism A, including with an independent panel made up from or derived from the community. So I just want to make sure that I and we understand, with what Elliot was suggesting and Elliot having heard what Becky just

said: are those two consistent? Just in your mind to make sure there is no potential divergence there. Thanks.

ERIKA MANN:

Good point, Jonathan, actually. I wanted declare here that Elliot and I had a side discussion about this topic. Elliot, I'll let you speak on your own behalf. I just want to mention that you are aware about this. We have opposing views on this. Not complexly opposing but to some degree. Elliot, do you respond to what Jonathan just asked?

ELLOT NOSS:

Yeah. I think that that is of course correct. Let me be more specific. I think what Becky said is of course correct and in no way contradicts my view of community involvement. There is no question that a community group that is reviewing and scoring and choosing successful proposal should be independent. There should be no conflict of interest with those proposals. That also feels like not a heavy lift. When Becky is talking about the principles of independence in the evaluation, I absolutely think they should apply and they should apply in a real parallel. Erika, in our conversation, it was the NomCom that came up. I think that's a beautiful frame. Exactly like or overwhelming like we deal with conflicts in the NomCom is how conflicts should be dealt with here.

I'll say specifically that, in the advisory committee or in the selection committee that I worked on with [CIRA], which is one of the two contexts where I found analogues for this process, it was a regular occurrence than on a group of, call it, ten or twelve people that a person or two would have a conflict. When a proposal was being

reviewed, A) they did not participate. So they did not participate in the first round evaluation and they did not participate in the discussion in what was a two-stage process there. It is very much the case that, if you have a very well-intended community-based selection committee, one of the things that those people can be doing is actually getting people interested, helping people promote. But where they have any sort of conflict, they just step back.

I really think, on some level, that there are two failures that we're having. They're both on some level failures of imagination. I think some of us worry about the independence of that community advisory panel. I get that as a worry, but for me, I'm either more optimistic or, having seen this work in different contexts, more had the positive experience. So it's around the first bit of what I would call a failure of imagination around what that committee would be like.

The second is around the type of proposals. I think we underestimate how attractive a pot of money for this type of opportunity will create. I think there'll be a buzz around it. I think it will be the kind of thing that will get smart, creative people from all over the world focused on doing things they couldn't imagine they'd be doing otherwise.

So I remain here. I'm sorry I went long-winded there. Specifically, Jonathan, I thought Becky's comments were completely consistent with mine. In fact, I say of course those principles of independence should apply. I remain in this, playing to win with a deep belief that we in the community can do not just a great job but the best job of putting this money to productive use. Thanks.

ERIKA MANN:

Thank you much, Elliot. I had myself in the list briefly here. Just about one topic to add to because Elliot and I had a side discussion about this item. I'm playing and I was playing more the pessimistic side. I personally believe – I experienced this – this community is already stretched with all of the work. I have done evaluation with, I much admit, bigger funds with more money. I know how high the workload is, how incredibly high it is, so I am much more in favor of arguing to let the real experts do this. That's why we came up with idea to give the community a function in its advisory role and in evaluating if the evaluators are actually meeting the targets and are on target and are in line with the goals. So we have given them more of an oversight role and function. Alan will talk about this later when we come to this topic.

So these are two different approaches. Either the community is having the role as evaluators or the community is having the community is having role in its oversight function, which I believe is more appropriate for the community. I'm not saying one can't set up a structure that the members that are selected from the community are completely shielded from everything else that is going on so that there is totally no conflict of interest. But this kind of shielding would have to go quite far actually to ensure this. I just believe it's much more complicated.

I have Maarten on the list. I believe, Becky, that's maybe an old hand. But if it isn't please let me know. I have Maarten and Alan. Maarten, please?

BECKY BURR: My hand is not old, by the way.

ERIKA MANN: Shows on my end. Okay, thank you.

BECKY BURR: It's not old. I'm sorry, Erika. I did want to speak.

ERIKA MANN: Oh, it's not old. I thought it was old. Is it okay if I take Maarten first, Alan, and then I take you? Or do you want to apply because you raised the question?

ALAN GREEBERG: No. Please go ahead with whatever the order is. I can't see the order on my machine.

ERIKA MANN: Okay, fine.

MAARTEN BOTTERMAN: Becky, will you reply on Elliot?

ERIKA MANN: Maarten, just go or let Alan go. Or Becky. Whoever goes.

BECKY BURR:

I just wanted to respond very briefly to the exchange that we just had because, Erika, I think that the Board sees the issue precisely in the way that you presented it, which is that there is a very important role for the community but that notion of putting people who are active in ICANN processes on the selection and evaluation panel makes independence an extremely difficult task to achieve. The notion that people would just recuse themselves when they have a conflict of interest doesn't quite work because we're talking about situations where there are vested interests, whether there's an actual conflict of interest. People come from different parts of the community that have different vested interests in this.

Having said that, we totally agree that the role of the community is critical in some kind of advisory board, and we want to talk about that. But I do think that the Board is highly skeptical that you could truly achieve independence with a panel selected by active members of the community.

ERIKA MANN:

Maarten, go ahead, please.

MAARTEN BOTTERMAN:

If I may add to that, that's exactly the point. I think, if you talk about independence of the selection process, which is not only because we want it because this is also the way why we can make sure that these selection processes happen in standing court and we don't get in trouble with it, that means independent from not only the Board and org but also from the community. It needs to be seen like that. I think

that that's important because, even if a community would be on a panel that is not on their part of the budget, it always relates. There's always an interest. So I think that's important.

At the same time – that's what Becky also alluded to – of course I can see there's a role for the community in a way to see that what is developed here is implemented well in a kind of review panel or whatever.

So I think, in that way, we should seek to get a good role for the community to ensure that this all is dispersed in line with what the CPWG says. Also, it continues to be important that also the community stays at an arm's length from the picking of winners and losers.

ERIKA MANN: Thanks so much. Alan, please?

ALAN GREENBERG: Elliot wanted to get in with a quick rebuttal or a quick comment. Maybe we should let him speak.

ERIKA MANN: Of course, Go ahead, Elliot.

ELLIOT NOSS: Thank you. I think there's two things here that I want to speak to very briefly. One is fatigue or volunteer fatigue. Look, I've been an ICANN volunteer since before there's been an ICANN. I described ICANN on

some level to people outside of it as jury duty for the Internet. It's people who are volunteering without self-interest, and that is not, by any stretch, the majority of the volunteers. If your choice is sitting on the third failed attempt at a cross-community working group dealing with privacy and proxy or giving away a significant sum of money to help the Internet, I know where I think the bulk of the well-intended volunteers' time would want to be spent.

This is should not be seen as something that's stretching volunteers. This should be seen as something that's rewarding volunteers for their long-term service and rewarding by letting them do some substantive good, not in any way that is anything other than appropriate.

The second thing is that, in terms of, Becky, your comment about struggling with independence, I want to be very express about this. Implied in that is such a limited view of where the proposals are going to come from. If one thinks that it will be difficult to have a community group that is independent from the proposals, that presupposes that some significant portion of the proposals are going to come from the community or from connections in the community. That is so limiting. If that is true, then I got to tell you I have such sadness about this program because these proposals should be coming from all over the world. We are a tiny sliver of the Internet community. The opportunity for a lack of independence should be by so far the exception and not in any way, as both Becky and Maarten have said, presumed to be the rule.

So we may only be able to see what's in front of us, but I really encourage us to pick our heads up and look way further out on the horizon because I just think both in terms of the role of volunteers and

this stretching them thing and in terms of where the proposals are going to come from favors what I'm describing. I'm very interested in what the bulk of people think about that. Thank you.

ERIKA MANN: Thank you, Elliot. Alan, please?

ALAN GREENBERG: Thank you very much. I want to talk about the same issue. I look at it from a somewhat different perspective. I'm not really as worried about the independence and the conflict of interest with this being a community-based group. I think that probably could be managed. I'm far more worried about the workload and a number of related things.

If you look at the New gTLD Program, we estimated there would be 500 applications. Well, surprise! There were closer to, I think, 2,000 or 1,800 or something like that. We have an idea what is going to come in when we open this program. I agree with Elliot; I think we're going to get a lot. I'm not sure we can staff up that. It's really easy in ICANN to get volunteers to do work. We get volunteers for every bloody committee and group that we put together. Those who actually work – I speak as having managed a fair number of them over the last decade – is not the same. The number of people who actually work diligently and as heavily as needed tends to be a very small part of the total group who volunteer.

We have a situation here where the workload may be heavy. We may get applications for – I don't know what we're going to set as the

maximum allowed. 50 million or something like that? These aren't going to be one- or two-page applications that you glance over. These are going to be substantive applications – depending on how we limit them, potentially hundreds of pages if we don't limit them to something reasonable like 60 or 70 or 100.

So these are going to be really complex things. Some of them are going to be in areas where the evaluation group is going to need to find expertise in the area because they may not have it. I think relying on volunteers for this kind of overall thing is going to be exceedingly dangerous. I think we will have the potential that either we will end up with the evaluation being done by small numbers of people, by people who are not necessarily knowledgeable in the particular areas. I really think we need to turn to professionals to do this kind of work, partly because of the workload, partly because of the skills, partly because, if you're paying them, you can make demands on them that they do things in a reasonable timeline or increase the number of people involved in the process if the number of applications is larger than we expected.

So I have real concerns with relying on a volunteer force going forward in this kind of thing. Thank you.

ERIKA MANN:

Thank you, Alan. We do have a discussion right now which is an interesting one because it's on one side about the mechanism but we shifted to the question about independence. Then we opened the discussion because it's so important for Elliot to take a decision about

the question of how the community shall get involved. Elliot has the more extreme position that the community actually [shadow] the evaluation.

Now, there are a few topics because we have to carry this topic further and we need to take a decision about the mechanism soon. I don't think we can forever discussion all the potential scenarios and options because that's an endless goal. Only once we have finalized our work and we have decided about a mechanism – ideally, a single one – one can then dig deep down so that, in the next phase, one can dig deep down and can say, "So what are all the criterias based on the work we have done and work the next transition phase of people will do that need to be decided upon?" We can't do everything. We can't have everything ready. It's just not possible.

So what I believe we have to is we have to come back now to be able to take a decision. One is actually if the Board is saying practically to us, "There is no way the Board will accept," and we can put a question forward to the Board so that the two members are with us have more time and can consult with their Board members. We can put, for example, a question forward and we can say, "Please come back to us and tell us what you even consider to accept such a kind of model where independence is going to be ensured." Alan, [inaudible] come back to this point because you raised it at the beginning. But the evaluation will be done by community members, or least by a mix of community members and maybe other outside experts. So, if the Board will then come back to us and would say, "No way we're going to accept this," we don't even have to continue this discussion. I believe we can rule it out.

The second one which we have to do is we have to look for another option because, if it is really relevant for some community members which part of our group and they want to have a bigger role for the community, Alan, when you're going to present in a few minutes our current discussion about this, as it was Alan primarily with the support – I gave him some support – who was working on the role of the community, we may want to look at if we can maybe even strengthen the current model of the current advisory panel and the overall evaluation role for the community. So you may want to talk about it what other kind of options are possible there to help Elliot in finding the support to support the mechanism.

The last item which I take from this discussion is about independence. Alan is completely right. We have to review the criteria for what we call independence. We don't have to do again, I believe, into all of the nitty-gritty, but we have to be clear about the most prominent aspects because we want to put them in the guidelines and we want to say, "These are our criteria for independence. Please then continue working on it. These are the most prominent criteria which I believe are important."

I'll give you one example. Alan mentioned – I can't remember which board. I think it was the PTI board he was talking about, where the board is still, I believe, having three members on the board. Of course, independence is not completely ensured because, as a mix between the functions the board is having and the other independent board members ... We could, for example say whatever kind of board will be constructed in any kind of these mechanisms, either A or C. if there would be a new board constructed, the role of a complete independent

board members would obviously have to be higher up than in the case that board members would serve on such a board, too. So we could put in some criterias.

I'm watching the list. If anybody would like to comment on what I just said ... Let me go to the chatroom quick and see if I can open it this time. So there's a comment from Maureen. Alan is looking at community members as being volunteers who will do this with no compensation for their work [inaudible] professional. Exactly. That's a discussion I had with Elliot as well –Elliot, you have to speak up – believing, if community members would do this, they would do this without being paid. I don't believe that. From my experience, the work is so incredibly high that I don't think they're able to do the work without being paid.

This reminds me about another topic that Alan mentioned, of course. Wherever the experts are coming from, they have to be real experts and they have to judge the proposals which are coming on based on their merits. If they don't have the expertise, they of course have to reach out the other experts to understand the proposal better to judge it and see if it shall be funded or not.

So what are we doing next? Shall we proceed in such a way that we clarify independence? The leadership team will send out the question to the Board just to give them the option to decide upon this as a Board to free Alan and Becky from judgements here. What was the other item? I think these are the two which we could decide upon in the next week maybe. Can you support this?

Okay. Nobody is replying, so I assume you are going to support it. So we will have to build another small group for the criterias for independence. I imagine, Alan, you will serve on it. Who else would love to join this group? I will definitely be on it. Ching, would you like to join as well?

Ching: "Yes." Jonathan, Elliot? Who else? "I'm interested," I see. I can't read who it is. Maybe staff would be so kind just to quickly look at the chatroom and maybe just let us know who's willing to join this group.

JUDITH HELLERSTEIN: It was Vanda.

ERIKA MANN: There was another one and I can't read the name.

EMILY BARABAS: Hi, Erika. You have Vanda and Thato and Ching. Those are the people who spoke up in chat. Thanks.

ERIKA MANN: Okay. And I assume, Alan, you will agree. And Elliot and Jonathan as well. Can I have your okay? Or can I just assume you're okay with this?

Alan: "Sure." Jonathan: "Sure." Elliot: "Yes." Okay. I believe we have a group together. Staff, can you take it back (the action items) and just repeat the action items, please, so we are clear about what we want to do?

JOKE BRAEKEN: Hi, Erika. I've been taking notes during this meeting. As action items, I have noted down that a small group will be created which will clarify the criteria for independence. Also, a question to the Board needs to be formulated on whether an evaluation by community members and potentially outside efforts to be combined with this is something that the Board is going to consider or not. Thank you.

ERIKA MANN: Yes. And to add to the last item, [YOKO], I would like this to be done as quickly as possible. I know that I had a little time last week. I have a little more time this week. So if you can get this done for the leadership to be sent out to the Board as quickly as possible, I would appreciate this.

JOKE BRAEKEN: Thank you, Erika. I've made a note.

ERIKA MANN: The last action item is – I'm sure Alan will pick this up when we come to the next item – the question of whether we could even strengthen of the role of the community further beyond what Alan and I currently envision and what we have received feedback from the community on during the public comment period.

Then I give it back, I believe, to Emily. I believe, Emily, you will have to pick up the next item on the agenda and introduce it briefly.

EMILY BARABAS: Thanks, Erika. Bringing up the agenda now, our next item is the proposal prepared by you and by Alan Greenberg regarding the role of the community. I'll bring that up. It's included in the latest version of the draft final report.

ERIKA MANN: And I hand it over to Alan to introduce the topic. Alan, please?

ALAN GREENBERG: Thank you. I'll wait for it to come up.

ERIKA MANN: Sure. I will watch the hands room in case somebody wants to raise a question.

ALAN GREENBERG: All right, thank you. First, a comment. Given that we have now spent an exhaustive amount of time talking about the selection panel and whether this is community-based or hired professionally, I'll note that this proposal is orthogonal to that. It's a proposal that would stand regardless of who the selection panel was or what the selection panel was.

The real thing in play here is what mechanism do we use once the program is running to make sure that things are staying on track, to make sure this group, in its wisdom, and the group doing the

implementation that follows us, has made good decisions and made recommendations. Although it would be nice to think that everything we're doing is perfect, the real world we're living in says we need to review things and we need to be able to do mid-course corrections. This process here allows for two different levels of mid-course corrections.

I'll note this is called an advisory board. The proposal says an advisory board. There have been some comments saying this is not a board; it is a committee or a working group or something. I'm not going to focus on the name. We just pick somewhat arbitrary names here.

The function of what we're here calling the advisory board – there's a number of functions. It would consist of people nominated by AC/SOs. This says all of the AC/SOs. Perhaps, as someone has pointed out, groups like the SSAC or the ASO may not have as much interest, and maybe it's a subset of the AC/SOs that are making the recommendation. It calls for an equal number per AC/SO. Again, that may need to be tweaked and refined. But the overall concept is that it can be a very much community-based group, like CCWG or specific review teams or things like that.

The primary function would be to do an annual review, starting in Year 2 because Year 1 is going to be largely a ramping up process, looking at what projects were approved, how does it map to what we envisioned, and are the projects successful. I'm presuming that the overall management function will not only be awarding money but will be going back and doing some level of review at the end, or mid-term in the project if it's a multi-year one. Of course, the level that it does will be contingent on the amount of the grant. How much we're going to audit

a \$10,000 grant is not the same as a \$20 million one. So it's looking at the results that are done by the overall management group – who ever that is (the foundation or the department) – and assessing to what extent we have met the goals and the images of how we imagined this process to be unfolding.

The group would report to the ICANN Board, the mechanism itself, and the ICANN community to essentially say how we are doing and making recommendation presumably to the ICANN Board if it indeed felt that changes are necessary because things aren't working as well as they might be.

The second group is an evaluation panel which essentially is equivalent to, I guess, either the specific reviews or the organizational reviews. It crosses over somewhat. That would be done every three years. Essentially, it's taking input from the advisory board and from other entities and saying, "Is this working the way we need to? Do we need a major shift and perhaps change what the mechanism because it just isn't working as we imagined and we don't think it can be tweaked to be working?"

In terms of the terms used, Erika and I have tried to use the term "mechanism" to refer to A, B, and C. The project evaluation team is the group that is doing the actual project selection, whether it's community-based or professional, depending on how we end up there. "Assessment" is the word used to determine how well the projects are working because we have been using the term "evaluation" throughout much of our discussion to be both evaluating applications and evaluating how well things are working once an application is granted or

a grant is made. We really need to make sure we carefully use two different words to describe the two functions.

That's about it.

ERIKA MANN: Thank you, Alan. Somebody would love to raise and make an additional comment or remark maybe?

ALAN GREENBERG: Becky said it's not clear why both are needed.

ERIKA MANN: I'm not watching obviously the chat. Apologies. Go ahead, Alan.

ALAN GREENBERG: And the answer is maybe they're not, but these are really two different functions. One is on an annual basis. You really don't want to let things go for three or four years and then find out that it wasn't working. So one is on an annual basis looking at a pretty low-level thing, and the second group is at a much higher level, saying, "Is the overall mechanism we've described working well, or does it need to be changed?" So we're spending a lot of time selecting the mechanism. What if we pick one that just isn't working for some reason and we need to make some major changes? Whereas the first group is looking more at tweaking. Are there minor changes to be made in the wording to make sure?

There's one other function I forget, however. I'm sorry. In the first group, one of the other functions is to act as a sounding board to the project evaluation team. If the project evaluation team is in a position where it's not sure to what extent the terms of reference for these funds are allowed – is this within the ICANN mission? We definitely don't want to go to this community group and talk about specific application, but the evaluation team may well have questions. Again, we shouldn't have to wait for a year or three years to be able to get clarification from them. I'm not sure who else they could go to get clarification if it's not this group. So I'm sorry. I forget that particular function.

ERIKA MANN:

Thank you, Alan. Maybe just to expand a little bit, what Alan and I did was we evaluated the comments we received. We understood that the community would love to have a great role. In doing this, we then looked at our own experience in different settings where funds are allocated to certain projects. The examples are pretty much knowing what you will find, Becky, in professional funds, too.

To give you one example of one of the biggest funds I was evaluating twice, which was from the European Investment Bank, which is a \$10 billion fund, you, exactly after a certain period time, create an evaluation group which is overseeing and evaluating the phase ahead. This time, it was always after five years, but you can do three years, like we have done here. After a certain period of time, you set up this group and they evaluate: is it working well? Is it reaching goals? Are projects on target? What are the biggest issues? Where isn't it working? And

then, like Alan said, where does it have to be tweaked? If in particular it has to change course because it really is not working well, then you have to do something drastic and you have to change course.

Now, the annual one is different. The annual one is what again you do in professional funds. But in professional funds, you do it annually. You actually do it in most cases nowadays constantly because you have the tech tools to do it. But you still need a kind of annual review, similar to the big one but just small and very narrow. Is anything drastic happening? If something drastic happening, you don't want it to continue? If there's a total project failure, you don't want to continue it for another two years just because then you do the big evaluation.

The evaluators, because they are not always understanding everything, need this kind of sounding board they can quickly discuss the topic with. Typically, you would have this in-house. You would have the evaluators and you have a kind of auditing. It's a different auditing term than what ICANN uses. It's a kind of project auditing and monitoring team who would do this. Here we have given this kind of role to the community.

Now, there's one caveat to it. Once we agree to this model, we then would have to circle back to Sam because she raised a concern about conflicts of interest and we would have to modify it a little bit just to ensure that the conflict interest of concern she raised and the Board raised as well will then be met.

The principle ideas I think we need confirmation on and to understand just if you like it in principle.

Nobody? It's similar to the discussion we had before. We gave [flesh] to the community, Elliot. It's just we didn't make them the evaluator of the projects.

Okay. So if there is silence, I believe we should continue working on it and should flesh out the area of potential concerns, like conflicts of interest. I would then recommend that Elliot and I continue discussing this with Sam and the team. Would this be okay to you all?

There's something from Emily. Emily, do you want to talk?

EMILY BARABAS:

Hi, Erika. I actually don't, but I see a hand up from Becky. So before we move on, we might want to hand it over from her.

ERIKA MANN:

Fabulous. I didn't see it because I went to the chatroom. Becky, please?

BECKY BURR:

I put in the chat [that] I think I do understand the different roles, but I guess my question, if things were going on drastically wrong, it seems clear to me that the advisory board would notice that and that that might be an appropriate trigger for a different process. So all I'm saying is I still have some concern about why we need both of these or we need a standing fixed interval – PE/PS – opposed to a response.

What I really wanted to say here is that I raised this issue in Marrakech and I just want to flag it again. The notion that the advisory board would

be able to interact with the independent evaluation panel and provide inputs in the midst of their evaluation is extremely worrisome. I think it would be completely appropriate for the advisory board to be very involved in developing the materials that go out to applicants that the application process themselves – the training and education materials and the principles under which the independent panel is expected to its work with and make its selections.

But any time there is a mid-course/mid-evaluation input, there is an extreme danger of affecting the outcome of the processes in a ad hoc way that raises the potential for disputes and the like.

So I raised this in Marrakech. This, again, as my personal reaction. I think Maarten and I share this. Again, we have not had a fulsome conversation with the Board about it, but that one particular role we just want to raise a flag on.

ERIKA MANN:

Thank you so much, Becky. Well-understood. Maureen and then Alan.

MAUREEN HILYARD:

Thank you, Erika. I put in the chat of course that I agree with Becky that having these two very similar groups (the evaluation teams) does actually raise the potential for some sort of conflict. It just doesn't go down well with me.

Also, I'm wondering why we're focusing on this area. I do agree that evaluation is going to be important. But my point is that I sense, if this is the area that the community has been assigned, it is not what we

actually really considered: that the community would be involved through the process. It just seems as though the selection panel has decided that we're going to get experts. Well, I don't think that's how we envisioned. We envisioned there would be community involvement throughout.

I know we've said that there's going to be a very heavy load, but I do believe that there are people within our community who could actually take on and would take on that responsibility. But if this focus is "The community we won't be needing for the selection process because we're going to get an expert and stick them into two different evaluation panels"? I'm sorry. I don't think we need the two. I agree with Becky. There are too many issues against having these two separate panels. So I think we need to relook at that. Thank you.

ERIKA MANN:

Thanks so much, Maureen. But be clear that Becky wouldn't agree either with the idea that the community would do play the role as evaluators. So this was a way for Alan and I to find a solution which we would operate within the understanding that the Board could support this role.

Now, I understand the concern from Becky and Maarten and the Board and from Sam, but I still believe we could find a potential solution here. But to go a step further and even have the community members being the evaluators for all of the projects, all the time, is totally different. I think we're even crossing into a different [inaudible].

But I don't want to continue talking. Alan, and then we have to conclude this item. Alan, please?

ALAN GREENBERG:

Thank you very much. As I said at the beginning, this proposal was not contingent on who was the evaluators. This would apply regardless of whether we ultimately decided that is a community-based evaluation team or a professional one that is hired. So it wasn't a factor.

Two things. Number one, on the interaction between the evaluation group and the advisory board, what was proposed in Marrakech was one where the evaluation team could bring a specific project to the advisory board and ask for opinions. I think Becky and others wisely said that raises strong red flags. So their proposal was changed to say they could not bring specifics. But if they wanted to frame a general question that there was an opportunity to bounce it off ... Really, it's a question of if the evaluation team – again, whether it's community-based or professional – is in a position where it's not sure that the ground rules that they've been given are clear enough, is there a place that can ask for clarification? Or does it take the risk of approving a project that might not be appropriate or rejecting what could be an appropriate project? So it was a way of doing that. If that still, even without the specificity, raises red flags, that's fine. I just wanted to note that it was changed significantly from what was proposed in Marrakech.

Becky's comment of should the second evaluation be triggered by the advisory board, that's comparable to what we're doing with IANA and the Customer Standing Committee. Yeah, that certainly could be done.

Erika and I debated whether three years was the right amount of time. I felt three years was too short. On the other hand, if things are not going well, maybe three years is already too long. So having it triggered by the first one is certainly a reasonable thing to do. And perhaps a Board-mandated/bylaw-mandated review every five years or something like that, just to make sure that we review things periodically, like we do with other parts of the entity. But I have no vested interest in any of these specifics. Just to make sure that we are in a position to fix problems if they occur, both minor ones in the short term and major ones should they occur. Thank you.

ERIKA MANN:

Thank you, Alan. I agree with you. We definitely need to fix it. Maybe, Becky, again, from field of experience in the European Investment Bank, where you have these evaluators and those people who monitor on a constant base the projects, you see as this three-year evaluator all the documents. You would be able to request that all the documents are shown to you, all the names. You go even to the companies and you talk to the companies to be sure that the opinion that you hear from the evaluators and from the fund managers are correct. You visit them onsite.

Now, these are much bigger funds, of course, but you can imagine, if you have a fund which is – let's assume it would be a project of \$20 million or \$30 million or maybe \$50 million even which would have to be executed. The potential conflicts are pretty high. So the evaluators do have particularly these. So I'm talking about the project evaluators in the first phase, which do the daily work. I'm talking about those

evaluators that evaluate the first phase for if everything was working well. So they have a lot of [discretion in seeing everything].

So I think we are already pulling back on the proposal which we have made here to be more in compliance with the ICANN typical cultural environment, but I wonder what we can do. Shall we send this idea and the current framework to you as a Board member officially and then you and Maarten have more time to reflect upon it? I'm asking you directly, Becky and Maarten. [inaudible]

BECKY BURR:

Yes. I think that would be great, but if you could also just help us understand. Just to be clear, the accountability issues that you raised are absolutely critical. What you were describing seemed to me to be the role of an audit. So I think, if we can understand the full range of accountability things that are going to be going on here and make sure that we've got them properly lined up so that we don't have an audit doing the same thing that this program evaluation panel would be doing ...

ERIKA MANN:

Thank you, Becky. Yeah, I agree. Alan and I can do this. Just to be clear, ICANN doesn't have such a kind of audit mechanism, as you notice, currently in place. In the funding environment, it's not typically called audit. What I was talking about is really a hardcore evaluatory work. But it's called an evaluation or review. Most funds, like in the EIB, call it a review – a review cycle. An audit is part of that, but then other pieces fall into place as well.

So, yeah, we will do this. We will prepare a note to you and to Maarten. I will review with staff as well because I believe we have audits in other places. So we will cross-reference and check where we have an audit procedure mentioned. I believe Xavier responded to it many times as well. We will put these pieces together and we'll send them to you. Thank you so much for this.

ALAN GREENBERG: Erika, can I come in for a moment, please?

ERIKA MANN: Of course. Any time, Alan. Just disrupt me. I can't follow these various [inaudible].

ALAN GREENBERG: I'm just a team member. I try not to disrupt the Chair. Just a comment. Erika and I assumed when we wrote this that the mechanism itself be a foundation or a department of ICANN that is going to have an internal review process and make sure it's not doing stupid thing. Any responsible department has to have some measure of how it's doing and if things are working. We presumed that that would be done and would feed into whatever other reviews there are, be it the advisory board or the evaluation panel.

So the assumption is that this group is not running blind without watching what it's doing and trying to measure it. Again, I don't think that would be called an audit, but any responsible group does some

level of internal review to make sure they're doing a reasonable job.
Thank you.

ERIKA MANN:

Thank you, Alan. ICANN doesn't have a real audit like many companies do have – an operational audit. We do have a financial audit, which is very different in nature. But for those project management, you need an operational audit. I believe, if we do the review, Alan, here and I and Ching and staff will do the review of the other pieces which we have in place and just see if there are missing places, we can have a quick exchange with Sam and Xavier just to see that all the pieces, as Becky and I were just talking about, are coming into place. Then we will send a note to the Board and we will hear back and we can have an informed discussion about this hopefully in two weeks' time again so that we can hopefully conclude this item.

Any other topic that somebody wants to raise? Otherwise, I will ask [YOKO] just to summarize the action items. In the chat room, is there something I should look at?

No, I think they are supporting what I just summarized. Yeah, Becky, too. Maarten, yeah. Maureen, Alan, yeah. I will review the chatroom too just to make sure all the items are captured well. Joke, back to you for action item summary, please.

JOKE BRAEKEN:

What I noted down is that Alan and Erika will clarify to the ICANN Board liaisons looking at all the accountability and the review mechanisms,

including the audits, and see how they overlap with the proposal, if at all.

ERIKA MANN:

Yeah. A little bit of a medication. Alan and I will clean up the current text. Staff and leadership, in combination with Sam and Xavier, whenever we need some more information, will review the audit part and see that all the pieces which are captured in the text somewhere else correspond to what Alan and I were doing here. Just a tiny modification to what you just, Joke.

JOKE BRAEKEN:

Thank you, Erika. It's noted.

ERIKA MANN:

And we have to review in this case the chatroom carefully, too. Okay, we are coming to the end. Joke, are you still able to show the next item so that we are prepared? Because we have to pick up the topic on the note which Sam was preparing. Would you be able to just show it quickly and make a short introduction? Or if Sam wants to make an introduction, Sam, feel free to indicate. I believe we have two minutes left.

EMILY BARABAS:

Hi, Erika. Sorry to interrupt, but I'm a host so my hand can't go up. We actually have two hours scheduled for this call if you have to use that time.

ERIKA MANN: Ah, thank you so much. In my calendar it always shows as one-and-a-half hours. Even better. Thank you so much.

EMILY BARABAS: Sure.

ERIKA MANN: We can continue the discussion, still back to you.

EMILY BARABAS: Okay. We're now at #4 on the agenda, which is displayed on your screen hopefully. It's the discussion of the individual appeal mechanism. This was something that came up in Marrakech in the discussion, and there was some back and forth about what an individual appeal mechanism might look like if the accountability mechanisms were not available to applicants. How could they potentially have the opportunity to go back to those making decisions about the applications and, for example, point out that information was missing or there might have been a mistake in the discussion?

Sam Eisner from ICANN Legal has produced a memo for the group with some additional analysis about that. So, Sam, if you're okay with that, I will turn it over to you and you can introduce the document. I'll bring it up on screen. Thanks.

SAM EISNER:

Thanks, Emily. I hope you all had a chance to look at the document. If not, it's really short. One of the things that we heard coming out of the conversation in Marrakech is that, if there were to be a separate appeals process, it would have to be simple, that we're not trying to overburden this with additional [process].

So I went through and I examined appeals processes from other grant-making organizations. One of the things that you see is that those who have individual appeals processes have very lightweight processes. They're summarized at the beginning here as these bullet points. First, appeals are not about the individual judgment of a panel just because someone is dissatisfied with the decision. It's not about someone being able to say, "Hey, I don't like the fact that you turned me down." It has to be based on certain grounds. You'll see, if you look at some of the examples that I've provided below, that they have the ability to challenge issues of fairness of propriety of process. Typically these are things like an allegation that a decision was taken outside of process. So improper criteria was applied against the application. There's a lack of compliance with the publish process, etc.

Potential undisclosed conflicts of interest is also a frequent one that's mentioned. If the applicant who was impacted by a decision alleges that the panel actually had a conflict of interest or one of the panelists did in evaluating the application and that resulted in a denial, that is typical ground.

Also, decisions based upon erroneous information. Or there could be information also that maybe didn't make it to the panel or something. So it's not about things the applicant itself failed to produce. It's about

other information that might have impacted the decision. So maybe not all parts of the application were provided to the panel that should have been provided. That also goes to your process issue. It could be that the decision says that they were relying on internal sources of information that might not be accurate. Things like that.

So those are the types of things we see. We think there's a possibility to have this built in a fairly streamlined way. Again, to remind the group about the reasons we said that this might be appropriate, we discussed and you'll see reflected in the draft report that has been circulated that it's likely appropriate for their to be a carve-out from ICANN's accountability mechanism [inaudible] reconsideration and the independent review processes to not allow individual grant applicants who are dissatisfied with decisions to use ICANN's accountability mechanisms to challenge those individual decisions.

But the converse of that is, if they're not allowed to use those, what is it that can give an aggrieved person or an aggrieved entity a sense of due process and the ability to challenge if they believe that there actually is a reason to challenge? So that's why we went and looked at more purpose-built scenarios instead of the broad-brush ICANN accountability mechanisms because these are things that are actually targeted to the decision-maker and don't result in a broader review of the program.

Of course, in the end, if there's an issue with the program design or the program implementation that is done in a way that calls into usage one of ICANN's accountability mechanisms, that's a separate question and we're not trying to shield ourselves from that sort of challenge because

there is an overarching accountability issue. But this is really about those individual grant-making decisions.

With that, if anyone has questions or if you want to discuss it, I'm here.

ERIKA MANN:

Thank you, Sam. I think that's a clever design and a lightweight design. I actually like it. So just for those we remember this discussion we had ahead in Marrakech and then in Marrakech. We had a debate. We wanted to have a mechanism which avoids conflict cases arising all the time and people filing requests for reviews concerning the decision [evaluations this] group has taken constantly. So we were more in favor of saying there shall be no appeal mechanism.

But then some rightly said, if there is no appeal mechanism, it might create in itself conflict and problems for the way the [politics] are executed and for the legitimacy. Then we asked Sam to review the existing models and to present us one. This is the one which you have now in [favor] and she was just talking about. I like it. I think it's lightweight. It's easy. I can't see a big issue with it actually, and I think it would fit nicely into what we have come up with. But I would like to hear your opinion.

Vanda is saying she likes it. Yrjo is saying, "Thank you very much. I need to be ..." He needs to leave. Maureen is in favor. Okay, I believe you need a little bit more time because probably you have not enough time to review it. So I feel it fits nicely into what we are doing. It will work in all of the different mechanisms we have set up. It's part of the ICANN culture, actually, to have something like this established. So I can see a

big conflict, but we take another two weeks so you have time to review it. If you have further questions, I'm pretty sure Sam is fine to, if you just send him a forward but keep us all please in cc's so we can monitor it in case there's a debate that opens up between our point of view and Sam's so that we can all see it.

ALAN GREENBERG: Erika, my hand is up.

ERIKA MANN: Alan, is it you? Oh, God. Apologies. Go ahead.

ALAN GREENBERG: Okay, thank you. A couple of things. First of all, it's not clear who this appeal would be addressed to in the ICANN context. In the health board, it makes it very clear who it goes to. It's not clear who it would go to in this case. That's Question #1.

Question #2 is the grounds for appeal – decisions based on erroneous information. How would the applicant know that? I was envisioning that an application would be done and the answer would come back yes or no. Or maybe there'd be an opportunity for questions to be asked, but ultimately it would be a yes or no, not one backed up by the rationale for why it was rejected or what the information was that it was used on.

So I'm not sure how, in the context that we're talking about – I should say, I also don't think it's practical for us to give a rationale for why we rejected every application. But certainly I imagine there would not be

one. So I'm not quite sure how the applicant would even know some of these things unless the process for accepting or rejecting applications is very different from what I envisioned. Thank you.

ERIKA MANN: Sam, just go ahead, please.

SAM EISNER: Thanks. Thanks, Alan. I think that you raise a really good point in that we have to make sure that the final appeals process matches the process that we have. These were typical things that came out of the processes or that you saw amongst the different processes that I provided for review. It doesn't mean that each one of these is apparent in each of the processes, so I think we pick out the part that work.

I think, as we get through implementation, we have to identify what transparency requirements we have around it. I agree it's probably not feasible to have rationale produced for each one. So maybe not all of these grounds would apply, but I think that there is likely a general place that we could take it and say that parts of this rely on implementation. But these are the sorts of things we should be considering as we're designing the application process, as we're designing the documentation that will be available after evaluation to make sure that whatever individual appeals process we have aligns with that.

In terms of who the evaluator is, one of the other things that you see amongst these is that these are appeals to the panel itself or to a person

who oversees the panel. So this is also an implementation-level thing, that we are going to have to think about how the panel is administered when we get to that independent panel usage if we have an overarching person who's responsible for the coordination for the panel, likely itself also not from ICANN org, for example. That is what you'd want to see an independent role, much like we have, for example, an administrator and coordinator on the IRP panels (the Independent Review Process panels). So it would be within that chain. It wouldn't go into ICANN for the independent appeal, but it would be into the panel decision-making process because that's who made the decision. So that's who's responsible for considering if they made their decision correctly.

Again, these are things that need to be implemented if this is something that CCWG agrees to, but I think that these are implementation elements that we can get right once we have the sense of where the CCWG is on this.

ERIKA MANN:

Alan, you want to pick up the discussion?

ALAN GREENBERG:

No, that's fine. Having someone in the line of command but who did not actually participate in the evaluation sounds quite reasonable to me. I was just worried that, with the examples given, it implied something of a much more heavyweight process than what we normally do. I know, in some scientific paper grant applications, the reviewers' comments actually go back to the applicant. I didn't envision that happening in our example, and that's why I was somewhat concerned. Thank you.

ERIKA MANN:

Thank you so much. I think we may want to clarify as well that we are only talking about a request for a review of a decision-taking by this evaluator [to] a panel. So that's what we're talking about. We're not talking about an appeal to any decision which will later than come up during the process. If, for example, the project does not execute it well and the funding will stop, that's a totally different case and situation. We're only talking about if the first project is not accepted. Then there's an appeal to it. Typically these appeals nowadays are done online and are relatively quickly responded to in often quite technical terms.

Sam, to take this forward, would you be able to evaluate the examples you have selected? Shall I send you one or two from research environments? Then can we just maybe create a template model which we believe would work inside of this ICANN system?

SAM EISNER:

Sure. I'd be happy to do that.

ERIKA MANN:

Just by e-mail. Anybody who wants to join, please join. Just let us know. I assume, Alan, you would like to join. It's just a quick back and forward and just a template which we then can discuss here.

I see somebody in the chatroom, so let me just check if somebody is coming up with ideas here. Marilyn: "It seems lightweight but gives multiple steps." Yeah, just a simple step. You're absolutely right. Just one step, not more than one. Yeah, Alan, I know. We do this just by e-

mail. We don't need call. We do it in the lightest and most simple way possible. I have time issues as well. if somebody else wants to join who has experience in this field, just please let us know. We're not creating a group. We're not doing heavy call-setting-up. We're just doing it by e-mail exchange.

No. Nadira is raising a different question. Can Joke or Emily please just review the question so that we ensure that, in case it touches on a different issue but is relevant for the current discussion, we are not missing it?

Okay. I believe that's it. Next item on the agenda, if nobody wants to raise another question on this topic ... Emily, back to you.

EMILY BARABAS:

Hi, Erika. At this point, we're at the end of our formal agenda. The only thing left to discuss is if there's any other business. I believe the only Any Other Business that I know of is the discussion of next steps in terms of when we might schedule the next call or whether some time should be given to the small groups and the CCWG as a whole to address some things over e-mail, although there may be any other business that others have raised.

ERIKA MANN:

Emily, thank you so much. Can we check two weeks' time where will this lead us and then just get a quick understanding if people will be able to join in two week's time? This is the – when is it?

EMILY BARABAS: Two weeks now is the 14th of August. We could also have a meeting one week from now if you think that there's more to discuss on the topics that have been discussed.

ERIKA MANN: No, not one week. Just too tough. Two weeks. Just checking quickly, if you're not available [inaudible] in two weeks' time. If you believe it's too short, then we just go for three weeks.

Two weeks is fine?

Okay, let's do the following. Let's go for two weeks. If we experience in particular the first working stream on independence and the mechanism and, related to it, the question and we are getting too stretched, then we just extend it for another week. But let's try to get this done in two weeks' time.

Thank you, everybody. Back to – who is it today? Julie, is it you?

JULIE BISLAND: Hi, Erika. Yes. Thank you so much, everyone. This meeting is adjourned. You can disconnect your line and have a good rest of your day.

ERIKA MANN: Thank you so much, everybody. Thanks, team.

[END OF TRANSCRIPTION]