

STEVE CROCKER:

Welcome, everybody. Please take your seats. Stop all this useful interaction. I get to use that line each time because it's a new audience, except for the board that has to bear with me each time.

The board has been meeting today with each group. This obviously is our meeting with the registrar stakeholder group. If you're not one of the registrar stakeholder group members or a board member, then you are an observer and you'll have to go where we take you, I guess.

You don't have to get off; you just have to stay quiet.

We've been trying to arrange these sessions so that we get right to the heart of substantive discussions, plow right in.

A little bit of preparatory work with suggestions of topics from both groups, and the topics that we received from the registrar stakeholder group were policy establishment in the context of discussion over the RAA and the board's CEO search.

And equally, we suggested asking you all what qualities do you think we ought to be seeking in a new CEO, discussion of the ethics guidelines, what are your top three concerns and proposals to address them, what is the view of registrars with respect to the registrar or reseller role versus the registry role in taking down domain names being used for illegal purposes, update on discussion between registries and law enforcement, what are the barriers to improving collaboration.

I suspect that should have been written as "registrars and law enforcement."

And feedback on the JAS final report.

Having said all that, let me mention that board members are seated along -- many along the front row. I think there's a few distributed elsewhere. I see Bill Graham in the back, and who is that hiding -- that

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must be Sebastien, and here's Bertrand. Let me turn things over to -- to Mason to run things, and we'll be happy to be responsive.

This is, in principle, a two-way exchange, but from my point of view far better for us to be listening. We want to hear concrete, specific things. Feel free to raise any questions, but even more strongly, feel free to offer quite specific suggestions and get to the heart of the matter as rapidly as we can. Thank you.

MASON COLE:

Thank you very much, Steve. My name is Mason Cole, chair of the registrar stakeholder group, at least for one more day, when I step down to assume a seat on the GNSO Council.

I know that there's been quite a bit of discussion this week about the RAA, the registrar accreditation agreement, and policies associated with that. I'd like to lead off with that topic, if I may. And then perhaps in this order we can talk about the following: We can move from that to the law enforcement discussion, discuss domain name takedowns, and then go from there to the JAS report. And then we'll see how we're doing on time after that.

So the registrars and staff, particularly our EXCOM and Kurt and Tim Cole, have been having discussions about the RAA process. I might ask Kurt to give just a brief update from the staff's point of view on how we arrived at where we are, and then I'll be happy to follow up with the registrar side of that.

KURT PRITZ:

Sorry. Mason, is it all right if I go? Or Steve? Yeah?

So -- well, as the board knows, one of the topics that is -- that have been -- can you hear me now? Okay. Yeah, one of the topics that's been widely discussed here is the process for amending the registrar accreditation agreement, including the recommendations of law enforcement for amending the agreement, and the GAC's support of that.

So it's been sort of an intense tri-lateral discussion, at least, with a lot of other constituencies supporting that, and -- and we're talking about this now and I suspect the board's going to hear about it when they meet with the GAC later today.

And so with an idea of facilitating that, ICANN published a paper a while ago in response to a board request that they recommended that, in part, ICANN and registrars start negotiating contract amendments right away. They would be bilateral contract negotiations, you know, between the parties in the agreement in order to move forward on substance rather than discussing process.

The paper also mentions that the GNSO at any time could undertake policy discussions, and I think it's important to differentiate that. You know, the registrar/ICANN negotiations would address, you know, different implementations of existing policy and the GNSO can under -- you know, undertakes new policy discussions as -- you know, especially as they apply to the RAA.

So like Mason said, we met with -- ICANN staff and the registrar executive committee met Saturday night, and discussed how we could move forward and agreed to a methodology by which ICANN and registrars could start negotiations right away on registrar -- amendments to the registrar agreement. Even discussed a timetable -- you know, an accelerated timetable for that. And also discussed a methodology by which we would report out the results of the negotiations so they would be -- you know, the results would be open. And also agreed that our first meeting would be about the rules for reporting out, so that we could report out to the community -- we could describe to the community how we're going to report out.

And then later today, I think -- I think the registrars, you know, as a -- as a constituency, approved that idea of starting negotiations right away.

So we think this is a positive development that -- you know, we want to make it clear that negotiations between registrars and ICANN don't get in the way of existing policy work of the GNSO or any of the ongoing

discussions there, and really we've been talking about this for the last several weeks and even longer.

And so this is really the end of that. It's not as a result of the discussions that have occurred here with GAC and law enforcement, but rather, you know, I think both sides recognize the sense of urgency.

So we view it as a positive development and wanted to report that to the board in preparation for the discussion we're having here. And certainly when you talk to the GAC later.

MASON COLE: Bruce?

BRUCE TONKIN: Yeah. Thanks, Kurt and, you know, that's an encouraging development to see that work is proceeding.

I just want to sort of note that, you know, I think there's a real risk at this event, in particular, but also the build-up to it in that there's a lot of frustration going on. You know, it's coming out of the GAC, it's coming out of other members of the GNSO. And so the way that gets presented externally from ICANN is really this is just an example of how ICANN doesn't work. You know, the registrars and registries aren't capable of, you know, having discussions in good faith, they're using the rules, they're using their voting power, so really this model is not working.

So we have two options. We go to individual governments and get them to create legislation, and certainly -- I'm sure there will be a push for that after this meeting. And the second thing they do is to say ICANN should actually be brought in the U.N. and it should be an international organization and it should be run by governments.

So that's -- that's the risk -- the real risk that we're facing here.

So I think we need to make sure that in the way the registrars and the registries, particularly, as members of the industry, are seen to be

proactively working and making improvements and not being seen to be, you know, slowing things down.

So I'm not trying to make a judgment of whether they're right or wrong. I'm just telling you that's what they're saying. And they will say that outside of this forum.

I think you also need to recognize that while members of the Governmental Advisory Committee here might debate with you on some particular topic, outside of here they are defenders of the multistakeholder model within their own governments, and so there are other people in those governments that, you know, much prefer the government just to tell us what to do.

So, you know, you need a degree of respect when you're dealing with the members here from the Governmental Advisory Committee that they might debate you on individual points, but they do support the ICANN model.

And we need to help them make that a success. So that's the first point.

Second point is, we've got an expectation management issue. So one of the frustrations I think people have is they want to make something happen fast, and they -- they think the GNSO PDP is going to be too slow or is otherwise broken, so they don't use that. And suddenly we're turning the registration agreement into a policy forum, instead of a registration agreement is an implementation of policy.

The side effects of that are, one, the registrar agreements are five-year agreements. Even if you make a change today, for most cases that won't come into effect for three years. And I doubt many people really understand that. Because the agreements get renewed every five years.

Many registrars renewed their agreement in 2009, and they're two years into a five-year agreement.

So even if agreement was reached today on a change to the RAA, registrars don't actually have to comply with that for another three years, typically.

Now, registrars may voluntarily do that. That's a separate issue. But I'm just saying in terms of people wanting to use it as a tool, as a tool it's something that will have an impact in three years' time.

Consensus policy, though, if they actually do that properly and you support them, consensus policy means that it has to be implemented, you know, within months of it being approved by the board, but the reason people don't trust the consensus policy model is they think that, you know, you guys are going to slow them down and actually deliberately play the game, so that nothing happens.

So I think there's a real responsibility on this group that definitely work with Kurt in making the changes that can be agreed. I mean, that's obviously very positive progress. But make sure you set the expectations that that doesn't necessarily mean something's going to change.

And secondly, really try and make the GNSO work, because if the GNSO is not working, that means ICANN's not working and it means that ICANN should be got rid of. So, yeah, there's a bigger, longer-term risk here in those issues.

MASON COLE:

Bruce, thank you very much. That's especially helpful insight. I'd like to say a couple of things about that on behalf of the registrars.

I think that we agree that there is an expectation management issue within ICANN, in that the RAA is a contract between two parties and not a policy-making tool in the aggregate.

I want to reiterate, as well, that registrars are very much committed and have been acting in good faith with the community. I think that you would find our difficulties with some of the intentions from parts of the

community are based on differences in how the process is approached versus what the desired content outcomes are.

Bruce, I believe, is correct that if there's frustration in the GNSO model about how long policy development takes, it's inappropriate to focus on using the RAA as a shortcut to achieve those objectives.

Registrars have obligations to their own customers and to others that could be disrupted if the RAA is continually amended, really without regard to the impact.

So the registrars are committed, very committed, to good-faith outcomes, as much as we're committed to the multistakeholder model.

So I do hope that we can get past the process difficulties and arrive at a meaningful set of agreements in a revised RAA.

I'd like to speak candidly next, as well, about the GAC.

So we -- the registrars had a difficult session with the GAC on Sunday, and I regret that that session was very difficult.

I think it resulted from -- from two primary things. One was a misunderstanding on the part of the GAC about the responsibilities and rights that we have in our agreement and how we approach policy development. I look forward to working with the GAC on improving the gap in that knowledge.

The second cause of that, I believe, was a failure on the registrars' part to understand how extensively and deeply the GAC expected to be consulted about issues that it found to be important.

I recognized that as chair. I take responsibility for that and I commit to improving that as well.

So I hope that -- I hope the GAC can understand that and I look forward to helping improve that situation.

So Stephane.

STEPHANE VAN GELDER: Thanks, Mason.

Yeah, I just wanted to say -- just come back to both yours and Bruce's points about the GNSO, but not speaking either as GNSO chair or even as a member of this stakeholder group but only as an individual that's invested, like many of us, a lot of time in this process over the years and possibly feels passionately that this current model is the one -- is the one for the Internet, is the one that will allow the Internet to be the best that it can be.

And I think that there's a temptation that we're all seeing for people that don't get what they want to call the model, whatever it is -- it could be the GNSO today, it could be something else tomorrow, and it's been other things in the past -- to call that model broken. And I think it's also -- and I think that's the gist of what both Bruce and Mason were saying.

But I think it's also the case that, you know, it's up to us, also, to explain why this model is good, why it works.

Yes, it does take time sometimes. It does take time to develop policy in a certain way. The PDP process at the GNSO level is sometimes lengthy. Why is it lengthy? Because it's all-inclusive. Because it tries to include all stakeholders. Not just the registrars. Not just the business constituency, for example, but everybody.

And that all-inclusive model is something that I think is of great benefit to all of us in the ICANN community.

I'm just a businessman from France. I could -- you know, if we're talking about other areas of governance, I can't get into that. I can't have a word. Apart from putting a ballot when it comes to vote in my country.

Here, I can be an active participant. I can bring my experience --

[ Microphone feedback ]



-- such that it is, and I can bring my experience, and that, I feel very passionately, should be upheld, should be preserved, and should be defended.

So I understand that some people's -- some people would like to have that perception that because they're not seeing progress fast enough or they're not getting exactly what they want quickly enough, that there's that temptation to just say, "Everything's broken, let's just get rid of it." I think it's up to us to defend that idea as well, and to make sure that we are clear in why this model works and why it's so important.

MASON COLE:

Thank you, Stephane. We have a comment or a question from Tim Ruiz, one of our GNSO Councillors on the phone. Tim, please go ahead.

TIM RUIZ: Yeah.

I just wanted to respond.

Stephane hit on a lot of what I was going to say. I was concerned about the implication that some think that the GNSO doesn't work.

You know, it actually has worked very well. There are recommendations that have recently been forwarded to the board in regards to transfer policy, changes in it. Changes in the post expired domain name recovery, policies requiring that.

So the GNSO and the council system works, but because there's a single issue -- and that is in regards to how the RAA is amended, with that single issue there's been a lack of agreement between contracted parties and others as to how that gets resolved. And I think that that one issue should not be used to -- as an example that the GNSO simply doesn't work.

I think that's an overstatement.

But we are moving -- we are trying to move forward. We went -- we had some false starts, perhaps, over the last couple of years, but I think we've got a way forward with taking care of the requests from the

community in regards to some of the changes that are needed in the RAA, and, you know, registrars want to move forward and take care of that.

So I think, you know, maybe progress has been slow in that regard, but it is moving forward but it should not be indicative that the council or the GNSO as a whole is broken in any way.

MASON COLE:

Tim, thank you. Bertrand? Kurt, you have the -- yeah.

BERTRAND DE LA CHAPELLE:

Yeah, this is Bertrand de la Chapelle.

We're here to speak candidly, and I could not overemphasize too much what Bruce has said. Everything he's said is true. And it's a very important moment.

The frustration is not only in the communities that he's mentioned. The frustration is also in the WHOIS review working group, and that's a bad sign. It's an important process coming from the ASO -- the Affirmation of Commitments.

We have a problem today in the structure of the GNSO and the way the mechanisms function.

The structure of two houses -- and I was an observer when I was in the GAC in the working group that actually came up with these two structures. Let's be honest. It's main purpose is to be a mutual deterrence structure, so that no house can impose something on the other. However, on the other hand, it is not providing consensus and it is fostering the capacity to block in many cases. Which is a major danger, because for all the reasons that Bruce has mentioned, today we're in this unbelievable situation where the very tool -- the policy development process -- that should be bringing actors together, in spite of their differences to reach consensus, is now used somehow, if I understand correctly from the outside, almost as a threat. The way it is

perceived for people who are outside of your closed debate is: Don't bother me; otherwise, I will launch a PDP and you will be in the black hole for 10 years. I'm caricaturing, of course.

But when the tool that is supposed to foster community is being used as something that will not, then it produces what Bruce is mentioning as the risk of getting around. It can be regulation or it can be any of the kind of other working groups.

Now, to get into something more operational, as a closing.

As I said I think in the same meeting in -- I think it was Singapore -- the registrar accreditation agreement is a contract between two parties. However, to make an analogy, the IANA contract is going also to be a contract between two parties.

Does that mean that the fact that the NTIA has made an open process and that fundamentally the whole debate has been followed very broadly is not much better than being just the two parties behind closed doors? Of course it's better to make it open.

The fact that it is, in the end, a contract between two parties does not mean that the whole process should be exclusively between the two parties. The registrars do not own the responsibility to negotiate this document. It is something -- and I'm very, very -- I may be alone in this, and I may be an absolute radical.

The registrar accreditation agreement is an element in a general framework of policy that is the implementation of a policy, and it is the result of something that is in the global public interest. And therefore, the way it is elaborated may take, in the end the forum of a contract between the two parties, but it is not exclusively the right.

Now, I'm not that much a radical. I understand it is one piece in a larger thing, and the policy should be more important. But the problem is that now the policy mechanism is not trusted, and as it is not trusted, as you said, the instrument that should be much minor and just implementation is now used as a substitute of policy.

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The bottom line is, this week is an extremely important week. We are reaching a boiling point that is putting the whole model at stake.

So there is an element of restoring trust. I don't have a solution, but this is a major week.

MASON COLE:                                 Stephane?

STEPHANE VAN GELDER:                 I don't want to make this an all-French argument --

[ Laughter ]

-- but -- no. I just want to say that I understand what you're saying, obviously. I don't think that the PDP process has been used as a -- as a threat. That may be perception. I'd say that perception ran the other way when there was other PDPs on the table that people were using to their own advantage. So I think all I'm saying is I think it's important to remember that the model itself stays the same. Sometimes the issues go one way, sometimes they go the other.

To your points about the contract negotiations and your analogy to the IANA contract, we are dealing with public resources.

I don't see ICANN -- although it has no power to do so and I understand that -- asking the French registry to open up its negotiations with the French government, but it's a national resource. So I don't have a say in it, but I'd like to. I'm a -- you know, a dot fr Internet user and I can't even get in the room.

So I just want to make sure we don't oversimplify the situation when we give examples. It's -- I think what you're -- the warning that you're giving us is very important and I think we should be grateful for you taking the time to explain what the situation is outside of the room because we're getting viewpoints that are very useful to us, and you're

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right, we probably do have tunnel vision a lot of the time because we're stuck in our own everyday-to-day business and you can bring that outside vision. But I just want to make sure we don't characterize things in a way that sometimes by oversimplifying feels like criticism when it's - where it's not due.

MASON COLE:

We have a short queue here and I suggest we move on to a different topic because our time is starting to run short. I have Tim Ruiz on the phone and then followed by Jeff and Steve.

TIM RUIZ:

Yeah, I don't agreed, Bertrand, with the generalization you made about the structure of the GNSO, the two-house system. The balance in votes between contracted parties and non-contracted parties existed long before the two-house system. In fact, I was involved in many of the discussions on the registrar side when the two-house system was being designed. And I could assure you that one of the overall concerns wasn't how do we make the system so that we can block each other. It was how do we design the system so that no one stakeholder group or constituency can block something. That was a major concern. And that feeling went into the design.

So, I think it sort of belittles the work of everyone involved in that restructuring to imply that anything else was true there.

And -- when we signed our RAA -- to speak to the other part of your comment, when we signed our RAA, we did so with the understanding that there was a set of issues that could be opened to consensus policy. And we didn't know, you know, what the policy would be. Thought it would come out. But we blindly agreed to that, knowing that policy would come out, we don't know what it is, but we will be have to be bound to it whatever it is when it happens.

But there was no indication or implication until more recently that others thought entire RAA was open to consensus policy. It is two completely different things.

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And I don't understand how we can have the very explicit consensus policy process and the items that are open to it be fine within the agreement, yet, on the other hand, the whole thing is open. So we're not saying we want to completely close off any communication with the community in our negotiations of the amendments to the RAA. And we're completely open to anything that belongs in the PDP process to be put there. But for those things not, we feel that those should be negotiations between the two parties to the agreement. And, certainly, that at a later date, then along the way, we can entertain comment from the community as we make progress. Hopefully that will help appease some of the concerns that have been raised recently.

MASON COLE: Thank you, Tim.

Jeff?

JEFF ECKHAUS: Thanks. Jeff Eckhaus here. I wanted to respond, I guess, to what Bertrand had said and to expand a little bit on what Kurt had mentioned and to explain to the board and the community that these RAA amendment negotiations will not be some, you know, back-room negotiations. We have a plan for a process where we'll report out on a timely basis on the topics that were discussed, what the status updates to the community, as well as following, I guess, sort of the board's lead on providing rationale for the decisions that we have made at the end of it. So this is -- we really do plan on letting everyone know what is going on, what is happening, what's being discussed. And, of course, I believe part of this will be open for public comment at the end of this. So this is not going to be some closed deal where we suddenly record it's signed, it's done. This will be an open process where people will know what is going on and they will be informed.

MASON COLE: Steve?

STEVE CROCKER:

So, I want to try to say something with some firmness but with some balance. There is an enormous amount of good work that has been done within the GNSO. I know the amount of energy, I know the progress that's been made on a number of fronts. That said, we have a common problem.

It is an unbalanced situation, and we all experience this in many situations in life, that any number of good works are overshadowed by a very small set of examples, even one sometimes, of something that is attention-getting and negative.

All together, all of us in ICANN, have unhappy customers and we have to deal with that one way or another. The customers in this case are the users, the law enforcement, the world at-large. And if you look at the transcript that we've just accumulated in this session here and do a content and dialogue analysis, I think you'll find that a very large fraction of the discussion is about process issues. The process is working. The process isn't working. We handled the process. We were guaranteed these and so forth.

The fundamental test and the standard that we're going to be held to is are we effective? Are we getting the job done? And we can and we must respect the process, but we also have to have a very strong sensitivity to whether or not we're also effective.

The board has many times be admonished to not substitute itself in making policy, not to go and do the work of the component organizations and to be respectful of the bottom-up process. And we subscribe to that and I subscribe to that very strongly. Our primary job is to oversee that the processes are followed, that they are fair and so forth.

But there is an additional responsibility. And the additional responsibility is that at the end of the day, we also have to be effective. And if we're not effective, if the processes involved are not effective, then an alarm bell goes off and we have to look at why and we have to

go and make whatever adjustments have to be made to do that. It is not okay to be stalled and ineffective, else we will all be overrun and it will be immaterial whether or not the process was a right process or whether or not multistakeholderism was a good idea or not. It will just get washed away.

So that's the mood that I have to convey. And the next level of engagement gets to be messier. But I think you've heard pretty clearly that the time is now. And one way or another, we're going to have to get a solution as opposed to a suggestion about process. Much less interested in reports or time frames or so forth, much more interested in reaching points of resolution of the outstanding problems.

MASON COLE:

Thank you, Steve. I think on behalf of the registrars, I think that we could agree that we understand the problem and we're committed to the outcome. So I don't think that you're going to find hesitation on the part of the registrars to help address the needs of the community in a way that's beneficial for the entire organization.

All right. We have several other items that we can cover. I might suggest since I haven't seen this on the board's agenda before in terms of contributions from registrars, I might suggest that we talk about the issue of takedowns. The board asked us for some input about the registrars' role in a domain name takedown versus a registry's role. I might just open that up to the floor a bit, maybe to the registrars to talk about procedures that they know to be in place and how effective or ineffective those are.

Can I open the floor for that, please? Bruce? Thank you very much, Bruce?

BRUCE TONKIN:

I have a question actually. We heard from the registries earlier, and they pointed out some of the registries take various actions to complaint. But it would be kind of interesting just with a show of hands on a couple of points.



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How many registrars when they're contacted about a phishing complaint have a takedown process? Just raise your hand if you have a takedown process for phishing complaints. Okay. Maybe not as many as I would have hoped.

STEVE CROCKER:

How many do not?

We have 100% have takedown processes.

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Bad actors are outside.

BRUCE TONKIN:

What I'm trying to get at is a lot of the industry does have stuff in place.

How many people take action against malware and other forms of sort of malicious conduct and have a process in place for dealing with that? And I guess that's part of the message in that the issue that people have concerns over is that, as Steve said, what about the ones that do not.

We need as an industry to be able to say, yes, we actually do do these things and, yeah, we have it as a policy or whatever because there are some people that aren't in this room that maybe don't have those processes. That's what causes us all the problems.

MASON COLE:

Other input? Wow. I thought this would be a good topic. Oh, Jeff, okay.

JEFF ECKHAUS:

Thanks. Jeff Eckhaus here. I guess, Mason, you brought this up. I don't know if it was something we had brought up or others had. But has there been a large number of complaints about registrars not taking down names or what are the specifics involved? I know because for our company, you know, we have a very large number of domains under

management. And we receive a large number of takedown requests, and lot of them -- you know, for the ones who come from either law enforcement or from valid organizations, maybe like SpamHaus or groups along those lines that are trusted, we take those down. I think maybe some of the complaints people might be hearing are from individual, private citizens that are saying they have a problem with this domain, this person has information about me that I don't like. And then you need to take it down.

And, you know, for us, we are sort of caught in a situation because they haven't done anything illegal. It is just the person doesn't like what's on that Web site. So I'm not sure -- you know, the issue of takedowns, is it because of malware or phishing takedowns that you are hearing that? Because I know that most registrars will comply with those immediately. I think the issue that I've heard about takedowns are from when individuals, you know, or self-appointed crime fighters send in information, you know, with no actual evidence, send it in and say, well, I think it is. Then people don't and people say "well, they are not taking down domains" and you are painted as somebody who is not compliant.

I would love to hear from the board or maybe from other people, you know, what are some of the issues that you have been hearing or complaints about takedowns? Is it, you know, that people aren't following law enforcement or court orders or something along those lines?

BERTRAND DE LA CHAPELLE: This is Bertrand de La Chapelle. Thank you, Jeff.

Two elements in that. And thanks for the comments. One first question is, operationally, as a constituency, is it a possibility to go and have a systematic -- maybe you have -- systematic action to generalize among all the registrars that are known, accessible, and whatever the practice and to, basically, have a way to track how the practice that is obviously the practice within this room is spread or not because the concern is exactly as Steve said. The problem is that the image of the whole

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constituency is predated not fundamentally on the one who do things right but, of course, of the ones that do not.

The second point, and that is goes to your question, there is a very delicate balance in all those questions of takedowns, first of all, between the nature of the requests -- I mean, if it is child abuse, images, it is not the same as it is intellectual property rights and things like that.

Within that distinction, there is also another dimension which is the very delicate balance of being responsive when they are good requests but also not overreacting to requests that are illegitimate even from apparently law enforcement agencies or legal entities that are using the power.

And in the fundamental problem that is emerging at the moment is the transborder authority that is a burden on you when you are located in one country and the law of that country is requesting to block -- I mean, you know, the bad actor thing.

This is a debate that I think we need to have among the community in the ICANN because there is a jurisdictional question behind that. It is a problem for everybody. It is not a question of good or bad actors. It is a real cooperation question.

MASON COLE: Very good point, Bertrand.

We have Elliot and Michele.

ELLIOT NOSS: Is this working? Bertrand, there are two points there that I think should be teased out. The first is to whether this could or should be systematic. I would strongly urge that that would be negative in a lot of respects. One of the ways that the system is able to be effective, when you think about something like phishing, a lot of it today depends upon two things. One is speed, and two is a set of very specific relationships.

When we have certain people inside of our organization who know certain people inside of banks or PayPal, that allows them to react incredibly quickly and effectively and to systematize do that would do two things: One, require us to go to what I would argue would be a significantly lower standard; two, be extremely difficult to enforce against the people that you want to effect that about. I would urge you to think about it from that perspective.

The second is with respect to these cross-border issues. I think these are two things, some of the thorniest problems that we face. You see this especially now with some of the steps in the United States that are - - that the registries are affecting. We're very frustrated by that because it is taking a lot of that discretion out of our hands, and it is imposing on us as Canadians a standard that's way lower than we would effect for what I would call relatively non-urgent intellectual property issues often.

The second thing there -- and I think this is thematic and something we should look for in a number of places. What we're seeing here -- what you all were talking about with the GAC and GNSO and the relook at the RAA, we're looking for and the GAC is looking for and governments are looking for their proper role in relation to the Internet.

The single biggest role and responsibility -- and you'll hear me talking about this again later in the week. The single biggest role and responsibility and contribution that governments can make to this process, that nation states can make to this process is to take a significant amount of their time and energy and focus on these cross-border issues because at the end of the day, ten registrars from ten different countries can sit and talk about it until we're blue in the face, but we are dealing with jurisdictional issues and law enforcement issues and legal issues that only those nation states can really make stick. And so I think that all of us in the ICANN community really have to both, first of all, help the GAC, the people who participate here to understand that and, second of all, to help them take that issue back to their nation states and to get them to participate and start to really not in treaty-

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type negotiations but in multistakeholder-type situations approach those issues. Thanks.

MASON COLE:

Michele?

MICHELE NEYLON:

Thanks, Mason. This thing about the domain takedowns, it is a very interesting and hot topic. And for those who were at the DNS abuse forum yesterday, there was some very interesting views put forward. Some might have been quite shocking but while others were what we expected.

In dealing with phishing, badware, malware, those kinds of things, I think that is something that's relatively easy and non-controversial. Unfortunately, we in industry probably haven't done as good a job of adapting -- adopting best practices. But there has been a lot of movement in that area, and I know there will be more in the future.

Elliot raises a very, very valid point when it comes to this cross-border element because, for example, yesterday in the DNS abuse forum, we had a lady, I believe, from Malaysia who wanted to block domains within an hour or two hours. And other people from the non-contracted house have very real, significant concerns with respect to free speech.

For me as a hosting provider and domain registrar, I end up as piggy in the middle which is not exactly the ideal position to be in, and I do not have a company turning over billions of dollars. So if I end up stuck in the middle eventually, I have to cede to whoever has the bigger bank account and the more expensive lawyers and it has happened to us in the past.

I have think it is something -- this is going to become more and more of an issue. But if we can decouple the serious crime, in other words, child porn, those kind of topics, where there is 100% agreement, if we decouple the phishing scams, the identity theft and those things from

the intellectual property, then there might be some hope of some progress.

But asking me as a registrar and hosting provider to adjudicate on the copyright issues which is, basically, for lack of a better word, a pissing match between two third parties, that is not reasonable. And if that continues to happen, it is going to become much, much harder for those of us in industry.

The silly thing is we're having this conversation within the GNSO space but we're talking about gTLDs. When it comes to ccTLDs, this is a huge issue but the jurisdiction doesn't come into play because they'll just pull the domain or do whatever they want and that's it.

So I think it's -- it's a very interesting debate, and it is one that I'm personally very engaged with. For those of you who are in Vienna next week, you will get me to rabbiting on in dealing with malware. Thanks.

MASON COLE:

Thank you, Michele.

We have just a few moments left. I might suggest we take up the topic of the ethics guidelines. The board asked if there were two or three issues on the minds of registrars with regard to the ethics guidelines issue.

Would we care to open that up for contribution? Or not. Steve, we're about out of time. Anything else you would like to cover while we're here?

STEVE CROCKER:

Did I see a hand go up down there? No.

I'm good if you guys are. We've made a point of structuring these engagements to be as contentful as possible, to dispense with a lot of formalities and flourish. I think you'll agree we got right into issues this time.

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Happy to have feedback on any ways that we can improve things in the future. And I'm very pleased that we -- the turnout here is quite good. Thanks.

MASON COLE:

Thank you very much. A couple of things. I know there were some topics we did not get to. If the board is particularly interested in hearing from registrars on those, we'd be happy to follow up in writing or over e-mail, whatever you might -- whatever you might find useful.

Looks like this evening we're all meeting for cocktails, so we look forward to that. I just want to say something publicly to the board, if I may. This came up a bit earlier.

The registrars would like to say to the board in a public way that we want to thank the ICANN staff, in particular some of the people that do a lot of a great deal of work to support us, the policy staff, the registrar liaison staff, the event staff here this week. Always do an outstanding job in helping us get our work done. So we just wanted to make a public note of thanking them and their good work.

And on that note, we'll say thank you for your time and we'll talk again soon.

STEVE CROCKER:

Mason, that's very gracious of you. And I think the staff is often underappreciated, and I know Rod feels very strongly about that. So on behalf of the staff, let me say thank you. Equally, I think you've been putting in a huge amount of effort and have been very effective. This is, what you said, your last day and rescuing you from this small effort and putting into deeper water, right?

A round of applause for Mason, I think.

[ Applause ]

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MASON COLE: Thank you.

[End of audio]