

Transcription ICANN Beijing Meeting

CEO Fadi Chehade

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Man: encourage you to all join the table and - so are we ready to start the recording?

Man: This will be the (CEO) GNSO review session for the transcript.

Jonathan Robinson: Thanks very much everyone. As you know, we've all just been through an hour and a half session which was very interesting and thorough examination of some of the key issues on the mind - collective mind of the Council if you like. Fadi was - Fadi Chehadé, CEO, was present at that meeting as a member of the Board, so he is acutely aware of that discussion and has picked up on elements of that as a Board member.

But, we are privileged to have Fadi stick around in spite of I'm sure a hectic schedule at this meeting, and spend a half hour of his - of time on his own with us to talk through really some issues on the mind of the Council.

Now we talked in our preparation sessions here of a couple of different topics, and I think I've captured them, but I'd welcome, as I've said in our preparatory sessions, any input from Councilors to the extent that you want to flesh out those topics or add to them constructively yourselves.

But really, the things we talked about in our preparatory session was hearing from Fadi about his ongoing confidence in the execution of the new gTLD program, which clearly is important and relevant as he is leading the staff and their execution of that. And just to seek his assurance or understanding of where he has - where he feels that is.

We've also talked - and in fact it came up via (Yoav) and some others 0 some concerns about some details in the program, and in particular the issue of IDN variants and how that's being handled. And I guess one of the things on many people's minds related to all of that is the timeline and the rollouts and the - specifically, where we think we are in terms of overall timing.

So I don't know if anyone has anything to add to that or if I should - yes, Zahid?

Zahid Jamil: Just a question I'd ask Fadi in the Board session, the one about singulars and plurals, and them not being in contention. What are we going to do about it?

Jonathan Robinson: Thanks, Zahid.

Fadi Chehadé: Yes. (Unintelligible) we have absolutely no say in what the panels decide. And the rules that were set to the panels happened a long time ago. We - and the rules are there and they're functioning based on these rules.

If we need to look back at these rules, then we will. But right now frankly with the things on our plate, we probably won't. But I appreciate that I - to be frank, I was as surprised as you.

But, there's a process. They're a panel. They went through it. We asked them, "Are you sure you went through it?" "Sir, yes we did." And so, I'm not going to circumvent that process.

Jonathan Robinson: Thanks, Fadi.

So Zahid, what I'd appreciate is - bearing in mind this is a new session, remote participants and people who may not have been present. So if you could just very briefly frame that issue, even though Fadi's given that answer and it sounded like you had an additional point to make anyway. But just step back a moment, reframe you know the question because it was essentially raised in the previous session.

Zahid Jamil: So just - this is - we understand that. And if there is any progress and if it gets onto the agenda item of the Board, we would like to know about it. Or you know, if there's anything we can do to help, definitely the BC at least, and I'm sure the CSG would be interested.

Just to explain the issue. I mean, that would mean that we would need to have as businesses, defensive registration and 25 other TLD's for each one of them. You know, (auto/auto). It's not just a brand issue. It's a consumer confusion issue. And you know, it's not just the second level obviously (unintelligible). Definitely at the first level it will have issues of reliability, consumer protection, a whole bunch of security issues related to that as well.

So I think it's serious enough for it to be looked at. I - we're not saying you should go back and circumvent. That's not the issue. But it is a real issue.

And sometimes when you have to solve a problem that can break a system, whether it's circumvention or something else, it has to be done.

Jonathan Robinson: Thanks, Zahid. Right.

So I've got Ching who wants to pick up on the...

Joy Liddicoat: Sorry, (Jonathan). I just wanted to point out that the point of discussion, Zahid is right, which you made so strongly there. Actually, we haven't discussed

talking about that you know with Fadi, so it may be something that we need to reflect on.

Jonathan Robinson: Yes. It's a fair point of order, and point taken, (Joy). We looked at a set of different topics, and really the ones on our list were the ongoing confidence in the execution of the gTLD program, the issue of IDN variants, and specificity in and around the timing of the rollups - of the - the rollup timeline.

So Ching, did you want to pick up on one of those topics?

Ching Chiao: Actually, (Jonathan), thanks for that. Ching Chiao from the industry constituency. I'm not sure it's the right to offer some background information here, or should we just - I mean, when we talk about the IDN variants, and then I can offer some of the background info when we talk about that.

Jonathan Robinson: Ching, my sense is it's background to one of the key topics we want to talk about, so by all means if you have something to add that gives it color and substance, by all means go.

Ching Chiao: Okay. I will do it very - I mean (unintelligible). I mean, it seems most of the people here are actually belong to this issue. I just thought for the benefit of your - I mean of our discussion, (unintelligible). So actually in the working session yesterday, the Council has scheduled a one hour session on the VIP - I mean, the updates on the VIP team and also a brief one on the IRD, the international registration data.

So these two that we focus on, particular the timeline for the delegation of the IDN variants. I mean the readiness of that and the timeline for that. We understand - we understood that the staff provides some rough timelines in a sense of sometimes next year, the - I mean, the variants for the applied for IDN will be delegated or will be handled in a - I mean, in a consented way.

But from the community discussion that we had, or the GNSO, on the organization yesterday, that there seems to have some need to - kind of to have a kind of expeditious way of handling what we have been call a variant here in GNSO, but what has been called in the ccNSO and probably seen in other terms what they call a synchronized delegation for the IDN TLD.

So I would like to stop here and just to offer that. And later, yes of course the (decision) has been brought into a further discussion on how the (TMCH) can - or have the ability to handle variant submission if the trademark does deal with - for example, in Chinese, simplify one then the transitional one.

So let me stop here. Thank you.

Jonathan Robinson: Thanks, Ching.

Sorry. (Yoav), did you want to add...

Yoav Keren: Yes. If - before Fadi answers, maybe just to give another point on the other variants.

Just to clarify on the (unintelligible) the problem. There are - currently first of all, there are some languages that we - that don't have the tables - the variant tables ready. So the working group was dealing with these tables for the top level, but practically we also did it for the second level.

And the next issue - and it's not only relevant to the - for the (unintelligible); it's also relevant generally for the registries. What do you do with a variants of names? And I'm sure you know, that we - you understand this issue of variants in Arabic just like in Hebrew, you know you have the letter in the end of the word, it has a different - it looks different. And then if it's in the middle of the word or the in the beginning, and that's a type of variant.

But we do that. We register the domain - the couple - the bundle. There's no - this was not decided. Currently, registries - as we've heard from - you saw that the leader of this team, they decided to bundle it. But this is - they just decided on their own.

So it brings us to the point where in the (TMCH) first, if you don't have a policy about that - and a policy is not - if we talk about this it doesn't have to be a PDP, okay. Just a policy how do you deal with this? A rule to help deal with this.

The problem that will happen is that if someone files their trademark - an IDN trademark in one of the languages, it has to be in the exact match, but it will have variants.

So first of all, based on the rules, they will not really be able to file the other trademarks. And what can happen is that those domains will not be safe for them. They cannot apply for them in the sunrise. They will not have the claims, everything. And then you know there's a whole mess.

So there has to be something decided about this before we start implementing, and I will - my personal suggestion is we decide on bundling. We make sure we have the tables in there as quick as possible. We don't have a Hebrew table. Actually, I'm going to volunteer and have a group do this very quickly to make sure it's there. But, I'm sure there's some other languages that have the same problem.

Jonathan Robinson: Thanks, (Yoav). Can I just stop you there? I mean, we've got half an hour with Fadi, so it's I think very - it's a very constrained set of time. We've got some key issues, which is to understand his sort of ongoing confidence in the execution of the gTLD program. This issue of the variants is clearly one critical and substantial issue to some of us, and really probably should be to all of us in terms of one element of that execution.

There are other questions we had like hearing a little more on the specifics of the rollout timetable. And so perhaps I should give you an opportunity, Fadi, to talk with us a little on those if you would like to? And if there are any other points of substance in and around the issues that we had talked about in the Council.

Mason, do you want to go in the queue?

Mason Cole: Yes. That'd be fine.

Jonathan Robinson: All right.

So Fadi, let's give you the opportunity to respond a little and then we'll see if there's other - I know Mason's in the queue.

Fadi Chehadé: Okay, thank you.

Good afternoon everyone. I'm not an expert on IDN's, and I would not venture in implementing the process right now.

I will tell you that the trademark clearinghouse from the beginning was built to be a global service that understands and appreciates that there will be many trademarks submitted in multiple scripts. The current trademark clearing accepts these in multiple scripts. I just want to be clear it is set up to do so. It even has regional experts that understand local trademarks, so they participate in the decision making.

We - they also follow the IDN guidelines (unintelligible). That's exactly what they have been told to do.

Now to the extent many of you have specific concerns on how it's being implemented, I would love to hear them. And in order to make this effective, I'm asking staff right now publicly to set up a call with whoever wishes to join

to actually make sure we hear all your concerns about how these are being implemented, and staff will share their views with you. And out of that, we will direct things (unintelligible). That's my commitment.

The second thing I think you want me to talk about is a little bit of the timeline of the whole gTLD program.

Let me just be very clear. There is no dead set milestone for the gTLD program. What there is is tremendous momentum to get this gTLD program birthed. That's what there is. But I don't want anyone to be under the illusion that somebody forced a date on me or I forced a date on you or on myself. There's no date.

There's work that's being done. I've built massive programs before. This is a massive program. We're going about it fast, but with very deliberate steps. We're using agile methodology, which means it's not waterfall methodology. We're not waiting for every step to be done until we do the next one. So when people come up and say, "(EBERO)'s not done. How could you start?"

Well, (EBERO) is when things fail. We don't have single gTLD out yet. We have planned to do (EBERO) in time when the gTLD's are out. In fact, many of the current gTLD's are functioning without (EBERO) even. So that's a whole new program that we put - to put belts and suspenders on the new gTLD's, and it will be done in time.

And then when we announce we have selected three fantastic providers, they say, "Oh, yes. They're reacting," as if we selected them the night before. We've been at this for months and there was a lot of work done to get there.

So the cynicism that exists about how we're going about this really needs to be thought through a little bit. We have a lot of work going on. You brought me on board to get this program done, to implement it, and that's what we're doing. We're getting it done.

Now I heard for the last two hours a lot of comments about the Board trampling and circumventing this body. I must tell you, I - first of all, on the sacredness of what you are talking about. I'm in violent agreement. Like, how can I argue that? I'm here because of this. That's the only reason ICANN matters is because we have this multistakeholder and bottom-up process. I mean I'm with you 100% on it.

I think - and frankly, I would love the people who were involved with me in the trademark clearinghouse a meeting in Brussels, and in LA, and on the phone to raise their hand because it wasn't two people. There (tens) of you involved in these calls and meetings, right? How many of you told me I was circumventing anything during these meetings?

No one told me I was circumventing policies. That's not true, Wendy. I have - (Robin) was there the whole time and then she left at 5:00 pm because she had a flight. I understand that.

But remember guys, you're the ones who came to me in Toronto and said, "We have a broken machine. Let's fix it." No I admitted in Amsterdam I may not have known the rules of the game. And when Maria came up to me with the process I said I didn't know the rules of the game. I didn't know. And she said, "There are ground rules in ICANN." And I said, "Great." So now I'm setting ground rules.

In fact, we are now setting ground rules that say I cannot call a meeting unless you know I've come to you, for example. I've checked with you. I've worked with you. So I'm trying to work with you to find out what is the best way to go about this. And if you have these ways, please document them to me.

When you told me during the meetings, "Policy implementation is not clear." I asked staff to write a paper. They wrote a paper. You got it. I haven't received

yet feedback on this paper. I'd like to get feedback directly to me saying, "This paper is off, and I understand you're meeting this week," so that's the process.

I wasn't aware I'm breaking any process. So if I did, as I did in Amsterdam, I said my apologies. Guide me. I'm here to make things work and I'll (advance them). That's what I'm here to do.

How could I be the head of ICANN circumventing the multistakeholder process? What have I done for the last three months but turn around the world, tell them, "This is the best thing on the planet." How could I be doing - I mean, these things don't add up. What is the pattern of me breaking the process or ICANN breaking the process? Help me with it. Guide me with it. Tell me what I need to do better. And I've been here all along and I'm saying, "I'm listening."

I receive 3,400 emails per month on average. I now hired a full-time person, she's here in the room, whose sole job - a graduate - a Master's Degree graduate to just read my emails and keep up with it. They tell me what to do.

It's good. I'm happy. But that also means, you know, I need to do better listening -- and I'm here -- you know, to this - today when I was listening to you, I said, "Do you - if you all meet regularly, I'm happy to come. Invite me and give me the grilling and tell me what I didn't do right and I'll do it better." I'm happy to take the input any time directly from you. Not through reading blogs. Call me and tell me what I can do better and I'll respond.

And there's no deadline on the gTLD program. I repeat that again. We're just going about it deliberately and very, very intensely. We're going to get the program out. That's our job. That's what you hired us to do. To implement the policy and the guidebook, and that's what we're doing.

Jonathan Robinson: Fadi, I've got a queue of three people, but I'm going to stick my neck out and say one thing, and that is notwithstanding the specifics and the very controversial specifics that came up for all of us on the trademark clearinghouse Strawman, I do know that we came to you in Toronto and said, "We have concerns about the implementation of the trademark clearinghouse." And I do know that you entered that process in good faith and with a genuine intent to solve the implementation of the trademark clearinghouse.

I know that they're off - and we all know the history. It went off the rails for a variety of reasons, but I will certainly stand by you and say that I know you entered that process with a genuine good faith attempt to resolve the implementation issues of the trademark clearinghouse.

So I'll stop it at that, but I - and I know there's a queue. I've got Mason, Jeff, and Wendy.

Mason Cole: Thank you, (Jonathan). Mason Cole, registrar stakeholder group.

Fadi, I just - we had a discussion yesterday here at the Council about your request for advice on the Strawman and the trademark clearinghouse, and we delivered that in a letter in February outlining where the majority of the Council - it wasn't unanimous, but the majority of the Council felt certain things were policy, certain things were implementation.

I think we're looking for a bit more visibility on how you or staff arrived at the decision you did about what is policy implementation. If you could help with that, I think we'd appreciate that.

Fadi Chehadé: The thinking was laid out in the massive paper that (Karen) published as to how we arrived at these decisions. It wasn't flippant. We spent a good number of weeks analyzing your input. We wrote - I don't know if (Karen) is

here, but this paper is at least 20 pages of dense material on how we got to these decisions.

And so it's all in there, and we can spend 20 minutes going item-by-item but I don't think we have that time.

The continuing, as you're now calling it, policy and implementation - the continuing between policy and implementation is still ill-defined. I agree with that. So we will - you know, some people have an opinion. Others will have a different opinion.

I think the fact as a community we're getting into that debate is fantastic. It's good. It will help us so that when we make a determination and the community and the outside world sees how we came to that, there has to be some standard, and that standard is frankly absent at the moment.

So we used some standards. You may have used a different standard. I think we need to unify the standards and avoid this situation in the future. I'm hoping we do.

Jonathan Robinson: Jeff, I'll go to you next.

Jeff Neuman: Yes. I think I'm going to - since I was going to bring up something new, and it sounds like Wendy and maybe John want to address this so I'll yield to them in the interest of time.

Jonathan Robinson: Thanks, Jeff. Let's go to you then Wendy and then John, and then we'll come back to you Jeff.

Wendy Seltzer: Thanks. Wendy Seltzer from the noncommercial stakeholders group. I heard lots of questions in your response about why wasn't anyone in the room at the LA meeting saying this was a problem. We in noncommercial stakeholder group absolutely were saying this meeting was a problem.

Scheduling these kinds of a discussion as a those who can come to the face-to-face meeting poses a problem for a stakeholder group that can't necessarily get lots of participants to that meeting.

Various of us were on planes or in - previously engaged, and (Robin) and (Cathy) participated valiantly in pieces of the discussion, but that can't substitute for going out to - through the stakeholder group to our constituents and deliberating and bringing back the considered position of the constituency and stakeholder group. And, that's why these assembled meetings can't substitute for policy development process through the GNSO Council.

This is the place where we developed the consensus policy and where we reflect on whether an implementation meets those policies - guidance we gave. And when we say it doesn't, we really do expect to hear why that advice was disregarded and to be able to engage in further dialog around those differences.

Jonathan Robinson: Thanks, Wendy.

Did you want to respond, Fadi, (unintelligible)...

Fadi Chehadé: Yes. (Unintelligible) to agree with Wendy that the part where I said already, and I'll say it again, I made a mistake, is that I should have come back to you when you decided on a different standard, as I was telling Mason, than what you said. And that's a process mistake.

In other words, we should engage more often. I should have come back and said, "Look. We looked at this," as opposed to just issuing a report, even if it's 20 pages. It's something that we should've engaged back with you. That I accept.

And next time we're in a position like this, especially when we are in disagreement, I'll come back to you and we'll have a discussion and a dialog and a debate and reach the right conclusions.

So - and this was - by the way, the meeting started as an implementation meeting. It wasn't about policy. I mean those of you who were with me in Toronto in the room, we discussed these are implementation issues. Okay. Then we'll limit the meeting to implementation issues.

But as we got into it, some people started inserting things that were not implementation and that's why we made decisions that something - our policy - not going to touch them. It's just that maybe we have a different final decision on what is policy, what is implementation. I'm inviting the dialog. Let's have a dialog what is policy, what is implementation, so we are working off of a common standard.

Jonathan Robinson: Thanks, Fadi.

We've got John and Thomas in the queue. I'll make one remark.

I think for us as a Council, it's the - and Jeff as well. Sorry, Jeff. I've got you. I have got you on the list.

But I think for us, the key thing is we determined as a Council that something was policy, and our view is at the very least, if we do get into that situation, absent the bight (unintelligible) in the future, we would like to have that further dialog with you before it goes - yes. So thank you for that, Fadi.

Let's go to - I've got John, Jeff, and Thomas.

John Berard: Fadi, John Berard with the business constituency.

I worry that what I'm about to say will sound flip, and I don't mean it to. But one of the things I learned when I embarked on my business career a long time ago was that it's better to ask forgiveness than seek permission.

One of the things that I have learned in my involvement with ICANN is that it is imperative to get permission than to seek forgiveness. I - just so - I'll leave it at that.

Fadi Chehadé: This is helpful advice and I accept it. But I ask you again, has there been a pattern where this happens, or is it all this (unintelligible) over the (TMCH)? When patterns happen, then you know - so now, you've taught me a lesson. I took it. If I do it again, then we should have a real chat.

But I've already admitted two months ago in Amsterdam that there was a (unintelligible). We made a mistake. I'm moving on. Are we able to move on? That's the question.

Man: Fadi, the timing's very, very - it - the one thing that I would caution against is - and we use words like you and we, and that suggests a unanimity. It suggest a monolithic approach. And I can tell you that there is anything but unanimity in a monolithic approach.

So you could each ask of each - you could ask each of us individually and we would give you our answer.

Jonathan Robinson: Thanks.

Fadi, I'm very conscious of your time and your schedule, so I've got Jeff, Thomas, and Zahid and we'll draw a line under it.

Jeff Neuman: Hi Fadi, how are you? Jeff Neuman.

It seems like lately that ICANN staff has put itself in a position of being the ultimate arbiter of how things should come out without a need to come back to the community.

And so one thing I'm going to mention, and you and I have talked about this and the registries have talked about this, right, is the notion of the amendment process, which I know is being worked on.

But it's interesting to read the - and I'm not sure many people have actually seen it, but there is a report on the public comments that came into the agreement. There's no fanfare that was made about it, but it's out there.

So it's interesting because everyone in the community came together on that - what was the unilateral right to amend, and I know we're working on it now. But what was the unilateral right to amend, everyone - it was a negative comment completely across-the-board.

But then when staff reviewed it and actually put out its interpretation of what happened, they said, "Yes. Everybody said no, but we disagree with the community and here's why." And that got me thinking; is staff really the appropriate arbiter for the community to substitute its feelings for the community's? And I think the answer in this multistakeholder process should be no, but I'm worried that that's what's happening all across-the-board.

If the community actually does come together, and on this unilateral right to amend, the community came together as to say not a good idea. But staff is writing the report, and I'm grateful that it's come back and we're talking about it. But there are some things that don't come back. It goes straight to the Board.

And it got me thinking of staff should not be the ultimate arbiter of what's in the best interest of the community and not, and I just wanted to point that out. That was my kind of wanting to point out.

And on the positive note of the new gTLD program, I thought it was important - an important thing happened this morning. We had a briefing from the Security and Stability Advisory Committee Chair and we asked him point blank - it was - we talked about the certificate authority issue, SSAC 57. And Patrick Foster made it very clear that as the SSAC Chair, it was not the intention of the Security and Stability Committee to advise the Board to delay the program at all because of this (cert) issue. And, I thought that was a very positive thing.

I don't know if he's told you that directly, but if he hasn't, that's been reported and I thought that's a very positive development in something that we should share with you as to move the program along.

Thanks.

Jonathan Robinson: Thanks, Jeff.

I've got Thomas and Zahid. And please be very brief. I'm in - Brian, we've got a next on the schedule. I suspect Fadi's got to go, so I'm - it's Thomas, Zahid.

Thomas Rickert: Yes. I'm Thomas Rickert, noncom appointee.

Fadi, I wanted to pick up on one point that you made. You said that you would come back and gladly be grilled if you did something wrong, and this is not about grilling, right. I would like - just like to make the point that I spoke to an awful lot of staff members, community members, and I think there isn't a single one who is not impressed with what you're doing.

We have been asking ICANN for results and for predictability and progress, and this is what we see happening now. So I think that you know at least in personal capacity, I can't speak of the (unintelligible) Council certainly, but I'd like to make the point that there is a lot of appreciation for what you're doing.

I remember...

I remember you saying - I think it was during the press conference when you were presented to the general public. You said you are a defender of the multistakeholder approach and you added -- and this is important -- and it's speed.

And that certainly doesn't mean that you would allow us to take any speed we might choose to take. But I think that the points that we're making are just to bring across the message that we are trying to get better in our joint effort to make this program work and the multistakeholder process.

Jonathan Robinson: Thanks, Thomas.

And speaking of speed, Zahid, speedily.

Zahid Jamil: You're not going to like this then.

I wanted to appreciate what was done. I think you tried to fix a problem. I'd like to yield to Brian because I think he had something to say. Please go ahead.

Jonathan Robinson: All right.

Brian Winterfeldt: Thank you. Brian Winterfeldt, (unintelligible) constituency.

I want to really echo Thomas' point and I want to also make it very clear that I know people at the Council have had very strong opinions they put forward. But on behalf of (unintelligible), we know that you were definitely focused on proper implementation. That was the whole reason why those discussions will begin. We know that your intentions and your heart was in the right place, and we really just want to show the support for what you did.

Jonathan Robinson: All right.

So on that note, thank you very much Fadi for spending the time with us today. Both as a member of the Board and in your capacity as CEO. Very much appreciated.

We - our next session follows immediately after this, and that is an update on the - on some critical issues on the new gTLD - on the gTLD program. We are expecting to hear from Christine Willett. Christine, are you here?

Great.

END