

ICANN

**Moderator: Brenda Brewer
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3:00 pm CT**

Trang Nguyen: Thank you. So this is the Implementation Oversight Task Force, IOTF, call Number 12 on June 15, 2016. Hello, everyone. Thank you for joining the call today. On today's agenda we are going to pick up the discussion from the last call on the responses to Sidley's questions on the PTI bylaws and articles of incorporation and hopefully finalize the discussions around that so that we can bring the document to the CWG tomorrow.

And then also on the main agenda item for discussion is the PTI staffing topic. And we circulated a PTI staffing rationale document so we'd like to open it up for discussion with this group here. And then for the AOB portion of the agenda we want to - we want to regroup with you regarding the implementation update session in Helsinki. We also want to touch on the work plans to finalize the PTI document that we circulated to you previously. And then if we have time take a look at the decision log.

Are there any comments or anything else that anyone would like to add to today's agenda? Okay very good. Let's go ahead and get started then. Jonathan, I see that you have joined, and could I turn things over to you to lead the discussions on the PTI bylaws and articles of incorporation, or Lise?

Jonathan Robinson: Thanks, Trang. So, yes, certainly, I mean, I'll work, I'm sure Lise will come in as and when necessary with us on this. I'm happy to pick up and lead through it. I think it would be useful to probably work through it from beginning to end but clearly we didn't - I don't want to just pick up where we left off last time because there's been discussion in the meantime. But it feels to me like we should try not to be bogged down on points where we have agreement.

And I'm going to try and push us but if I'm - gloss over or don't deal with a comment that someone's made then by all means, bring me back because I think it would - as I say, there's been some development; it's not as though we can just say we had a static document last time as we made our way, you know, halfway through it therefore we can just pick up at the halfway point.

So with the group's acceptance, I would like to do that is work through from the beginning to end and just make sure we're all okay so that we can then, as you say, present this to the CWG and say ideally it's, you know, the chairs have made a first go at it, the IOTF has reviewed it, and then we can present that to the CWG for further comment and/or ratification as the CWG's point.

Good so there's support from Cheryl and Chuck at least to go through with that. So let's try and get the document up and going. And just thank you. Now, with this, I must say, with it in this form, that's great to see it in that size on the screen. What it doesn't show is the comments. So I'm really going to have to rely on others who know the comments are because otherwise I'll have the screens swapped. I do have a - I had a version of the document up in front of me where - that you had linked to previously. Let's see.

Yes, okay you've got - thank you for that link in the slide there in the chat. So for everyone's benefit the live edited document - the Google doc has been linked to the from the left hand window.

So I think we dealt with the first point and Section 5.2.3, my sense is that that's now complete. We put the diversity considerations in there. And I think we dealt with that. I'm going to be switching between screens so just - if I missed someone's hand up just call me to order because I'm switching between the Adobe Connect and the Google doc to make sure we can see the Google doc. So I think we can call 5.2.3 closed as far as this group is concerned. I think we can call 5.3.3 closed as well.

But it doesn't seem to be additional comments there on that one. 5.4, election of chairperson, we - I think we agree there's a chairperson required. We agree that that needs to be elected by the Board. I think we agree that the chairperson should not be the PTI manager. And the key change that we made last time was that we wanted a NomComm appointed director chairperson preferred but not mandatory.

And then going further in 5.4 that the - let's see, got to track the comments as well with all the - the detail of the comments. There's maybe the PTI manager must be the PTI manager. And I think we preferred "may" be the PTI manager. The reason being that we didn't enforce that. And yet we permitted it. And it's logical that it should be so, but it's - there's perhaps not a need to require that to be the case.

And then there's, I think, Matthew's point that we prefer that one or the other not be a seconded ICANN employee to ensure some level of independence and arm's length. I'm not sure whether that contradicts or softly contradicts with the fact that the NomComm appointed chairperson (unintelligible)

because, well, I guess it depends the secondment is sort of open issue as well. We deal with this, prefer that one or the other, chair or president, not be a seconded ICANN employee.

I suppose to some extent we - well that would be covered if it was that the chairperson must be one of the NomComm directors. But to the extent that the chair - so we could say NomComm appointed - is that the secondment is (unintelligible) with the independence, it's really whether it's a PTI staff member or not as far as the chair is concerned. On here. Yes, any suggestions as to how we might word that to cover the concerns or do others have this same concern?

My challenge here is that we've got the PTI manager who is very likely to be an ICANN employee or a - or a PTI employee or an ICANN employee seconded to PTI. And we've got the chair - we don't insist the chair is a NomComm appointee but the possibility is the case that both the PTI manager and the chair could be ICANN or PTI employees.

I mean, we could make a soft requirement. We could do something, as we've done before, where we say NomComm appointed director is preferred if possible and we could say it is preferred that the chair and president are not both PTI staff. Whether seconded or not.

Lise Fuhr: Jonathan, Cheryl has her hand up.

Jonathan Robinson: Okay thanks, Lise. Go ahead, Cheryl.

Cheryl Langdon-Orr: I was perfectly happy to wait until you'd finished your thought, Jonathan. I was just going to come in in support for that soft option with the preferences. I mean, in - my personal preference is very much strongly along those lines.

But I think, you know, we have to allow for a degree of reality that it needs to be a preference rather than a hard and fast rule.

Jonathan Robinson: Cheryl, that's helpful. So we need - and Grace, for those of you who are not necessarily on the Google document, Grace is live editing that. So - but I think what we've got there is that previously there's a NomComm appointed director, and we don't even have to type out this wording, the wording is a little informal at the moment but the gist of it is that the NomComm appointed director chairperson is fairly possible and then secondly, that preference is that the PTI president and chairperson not both PTI employees. PTI staff. Yes, staff in brackets whether seconded from ICANN or not.

And call me back on that wording if anyone is unhappy that that reflects what - where we seem to be. In the interest of time I'll keep us moving then. And we've covered already the final point that it appears that maybe the PTI manager.

Elise Gerich: So, Jonathan, this is Elise. I have a question mostly because I got a little confused on this. So I understand...

Jonathan Robinson: Go ahead.

Elise Gerich: ...you're saying the chairperson of the PTI Board, there's a preference that it'll be the NomComm nominee. And then the second part is there's a preference that the president of the PTI Board and the PTI manager should not both be employees of ICANN. Is that what I heard?

Jonathan Robinson: I've worded just subtly differently, Elise, in that I said that they should be staff of PTI because I don't want to - because it's possible in future that PTI or it's possible that - I don't want to presume that PTI staff are or are not

seconded from either stage. So it's really the distinction between the PTI manager or president being clearly and operating staff member and the chair person being someone with a degree of independence, which in my understanding of sort of good corporate governance is fairly standard practice.

So does that help clarify?

Elise Gerich: That helps clarify somewhat but I'm still curious about that and of the preferences for that and because in that scenario if it's staff of PTI you would never have a chairperson who would be the president of PTI from what I thought I read in the rules. And so it's only that you could only have them both being staff of PTI if you allowed the president of PTI to be the president of the board. Or have I missed - I'm just trying to figure it out. I'm sorry.

Jonathan Robinson: No, let's go back to- it's a good question because you could, for example - I mean, there are going to be three board members that are PTI that are PTI staff.

Elise Gerich: No.

Jonathan Robinson: And/or ICANN staff.

Elise Gerich: I thought that wasn't the case. I thought there were two - three board members appointed by ICANN, right? And that doesn't necessarily mean PTI staff.

Akram Atallah: Or ICANN staff, Jonathan, my understanding was that an ICANN Board member could be appointed on the board of PTI as well. So ICANN can appoint three board members. That's what the proposal said, right?

Jonathan Robinson: Okay so, I mean, formally, and at least technically, ICANN appoints all the board members, right, so let's just get that right. I mean, it is ICANN's affiliate and ICANN appoints all of the board members. That's point number one.

Second, two of those that are presented to ICANN to appoint, and we don't have any doubt about that, come - are offered up to ICANN to appoint via the NomComm. Then you've got these three - the majority that are either - that are - we didn't prescribe it, we suggested - from memory we envisaged that it would be the three likely roles were the PTI president, the GDD president and the CTO, but we didn't prescribe exactly who ICANN should appoint as the - as those three roles.

Those were the - and so in a sense it's ICANN's prerogative as to who are appointed, but it would make sense to appoint people with expertise and responsibility for the effective functioning of PTI. That's my memory. And someone can correct me if I'm wrong but that's my sort of memory and understanding.

Elise Gerich: Well Greg Shatan wrote in the thing, ICANN only nominates three, NomComm nominates the other two. I think that's consistent with what you said. The point that I was trying to understand was the proposal to have a preference for the chairperson to be a NomComm appointee, which I think I understood, the chairperson of the board. The preference is for it to be one for the nominees that came from the nomination committee.

And then the other was that the president of PTI - now I've forgotten what was said. The president of PTI could not be - I don't know, tell me again. See, I am confused. There was another preference. The one was it - it shouldn't be

the PTI manager should not be the chairman of the board, it should be someone from the NomComm.

((Crosstalk))

Jonathan Robinson: Let me try and articulate and then I'll go to Greg. And maybe there's a better form of wording here. But the issue would be ICANN appoints the PTI president to the board. The PTI president is on the board. ICANN then - the board then says, actually, we're going to elect ICANN's CTO as chair of the board. The preference that's being expressed is that that would contradict the preference because you've got two ICANN staffers in both an ICANN and stroke PTI staffers, in both the chair and president role. And that's what that preference - that's my understanding of what that preference seeks to avoid.

Go ahead, Greg.

Greg Shatan: Greg Shatan for the record. I guess there's a - maybe a contradiction or at least a tension between what seemed to be, you know, some of the preferences and some of the permitted things. And looking at what Grace pasted in not too long ago into the chat, it says, "The president may be the PTI manager." But it also says, "There is a preference that PTI president not be PTI staff." But the PTI manager is PTI staff whether seconded from ICANN or not.

So it would seem to - the logical conclusion from that is that while the president may be the PTI manager that's disfavored. But that's only a conclusion of logic gains type of logic. I'm not sure if that's logically what we want to have happen. It seemed to me that having the PTI manager be the president, not the chair of the board but the president of the corporation actually makes a lot of sense. So I'm not sure why if we're saying that there's

a preference that the PTI president not be PTI staff. I understand the preference with regard to the chair but not the president. Thanks.

Akram Atallah: Yes, I think that makes sense, Greg. This is Akram, by the way. I think you're right, you don't want the CEO to be the chair, and so what you're saying is separate those two positions, but the manager can be the CEO or the president. Yes, I think that makes sense.

Jonathan Robinson: I'm just seeing the wording that's written in the Google doc and that's not correct how it should be. I mean, that certainly maybe this is what's causing the problem is because what it says is the - don't edit it yet, Grace, because it says at the moment it says there's a preference that neither the PTI president and the chairperson be staff. I think the point there was that the preference was that it not be both the PTI president and the chairperson be staff. That was what was intended. That was what I understood that is that it not be both the PTI president and chairperson should not both be staff.

I wonder if we're tying ourselves in unnecessary knot here. I wouldn't mind going back to - and that was really the point. The point is simply that. That you've got your two pivotal roles on your board are your PTI president and your (unintelligible). And Matthew's point was that they shouldn't both derive from staff. One should not be the case.

So and I say, I would - I'd just like to question, first of all, I'd like to go back a moment because if - where we were with the PTI manager we - on Chuck's suggestion we said the president may be the PTI manager. Is there any reason why it would not always be the case? Is this creating just a little bit of leeway? I mean, it strikes me that that was the intention that the president, which is why it was previously written that the president must be the PTI manager.

Chuck, go ahead.

Chuck Gomes: Aren't we just wanting to say that there's a preference that both the chairperson and the PTI president not be - or maybe the cleaner way to say it, the preference is that one of the chairperson and the president be a NomComm appointed director. That what we're trying to accomplish?

Jonathan Robinson: Correct, I think that was what was intended, yes.

Chuck Gomes: So can we say it that way?

Cheryl Langdon-Orr: Chuck, Cheryl here. Jonathan, I think Grace's language, the last set of language she put in the chat works for me anyway.

Chuck Gomes: And this is Chuck. And that's the same thing as saying that one of them is a NomComm appointee, isn't it? I'm fine with what Grace said, that covers it I think. But I think it's the same thing as saying one of them must be a NomComm appointee or it's desired that one of them be a NomComm appointee, because the NomComm appointees are the only ones that aren't going to be.

And I'm - why are we talking about PTI staff - it seems to me we should be talking about independent staff, in other words, that would exclude PTI and it would exclude ICANN staff. Isn't that what is desired here?

Akram Atallah: I think - this is Akram, Chuck, I think you mean independent director.

Chuck Gomes: Right. I do, Akram, that's correct. Thanks. This is Chuck.

Elise Gerich: So Donna Austin wrote in the chat room and I think that's what you all were trying to get to or at least that part I understand. This is Elise again.

Jonathan Robinson: So if I could - just a couple of points on sort of order here. First of all, I think it would be very helpful, Grace, to not put comments both in the chat and on the Google document because it then becomes unclear so let's just - if I can - we need to be on one page all of us.

And second, if I could ask people to raise their hands. It makes it difficult - so just to keep some point of order if we're going to talk. I think we've - we - I think we have it - it seems to me we've got it covered clear-ish now. I mean, Donna, you've put president equals PTI manager in the chat. We had that originally that the president must be the PTI manager. And we softened it to the president may be the PTI manager.

And I think the intention there was not to unduly constrain us. It is likely that the president will be the PTI manager. So I think we're okay on that, the president may be the PTI manager. I mean, my personal preference is that it would be - just constrain it and make it clear but I understand that that constraint may be a step too far.

We've then got the chairperson elected by the board and a preference that that chairperson is an independent director. Again, with the intention of not unduly constraining the way things - the way things operate. And then the final point is that notwithstanding all of that the preference is that the PTI manager and the chairperson are not both staff. Are not - and I think that captures it. Lise, go ahead.

Lise Fuhr: Sorry, I just have a question because I get - equally confused the more we talk about this. So the president actually relates to the organization and not the

board, right? And why are we talking about the president in this relation? To me, actually, I think the way Donna put it was fine for me, if we call it the PTI president or the PTI manager, I don't care, but I might be wrong. It might be completely different function. So that's a question. Is it the same function and it's with the organization or is it also on the board?

Jonathan Robinson: That's a good question. And I must say I don't think - that's a good point. I don't know if the president is necessarily a director. And I'm not sure if anyone is willing to come forward and clarify that. Greg, was that something you responded to to clarify or do you have a different point, in which case I'll stick to the queue.

Greg Shatan: No this is Greg. I was going to talk to that point. As far as I understand from what's been proposed so far there is no proposal to have the president sit ex officio on the board the way the ICANN president sits ex officio on the ICANN board. And so the five seats would be composed of, you know, the five nominees, you know, who would be nominated as such, not ex officio, the three plus the two and the five together selecting the chair and the president - position of president which is an officer position, not a director position, is really kind of just getting muddled in here by accident.

It is permissible for the president to serve as a board member but that doesn't seem to be - that is legally permissible. But I don't believe that that is the plan that we have. So I think the president is supposed to be more what Lise said, the kind of chief overseeing officer and executive person internally to the PTI crew and therefore really the PTI manager, as such, and kind of seems to me that separating the role of the president and the PTI manager is creating an unnecessary job of president. And unless, you know, that managing the corporation versus managing the function is not really a - a dichotomy we

need and really it's the, you know, the chairman of the board in the sense that manages the kind of corporate aspect at the board level.

So without tying ourselves in unnecessary knots, if we kind of take the president - you know, for diversity purposes we can talk about having the president and the chair not kind of come from the same well but that's not - other than that a discussion about who sits on the board. Thanks.

Jonathan Robinson: Okay so let's go back to the queue then. I mean, Donna asks, would you have the circumstances when you would, I mean, my understanding coming into this was president equals PTI manager equals board seat, one of the board seats. That was my expectation. But I understood that somewhere requests - these weren't hardwired together. Chuck, go ahead.

Chuck Gomes: Okay so thanks, Jonathan. This is Chuck. And whether the president sits on the board or not, the president will not be independent. And if that's correct, then to accomplish what Matthew is suggesting the chair has to be independent. Or, you know, the desire is that the chair would be independent. Is my logic right there, that, I mean, the president is not going to be independent, we know that. So that means if we want to have a preference for one of them being independent it has to be the chair.

Jonathan Robinson: Correct, Chuck. And that was why it was worded as it was originally. So I think in my view, I think we're creating an unnecessary dichotomy by first of all, in any way, suggesting that PTI manager and the president should be separated. My view is that we should probably link the two. Yes, it's difficult because I sort of authored together with Lise the first draft of this and the first draft had the PTI president and manager as one and the same.

It's ICANN's prerogative whether to appoint that person as one of the ICANN nominated board members. That's a separate point. But I guess that Matthew's point is, if they do do that, if they do put that person on the board, then the chairperson - must or ideally should be one of the independent directors.

Trang, you've been waiting a while to speak.

Trang Nguyen: I raised my hand for Akram so that's...

((Crosstalk))

Akram Atallah: We're all in the one conference room. So I think it's much more clear now. Yes, I think if we do not confuse things by saying that it is, you know, PTI manager and then there is a president, things will get a lot simpler. This is like Lise said, this is a position internal to the organization. The three nominated by the ICANN board to sit on the PTI board will be not independent directors and you have two independent directors by the NomComm.

I think that to achieve what is normal governance it would say the PTI president could not hold both positions, president and chair. That would, I think, address all the issues. So that's the normal governance problem is that you have both positions held by the same person and the - we've been going away from that in governance for a long time. And so to leave that whole would be probably not a good idea. I hope that clarifies things. Thanks.

Jonathan Robinson: Thanks, Akram, that's helpful. Chuck, go ahead.

Chuck Gomes: This is Chuck. And thanks, Jonathan. I think we're getting close here. I think you nailed it a little bit ago, Jonathan, when you said that it appear - I think

you said this - it appears that Matthew is assuming that both the president - the president would be on the board. So I wonder if we preface this preference, with if the president is a director, then the chair should be independent.

Now unfortunately, Matthew is not on the call to confirm that assumption. But I'm - I think you're probably right that he's assuming they're both on the board.

Jonathan Robinson: Chuck, Matthew is on the call so that's - and...

((Crosstalk))

Chuck Gomes: Oh he is, okay good.

Jonathan Robinson: So going into this - going into this the first draft of the answers - I must say there was an assumption - there was an underlying assumption that the president would be on the board. Given that assumption the requirement was that the chair must be independent and must be one of the two independent directors, which as Akram has said, and has and others is a standard good governance. Both that it's separate to and independent. And Cheryl agrees that that was the assumption.

But let's just work just in case of the scenario where the president isn't appointed to the board, I think we've got the answer anyway. And what we have is that we've said that in Akram's word, if the president is a director than the chairperson should be a NomComm appointed director. That seems to work.

And, Grace, the person must not hold both positions, president and chairperson. And you can leave the previous sentence that you have there. Okay, you're just copying and pasting.

Waiting for the wording to stabilize. Okay. We have currently, "The president may be the PTI manager." We're not forcing the president to be - to (unintelligible) should be a NomComm appointed director.

Grace Abuhamad: Jonathan, this is Grace.

((Crosstalk))

Jonathan Robinson: We need...

Grace Abuhamad: I was going to delete the next three sentences.

((Crosstalk))

Jonathan Robinson: Yes, Grace, go ahead.

Grace Abuhamad: I was - so I was going to delete the next three sentences. So the two draft preference that we wrote and then the sentence about the president holding both positions since the final sentence that we came to, which is now if the president is a director then the chairperson...

((Crosstalk))

Jonathan Robinson: I think that's the case but I don't - yes, for completeness though you could keep the third one. You could say, for the avoidance of doubt, the president could not hold both positions, president and chairperson. And then it's...

Chuck Gomes: Don't we have that covered in the - in 5.4? Maybe not.

Jonathan Robinson: Sort of belts and braces, I agree with you, Chuck, there's a little bit of repetition in there and it may be - Grace, go ahead.

Grace Abuhamad: Sorry, that's an old hand now.

Jonathan Robinson: Because of the discussion that's gone on there I think I'll recap it at the risk of opening it up again. We've got a - we have a chair - we require a chairperson. We require that they're elected by the board. We require - we state a preference that the chairperson be a NomComm appointed director. We say that the president may be the PTI manager rather than must be the PTI manager. And we say if the president is a director - what we really mean there though, similarly we also - unless we say - I think you're responsible for this president may be a PTI manager.

And here's the problem, when we come to that final sentence we say, "If the president is a director then the chairperson should be a NomComm director." But what we're not covering then if the PTI manager is put on the board that isn't the president. So really it strikes me that we should make that link hard between the president and the PTI manager. It seems to me that it's the same role. And maybe you could clarify why you were concerned about that.

But Donna's hand up and then you could perhaps come on after.

Donna Austin: Yes, thanks Jonathan. So I kind of had the same question. So if the president is not the PTI manager then who will be the president? So will it be one of the three appointments made by ICANN? It seems as if - if the president is not the PTI manager then it leaves that question open. I don't know whether that's a

problem or not but it would be - I guess it would be good to have a conversation to understand what the thinking is or how we think that will be resolved. Thanks.

Jonathan Robinson: Thanks, Donna. That's a good point. I'm reminded by Trang, you know, we don't have much time. We've set aside an hour for this call and we're clearly getting into quite - we're tying ourselves in quite the knot here. So, Chuck, I'm sort of waiting for you to come in as to how strongly you feel about this soft link between the PTI manager and the PTI manager and president.

Chuck Gomes: Well this is Chuck. So I was trying to type but I kind of got stuck. First of all, we know that the president is part of PTI, right? The president is not necessarily part of the board. Can be, but it's not a given. So again, it seems to me to accomplish what Mathew wanted we have it, don't we. If the president is a director, then, the chair has to be independent. Do we really need - why do we need more than that? I think we're confusing...

Jonathan Robinson: I think you're right.

Chuck Gomes: ...the role of the president, which is part of PTI. The president role is a PTI role, correct? That person may also be on the board and that's the case that I think Matthew was addressing in his preference there. Why do we need more than that statement?

Jonathan Robinson: We don't, Chuck. We've got what we need as far as that element of corporate governance. The only question I was asking about was this point about whether or not we create - what we effectively do by saying the president may be the PTI manager, this has to do with the director or not, is we create the possibility of having both a president and a PTI manager.

And that's the question I was asking. But I'm okay that we've covered from a board governance point of view we've dealt with this in the way that people wanted to.

Matthew, go ahead.

Matthew Shears: Yes, I'm sorry for making this so complicated. What I was trying to do from the very beginning and I think I was hoping it was clear, was to achieve a sense of balance between independence of the chairperson of the board and the role of president, which I think we assumed all along would be the PTI manager.

And I'm comfortable with the - with the last approach that you described, Jonathan, the only thing I would add is whether or not it would just make sense to make the chair of the board a NomComm appointee and that way it's - it frees up a little bit and allows for the flexibility of the PTI manager being the president or not. Thanks.

Jonathan Robinson: We had that - that was (unintelligible) into the first draft, that the chairperson, if you look it's scrubbed out in the - one you have in the Adobe Connect, it's this chairperson must be one of the NomComm appointees. And there was some - that tied it exactly. So Chuck says that the best person for chair might not be the NomComm appointee. So that was the concern expressed, that there may be a better chair.

The problem with that is that the only better chair is then going to be an ICANN staff member, which breaks the independence of the chair. So they may be a very good chair but they won't be independent at that point.

Okay, I'm very mindful of time. We've gone 45 minutes into the call. And I think going to have to take a sort of higher level view of the document as it stands at the moment. This is a dress rehearsal for our CWG call tomorrow, makes it - makes me concerned about time for that as well but we've got a little bit more time left.

So let's have a look at the rest of the document and see if there are any other (unintelligible). I think my sense is that there was a discussion around terms and term limits and so on. My feeling is, having read through the comments and read through it, was that we need to settle on two year terms and no more than two of those. And so that's where I think we've settled on - with all of the discussion.

That feels to me like the balance of opinions. Please shout loudly by raising your hand and making your view firmly known if you disagree that that's where we settled. I mean, there were various points made but I think that's about where we settled.

I'm looking for the next area where there was - key area where there was a question at least. I don't think we have much question over - let me see where there were other key questions. Certainly there was one that Chuck challenged me on and others may have had a question on about this point where there was a higher threshold whether there should be a higher threshold than three of the five directors (unintelligible) key actions.

Now, we didn't seem to have a (unintelligible) over the fact at that there should be a higher threshold under certain circumstances. Where the question was raised is, is the - and part of that statement. And it had - when Lise and I first went through it, we talked about having both - the higher threshold and as

part of that raised threshold but two of those directors be the NomComm or the independent directors.

So for example, a key decision is when - and the question was whether that was a necessary additional strengthening of the decision making. I guess my sense was that if it could readily be the three ICANN nominated directors that's only one - I'm not quite sure how to rationalize this. I don't know if others have looked at this, the board requiring a higher threshold and whether or not this should require the NomComm directors to be part of that or whether it's simply the higher threshold being the floor.

Chuck, go ahead.

Trang Nguyen: Chuck, we can't hear you.

((Crosstalk))

Chuck Gomes: I'm talking to myself, sorry. So I guess I'm kind of speaking for Matthew because he did respond to my question in this regard. And he said for greater independence. And he's probably right because the three - the three ICANN employees or whoever they are, probably will vote in unison. So maybe he's right that maybe it's okay to have the two NomComm appointees as a requirement as part of the four-fifths.

So I'm not opposed to that. I would - I just wanted some clarity on why because it didn't jump out at me at first so I'll stop there.

Jonathan Robinson: Thanks, Chuck. And you've got a checkmark from Cheryl. I mean, I wrote that and for some reason was unable to properly articulate to you and others

why I felt that but that's in essence it. With the three ICANN directors - ICANN nominated directors could readily act in consort.

You know, they could act together as one and therefore you've got the notionally higher threshold where you've got something really important and yet you're allowing three of them - three directors who are perhaps aligned, and whereas you break that alignment by insisting that when there's those higher thresholds two of them must be the NomComm appointees. And I didn't articulate that really well but you obviously had some better or supported articulation from Matthew. So I suggest we stick with that and go with that into the CWG tomorrow. Grace, that applies to 5.1.1.3 and 6.1 and that is those examples there.

I think my sense on 5.1.6, which is fees and compensation, is that it was - what we didn't want to do was preclude forever the possibility of compensation but we did want to start off without compensation. So what I think we're saying is that where the NomComm directors are not compensated for their work - we could say something like although this may be reviewed in future, how do others feel, do we even need to say that or should we just leave that up to the powers that be in future to consider that?

Any comment on that whether we create opening for this to be reviewed in future or we just simply leave it that they are not compensated?

Chuck Gomes: This is Chuck. Isn't there an automatic opening? I mean, it can always be reviewed but, I don't have any problem with saying that.

Jonathan Robinson: We might be seen as the founding fathers who sort of - excuse the gender specific term - but we might be seen as those that give rise to this, you know,

entity and forbade compensation forevermore. So it's really that it's just a question of how soft or hard that is. Donna.

Donna Austin: Yes, thanks Jonathan. I think perhaps leave it as it is understanding that there will be a review of the IANA functions operator, what, in two years' time, so it, you know, could potentially be picked up as part of that.

Jonathan Robinson: Sensible. I think that feels right. It can be covered in the review. All right, so that deals with that. And then we've got some further points on quorum as we go down. Must include at least one ICANN director and one NomComm. Grace, you'll see article 12, lower down, amendments, has again that same point about and so the square brackets need to come out and the same for PTI articles of incorporation.

All right, mindful of the time we are - it sounds like we will need to run over. And I think - my sense is, and I'm sorry I've rushed a little bit. We did get rather caught up with that president board chair in the beginning. I think I'll hand it back to Trang at this stage to try and take us through the rest. And just a warning to all of you that we're seven minutes before the hour, I think we're going to have to run over the top of the hour a little. I hope you can - most of you can manage to work with that. Thanks, and, Trang, sorry for the pace at which we managed to do.

Trang Nguyen: Yes, no, thank you, Jonathan. So the next topic is PTI staffing. And we circulated the PTI staffing rationale document to the group and so we want to open it up for discussion today. Just a couple (unintelligible) which is that, you know, we did say in the rationale document that we recognize that there are many different ways to staff PTI, but what's reflected in the rationale document is basically what we believe to be the best way to staff PTI to

ensure the stability of the IANA functions. We just think everyone would agree is the most important thing.

And, you know, we feel that the only way to be able to ensure the stability of the IANA functions is to maintain the current employment arrangement and use the common as the approach. You know, anything other than that I think we run the risk of the employees deciding not to move to PTI. And certainly, you know, there are things that ICANN could do to minimize that, but still the risks still exist.

So I'll stop there and open it up for discussion. Chuck, please go ahead.

Chuck Gomes: Thanks. Well, in the Registry Stakeholder Group I distributed the rationale document and asked for feedback and we got some good feedback. And we also talked about it in our Registry Stakeholder Group call today. And so the first thing - the registries are strongly in support, just like our comments all along the way have said, in support of the stability and continuity of the staff. We think the staff is great. They're doing a good job. And we don't want to do anything that might detract from that. So it's very important to understand that that's what the Registries think.

Now, there were some concerns expressed in the registries, and there was support for Greg's comments by at least one person. And so my suggestion, and I have the support of the registries to suggest this, is that we take some time, we go through the comments that have been submitted, and I don't think we necessarily have to go through all of - for example - all of Greg's comments because some of them are correct, but they don't necessarily impact whether seconding is the best way or not, whether seconding is an advantage over other options or not, is not particularly important to us.

What is important is that we make sure that the seconding approach meets the requirements of the CWG proposal. The registries are hoping that just by going through that exercise and maybe fixing some things in the rationale document, or whatever else may need to be fixed, that the seconding approach works.

But let's take the time and let's do that so that there's no questions when we're done and we don't have to come back and revisit this at a point that's too late in the process. We're already later in the process than we should be and that's unfortunate. But that is what it is so I promised the registries that I would communicate that. So we're supportive of the seconding approach. Let's make sure - let's see if we can make that work and satisfy the questions that are being raised by several with regard to that approach. Thanks.

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

Greg Shatan: Thanks. This is Greg Shatan for the record. I'll preface my remarks by saying that, you know, clearly the PTI staff are highly valued and they are, you know, at the center of this entire process. And, you know, it's clearly, you know, very important that they remain as, you know, satisfied and motivated as ever if not more so, perhaps should be flattered that everyone's fighting over them.

But that might be expecting too much during a period of uncertainty. But in any case, I think that on a purely practical basis, you know, we make the secondment work. My primary concerns on a practical level are how the secondment will work at the time of exit. And to make sure that the potential exit where or separation where PTI becomes, you know, fully independent is not hobbled by the fact that it's those who are functioning as its employees are not employed by it and employed by another organization.

So I think we need to, you know, make sure that any transition does not or any language we have does not disfavor that type of kind of spinout at the time that it may happen. Obviously we're talking about human beings and at that time they might not want to remain part of an independent PTI, but, you know, we can explore what that means.

There are some concerns I raised in my comments that, you know, go more to kind of the day to day. You know, for instance, if, you know, there seems to be some contemplation of people - ICANN staff coming in and out of PTI and whether that - and how that would impact all of this. I think that's secondary.

The big unanswered question in my mind is still whether secondment meets the requirements of the CWG proposal which is not entirely a practical question, it's a policy question. It may be that we, you know, it might have been nice to have left more wiggle room for secondment, you know, based on some of the practical considerations that we're all, you know, looking at now.

I'm just, you know, far from convinced that we in fact left that wiggle room in looking both at the language and thinking back to the discussions I think, you know, the idea was to have a more independent PTI than secondment really allowed. So we may need to figure out what to do with - if there's a general desire to proceed with the secondment how the CWG, the ICG and others, you know, would look at that from a point of view of carrying out the remit that was placed in the proposals. Thanks.

Trang Nguyen: Thank you, Greg. Avri, you're next in the queue. Please go ahead.

Avri Doria: Thank you. This is Avri speaking. What has been said by Greg and Chuck before definitely resonates with me. Have many of the same concerns they do. And also I want to reiterate that while I come to accept that stability of PTI is

the driving reason for the tradeoff between independence and secondment in the initial case, I remain concerned both about the conflict of interest of a manager/president's responsibility to PI versus their responsibility to ICANN being in conflict.

And I'm very concerned about permanently committing ourselves to secondment for all future employees. I think that while the stability argument argues for, you know, now we've got great people, we want to keep them in. We don't force them to make a life decision based upon this change, I think that reasoning does not apply to future employees. And, yes, while there may be a need to balance the benefits and such of the two, I find that that commitment that all future employees be seconded very disturbing.

So as I say, I accept it in the first instance, except for manager president, but in terms of a long term I just find that a disturbing thing that goes back to what Chuck said is we really need to think about this more and talk about it more and this was not something that was predicated by the CWG's prior decision. So I remain unconvinced. Thanks.

Trang Nguyen: Thank you, Avri. Lise, please go ahead.

Lise Fuhr: Thank you, Trang. I must say I feel that both the pro secondment and the ones that want another solution both sides are very ideological about this. I must say I'm not very convinced by the rationale for doing the secondment. I understand the feelings for the staff and they might feel that it's a change in their working positions and that might give some insecurity in your benefits and things like that. But I truly believe that could be sorted out.

On the other hand I sympathize with Avri's suggestion of saying well, we take this secondment for the present staff because this would give us more

stability. You shouldn't underestimate the feelings and perceptions of the current staff that they might lose some benefits and career opportunities in the future.

But I must say I agree with Avri that it could be an idea to say, and this is opposite what I said at the prior meeting, but I changed my position on this. I think we should really think about getting a new staff employed by the PTI. Thank you.

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

Jonathan Robinson: Yes, I'm going to say a couple of things which I think are pretty much consistent with the others but just to make sure there's no ambiguity about that last thing that Lise said. What I understood her to say is if and when new staff are hired they have preferences that they are employed (unintelligible). So because it could have been misunderstood to be say -we should hire new staff new for PTI and that was not what I understood her to mean at all. I just want to make sure that wasn't understood by anyone. Exactly, as Cheryl says, if and when.

So some thoughts here. I think overall our job, and I'll just remind me and all of us of our job, our job is to check with staff, who are doing the job of implementation here, are doing it consistent with the letter and spirit of the proposal, which is along the lines of what Chuck and the - I think the registries said, so that's our job, right. If secondment is consistent with the letter and spirit of the proposal then so be it. In one sense.

My feeling is how we achieve that is what I would suggest to staff is that you create the ability to transfer and you offer that up to existing potentially so you say here we are going to offer you the ability to transfer, we're going to create

that mechanism. You may transfer and we will preserve key elements of your employment and so that you are protected in that sense.

However, it will not prejudice you if you choose not to. We understand. And I'm not assuming this, I'm just suggesting a path here that may work. So we don't - we create the opportunity but (unintelligible) existing staff the opportunity to remain. Seems to me that there's some growing sense that that shouldn't stop us any new hires then should, from the outset, be offered the opportunity to work in - within PTI, providing it's a role solely performed within PTI.

If it's a role in finance that's 10% of which is in support of PTI that's a very different position if it's a support function. And then - and forgive me, Elise, because I know you're on the call, I thought I heard Avri talking about something we do need to be clear on this. If there's - I mean, my understanding is this involves all staff but I thought I heard Avri talking about the PTI manager being within - not being seconded position.

So we do need to be very clear on that. If - for the avoidance of doubt I was talking about all existing IANA staff manager included a possibility where you offered the opportunity of transfer and equivalent conditions but didn't insist on it. And in future created new role - whenever a new hire was made that it went straight into PTI. So that feels like where things are at.

Trang Nguyen: Thank you, Jonathan. Oscar, you had your hand up a minute ago, did you want to get in the queue? Oscar, we can't hear you, you may be on mute.

Oscar Robles: Can you hear me?

Trang Nguyen: Yes, we can hear you now.

Oscar Robles: Good, yes, just to try to explain what I think that could be the position of the numbers community, I think that the - we may look for stability as much as possible. I'm sensitive with the personal options that we should try to engage them in this very difficult situation. So that would be our main goal to maintain the stability as much as possible.

Probably, as some of you have expressed to explore what would be the best idea for the new hires, whether or not to offer that secondment because that may create a different situation or a - may create the sense of second class employees. And I am not sure if this is going to be a good idea or even more, that could be a - that could create additional (unintelligible) and additional management processes internally for ICANN and the PTI. So I'm not sure that we should have those two different ideas.

But the - still open to hear ideas and see if that protects the stability that we are looking for.

Trang Nguyen: Thank you, Oscar. Jonathan, that's a new hand?

Jonathan Robinson: And I'll be very brief because I see Alissa is behind me. I think Oscar articulates two key points there that are downsides to having staff in both seconded and new hires. There's the risk of - a perception of two classes of employees and a management overhead and those are clear downsides and I think it's a - they're both good points. They may be downsides that have to be carried but they - point is well made.

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

Alissa Cooper: Thanks, Trang. So wearing my protocol parameters hat, I was just chatting with a few folks on the sideline and just wanted to offer a little bit of color about - to this point about stability because, you know, regardless of what arrangement is chosen here there's nothing that prevents employees who are providing the IANA functions from leaving and going to find another job, you know, whenever they choose to.

And we've actually had multiple instances, some of them not in the too distant past, of changeover in the IANA staff for the protocol parameters. And we haven't noticed any, you know, threats to stability or changes in the level of performance.

So I think, you know, the - at least the present staff and managers have done a good job of, you know, recognizing when they needed to bring in the new person and training them up and, you know, making sure there wasn't a gap and so I think just at least from the perspective of one of the functions I don't think it's necessary to kind of overestimate this, you know, this giant risk to the stability of the functions if, you know, based on whatever happens in the transition, you know, some staff decide to choose another course or, you know, that they don't like the situation that they ended up in.

I think, you know, the functions can continue to be provided, you know, providing that it's not like the entire staff goes on protest and leaves and there's nobody left to hire new people which seems extremely unlikely to me under any circumstance. So just wanted to offer that as a point of view from the protocol parameters.

Trang Nguyen: Thank you, Alissa. All right so I know we have several items under the - well let's wrap up this discussion on the PTI staffing first. So thank you so much

for all of your input and feedback. Let us go back and internally think on it and have some further discussions internally and then get back to the group.

Looking at Elise and Akram, do you have anything else on this topic before we close the call?

Akram Atallah: No, this is Akram. I think that all the input is really appreciated. I think we'll take it in consideration and hopefully we'll come back with something that bridges the gap and gets everybody on board so we can move forward. We still have a lot of work to do on setting up PTI and I want to start on the - make sure that we get that done on time. So thank you and thank you for being considerate of the IANA staff.

Unlike my previous experiences, these things happen with - usually behind closed doors and the staff is offered a, you know, positive outcome instead of being very, you know, being very transparent like we are here. And they are listening and hearing to how their job could be affected and that creates some anxiety. But I appreciate for the civilized conversations and the concerns about their wellbeing as well. So thank you for that. And hopefully we'll wrap this up fairly soon. Thanks.

Trang Nguyen: All right thanks, everyone. I'm conscious of the time. We're 15 minutes over. There are several items under the AOB section of the agenda. I may suggest that we pick up the discussion on those items via the mail list just so that we can close out this call today. So any - so again, thank you so much everyone, and (unintelligible) some of you in Helsinki.

Cheryl Langdon-Orr: Thanks, everyone.

Trang Nguyen: Bye.

Cheryl Langdon-Orr: Bye.

Trang Nguyen: Please stop the recordings.

END