

ICANN

**Moderator: Brenda Brewer
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2:00 pm CT**

Coordinator: This meeting is now being recorded.

Trang Nguyen: All right, hello everyone. This is the Implementation Oversight Taskforce call Number 6 on April 20. Lise, did you – we have an agenda today consisting of opening remarks, a couple of implementation items around PTI formation documents, the IANA escalation mechanisms and AOB item consisting of the question that Paul had raised on the last IOTF call and which we circulated to the IOTF mail list.

And I saw just some email coming through over the last few minutes regarding the RZMA so maybe that's another potential topic under AOB that we can cover today.

Before we dive into the main part of the agenda, Lise, did you have any opening remarks or like to say a few words?

Lise Fuhr: No, actually I discussed this with Jonathan earlier this week. And we don't really have opening remarks since this is a call run by the implementation

team so – and we don't have anything add to this. I think it's really good to take the RZMA under AOB so apart from that we're fine, thank you.

Trang Nguyen: Thank you, Lise. Okay so maybe we can go ahead and get started with the first item which is the PTI formation document review process. So what I'd like to bring up for discussion today is sort of what the next steps and the process around the PTI formation documents would be. As a reminder, we had shared with you an initial term sheet or summary, whatever word you want to use, of the PTI articles of incorporation, the bylaws, the conflict of interest policy as well as the anonymous reporting policy.

And we got some feedback with regards to what the purpose of pit would be and what is the process and who can amend PTI's formation documents. So we clarified that those things are actually being defined in the ICANN bylaws. So whatever final language is agreed to in the ICANN bylaws for the PTI purpose and for the amendment process for the PTI formation documents, that's the language that we would pull into the PTI formation documents when it – when they are drafted.

So given that, the next step would be for ICANN to go ahead and draft the PTI formation documents to the specs of – the term sheets that we shared with you. So I guess the thing that we want to raise for discussion is once we have an initial draft of that document what do you think would be the right process or the right next steps? Should it be then shared with the CWG more broadly?

Should it be shared with this group? Should it be shared with, you know, maybe the cochairs of the CWG so that they can be forwarded to Sidley for review? I guess we just want to get some thoughts and input as to what the next step or process would be once we have a draft of those formation documents.

And maybe as a point of reference if you can show the process that we have previously discussed with the IOTF, yes. So as a reminder this is the process that we had reviewed with you and got feedback on and agreement on. It was agreed that once the term sheets or high level descriptions of the documents are agreed to with the IOTF ICANN would draft a full document.

And it was envisioned that it was during Step Number 3 that is, you know, if Sidley needs to review any of those documents that that's where it would occur before those documents are shared more broadly with the operational communities.

So just kind of wanted to better understand that process within Step Number 3 if these documents – if any of these documents are envisioned to be shared with Sidley for review, you know, how that may occur.

So there are a couple of hands in the Adobe room. Lise, please.

Lise Fuhr: Thank you. I'm a little curious because when you say the formation documents, that's going to be the bylaws and what are the other documents? Because the bylaws we have a clear understanding that we would like Sidley's input to. The order – I'm a little more unclear about and I would like to discuss that with Jonathan. And we have a client committee that's actually also looking at the (unintelligible) but it for sure needs to go through the CWG as such. It's more the order of when it goes to the CWG. But what apart from the bylaws are formation documents?

Trang Nguyen: Thank you, Lise. The formation documents, the PTI formation documents would be the PTI bylaws, the PTI articles of incorporation and the conflict of interest policy. So those I would consider to be sort of PTI formation

documents because they are required in order for us to incorporate PTI and in order for us to file for 501(c)(3) exempt status.

Paul, please go ahead.

Paul Kane: Thank you very much. I'll be very brief. I think Lise has just sort of touched on what I was really wanting to emphasize which is – and you've also emphasized it, the incorporation documents will include bylaws. Whilst it is helpful that ICANN bylaws do (unintelligible) parameters under which PTI will operate I think it's vitally important that the PTI bylaws stand on their own merits.

So irrespective of what the ICANN bylaws permit, the PTI itself is a standalone affiliate entity which obviously goes for 501(c) clearance. But as an entity it's very important that the bylaws themselves are complete, which I'm sure they will be.

In terms of process, my understanding is this group is very much an implementation group, to answer your specific question. So I believe that you as staff are going to make proposals to this group. We, as members, basically determine the general parameters are in accordance with what we think are CWG. But then actually it's the CWG themselves that sign off – that the formation documents are accurate, complete and actually address what is required. So to – that was to answer your specific question.

Trang Nguyen: Thank you, Paul. And, yes, I think we're all in agreement there that ultimately the CWG will need to review and sign off and probably with Sidley's review as well as recommendations or certification, whatever you want to call it. So we had envisioned that, yes, those documents would at a minimum require Sidley's review. And I guess the outstanding question that we had is what's

that process? Do we, you know, once we have a draft of those documents who do we share it with as the next step?

So let me – Chuck has his hand up so let me go to Chuck.

Chuck Gomes: Thanks. This is Chuck speaking. So are you thinking, Trang, that the steps we're talking about right now, CWG review, Sidley review, OC review all fit into Step 4 on the flowchart we're looking at in Adobe right now? And then after – and I guess the question I have is two weeks going to be enough for that? It may be but I have no idea. But is that where you're seeing all those things fit into Step 4 here, OC's review?

Trang Nguyen: Thanks, Chuck. I think it – it's a combination of Step 3 and Step 4. And we just sort of need to get some clarity on, you know, what needs to occur first, you know, in terms of steps. You know, obviously we know that the first thing that needs to happen in Step 3 and 4 is that ICANN needs to do an initial draft of it. And then the endpoint in that process – in the Step 3 and 4 combined process would be sort of ultimate, you know, signoff or approval from the operational community.

So what happens in between is a little bit unclear in that it's – and that's why I wanted to bring this up for discussion. And I think when we had this process drafted it was intentionally left unclear because we had envisioned that depending on what the document is, it may undergo, you know, slightly a different process.

So for example, you know, the PTI conflict of interest policy, you know, that's going to be pretty much based on the current ICANN conflict of interest policy. I'm not certain that that, you know, necessarily needs to go through Sidley review.

You know, but obviously the PTI bylaws would and potentially the articles of incorporation would. So that's why, you know, we just need to work out the specifics for what the next step would be within the combined Step 3 and 4.

Chuck Gomes: So thanks. This is Chuck again, Trang, if I can follow up. The – so I like what you suggested that maybe it's a combination of 3 and 4 where these things happen. In my own personal thinking, I haven't talked to anybody else about this anywhere, but at a minimum I think it would be good if Sidley and the client committee were involved before Step 3 is finished and before we go to Step 4 for a broader review by the CWG and the OCs. But that's my own personal thinking in response to your question.

Trang Nguyen: Thank you, Chuck. Jonathan, please go ahead.

Jonathan Robinson: Thanks. Apologies, I joined a little late. I think it does sound like looking at this and talking from a little bit of prior experience, it does feel like we will certainly – two weeks will be too ambitious unless we do something effective earlier. I'm not 100% sure where we need to deal with this in the sort of 1, 2 and 3 stages.

But normally you look at a kind of term sheet, a high level description. So I guess as soon as we can see 1 it maybe – and perhaps we should be talking to Sidley right away about this. That seems to be the logical thing to do is have a quick chat via the client committee with Sidley. And I would record that as an action. I suggest you record that as an action out of this. That we talk to them about their prospective involvement in the drafting of the articles, the bylaws and the conflict of interest policy.

I accept your point, Trang, about the conflict of interest policy may simply be effectively grandfathered out of the existing ICANN one. I don't know – I'm not sufficiently intimate with that conflict of interest policy to know that. I guess I'm thinking that a conflict of interest policy applied to, for example the ICANN board, has to have some quite strong conditions in it to stop – to remove overarching or other conflicts of interest.

It may be that such similar – that it needn't be as strenuous in the case of (unintelligible) you might expect that people involved with PTI had a closer relationship with customers served by PTI. So I'm not trying to weaken a good conflict of interest policy, I'm just trying to highlight an example where there's something slightly different required in the case of PTI.

But in any event the overarching point is to help I guess – who's doing the notes, Yuko?

Trang Nguyen: Yes, she's working on capturing the action items.

Jonathan Robinson: I assume is – yeah, the client committee should take this document, your review process and timeline, share it with Sidley and ask for their input as to where they would be most effective in providing input on the articles of association, the bylaws and the conflict of interest policy. Thanks, Trang. Sorry that was a bit long winded.

Trang Nguyen: No, no, thank you Jonathan for that. And certainly we can – we can share this with the client committee just this one slide so that it can be shared with – further with Sidley and get their feedback on where they would become most effective.

And we can also potentially share also the term sheets or the high level description for the bylaws, the articles of incorporation and the conflict of interest policy as well because that is something that we do have and was – and did review with the IOTF I think on one of the calls that you were on vacation on Jonathan.

Chuck, you have your hand up, please go.

Chuck Gomes: Yeah, thanks. Chuck again. And just to reinforce and emphasize something a little bit more than Jonathan said. First of all I like what he suggested involving Sidley and maybe even the client committee too since they kind of work hand in hand earlier in the process is probably a good idea and can probably save time later on.

But before going from Step 3 to 4 I think it's really important that the client committee and Sidley, you know, be – have their input received and implemented before you go to Step 4. So in other words, the early involvement is good like Jonathan suggested, but once you have a full draft I think it will make Step 4 go a lot better if Sidley and the client committee have already reviewed and provided input and then input is incorporated before going to Step 4.

Then we won't find ourselves in the situation where in a very short time period if we leave it at two weeks where the CWG for example has to go back and ask Sidley questions on something on things that they maybe not have considered yet. Hopefully that made sense. Thanks.

Trang Nguyen: Yes, thank you, Chuck. I think your point there is that if we have Sidley's review of the document and some kind of certification or, you know, statement or whatever it is that says that, you know, as drafted this document

meets the requirements of the CWG proposal or something to that extent that that would make the community's review of that document a lot more efficient.

Chuck Gomes: I think so, yes. And whether it's a formal – this is Chuck again. Whether it's a formal certification or not I wasn't necessarily thinking of that, that might be okay but certainly so that they've already had input into it before it goes to Step 4.

Trang Nguyen: Right. Right. All right thank you, Chuck. All right so the action item from this discussion that we have captured is we're going to share this process and timeline document with the client committee to be forwarded onto Sidley and get their feedback in terms of where they see their involvement may be most effective.

In addition, we'll also share with the client committee the term sheets or the high level summary of the PTI bylaws, articles of incorporation and conflict of interest policy. And they can make a decision as to whether or not that's something that they would like to share with Sidley at this point as well.

All right seeing no further hands up I will – let's move on to the IANA escalation mechanism discussion. All right so I'm going to sort of kick this off and I may need Yuko to chime in here with regards to what specifically we are asking for the IOTF to comment on.

So there are – the CWG proposal specified two IANA sort of escalation – operational escalation processes. One is a modified version of the current IANA customer service complain resolution process. And then the other one is the remedial action procedures or the – I don't have the proposal in front of

me right here but it's the remedial action procedures which is a brand new escalation procedure.

The clarification that we need from this group is relating to the modified IANA customer service complaint resolution process. There is some discrepancies that we noted within the proposal and we just need clarification on what was the intent, you know, of the CWG proposal. So, Yuko, if you can sort of walk us through this slide and what it is we that we need clarification on.

Yuko Green: Sure, Trang. So CWG proposal Paragraph 1367 mentioned three escalation points which are the IANA function liaison for root zone management, then IANA functions program manager, then the next one is ombudsman. This is from the Phase 1 of the IANA customer service complaint resolution process, which is based on the existing complaint resolution process.

Current escalation path actually involves ICANN president and CEO. So in this case we want to get a confirmation that the omission of ICANN president and CEO was actually intentional and it is to be removed from the escalation step post transition.

Trang Nguyen: And I'm not sure if – I'm not sure which design team, you know, this process, was part of so another thing that we could do is also circulate this to the list if the – if everyone agreed that that is what should be done, you know, to get clarification. But, Paul, your hand is up so let me go to you first.

Paul Kane: So thank you very much. I'm just looking at the proposal here. There are effectively four steps. One is the notification. I'm looking now at the proposed remedial action procedures, notification first escalation, second escalation, third escalation.

The first – the notification part it is the IANA manager. The first escalation part it is the PTI board. Second escalation is the global domains division president. Don't know who that is but that's fine. And the third escalation is the ICANN board.

From my perspective bearing in mind PTI is an affiliate company, so in other words outside of ICANN, it's not a department within ICANN, it is an independent company. I'm not sure what global domains division president – why that one is in. And so I feel more comfortable with actually including the ICANN president and CEO before the ombudsman which is effectively the current escalation path.

But I want to emphasize that I feel uncomfortable with global domains division president, as I say, I don't know who that is, but the escalation path is designed to ensure efficient resolution of disputes, problems fixing of issues in an expeditious manner. And so making sure that the CEO is aware of ICANN, having been through the PTI board and the PTI board not being able to rectify the issue seems to be a prudent step. Thanks.

Trang Nguyen: Thank you, Paul. I think I see where you're noting that. I think it's – however that I think is part of the remedial action procedures which is the new – newly defined escalation process. The process that we're trying to get clarification on is actually the existing customer service complaint resolution process that has been modified for the CWG proposal for the naming function. And that is part of actually Annex I. But I note your comment with regards to the remedial action procedures.

Jonathan.

Jonathan Robinson: Trang, I'm not sure I'm following this completely. I mean, maybe you could just reiterate the question. Because, I mean, we have a good reason, for example, I assume and believe for putting in, say, GDD president. Can you just explain what – what – I mean, because my problem is the current escalation path, as on Slide 5 in front of us, doesn't appear to match the proposal. And then there's a proposed change on Slide 5. So just reorient us please to make sure I and we are 100% clear.

Trang Nguyen: Sure, Jonathan. Sorry for that. So let me try to set this up again. And hopefully do a better job of that this time around. The CWG proposal currently proposes two escalation processes. The first one is the IANA customer service complaint resolution process, which is what this slide is trying to get to. And this process is actually an existing IANA complaint resolution process.

And what the CWG proposal did was it took this existing process and modified it for the naming function. So it uses the current process and then it added an additional step or phase 2 if you would, I believe, to this current process. And then in addition, it modified the existing escalation path of the existing procedures to essentially remove the ICANN president and CEO as part of that escalation – as part of this escalation step. So this is all part of this one escalation procedure called the IANA customer service complaint resolution process.

What Paul was speaking to is actually a brand new escalation process that the CWG proposal defined, which is called the remedial action procedures. And that escalation step would kick in after this current IANA customer service complaint resolution process is exhausted.

So we're actually talking about two different things. What we are trying to get clarification on is the actual escalation path within the existing IANA

customer service complaint resolution process that has been modified for the naming function. So if I can go into a little bit more detail in terms of what this customer service complaint resolution process is about, right now it has two phases.

The first phase is essentially the existing process. And it says basically that, you know, if you have a complaint you can send the complaint in to, you know, an email address, you know, that IANA has, and then the IANA staff would then escalate that complaint internally to one of their own staff who's responsible for managing that particular function, if you would.

And then ultimately to (Elise) who serves as the IANA functions program manager if the issue is not resolved. And also to the ombudsman if necessary. So that's all defined right now and it's all consistent.

What we see is not consistent is that the actual escalation path as defined in the CWG proposal it didn't include an existing step which is an escalation to the ICANN president and CEO after it's been escalated to (Elise) essentially and if the problem is unresolved.

So we just want to make sure that that omission of the escalation to ICANN president and CEO is intentional which is – and it's not just inadvertent – inadvertently left off because essentially it looks like this entire process, although it's been modified to add an additional phase 2 to the process the phase 1 looks pretty much the same as the existing process except for this one thing.

So I hope my clarification was helpful. And if not please let me know.

Jonathan Robinson: Thanks, Yuko. It was helpful and that Paul was talking slightly his purposes to you and he was referring to a different process so that's helpful. I think it would be helpful to understand if anyone recalls why that that was removed from this phase 1 escalation.

Trang Nguyen: Yes, and yes that would be very helpful if anyone remembers that and can share. I do see a queue forming so let me go to Donna.

Donna Austin: Thanks, Trang. So I think Chuck was doing the – did the individual escalation process so this process here is specifically for individuals that have a problem with the IANA function so the CSC does not touch that to some extent. So this was a Chuck-led DT as I recall so it might be best if Chuck answers that question. Thanks.

Trang Nguyen: Thank you, Donna. Yes, you're right, this – the existing IANA customer service complaint resolution process doesn't touch on the CSC however the new addition to the process or the modification that's made to the process included a new phase which is phase 2. And in that phase the CSC is notified if the complaint is not resolved. So that's the new addition and the modification that was made to the existing process.

Alan.

Alan Greenberg: Thank you. I too am somewhat confused. I think what you're – the chart on the left of Slide 5 is saying is currently if the functions program manager does not satisfy the problem the problem goes to the ICANN president and CEO. Is that what that is saying?

Trang Nguyen: Yes, Alan. So the current IANA customer service complaint process says that if the issue cannot be resolved by the IANA functions program manager then

the issue would be escalated to the ICANN president and CEO. In the CWG proposal...

((Crosstalk))

Alan Greenberg: No, no – I just wanted to understand – I was understanding the chart properly. I really don't understand why, under the current proposal, it goes to the president and CEO instead of the GDD president who IANA reports to. It seems like you're skipping the management process. So I just wanted to make sure that is what is really happening today, that we skip (Elise)'s manager and go directly to the president and CEO should a problem ever escalate to that extent today.

Trang Nguyen: It would be escalated to (Elise) first and then if the issue is still not resolved once it's escalated to (Elise) then it will be further escalated to the ICANN president and CEO.

Alan Greenberg: As opposed to who (Elise) reports to.

Trang Nguyen: Correct.

Alan Greenberg: Rather curious is all I can say but if that's what it is that's what it is. Thank you.

Trang Nguyen: Thank you, Alan. Avri.

Avri Doria: Yeah, hi. This is Avri. I think I would definitely defer to Chuck but I don't see his hand up and I do believe I was part of the group that discussed this. And I think the way it was looked at is that the ICANN president and CEO was really no longer in the chain of authority on dealing with the issue that once it

went to the IANA functions program manager if anywhere it (unintelligible) to that position's board, the PTI board, but that's in the later escalation steps.

But it would have no business going to either the ICANN CEO or the GDD president because they're really not in that authority path any longer. You know, they may be – in terms of the affiliate in some sort of larger corporate authority chain but in terms of actually operational chain they wouldn't be in it. And it ends with IANA. Certainly for protocols and numbers it will be the CEO because it's ICANN providing them a service. But in terms of names that person, nor the GDD president, has any authority over the internal actions of IANA at that point. So that's why I think that step was left out. Thanks.

Trang Nguyen: Thank you, Avri. Chuck.

Chuck Gomes: Thanks. This is Chuck. The reason I've been reticent to raise my hand is because I need to go back and look at what we did on this design team because everything is kind of blending together right now and I haven't focused on escalation procedures for many months.

So the best I can do is say I will go back and check out things and probably check with those who were on the escalation team and provide some feedback on the list if that's okay.

Trang Nguyen: Thank you, Chuck. Yes, that would be very helpful. Paul.

Paul Kane: So thank you, Chuck, for doing the historical information. I think there is significant merit if PTI board are responsible for the actions of PTI that rather than it going to, as is the case today, the ICANN president and CEO, that it actually – before it goes to the ombudsman does defer to the PTI board.

I'm assuming that the two representatives from the registry community that will hold the two seats will have some knowledge, technical knowledge, other knowledge, of registry function and they would be able to efficiently, effectively understand the ramifications of the action or inaction of the problem.

And so I concur that there is no benefit – I agree completely with Avri that the – the global domains person – it has nothing to do with them. I didn't even know it was there to be candid as I mentioned at the first Frankfurt meeting. But this is a problem that the customer has a problem, the problem needs to be fixed efficiently and as possible and therefore we need to try and keep as much within PTI as possible and failing everything else go to ombudsman. I don't know how efficient quick the ombudsman is.

But I would very much advocate that the PTI board to whom the IANA functions program manager is accountable, is – has oversight of what happens. So at least there's a bit of a stick there as well.

Trang Nguyen: Thanks, Paul. Donna.

Donna Austin: Thanks, Trang. Donna. I think the important thing here is that this is a complaint resolution process and Paul and Matthew, I understand the point that any resolution of a technical problem needs to be resolved reasonably quickly. And I think that's understood.

I think in my mind this complaint resolution process could be one of those processes that where a redelegation process didn't get the outcome that somebody wanted so it's a complaint resolution process where the end result wasn't what somebody had hoped. So it's not only related to something that is – technically specific so that there's been a technical breakdown with the

IANA function or something like that, this complaint resolution process can also relate to if you've been unhappy with the level of service that you've received from IANA for whatever reason or you're unhappy with the outcome of potentially a redelegation process.

So it's kind of like a – just a complaint place, not necessarily just about IANA being nonresponsive to a technical function. So in that respect it makes sense to me that the ombudsman is an option that's available to somebody who is not happy with the level of service or whatever that they receive from IANA. So I think – I just wanted to make that point that this isn't only about when a quick response is required. It may actually be that, you know, somebody is hoping for another outcome so they're going through different processes, people and these are the options that are available to them. Thanks.

Trang Nguyen: Thank you, Donna. Jonathan.

Jonathan Robinson: Thanks. Two quick points. One, we must be careful. Our job is not to redesign any processes or outcomes of the CWG. I mean, it's a valid question, although it seems like a relatively small issue, it's a valid question to ask did the CWG accidentally or inadvertently leave out this step.

No sense that that is the case therefore we should, you know, be careful that our job is not to redesign this escalation path, it is what the CWG proposed. And unless there's something substantial wrong with it or that we can identify that there was an error or an oversight in producing it we must work with it.

Second, is that just to recognize that the IANA functions program manager reports, as fact as far as I know, in the line manage sense to the GDD president, Akram currently, and also to the PTI board. And in fact there's an overlap there because it's proposed that the GDD president – GDD president

will be on the PTI board. So I would hope that any competent manager, IANA functions program manager, to the extent that they had a material complaint would refer – would discuss it with the person to whom he or she reports and possibly even raise it with the board.

So, you know, although that's not formally in the escalation path, the proposed escalation path, it's implicit that it would be in there and can only, if there was a failure to resolve it, does it go to the ombudsman. So I'm not seriously worried about this. And as I say, just remind us all of what the job we're supposed to be doing here. Thanks.

Trang Nguyen: All right thank you, Jonathan. Alan and then we have another item that we do need you to look at for clarification on the next slide. So Alan, please, and then we'll move on.

Alan Greenberg: Thank you very much. Jonathan said a lot of what I was going to say. The chart on the right looks an awful lot like Paragraph 367 of the report. Unless someone identifies something massively wrong with it why are we talking about it? It's a cut and paste from what we said in the report. So I think we need to go on.

I do have one comment, however. Donna was talking about complaints that – there may be complaints about redelegations. Last time I heard, although IANA does the homework on – or the back office work on redelegations – current redelegations for ccTLDs, the decision is ICANN's – it's the ICANN Board, the gTLD redelegations are decisions of presumably GDD, and based on contract. So I'm not even sure why we are discussing the concept of redelegations being something you appeal to an IANA function for.

I don't really need an answer, I just wanted to make that comment that I think that was a red herring unless I'm missing something. But let's go on. Thank you.

Trang Nguyen: Thanks Alan. And, yes I agree. I mean, what you see on the right hand table is exactly what is in the CWG proposal. We just noticed that there's a discrepancy with existing IANA process and so we just want to make sure that we flag this for you and if it's – if the omission is intentional that's great, we'll go with what's on the table in the right. But if it was inadvertent then, you know, we just want to know that as well. So but thank you.

And let's move to the next slide. Okay so Yuko you want to...

Yuko Green: Sure.

((Crosstalk))

Yuko Green: So the slide is basically a copy and paste from the Annex J which is the new escalation procedure proposed by CWG. The Annex J is about IANA problem resolution process for IANA naming services only. And Annex J contains three flowcharts towards the end of the Annex J. And Slide 1, the first chart and the second chart has the identical title which is IANA Problem Resolution Process except that they have one swim lane inserted. So I'm going to go to the next slide which would highlight the difference.

So again, this is the third slide within Annex J that has the same identical title of IANA Problem Resolution Process except that the PTI board is now inserted. We were not sure why there are two different flowcharts shown with the same titles. So we wanted to get a clarification as to which slide should we focus on for our implementations work.

And I will give the scroll control to everybody so that you can go back and forth to see the difference.

Trang Nguyen: And, again, this may be another item that Chuck may need to take back and do some research on. But, oh, Chuck you have your hand up. Please.

Chuck Gomes: I do this time a little faster. There are two different processes. And I think Donna hit on it earlier, an individual service complaint from a registry operator, whether that be C or G would have one escalation process. Note the very first box there in this flowchart that – or at least it's still on my screen here on the IANA Problem Resolution Process.

If the CSC determines – and notice this one is a process for the CSC to use. So is to determine a persistent performance issue. Then this is for that kind of situation. And they would first – the CSC would first go, as you can see in the flow chart yourself – go to the IANA functions operator. And if there's, you know, and then hopefully they will take action. And if that action is satisfactory you go back up there. If it's satisfactory the process ends. If not then the process continues.

So if I understood, you were confusing the two processes or thinking maybe they're the same and they're really not, they're for different uses. One of them – and I'll follow up on this one going back to the escalation design team, make sure I have it all right because it has been a long time. But I'm quite confident that there was – there are two different processes and two different uses there.

Backing up just a tad, I don't think it was an oversight to leave out the president and CEO. I think, as I recall, and my memory is a little vague, that's

why I'm going to do a little research, that that was intentionally left out. But again I will follow up on list in the next couple days.

Trang Nguyen: Thank you, Chuck. All right is there – are there any other clarifications needed for the escalation mechanisms, Yuko? Okay. There isn't. So let's now move to Agenda Item Number 3, any other business. So, Paul, you had raised the question on the last IOTF call and there's been some exchange relating to the question that you raised in the mail list.

I don't know if we want to continue the discussion via the mail list or if there's anything else that anyone wants to bring up during this call relating to the topic that Paul raised.

Paul, please go ahead.

Paul Kane: So thank you very much, Trang. So just very briefly by way of introduction, you're correct, it's been handled on the mailing list. It specifically relates to the CWG proposal and Annex C, Sections 7 and 8.

Unfortunately the documents I have read so far don't seem to capture Sections 7 and 8, the safeguards to ccTLDs. Remember the ccTLDs are a very diverse community. And I just was wondering in which documents the safeguards specified in Sections 7 and 8 would appear. They seem to be bylaw issues for PTI. But I haven't seen anything. So I just want to make sure that they haven't been forgotten.

My wording, and Alan was quite right to pick me up on my wording. I'm not wedded to any particular wording. I just think even if we capture the language used in 7 and 8 – Section 7 and 8 – it makes it very clear within the bylaws. I

was just trying to concisely – I was asked to concisely convey what the issues were.

So I apologize to all on the call about the wording used, which I've actually forgot the word that caused offense. So I just want to find it. Detrimental. I apologize for the use of that word but if there's another word or other wordings you that you think appropriate that would be great. The headline is where are Sections 7 and 8 of Annex C going to be captured? Thank you.

Trang Nguyen: Thank you, Paul. So as I was looking at your question a bit closer I think it is an item that could be either considered for the PTI bylaws and/or the ICANN PTI contract. And I think – I'm looking for Annex C as you are referencing. Yeah, so we could – I think logically that's where it would probably be captured in either the PTI bylaws or the ICANN PTI contract, the concept of it if you would.

So that's maybe an item that we could flag to make sure that we consider as the bylaws and/or the ICANN PTI contracts are drafted. Alan.

Alan Greenberg: Thank you. I don't have really strong feelings but both 7 and 8 – and thank you, Paul, for pointing them because I hadn't realized that was what your comment was in reference to. If you had said I missed it I guess. Both 7 and 8 are very, very clearly talking about restrictions or constraints on the IANA functions operator. So clearly it's in some document associated with that.

I don't think it makes much difference whether it's in the contract or the – or the bylaws. Both ultimately are under control of ICANN. And, you know, I'm not predicting nefariously changing it to say IANA can do horrible things to some parts of its client base. But ultimately I don't think it makes a big difference which it is. Both types of documents will likely go out for public

comment so I'm not sure it has a huge impact where – in which place it is.

Thank you.

Trang Nguyen: Thank you, Alan. Jonathan.

Jonathan Robinson: Just that we take an action here to ensure that this is conveyed to the lawyers when reviewing the documents to make sure that Section 7 and 8, as referenced by Paul, of Annex C I think it is, are adequately covered by – during the formation of PTI. That's probably sufficient. I mean, I certainly won't attempt to suggest how or where it's done but I think it's a matter of making sure that they are adequately reflected in the, you know, the documents governing the PTI. So that's probably the right way to handle it, seems to me.

Trang Nguyen: Thank you, Jonathan. We'll capture that as an action item. Paul.

Paul Kane: So thank you. I agree with Jonathan's suggestion and much appreciated. Just to come back to Alan's point, in the NTIA statement of works, the remit of ICANN is very clearly defined. And so Sections 7 and 8 actually apply to ICANN as much as they do to the IANA functions operator. So the reason for wanting them to reflect the statement of works of NTIA captured in 7 and 8 was more for ICANN's benefit than it is for PTI's benefit.

If ICANN reserves the right to change the bylaws of PTI then little has been achieved. It is ICANN who have the constraining element as per the statement of works from NTIA, which is reflected in 7 and 8. But I'm genuinely very relaxed as to where they appear provided there is not the ability to change them. I want the status quo to be captured and safeguarded. And for – if there is to be a change the impacted parties, to be those parties making the change, which is within the ICANN framework, not the PTI framework.

But it's a discussion for the lawyers provided ICANN is constrained and ICANN respects, we're happy. So but anyway I'd like to thank Jonathan and Trang and Alan for raising the issue or supporting the issue. It's very important that the interest of – the diverse ccTLD community is respected. Thank you.

Trang Nguyen: Thank you, Paul. (Elise).

(Elise): So I have a different question I wanted to ask but I don't want to close this off though if we had something else on the agenda. But – because I didn't add it at the beginning, I just thought of it.

Trang Nguyen: Sure, no problem. I think we've closed the discussion around that particular topic. There is I think on the mail list some questions relating to the RZMA which we can respond to via the list and provide and update on. And so if you have something, (Elise), that you'd like to raise please go ahead.

(Elise): Okay thank you. So I think in the appendix slides of this deck there's the list of the implementation items, could we just look at that really quickly. Thanks. So the one thing I was wondering is if, Trang, if you and your team have kind of rough timeframe by which you think the initial drafts of these documents are expected to appear. It's fine if the answer is no but I was just curious.

Trang Nguyen: Sure, sure. We do have in mind a particular timeframe but I want to validate internally, first, with our legal team because they're going to be the ones, you know, that will do the heavy lifting on these. And I know that they have been extremely busy with the bylaws. So I want to make sure I check back with them to see if work was able to continue to progress on these wider bylaws

drafting stuff was going on or if there's any delays. And we need to account for that.

So we can make a point to maybe share with you a rough time estimate on the next call after we've had a chance to confer with our legal folks internally.

(Elise): Okay, yeah that's fine. The reason I'm asking is because the – what is I guess, one, two, three, four, five, the sixth item, the ICANN PTI contract is now barely listed as an external reference in the bylaws which I personally think is a very misguided idea but it's there at the moment anyway.

So to me one thing that that says is that it might make sense to prioritize writing that document ahead of the others because if anyone wants to make an argument that the bylaws can't be ratified or, you know, are not really in a position for anybody, including the US government, to be able to evaluate them if they have reference to external documents that don't yet exist. And one way to beat that down is to make the documents exist and the ICANN PTI contract doesn't exist yet.

So that's why I was asking is it might make sense to reorder these a little bit if that's the case. But if they're all expected to be done, you know, in a matter of days or a week or two or something then it doesn't matter. So that's why I was asking.

Trang Nguyen: Sure. That's a valid question. And to some extent we almost have to in tandem work on the contract and the bylaws at the same time because as I mentioned there's going to be some elements where we have to consider whether or not it makes more sense to put that in the bylaws versus the contract or in the contract versus the bylaw or maybe it needs to be split up and be reflected in both documents.

So to some extent it, you know, we're working on all of these in tandem but the actual drafting of the documents I think we were hoping to get the PTI formation documents drafted first because we want to be able to move ahead with the incorporation process and the filing for 501(c)3 as soon as possible where as the PTI contract we won't be able to fully finalize for the board consideration and approval until we have the names SLEs defined which is currently expected to happen in the mid-July timeframe.

So that's sort of the thinking. But in terms of the initial work on figuring out what elements will be included in which document, you know, we're kind of taking a look at that from a holistic point of view.

(Elise): Okay thanks.

Trang Nguyen: Thank you. Chuck.

Chuck Gomes: Thanks. And I'm going to follow up a little bit from what (Elise) said and even going back to Paul's concerns a little bit. And I'm going to formulate this in the form of a question for those who are clear on the CCWG accountability mechanisms.

If the ICANN PTI contract is referenced in some way or even included in the ICANN bylaws, does that provide more accountability with regard to that contract than if it's not? And just to illustrate part of what I'm getting at if the Section 7, 8 of Annex C are included in that ICANN PTI contract, and that is not referenced in the bylaws, does that mean the CCWG proposed accountability mechanisms don't apply to that contract? Did that make sense?

Trang Nguyen: Yes, Chuck. And the first thing that comes to mind is that I want to go back and review the language in the ICANN bylaws and see if the PTI – ICANN PTI contract, first of all, is referenced within the ICANN bylaws and if it is referenced, you know, where and how it is referenced. Because depending on whether or not that's true you could have some coverage from that perspective as well. But we need to go back and look at the ICANN bylaws and see.

Chuck Gomes: Thanks, Trang. And then the converse of course is that – or maybe I should say the reverse is that if it's not in the bylaws then does that mean we don't really have good accountability on that contract? I don't know the answer myself, it really is an honest question but I think an important one for us to answer.

Trang Nguyen: Well and, I heard you. And I don't want to – we're already three minutes past the hour so perhaps we can pick this up. But I think if we think through the defined escalation processes within the CWG proposal I think it ultimately would lead to the CCWG accountability mechanisms being able to be triggered at some point. But we probably want to take a look at that closer and think that through a bit more.

Chuck Gomes: Thanks.

Trang Nguyen: Thank you. And, Paul, is that an old hand or is that a new hand? Oh thank you very much.

Paul Kane: It can be a very brief hand. The point is the contract between two consenting parties, ICANN and PTI, can be changed at will when the contract is reviewed. If it's in the bylaws, particularly of ICANN's bylaws, it's a significantly harder job to change the remit because it does fall under the ICANN accountability framework. But thanks very much anyway.

Trang Nguyen: Thank you, Paul. And there may be some provisions or some language that could be written into the contract that would require any changes to go through some sort of a community an approval process as well. But all right, thank you very much.

All right so I'm sorry that we ran about four minutes past the hour. Thank you so much, everyone, for participating today. Our next call is scheduled for next Monday at the same time...

Yuko Green: Twenty UTC I believe.

Trang Nguyen: Twenty UTC. All right so thank you very much, all. And we'll talk to you next week.

Cheryl Langdon-Orr: Thanks, Trang. Thanks, everyone. Bye.

Lise Fuhr: Thank you.

Trang Nguyen: Can we stop the recording please?

END