

**ICANN Costa Rica Meeting
Non-Commercial Users Constituency (NCUC)- TRANSCRIPTION
Tuesday 13th March 2012 at 09:00 local time**

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Konstantinos Komaitis: Good morning everybody, this is the NCUC meeting (unintelligible) today out of ICANN in Costa Rica. I am being told that we don't have anyone on the line unfortunately. I received an email from (Brandon) and (Munos) saying that they won't be able to join but they send their regards.

Before we start there is an agenda, which because - you know, I'm going to use my computer, we will not be uploading but generally speaking one of the things that I want to focus on today is mainly on policy issues. There are a lot of things happening and I think that all of these things are important in their own unique ways.

So I would really like us to discuss and of course there are - there is the Council meeting on Wednesday where some significant votes are also going to take place. Before however we do all that I would like us to go around the room and introduce ourselves.

I will start and then I will go to Robert. I am Konstantinos Komaitis. I am the Chair of the Non-Commercial Users Constituency. And I am very glad to see

everybody here. And as I - want to welcome to the new commerce, we will introduce themselves shortly. Robert, thanks.

Robert Hoggarth: Good morning, Rob Hoggarth, present from ICANN staff.

Man: Good morning, my name's (unintelligible) from Sudan.

(Lydia Cruz): Good morning everybody. I am (Lydia Cruz) from Costa Rica.

Wolfgang Kleinwachter: Good morning, I'm Wolfgang Kleinwachter from University of (unintelligible) and member of the Council.

Wendy Seltzer: Wendy Seltzer from the United States, Founder of the Chilling Effects Clearinghouse and also a member of the Council.

Rafik Dammak: Rafik Dammak from (unintelligible) and a member of the GNSO Council (unintelligible).

Joy Liddicoat: Good morning, Joy Liddicoat from (unintelligible) and also a member of the GNSO Council.

David Cake: David Cake from Australia, Executive Committee (unintelligible).

Konstantinos Komaitis: Thank you everybody, and welcome. Okay, we'll go really quickly through the agenda. Especial a very warm welcome to our newcomers, I really hope that you enjoy the meeting and please contribute. May I remind everyone to state their names for the recording purposes before you speak.

Now the agenda that we have today, it - I want us to talk a little bit about - I will give a very brief update about the charter that - the NCUC charter that needs to be updated in light of the NCSG charter and needs to be placed out for a vote.

Then we're supposed to meet with the registrars, however, I haven't received an email on that front. I know that most probably there's going to be a very brief exchange of (unintelligible) people are in the meetings.

More importantly so, as I said at the beginning, I would like us to focus on policy issues and there are plenty of policy issues we have the Whois of course, Whois up for discussion, the Red Cross and the Olympic Committee thing, the law enforcement (LEA) issues, and new trademark protections in light of defense of registrations. And please make any additions on those policy issues.

Closely connected to that is (unintelligible) planning, basically where we want to take NCUC, what are the issues we want to get involved in - with, what are the issues that we need to pay - that we need to pay attention to.

Then the - and NCUC is also discussing to have an event in Toronto basically to repeat the very successful event that NCUC and (Robin) organized in San Francisco. Then I would like an update from the Councilors of the policy issues that are before the Council basically and as I said, there is a vote taking place on Wednesday so we need to discuss those motions.

Any other business that we can think of, and last but not least, at 12:15 we have the NomCom coming in to give us an update on their processes. This meeting concludes at 12:30. I see some people have joined so may I ask these people to please introduce themselves for the record? Thank you very much, we can start down the road - down the table, thanks.

(Marcelle): Morning, (Marcelle) (unintelligible) from (CGIBR).

Jaime Wagner: Hi, good morning, (Jaime Wagner) also from (CGIBR).

Konstantinos Komaitis: (Unintelligible).

Man: I am (unintelligible), University of Oslo.

Konstantinos Komaitis: And we have the - both Carlos. Carlos Junior and Carlos Senior.
Please introduce yourselves.

Man: (Unintelligible) from (unintelligible) Foundation of (unintelligible).

Carlos Alfonso: Carlos Alfonso, (CGIBR) at - just a clarification, we will present a series of (unintelligible) organizations in the Board of (CGIBR) with (Marcello) and try to represent the academic community and I represent the (unintelligible) society as well as (Marcello).

Konstantinos Komaitis: Thank you very much. Welcome everybody. Okay, very, very quickly so we can focus on the policy issues, I'm going to give an update on the charter. As you know and as you've seen on the list, a small group was created to discuss updating the charter of NCUC. Unfortunately as it happens with all these groups there was not a lot of engagement. However, some comments were submitted.

The plan is to put - send to charter to the whole membership after Costa Rica, provide a ten-day window whereby comments will be submitted. And then place it up for a vote. The - the state of the charter is - I don't want to underestimate the need to update it but it certainly is not - that we're changing drastically the charter.

What needs to be updated is the provisions concerning the policy committee of NCUC, which now does - well, actually cannot basically be the Councilors because now we have NCSG Council instead of NCUC Councilors.

But as I said, this is something that can easily be fixed. It will be up for a vote and other - any comments on the charter front before we start actually discussing - before we move to the next item - agenda? Any comments? No?

Great, okay. That was pretty easy and straightforward. So let's start discussing first policy issues. I will start with the topic that has dominated - the key topics that are dominating right now this ICANN meeting in Costa Rica and it is the Whois and the Red Cross.

I will start with the Red Cross first. I am part of the drafting team however I would like to ask Joy if she doesn't mind to give us a brief update, basically if you can go through very quickly, you know, the history of the drafting team and how - you know what I mean?

From the beginning because there are some members here that have not been involved in the process or they haven't had it. Thank you very much, Joy.

Joy Liddicoat: Thank you, Konstantinos. And I'm sure you'll fill in any blanks that I have or make any corrections from my mistakes.

So just to recap, I - the - our following the letter from the GAC to the Board in September last year in relation to the IOC, the Red Cross treatment and the new gTLD rounds the GNSO Council established a working group - sorry, a drafting team to consider how the guidebook provisions in relation to the IOC and the Red Cross were to be implemented.

So there was an (unintelligible) for members from the drafting team, I'm not sure exactly how many members there are, maybe leadership has ranged between 15 and 20 at various times. And the drafting team's been working through a process that (unintelligible) last December.

And has been sort of working through a number of options to come up with a series of recommendations for how the (unintelligible) guidebook provisions for protection of the IOC and the Red Cross have been treated.

This is resulted in a recommendation which has gone to the GNSO Council which will be considered at its meeting tomorrow. The motion comprises three recommendations. The first recommendation relates to a process by which election - I'm not sure - the people have the motion? No, okay.

Well, very briefly, the first motion actually proposes - the first recommendation I should say, proposes that rather than in (unintelligible) the applicant guidebook which was that the Olympic and Red Cross/Red Crescent would be simply (unintelligible) ineligible for delegations, that's (unintelligible) modified with (unintelligible) named policy - (unintelligible) named treatment for these two words.

And the first recommendation of the GNSO Council recommendation - motion essentially, how that modifies the (unintelligible) name will be posted - will be carried out.

The second recommendation relates to particularly the IOC and Red Cross/Red Crescent terms in as many languages as possible. The background to this is that the GAC had advised the Board that the rationale, the reason for this particular special treatment of the terms was because of a unique tapestry of international treaties, international legislation, which (unintelligible) these terms.

And that this has been (unintelligible) discussion of doing so in as many languages as possible. This has been a contentious part of the discussion for the drafting team, some feeling that extension of the protection for as many languages as possible (unintelligible) unfairly outside the (unintelligible) of the (unintelligible) guidebook and others are saying this is simply a practical implementation of the GAC's concerns.

There's - the latest update on that is that the drafting team which met yesterday following a GNSO Council meeting - working meetings over the weekend, has proposed to withdraw the request for treatment in as many

languages as possible and simply to go with the terms (unintelligible) out in the guidebook.

So I'm not exactly sure what that means with - relating to (unintelligible) or not. And then finally, the third part of the motion, which is also very controversial of course is where does the protections apply only in the first round or should apply for all future rounds.

And the position that there is - drafting team members have taken, certainly those from NCUC, had been that (unintelligible) protection should only apply in the first round and that there must be a review of this after the first round.

So that's a basic summary of where we got to and what we - an outline of what the motion is.

Konstantinos Komaitis: Thank you very much, Joy. That was an excellent summary. A couple of things that I would like to add. First of all, there has been a development during this process. On Saturday the (OECD) sent an email to the Chair of the Drafting team, Jeff Neuman, actually questioning a sum of the rationale and justification that is being used for protecting those two organizations.

And secondly, a letter came from - signed by the legal counselors of all International Government and Organizations, those two letters - what they indicate is that should protection - special protection be granted to those two organizations the intergovernmental organizations are going to vote for their own names to be reserved at the top level.

This recommendations - it has been (unintelligible) that these recommendations only concern the top level domain name. Discussions concerning the second level domain name, which of course, raised immediate issues and we're talking about a whole new process, are going to

be discussed after Costa Rica with the aim of being concluded before the Prague meeting - the ICANN meeting in Prague.

The question before us right now is what NCUC's position is on that very issue meaning are we - there is a recommendation before us and this recommendation keeps on changing. There is a motion basically based on this letter of recommendation and on Wednesday our Councilors will be asked to vote on that.

So basically I would like to discuss what are your views on this very issue. What should NCUC basically - NCUC has always advocated that we don't - the question that we have asked is why do these two organizations deserve a special type of protection.

Coordinator: Excuse me, (Judy Renzel) joined.

Konstantinos Komaitis: (Unintelligible) to another organization in terms of protecting their names at the top-level domain name. We haven't received any answer. And we kept repeating the question.

So basically right now I want to open the floor for any comments and discussion on that very issue before actually we go down to discussing in more detail the motion and how we are going to vote on that. Please state your name, thanks.

(Lydia Cruz): (Lydia Munez Cruz) from Costa Rica. Excuse me, because my English is not perfect. And sometimes I - when I hear you I (unintelligible) on the moment, absolutely in the moment because sometimes I don't understand what you are saying. So excuse me.

We have not translator here and I'm trying to understand you. I'm working in a University here in Costa Rica and this meeting is about non-commercial user. I'm thinking of my University. I'm thinking sometimes about the

assistants and the Internet, the using of Internet in my University to teach all of programs.

And I see and I hear sometimes that the discussion with the question about the price of - so just even that hearing Costa Rica is (unintelligible), the using of Internet. And I don't know if ICANN or this group could provide us some policy to have a better use or a better opportunity to use the Internet to teach our programs or careers in the University.

But I would like to hear something about it. I don't know that letter you said it, where can I find that letter about the accommodations you have saying to us. But I'm thinking about it. Is there - the policy's about the prices to use Internet to teach the career to University, thank you.

Wendy Seltzer: Thank you and thank you especially to new members for coming in, speaking up, and we appreciate participation in the discussion. It's easy to get very deep into specific details at ICANN and so I'm - I was asking Konstantinos if we could put the agenda up on the screen so that we can see the list of issues that we're going to discuss. And perhaps see if there are places that the issues that you're concerned about will fit into there.

So if we have - the potential meeting with the registrars this afternoon to discuss common issues and concerns, perhaps the questions of access for non-commercial users come into that element. Policy issues was what we were starting to discuss here.

We have both the issues that are specifically on the table at the GNSO Council, which is - includes the protection of specific names at the top level and the issues of Whois that I'll spend a bit of time talking about and law enforcement requests for access to domain name registration information.

The next item that I'm particularly looking forward to on the agenda is strategic planning, and that's I think the place where we would like to hear

what should Non-Commercial Users Constituency be focusing on. What issues such as the issues that you were raising should we as a constituency bring into ICANN, bring into ICANN's policymaking process?

And we have to be somewhat careful to think about how the scope of our issues fits into what ICANN is able to work on. It might be that some of the things that we're interested in are not specifically ICANN issues but maybe we can help you to find other places where there are groups working on access and pricing issues for Internet access.

One of the other things that the Non-Commercial Users Constituency and stakeholder group do is bring together a lot of people with common interests and we can start to find those interests even if they're someplace outside of ICANN.

So strategic planning, planning for an event in Toronto, update from the Councilors if we haven't already gotten that on policy issues above, all other business. And then we get to meet with the Nominating Committee.

So thank you.

Konstantinos Komaitis: Thanks, Wendy. Yes, I think that's - uploading the agenda will help. So returning back to the issue of the Olympic Committee and the Red Cross, does anyone have any comments on this issue? And generally speaking, what we should be doing basically in order to make sure that this organizations are not granted more rights than they actually deserve? Milton?

Milton Mueller: Just a question really, I saw on the list some discussion of the (NPAC) proposal and I came in late and didn't hear all of Joy's summary. So do we have an approach to how we are going to handle this (NPAC) proposal and how it relates to Portugal's proposal from the GAC?

Konstantinos Komaitis: Well, I can briefly say about that, the (NPAC) proposal basically says that specific criteria needs to (unintelligible) in order to protect, not just these organizations but UN organizations in general. And those organizations that meet the criteria should actually be afforded this special protection.

And this is more or less in line with the Portugal proposal. The Portugal proposal during the GAC GNSO meeting said that we need some criteria. And what we're doing right now in this context is that we're only setting criteria for these two organizations that are not necessarily applicable for other UN bodies.

So (unintelligible) there appears to be a need - well, there appears to be a wish that the GAC set that criteria and whoever falls within it they might as well get the special protection. And actually we can discuss that because this also is, you know, of significance.

Do we actually want to have bodies, be UN, governmental, or even the Olympic Committee and the Red Cross, take advantage of special protection or are we against any organization getting any special protection at the top level domain name? Robin, thanks.

Robin Gross: Yes, I think it's important to remember that this isn't about whether or not there's protection or not for the Red Cross or the Olympic Committee. There is protection that - they're completely protected. They got everything they wanted in the applicant guidebook. So this isn't about do they deserve protection, should we give them protection. They have protection.

This is - their proposal is about do they also get licensing rights to extort, like, money from others for using those terms. So I think that it's important to just keep - bear in mind that this really isn't about protecting them in a way that they aren't already protected.

Konstantinos Komaitis: Thanks, Robin. I have Wendy then Maria and then Milton.

Wendy Seltzer: I - Wendy, I'm going to try to push the discussion up one level which is how important is this issue to us? It is consuming a huge amount of time and energy and I just wonder whether there are - whether we can cabin it somehow and move on.

I really appreciate the work that Councilors are doing on it but as compared to other things that we're concerned about I worry that we're allowing it to consume too much time.

Konstantinos Komaitis: Thanks, Wendy. Maria?

Maria Farrell: Thanks, I'm Maria Farrell. And yes, just to echo really what Robin is saying, the process to create the new applicant guidebook have been long and arduous and has built in many protections. As a matter of principle I don't see that we need to go above and beyond that for specific organizations.

And, you know, regarding what Wendy said, I'd love to hear from Joy. Hello, Joy, I've not met you properly and, you know, what tactically resources we should be committing to this. I'll keep an open mind on that.

Konstantinos Komaitis: Thank you, Maria. Milton?

Milton Mueller: This is kind of a procedural point. I'm wondering how many of the people here are speaking Spanish predominantly and also are there any people who are extremely fluent in both English and Spanish so that our Spanish speaking people who don't understand something, we could kind of raise their hand and maybe somebody could translate briefly? Just occasionally when is necessary.

Konstantinos Komaitis: Well, I know that (Andres) is speaking fluently both in (unintelligible) Spanish, he was in (unintelligible) and of course, the Brazilian people who I'm sure - well, their Portuguese is their home language but I'm

sure that they're speaking English. So, you know, whether - once they can actually (unintelligible).

Milton Mueller: But everybody should speak maybe a little bit slower and more distinctly. Even I am having trouble hearing some people.

Konstantinos Komaitis: Okay, thanks, Milton. Any other comments on the issue? Robin?

Robin Gross: Yes, I just - I wanted to address Wendy's question about how important this is for us. I'm not sure that the substance of this specific issue is the most important thing for us but the process and the way that ICANN policy development process is being abused by this situation is very important to us. I think it is a - something where we want to stand up and say it's important that the bottom-up policy development process be followed.

I mean really that part about it, the fact that we're just kind of, you know, circumventing the policy development process at the last minute to please a couple organizations is what really concerns me. And I think that really at the heart of this what we're trying to do is protect the multi-stakeholder bottom-up policy development process and not try to circumvent that.

So I mean I take your point and I understand we've got a lot of issues but I also think this is a place of principle where we need to be strong and stand strongly against.

Konstantinos Komaitis: Thank you very much, Robin. One comment before I pass the floor to (Alexei). The problem - what Robin refers to the process here and the problem is that GAC, which is the Governmental Advisory Committee, instead went straight to the Board and the Board implemented a decision instead of sending it back to the GNSO to deliberate on this decision.

So the Board basically asked ICANN staff to go and drop all the first round, those two names, even for the International Olympic Committee and the Red

Cross. So instead of being bottom-up multi-stakeholder process it was a top down.

And this as you can understand sets a very bad precedent and a very bad message within the multi stakeholder model of ICANN. This is a clarification. I will go to (Alexei) and then Wendy.

Man: Thanks, (unintelligible), I'm just (unintelligible) and from Ukraine. I just would like to propose such (unintelligible) for dealing with such an issue and let's use strictly (unintelligible) legal approach and just to use the same language, the same definitions as in international law treaties that provides protection for these organizations.

And if (LEA) provides more broad protection it be not in correspondence with international law, that's why maybe we don't need to find additional mechanism criterias but just to use the same protection like in each national and national laws correspondent to such provisions is my proposal, not to give more chances for these organizations to broaden their protection.
Thanks.

Konstantinos Komaitis: Thank you very much, (Andres). I couldn't agree with you more. I am a lawyer by education so, you know, for me that was (unintelligible) upheld. So I'm with you on that. I have Wendy and then (unintelligible).

Wendy Seltzer: If our concern is primarily procedural I think we are all in agreement and - that might suggest that offers a shortcut to the discussion.

Konstantinos Komaitis: Thanks, Wolfgang?

Wolfgang Kleinwachter: I think we are really facing here a dilemma. On the one hand I totally agree with Wendy in saying, you know, this is not such a big issue and we should move forward to more important issues. But on the other hand I think Robin is also right saying, you know, this could become a precedent.

And so that means we open the door and, you know, we - somebody else could come in the future.

And so far, you know, we have to find - you know, we have to analyze really why we came to this point. The reason is for this dilemma that there was noise by these two organizations and governments and some governmental - the members of the GAC confirmed this that because of the noise then governments felt the obligation to do something, to please these organizations.

So - and but it was a reaction of the governments to the noise which came up from the floor by these two organizations. And so the whole process started. It was not done on the basis of (unintelligible) study and analysis about the status of the organizations.

So the GAC argued yesterday in the meeting that the status of these two organizations is unique so because it's protected not only in international law but also in national law. So I would question this because we do not have legal analysis of the status of non-governmental organizations and the hundreds of intergovernmental organizations.

So I think, one (unintelligible) could be to propose that such a study should be made in the future because we have reserved now and we don't probably have a resolution which reserves some protection for the first round.

But this is a principle correction and so far - before we move forward to the other ITOs or what else, you know, (unintelligible) we should ask for such a study. We can always ask them for a study about the economic dimensions for the new gTLD program and the Board was criticized not delivering the study.

I think in this case we could ask the GAC to produce such a study so where they would give a clear legal picture, you know, what the status of these

organizations are and why they need additional protection because as Robin has outlined it's protected already there.

And if you go to the articles of incorporation of ICANN then in Article 4 it's very clear that ICANN operates in the framework of international law and national law. So it's not and or it's the basis for ICANN's operation and they would never do something, you know, which would violate national or international law.

And so - it's an overprotection and the risk is here that this special case will be used as a springboard to open the door for anybody, not only in the governmental organizations you see, now already the content industry is asking here for additional rights. And they will come and argue why this got additional rights and we not.

So at the end of today you will choose totally the freedom to select a name both on the first and on the second level and I think this would be (unintelligible) so far. You know, we should not waste so much time. We ask for a study and to clear this. Thank you.

Konstantinos Komaitis: Thank you, Wolfgang. I will go to Joy and then (Bill) and I would like to table this issue and move on to the next policy discussion. Thank you very much.

Joy Liddicoat: Thank you, Konstantinos. Just a step back from the substance and I hear loud and clear the desire to move on to other more - but as equally and interesting pressing issues, so the GNSO Councilors that have participated on the drafting team working on this issue have indicated that they will be voting against the proposed motion.

They - when consensus was called for from the drafting team informally the message was given and this was shared on the NCSG (unintelligible) to that.

We were in principle voting no for a number of reasons. That's their current position.

And we have also been discussing the preparation of a statement that might be read as part of the GNSO Council meeting. And I would just ask if, you know, people are supportive of that idea and if they have particular things that they think it's important that are included, pleased to share those with us.

And there are - there's still a question at large as to whether or not the motion - whether there will be a quick (unintelligible) of the motion. So that's just procedurally where we're at at the moment.

Konstantinos Komaitis: Thanks, (unintelligible) the issue of the motions when we get the update from the Councilors and then we decide how - you know, you tell us how you're thinking of voting. And we'll talk it also this afternoon after the NCSG meeting. (Bill), please and then we're moving on to the next policy issue.

(Bill): I would definitely support us having a coherent statement that we make at the time because we're going to take some heat for this. We're going to be the only people voting against it and we're - I've already heard from some other Councilors how this is viewed as somehow uncooperative.

So I think it's good to do the listing. And I think it would also be good to build into that listing what Wolfgang was suggesting. I like the idea very much of asking the GAC to do some work here since the GAC has thrown this thing in our lap due to their own kind of bypassing of the correct procedures. I think they should take a look and establish upfront how they see the uniqueness of these two organizations.

Because as already said, we will be hearing from the international monetary fund and the world trade organization and all these other organizations. And

while the GAC members may be saying now that this is a special case and we're not dealing with those others and yet and so on.

The reality is once the time rolls around I can't imagine those big dog intergovernmental organizations not having substantial support from governments to get exactly the same kind of thing.

So I think we have to ask them to essentially start to put down their markers more clearly on those issues having one way to do that and the kind of statement - the kind of study that Wolfgang is suggesting you should ask them to do.

Konstantinos Komaitis: Thank you very much (Bill) and (unintelligible) for actually putting the GAC on the spot and asking them to do a little bit of work since they're the ones that have actually proposed these protections.

So I would like to table this and move on to the next - is someone on the line - I'm being told that someone is on the line. Can you hear us? Hello?

No, okay. Then I would like to move on to the next issue, which is the (unintelligible) one - another big one, and it is Whois. As you know, Whois review team released a study and I will pass on the floor to Wendy and - who has been involved for also many years in the Whois issues.

And we also have Kathy Kleinman with us who is also in the Whois review team. And they can both give us an update. Wendy, the floor is yours.

Wendy Seltzer: Thank you. So this - I'm going to start with the prospective that I tried to raise from the floor in discussion with the Whois review team report, which is that Whois the wrong box for us to be throwing several different issues into, but unfortunately it's the box that we have.

So Whois is the distributed database of information about domain name registrants that registrars and registries are required to collect and publish. And it's the subject of several reports and the - in the registrar accreditation agreement amendment process, the subject of law enforcement demands.

And I wonder if there is any way as a stakeholder group that we can help to push this issue out to the bigger set of questions and the problems that different people are trying to solve by using the Whois as a wedge.

So one of those problems is the concerns of law enforcement that they be able to track down cyber criminals, that they tell us that - and they articulate that sometimes as we need to have accurate information in the Whois database, we need to know who has registered a domain name.

Other times they say all we need is a clue, a bit of information that somebody has left, for example the IP address that they used when registering the domain name or whatever information they happen to type into the boxes gives us the - a lead to who those people might be.

Other times they say they want contactability so that they can get in touch with somebody behind a domain name and find the - get the name - the activity stopped, perhaps it's a domain name that's been high jacked by somebody spreading phishing attacks or being used as part of a (botnet) and if contacted the person who was the nominal registrant would say they have no interest in being part of that and would instead go shut down that activity.

So I wonder whether there's room for - and on the other side, there are the interesting concerns of privacy advocates, advocates for individual Internet users who don't want their details published for the world to see in Whois, as well as the interest of non-commercial organizations.

And as the Whois review team noted, even the interest of commercial organizations who might be launching a new product or considering a merger

and don't want the world to know that it is they who are considering a new name in - by looking at the Whois information.

There are the interests of associations who don't want to be targeted because of unpopular views and therefore don't want to be identified to the world as the registrant behind a domain name.

So I wonder whether there's a place and maybe it's thinking about Toronto. Could we convene between non-commercial and law enforcement, a dialog on joint problems and solutions? Leave Whois out of the title even and just say, you know, we all share an interest in a usable, safe, free expression driven Internet?

Are there places that we can work together to help address the concerns of stopping criminal activity on the one hand, preserving privacy on the other? And leave aside the sort of lightning rod that Whois has become?

Konstantinos Komaitis: Thank you very much, Wendy. Before I give the floor to various people to speak - one second, Kathy, I would actually - yes, I mean I think that the (unintelligible) ago have been setting dangerous in the ICANN world, nobody really likes it and it creates all sorts of debate.

What I would actually - before passing on the floor to Kathy and I would like actually (unintelligible) Kathy because she was a member of the Whois review team, it's whether there is any rumors to bring in privacy of this - I mean in Europe for example where I come from we have a very strong privacy regime and there are privacy officers all around the member state.

And I'm not sure - and this is a question, whether this has been included? I know the same happens in New Zealand and Australia. So basically Kathy, the floor is yours.

Kathy Kleinman: If I might I'd like to provide a little bit of background and then I'll get to the issues - the questions about privacy officers as well as the issues that Wendy has raised.

But first let me tell you who I am and what I'm doing here and whom I represent on the Whois review team because it's probably not who you expect. My name is Kathy Kleinman. I'm the co-founder of NCUC and so very, very proud and happy to be here and to see so many people around the table.

We were so small when we started in Santiago, Chile in 1999 and now I'm very proud of the leadership. Robin was an amazing leader for many years, now Konstantinos. So it is a pleasure to be here.

That said, when I was appointed to the Whois review team I was Director of Policy for .Org, the public interest registry. So I'm a representative of the registry stakeholder group.

And although I'm no longer with .Org I went back to the registry stakeholder group and I said, would you like to appoint someone else to take my place on the Whois review team? And they said, no, you stay there if you would.

So I am Vice Chairman of Whois Review Team. Your representative was Kim von Arx who had to resign about two-thirds of the way through and who did some wonderful work while he was there on the privacy issues.

That said, during the GNSO Council meeting a number of wonderful questions were raised about privacy and human rights and whether the Whois review team have considered these issues. And you should know, they all glared at me because I would never let them forget those issues.

They came up in every discussion, intellectual property always balanced by privacy and legitimate needs under human rights issues.

So let me tell you briefly one of the great steps forward I believe in this process was the agreement that privacy and proxy services exist and have legitimate needs. And that's the legitimate needs - and by the way, for many years people wanted to jettison privacy and proxy completely. So I think that's a big step forward.

Further, that the legitimate needs of proxy and privacy services are not just for natural individuals. That is very important and it's certainly European law.

What we've written in - also corporations have legitimate interests in proxy and privacy as do political groups whether they're human rights groups or just the soccer team run by a mother who doesn't want to put her Internet - her address on the Internet.

Every type of organization has some type of legitimate need in proxy and privacy if they feel they do. So we have - we've gone forward, we have embraced - and I'm looking at a slide now that corporations, organizations, and individuals need and use proxy privacy services.

A stunning step forward because we also heard it from the intellectual property constituency. So I'm really - I think that's a good step forward on this.

That said, it does put us on a slippery slope to people getting that information because the flip side of embracing proxy and privacy is saying it can't be out there unregulated, it can't be out there with no rules.

Law enforcement is telling us and (Sharon Lemmon), Deputy Chief of (SOKA), the serious organized crime agency of the UK was on our team. And she's very standardized. It's amazing how she gets pulled away to plan the Olympics basically.

And we spent a lot of time with her team and they were telling us about the organized crime that they're fighting and that some of it requires very fast movement because things are going up on the Net and by the time they're found and traced and - they've moved.

So they want to - there's a need for this information. I found it credible and legitimate because she is credible and legitimate that there are these needs for this data.

But they seem to be willing to work with some kind of proxy and privacy regime provided there are very clear rules, and preferably there are fast rules, about how to get the data if they need it and can prove - and can meet some standard.

So what those standards are is not for the review team to say. We're a review team, not a policy making team. I'm wrapping up really soon, Konstantinos.

So what we've said is this belongs - we report to the Board. So we said the Board should do something but really the GNSO should create a policy process to determine and work with rules for reveal and relay but we did say they have to be consistent with national law. When you reveal the data, when you relay the data and let the registrars know about something.

Regarding whether Whois is just the wrong box completely and should be replaced. (Emily) had a wonderful response to that in the GNSO Council meeting, she's British. And she said, it's like getting directions in Ireland, the response is I wouldn't start from here. And she says it so beautifully.

Let me just review very quickly from the Affirmation of Commitment, the 2009 document signed between the Department of Commerce and ICANN. It's what gave ICANN a little more independence. ICANN used to be under the Memorandum of Understanding and now ICANN has a little more

independence subject to creating three review teams as well as many other things of which we are one.

And 9.3.1 of the Who - of the Affirmation of Commitment says, ICANN additionally commits to enforcing its existing policy relating to Whois subject to applicable laws. Such existing policy requires that ICANN implement measures to maintain timely, unrestricted public access to accurate and complete Whois information including registrants, technical, billing, and administrative contact information.

That's - and then we have to assess - ICANN will organize a review of Whois policy and its implementation to assess the extent to which Whois policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust. That was our mandate so we did not get to think outside the Whois box, we were given the Whois box.

Regarding privacy officers, Konstantinos, we have a history of communications with data protection officials. I would encourage NCUC to embrace that for when you need it.

They're interested in hearing from us. What we did is we wrote in an outreach provision that recommendation for - that ICANN should ensure that Whois policy issues are accompanied by cross community outreach including outreach to communities outside of ICANN with the specific interest in the issues. And in our comments we wrote in that's law enforcement and data protection officials.

So whenever a Whois issue comes up rather than assuming that data protection commissioners are looking at GNSO.ICANN, you know, we're supposed to - ICANN is now supposed to present it to them and let them know when policy issues on Whois are going through.

Konstantinos Komaitis: Thank you very much, Kathy, for this great update. As you can understand Whois raises significant consumer protection issues among other issues of privacy and Milton actually yesterday in - during the public comment period made a comment, which I (unintelligible) thought was very accurate.

That, you know, the unfortunate thing about the Whois - and I think that's one of the problems, is that it appears to be closely related to surveillance and that's the comment that Milton made. And possibly we (unintelligible) need to distance Whois from surveillance because it doesn't necessarily mean that, it shouldn't of course necessarily mean that.

I would like to open the discussion now on the Whois issue. And I would like to hear from you what - what you've heard, where you stand, and what you believe should be the way forward, especially for the Non-Commercial Users Constituency. Any comments? And what changes? Milton?

Milton Mueller: Well, one of the things I noticed - you know, based on this false assumption that Whois is something that ordinary consumers are constantly using to protect themselves, there is a proposal - I'm not sure if it's a recommendation or not but there's some discussion of this idea of having ICANN itself operate a Whois interface that would unify and also that this would be multi-lingual.

And it seems to me that ICANN would have to spend millions and millions of dollars to actually implement this and given that it both reflects and reinforces this false assumption that Whois is a consumer tool rather than a surveillance tool by which other parties want to keep track of what domain name users are doing, I think that we should take a position to encourage them to get rid of that recommendation if indeed it is a recommendation.

Konstantinos Komaitis: Thanks, Milton. Any other comments? Kathy, please, and than Rafik. Kathy?

Kathy Kleinman: Quick note, Milton, I shared your concerns. I've fought this one because I wasn't sure what resources a portal would require. You know what ICANN (unintelligible) best response was? And it was an official response, is that we're already doing that, it's Internet.

The only problem is they weren't doing it for the data.com - the full data. They always show you what's in the VeriSign database. They don't show you what's in the registrars. So they said, the implication was it wasn't a huge thing.

Milton Mueller: But if they multi-lingualize it that's a huge thing. That's a completely different - and also they're integrating.

Kathy Kleinman: I don't understand.

Milton Mueller: What they're doing with (Interneck) is - you know, it's basically asking Whois - and it's not - it wouldn't be a huge thing. I mean it would - but they're talking about a thing that incorporates thick Whois and also multi-lingual, I think it would be quite an investment.

Kathy Kleinman: Quick note, it's the same investment we're asking registries and - I mean multi-lingual is where we're going with the IDN, the Internationalized Domain Name. I'd love to talk to you about this offline because there are other proposals on the IDN side that you may or may not like.

Konstantinos Komaitis: Sorry, (Andres), please.

(Andres): Thanks, (Andres) (unintelligible). I'm sort of new to this topic so I'm going to ask a very, very basic question. Is there any study or any sort of academic report or ICANN work on trying to certain exactly what are the privacy concerns with the Whois system?

I know I'm trying to think of any sort of hard data that may give us an indication of whether this is a problem at all. I have to admit I have not come across anything but I would be very, very interested to read anything for someone who is starting this from very, very start, thanks.

Konstantinos Komaitis: Thanks, (Andres). (Unintelligible), please.

Man: Not sure whether there is something more up to date but there is at least a report from the University of Oslo, three or four years old. The offer is done at (unintelligible). I can spell it out like you - offline if you prefer.

(Andres): (Unintelligible) Googling it and if not I'll ask you, thank you.

Konstantinos Komaitis: Thank you very much. Maria?

Maria: Yes, I hate to ask this question for fear of volunteering myself but I'm not (unintelligible). But as the Whois review group reports is it likely that there will be more processes or policy developments coming out of that? And if so - and as a general point, we probably need to think about staffing then from our point of view.

Konstantinos Komaitis: Kathy, is there any indication that this work will continue in terms of policy?

Kathy Kleinman: Definitely, that's definitely envisioned. It looks like Wendy has something to say and let me flip through to find my slide that talks about - so that I can quickly identify each one that I think will go to policy.

Konstantinos Komaitis: Thank you. I will pass this off to Wendy. And Wendy, I know that the public comment period finished on the 18th, am I correct on this month? So we really need also to strategize and discuss a little bit on which comments and what NCUC will be submitting. So Wendy, please, and then I think it's Avri.

Yes, Kathy, then Wendy, then Avri.

Kathy Kleinman: Recommended - the recommendations on data accuracy and proxy and privacy, which are different by the way, guys. I'm saying them in the same breath but they're - that shouldn't - there are no easy answers to them so they would have to go to a (unintelligible) and possibly a development process. So I can show you exactly which recommendations (unintelligible).

Wendy Seltzer: A couple of quick points. We are asserting that these - any of these - implementation of any of these recommendations would have to go - not implementation. Any of these recommendations would have to go the GNSO Council if they were to become policy. The Board does not have the power simply to legislate these policy matters.

The other issue that coming before Council for a vote on policy development on Whois is the thick Whois issue. And where we have a motion on the table we couldn't conceivably move to amend that motion if it looks as though it's going to pass to consider issues of greater concern than the simple - the relatively narrow question of whether VeriSign should be forced to operate a thick Whois, which is the current question.

Konstantinos Komaitis: Thank you very much, Wendy. Avri?

Avri Doria: Yes, I basically have - I guess three points.

Konstantinos Komaitis: Sorry, Avri, can you please state your name?

Avri Doria: Yes, Avri Doria, member of NCUC. I guess I have three questions. One of them is the last one that Wendy brought up on the thick Whois and just wanting this to be something that is actually stated further is I still can't really figure out how all new gTLDs being required to have thick Whois became policy.

I must have been sleeping the year that that PDP was held. So when Wendy talks about the wider issue I think that's the specific wider issue is how did we get here. That brings up the second concern, which I guess I'm starting to feel a little comfortable with, but you've got these empowered AOC review teams and I think the AOC review process is a good one. I often refer to it as ICANN's magna carta.

But what I've been worried about is that people would say the IO - the AOC is such an important review team and say that it doesn't have to go through a further policy process.

And I'm not yet convinced that everyone accepts that things can't go from the Whois review team to policy without going through a whole PDP process. So I think that is something that we definitely have to remain on guard for.

The third thing is just a quick process thing, is if Kim is no longer the - I guess it was the NCSG - it's not the NCUC's representative on that because it was by stakeholder group, how long has that been the case for?

And has he been replaced? Is that something that we want to bring up to the NCSG meeting that that needs to be replaced? Is there enough work still going on in the review team that that should happen? That's a...

Konstantinos Komaitis: Thanks, Avri. On the Kim (unintelligible) issue I was notified because after the point that this review team has been created, you know, we've sent Kim.

He had to leave for personal reasons two-third of the way and the review team felt that there was no need to be replaced at the time because they were already - they had already discussed all the issues and they were just producing the reports. And Kim was already part of this discussions.

So literally it was two or three - two months basically before the report was officially published. And actually Kim came back to me saying, we already - I already submitted the recommendations from the non-commercial user's perspective.

So between Kim and the review team I was assured that non-commercial interests were represented.

Avri Doria: If I can follow up?

Konstantinos Komaitis: Of course.

Avri Doria: And when the review team is taking in the review comments and amending their report, it's good that there is a non-commercial orientated registry group representative but as those recommendations are perhaps altered based on many comments do we have more than a person sort of wearing one hat and a shadow hat able to protect those interests?

Or do we need to try and get somebody knowledgeable into that review process? And do we have a right?

I mean it's nice that the review team says, don't worry about it, you've been covered. And the NCSG's saying, yes, but there's a right to be there. And perhaps that's an NCSG question, not an NCUC question.

Konstantinos Komaitis: Yes, before I pass on the floor to David, it wasn't just the review team, it was also Kim. So on that basis - but because, you know, the process was not clear to what will happen after the reports were (unintelligible), possibly a very good way to approach this will be to speak to the review team and ask them, you know, that if they continue this process we will need to assign someone to replace Kim in order to represent non-commercial users.

David and then I have Carlos - no, okay. David, thanks.

David Cake: I just wanted to - from my experience on the SSI review team - I should say my name for the transcript, David Cake. The constituencies are not - or stakeholders are not 100% entitled to a position. They are entitled to - they present candidates and some of those are selected.

So there is no process in place that you automatically entitled - a stakeholder group is automatically entitled to replace a representative. I think it's reasonable to ask - you know, consider those issues that - you know, generally there is no procedural thing that we are entitled to replace people who (unintelligible).

Konstantinos Komaitis: Thanks, David. I guess what I was trying to say is that if discussions of substance continue then definitely we need to (unintelligible) someone, that's the point that I was trying to make.

On the public comments, can we please address this very briefly before we move on to the next issue? I know that Wendy - and I'm going to ask Wendy again, is preparing public comments that she will be circulating through the list. And on her behalf I would really like to ask any of you who have actually read the report to please contribute and send comments to Wendy.

So I will go to Wendy and then Joy, thanks.

Wendy Seltzer: Yes, so I am preparing comments. Some of those comments are going to be focused around the specific recommendations that the review team has and ideas - suggestions for emphasis.

I think that since the review team does make strong findings in the body of the report around the need for privacy and the importance of privacy I'm going to recommend that that be called out explicitly in the recommendations and that privacy be given equal strategic priority to accuracy in the Whois.

And then it has some sort of specific comments on the report details and the level of support that could - that exists for some of the recommendations made there.

Konstantinos Komaitis: Thank you very much, Wendy. Joy?

Joy Liddicoat: Thanks, and thanks Wendy and Kathy for your work on this really important issue. Two questions really, the first one, somebody - I think in the meeting yesterday, asked about the dates the comment period closes and whether there was some informal convention about comment periods not closing within a week of an ICANN meeting or something. So I don't know if there's any clarification on that.

And the second - well, that's sort of question got more (unintelligible). I'm certainly keen to support, you know, the rights related issues which you've been raising and the concerns you've been raising.

And also to widen those - with those specific examples, for instance, you know, why is privacy wanted, not only as (unintelligible) in itself but because it protects for example the rights of human rights defenders from improper use - access to a use of information, you know, as we've seen with our members in Malaysia and Pakistan and other countries where their governments are - (unintelligible) and using this information to arrest, detain, and charge people with offenses.

So for local activity. Anyway, so I just wanted to find out if there's some way to - in the very short time available, I'm offering to assist in some way to bring those issues to the comments. And I just wanted some guidance of where (unintelligible) those and I can talk to that - there offline.

Wendy Seltzer: Thank you, Joy, that's terrific and I think the human rights framework for analysis and specific instances of human rights concern with Whois

publication and collection very valuable edition to that and really appreciate your help with those comments.

Konstantinos Komaitis: Thank you, Wendy. And actually I would like to add to the policy issues that we discussed, the human rights issue that Joy has brought up. I think this is very important. And Carlos also, I know that he is engaged in that.

Kathy, I would like to wrap this and move to the next issue please.

Kathy Kleinman: Perfect, quick note that the Whois review team's last (unintelligible) meeting is tomorrow. We've been out on public comment for three months. It was all I could do to keep them extended beyond this meeting and not close before the meeting. I said, you can't close it before the meeting. Go face to face tomorrow morning, anything you can send me before tomorrow would be useful.

And I've told this to many people in many - in many, you know, constituencies and stakeholder groups to - if there's any way to send bullet points or anything it would be - or a draft or wherever you it would be useful because we are in meeting for about eight hours tomorrow.

Konstantinos Komaitis: Thank you very much, Kathy. Any last comments? No? Okay, I would like to move to the next issue. And I am thinking, you know, I'll go back a little bit to trademarks and then I'm going to go back to the law enforcement agency issues.

On Thursday there is a panel on defensive domain name registrations at the top level. And this morning we had - I have been invited to sit on that panel. And basically the reason I'm bringing this up is that it suddenly hit me, five minutes before the meeting closed, that it appears this panel and the issue of domain name registration at the top level domain name, I couldn't understand it at the beginning.

I didn't really know how someone - how we can talk about defensive domain name registration at the top of domain names when, you know, the costs are significant and, you know, we're talking about more than \$500 million in fine. So I just couldn't understand it.

So it suddenly hit me as I said five minutes before the meeting that there might be an attempt by the intellectual property constituency, and because of the Congressional hearings and the National Advertisers of America and what they have been talking about, to bring back the GPML list on the table - to bring back the Globally Protected Mark List on the table.

And this has been indicated at that breakfast meeting that we need a list that - and that list might come out of the (UDLT) and the National Advertisers forum decisions as to which names and marks are the ones that are being subject to cyber squatting activities. So we need to create a list for those marks that can be protected.

So as I said, at the second level, I sort of understand it even though I do not necessarily agree that defensive registrations is the plague that it's being presented. But at the top level it doesn't make any sense and we only said it actually does make a list attempt to create a list where some marks and brands will be protected.

So I would just like to raise this issue the attention of everybody. This, of course, is me interpreting things but in this instance I really think that this is most probably what they want to do. And I would like to open this to everybody.

There has a public comment period that public comments have been submitted. I submitted comments. If I recall it was on behalf of NCUC, you know, it was circulated - yes, it was on behalf on NCUC. I circulated them to the Executive Committee simply because I didn't have the time to drop them

and I only managed to do it before the last day of the public comment. So please any comments on the very issue, Avri.

Avri Doria: I'll just quickly reiterate the comment that I submitted as an individual comment to that and I think the idea that these are defensive applications - let's not call them registration - defensive applications is actually complete nonsense. And in fact calling them...

Constantinos Roussos: You're on record on that?

Avri Doria: I'm on record on that I think yes, but I just wanted to reiterate here that allowing them to call them defensive applications is already surrender. That these are competitive applications - there's already protection, you know, in terms of trademarks, there's already protecting the so-called rights of others, the euphemism for trademark help, but that already exists and that's very strong. So call these anything other than I want to be protected from competition in a process that has been created for competition is absolutely ridiculous and indefensible.

Constantinos Roussos: Thank you very much Avri, very well said - Mary.

Mary Wong: I read Avri's public comment submission and I thought it was very well crafted, it was - and it's absolutely true, you're right and it's exactly what you just said. I think the word defensive registration has been used in the trademark world for a long time unfortunately - even before the gTLD program, so I don't think that that's going to go away. See what is happening is - I would say that there are still elements out there that definitely want some form of the GPML back.

The AMA is here at this meeting and they have proposed, I think as you and some others know, some form of a do not sell list. It's not clear how that's going to work, it could work as a block of certain names for preregistration by trademark only - in some ways it is broader, it will be worse than a GPML. I

think my sense is that what some of the intellectual property interest who are here, I'm just trying to work out how that proposal from the AMA of a do not sell list could be crafted and developed in a way that will be acceptable to a broader range of the IP interest, because not all of them were in the same boat as the AMA when this process started. So I would just say be watchful of that.

Constantinos Roussos: Yes before I pass on to Milton and Kathy, you're absolutely correct and that was made very clear, there is a very clear distinction between the trademark community that is being represented and has been represented here for a long time and the AMA action. The IPC appears to be a little bit annoyed with the way the whole thing (it hasn't happened) but by the AMA. Having said that, it doesn't make our - it doesn't make the issue better, the fact that even the (VA) deal bringing back such a lease, I think that is very problematic because we've worked very hard to make sure that this list doesn't exist because it doesn't exist under traditional international law of the rule of law. So Milton and then I have Kathy.

Milton Mueller: I just have a question, I'm a bit confused about when we talk about defensive registration now are we talking top level or second level or both?

Constantinos Roussos: Well everybody was confused, his speech this morning made it clear that we are talking about the top level.

Milton Mueller: Okay so as I understand it properly then a defensive registration, what we're talking about now is somebody paying \$185,000 to get a new top level domain to defend themselves against the fact that somebody else might get a top level (bidding). You know, this is ridiculous because, this is ridiculous because, you know, this defensive registration makes sense, it's all about costs right, so it makes sense if there's a \$20 (lien in) registration and your choice is to take them to the UDRP or to court which costs between \$5000 and \$20,000, yes you'll spend the \$20 to defensively register.

If you're talking about a top level registration in which you're spending \$200,000 rather than just challenge it in court, anybody who tries to register your name in I guess it's absurd, it makes no sense to me. They're really having a discussion of this?

Mary Wong: Yes.

Constantinos Roussos: Yes thank you very much Milton, I thought - but in the beginning I really couldn't understand it, I mean I told them I really don't understand what the issue is here. I mean what - we're talking about half a million dollars, well who wants to be so the trademark community spend half a million dollars. Anyway, I will go to Kathy, Mary and then David, thanks.

Kathy Kleinman: Quick question on the comment, what (breakfast) was that?

Constantinos Roussos: It was about the panel that - it's on Thursday, so we all met (the panel) to discussed that.

Kathy Kleinman: I just wanted to make sure everybody knows what the GPML is, I'm not sure it's been explained, the Globally Protected Marks List is one of the recommendations of a group called the IRT that was tasked to come up with intellectual property protection's new gTLDs. They made a big mistake, they only put in intellectual property constituency members on it and if you business constituency members then observers for registries and registrars completely ignored NCUC.

Woman: The (mirror) was on it for NCUC?

Kathy Kleinman: You are on - you're...

Constantinos Roussos: It was a (unintelligible) on an individual capacity, not as a NCUC member, right?

(Mary Wong): Definitely in an individual capacity as was made clear over and over by (media) - orally and in writing I believe, hopefully.

Kathy Kleinman: So anyway a good procedure would require it - it got bounced back into the GNSO with a very fast but very diverse community down the street, called the STI, Special Trademark something and Constantinos, Robin and I and Wendy were on it. But it was now the full GNSO looking at the IRT recommendations, most of which we accepted with some tweaks. But the one that was knocked out was really the Globally Protected Marks List, and maybe it was knocked out before the evaluation.

But the idea is that certain words would be reserved for certain trademark owners who would kind of get a writ of first refusal, you kind of had to prove you had the right to use Apple or Sony or Adobe - that was the Globally Protected Marks List, I've lived and breathed it. And then if you could prove you had a use that was different than you might get it through at the top level or at the second level, it was really an interesting and wild proposal. So I'm very upset to hear it's back, having spent two years of my life with a number of people at the table fighting it.

But let me just throw out - and you can shoot me, that CO had a rollout with a reserved sort of names only for an initial period. And it had terrible (resemblance) like Virgin that you just couldn't touch, they were considered off limits. Virgin and Green and I don't know, Caterpillar was on it, as was Xerox and Häagen-Dazs and things like that. But the world didn't come to an end and then they opened up after the initial period they kind of opened everything up.

My question here is, it seems to me we've already got the remedy here, it's called the legal rights objection. Somebody registers a trademark - there's a process, it's called a legal rights - you hold up your trademark really loud, you file a pleading with all the attorneys you already have in-house, you say that's my mark, go away.

Constantinos Roussos: Thank you Kathy, I think that it has to do also with, you know, it's what I would say, it's basically who's going to survive the auction date afterwards and that's what's happening here. Mary and then I have David, thanks.

Mary Wong: I'd like to after I get some partial explanation coming up from Milton's question, it's more than objecting to somebody else. My understanding is that if you do not get a shot in the first round and somebody else does, a competitor does, you are forever precluded even in the second round because in the second round you will then be matched for strength, similarity and other things against existing TLDs. So there is a fear that somebody else will get something in the first round. So part of the defensive registration is really to get their place in the queue and so that they will have a shot and then on May 1 when the list comes out, they can decide whether they want to pursue it or not.

Because on May 1 or thereabouts, the full list of applicants and applications - actually you know who the applicants are whether there's 254 and (totals) are right now, but the full list of applications will come around about May 1. And at that point you can see if your competitor has gone in and what gTLD (strain) they're applying for and at that point, you can then decide if you want to withdraw your application. And if you withdraw, it's not going to cost you \$200,000 because you do get a partial refund. So there's more to it than that, but in that sense the legal rights objection answer does not answer that concern.

Constantinos Roussos: Thanks Mary, (David) and then Avri.

(David): Yes my understanding of this issue is that it isn't simply about - it isn't the same sort of the same domain squatting thing where people will be worried that people will jump on the domain and they'll speak, you know, if someone will spend \$185,000 in order to get a top level domain they could be legally

overturned, you know, in a few weeks. It's more - it seems to be largely (beta) people are worried that other people who have a perfect legal right to that domain will they apply for. You know, that Apple Computer should have to put in their \$185,000 just in case someone wants to actually sell fruit, using their .Apple and that sort of thing.

And is this a - anybody concerned, I mean the idea that people might apply for domain names that they're legally entitled to does not really seem like a problem that we should be addressing. Even if it is political - even if it is inconvenient to people who might also want to consider applying for that domain name if only they knew everything.

Constantinos Roussos: Thanks David, Avri.

Avri Doria: Thanks, two things - one, I'd really like to recommend just as a practice that we don't call it registrations, we call it applications because as soon as we call it registrations there's a whole lot of baggage and understandings and assumptions and agreements that we attach to this top level that don't belong there. The other thing is I recommend against using the financial argument and saying no one will do it because it's a lot of money. To a non-commercial, to me personally, \$185,000 - half a million sounds like a lot of money. To a large company that does marketing and does commercial shoots, this is trivial money.

Constantinos Roussos: I was told it actually is more (unintelligible), it's actually not trivial money - yes we know it's a lot of money or whatever, I just wanted to (helpful).

Avri Doria: One hundred eighty-five thousand is what lunch costs you on a good commercial shoot.

Constantinos Roussos: Thank you very much Avri - it's Roosevelt isn't it? Please state your name also, thank you.

Roosevelt King Roosevelt King, I'm from the - I'm the Secretary General of the Barbados Association of Non-Governmental Organizations, it is a national organization that embraces all the organizations and the country. I'm a bit concerned - pardon me but I'm very new to this at this point, I should not be but I am, because I was there at around - from the start back in the late 1990's and mid-2000 when we formed that (ground), but I'm really concerned about this reservation of men like let's say it was term generic name like Apple. Why would you give protection to a company because their name - they choose the name Apple that is something that is what belongs to the world.

I'm very concerned about those things (taking) the domination and that kind of what you say, shouting out - closing out kind of effect that people try to do. And but I won't say anymore at this point, I just wanted to register - that is really a problem and that the owners really is not the rest of the world not to use the name, but on persons who are choosing names, to choose the name Apple, you need to understand that Apple is a global thing, is a earthly thing and that some else is using the name so find another name, that is my position.

In terms of the protection of things like the Red Cross, maybe I could see a little bit more with something like that, especially given the role of Red Cross globally and some other things I'll be hearing about the - that's happening with the Red Cross that not really in keeping with the reputation that it kind of upholds, especially here (in this situation). But this - I just wanted to register that and I would really like to know are there any reports as far as the program that has being made in terms of the Red Cross and the (IOC)?

Constantinos Roussos: Thank you very much Roosevelt, two things first of all (NCC) but went over issues were debated and discussed - actually raised the issue of generics and it, you know, it was an issue of why Apple exactly showed the Apple Corporation of the Apple record labels for that matter should control a

term that belongs to the world. But, you know, this was an issue that was not really (further) discussed within the ICANN context.

In relation to an update concerning the Red Cross and their (legal) mark, there is a vote before The Genesis of Council - well it's a motion actually before The Genesis of Council and there's a vote that will take place tomorrow by The Genesis of Council and, you know, in order to see whether action (made) - how the mark will be protected or whether it won't be protected at the top level domain. Any other comments on this issue before we proceed to the following one. Nothing.

Woman: I just wanted to thank you for having me - I have to go to onto another (interview).

Constantinos Roussos: Thank you very much for being here. Actually it is (concerning) I was thinking of having a 15-minute break, do you want it now or do you want it at 11:00?

Milton Mueller: Now.

Constantinos Roussos: Yes okay let's have a 15 minute break and come back here at ten to eleven in order to continue the discussions. Can you please stop the recordings, thank you very much.

Woman: Anybody's who's in here and wants to gather with me for a couple of minutes for some bullet points for Kathy on the WHOIS Review Team, please come and say hello.

Constantinos Roussos: Thank you very much, this is the (MTC) Meeting, Part 2 - we continue with policy discussions and the next policy issue that I would like us to discuss is law enforcement agencies and the RAA. Now Wendy do you want to say something?

Wendy Seltzer: Uhm...

Constantinos Roussos: On the microphone please.

Wendy Seltzer: I was wondering whether we could - when in time is the strategic planning get it's session?

Constantinos Roussos: As soon as we finish with the law enforcement and a little bit on the human rights issue, we're going to the strategic planning. So I would really hope by 11:15, 11:20 we would be able to start the strategic planning discussions and then an hour to discuss that and the event into NomCom before the NomCom (comes). Okay, so can I please ask you Wendy to give us a very brief update on the RAA and the law enforcement agencies that I know that it's also very close to a lot of our members and raises immediate of non-commercial issues. Thank you.

Wendy Seltzer: If the (finch) comes in here so I'll try not to repeat because I think I covered some of that in the earlier WHOIS discussion. What we're seeing primarily is that law enforcement has 12 demands that they have made or it is being interpreted to us that law enforcement has 12 demands for the Registrar Accreditation Agreement. I think our most constructive response to that can be to talk more directly to law enforcement and get what they actually want which is sometimes distinct from the 12 demands as interpreted up through the GAC and back down through the ICANN negotiating team.

Instead of continuing to prepare - what we keep seeing our checklists in which each of the 12 demands is laid out and there's a checkmark - agreement in principle, agreement on language or not and we could have agreement on all of them and still not get any closer to what law enforcement actually needs and yes have an agreement that's bad for user privacy.

So is there time in this particular Registrar Accreditation Agreement to negotiation to make that kind of shift or is there a way to use the pressure

that after all these things have to come back to GNSO Council for approval before they go into effect to say, you should be talking to us now to make sure that when it comes back to us we will actually approve this, rather than simply ramming it through bilateral negotiation and having it die there.

Constantinos Roussos: Thank you very much Wendy, that was a great update. What - as you have seen, you know, the FBI has already set on the GAC table because they're part of the DOJ so there are issues there. There is a lot of pressure coming from the GAC on this very issue and (torment) the Registrar Accreditation Agreement and to modify it in a way that it gives law enforcement agents more powers to actually control and they use control in the loosest of sense, what is happening within the domain and registration. I would like to open with this issue now to the floor for any comments from anyone. Milton.

Milton Mueller: Well Wendy's suggestion is an interesting one, we are always getting information about what law enforcement wants indirectly and why don't we invite the FBI to talk to us?

Constantinos Roussos: I think that that would be great and we need to, I mean are you suggesting we do that in Prague or are you suggesting we might then in one of (policing) meetings or even in Costa Rica - try to meet in Costa Rica? I mean what would you suggest here, sorry I didn't understand that part.

Milton Mueller: Yes, well I didn't say did I. But I guess it would be better if it could be done here, if we could set up a meeting with Policy Committee members and I've seen what's his name - Bobby Flame...

Constantinos Roussos: Bobby Flame.

Milton Mueller: Bobby Flame around and so I know he's here and there's got to be probably other people from Justice or FBI here.

Constantinos Roussos: Thank you Milton - Wendy and Avri.

Wendy Seltzer: I've spoken to a few of the law enforcement people here as well and I'll just flag to some of the newer participants that a good way to - a good benefit to going up to the public microphone and making comments is that that's a way to engage people in discussion afterwards. Either find people who made interesting comments or make a comment and then find the people who are interested in that issue will find you. So some of the law enforcement came up to me after I made comments on WHOIS.

Constantinos Roussos: Thank you very much Wendy - Avri.

Avri Doria: Thank you, I think if you can get a discussion going with them here that that's cool. I think if it's a Prague issue and they're invited in, I think we should think about, I mean the way I like to say it is a law enforcement officer should be handcuffed to a privacy officer every time you talk to them and that you shouldn't talk to one without the other one in the room. And so if we are going to invite them into a meeting, we should invite a pair - that they come in pairs, thank you.

Constantinos Roussos: That's a very interesting (piece) - (Carlos).

(Carlos): Well very bluntly I don't feel comfortable with discussing the death penalty with the hang man, you know, we have to discuss this with the policymakers, you know, with the Minister of Justice, whatever. I really I'm not comfortable - well having lived for some years under a dictatorship, but this is a personal issue, I don't feel any way comfortable with dialoging with these people here on these issues. You know, this is not the right way for them to be, we have to talk to policymakers, not to the guys who arrest us - eventually.

Constantinos Roussos: Thank you very much (Carlos), it actually raises a fair point, the question however becomes whether these people are here and they're here

to stay and this is becoming more and more obvious as, you know, in every meeting. So the question is whether we like it or not, do we want to engage with these people that are here to stay or we just want to blank them out and actually, you know, go somewhere else? (Carlos) and then Milton.

(Carlos): Okay but can't we at least advance a proposal to prioritize in this dialog if you want own cyber security, law makers instead of law enforces, you know, not, you know, I understand that this is already an issue in which you cannot turn the events but, you know, I don't see this worry even here - this concern even here, it's amazing for me.

Constantinos Roussos: Thank you very much, Milton and then Mary.

Milton Mueller: Yes, I think (Carlos) is right I think the law enforcement agencies are used as basically the front people for the - by the government - certain government policymakers decided that the law enforcement wants this and to some extent the law enforcement people are here advocating that. And I think the interesting thing to me about Wendy's suggestion originally was that we actually don't have direct verifiable about what they're asking and why they're asking for it. And it's not like we need to dialog with them so much as to convince them, you know, obviously they're going to - it's like talking to the trademark lawyers, but...

Milton Mueller: (Unintelligible).

Milton Mueller: ...but we do need to find out what they're actually saying and how they're actually justifying it and whether there's anything we can find out from these people that will help us make our case is pretty much what I was thinking.

Constantinos Roussos: Thank you Milton, Mary.

Mary Wong: So speaking not as a trademark lawyer right now, I'd like to follow-up on what has just been said by (Carlos) and Milton and I think it is a good idea to

engage directly with Bobby Flame and perhaps also (Benedict Edit) - I guess that's the guy from the Serious Organized Crime Agency in the UK and they tend to both be here - I think having that discussion briefing, asking questions directly would be extremely helpful. But I'd like to suggest that we supplement that by informal discussions with certain GAC representatives as we know that GAC is reluctant to appear as the formal GAC and I know a number of us already have very good relationships with individual GAC representatives.

So this goes to (Carlos)'s suggestion earlier on, some of us already have good relationships, there are ample opportunities at meetings like this to ask them to come for a drink or come for coffee of a small group of people. And I think to some extent Wendy and Joy have already planted that seed for further discussions at the formal GAC meeting. And I think that those of us with those relationships should really capitalize on that. We all know that all the other groups do that very, very aggressively when their interests are concerned.

Constantinos Roussos: Thank you Mary, (Bill).

(Bill): I don't know when we would find time to do all these meetings, but I support doing them. I actually - well I understand (Carlos)'s concern and I think we should promise not to reveal his identity to Bobby Flame. In the American system, the FBI representatives actually have quite a lot of influence over the policies and most people I think in the Administration - in fact they're going to defer to them.

So even if you say you want to talk to the policymaker, well you should talk to the FBI, because the FBI people are the ones that are - Bobby Flame comes to all the ICANN meetings, he interfaces very closely with everybody around these issues in the GAC, he's definitely the point person and I think back in Washington his views carry a lot of weight. So, you know, we want to ask to have something chained to him that's mine, although of course in America,

we don't have a privacy commissioner - we don't have privacy, so it makes it easier.

Under no - who I would really like to chain, maybe we can chain if you wanted two of them - if you wanted to bring the both of them together, that would be a fun bridge, but in any event, I would definitely - I think talking to them about (one of the division) - during the council meeting you all from the registrar constituency made a pretty interesting comment that I thought at one point to it when you kind of said, you know, with all this stuff about who is (visiting), they never really make clear how they think this is actually going to be helpful and why it's absolutely necessary.

And there, you know, there's just this kind of assertion all the time that they got to have this and they got to have that, but nobody ever asks them to really walk through their rationale for precisely what they need and why they need it and how they use it and so on. Well I think it actually - having that conversation and putting non-commercial on their horizon more, because they never talk to us and would never think to talk to us, is a good idea.

Constantinos Roussos: Thank you Bill, any other comments on this issue? Joy.

Joy Liddicoat: Thanks, just to pick up on the point that Mary made and I think someone else about directions of government, definitely very happy to having opened the door to discussing the (instrument act) issues to - and also having relationships with a number of gov- gave me - to raise take opportunities to raise these issues or others that are of concern, I think the main thing is to be clear about what it is we want to say and what it is we're asking you to do and but, you know, with that said, I'm very happy to take those opportunities to do it.

Constantinos Roussos: Thank you very much and actually I think this gives me the opportunity to go to the next issue that (Carlos) also emailed me yesterday to add to the agenda if possible. And it is the issue that Joy raised at the

meeting - at the Genesis meeting concerning human rights. I know that there was a conference on human rights that took place in Geneva and it was two week ago if I recall and with a initiative by the Swedish Government and I know that both Joy and (Carlos) were there so basically I would like to ask Joy to deliberate and elaborate on the rationale of her suggestion at the council and then of course (Carlos) to (CD) into those discussions, thank you very much.

Joy Liddicoat: Thanks Constantinos, so just to explain the context for the human rights council discussion. So the Human Rights Council is made up of government members who are - states who are members of United Nations and APC's strategy for engaging with the UN Human Rights Council has basically been because up until the panel on federal expression just last month, the Human Rights Council has not engaged at all on issues to do with the intimate related human rights letters. And there has been system of discussion of them despite the range of other spaces their government's are engaged in related Internet related policy issues, including the (ICSPD), including here in ICANN. And our goal was to connect the dots the (future made).

And to say the same governments that are here present in ICANN discussions, that are present in (idea) discussions should also be in their roles within multi-stakeholder environments honoring the human rights obligation. So (Frank Laroo) who's from Guatemala is the official repertoire on (federal) expression and he began writing this topic of - introducing this topic of the Internet to Human Rights Council through a series of consultations throughout regions in 2011, looking at freedom of expression in the Internet.

Just as a special repertoire, saying what other issues, what are they - this is a new topic, and he deleted his annual report to the Human Rights Council last year and he's been doing this with the support of a Swedish government and a broad network of civil organizations, including Electronic Frontier Foundation, (ONI), (Deplore Foundation) (APC) and many, many others. And

one of the outcomes from his annual report was a suggestion that the Human Rights Council can take place. The panel itself was a fairly low risk option, it's a group of experts that talked to governments about issues and explore how they should be responding.

I think I'll let (Carlos) speak for his own piece of the outcomes, but this time last year Human Rights Council members such as Pakistan were saying, "Why are you even talking about human rights to deal with the Internet, the Internet is just a network of computers, there's no relevance at all." And that statement's on record in the UN, you can find it. Now we have even from governments such as China specific information of the relevance of human rights to Internet related policy issues.

Now, you know, we know that behind it lies a desire for the role in increasing the regulations of Internet and, but nonetheless, we think that it's a significant, howbeit small step forward to have that general information. And what we're asking governments to do is to bring that information when they come here and to be advocates for human rights and their duties to promote and protect human rights and ICANN and other related agents. Hence the design to raise this matter with the GAC and the joint CIS Council, the GAC meeting we're having on Sunday and there was some curiosity about that from GAC members and the willingness to talk more from some of them.

So we have a doorway open there and by the introductions that we've been mulling over whether we should start. And the context of (PDPs) to think about doing human rights and text analysis where human rights issues arise. Anyway that's a very brief summary of a lot of work that's been going on in a different sphere for about two years and (Carlos), I don't know if you want to make any other comments or observations on your experience here.

Constantinos Roussos: (Carlos).

(Carlos): Well that was a final Internet freedom and freedom of expression in the Internet and was as Joy explained an initiative to work with support by the government of Sweden. My feeling is that that space is far, far more important for it is crucial of human rights then IGF even ICANN or whatever. But the downside is that it's of course an inter-governmental space. So us being there was really a con- a tremendous concession. And at the beginning of the panel, there was a literal fight led by the Cuban Government on why we were there and why they say the host or the moderator or the animator of the debate was an anchor from (Al Jazeera) instead of being a member of the United Nations, a staff member of whatever of United Nations.

Well we had a separation, small or less similar to the first IGF when that anchorman from the BBC came to run the debates. But in this case they were very strongly opposed to that, so the panel started with these difficult - another very interesting thing is the number of countries that shine manage to put together in a joint declaration, balancing if you will - if this is a way to express it, freedom of expression with the security of the states.

And these number of countries I think more than 20, right Joy - arranged from Saudi Arabia to North Korea, so these are - it's not a group of countries which are, you know, other group of (show) political if you want or ideologically countries. They are countries which are very close to the United States and countries which are not very close to the United States - all together saying the same thing. And what is the basic characteristic that perhaps the only one is that these are countries in which freedom of expression is not welcome of course.

But it was a very strong statement and pulled together the Philippines and several other countries, you know - this I think is important. And I would like to stress this is a state of civil society has to try to be - we have to be there somehow, although it's very difficult because that's the space where human rights are really, let's say decided in terms of international policy and practice. This is my thing, okay.

Constantinos Roussos: Thank you (Carlos), Carlos.

Carlos Afonso: Thank you, Carlos Alonso from (FTV), so just on a strategic note and building upon the comments that (Wolfgang) made yesterday about bringing technical issues of human rights to the traditional human rights conferences and events and doing backwards the same movements and interbreeding human rights reflection to ICAAN meetings so I would say more technical events. There are a bunch of events on human rights on Internet that we have in this very first semester and that's as Joe mentioned - Joy mentioned about the work of (Frank Delawho) - (Frank) is - correct me if I'm mistaking, but I think in this year the topic of (Frank)'s report's going to be about hate speech and certainly the Internet's going to play a important role in that.

As last year he has worked on openness and Internet. So Frank is putting up a consultation - a regional consultation for Latin America in Panama in April 12 and 13. After that is meeting in Stockholm in Sweden put up by the Swedish Government if I'm not mistaking on April 18 and 19 and then - and this is a short piece of advertisement, we are doing a conference on human rights and new technologies in Rio, together with the guys from Access Now. So it's a, you know, the guys from Access Now ourselves from (FTV) on May 31 and June 1, and then that's my suggestion.

As we were discussing human rights and technologies and the whole of ICAAN how this topic, maybe we could come up with a strategic position for (MCC) for this year to maybe try to tackle two topics. The first one is the topic that is quite traditional topic for us which is to create a human rights assessment into ICAAN policy which is a topic that we have been discussing for a long time now. And the second will be to suggest a workshop on the IGF on human rights in the ICAAN issues. So to bring this idea of human right assessments to ICAAN issues to IGF and propose it as a (MCC/MTSG) event in the IGF. So that's it.

Constantinos Roussos: Thank you very much Carlos and before I open the floor I know that (Bill) wants the floor for a comment. I guess I will play a little bit the devil's advocate here, I don't want to underestimate the importance of human rights and of course what's happening in other forum, what I want to ask and what I think that the people are going to start asking within this space is how will these discussions relate to ICAAN in the main news? And I think that this is something that we really need to tackle before we start pushing an agenda on human rights here.

I can see personally a lot - the recent excerpts in-between, but I really want us to be prepared to answer that question and once we get to answer that question, we will be able I think to push our agenda on human rights because I also think that it's very significant. There is (Bill Robin) and then Mary, thank you.

(Bill Robin): I find myself in a strong agreement with Constantinos on this point because, you know, I think, you know, yes he has quite the voice for this I believe so. You know, when we've tried to sort of make these points for example in GSO council the raising of human rights stuff and Joy's been quite consistent on this and she's been there and really kind of rattled them a little bit, it's really clear that 99.9% of ICAAN has absolutely no freak in idea what you could possibly be talking about. So if we're going to try to push this, I think we have to do a little homework first and really try to elaborate the connections.

And frankly it's not easy, I mean this is a discussion that's been going on among (MISS/IGF) type socio society people for a long time and some of us have participated in book projects trying to look at the links and there have been lots of reports etc., but nailing down precisely what the connections would be would be really seriously important if we think we're going to try and get these people to even begin to think about this as real parameter, excuse me, that they have to dig up onboard.

The other point I would make is that the Human Rights Council, I don't know about engaging I understand that APC's invested in doing this and I think it's a good thing to do but boy you guys got a lot - I mean Joy's a old hand in the human rights conflict, so she knows this stuff, but I, you know, I was just astonished at that meeting. I mean what a completely dysfunctional (unintelligible) really useless organization for lack of the - I mean the quality of the discussion was just ridiculous. They spent, you know, the last 15 minutes arguing over the sequence by which one raises ones flag to be recognized.

I mean it was truly pathetic and so I mean they're very, very resistant to beginning to even think about talking to people like us about this. So again if you've got the bandwidth and the energy to try and do it okay, but it's a long haul and (MCSG) and (CFC) being pretty bandwidth challenged, I think we do have to consider where we can most optimally allocate our higher efforts. So I'm strongly support the people who want to do this, but I don't know how much we can centrally take it on. If you guys could maybe craft some documents to get us started then that could help the thinking among everybody here, that would be a good first step.

Constantinos Roussos: Thank you (Bill), I think that Wendy wants to jump in for another brief comment.

Wendy Seltzer: I want to congratulate Mr. Chair for his excellent presentation here and to - it was just a protocol.

Constantinos Roussos: Thanks Wendy, Robin then it's Mary then it's Milton.

Robin Gross: Yes I want to address this question of what do human rights have to do with ICANN because it is something that we hear all the time. We hear business folks who really dominate the conversations here say, you know, why are human rights an issues, why are human rights an issue, I came to private corporation. Human rights doesn't apply to actions of private corporation, well

so this is sort of the starting point that a lot of people come to the table from and it is - I completely agree that it is our job to make people understand the connection - the nexus between human rights and how they apply to domain names.

So, you know, let's talk about - let's think about what are some of the human rights - we've got freedom of expression, we've got privacy, we've got due process of law all of - and more, I mean this is just three off the top of my head. And then we can take those issues and we can track it back to how does ICANN impact the policies that they have, how do they impact freedom of expression, privacy, due process of law? Do they follow the human rights obligations that countries all around the world has agreed to abide by in the UN - universal declaration of human rights?

You know, asking that question and then we can go back and say, well look at privacy for example, when you want to register - you would have a right to privacy when you want to register a domain name, ICANN may make you make that your private information public or publish it on the Internet for everyone to see. So there is a privacy link to the policies that are coming out from ICANN. And remember that, you know, ICANN is this quasi partially governmental, partially corporate - or obviously very largely corporate but it lives in this very unique space.

And so we have to remind people that, you know, it is a international government organization - that's what it's charged with doing. Now if it thinks that it can do that without respecting the covenants of human rights that has been in place for 50 years, that's the conversation we should be having. If ICANN thinks that human rights don't actually belong here, then I think that is an issue that we really need to take up and champion because it is so important that people understand the connection between human rights and DNS policy and the role that ICANN plays in the world of governing these resources. Thank you.

Constantinos Roussos: Thank you very much Robin and before I pass on to Mary, I would like to ask all of you to make brief comments because we wrap this and go to strategic planning - we 45 minutes left, thanks.

Mary Wong: Okay and I just want to follow up and support the suggestions that have been made in particular by (Bill) I think the most effective way to raise that awareness among the ICANN community from the Board across to all the groups is to produce actual documents, reports, short papers, thought papers, (after) ICANN (blocked) to post something for example and in addition to Robin's list I would suggest that for the immediate issues and I've talked about this before in some of our other meetings the WHOIS verification issue under the RAA, I think here's something that we can have very concrete advice proposals, metrics on.

Another example would probably be a couple of the - and of course I'm not (blanking) on them so I'm going to keep them brief, I won't try and blunder what I actually had in mind, but I did have two or three specific current topics in mind, RAA being one of them. I do think that that is the only way that we have the ability to get people to understand that connection. And I think that that is the only way that people will know that we are doing serious work to make that connection here.

And on that score, I want to then follow-up on (KT)'s earlier point, I'd had a number of Board members say to me, including a number that I think are actually very sympathetic to our group that the only thing they ever hear from us is about human rights. Not that it's not important - please don't shoot the messenger okay, but that there have been a number of other issues, including specific issues in ICANN that they expected to hear an (NCUC/MGSG) opinion on and either that was not very strongly made or not made at all. And I think one example that was given was in terms of development of the IBM implementations in the (AGB), and they didn't hear from us on that and they would very much appreciate it.

But I said don't shoot the messenger, but I do think making a point is well taken, we do need to I think - we have a breath of interest among some membership and we do need to be mindful of resources but also in terms of how we project to the outer community.

Constantinos Roussos: Thanks Mary, Milton please.

Milton Mueller: Yes I just want to address Carlos's point that these inter-governmental institutions are the appropriate place to discuss human rights. I just - my view is that if I thought that my rights depended on what these inter-governmental organizations do, I'd be a very depressed person. And the thing about the - I understand that it's important to have those norms discussed there and it's important for civil society to be present, but we're - the strange thing is that where the actual operational implementation of these rights comes more in the context of things like ICANN and the address registries.

And so that this is where we can actually influence how these things are operationalized and it's a very strange situation in that these private organizations technically are not subject to these inter-governmental norms. However they of course impact on those rights as they're actually operationally implemented.

So the trick has always been to get people to understand technically and procedurally what is going on in these horrible complicated ICANN like institutions so that they can, you know, you all know this code is law simplification but if these things are hardwired into the way the, you know, the WHOIS is structured, the way the IP addresses are structured, the way the domain names are objected to and monitored then the rights are gone and it doesn't matter what these international organizations say.

Constantinos Roussos: Thanks Milton, Rafik.

Rafik Dammak: Thanks Constantinos, hopefully I'm not a lawyer but here in for the Genesis Council many times I will collect from the thread for the IPC and other constituencies - I cannot speak like Constantinos, sorry. Okay, so I say that I'm not lawyer hopefully and many times here in Genesis Council I hear about like trademark, copyright meetings and those, so we can in the spirit of fairness, we can bring that human rights (freedom of expression) and privacy. Nobody can prevent us to do that. And like for the ISOC and Red Cross I only heard about treaties as arguments, so human rights with the declaration of human - United Nations declaration of human rights, it makes sense that you can (break) everything.

Just I want to reply to what Mary say about how the nTLD is important. But myself and Avri we are involved in several working groups about IDN and there are also some Board members (that have time) so (unintelligible) we didn't participate.

And also NCSG was the leader for - to defend and advocate the support for the applicant from developing countries which nobody care (in many constituent stakeholder) groups. I'm always surprised that we are (accused) to defend human rights.

Constantinos Roussos: I would really like to wrap this up because we really need to discuss (unintelligible). May I suggest the following? We can create this quasi informal, very informal, group of people of applicants (unintelligible) at the same time. But I think Joy, if you don't mind; you can lead this on with discussions. Please contact Joy so we can actually bring issues that relate to human rights and start pushing this agenda to ICANN via the GNSO. Carlos, the last comment? Thanks.

Carlos: That's exactly what I was about to suggest. Thank you.

Constantinos Roussos: Great minds think alike. Okay. Then I would like to move on to the next issue which is the strategic planning and all that and Wendy is absolutely right that we need to start doing that.

So I will pass on the floor to Wendy and I will ask you to tell us, you know, how she perceive that and we can move forward. Thanks.

Wendy Seltzer: Okay, so I'm going to suggest that we have about 20 minutes here for this part of the discussion. My goal is to help address some of the concerns that Mary mentioned about making sure that non-commercial users are participating in the discussions of items that affect our interests as well as to pick up on some of the human rights discussion. I think that was very helpful in thinking about what are the principles that underlie what we are going to take into these discussion.

Have a human rights framework, as Joy has talked about, for impact analysis would then be something that we can apply across the board so when we're looking at whether it's questions of IDNs or WHOIS accuracy or delegation of new gTLDs we can ask, "Is there a human's rights concerns?" Sometimes the answer may be no, that's orthogonal, other times it may point to less well understood parts of the issue, places where we need to probe further, places where we need to encourage staff and community to go back to examine more closely the impact of supposedly technical decisions.

So can we spend a few minutes of big picture thinking, what would we as non-commercial users like to see ICANN doing? What would we like to see our group doing? Not against any particular proposal that's in front of the GNSO Council right now but where should ICANN be? What should we be doing? Should we be an organization that takes an explicit stance on SOPA and PIPA and domain name censorship or should we be explicitly technical and respond to that only with the, "Don't break DNS (sec). Don't break technical protocols," but trying to stay out of the politics?

Another piece of that would be where do we have strategic alliances that we can use so that it's not just non-commercial speaking out against the world, and I'm not saying we should be compromising our principles in order to ally with other groups, but where our interests align. Can we be talking with the registrars as customers and as users who want to help them expand and serve the non-commercial market?

Can we be talking with registries, particularly public interest registry? We talked with new registries that may be forming around non-commercial goals. Do we have interest in common with the business constituency? I think we do have interests that are consistent with business, particularly with emerging businesses and startups and entrepreneurs and innovators. And if those people aren't well represented in the current business and commercial constituencies perhaps we can help bring them in as allies in the other part of our non-contracted party's house.

So other big - either big goals that we might take or strategic positions that we might take, and then how might we move that forward?

Constantinos Roussos: Thank you very much, Wendy. I think that this is an excellent opportunity to start discussing those things. Two comments that I would like to make before opening the floor, first of all, I truly, truly believe that NCUC is in a unique position to engage in immediate (unintelligible) because of the diversity of its membership.

The second, and another very important thing, personally I think we need to start, for example, approaching small and medium sized enterprises, and (unintelligible). Nobody's speaking about (unintelligible) and I have been approached by various (unintelligible) and I have been told, "I don't feel protected through the various (unintelligible) protection mechanisms that are in place."

So I really think that we need to bring them (unintelligible) for example something that Wendy said as to whether we share common interests with parts of the business constituency, and I feel that this is my (unintelligible) issues that we do share common ideas and possibly a common goal.

Of course, another big issue that has been lately made the rounds is this whole (unintelligible) construct where ICANN is being placed in all that, and where we want to see ICANN do is we want to see ICANN getting the construct again. So all these are issues that I think we can possibly start liberating and discussing. So I would really like to open the floor for any comments and (unintelligible) strategic planning and the way to take this forward.

And we'd really like this not to stop in a simple discussion but also to hear as to how we can actually move all these ideas forward. Thanks. Yes, I can't remember your name, but please. State your name before, thank you.

(Lydia Cruz): Thank you. (Lydia Cruz) from Costa Rica. I think how we (asking) about this is that it (unintelligible) planning, it's very, very important to make one point about the protection of the children. I think the children is the big, big risk in the Internet. They have other hand any kind of material could be risk for them. And I think it is (unintelligible) to get us a (unintelligible) about a (theme). Thank you.

Constantinos Roussos: Thank you very much. Please. Please state your name for the record.

(Remi): Thank you very much. My name is (Remi) (like an arm of a...). I'm from (unintelligible). I think business (is subject to) demand. It is relevant if we can also prevail on ICANN to see how this supports (unintelligible) enlightenment in (developing) countries because just like she was trying to stress, in terms of child online protection (unintelligible) needs to also needs (to include) the enlightenment strategy of ICANN so that individual members which we can to

also protect with (unintelligible) group should benefit, should be able to know Internet users has (unintelligible) African countries.

Most of them have basically mobile Internet access. So they are not as (unintelligible) to their own basic advantages. So we need to also look into that and encourage them all to (unintelligible) their strategy for (developing) countries that have more people to (unintelligible) positively. Thank you.

Constantinos Roussos: Thank you very much. I mean, as Rafik said (unintelligible) have been working on (unintelligible) our countries, especially during this (unintelligible) program and I think this is a great initiative that needs to continue because we need to bring the developing world into the debate, into the Internet and allow them to enjoy its benefits. Anyone else would like to make any comment on any of these issues? Mary, please?

Mary Wong: I'm not sure that this is actually specifically on the broad issues that you and Wendy raised, but I want to go back to something that Wendy's raised before which is also strategic planning for our constituency and relate that to the positioning point that I was making earlier.

And Rafik, I think to clarify, I think those Board members were not saying that we don't participate in working groups; I think they really appreciate that, and (jazz) came up as an example in some of those discussions. I think the point that they were making there, two things, I think one is that we have a lot of members and we have a diversity of membership. Where are they? I mean that may or may not be a fair comment with the separate discussion we've had before.

And in terms of visibility, not just in working groups, which frankly the Board doesn't pay much attention to unless one or two of them are in that group, but through the other means like the submission of public comments. That's one way. I think the other way, a multiple of other ways, is - would include, for

example, even just specific suggestions like what we are now calling internationalization formerly known as outreach.

If we have very specific recommendations either in relation to the budget for this kind of thing or in relation to specific actions that particular subcommittees ought to be taking within the Board, I think that's the kind of thing they're looking for. They're looking for more people with more interests participating in a number of ways, and they're looking for specific recommendations.

So to relate that to the strategic planning discussion I know we had started before a discussion on how do we prioritize, I hate that word because that's a bad word in the GNSO, I think. But allocate people to take charge of particular public comments here are some particular issues. I think that would go a long way towards maybe fulfilling some of the broader goals that some of the rest of you have talked about.

Constantinos Roussos: Thanks, Mary. Any other comments, please, on that issue? Any other? No? Okay, then I guess where we are right now is we have identified some areas and I think that we need to continue these discussions and I would really particularly like to ask everybody who's here to continue thinking of ways and engaging more in the community, as Mary said, through the public comments, but above and beyond that I think that there are issues that we might even want to (push) within the ICANN ecosystem and I particularly like this idea of the human rights and how they fit within ICANN and how to educate them.

So Wendy, you have a last comment that you want to make?

Wendy Seltzer: Yes, just as a proponent of this topic I wanted to thank people for participating, particularly raising issues and I think the issues of development and access are very important ones that we are in a good position to help

bring to the table like the impact analysis on human rights, we should do an impact analysis on development and diversity.

Are the recommendations being made, ones that would have a disparate impact or ones that are fair and reasonable across the world? Or are there ways that we can help ICANN to improve its participation in the global community? Thank you.

Constantinos Roussos: Thank you very much, Wendy. And the next topic is the possible NCUC event at the ICANN meeting in Toronto which is in October. It is right after the (prag) meeting which takes place in June. Just to give a little bit of background why as to how this came about.

The first NCUC summit was organized to perfection by (Robin Cross) in San Francisco with the sponsorship and support of our (unintelligible) members which I personally as the Chair am very grateful of them. There were other sponsors; especially a Brazilian members were there from Day 1.

The summit was a great success. It was actually that successful that it was even brought up during a GAC meeting at San Francisco - during the San Francisco meeting and very, very interesting issues and discussions were raised.

So as there has been discussion among the executive committee of NCUC supposedly repeat that, and unfortunately it would have been great if we'd had the bandwidth ability to do that at every single meeting but as you can understand we need to choose places, strategic places, where people are there physically and are able to organize this (event).

So Toronto is one of those places that we possibly can do it. However, before I pass it to Bill I would like to ask Robin, having organized the San Francisco event, to possibly give us a little bit of background on that event and share your experience with us. Thank you.

Robin Gross: Thank you, Constantinos and I also really enjoyed the event and was really grateful for the feedback, the positive feedback, that we got and extremely grateful to our Brazilian main sponsors because we couldn't have done it without them, frankly, no way could we have.

But what we did was we had a one day summit where we had about six different panel sessions and the keynote speaker at lunch, our keynote speaker was Craig Newmark from Craigslist. He lives in the Bay Area, lives in my neighborhood actually, and so we had six different panels on six different sort of general topical issues that ICANN is dealing with.

And what we did is we formed a programming committee of people who have - within our stakeholder group who have particular expertise on the various issues. So, for example, take privacy, we had a panel that dealt with the privacy issues that ICANN deals with and we brought in speakers from different parts of the world and that had different perspectives on these issues and could really try to help educate the community who participated, or who has been participating in these issues.

That was one of the goals of this meeting was to really provide education to participants. Another goal was to bring in new members, and so we did some advertising in the Bay Area and had a chance to bring in some - the local (Phillips) society, local individuals, just people who care about this issue could come to the meeting.

So we had the programming committee of the different sessions and take, for example, like I said privacy, we had one expert selected from within NCUC who was sort of the program chair, if you will, for that particular session. And really we kind of tried to leave it up to that person to manage the scope of that discussion and organize the speakers.

The programming committee would talk together and provide feedback and ideas for the way the discussion should go and who the possible speakers could be. But we really tried to just let each person who has that particular expertise come up with the framework and the scope of that discussion and the particular speakers.

So again, we got a lot of positive feedback. The Chairman of the Board, at the time, Peter Dengate Thrush, he also came and gave some closing remarks and spoke, and then immediately after the day long policy session we had a nice little cocktail reception across the street and it was a great chance to just sort of hang out with the larger ICANN community. We invited a lot of the members in the community who aren't necessarily NCUC members to come and we had a great jazz band.

It was just a really lovely end of the evening for a day long policy discussion, and it also really kind of set the tone, gave us some direction for the rest of the San Francisco meeting because we held this the day before the ICANN meeting started. So we could bring in speakers who were already going to be here, they could just come a day early.

So I think we did get a - we got a lot of positive feedback about that and a lot of people said, "You need to do this again. You need to use this as a sort of a model that we do every year," or, you know, whatever the interval is. But - so I totally support the idea of trying to replicate something similar to that, or innovate on that for the Toronto meeting.

And I think that Toronto is probably the best location for that. I think it's the - well, it's the annual meeting and I think it'll be the main meeting of the year and we've got a good number of members there which is important and access to infrastructure. So I would like to support this idea and I'm curious to hear what others think.

Constantinos Roussos: Thank you very much, Robin. Bill?

Bill: First of all I have to echo the wild endorsements for the meeting in San Francisco, Robin's efforts, it was a really great thing and I definitely think we should replicate it. I think it would be a big missed opportunity not to do another event in Toronto. So I'm fully in support of that.

I would suggest two things, one is to maybe innovate a little bit and split the program. Being an academic (wanker) who likes to talk I'm all in favor of having lots of panels and people talking about stuff like that. If we want to do that for part of the day that's fine.

And in particular I was just saying to Milton maybe we could hook up with Ron (Devert) and the people from (Citizen Lab) who are there and trying to do sort of a component around security aspects. That might be very interesting.

But what I was going to say was for the other part of the day maybe we could split the format. We have had an ongoing conversation here for quite some time but can't we possibly have some sort of dialogue with the GAC, number one?

And there are GAC people, as I said, who expressed interest in them. I don't know if you can get anybody from the GAC to come early but here was the point. And now it's my intention to try to make Milton's head explode. You know, I think it would be very interesting to try to have some sort of a conversation with GAC people about what the hell do we mean by the public interest in the context of ICANN?

We called the last event ICANN and the Global Public Interest but we didn't really explore that concept. People in ICANN find the concept completely mysterious, which is interesting. A lot of us here have academic and other backgrounds working on those kinds of issues. I think we could actually

prepare something in the way of an interesting agenda in trying to engage them in a discussion.

And that discussion need not just be touchy-feely liberal stuff that offends Milton but actually we could use it as an opportunity to raise the various points that - because as you expressed that when people invoke the public interest the term can be used as a sort of Get Out of Jail card to do any kind of policy manipulations and so on that you want, right?

And you've got people in the GAC who certainly do seem to think that if you say, "the public interest" then that means we can second guess all of the policy development processes and overturn decisions that the community made that we don't like because they don't suit some parameter.

So why not try to have a serious conversation with the GAC, some people from the GAC, and we may not get a lot of them but maybe if we could at least get maybe ten GAC'ers to show up for an organized structured dialogue for a couple of hours maybe in the afternoon around the notion of the public interest and what applying that standard in any kind of coherent way would mean for ICANN I think that'd be really, really useful and I think it would be something that would put our kinds of agenda on - it would filter through that they would get discussed within the GAC and the broader community that we were doing this and would be helpful.

Constantinos Roussos: Thank you very much, Bill. I know (unintelligible) that also a lot of GAC members are interested in hearing more of what we're doing. So this might be a very good way of actually spreading our message.

I have Avri on the line and then it's Milton. Thank you.

Avri Doria: Hi, while I'm in favor of doing an event like San Francisco is great I just wanted to alert you all to a thing that I had allegedly been talking to the GNSO about but haven't been, from - on the ALAC side and on the ICANN

side they've been planning, through it's not on the books yet, so it's still only possible, a three day set of - they're calling it academy but basically a three day set of instruction for new SO/AC Board leadership.

So people who have just been elected or appointed going through a three day program, and they've been working with the staff on that and the Board on it, and there's a likelihood that in scheduling you would run up against that.

Constantinos Roussos: Okay, no comment on - thank you very, very much but no comment on that (kind of thing), like it's doing on my behalf. Milton and then Wendy, I think.

Milton Mueller: Well, yes, I think first of all the San Francisco model is indeed a good one to emulate and indeed we should try to - it would be nice to have a substantive dialogue with a GAC - whatever members are capable of sustaining a substantive dialogue.

However, I think it would be actually a really missed opportunity to have that dialogue focus on something as diffused as the global public interest and why not make it a much more focused conversation on, for example, the rights implications of some of the policies that ICANN is doing? Why not have it really, you know - I'm not sure I would view it as a profitable way to use that very precious interaction to steer it toward some vague concept - and even if you believed in the global public interest as a useful concept you're not going to come out of that with any solution to any clearly defined problem.

You're going to come up with some philosophical discussions and you're going to maybe have some differences of philosophy identified among various participants. But if we had a more focused conversation about, you know, how human rights are enacted in the ICANN context, number one, you can put on the spot all of these intergovernmental government organizations like the Council of Europe which participate in GAC but are completely silent

when it comes to the actual issues of human rights that are violated by GAC policies.

These people don't speak up when we're talking explicitly about censorship of top level domains. They don't speak up when we're talking explicitly about privacy. They're silent or they have a misconception, such as the one the European Union expressed, that, you know, ICANN shouldn't be doing human rights, which is in some sense correct, but also doesn't - overlooks the fact that ICANN can be violating human rights.

So I would prefer to propose a human rights dialogue with the GAC and with intergovernmental organizations as a much more focused way of approaching that dialogue.

Constantinos Roussos: Okay, I have Robin and then Bill, and I would like to close that so we can discuss a little bit the update from counselors. Thanks.

Robin Gross: Yes, I actually see a bridge between the two concepts that you guys are talking about. I think on the one hand the public interest is a good hook, if you will, for us to frame a discussion around because it is this phrase that now the GAC is beating ICANN over the head with. "We must act in the public interest. Everything we do must be in the public interest."

So I think we should have a conversation about what does that mean to be in the - to act in the public interest? And I think what we could come up with perhaps some criteria for a discussion, to come up with criteria, what do we think it would mean for ICANN to act in the public interest?

And I think one of the first things on that list would be are human rights respected in these policies? Is ICANN coming up with policies that track human rights under international law? Just off the top of my head that would be one thing that we could use as a checklist for, you know, is ICANN acting in the public interest.

Another thing would be, you know, what is the impact on developing countries of this particular policy? Were all stakeholders really consulted, participating in the discussion? You know, these are just kind of off the top of my head things that I think we could really kind of narrow it down to and come up with a checklist that we could say, "This is what we believe it means to - for ICANN to act in the public interest."

And again, human rights is a big, big part of this. So that's sort of the way I would frame the issue.

Constantinos Roussos: Thank you very much. I think that this has been a great discussion and my understanding is that the event in Toronto would be great - very beneficial. What I would do on that respect is that I would circulate an email and I would ask for volunteers to start organizing this event. Preferably we need to have someone in Toronto. I received an email from Brenden who is actually doing part of his research in Toronto and he expressed his willingness to assist, and Robin actually has been great in saying that she would also like to assist.

Before I move very quickly to the update from counselors I just received an email from - sorry, Bill, you're in the queue, sorry.

Bill: I just want to say I agree with Robin. I don't think there's necessarily a divergence, Milton. And I think the point is precisely to the extent that the public interest is a vague standard but yet is nevertheless being invoked as a basis for rejecting, modifying, complaining about actions by the GAC. That's precisely the reason to try to specify a set of criteria.

And one of the leading concerns that we would put under that umbrella and how are you actually trying to (buy) them and human rights concerns would fit there very well.

And I think we could get some of the government people, and I strongly suspect that if we tell them in advance we could get people from the U.S. government, from the European Commission, I suspect the Brazilian's would show up a day early. I mean I think we could have a conversation like this and I think it would be an opportunity to really put them - make them put it online.

So, I mean, I think you could - the kinds of concerns you have would definitely come out clearly in that kind of discussion. I just want to ask really, I know you're not listening to me, but I'm just wondering what would your comments about the academy was, Constantinos? Because actually this is a big initiative that a lot of people are doing that I think is relevant to NCSG.

I wasn't aware that funding had actually been approved and it was going forward, but if that is happening then number one I think we ought to be involved in it. It shouldn't be purely an ALAC initiative and I think ALAC people recognize - said that they recognize that and want to work with other people, and number two, if it is happening we don't - counter programming would be kind of sucky and I don't know what our options would be, but we'd have to explore that.

Avri Doria: If I could quickly respond. Yes, the funding is currently being discussed. That's why I mentioned it was a probability, not a certainty, and in terms of it's really kind of ALAC initiated. ALAC had a much broader idea that they wanted for ALAC members an outreach, and what ICANN basically came to them and said, "Can you come up with a pilot program that we could (do that)?"

So basically they've started it. It's now becoming a community, and as I just said to some of you, the whole idea is to reach out to you all to actually be the ones that are doing the giving of the thing to making sure that all the various perspectives are gotten, especially to a new Board members, the people that

(noncom) bring in who basically seem to know about as much about ICANN and what it does as a beauty contest.

So, you know, there's a certain value in doing this and it's - ALAC has started the process but it's now going to be up to the rest of the community to make sure it works out right. So it would be difficult if you come up against that, but it's just a probability at the moment, not a certainty.

Bill: And it should be added that it was started by a GNSO Councilor. This was Wolfgang's idea originally when we were in Meissen a couple of summers ago. And so...

Constantinos Roussos: Thanks, Bill.

Avri Doria: Yes, and (Sandra) led the effort in...

Constantinos Roussos: Thank you. Very quickly, Carlos, we need to wrap this up.

Carlos: Very quickly. The CGI - I don't think the CGI got the (unintelligible) any problem in supporting the NCC event again. Robin already knows the procedure is a simple proposal that we would submit to Council there. So - and we have to have it written.

Constantinos Roussos: Thank you, also very much. I mean this is great and so, you know, your assistance has been greatly appreciated. As Robin said, this couldn't have been done without your support and thank you on behalf of the whole membership.

Before we go to the update from counselors, very quickly I just want basically your okay. I just received an email from Glen tomorrow at the open council meeting. All constituencies and stakeholder groups are given five minutes to present the issues of their concerns. So I was thinking of actually telling them what we discussed today. So I would just like to have your, you know, that

you're okay with that or whether there is an additional issue you want to discuss. Mary?

Mary Wong: Actually I am okay with that but just to let the group know that there's been some discussion amongst the council after the last open council meeting in Dakar where this format was tried and I think the consensus, and Bill is nodding, was that rather than have reports from the constituency on what they did, what they said, it was really to tell the Council, "On these issues here are our concerns and here is what we would like you to do." I think it's the same thing just couched differently.

Constantinos Roussos: Thanks, Mary. Okay, can we go now to the update from our counselors? I know that the biggie in the agenda is the ISOC Red Cross. But Wendy, you're not - your least favorite subject, please tell us what's happening at the Council.

Wendy Seltzer: Okay, I'm going to skip over the events that have already been discussed before the Council and mention a couple of other things. One is the competition consumer choice and trust report which I think makes a complete hash of every one of those issues.

I was participating early on and voiced my disapproval. But everybody else was in line behind Steve DelBianco so I think we're going to have to write a dissenting report in the public comment because it sets up all sorts of unhelpful standards for a sort of curated playground rather than an open network. You know, we need a trustworthy registration system, rather than a place where people can do cool things.

The other piece I wanted to put on the table, another - the cross community working group is up there, too, if anybody wants to talk about cross community find me. But the other thing I wanted to put on the table was - that I missed in the strategic plan discussion was the what else do we think will hit the fan once new gTLDs are moving forward?

How can we prepare for being good participants in the discussions around objections, around community definitions, around confusion over the string confusion standard, around auctions and what's to be done with the auction proceeds? That has barely even been discussed, but it's going to be a huge issue.

What's ICANN to do with all the money it's going to be amassing? This is going to be a huge pot of money. And what are we going to do as a constituency, as a stakeholder group, as a house and council about the change in shapes of the organization when a whole bunch of new registrees and registrars come into the picture; many of them single interest registries? How does that change the alignment of stakeholders and what can we do to help keep ICANN centered on the issues of open Internet that I think we care about. That's my update, thank you very much.

Constantinos Roussos: Thank you very much, Wendy. Mary?

Mary Wong: So I mentioned this at the meeting that some of us had yesterday, the policy call. And I know that Robin has added it to the agenda for this afternoon if possible. But this is in relation to the new gTLD program which, as you know, is in application here right now but there has been a proposal regarding the batching that ICANN proposes to do.

And the reaction to Kurt Pritz's presentations on Sunday and Monday I think were a range of astonishment to resignation that ICANN has put its foot in it yet again. And so there seems to be some general dissatisfaction or confusion or bewilderment over how ICANN is going to conduct batching. And for those listening who haven't been following, the expectation is that there will be quite a lot more than 500 applications received and yet ICANN is only going to process 500 per time, I suppose.

So they have a somewhat random way of doing it, I don't want to go into the gory details but it involves getting what they call a secondary timestamp and essentially prioritizing based on your geographic region and how close - wait, sorry, let me take a step back.

As an applicant you would then pick a time and date in the future. I'm not sure what that means, and at the closest point in time to the date that you pick earlier on you have to hit the button and send it to ICANN at which point priority will be given based on geographic regions. I believe from Wendy's and Avri's expressions, I think I got that right.

And that is why almost nobody that I've talked to likes this. It's certainly is, I think, going to disadvantage applicants without the connectivity, for lack of a better word, and who may be placed geographically really, really far away from Marina del Rey, for example. So a large number of the applicants that this group has been concerned with.

There's been an alternative proposal that the IPC has some up with and they've asked for our comments and support. I don't know that anyone has a chance to read it and I haven't had a chance to post it to the list. Obviously there are interests behind the brands. I think the main interest is that they don't want or need to go first. They don't mind being processed at the end of the line.

But I think the point of interest for us for discussion would be that they're proposing that batching be done by categories and that the first group to be processed under Batch 1 would be the IDN group and followed by, I believe, the community groups and the geographic based applications with the dot brands coming in last.

So it may be that we are not able to discuss this thoroughly but they have asked me to circulate this. I don't know what you want to do about it but I do

think that the batching issue would be something our group is concerned with.

Constantinos Roussos: I have Milton and then Robin.

Milton Mueller: I'm not sure whether this is in order or not but if we're actually discussing the substance of some of the things that we're being proposed such as the report that Wendy mentioned about the definition of consumer and all of this, I just want to say that I read that. I started to prepare comments about it and my brain short-circuited. It was just - I couldn't go any further because it was just so ridiculous.

I mean I would probably have to write a report longer than their report to deal with it all and it was - I just don't know what to do about this. I'm not up on the procedural elements and when comments are due, and all of that. But it was just...

One of the things I'll tell you is that they're saying consumer trust can be measured by how many UDRP claims are filed in a domain. Yes, right, that's one of their definitions of metrics and...

Constantinos Roussos: Okay, I didn't know that. Even hearing about it gives me the chills. I mean we would submit comments here. When is the public comment (unintelligible) ending on that? I mean this is just ridiculous and I'm on record of that. Robin?

Robin Gross: Thanks, yes. I actually wanted to ask about the batching proposal that Kurt brought up and I'm wondering if any rationale was provided for why they thought, you know, the person with the quickest finger or the fastest router is somehow a good way to make this - a decision.

Constantinos Roussos: Wendy? No, Mary, do you want to respond to that?

Mary Wong: I think Wendy has the response.

Constantinos Roussos: Wendy?

Wendy Seltzer: So the public - two quick notes, the public comment period on draft advice letter on consumer trust, consumer choice and competition ends 17 April. Milton, please help with the rebuttal comments. We'll try to keep your head from exploding.

And on the batching, we heard primarily the constraints against which batching was - against which the secondary time stamp proposal was supplied, it couldn't be a lottery because California law is interpreted to prohibit things that look too much like lotteries and ICANNs too weak to challenge that effectively.

It didn't want to be an auction, and so they needed something that had a modicum of skill in it not - rather than pure randomness and this - oh, and they didn't want to do first come, first served because they'd already opened the application period. And so this is what they did.

Constantinos Roussos: Avri and then Mary.

Avri Doria: Yes, on the first come, first served they had warned that they wouldn't do that because then everybody would have rushed to have their application in at Minute 0. So they couldn't do that from the very beginning, so it's just...

Constantinos Roussos: I'm so happy I'm not applying for any of that. I mean, honestly. Mary?

Mary Wong: Yes, and for the same reason purely random would also have been a lottery. So now what they're doing is pushing the button to the applicant was not a lottery because you pick the time and date so you make sure that you're

close enough and have a finger on the button at that point in time so it's your problem.

Constantinos Roussos: I can see many applicants staying up all night pushing these buttons like crazy.

Mary Wong: I mean obviously there's an element that's problematic, that's obviously a huge potential for gaming by those applicants with deep pockets enough to set up systems that would in some ways maximize their chances of success.

Constantinos Roussos: Joking aside...

Mary Wong: (We have one location) but I would like to add that I also had a conversation with someone from the registry stakeholder group who's also wanting (houses) is not also some form of lottery.

Constantinos Roussos: Well, at least from process we'll inevitably have characteristics of lottery whether we like it or not. So I think that what they're trying to do is minimize how obvious this lottery. But joking aside I think that the very, very important issue here is the discrimination that might happen, the geographical discrimination that this might entail, okay?

I mean we're talking about bandwidth issues and many, many countries do not have bandwidth issues, do not have the bandwidth in order to process the publications. Like, for example, those applicants in the United States. So for me this is a very important issue and I think that we need to say something on that.

I haven't actually managed to read the IPC proposal. I saw the email, Mary, but I didn't have time to read that. Maybe this is something that we can possibly discuss briefly at the NCSG meeting how we want to respond to that if there is time.

Anything else on that issue? I think that we need to discuss definitely how - I know that there's a motion before you guys on the IOC and the Red Cross and I'm sorry to be coming back on that. But we need our counselors to tell us how they're thinking of voting.

I mean Wendy just left already. So - but I think you (unintelligible) if possible so there is some sort of an approach that you take and you're not faced with - we are not all faced with surprises. Mary?

Mary Wong: So okay, I'll take on that issue for discussion now and hopefully others will supplement it. And I'd just like to repeat the suggestion I made at our policy call yesterday that we had a big discussion on whether we should defer the motion and I think many of us agreed that we have actually very good principle and reasons for deferral.

It would not be a deferral for purposes of gaming the process and saying, you know, you defer it to the next meeting, when's the next meeting? "Oh, shoot 12 of April so it's a moot issue." That would not be the reason. I think there's sustentative reasons outlined including the fact that the public comments here for the proposal has started and is still in progress and hasn't ended.

I think the second reason is that there's been quite a lot of changes and proposals that might need further discussion. And in this respect I think one of the things for us to consider is a new semi proposal that our new fellow constituency has proposed that does I think mandate much deeper discussion, some of which has already started on the NCSG listserv.

So my proposal, and I see that the noncom is here was that we state that we would have otherwise wanted to defer because we have good reasons for doing so, but in the spirit of cooperation, dah, dah, dah, we might not - we're not doing so, but offer a sustentative amendment to the motion which would obviously, I think, get voted down, in which case then we go back to vote on the original recrafted motion and we might want to vote no on that.

Then in terms of the sustentative amendment, if I can go back to that, I think this is some updates the - in terms of the number of languages and so forth that would be protected in this round I honestly don't know how we're going to get through this expression in the SG this afternoon, especially as we have to close up this (C) discussion right now.

But I'd just like to repeat that suggestion and see if that is something that our members feel comfortable with. If you are I can try and pull something together for the SG discussion this afternoon.

Constantinos Roussos: Thank you very much, Mary, for that. I think that we can discuss it in the NCSG policy meeting. We are running out of time and we have joining us just - oh, Joy wants to make a very quick comment. Please Joy, very quickly.

Joy: Thank you, very quickly can I just ask that the (unintelligible) councilors do meet in the group before tomorrow? Either at some point to (unintelligible) so that we can be sure exactly what we're doing together. So Wolfgang and Rafik and...

Woman: We'll talk about it this afternoon at the NCSG policy meeting but in addition to that (unintelligible).

Constantinos Roussos: Okay, we have a nominating committee joining us to provide us with an update as to what they're doing with the common practice that happens in all ICANN meetings. So Vanda you have the floor. We're trying to (unintelligible) the presentation so you have to bear with me a little bit. So please, Vanda.

Vanda Scartezini: Thank you, (unintelligible). Our task now is as you know (ATRG) demand us give (unintelligible) communities to get feedback what we have done last year in Dakar we asked for information from all ACs and SOs and all sub

commenters into one to get this impression which could be the (unintelligible) for both editions.

And now our task today is just to show you what was the resume of all those conversations from last year and ask you if you have some other comments, add something, withdraw something. It's agreement or not, and because in the end of the year we need to go for break and show the people we selected in some way match, in which way they match, this information we got, the profile we got from the (unintelligible). That's the idea.

This presentation will be posted besides sent to you, but also posted in the - as a link in the ICANN page where noncom is. It is just to disconnect on that, yes? Yes, okay.

So that's it quickly (unintelligible) to this and not to take too much of your time. But just to make sure that you have the information and let's see, and be able to give us feedback. It's not there. Here, let's see. Okay, (unintelligible) not working. So just push (unintelligible). Okay.

Constantinos Roussos: There you have it.

Vanda Scartezini: Oh, you have it? Okay. So I need now to try to - yes, okay. It's over there. So just to remember what noncom has space in this time three Board members. One necessary being from Latin American, Caribbean area because we are losing the only one member of this region and the bylaws demand us not to have zero position.

At the same time we cannot go over five persons from one - just one region. But we'll be not the case for the other members. But one must be for that region. Two members from ALAC from North America and Europe, one members from the GNSO and one member from the ccNSO, just to remember what we are faced.

This is the timeline and second (unintelligible) the window is closed. So we have not much time and after that we have two ways. We contract (unintelligible) for companies, national company that is presenting (unintelligible) to interview the people that we preselected. And after that they give us this (unintelligible) like an independent interview group and together with that we preselect some people that we need to interview face-to-face in - just for the Board members a face-to-face in (unintelligible).

So this is - needs to be finished in the end of - for our meeting, and after that when the meetings close on Friday in (unintelligible) we go sit down together just the noncom and go to the end of the time left to get consensus on who's going to be selected for all positions? Who's going to be selected for all positions? And that is done.

And then it's publish it and that result. That is the (deed). So what is important here? What we got from the feedback that from those meetings we had in Dakar, also some feedback from Board members. So experience, no technical, there is no need to have deeply expertise on technical issues but needs to have a general information about what is about.

So technical issue is general information. Policy needs to be aware of what we are talking about policy, but also understand that is not the board's job to make policy. Policy is made by the community. So governance, not only a management skill but mostly Board experience and Board experience similar to the size of ICANN and better to have from larger organization.

Because we are growing and so to have people with more knowledge about larger organization could help. And ability to easy communication in English and more and more other language are become more important because once we are going to the international organization more and more we need to have ability to communicate in other language.

So of course we need to have a common language but more and more this is become more relevant to have those kinds of skills. So it's to considerate. So the next time...

Man: Can I ask a question about these criteria?

Vanda Scartezini: What?

Man: Can I ask a question about these criteria?

Vanda Scartezini: Yes, yes, please.

Milton Mueller: Yes, the idea that they have to be on the Board of an organization that is similar large is really kind of a undesirable status quo bias because you're saying they already have to be, you know, there may be somebody who really knows ICANN, has come from the bottom-up, has a lot of support in this community, but because they haven't been on a Board before, they would never be qualified for the ICANN Board. I don't think that's a good criterion, actually.

Vanda Scartezini: But well, the idea is, whatever, you don't need to belong to this community. You need to have, for instance, you could work in telecommunication and you could work in the Board of nonprofit organizations, large ones, but what you need to be is have information about the Internet and what it is about that we are doing here.

And also to have information about the policies and have Board experience. They need it. Because to have those kinds of skill, to face community, to talk with community, to deal with the staff. How to manage and not interfere in the process, is a Board skill, and we need some Board skills for those positions.

Milton Mueller: I would just respond that knowing how many Board members are appointed to, say, corporate Boards in the U.S., they may be friends of other Board

members or friends of the CIO. They may be a small circulating elite of Board people who would meet that qualification and maybe even have some technical and policy skills but they wouldn't know anything about ICANN.

And somebody who knew a lot about ICANN and its community and its policies and processes who had never been on a Board before might be a better candidate than somebody who had been on many corporate Boards and at a big telecom firm or something that like that. That's all I'm saying.

Vanda Scartezini: Well, that's - I can take your point, certainly, but those are the information that we got, not our information, we got from all the community, even for here, I haven't heard from you before. I'm here now, I could, yes.

Milton Mueller: We are part of the community, yes.

Vanda Scartezini: Yes, yes, now I heard from you before, but not, you are point, now and because we took notes of all the community last year, but I took this information, also, as an - add information to this profile. Thank you, Milton. May I proceed?

Constantinos Roussos: Please, because we need to wrap it up. I'm told that they need the room. Thank you.

Vanda Scartezini: Yes. Board experience, ability to use, communicate, we are talk about that, ability to (lead), to build relationships, it's important diplomatic attitude, we don't want people that cannot deal correctly with the government or something like that because it's very difficult.

You bring some unnecessary burden to the community. Executive mind, but (unintelligible) capacity to assimilate a lot of information because many Board members are not from the community itself, so needs to learn quickly, integrity, (unintelligible), be confident, but not arrogant.

We don't need a person to face the community like an enemy and the next skills set is accept public criticism with elegance, ability to delegate, a strong understand and belief in ICANN (unintelligible) stakeholder model because if you don't believe that, you cannot defend this position. So understand that clear communication with the community is an important part of the consensus building process and time availability is (relevant).

So that was the (resume) we got from the whole ACs and SOs and though we are passing to all the others (community) again, and take information and, you know, consider if it's enough, it's not enough, it's like Milton just said, he believes a different way from the others.

So it's important to have your feedback. So it's just that, we need suggestion for that for this and this of course, you know, how to help us to invite people to apply that you believe have the strong capacity independent.

It's quite important for being in the Board. Thank you very much for that. And if you may, just (Roger) needs a few minutes just to explain why he is here and what is about to be the next - what is the name? It is (Cheryl Axon).

(Roger) Yes, sorry, yes.

Vanda Scartezini: Yes, the name is...

(Roger): If I may, I'm new to this position, so I shouldn't say that. This is a brand new position, so there's never been a chair-elect before. The bylaws changed last year and now rather than having a chair and past chair, we have a chair-elect and then chair. So I have very little function during this noncom other than to support Vanda.

My concentration is on next year's noncom, so you'll see some differences coming from me at your constituency very quickly after this meeting, which is, I will be asking you to appoint next year's person sooner than later.

So hopefully before the Prague meeting. So I'll ask you to start thinking about that and what, you know, what person you want. I believe Maria Farrell is your current rep, is that correct? But I believe she's term limited, so you'll have to appoint someone new.

So it can't be her again, but all that process will move up. The other thing I've been working on quite a bit and concentrating on is how can we make what happens and the procedures of the nominating committee more transparent?

Both Vanda and I believe that the secrecy that typically has been around that has been extended too far, certainly identities and confidential information of the candidates and discussions around them should be kept in confidence, but procedures and agendas and when we meet and that type of thing should not.

What you'll start to see from both of us this year and I'll extend it into next year, much more publication about what we're doing, what we're discussing. We'll be taking a look at every document we have and saying, rather than why shouldn't we release this, we'll be reversing it to why is there a reason we can't release this if it doesn't contain confidential candidate information or discussion information, my belief is it should be released and made public.

I believe the secrecy is not helping the view of the nominating committee.
Thank you.

Constantinos Roussos: Thank you. Any questions? I know that Milton has a comment, so please, Milton, before we wrap this up, we need to - oh, no? Any other questions? Comments? Please.

(Remi): Thank you. My name is (Remi) from (unintelligible). First thing I wanted to ask is that in the process of, apart from the selection, our (lease) - our members that have been selected, are conducting (unintelligible) because -

(Roger): So I think I can answer your question. Typically, there's a phase of application where we encourage people to apply, that's one of our most important phases.

We're in the middle of it now, so we're looking for people to apply for the different positions we have to fill at all the committee members are at this meeting and are talking to the community as Vanda and I are going around and talking to every stakeholder group. After the Prague meeting, we'll spend two days locked in a room very similar to this.

Sorry, let me back up a step. At the Prague meeting, we will have whittled down the candidates to a short list, if you will, and we will invite them all and interview them, if they can attend.

Certainly the Board candidates, we interviewed every Board candidate last year in person or by Skype to get a sense of them. There is also an (Augers & Bernstein) interview that happens by a professional interviewer that asks a set of questions of every candidate and give us a report on the candidates.

The committee then starts meeting the final two days after Prague, so typically the Saturday, Sunday after Prague in a room similar to this where all of that information is gone through and there's a discussion about candidates that also leads to discussion, of course, of diversity and regions and that type of thing.

So it's typically an around the table discussion that happens. And then we typically go through...

Vanda Scartezini: (Unintelligible)

(Roger): Certainly, we look at all the criteria and then we start to try and whittle the list down. So let's say we had ten candidates for Board, well, can we get down to five and discuss them again?

And can we get down to three and discuss them again? And then at that point you start to look at slates. And by slates, I mean, do I have - have I started to put, you know, I have to have one from Latin America this year, for example, on the Board, so I can't not have one in my top three from Latin America. I can't have more than five from a region on the Board. So you start to look at, how does this look across them all and have I really got the right people?

And there's a - typically a final vote at the end of the whole session. I'm pleased to announce, again, to remind you I guess, that last year's final vote was unanimous where every single member of the committee voted for the slate that was put forward of all candidates for all positions. So that's the ultimate goal of Vanda and I, to get to that final unanimous vote where every committee member says, "Yes, that's the right choice." I hope that answers your question.

Constantinos Roussos: Thank you very much. Any other comments? Well, thank you very, very much for joining us. Thought it was very helpful. And thanks everybody for being here. I personally thought that this was a great meeting, so we are breaking now for lunch and then there is the NCSG (unintelligible) team, which starts at two - no, 1:30 pm this room. So thank you all very much, the recording can be stopped. Thank you.

END