

# **IFWP: International Forum on the White Paper**

## ***Transcript of First Day Working Group Reports***

### **Introductory Comments: Dr. Tamar Frankel**

Tamar Frankel: We are bit late and I hope we will finish on time. Our first report is from Group A. I forgot my gong at home. Mr. Auerbach and he will present his group's report.

### **Group A: Profile of the new entity**

Mr Auerbach: Hello, I'm Karl Auerbach, you probably know me from the mailing list. I'm not actually going to present our group's reports, other people are going to do that, but I'm going to say this has been quite an experience in herding cats. Everyone has good opinions and we definitely didn't exclude anybody I hope, and I hope the other groups have been as successful. Anyway, we're going to talk about quickly about two parts:

- our process of talking where, how we got where we were going;
- and then also the substantive part of where we actually got.

The process part will be done by Harold Feld and where we reached is done by Gene Crick. So Harold.

Mr Feld: Can everybody hear me, do I want to go over to the microphone? Okay.

We started out with an idea that (indiscernible) what function the new (indiscernible) exercise and that once we had that decided we then go on to what by-laws and other protections are necessary so this Board could implement the. This may not have been the best approach.

I know that other people in our group, and certainly as the day wore on and consensus on many points remained elusive, other people thought that maybe we should have started with the by-laws first. Perhaps we should have somehow had a mechanism where we discussed both, but part of the process here is figuring out what kinds of discussions work. The other thing that drove this was the thought that, if we could find those areas of function that we agreed on, that would form the basis of consensus. And, if we could find what we didn't agree on or what were really just subsets of other larger issues, that this would provide further basis for discussion.

So we spent the morning trying to identify the functions of the corporation and came up with a list. Then we came back this afternoon and tried to more narrowly define those functions, again, with the idea that by defining the level of authority this would, the exercise would define the necessary safeguards that should be put in the by-laws.

So there was a tension -- as one might expect -- in the question of whether on end of the spectrum this should be a strictly technical organization to the other end of the spectrum where policy issues should be decided by this new corporation, and a wide area in between where you would have the focus be technical. Obviously that would include some policy issues and that question, how we resolve that question, the exercise of these functions is obviously an important point that's going to need to be resolved in the future iterations of these meetings.

All of that said, I think that covers how we got here. I will now turn over the microphone and the consensus board to my colleague of the day whose name I've already forgotten.

Mr Crick: That's my good friend Harold there. I'm Gene Crick, I'm President of Texas Internet Service Provider Association, but I was selected for technical expertise because I can work with a felt tip pen. We did not need a large board for those things that we could quickly agree on. We did however achieve some and I think that was toward the obvious goal of trying to help shape continuing, the continuing discussion which is going to be quite a process as we all recognize.

Toward that end we have a few items that we were able to generally agree as a framework for some of the elements of a new corporation or a new organization.

We first agreed that a proper and appropriate function of this entity would be IP assignment and IP assignment policy. That some guidelines intrinsic to this would be reasonable and equitable assignment policies that for those minimum barriers portability was considered of value. And an important issue, it was the consensus of that group that conceptually IANA and the regionals would be subordinate in hierarchy to this entity. Now that does not necessarily mean subsumed by, don't get me wrong, there is a great area of determining that relationship. But in terms of a strict domain, in terms of a strict hierarchy this organization would be ultimately responsible for, at least, oversight if not administration of some aspects.

The second item of general agreement was that the responsibility for the root zone system would also be an aspect of this organization. Here it's fairly straight forward; clearly it begs many questions and opens many issues. But the obligation would be to maintain it coherently and to operate in the best interest of all parties participating.

Not surprisingly top level domains were an area of great deal of discussion and were difficult to try to treat within the time that we had. What we did come up with was the consensus that the new corporation should have the authority to create new top level domains. This does not necessarily mean the responsibility, and the obligation too, it's just what's in the best interest of the industry and the people it serves.

Other commented issues, it should effective and equitable in its policies. There should be limits to its authority. What those limits are would remain to be determined by many, many people, this is larger, more than in our group. A goal here and throughout would be to maximize competition to build a healthy industry by sound policies. And on the issue country code top level, because primarily were talking about generics. On the issue of country code that's a hurdle to be seen. We had a positive, we had a positive decision that half of us wanted one and half of us wanted the other in terms of involvement. So we report that out as something that's another remaining challenge.

Another point is that we felt that the new group should, quickly work to limit the scope of policy issues. In other words, just start making some definitions because, again, to be effective we need to bring those things that matter into the fold and try to address and exclude those that are not best operated by this entity.

Another as mentioned earlier, the principles of minimizing barriers to entry, that should be an overriding principle throughout all policies of the new organization.

And then finally, the obvious challenge and that's establishing an organizational structure. Elements of that should be financial stability, openness, a sound dispute resolution policy, and a plan for healthy organizational evolution as technology changes. As realities of the political and economic landscape change, the organization should be prepared for that. Even if that means essentially a transition to another organization. If this one is merely the beginning and a successor organization evolves from it.

There were, of course, quite a number of other issues, we brought a few of them up. We had some good exchange of ideas on them, but I think they would best be catalogued as remaining challenges. So that's our homework.

Mr Auerbach: If anybody out there on the floor would like to ask some questions about how we reached these or what we thought of, please feel free to ask, because now we're trying to share the information with you. So take this opportunity to ask a couple of questions, over here.

Kim Hubbard: Okay. (indiscernible) with IP, of course, I'm interested in IP. Are you saying the Board sets IP policy, so the regionals and its members and the rest of the community doesn't have to bother with that?

Mr Crick: Oh no, no, that's far (indiscernible).

Ms Hubbard: Well, no, I'm asking the question. I'm not sure, how does the Board come up with the policies to set?

Mr Crick: (indiscernible) larger and longer (indiscernible). I'm not being glib about that. They certainly said an obligation (indiscernible).

Mr Feld: The consensus was in my inference that the obligation of the Board would be to be concerned and responsible for it. It might mean no changes, whatever, it might be that the thing there, that remains to be seen with a lot of influence. But it's just simply establishing a relationship among the entities involved.

Ms Hubbard: Yes, I would recommend that the Board is responsible for ratifying policies that maybe the regionals or the community present to it, rather than creating it and setting it themselves, that's all.

Mr Feld: (indiscernible) subject, you know, (indiscernible). It was agreed that there should be a relationship between them. My sense was it was agreed that there should be a relationship between the new corporation and the regional that at least initially that should somehow reflect the current relationship between IANA and the regionals, whatever that is, but that this was an issue which needed to be resolved. There was a range that could go from anything from the new corporation simply rubber stamps whatever decisions are made by the regionals and all the regionals are the laboratories of democracy, to borrow a phrase, and get to decide their own policies.

Or alternatively you have the other extreme of this horrible top down management where the new corporation would dictate to the regionals and the regionals would become essentially a mechanical handing of IP number functions. There was no consensus on where in the spectrum this should fall, just that there should be this relationship with the regional, and somehow the new corporation is in a, is somehow over or whatever relationship IANA has now with the new regionals, that's at least at the start, what the new corporation begins.

Mr Auerbach: Yes, I think we also recognize that there will be a tension between this organization and the pre-existing vested interests as it were, and there is going to be some degree of fight over authority there. Yes.

Mr Curran: John Curran, I'm with GTE Internetworking, previously known as BBN. I'm involved in half a dozen Internet organizations. I served on the IETF before. I'm current Chair of ARIN one of the three IP regional registries.

Just for clarity sake, since we're trying to work one of the points that came up, the current relationship between the IANA and the regional registries is that the IANA provides, is an enabler for the regional registries, so that's a source of authority down. But the regional registries also have their constituencies, which are anyone interested in IP policy, predominantly ISP's. But each registry has members who are interested in setting IP policy who join and elect a membership organization, advisory council who sets this, and they work together to harmonize, that's a source of authority bottoms up, which is also called for in our white paper.

To the extent that we have a new IANA and it wants to replace the existing function of the current IANA, that's great. If we want to change the authority model that currently exists we need to be very careful. One advantage we currently have is that we actually have representation, which is hard thing when we think about a Board and a new organization. I, in another session, in another group made a plea that the more focused representation is by function, the higher probability it's actually going to be relevant. So to that end, you know, we have a model that has representation today and we need to look carefully at establishing models that also allow representation on a bottoms up basis.

Mr Feld: We asked ourselves a fairly difficult question which we had not received an answer to which is relevant to this, is suppose Internet policy change to the point where aggregation didn't make sense in the existing three large areas, but made sense with some other allegations in these areas, what would be the ability of this overall corporation to cause this restructuring to occur?

Mr Curran: Hopefully none, but the people involved in the actual IP process or involved in IP policy, the members of the regional registries, hundreds of ISP's worldwide, actually I think thousands if we count RIPE, APnic in the list, would indicate that the policies that need to be change, would recommendations and it would get changed. Right now the administrative functions are based on convenient areas to handle the administration assignment, it is not per se based on technical routing aggregation, as much as a way to

divide the workload. RIPE and APnic both happen to cover a piece of the workload, ARIN came into formation to carry the remainder. I guess I'm wondering, I understand exactly how it works under today's model, what I don't understand is how that would actually be solved under this model, that's what we're trying to explore. That's why we recognize this is an area of tension that we don't necessarily have a real concrete answer to. We have essentially the States vs. Federal Government debate in microcosm. There must be more questions out there, we covered a lot of ground. Yes. And the other two groups, of course, would be able to do the same thing here.

Mr Wong: Good afternoon, Pindar Wong, I'm associated with one of the AP star groups in the Asia-Pacific. I would like to ask a clarifying question with respect to the summary here, presented here, which is what are the similarities and/or differences that you see between where you ended up and the white paper?

Mr Auerbach: Oh that was a definite question from the floor and it was a legitimate question is, how much should we be guided by the white paper. There are some wild eye radicals such as myself who say, barely, and there is people who are probably more irrational than I am who say, be very strongly guided by it. To the extent that the white paper was focused and initiated from the United States and this is looking largely at a more international scope, I think there is naturally going to be some tendency to look beyond the white paper. The precise answer to your question is, I don't know.

Mr Feld: This question was raised while we were having this discussion and it seemed to me and I don't know how much this capture the consensus of the group, I said it very loudly at the time, which is sort of the traditional Internet way of defining consensus, but the white paper as a guide of substantive things is not very good. If you look up on the board here, on the functions that we all agreed on, you will note that the lead off ones are the same ones that the white paper says should be controlled by this new corporation. The only thing that is missing is this other technical functions category which everybody agreed fell into the new corporation, but nobody could define what other technical functions meant, so it was sort of shoved off to the side as a place where future discussion is needed. But I—so therefore, my answer is, this conforms exactly to the white paper. This process conforms exactly to the white paper process. People are getting in here, starting with the very broad categories that the white paper has defined and said, okay, the white paper says this new corporation controls IP policy, great. The white paper says this subsumes IANA, great. So far we haven't said anything new. The one little thing we said new was, we're going to start with an initial notion that whatever the relationship is between the IP's and the regional registries is going to remain the same, but that there is room for discussion on how that relationship is ultimately formalized with the corporation. And that's not an area that's covered in the white paper. Nothing in the white paper says that the regional registries are going to remain as they are. The white paper refers to the regional registries. The white paper certainly talks about the regional registries as interested stakeholders. But the white paper does not define what the role of the regional registries is suppose to be in this new corporation system. So in looking at this and asking what are the divergences from the white paper, I really think that we haven't diverged at all from the white paper. This is the first attempt to put even just a little bit of a sketch of muscle on the skeleton. And, in fact, I mean we don't even have a skeleton, what we have are arms and legs and a skull and a spine. So we have tried to put a rib on here and maybe, you know, a toe over here to try to at least get further along the process that the white paper sets out for us to do. So I don't think we varied at all from what the white paper says.

Mr Crick: If I may, I have a kinder view of the white paper than my colleague in that I view it simply as a invocation of issues and a call for industry input and action to build a road. And I think in that sense we responded to it. There were some issues, I should mention there were some issues that arose in the white paper and in our discussion that are not on this list because they are not issues of consensus. Examples being privacy, and security, and trademark. Now clearly these are on the agenda for the rest of this meeting, but it was, I would think, I won't say consensus, but it was an issue of much discussion within our group. That the white paper was correct in raising them, but many of us felt they are not issues that should be within the domain or largely within the domain of the new corporation.

Now this will emerge in later discussion throughout this convocation. But I do think wouldn't it be fair to say that there was, that there was a great deal of discussion and some considerable opinion that they needed to be considered and by many felt and excluded, but excluded with decision.

Mr Auerbach: Any more questions for our group before the next group goes on. Oh, yes.

Ms Kelly: Can you just comment on the portability issue and the IP assignment policy, was there any elaboration—

Mr Auerbach: As opposed to portability of domain names?

Ms Kelly: Pardon me.

Mr Auerbach: As opposed to portability of domain names? The word portability tends to get overloaded.

Ms Kelly: Well, in particular I'm interested in knowing if it's possible to have portability handled just by this corporation or whether it's foreseeable that this corporation would have to contract with an outside contractor to actually handle all of the management issues and operation issues related to portability?

Mr Auerbach: I'm personally not an IP allocation expert, you would have to ask somebody else. My thought would be in terms of setting policy, we didn't get into the details of how that would be done. We were mostly looking like to what should this corporation be empowered to do and what should exclude it from it's ability. I don't know how to answer your question.

Ms Kelly: If anybody does, I would love to talk to anybody who knows anything about the portability issue.

Mr Auerbach: And, again, I'd like to caution everyone, we use portability be clear whether you're in the IP address or domain name context, because it is an ambiguous word. Okay. Another question. Okay. Just before, okay, another question?

Mr Schneider: It's only a short remark which goes for every of the working groups. As I'm one of the persons which tried to organize the next meeting in Geneva, we would very much like to have a representative from each working group there giving us an overview of those ideas before they get lost. And as a matter of preference it should be repertoire, the consensus. I think we should, we should — I think, I think if possible, if we have volunteers from each working group they should be appointed by the working group to give us an overview of the discussion here.

Mr Auerbach: We're getting, suddenly we're getting into a discussion mode here.

Mr Schneider: No, I'm talking about follow-up meeting to this conference which is probably presumably being linked to some extent to IANA, but is not the IANA conference.

Mr Auerbach: Okay. Why don't we discuss that later and bring it up. I would just like to keep focusing, any questions for our group, and what we discussed and how we got there, and essentially share our ideas. Any more questions out there. Okay. I'm going to hand it over to the next group, but I would like to make one last comment is, one of our group members at the end said, the devil is in the details. And we've reached a lot of agreement so far and we're learning to talk to one another in a good way, a constructive way, but we're going to have to continue this to get down to the really hard part, which is the fact of the details. So group, oh, is this a question or are you group B?

MALE SPEAKER: Just a real quick comment. I didn't realize it, but in the back there they are recording this and transcribing this. So especially the last gentleman, he will have stuff to bring forward as well. I just want to make it known.

Mr Auerbach: Okay. I'm handing over to Group B. So is this Chris walking my way. I'm glad to meet you. I've had e-mail with him millions of time but we've never actually met.

## Group B: Board of Directors and Membership

Mr Ambler: Let's have a beer. We had interesting sessions to say the least. Group B began by, hi, mom, talking about, we started talking about the interim Board and about a third of the way through realized, wait a minute, that's Group F. So we pulled back a little bit. We did come up with a number of interesting points and I think what we were able to reach consensus upon is not nearly as interesting as the things that we absolutely seem to agree that we didn't have consensus on. But those points were pretty well defined and hopefully some other members of Group B can elaborate on this, if necessary.

Let me go over what we did reach consensus on, at the end, I guess I got a little heavy handed and said, okay, let's figure out what we had consensus on so I can write them down and report to all of you. Obviously, we had the main consensus issue that I don't think anyone in this room will disagree with, and that being all process absolutely must open, fair, and transparent at all levels throughout the entire process, without it we're wasting our time, we'll go home.

We tended to agree and this is the most difficult one to word, so as not to disenfranchise anybody, as a whole the IFWP participants and I'm talking this conference and all the conferences that will come from now, and even perhaps some that haven't been convened yet, will act or should act as the principle incorporators of the new corporation. At some point you have to decide who the stakeholders are and at least the impression I got is, for now at least, we are the stakeholders. We need to define a broader group, but right now we're the stakeholders.

One thing that we came upon that I think is very good is the notion of independent councils underneath the Board for names, numbers, and protocols. And the point that was made is if you take names out of it, we have a lot of that right now. We have policies for numbers, we have policies for protocols. There is no reason that we can't take the things that are working now and bring them in.

The real point of contention is the names council. If you want to call them councils, the names council is the point of contention. We agreed as a point of consensus that there should be a rapidly constituted interim Board before a final Board. What that Board will do has not been finalized. We agree in principle on the concept of fair hearing panels. We think that they should be considered. Exactly what that means seems to be a bit nebulous, but the point being that anybody who has points that need to be brought should be able to bring them. They should be able to be heard in a fair and open manner and percolated to whatever level they need to be percolated to. And finally as an after thought, we all tended to agree that we need to pay close attention to checks and balances throughout this process, and there should definitely be checks and balances.

Now what didn't we arrive at consensus on, I think this is a lot more telling. The composition of membership, even if there is membership, it seemed to be moving towards the point where some people were saying there should be no membership and those who felt that there should be membership, felt that any entity should be able to be a member. There were some voices of dissent within this, but we were, I got the feeling, at least, that we were moving in that direction. And you're an entity, I'm an entity, the company you work for is an entity. Get six of your friends together and go bowling and you might be an entity. You're an entity until proved otherwise.

Now the composition of the membership is completely irrespective of the representation of the membership and this seemed to be very contentious. How do you setup representation of the membership, if any. Do you split it up geographically? Do you split it up by concern? Do you split it up function? Everybody seemed to have an opinion on this and some of them seemed very reasonable. In fact, a lot of the ones that I personally find reasonable are mutually incompatible and that frightens me.

The nomination of the Board and the selection Board, be that the interim Board or the final Board, we seem to agree in principle although nobody brought it up as a consensus point that the composition of the Board should meet a criteria. There should be some qualitative criteria that anybody nominated or elected to a Board position should meet. I don't know if that was truly a consensus point or not, I'm sure there are people who contend against that. But I seem to get the feeling that we were going in that direction.

As far as nomination goes, points were brought up, allow people to self-nominate and perhaps they have to meet some criteria. Or create nomination boards that have as a mandate, only nominate people who meet certain criteria. We really didn't get into this as much as I had hoped we would have, but this seems to me to be something very good for session F, especially when deciding exactly what the interim Board is going to be. To interject a personal feeling I think that if we can have a really solid interim Board nomination decision and scope process to find, that's going to take care of a lot of the Board questions. Obviously they are different, but they are very similar.

The powers and constraints of the interim Board and the Board.

We agree that checks and balances should be enacted. What are the Boards going to do, what must the Boards not do. And the entire spectrum in between. What can they do, what should they do, what must they do, and so on.

And, of course, what will probably be very contentious is the creation of the names council. There is contention over IP allocation, no doubt. There might even be contention over protocols, although not quite as much and in the same vein. But when you get to the question of creation of names, new names, how are they governed, what are the policies behind them, we could turn this place into a blood bath over this. The names council, if this is enacted the way that we, that we went towards it, would have the initial first shot at this. The composition of the names council obviously is of paramount importance to a lot of people. I hope we can put that aside for a while. Let's not worry about jockeying our own people into position to get what we want, let's get the structure down and then we can have guns at 30 paces on who gets to be on the names Board. So that's pretty much where we got. Not as much as I had hoped, but a lot more than I had feared. Questions?

MALE SPEAKER: Just two, one is a short point and the other a question. The short point is that it's interesting that some of the issues that are being discussed indeed were things that were considered and sort of unclear as to whether they were in Group A and there was some, I know in our group at least discussion on which issues should we be covering and shouldn't be covering, and should we rely on Group B to solve some of these answers or should we try to solve them ourselves and I think that's a process thing that's going to have to at least be noted and somehow resolved as these forums continue.

The question is, in defining who the incorporators are, you say those in this meeting, subsequent meeting, does this include those on the online lists and discussions? Because there are a lot of people that can't go to any of these meetings, but who will be very active in this in the online discussions.

Mr Ambler: That didn't come up, although that's a fantastic point. I can't speak for Group B, I could speak for myself, but I don't want to monopolize the mic. But that is a good point and perhaps it can be clarified. I don't know if it fits into F or not. But I mean, there are a lot of questions that came up here in A, B, and C that need to be clarified, that D, E, and F aren't going to hit. In a way, in a way I almost feel that this might be, you know, any questions that come up now obviously they didn't occur to us. This might be a phenomenal segway into the next conference. Here are the things we decided that we had consensus on, we hope you in the next conference have consensus on them too. Here are the things that we realize that didn't even occur to us and it opens up more possibilities.

Ms Raveendran Green: To add to that point that was just raised about being incorporators, I think that's a great idea to some extent. But taking up on the point of people who can't be there, there has to be other mechanism for inputs.

Mr Ambler: Yes.

Ms Raveendran Green: There should be also active participation of people outside, creating a fellowship fund and things like we discussed on the steering level. But more importantly something that I have noted at this meeting that perhaps we could note for either tomorrow or subsequently, it does concern me when moderators of a group have a vested interest in that issue, then they don't become very objective moderators. So that's something that we might want to also layout in terms of process of the IFWP that has to in part of consideration as well.

Mr Ambler: The point was brought up also about if the IFWP participants are the principle incorporators, what about the people who aren't here, who can't make it here, what about areas where there aren't meetings, and yes, it's, as far as I'm concerned, absolutely essential that anybody who wants to participate, who wants to provide input should be allowed to do so.

Mr Calhoun: Terry Calhoun, Society for College and University Planning. I walked back and forth among all the groups and I heard it raised but never discussed which is something that bothers me a lot, this group, the IFWP, this meeting, the other meetings as they come up and afterwards and whatever corporation gets formed, needs to use the most up-to-date effective information technology to do what it does and communicate about what it does and I just like to raise that point while we still have a day left to talk about this.

Mr Ambler: That came up in a round about way when fairness hearings were brought up and somebody said, you know, my gosh, what a logistical nightmare to where we have these meetings and everything and Steph brought it up and I echoed it, we have computers let's use them. There is no reason that a lot of this can't be handled online. On the other hand, I feel that we got more accomplished just this afternoon then we've gotten accomplished in the past two years on all of the discussion boards, that's my feeling.

Mr. Weitzner: Danny Weitzner, Center for Democracy and Technology, I was in Group B which was really with Beth and Chris did a great job and I think reflected, the sense of our discussion, well the one thing that I would add is that just about everyone in our discussion did reflect the concern that although we were looking for consensus points for making progress, that what we at least in the Group wanted to relay to the next set of the meetings is that these are, these are works in progress and these are as much for comment as for consensus. I think especially on the subject of incorporation and the question of who can participate in that process and in what ways, I just want to underscore that the sense of our group was that this was a suggestion about how to move forward.

Mr Ambler: Right.

Mr Weitzner: Not the final answer about how to do it or the only answer.

Mr Ambler: Yes, the phrase that was used in our group that I really liked was progress going forward. Any consensus that we reached is by definition the consensus of the people in the room. The next meeting might not find it a point of consensus, but they will find that it's a good place to start.

MALE SPEAKER: Hand me the microphone once more. It's not very long until September 30<sup>th</sup> and yes, it's nice to reach out, get everybody involved, but we don't have a lot of time to get everyone involved before we have to come up with something fairly concrete, so we've got to move really fast. And I would say let's move really fast at the risk of some exclusion, but try not to.

Mr Ambler: I personally agree and I'd like to add also one thing that I am very concerned about is, we have these meetings, we come up with points of consensus, we come up with progress moving forward. We have the next meeting, and the next meeting, and hopefully by the time we get to what is ostensibly the last meeting we've got some decent consensus, what then? At some point it's going to have to be put down on paper, at some point it's going to have to just be done. Somebody is going to have to step forward and say, this is what we're going to do. I don't see that as clear, I hope somebody else does.

Mr VanCouvering: At the risk of slowing things down a bit, I'm very happy to be here and to participate, but I don't really know and I have feeling there are many people who really don't know who put this together, there are steering committees, can someone speak to the structure of this organization and how this meeting and how it relates to the other meetings that are to come and who are, who is in charge? I'm Anthony VanCouvering and I have a company NetNames, a domain registrar.

Mr Ambler: I don't know, I don't care. No, I would love somebody to do that, but I'll be honest with you, I don't give a rat's butt who is putting this thing together. We're here and we're getting stuff done, that's all I care about. But I'm also curious, so yes, at some point I'd like someone to talk about it.

MALE SPEAKER: On the subject of meeting the September 30<sup>th</sup> deadline, I would remind everyone that haste makes waste. The second thing that occurs is that having a deadline and having to meet a deadline

becomes a very convenient cover for all kinds of out in the open, behind the scenes maneuvering and very quick decisions and that sort of thing. And so be very, very careful about getting sucked into the idea that we've got to hurry here, we haven't got time to expose this to the public, dah, dah.

Mr Ambler: That's what I said a minute ago, I agree with both sides. I think it should be exposed to the public as much as possible, but we also have a hard deadline coming up. Rather than worrying about somebody behind the scenes doing something at the last minute, it would be wonderful if we could figure out what the end of the process is. We obviously know what we're doing here, we know what we're doing going forward, where does it end, where does the decision get made, and how does it get done in an open process so that nobody can say, who is this guy, who came along at the end and made that decision, I don't remember this.

MALE SPEAKER: Clarification here. In one of the points it mentions as far as the people who participate in IFWP has the to participate—

Mr Ambler: The incorporators?

MALE SPEAKER: Right. So the gentleman's question before of exactly who is IFWP I think that should be clarified.

Mr Ambler: I can't clarify that.

MALE SPEAKER: Can someone clarify it.

Mr Ambler: I personally, though, would then strike IFWP and say anybody in a process like this.

Mr Mitchell: I'm Scott Mitchell, I'm with a big Internet provider and I was in one of the conversation that started this, Barbara Dooley did and I know she is not here today. So maybe could we put off the IFWP discussion until tomorrow and just, and ask somebody to give us that tomorrow who might have a little more time and probably knows.

MALE SPEAKER: Right. But the whole question was how this started and I have the same issue, how it goes, especially if we're saying it should be the incorporators. So we'll just, if we can handle that tomorrow and put it on the (indiscernible).

Mr Ambler: Yes, as far as I'm personally concerned, if we can make this thing work and get it done, then that question is wonderful to be answered for the history books.

MALE SPEAKER: I guess drawing back on that point, if we can assume who is responsible and who is coordinating things, can we reach a point (indiscernible) address, but we agree on a limited number of who the stakeholders are so that we can begin to develop consensus' towards agreeing or disagreeing on specific points?

Mr Ambler: I personally don't even want to go there.

Ms Raveendran Green: If I could just add a comment about, it might seem very overwhelming in terms of like trying to get entire global participation, but I think by having some regional meetings definitely you're going to overcome some of that problem. But what I'm concerned about IFWP stands for International Forum on the White Paper, okay. And it's very important to keep the focus on that, you know. I was very concerned about the fact that everyone was sort of reinventing the white paper all over again.

While I might agree the white paper may not be complete and, in fact, to a large extent Dr. Frankel herself used the definition of it being a skeleton and we're suppose to put the meat on the skeleton, I got the impression that some people don't even want that skeleton, they are literally throwing out and trying it all over again. Now if you're going to take that approach, then it's going to be a mammoth task, because you're literally going to have that whole debate re-opened in Europe and then re-opened in Asia, and you're never going to get anywhere.

But if you use the white paper, as the term IFWP stands for, is to focus on the white paper as sort of a guiding principle, guiding document, that which people around the world are already reading, already

discussing, already having lots of stuff on, then you can use these different regional forums to one, gain global awareness over what's going on, give people an opportunity to raise their views about it, and then we can start talking about consolidation. And I think one of the ideas that was raised by people who are on the IFWP process was, perhaps at some point there might be a final culmination of a meeting where you get legal experts from around the world who will then sit down and start drafting the document. Because right now we're too early in the game, people still need to vent, that's a feeling I get.

Mr Ambler: Yes.

Ms Raveendran Green: A lot of venting going on here, a lot of politicking going on, a lot of positioning, and that is a process that needs to go on. And then once that process has gone on, you get some kind of rough consensus, then the drafting happens (indiscernible).

Mr Ambler: I give, this is beyond the scope of Group B. I agree with everything you say and we should talk about this, but not with me up at the podium.

Mr Curran: Before Group C takes the podium, I'd like to just follow with one very brief comment, a lesser comment. I'm John Curran, GTE. Following with the name of this organization and our function here, I think reading the white paper is a mandatory requirement and I'd ask that if people didn't get a chance to they take some time this evening to download a copy and peruse it. Think it would be more constructive to the following discussions of tomorrow if that were the case.

Mr Foldes: My name Paul Foldes, I'm with InterHelp. And I have a question, not necessarily to you, but whoever else perhaps can answer this question. You made reference, let's get this work done and get, I mean, let's get to work on this and get it done. Somebody else made reference to September 30<sup>th</sup>.

Is the intention that something will be done by September 30<sup>th</sup>, and if so how is that possible given (indiscernible) --

Mr Ambler: The feeling that I got from Group B was that September 30<sup>th</sup> is viewed much like what Ira said this morning, get it done amongst yourselves or the specter of Government stepping in is always there. Is September 30<sup>th</sup> a hard deadline, I didn't get the feeling that people, at least in Group B see it as a brick wall. But I also kind of got the feeling and anybody in Group B correct me if I'm wrong, that there is no reason we can't get it done by then, at least to the point where the specter of Government looks down and says, you are making sufficient progress.

My—the way I view it is, we're on a nice little track here and at September 30<sup>th</sup> we start coasting. And if we've got some momentum and we're moving along, then things will go fine. But if September 30<sup>th</sup> comes along and we're still arguing over whether we have consensus on who we're going to create the Board, much less what they're going to do, we're in big trouble. It's too soon in my opinion to worry about it strongly, but it's something that has to be kept in mind all the time. Anything more concrete than that I'm not your guy, I'm the reporter of Group B.

MALE SPEAKER: Just addressing September 30<sup>th</sup>, as of that date the cooperative agreement is gone and we'll have a vacuum as to respect to controlling of the route. And nature Board is a vacuum and people who want to monopolize the world tend to love it, so I would say, we really need to look at that date very, very, exclamation point, seriously!

Mr Ambler: Well Ira said, if we don't do something Government has to step in, why, because he doesn't want a different Judge in each state in the U.S. and the whole world for that matter dictating the route. He's absolutely right. I'm—God, I don't want to use a swear word, but I'm scared hopeless, since this is being transcribed, of that happening. I'm frightened to death that the 30<sup>th</sup> is going to get here and we don't have a clear direction and there are still parties who feel disenfranchised and we go to court over the whole thing, that scares the hell out of me.

Mr Greenwell: Hi, I'm Patrick Greenwell from NameSecure. I'm going to make life easy on you and ask you a question about Group B.

Mr Ambler: I'll buy you a beer.

Mr Greenwell: Wonderful. I was wondering if you could expand a bit on your discussion about voting mechanisms, if any were mentioned, because we were talking about—

Mr Ambler: Many were mentioned.

Mr Greenwell: You were talking earlier about nominations versus I guess some kind of more open mechanism. Could you give me a feel as to what?

Mr Ambler: As far as voting goes, voting was mentioned very briefly. The big question was, if there is voting who does the voting. And that degenerate, I shouldn't say degenerate, but it became a question of membership. To have voting you have to have membership and if there is membership who are the members. And that boiled down to a pretty clear division of there are either no members and this is all done by councils and boards, or any entity can be a member. And that then went into questions of, if you have any entity being a member, do you setup quota like systems, where the Board has and members of this qualification and of that qualification, being regional, being functional and what not. We didn't even come close to consensus on that. So to answer the question of voting, until we've decided who is going to vote is somewhat meaningless.

Mr Greenwell: Then did you decide as you stated earlier that it was your feeling that, that the people in this process were those members that would be voting?

Mr Ambler: No, no, we didn't decide that at all.

Mr Greenwell: No, I'm sorry. What you were talking about is that we are the stakeholders is what you had offered earlier.

Mr Ambler: The concept was forwarded that with respect to the interim Board and setting this thing up from the beginning, incorporating this, we are the stakeholders, and I mean, we in a very broad sense. Anybody who is participating in this process. And that the interim Board's responsibility would be to determine who the stakeholders for the Board are. And it seemed to me that that might be a very nice way to look at it so that we don't get bogged down under all of these issues. We can decide, you know, we are taking the time and the difficulty to be here and work this out. Ultimately somebody has to make the decision.

Mr Peake: Hi, Adam Peake (phonetic sp.) from Glacom in Tokyo.

On the membership of the interim Board or others, did you follow the white papers ideas for 15 members with two from the IAB and then one each from the regional registries and so on?

Mr Ambler: We, we discussed that at length, instead of 15, we decided that the Board should absolutely positively have N members.

Mr Peake: Good.

Mr Ambler: As far as the makeup of the Board, that was partially the question of membership and the segmentation of the representation of the membership. As far as how the Board is defined, what we did after lunch is anybody who had a proposal to make, a straw man propose made it. I'm not going to take up the time to read them all, but there were many different possibilities of X people from this group, X people from that group regionally. And then the next guy came up and said X people from this group, X people from that group functionally. No clear consensus whatsoever.

Mr Peake: So you essentially rejected the five that we knew or you just didn't make any—

Mr Ambler: No, there was no clear consensus on whether the white paper was spot on, on how many from each different group. There seemed to be a consensus amongst the people who made proposals that the Board would be representative and split up as such from those people who made proposals. But I can't say it was consensus because a small minority made proposals. Hopefully that's exactly what we can tackle in earnest tomorrow in Group F. Before anybody else jumps up you disagreed with something I said about the group and I don't want to mis-speak for the group, so please clarify.

Mr Weisberg: Well, I'm Eric Weisberg with Individual and I don't believe that we had consensus or even more than a brief discussion of whether or not the interim Board would then appoint the Board or determine the structure of the Board.

Mr Ambler: Okay. I didn't mean to imply that, if I did I apologize.

Mr Weisberg: I'm sure that you didn't, I just thought that's what you said and I wanted to clarify that.

Mr Ambler: No, that's not what I said. What I said was conceptually the point was brought up that we are the stakeholders for the interim Board and the interim Board determines the stakeholders for the final Board, simply as a conceptual idea.

Mr Hendeles: Hi, I introduced, my name is Jason Hendeles by the way with CNIC Corporation. I wanted to just resolve one issues, because I think if we can walk away from this meeting with one thing, I think this is very important, and I think that the next step, well, one of the next steps should be for us to take, to maybe advertise or set a two week period for those people that could not attend to log on or sign on, but that there should be a definite clear cut limitation and rounding up the groups of people that are going to participate, or purport their views such that we can build towards an agenda or series of issues that can be, as a group, agreed or disagreed on and then move forward.

Otherwise there is never going to be a consensus. I don't believe that a democracy is going to get us where we need to be by September. I think we need a limited respectful group of the community, which I think many are here, and I think if we give the other people that want to be involved an opportunity to be involved, I think that would be good. And where I am going is I almost like to take this to a vote, that if we can agree to limit the number of stakeholders to a group that is clear consistent, I think we can then move towards solving, because no one in this room is going to agree on anything, so at least if we can get to a group that is—

Mr Ambler: I don't agree with that.

Mr Cook: A comment I'd like to make that this segway, the segways off of what he just said, if I might, I think, I think from our group there was someone else who had another possible way of dealing with this. I don't think you summarized it, I'm not saying that, you know, you fell down and didn't do something you should do. But, or rather than try to summarize it for him, I would like to ask Steph to stand up and see if he can give the room a quick summary of his more fundamental process idea that could make some of the other things go a little bit easier. I think there was some degree of receptivity in our group toward it.

Mr Ambler: Well, all right, can he finish his point and then Steph—

MALE SPEAKER: Can we have a raise of hands in the room as to those people that believe that we should have, you know, giving time for those people that are not here to participate, a select group that can begin to make decisions and actually resolve things. Hands up for those people that agree.

Mr Bellovin: This group has a got a very serious issue of legitimacy. There is no reason why this group is going to perceived more than any other group as having the legitimacy and authority. It doesn't mean it's more or less illegitimate or more or less legitimate than any other, than other possible aggregations. We have to find ways, this was a point that was made in the opening remarks, we have no (A) priority mechanism for legitimacy, we have to get people to buy in. You know, there are a lot of people in the IETF who that the Ad Hoc Committee and the resultant MOU were a result of an open process, because it was driven, at least in part, through the IETF and we heard a lot of people say, no, X was excluded, Y excluded or more precisely, I was excluded.

MALE SPEAKER: I don't remember us discussing this in Group B. The—we have to—this is the most crucial issue is how to establish legitimacy.

Mr Ambler: I'm not disagreeing with you, but can we finish up Group B so I can sit down and let's get onto Group C and then see where we go. I mean we've got all night, join me for dinner, we'll talk about it, but.

Mr Stefferud: Does that mean you want to hear what I have to say?

Mr Ambler: If it was Group B stuff, which I hope it was.

Mr Stefferud: Okay. It was basically in essence my proposal, but with some adjustment, because of comments John Curran made. The suggestion is taking from our chairman's idea that one way to skin the cat in terms of who should be on the Board, is to reduce the scope of activities that the Board can take on and the decisions it could make. And my thought is that we should make that Board be very minimal and basically supervise and oversee open processes at lower levels with the three group we talked about.

Mr Ambler: Right. We had decided that we did in fact had consensus that underneath the Board would be individual councils for names, numbers, and protocols.

Mr Stefferud: Right.

Mr Ambler: So, yes, that would take that requirement away from the Board.

Mr Stefferud: Right. And that they would not be responsible for making the decisions of those councils, but to supervise the work of those councils in being open and fair. And that beyond that the councils should engage in the use of what I call fair hearing panels, to be sure that everyone who needs a voice in the policy deliberations gets it.

Mr Ambler: Right. This was the point at which we tended to agree in principle that fair hearing panels should definitely be considered. There was still a bit of non-clarity as to exactly what that would be. My feeling is that in session, I guess, F, talking about the interim Board and where to go, that might be more appropriate then.

Mr Stefferud: Right. So we did include, you did include the concept of fair hearing panels but without a lot of definition.

Mr Ambler: Right. And, yes, you're absolutely right, we've got to get moving, so Group C save me.

## Group C: Member's Rights and Responsibilities

Mr Provance: I would suppose this report is a bit like following Bob Hope. I'm Michael Provance with U.S. Interactive. And I'm reporting on the discussion that Group C had on the topic of member rights and liabilities. So we started with the premise that all members had no rights and all the liability, but that didn't work out too well, so in actuality we approached it pretty methodically. First we started off by defining just who are we talking about in terms of members. And on the right side of that we identified three classes of members, the Board of Director members, the members of the corporation or entity that exists, and then the members of the entire Internet community that are somehow impacted by decisions made at the entity level.

On the liability side we added a fourth class of member which were staff that may be hired as part of this corporation to handle operations. We also had to clarify a couple of other definitions so that we, as we started to talk about rights and liabilities, we're handling all of the stakeholders interests in these discussions and those were the registrars and the registries. And we defined the register as simply those who assign domain names and the registry simply as those who handle a central database for top level domain.

From there we went onto all the different things we agreed on.

But before we got into the rights and liabilities, we thought it prudent to try to estimate what Groups A and B were going to talk about in terms of responsibilities for this corporation. So I just want to hit the bullet points of what we said the responsibilities were for the different classes of members as a framework for talking about their rights and liabilities.

First off, we identified that the corporations responsibility was primarily for addressing compelling security and stability issues that impact the Internet as a whole and kept it at that type of high level responsibility. Secondly we said the Board of Directors of that corporation have fiduciary responsibility to the entire Internet community by serving as Board of Directors of that corporation. We also said that one of the responsibilities for this entity was the operation and maintenance of the route server and any entries,

changes, and deletions from that route server. However, the actual day-to-day operation of that process could be delegated to a group or groups who would actually take care of throwing the switches. We said that they were also responsible for IP number allocation, but they could also delegate the day-to-day operations of that task as well.

And finally, we felt that the entity and the Board of Directors must have oversight control of the registries, but that they must not have oversight control of the registrars. We felt that the corporation and through the Board of Directors should develop policies determining the minimum technical requirements including equipment, bandwidth, staff, and other similar items for the registries to ensure stability. However, we disagreed on enforcing any type of financial requirements on the registries.

So with that set of responsibilities in hand we talked about rights. The first right we came to very quickly is that all of the members, whether they are on the Board of Directors in the entity or part of the Internet community, would have a right to open records of significant issues before the Board and would have reasonable time to respond to those issue prior to any decision being made at the Board level. However, we disagreed on the definition of what significant policy issues were and who would decide what those significant issues are. So there are clearly some open issues there.

We also said that the right to vote on different issues had to be structured in a couple of different levels, that of simple majority and super majority. We thought that simple majority votes could handle all the day-to-day types of decisions that would go on. But other tougher decisions would require a super majority. And again in this case we couldn't decide on the definition of what tougher was, so that's another open issue.

We thought in terms of super majority decisions that would require at a minimum a super majority decision of the Board and possibly a vote of the entire membership of this corporation to change the structure of that corporation, to change the size of the Board, and to change the basic by-laws of that corporation.

We also said that there were certain rights conferred on the registries and the registrars and that was that the entity would not, this entity, the corporation would not mandate protocols on the interactions between registries and registrars. The reason for that is that is essentially a business issue and we felt that the Board should, or the corporation and the Board should stay as far away from making marketplace and business issue decisions as it could and stick to issues about security and stability.

On the liability side one quickly jumped into our minds when we started this discussion and that was that the Board of Directors and potentially and also, well, the Board of Directors should have D&O insurance as part of this corporation. And we also felt that the staff should be indemnified from the membership and registries and registrars and everyone else that would be impacted by decisions of this corporation.

The second liability that we identified that is that no one or that the corporation would not indemnify registrars. And that is simply because that's a marketplace issue in how registrars run their business, and since they would not have direct accountability to this corporation, the corporation did not want to be liable for their marketplace decisions.

Second liability was that because the entity has, the corporation has a closer relationship with each registry and makes rules and policies that directly affect those registries, that it would indemnify registries and potentially assist in the defense of those registries, if the registries acted in accordance with the policies and found themselves in some type of litigation. So if as a result of something that corporation did through it's policies, a registry found itself fighting a battle, the corporations responsibility was to step in and assist them, and that was a liability for the corporation.

Those were, that's the extent of the rights and liabilities we could identify. I'm sure there is a whole host of other ones that we didn't, but I'd be happy to take any questions on those.

MALE SPEAKER: Sure. I don't know if the issue came up in your group, but if it did I'd like hear about it. To what degree did you consider the fact that being so open may lead to organizational stases, we can't get any work done?

Mr Provance: We considered that and that was one of the reasons why we chose to limit the responsibility of the corporation to issues of compelling security and stability and stay away from what would tend to be a more amorphous business issues that, you know, could potentially clog the wheels of the corporation.

MALE SPEAKER: So that openness has been moved down to the various councils or—

Mr Provance: We basically pushed it as far down as we could, essentially a number of us, and I'm speaking, you know, basically, for myself and just comments that were made, we all disagreed on a lot of things, there were a number of free market people there, we thought it should be pushed all the way to the marketplace. There were a number of people that thought it should be only pushed down to the council level. But we all seemed to, and anyone from Group C please cut me off if I'm mis-speaking, but we all seemed to feel that the more we could push those types of decisions that would clog the wheels out of the corporations purview if it didn't address compelling security and stability issues, that was preferable to trying to centralize everything.

MALE SPEAKER: So an acceptable result in those situations would be no action at all, no decision, no—

Mr Provance: No that wouldn't be an acceptable action, but we would expect to have a corporation that has policies that are very specific in certain areas and let the marketplace take care of issues that are truly marketplace issues, and in the gray area which corporations deal with every day, there would have to be exceptions to the rule, and there would be procedures for handling those exceptions. And we did talk about potential ways to do that, but we did not agree on any particular way to handle that.

MALE SPEAKER: Okay.

Mr Fennelo: Jay Fennelo with Iperdome. One of the questions that came up in Group B was about the membership of the Board and whether they represented themselves personally or the organizations who may be they were affiliate with. And secondarily if the organizations that they were affiliated with weren't happy with their performance and they were terminated, what impact that would have on their role and the Board?

Mr Provance: Well one of the—I should have listed the things that we disagreed on. There were four really big things we disagreed on, the first of which addresses your questions. We could not agree on the removal, on who was able to remove directors and what process they would have to go through to remove the directors. So we tabled that and said that was, you know, some other letter of the alphabet to deal with.

We also disagreed on trademark infringement and pretty quickly tabled that. And who would handle generic top level domain allocation, we tabled that, and also dispute resolution was quickly tabled. Any other questions? Thanks.

### Closing Remarks: Dr Tarmar Frankel

Ms Frankel: Thank you very much. If I had hoped for a meeting, I think that hope was realized. I think you sat, you talked, you exchanged ideas and came up with something and this is a wonderful start. I thank you all and I hope to see you tomorrow to continue the same process.

I am asked to make an announcement that there will be a short briefing the journalists who are in the audience and they could meet at the front of the room, please. So see you tomorrow and see you tonight at the reception. Thank you again.

