

ICANN Dakar Meeting
Registries Stakeholder Group - TRANSCRIPTION
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Maguy Serad: All right good afternoon everyone. Thank you for this opportunity. My name is Maguy Serad and I am with Contractual Compliance. With me today from the team is Stacy Burnette and Khalil Rasheed who's sitting here in front of us in the audience.

And what we would hope to do today is we have limited slides but we want to have more of an interactive session with you guys. We did share also the general deck that we normally present at all ICANN meetings. It does have a lot of data about compliance activities even though most of the focus is usually registrars. But we do want to have a specific discussion here today related to registry.

So on the general update - I'm on Slide 3 - just wanted to let the team know - this is a message that I'm taking - as you know contractual compliance on Tuesday is a road show for us. We go to five stakeholder meetings. And meeting expectations is always a challenge let alone getting trust from the community and the stakeholders.

So our vision is really to be a trusted service provider. And the way we'll accomplish that is through our approach. I hope that you will be seeing that approach come to fruition as we evolve through the time.

But our approach is going to be focused on prevention through collaboration. We do want to collaborate, we want to do preventive monitoring, proactive activities and transparency through communication.

We know communication is critical. Communication can be in many different means from the Website to exchange of information, outreach activities and (unintelligible) communication is so vast. So that transparency hopefully it's going to also show through as we keep continuing to develop and improve ourselves.

But there will be always an enforcement part of our role that it will not be a surprise, and yes you will see in the next few slides. So our vision hopefully if not by next meeting but even as we go you are going to confirm to us, yes, we're earning your trust as we proceed.

This slide we're going to spend a lot of time on even though it's just one slide. We want to have a dialogue with you, once I share with you what we're trying to attempt here. Is on the left side we wanted to share with you what I talked about in Singapore, our 2012 effort has been focusing on process mapping and on standardization.

And that's really important for us to become more efficient and effective. In the past - I think I was the last team member to join the group right before the Singapore meeting so the staff is not up to eight full time employees. And the staff was operating at about four for about a year and a half if not more.

And what happened is that the staff was keeping the lights on; that was all the focus for us. Now that we are back up to eight I'm not saying we are fully

staffed; we do have a few open positions that have been posted over the last few months.

And fulfilling those positions has been very critical to us. We are doing a global search because we are a global organization. And doing a global search not only language specific but also compliance specific which doubles our complexity in this talent search.

So we are now in the process of ramping up on our resources. And what that means is we're taking a step back to see what are the processes we have and we're revisiting them.

We have an opportunity to revisit our foundation. Are we all aligned on those roles and responsibilities? Are they documented properly? What are the opportunities for improvement? And how can we standardize across? Compliance should be a cookie cutter; the only difference would be is what compliance activity it relates to.

We are also exploring new metrics. How can we report back and - to the community? Because no matter what we do today nobody is happy; so I've engaged with all the stakeholder groups, tell me what you expect of us. What are the metrics that are relevant to you? But don't just tell me I want 50% reduction. What is it you want? Reduction in what - based on what baseline? So help us define some of those.

Enhancing communications - we've already started that effort. Finding our Website was difficult. How do you get - you know, the icann.org Website is full of amazing information then to find contractual compliance is difficult.

So what we're trying to do here is earn our real estate to move up to the front landing page eventually. So what we're doing is we have had a number of time this past trimester to go and update our information, sort it in a more

user friendly format. And you will see there will be a lot of new things there. But they might say coming soon.

For example we hope to start publishing more about our calendar of events, our outreach activities, even once we finish all these process maps put them out there. We want to be totally transparent.

Enhance collaboration I do admit, and I'm guilty as charged, I have focused a lot more on the registrars since my arrival. It's a bigger volume. We've had a lot of, you know, it's a lot more activity and traction in that area. But get ready; we're going to start - in T2 getting more involved with you and collaboration.

And we'll go through the registry stakeholder group to work and through of course our registry liaison team to orchestrate our regroups or maybe conference calls or discussions. So as we are building the registry compliance audits or strategy we are aligned how we move forward.

So that's the collaboration. I don't want it to be one way. We also would like for you to collaborate with us and tell us, you know, what are you thinking? What would be ideas because you live the business and experience it differently.

Staffing assessment is ongoing. Today we have three open positions and we are looking to fulfill them globally. And we haven't been very successful but we have very intense searches underway.

And again a reminder, everybody keeps telling me, you know, what about new gTLD readiness? You know, it's a reminder at the bottom here. Everything we're doing today is not just for gTLDs it's also for us to be ready no matter what challenges we face.

On the right side you'll see the pyramid and the pyramid is highlighting the different layers that we're focusing on front contractual compliance activities.

A new thing we are launching it's an industry best practice. I mean, when I introduced myself in Singapore I do not come from the domain name industry I come from the automotive industry.

And best practice for - in compliance departments always starts off with the self assessment. So we are in the process from the registry perspective of creating a self assessment document acknowledging the differences in the different areas. But we all have a lot of things in common.

And that self assessment, you know, Stacy can talk to it a little bit more in a minute. But it's also the same thing we are doing with the registrars; we're looking at our contractual obligations, which ones can we do a self assessment?

And the design at this moment is like an annual self assessment where you will open it for a period of a month allowing the contracted party to have ample time to review, save, update whatever. And a submission is done. Once you submit our contractual compliance team will validate and review it. And we will be hopefully, you know, again it's a part of collaboration, it's a design we're building into our new model.

As you know today with 18 registries we don't - we haven't even had the time to get to you guys unless it's requested. But so we are trying to build a foundation that's going to help us grow and develop.

The activities that we focus on a lot is preventive activities. The department, you will see us a lot more talking about prevention and enforcement. We really want to do preventive and informal resolutions.

And those activities are focused on monitoring audits but we are going to start also doing a lot more outreach where we will go by region and even by country and even partner with the registrar and registry liaison team to visit at

the semi-annual get togethers and so we can do more outreach and collaboration there.

The last tab is the formal resolution. And in there is where we do, you know, once we - we cannot come to a collaboration or informal resolution it leads to. I'll come back to this slide in a minute but I just want to put it in perspective.

I don't think - I'm not sure how much you know about our process in compliance. No matter which contracted party it is, no matter which contract provision it is we are - we have institutionalized this standard process. Of course the timeline from Step 1 to 2 to 3 will differ by the contract's provision and also by the frequency of that.

So in the prevention world if we are made aware of a noncompliance activity the way we operate today we do reach out to the noncompliant party via email as a first inquiry saying this has come to our attention, you know, what's going on and help us investigate or report back.

And usually, most of the time, we have collaboration and reporting back to us. But if there is no response or acknowledgment we move to the second phase which is a second inquiry. And it's not only an email but it's also a phone call. So again it's part of that prevention and collaboration. And if there is no result from there we move onto final inquiry which we'll do a phone call and we email and also fax to the noncompliant party.

Now that's the process we've seen it, we do it and we live it with the registrar world. And we hope to, as we start beefing up our registry audit plan and strategy this is the same standard we'll follow.

So the question was asked to me in a previous forum, you know, what's the timeline? If I'm doing a daily data escrow validation and monitoring of course I'm not going to wait 15 days to do a first inquiry or a second inquiry versus a weekly or a monthly. So we have all the different areas identified and we're

going to beef up this chart so to put them by contracted party and the timeline that's aligned with it.

So once we reach the third prevention step if we still don't have a collaboration or a response what we do is we transfer that into an enforcement mode. Enforcement is the official breach notice that we send out. And on that end we start - we publish it on our Website. That's the point when we start publishing what's going on. We do not publish during prevention because we want to collaborate and get to results.

In the analysis of our current process we realize that we publish the notice and we continue to work of course during the cure period to get to resolution. But what we've determined in our assessment that we are not publishing updates or not being consistent about it.

That's part of our standardization on continuous improvement but in the process of identifying the frequency and the type of communication that will need to be done. That's why it's still an open square. And then of course if no collaboration and no curing during the period we go to termination.

So with that I'm going to pause for a minute and just turn a little bit to Stacy to give you a little bit more high level - again like I said we're in the design phase - about the self assessment and open it a little bit for more dialogue before we continue with the slides.

Stacy Burnette: Thank you, Maguy. I wanted to give you some more information about this new compliance tool that we are introducing across the board with our registrars and our registries.

And the purpose of the tool is to allow you to self evaluate your compliance with your agreement. And as you know we're anticipating possibly having 500 or 1000 new business partners.

And we needed to have a way of having a baseline of information about all of our business partners. And so we thought self assessments were probably an efficient way to get some idea about business partner's compliance.

And so we'll be asking questions about the material terms of your agreement. And we'll also ask you to provide supplemental information to explain your answers. And so prior to sending out the official self assessment document what we plan to do is develop some questions, share them with you. It'll be like a test.

And get your ideas as to how long you think it would take for you to complete the self assessment, how much staff time would be involved, how relevant you believe the questions are to actually determining whether there is compliance in a particular area.

We know you know your business best. We have an understanding of it and we ask a lot of questions but we'll need your assistance on this test phase as we determine how we want to finalize this self assessment process.

And it's our goal to create a document that won't take, you know, 50 hours of executive level man time to complete. We want it to be relatively simple. It should be simple to understand. And we want a document that you can return to us in 30 days.

We don't want this to be something that requires you to use all kinds of investigative tools to make sure you provide the right thing and it's going to take three months. We don't want something like that; we want it to be simple. So again we'll be sharing this - a test phase with you and asking you to provide some comments regarding our proposed questions.

Jonathan Robinson: Hi, Stacy. It's Jonathan Robinson. Just to...

Stacy Burnette: Jonathan.

Jonathan Robinson: ...a brief practical comment on that. And I'm not sure how far you've gone down the implementation route. But my thought would be if you do go down this route and we find a way to work with you in this way the one thing I would suggest you do is retain a record and allow any future updates to be updates rather than brand new submissions each time.

So the compliance test would be nothing has changed since last time. You know, so you either get to submit exactly the same thing each time or an update to any single question or portion of the compliance check. That would be a very practical way of implementing it. Thank you.

Stacy Burnette: Thanks for your suggestion. That sounds reasonable. We'll certainly consider it. Are there any other questions about this new compliance tool that we're introducing self assessment?

Maguy Serad: Any questions about the process for the full compliance life cycle?

Stacy Burnette: Go ahead.

Ray Fassett: Hello, Ray Fassett. I might have a question that applies now or we can wait until later when you're done with the full presentation. But I would - I am curious - there is a flow chat now at the ICANN Website that describes the compliance process, if you will.

And so I guess maybe at a high level I'm asking does this now all supersede that flow chart? Is the flow chart going to be updated? Should we bring the flow chart up on screen at some point so we can look at it and compare back and forth in order to, you know, maybe spur some other questions as you're asking?

Maguy Serad: So if you're familiar with process mapping - thank you for saying - it is a flow chart specific to an activity and I'll ask Stacy to address it further. From a

process map we wanted to identify the big picture from a standard perspective. And of course it does not take away from the process for staff like an escalation notification; that would be a separate process.

Our objective has been over this past month is to convert flow charts to process maps. Flow charts are very - it's the flow of the activities. Process map has the roles and responsibilities swim lanes added to it. So we've taken the flow chart that you see on the Website and we've converted them to process maps with swim lanes.

We're in the process of reviewing those internally. And when we have stakeholders as swim lanes we're going to collaborate with the stakeholder's appropriate parties to review and validate and with our internal team also. And then we're going to update those to process maps not just flow charts.

We have not changed what you're speaking to there. But this is a big level. We wanted to see, you know, because what happens is in some instances upon arrival it's like we would do something maybe two prevention steps or three or - I wanted to make sure that it's clearly communicated. Because we're getting ready to staff up too so we wanted to document it not just be an application without it being documented.

Stacy Burnette: Can I add something? Also what probably didn't come out as clear to you in our presentation prior to now is we've divided our staff up into two different sections. And one is the prevention section. And then when our efforts in the prevention section are not successful after reaching out to parties and attempting to collaborate then we're going to switch over to the enforcement section.

And that's what this slide attempts to demonstrate, this handover from prevention where we've reached out to the party, had conversations, attempted to collaborate and then it'll go to enforcement where we're issuing public notices.

Ray Fassett: So I guess the first question I have on that in the prevention approach does there need to be a compliant filed with ICANN first or is prevention about - prevention before there's ever even a complaint? I'm trying to understand.

Stacy Burnette: It's both. And let me explain why it's both. We receive complaints from the community about noncompliance. We also conduct audits, we'll be conducting self assessments; all that comes in the prevention stage.

And the reason we're calling it prevention is because we're trying to prevent having to take a matter to escalated compliance which would be enforcement. And by doing that we engage in education, outreach, audits, self assessments. So it doesn't necessarily stem from a complaint all the time.

Jonathan Robinson: Stacy, Maguy, it's Jonathan Robinson again. Just on that previous slide it's shifted now but you had your three steps of prevention. And I would say it'd be hard - I can't speak for everyone else but it'd be hard not to respect and appreciate the systemic approach to compliance like you've laid out. And that looks certainly sensible.

My only - the only point really is that especially in the prevention cycle, you know, Maguy mentioned email, telephone call, fax as your first three stages. And my caution would be to you it would be very easy to check those boxes and say you had done them and move onto the enforcement phase when in actual fact there could be - and I'm sure there aren't always but there could be legitimate reasons why all three of those haven't been responded to.

So I would, you know, just encourage you to take a sort of slightly more commercial view - a view of the - as if these were not only your business partners but almost your customers.

Now as I say willful ignoring of your contact is one thing but actually, you know, make some other telephone calls that don't - that aren't in as part of the process, you know, reach out to perhaps other contacts you might have at that particular registrar rather than the one that's listed that may have left or, you know, because not always are these things maintained perfectly.

So that's all I just sort of a more rounded approach rather than bang, bang, bang we've done the three steps and we're across now. I sense that you're going to tell me you'll do that anyway but just to get that on the record.

Maguy Serad: Great. I'm not the (unintelligible). This is the best I could predict. But you are absolutely right. A couple of things I'd like to share with the audience is, Jonathan, to your comment when we say final inquiry we are checking internally with the registrar - with the, I'm sorry, registry or registrar liaison team in this case. We will check internally with our liaison team.

That's why we have the liaison team internal to ICANN. They've built that relationship. They know you best. And we'll ensure that here's what we've done; we informed them - that's why I said to - sorry, Ray, flow charts don't have swim lanes, right?

And if you read anything upon my arrival my bio I don't - I'm not lawyer, I'm not domain name, I'm a business person. And for us to operate - also industry so if you know anything about compliance in the auto industry you'll appreciate my background.

It's very important to have standard approaches, documented processes because - we already started with the team. What's the time from A to B to C? And to your point, Jonathan, it's not just about the time but what are the activities?

Are they the right value add activities? Are we spending the right time on them? Are we informing and consulting the right parties? That's our objective

in 2012. Let's establish that foundation regardless of new gTLD because we want to keep sanity too not just react to everything.

Just if I may one more thing I'd like to address, Jonathan. When we did all this and we checked with the liaison team in one instance we did not have - and we had drafted a breach notice. What happened is - and this is a regular - it's a business practice, guys, and I don't know, again I'm not very familiar with the registry audience and I - you have my commitment I'm going to get to know you more.

But what happened is in this particular registrar the compliance person went on vacation for two weeks, guys. And so we sent the first notice and it was a weekly deposit. The second notice we didn't hear, third notice. So by the time this guy, you know, like all of us Sunday night we check our email, right.

And he saw these (unintelligible). Picked up the phone and freaking out, please, please, please don't send a breach notice. I will collaborate. I have it and I will take care of it. So we did. We stopped; we did not send the breach notice. And because the collaboration started and we got taken care of.

So we identify where are some of the break points where it's us or our contracted party. And we try to collaborate on it. Because we are under a lot of pressure too. What have you done to make them compliant?

Stacy Burnette: So I wanted to follow up too. I wouldn't want anyone in this room to think these are hard and fast rules. These are guidelines. And we have to use our professional discretion based on years of experience and reasonableness to deviate from these when appropriate.

And so again they're guidelines. And to the extent we should try to do them every time it's good and we will. But again when it's appropriate and reasonable to do something different that's what we'll do.

Ray Fassett: So I have a follow up. So this flow chart that I brought up, again it's your flow chart so that's why I brought it into the conversation. But I do applaud your approach here which is you want to bring more granularity I guess, more transparency I guess, to how you're approaching compliance with the contracted parties for everybody to understand so I applaud that.

Now - but what I'm hearing is that in this prevention aspect there's a couple of - oh silos here. One is, you know, audits, self assessment, those are all good. But then there's also this trigger of a complaint is received, all right.

So, you know, certainly I believe - I can speak for all registry operators, you know, we want to know what those complaints are, right? So it appears to me though you get hundreds of these complaints from what I'm hearing. So should these complains - should there be a page at ICANN's Website where all complaints get published? That's one - that's a question.

A second one could be is what form does the complaint have to take? Does the party have to, you know, what information are they required to provide? Is there a form that they fill out? Do they have to state what their interest is in the complaint or the resolution of the complaint? Have you discussed that part at all?

Stacy Burnette: Okay so complaints come in many forms. I'm going to start with the second part. So complaints come in many forms. We receive email narratives, we receive very detailed letters. We receive some complaints through our complaint system - consumer complaint system.

And we evaluate all the complaints to determine are they relevant to the terms in our contracts? And if they are relevant to a term in a contract and it looks as though it's something we should pursue based on the fact it's relevant to a term in our contract then we commence an investigation; we try to figure out is this really a contract breach.

Ray Fassett: So my initial was should all of those be published? Should all the complaints that ICANN receives - because what I'm understanding there is a possibility that you get complaints and they are not investigated or furthered for whatever reason it's decided internally and the registry operator never even hears about that complaint.

Stacy Burnette: Well if it's - again if we determine after looking at the complaint and possibly doing some investigation that it's not relevant to a contract term or there doesn't appear to be any noncompliance - we may have asked the registry operator some questions and determined there was no noncompliance.

But in terms of your question should we publish all complaints on the Website; I don't have an answer for you to that question. That would be a departure from what we do today. And I think we'd have to examine the pros and cons and make a decision after we carefully study that practice.

Ray Fassett: Yes, I would encourage you to take that question and come back with what your findings are. You know, the pros and cons, I think that's very constructive.

Maguy Serad: Hi, I have a follow up question. And that's why we're on the limited. I've sent the full deck, like I said earlier that has a lot of different things but we limited this one very specifically so we can have a dialogue.

So let me put it in perspective. I think June through - what month are we?

Stacy Burnette: September...

((Crosstalk))

Maguy Serad: Is it - the period we measured for this trimester. We had about 5000 complaints...

Stacy Burnette: Consumer complaints.

Maguy Serad: Five thousand customer complaints. Now of those - am I hearing you say you want the publishing of all those complaints?

Ray Fassett: I'm - well first of all it's investigating that question. But even with those high numbers...

Maguy Serad: Yes.

Ray Fassett: ...that you're stating I think it is a manageable process. I don't see a reason - personally speaking until someone, you know, as you do your research and come back with a response off the top of my head I don't see a reason why they can't be published so that, A, the community can see what others are thinking on the one hand; and, B, the contracted parties can see what it is that you're looking into.

Maguy Serad: Okay. So may I suggest tomorrow - one of the slides we have here - we're trying a new thing at this ICANN meeting. We heard through several areas from the stakeholder's group that we want to be able to talk to you. So we've blocked tomorrow as an outreach session.

And at the end of the deck you will see - we have only two presentations catered to specific audiences. But we have allowed ample time for people to drop by and ask. I do want to talk to you a little more about that if you don't mind stopping by just to understand what is your expectation before we go investigate and come back. So, you know, I don't want to assume; we know what assume stands for.

Jeff, you raised your hand?

Jeff Neuman: Yes, I want you to spell out for the record what it means.

Maguy Serad: I know. This is a recorded session, Jeff, in Karaoke I'll tell you.

Patrick Kane: Hello? Is this on?

Maguy Serad: No.

((Crosstalk))

Patrick Kane: Well anyway, Pat Kane, VeriSign. So Ray, to address your question I think it's important to understand that you can face your accusers, right, so understanding what it is that people are saying about you from a compliant standpoint.

But, Ray, I would change it just a little bit because I wouldn't want everybody else to see all the complaints against VeriSign. You know, and so maybe there's a way that you can have a log on for registrars or registries to actually access their own complaints so that we can see what's going on.

I mean, because I think Ray is getting to a point where complaints have been made and you don't know where it's coming from and you don't know how to respond to them. And, you know, 5000 over there months when you're talking about 130 million domain names it doesn't seem like a lot of complaints.

Now I know you investigate all of them but how many complaints is too many? What is the industry standard? You come out of the automotive business, okay, manufacturing, you take a look at, you know, process like (Ollie White). Did you guys use (Ollie White)? Okay so as you're self assessing yourself what is too many complaints? I don't know.

Stacy Burnette: What's the baseline?

Patrick Kane: Yes.

Ray Fassett: There was just one other question I had. I didn't - I don't think it got answered. But when complaints are sent in is there a standard fields or information that has to be provided by the complainant? You know, their name, their address? Obviously the complaint - do they have to identify the specific area of the contract that they believe is in violation? Do they have to state what their interest is in the resolution of the complaint?

Is there, you know, are there guidelines, you know, guidelines for those that have the complaints? It's helpful for them too to know, you know, how do they go about issuing a complaint. Do I pick up the phone and call ICANN? Is it an email? Is it this email or that email? Is there a special place? So are you looking at all of this as well in terms of standardizing, you know, how complaints are received by ICANN?

Stacy Burnette: So we don't want to cut off people from sending valid complaints about a contract violation. We do encourage people to go to our consumer complaint system. And in that system they can provide a narrative concerning their problem or they can just check off from a list of possible issues what they believe might be relevant to their case.

We don't ask what their interests are like are you affiliated with a company that's against them or - we don't ask that. It allows them to generally just describe what their problem is.

Ray Fassett: Okay I understand that answer. So then my follow up question would be as part of the investigation is it part of compliance duty to investigate whether or not this party has an interest in the outcome? Is that the standard part of how you investigate a complaint? If you're not requiring that information up front do you, as part of your investigation, investigate that particular point?

Stacy Burnette: So I will share with you concerning a number of consumer complaints relative to registrar issues that are sort of basic like I'm having a problem transferring

my domain name. Of course we wouldn't ask do you have an interest that's prompted this complaint.

However again we use our professional discretion when investigating complaints. And if there appears to be a reason or reasons that seem odd why a party is pursuing a particular matter we do ask questions. So it really depends on the complaint.

Ray Fassett: So it's case-specific?

Stacy Burnette: It depends on the complaint. I gave you an example of something that we receive so many complaints about transfers that there's really no reason to ask a question like that. So it depends on the nature of the complaint.

Ray Fassett: Right, okay, so not to debate it but just I'll get the last point in. I could come up with a scenario, on your example, of exactly how actually there could be a motivation there that...

Stacy Burnette: That could be...

Ray Fassett: Yes, that is not what it appears on the surface. So, I mean, there's a lot of scenarios I can come up with. I was just wondering how you approached it in terms of, you know, when someone issues a complaint - or for example my other question was is - the party then that's issuing the complaint is not required to identify the provision in the contract that is in violation?

Stacy Burnette: Actually that's preferred when parties do that. And sometimes we do follow up and ask what provision do you believe is being violated. Sometimes it's obvious and they are parties who write to us who aren't necessarily savvy enough to determine look at Section 4.5.6 but the description of what they've described makes it fairly clear this does appear to be relevant to the (unintelligible).

So, no, we don't always ask because we're dealing with people from various levels of education and understanding and that would make it onerous to file a complaint if that was a requirement.

Ray Fassett: Okay. And then not to jump too far ahead in this flow chart here but there was always something odd to me about - and maybe you're addressing this and maybe I'm jumping ahead, I'm not sure.

But the flow chart now if the - the flow chart now requires for ICANN Compliance to notify the complainant of the results of the investigation but it doesn't say anywhere that the contracted party is to be notified of the results. So I'm - my feedback is you should probably include that as part of the process.

Stacy Burnette: So maybe - I accept your comment as constructive. But maybe when we developed the flow chart you're looking at we didn't - we're seeing it from different perspectives. And the reason I say that is because if we have a compliance issue with a contracted party they know the result; we've been in communication with them.

How it's being resolved, whether it's up in the air or whether we believe it's not resolved that's a part of the communication process.

Ray Fassett: And I think you're missing the scenario. So you've done an investigation. you've found that the complaint is not valid for whatever reason. It says here that you will notify the complainant of that result. But it could actually go through - or the contracted party is not required to be notified of that result. So my feedback is it probably should be both parties that are involved in the complaint should be notified of the result rather than just one party.

Maguy Serad: So, Ray, usually when there's a complaint there's a complaint, you know, and we're working with the contracted party that is in there. As Stacy said the dialogue is between the two. Notifying the complainant is an update to them

about a complaint they filed. But the collaboration continues between the two; that's why we say prevention in one to three, enforcement one, two.

There is a dialogue ongoing. So I'll note what you said, go back through the process map and see where is the swim lane. And again all of that will be posted. But until we have reviewed it internally and I will review it with each stakeholder group to make sure your swim lane is correct and you understand it. Okay? Thank you.

So keeping track of time because we do have an engagement with another stakeholder group - we just want to, again, for the sake of transparency in different areas of collaboration I'll turn it to Stacy here.

Stacy Burnette: We are working with the law enforcement community to develop a process whereby we'll receive information concerning suspected non - RAA and registry noncompliance from law enforcement entities. And we might in some instances need to refer matters to them.

And so we're developing a process as to how we're going to receive this information and give this information to the law enforcement community. And want it to - before we finalize the process we're going to share it with the registrar community, the registry community and get your feedback on it so that it's clear how we're going about this and we want it to be a process that you're open to and you support.

Because we believe it's important that there is some communication with law enforcement entities who might have information about noncompliance. And we haven't had problems with registries in this area; it's mostly registrars. But we do want to inform you as to what we're doing and get any comments you might have on the process.

Ray Fassett: Yes, I mean, my comment is any time you get a request from law enforcement about something we're doing you forward those to us. You have

our contact to receive those and you immediately forward it to us because we're the ones, you know, I wouldn't want ICANN opining on whether it's phishing or pharming or malware or illegal pharmacy activities regarding illegal pharmacies, you know, that's really our problem to deal with and possibly the registrar problem to deal with.

But in essence, you know, it just wouldn't make sense for you all to deal directly with law enforcement on those.

Stacy Burnette: So what you've said is consistent with the process that we're proposing. What we want the law enforcement community to do initially is when they suspect there's a problem we want them to reach out to you directly and...

Ray Fassett: Correct.

Stacy Burnette: ...attempt to resolve the problem before they even tell ICANN about it.

Jeff Neuman: Well right but if it does come to you, you have our name, in fact I think - I'm trying to remember the last spreadsheet I filled out on all of our contact information. But I think there were a number of contacts on there that you all had asked for including an emergency contact. I think there's like seven or eight different contacts on there.

I think your standard answer is here is the person you could actually get at that registry to talk to, not in an email box but an actual person. And that's it.

Maguy Serad: Jeff, you will be seeing that process shortly. We wanted to finish the design based on our collaboration effort with law enforcement. We want to bring it to each stakeholder group. And we do have a swim lane where you work with the contracted party if not we're sending them back. So you will see - you will get an opportunity to provide feedback.

Chuck Gomes: Chuck Gomes. I'm looking at this slide and I see the last bullet there that says ongoing verification of allegations of spam and trademark violations in the same category of law enforcement referrals and I'm bothered by that.

We're not trademark enforcement agencies, we're not qualified to do that. We don't - in the new gTLD agreements there are some processes that need to be followed so I might see it there. But if we're talking about current agreements what do you mean by that?

Stacy Burnette: So this was presented to all of the stakeholder groups that we spoke to today. And most of - all of these issues that you see here are examples of law enforcement referrals that were made concerning registrar activities; nothing to do with registries.

And we have made it very clear to the law enforcement community that ICANN will not consider complaints or issue referred by you that do not pertain to our contract authority.

And so here you can see at the bottom in blue it says our primary role is to determine if there's an RAA violation and take appropriate action. And concerning registries it would be to determine if there's a registry violation in any way. We're not interested in content or other matters that have nothing to do with what we have authority to do so.

So we are - going forward we're interested in improving communication with our contracted parties. And we have observed in the past that - and we haven't had this situation that I know of with registries but I do think sharing this example is relevant to you just to understand what we're trying to get at here.

We've had instances in the past where registrars have experienced a period where they were unable to continue to provide registration services. So there may have been inclement weather that impacted their systems, there may

have been a hack of their system and they were no longer able to provide registration services.

And with the introduction of new gTLDs perhaps there'll be some partners that are not as stable as others. We don't know what's going to happen in the future. And so we want to introduce a program whereby we would want cooperation from our business partners and contacting us in the event of an emergency where you're no longer able to provide registration services.

And we believe that if we come to this agreement as to a process for communicating to ICANN when there's a problem that we could better appropriately prepare a response that we could share with the community, share with the public.

We might be able to assist you in minimizing the harm. I just think collaboration - we believe collaboration and communication during a time of failure would be beneficial to both parties. And so we want to introduce this concept to you and then come back to you with a proposed plan for how you would go about communicating a problem to us. And then we will get your feedback and comments and go forward from there.

So as you might imagine in a compliance department the preferred outcome is an amicable resolution without the need for escalated compliance. It's not our goal nor our interest in sending breach notices to lots of parties and terminating agreements. That's really not our goal. Our goal is to bring parties into compliance when there's a suspected noncompliance.

And we can do that through a number of ways; through education, through conversations, through helping parties understand their contractual obligations. Sometimes there are interpretation differences that have caused a noncompliance issue.

And so we would encourage all of our contracted parties, registrars and registries, to respond to our inquiries timely. When there's a lack of response that causes a problem for us because it could be an urgent matter and we really need to resolve it quickly to avoid escalation.

Also it's really important to work collaboratively with ICANN when there is a noncompliance matter so that we can resolve it without having to take it to another level.

So we hope that you feel comfortable enough with us to come to us whenever there is an issue that you see is a problem. We always enjoy coming to these sessions so that we can dialogue about issues and work them out without having to go through some formal escalation process. I think Maguy wants to say something.

Maguy Serad: No.

Stacy Burnette: Okay. So and then the last thing we have on here is cure a breach timely; that always helps in resolving compliance issues.

Maguy Serad: In closure, and I have my timekeeper here in front of me because we do have to run to another. We do want to hear feedback. You know, like I said earlier five stakeholder groups, let alone the community, add global factor, add all that, meeting expectations is difficult. But understanding and talking to us about it could help.

So we are providing a generic compliance email that will be checked. And if you would title it Feedback; if it's a complaint there is a different system to complain. But to your point, you know, standardizing, yes we're looking at all this stuff; it's all opportunities the way I look at it.

But it's - we want to know what are some of the issues or challenges. And again like I said in T2 we're moving up. We are - in this next trimester we will

be more involved and engaged with the registry group because we do want to move to the next phase and level. So keep that in mind please.

But I wanted to highlight the Wednesday outreach. We do have two sessions that are already programmed to address specific topics. But please note the question and answer discussion time. That's the time when we'd appreciate it if you have a question or a comment or feedback or ideas. Come by. We will be there. It will be manned by us. So in the morning we've allowed a mid-morning time and in the afternoon too to close the day.

Thank you for this opportunity. I'm sorry we have to run.

Jeff Neuman: Real quick question. That session that's really focused on registrars?

Maguy Serad: Yes, for this audience this time, yes. We are testing - just like I said earlier, this is new, we're testing it. We want to become more available.

((Crosstalk))

Maguy Serad: As we build for future this is a good feedback what topic would be relevant and let's put it together.

Jeff Neuman: We don't want to distract with registry questions regarding the process for this session though correct?

Maguy Serad: No at 10:45 to 12:00, 3:30 to 5:00 these are general Q&A. I have ALAC members stopping. I don't know who's going to stop I'll be honest, newcomers, I don't know, whoever has an ICANN badge, wants to have the question, we're there.

Thank you.

Man: Thank you for coming. Appreciate your presentation.

Maguy Serad: Thank you.

Man: Adam, Adam and Vanda I...

((Crosstalk))

Maguy Serad: ...originally it was on schedule T1 and (unintelligible).

((Crosstalk))

Adam Peake: Would you like me to...

Man: Yes, please go ahead.

((Crosstalk))

Adam Peake: Thank you very much. It's Registries Constituency I believe? I hope.

Man: The Registries Stakeholder Group.

Adam Peake: Group, yes, thank you...

((Crosstalk))

Adam Peake: Yes, yes...

Man: ...from the constituency.

Man: ...into an SG. So thank you very much. Adam Peake. I am the 2011 Nominating Committee Chair. And with me is Vanda Scartezini who is the 2012 Nominating Committee Chair.

We are here because one of the recommendations from the Accountability and Transparency Review Team or a number of the recommendations from the ATRT address the Nominating Committee and how we select board of directors. Actually the criteria and skill sets that we believe - that our process should be informed about for what are the qualities needed in directors.

So what we're here to do is to ask you what do you think are the qualities that an ICANN director should have. This is something that, as I said, the ATRT has asked for the Nominating Committee to do.

Obviously over the years we have come to the various stakeholder groups and constituencies and asked opinions about this. We've asked councils and supporting organizations. But this has become a formal requirement. And at the end of the process we should when we make the selections or when Vanda's team makes the selections, give some reporting back as to how the skill sets that were identified now are reflected in the selections this time next year.

So the issues before us are what are the skill sets of the board? What should be required? We know that of course it's a collective group so are there gaps within that group? Are there particular skill sets that need to be emphasized over others? We also have requirements of diversity and so on. That's one aspect of this particular set of issues.

The Nominating Committee of course is forward-looking in the sense that the people that Vanda was going to be first of all recruiting and then selecting this year will take their seats in a year's time. And that period of office will be three years. So we're not really looking to solve the problem that we're facing right now at this meeting with - it's a forward-looking process.

What are the challenges facing ICANN the organization as we go forward two year's time? Very difficult to do because we can't tell the future but I think we

can think about the types of skill sets that are required. And we are here to listen to you and your advice on this particular issue.

It would be very good to hear an initial reaction from you now. And of course this is not something that's going to finish immediately. You have a representative to the Nominating Committee and that person can bring this information over the next course of the next month would be ideal I think.

And we also have a workshop tomorrow and around table tomorrow. The roundtable is designed so that the community as a whole can contribute on these particular questions and we very much hope that the registry stakeholder group will send somebody who just sits at the table as well as being in the audience along with other people.

So with that, I don't know if Vanda wishes to add something.

Vanda Scartezini: Yes, if I may. Thank you for having us here. Vanda Scartezini. And that while it's not only the Board that we are looking for some feedback from you. But also what is the skill set for GNSO, you know, for the Council and the how in this new bylaws. In some way we need to identify who's going to be the voting and who's not be the voting one.

So it's much more difficult for the (foreign) people than the internal group as you (review this). So I would like to hear from you what you think about that because even if they're in the bylaw, we have an opportunity to discuss more - another interpretation of that because this is what we got from the General Counsel that in the end of the day maybe the interpretation was not that one only.

And we could think about that. So I would like also hear from you what you think about NomCom besides about who's going to be voting and who's going to be not the vote member. That's the very challenge for a (foreign) group (unintelligible).

So it's just the starting point of this discussion. We intend to have this time a more clear state of interest - a statement of interest from the applicants because we need to have more directed questions for that especially for the Board.

And also would like to know which could be the questions we should make for any candidate for the GNSO. So it's some ideas that we need to have some feedback on that. And Rob is coming and Rob is going to be the Chair Elect in the new bylaws. The one that will take the Chair in 2013.

And he normally asking for who is the profile that you don't want to have in the Board too. Not only what is the profile you want to see there but what kind of people you don't want to see over there. It's quite important for us too to select the right person.

So that's some points and maybe Rob you can ask something.

Rob Hull: Sure. Thank you. I apologize for being late. My name is Rob Hull. I'm a 2013 Chair on the NomCom - Chair Elect officially as of Friday. I think what Vanda's saying as I normally say it's great that you tell us what you do want. It's often more useful if you tell us what you don't want.

I think you have - three clear examples I've seen at other constituencies are - look we don't need someone who understands the depth of TCP/IP if they have no other experience on boards.

So tell us and kind of rank your criteria of, you know, if they have that great but we're looking for governance, not peaks necessarily. We're not looking for a lawyer or, you know, a certified accountant type thing. Or maybe we are but tell us what you do and don't want.

The other thing I think we often - do often do is concentrate on the Board seats and of course we pick what I'll call the swing votes in the houses in the GNSO Council. And as of this year we actually have to pick and assign someone to the house of each party or each side of the house rather.

So the interesting thing is this is the first year under Vanda that we will fully debate that where a candidate might have a different skill set that we put into the contracted party house than into the non-contracted party house.

And it would be very helpful to hear from the contracted party house of which you're half of course and perhaps if you get together with the registrars and provide us a list of criteria that you would like to see or not see the person we appoint to your house specifically because we have to have that debate and discussion in the NomCom this year as well. Thank you.

(David): Thank you. Any comments from our delegates? Go ahead Chuck.

Chuck Gomes: Well it's hard to respond to all the questions for all the different categories. But two I guess that affect us most are the Board and the GNSO Council.

With regard to the Board, one of the things that's really helpful from a contracted party's point of view is to make sure you have people on the Board at all times even if it's just a few that really understand registry and registrar issues not so that they can represent our viewpoints because we know they don't but so that they can make sure all of the Board understands the implications of things from a registry/registrar point of view.

You have one or two people there right now, maybe it's just one, I don't know. So from a Board point of view, I think that's on a ongoing basis. As we see that expertise going away, it's going to be important to replace it because we don't expect every board member to be experts on everything but you hopefully will have representation of the critical areas on the Board so that they can help educate the other Board members.

With regard to the GNSO, I'll just go ahead and comment on that. First of all, I compliment the NomCom for finally putting a candidate forward who really did - who I think is relatively neutral but really does have some registry/registrar and even GNSO in general from the other house as well expertise.

That was really encouraging because frankly, you know, we often get civil society candidates. And, you know, in the contracted party's house I mean I have all the respect in the world for those people. But frankly, they're voting with their civil society colleagues on the other side. That doesn't help us very much.

And it's a bias that really doesn't help in our house. I'm not looking for people I mean obviously I could factiously have said I'd like you to pick people that will vote the same way we do. That's not what we're looking for.

We're looking for people who understand the issues so that we don't have to educate them in what we're talking about. They can readily get in. They don't have to agree with us. In fact, but they'll be able to ask intelligent questions and so forth. So that would be my input at this point in time in that regard.

Rob Hull: Chuck, you started - I think I agree with you. You started off by saying it's hard to provide advice right now. And I agree. We put you on the spot. I want to point out there's one big different now because of the new bylaws and new ATRT which is we need official advice from you, if you will, or formal advice from you as to what you want because we are required to respond back at the end with our - well we've chosen our picks to say how they met or did not meet that advice or how they were able to find something that did or did not.

So I would encourage you to get together with your colleagues and please if you can drop something to us that says these are what we look for in a Board or GNSO candidate. You can restrict it to the positions you're most

concerned with if, you know, you don't have an opinion on what should be in the ccNSO or ALAC. That's fine.

But the more formal advice we can get from your stakeholder group the better. So I know we've put you on the spot now and I know there's not a lot of time because this is the first time that these bylaws are being acted upon. So hopefully by the next round by the one I Chair we'll have all started the process much earlier in the year. But the old bylaws didn't allow for that structure.

So I would, you know, just keep that in mind. So your advice now is welcomed and great but we certainly would, you know, if you need to go away and come back with a document, that's be great too.

Vanda Scartezini: Yes. We also can help I guess giving you some - a list of requirements that we already have in the Board. And what is the lack of some, you know, capacity or something like that for you to add other (unintelligible) that you think are important to have that. And maybe or to keep the same. Because you need to think that we have those capacity but there is change all the time.

And, you know, we're going to lose people from one, you know, profile for another profile in the end of the year. So when we are replacing that it's important to know if - let's keep this kind of qualifying people or we need another kind of profile. That's quite a (unintelligible).

Chuck Gomes: If I can respond to that, Chuck Gomes again. You might be able to help us especially at the Board level in that regard because I'm assuming that the NomCom does some pretty good analysis in terms of skill sets that the Board has now and when people are going off, when those skill sets are going to be.

Yet that kind of - that kind of information would help us too because most of us don't have time - probably none of us have time to do that kind of analysis and it wouldn't be necessary if you're already doing it. Not to - just so that that would help us in providing you input if you can share that kind of information.

Man: One of the things that we have is a list of attributes that have been - come from various sources and what I hope we'll be able to do is put them in a table form and I can give you an example. It would be these are sort of bulleted ideas of what a director candidate might have or a director may have and it's financial statement and review analysis, auditing processes, budgeting, strategic planning, problem solving, public intricacy.

You could make a list of these sort of attributes and then within the - within the table you might say that this is high, medium or low or you may wish to say we got plenty of that or not enough of that or - and of course to also add attributes that are missing from the table that we're presenting.

And we can send that to the stakeholder group and then, you know, within the next period - short period of time if you can add to that, that would be perfect for Vanda's group.

And it's something we'll discuss more at the roundtable tomorrow morning as well. It's just a matter of putting this stuff together as we usually do sort of on the fly. And, you know, it will be ready shortly. Yes.

(Jeff): Thanks (Charles) and thanks (Adam) and Vanda and Rob. I know we talked yesterday about some of these things but just I'm going to repeat some of them for the benefit of some other people in this group. So sorry if I sound a little repetitive.

I think what Chuck - I agree with the criteria that Chuck had mentioned the Board. I would also like to see more business acumen on the Board. And when I say business acumen I'm not saying someone from the Business

Constituency because I view them completely separate. In other words, not a policy person from a business but an actual businessperson.

I think there's been a lot of change over on the Board where I'm seeing more and more maybe people that can get (unintelligible) government and people who have academic or philosophical views but not necessarily anyone who's actually started a business or has run a business and can understand how a policy that they are presiding over would affect a business. And so I think that's important.

On the GNSO side, we just have a lot of issues I think over the years. One of the things I would say is I would not appoint a person who's got an active involvement in another constituency stakeholder group or in a lot of respects even another supporting organization.

I think, you know, as much as Chuck had said, you know, he thanks you for a person who understands, you know, registries and registrars, that person is also an active member of the ISP Constituency. And I don't believe that question was even asked of him from the Nominating Committee. So I'd like to see that question being asked.

And, you know, everything could turn out great and so this is not a personal attack but you can imagine as soon as we saw that this person is not only in ISP but which doesn't matter in and of itself to me but is an active member of that constituency, one that actually go asking (unintelligible) would nominate a - their Council rep is to me a little disconcerting from the outside not knowing the person.

And like I said, everything could turn out great but it's just something from appearance sake just doesn't sit well. And we've talked about this. This is not really your concern because you're tasked with - you have bylaws and you're tasked with a certain mission. I'm not sure in a general sense what the Nominating Committee has added with respect to the GNSO.

Take that separately from the Board. I certainly see the value of Nominating Committee selecting Board appointees but I'm not sure I see the value and what's become. I'd like to see a review of that at the GNSO level because in essence what I've seen it become over the last two years is a lobbying effort of which group in which house could get a hold of the Nominating Committee rep first and get them over to their side.

And it becomes - instead of an exercise of independent judgment, it becomes an exercise of lobbying. And I think that adds to the adversity or I should say the adversarial process that's currently under way in the GNSO. I don't think appointing someone as Rob put it as to break ties. I don't think that's a good way to view things although that's the way it's perceived at this point. Right.

We're supposed to be a consensus-based organization, not supposed to be a voting organization where someone breaks ties. If there are fundamental differences between let's say the registries and registrars or the fundamental differences between the commercial and non-commercial stakeholder group in that house, I'm not sure having a vote where one person breaks that tie is actually beneficial for the bottom up policy development process.

And putting aside the personalities, over the last two years there's been one Nominating Committee rep for the GNSO that's actually participated in working groups. And I don't think that's because she's a Nominating Committee rep. I think it's because of who she is.

But if you look at all the other Nominating Committee reps, I can't think of any task force that they've served on or working group that they've actually served on. So I'm not sure they actually added anything.

So there's a current situation now I'm not sure I - I think everyone may be aware of it. But initially there was a - and still is a dispute over who got picked to what house and how this concept of a homeless representative and that

person is not very happy because he was now assigned a second year to being homeless where he believes he deserves after one year to be a voting representative which again points out the flaw of the whole system, right.

The person's not put on there to vote. The person's put on there to help the consensus policy process and now the whole complaint is well I don't get to vote now so I don't matter. So I think there is a fundamental problem with the whole Nominating Committee select - not the selection. I don't mean the selection process but the whole concept of the Nominating Committee.

And I'm not sure how we deal with that but I think it is something that we definitely need to deal with.

Vanda Scartezini: Yes. I totally agree with you. My opinion - personal opinion of course is that we need to build a process to the new - next review of the Nomination Committee to eliminate the task to select the people for the constituents in general because we are mature enough to have internal process to fulfill those positions.

So we don't need an external group to do so. It is true for you. It is true for ALAC. It is true for - ALAC needs certainly to rethink about the (unintelligible) because the (unintelligible) is still not representative. But it's a process and we need to start now.

So I do believe that if you can put this otherwise for your group, we'll help with the process to follow this path. And because concentrating on - in the work on the Board to find out independent person could be very interesting. And less cost, less time and more effort in this.

And in the end of the day we are spend time with not so good solutions for the entire process or for the constituents. And sometime we have a good persons in some groups. But it is not the common. It's not the day by day. And sometimes (unintelligible) very, very good personally. But takes time and

money and, you know, and the value (unintelligible) put those persons in (unintelligible) of each constituent.

It need to - you know, we need to rethink about that and how we spend the money for that. That's my point of view and this is personal certainly but I would like to share with my group the idea and maybe we can have the process fall in this path because I do believe that the other groups also understand that they are mature enough to do by themselves. They don't need an external group to outreach people they can do by themselves. That's my point.

((Crosstalk))

(Ken): Couple of things. First of all, I'd like to echo (Jeff)'s comments about business experience. I think that's an important criteria. Number two is I'm going to sound like a broken record over the next few months because my job as the NomCom rep from the Registry Constituency is to encourage you people to get good qualified candidates out there so we can consider them.

One more thing that I think we need to look at very closely. Over the years and there's quite a few of us that have been involved for a long time. The best directors are the ones who really truly take the fiduciary applications that they have to the corporation to heart.

In my opinion the poorest directors have been the ones who have come to the Board with almost a deception that they were there to do the best for ICANN but really they were working for a specific advocacies, political advocacies, it doesn't really matter. We've seen it happen over and over again.

So just like the comments regarding the independent reps for the name Council, we need to make sure that we bring people to the Board who are

primarily concerned about serving the entire ICANN community through ICANN and not just a specific advocacy or interest. Thank you.

(David): Thanks (Ken). Anyone else?

Man: If I quickly, you know, to comment on this. Just a follow on from Vanda's point. My personal view as the outgoing chair is that I'm actually going to make the comment in a public forum tomorrow that I think that the organization has matured enough that I don't think the Nominating Committee should be selecting for the GNSO, ccNSO and ALAC.

That will be a personal observation from someone who's served in this role as Chair. And I think perhaps if we start - we're starting to hear agreement around that issue.

About the selection process generally, we feel that we selected very intelligent, very good people. And one of the reasons why I'm, you know, finding this view perhaps it's time that we didn't select some of these (unintelligible) and the ACs that the situation has changed and it's difficult for us to actually - we did select the best candidates. These are exceptional people I believe.

But the political issue for want of a better word makes it very difficult for us to place them and that's unfair and that's unfair on you and unfair on them. And so I do want to emphasize that these are exceptional people but we do recognize some of the problems that are going on.

And (Ken)'s point, (Ken), good to hear from you and look forward to seeing you again soon. The, you know, the NomCom can only select from the candidates that are in the pool before them.

So I think it's a good opportunity to sit perhaps when we're looking at the public forum and look on the, you know, that big dais of directors and say I

know somebody who should be up there. I'm sure we can all think of one person who, you know, if you could swap one person in and out, someone from your, I don't know, business experience.

It might be someone from, I don't know, just a friend. But, you know, I'm sure everybody knows somebody they think could be good on that Board. And if you can introduce them to Vanda and Rob, they will do their best to get them in the pool and get them considered.

And it's really about our outreach and not just (Ken). You can't just rely on him. He's a conduit for you but you need - he needs your Rolodex. He needs your network and your ideas and also global diversity. One example is that at the moment the Nominating Committee has a requirement to ensure that there's at least one director from each of the regions.

And the representative, the person from Latin America, there's only one person from Latin America and Caribbean region and his term finishes next year. Of course can reapply and can of course be reselected but that does mean there is a - certainly an emphasis on selection from that region. So if you know people from the Latin American and Caribbean region, I know that Vanda and Rob need to hear from you. Thank you.

(David): Thank you. I think...

Chuck Gomes: Okay. Just a quick comment. I think one of the false assumptions that I believe has been made over the years is that if someone's from the academic community or the civil society community they're neutral. I think that's a false assumption.

Civil society has a particular agenda and it's a valid agenda. It needs to be part of the process. But just because they're - they don't have a specific company or stakeholder group conflict doesn't mean they're not neutral. So I think that's a caution I would give.

Vanda Scartezini: It brings us the concept of independence. We were a concept of independence because independence means a lot of things. And for our point of view, we need to hear from, you know, from all the constituents what they believe is like you saying Chuck that is driven for one side or the other side is still there. So what means the independence?

Chuck Gomes: And it may not be that you can really get independent people.

Vanda Scartezini: Yes.

Chuck Gomes: But you make sure you don't get all people from the same - from the same side. Right.

Man: Just to highlight that independence discussion. So we met with Council for the Board and he pointed out that right now officially there are only two people that are not independent on the Board, Bruce Tonkin because he - his company has a contract with ICANN and Rob because he's an employee of ICANN.

But if you apply different independence criteria such as on a public Board in the U.S., then six or seven people would not be considered independent. The bigger problem isn't so much independence as conflicts on a given issue. So conflicts and independence are not the same thing obviously.

And we were cautioned that if we were to put for example three Board members on the Board this year who had an interest in gTLDs and would have to declare a conflict, we could very well get ourselves into a situation where the Board could not act and could not vote. So we're also mindful of potential conflicts that we have to now - because there's so much on the Board potentially already we now have to be careful of.

So it would be great to hear from you on what is the standard for independence but we also have to start asking different questions this year of candidates that perhaps we haven't asked them last year. And I think that's something we're looking for your help with is what questions should we be asking the candidates specifically on the GNSO and Board of course in your areas.

But are there questions you think we should be asking about the Board members and the GNSO members that would help eliminate our concerns or the opposite to help eliminate how great they are?

(David): Well thank you. This has been extremely helpful. I think we've all learned a great deal about your operations and I hope we'll be able to provide some more useful advice - counsel to you. Thank you for coming in.

Rob Hull: Thank you. Just one (unintelligible).

Vanda Scartezini: Thank you. Thank you. Thank you (Ken). Hope you join us soon.

Man: And anybody roundtable tomorrow at the community input. More thoughts on this as you, you know, mull over what we said, then we'd love to hear from you tomorrow morning. Thank you very much.

Woman: Thank you.

(David): Thanks. Kathy.

Kathy Kleinman: Yes.

(David): Just to clarify one thing. The agenda that's posted says that we are going to move to the registrar joint meeting at 4 o'clock. Mason told me make it 4:30 because of the business that the registrars have to conduct. So Kathy, you are not restricted to five minutes but brevity would of course be appreciated.

Kathy Kleinman: Give me a time limit (David). I'm sorry. (Is it five)?

(David): No. I was saying you're not restricted to five minutes.

Kathy Kleinman: Okay. Let me know if I'm too loud everybody in the audience. I'm Kathy Kleinman. I am the Registry Stakeholder Group representative on the Whois Review Team. And I'm also Vice Chair of the Whois Review Team.

And you'll see that I have lots of news here because we just finished three days in meetings and which (Keith) was kind enough to sit through a good amount of them. And I'm here to kind of report on ideas and progress.

We've been working for almost a year now. We've done a lot of community outreach through a number of sessions with all the constituencies and supporting organizations. We've done a questionnaire of law enforcement since last I spoke with you. We've done a survey of consumers - an international survey of consumers.

We are now working on our final report and recommendations, which should be published by November 30 and we'll be in Costa Rica, you know, holding meetings on the recommendations and finalizing our report just after that.

So I thought I would give you a preview of coming attractions. They're not published yet. But there are some issues that may be of special interest to the group. So I thought I'd share with you briefly kind of categories of recommendations and findings that are not contentious at least within the Whois Review Team although they may be contentious for others.

One is on ICANN's policy. The Whois policy is just poorly defined, decentralized. You know, good luck finding it. James Bladel and I have worked on this a lot and we think it needs to be in one place. Put it in a

document. Let people be able to find what the Whois policy is, which is now scattered across contracts, consensus policies and consensus procedures.

Implementation. You know, God we've heard, you know, an awful lot about accuracy. And we think that at least through the first cut there's a lot of low hanging fruit and we think we're going to try to set some metrics for picking it out and improving accuracy more easily, you know, visible accuracy at least, you know, not having blanks, not entering (aids) within records. You know, it's really easy low hanging fruit.

And then we're going to be looking for tangible reliable figures of accuracy that are reported to the community as well as to the next Whois Review Team.

Something three has been no question about with the new team is that having thick and thin Whois registries is very confusing for law enforcement and consumers. We've heard a lot about that.

We've watched videos of consumers trying to use the Whois review - sorry, trying to use various Whois databases, you know, whatever they can find online. Finding themselves in a thin registry not knowing how to get to a thick registry. There's a lot of confusion out there. How we solve that we're not sure but know that that is a finding.

We think of course that ICANN should make this more of a strategic priority, have more resources. We think that there's a lot more that can be done in terms of communication and compliance. You know, if compliance is going to do - is going to require something, then go out and measure whether it meets the difference.

The registrars are very concerned they're being asked to do a lot of things and, you know, who knows what the results are of some of the things they're

asked to do because studies aren't done. There's not a lot of follow up. There's not a lot of publication of things and compliance knows it.

They've been under resourced and so we're kind of helping them with their job of telling them what we'd like to see coming out. Some very good work that they're doing but not necessarily communicating.

And of course then we get to proxies and privacy. Proxy and privacy services. This has been just taking up enormous amounts of energy. There's no questions that the community thinks - and many people on the review team think that it's completely broken and that we need to fix it.

There's calls for accreditation, centralization. I wanted to let you know - I wanted to give you a heads up that at least from the perspective of the review team, privacy services and proxy services are considered different. Privacy services in general and here's we're taking some guidance from the GNSO Whois studies that are now, you know, that - where the wording was very carefully worked out.

But privacy services are generally where the registrant is identified and another's contact information is provided. Proxy services are where an agent steps in for all the information.

So at a minimum really think that people should stop saying privacy and proxy in the same breath. They're different and they have different ramifications especially since the registrant is identified on one and not the other.

And so we think that this all needs to be explained to the community and especially to the registrants. And there's a sense that there's more of a hook towards the privacy services than proxy services because the privacy record is a problem because you have a registrant and you have contact information that doesn't belong to the registrant.

So on its face we've been told these records are inaccurate. So that may provide - so there will be a recommendation that says that privacy services should be recognized.

A privacy registration should be flagged as such whether it's setting any fields or it's got some other identification and that the privacy services should come in under the ICANN umbrella for working on either best practices or mandatory requirements. We're still working through that.

But that there is - that there's a way to bring this in for community discussion and especially not just definition but working through the details of reveal and relay. How do you know - if you're law enforcement, how do you know when you can get the underlying information and privacy service? How do you know - if you're a registrant, how do you know when something's being relayed to you?

So that's kind of the quick overview. It's a lot of information quickly. If anybody wants more detail, you know, please feel free to ask questions. If I talk about things that don't make sense to people who are listening especially in the audience, feel free to button hole me and I will explain it at great length.

(David): Thanks Kathy. One quick question. The mission of the review team I take it is not necessarily to suggest solutions to for example the proxy issue. You're studying it, raising the questions but are you going to come up with a proposal that proxies either be outlawed or allowed or controlled or...

Kathy Kleinman: It's one are we may be treading on the line. And I'll just admit that to you and I will admit it openly. It's - we're not going to create policy but we may be pushing it back into a policy development process. We may be suggesting that a policy be created and sharing very clearly what the findings are that may help direct that policy development process. But otherwise we're very clear we're a review team. But this one area is tough.

Jeff Neuman: Yes. I was going to kind of follow up on the same. As you know, we brought this up and it sounded like initially when we were talking about some of the - something could talk about implementation.

So I understand with the first set when you were talking about well we're looking at accuracy and since that - it's required in the agreement now that you have accurate Whois information. I can understand certain tools and things to help contract compliance.

But when it comes from the privacy and proxies, I just think that's way out of bounds as far - well, you could say there's different types of services and we found these and they're confusing and steps should be taken or this should be a policy process underway to, you know, lessen the confusion or define the different requirements.

But it does sound very close if not over the line. And I'm afraid because once this comes out, it's going to be the expectation by the GAC and by everyone else that, oh wait, the review team came out with these. Now it must be implemented.

The GAC is clear when we went to them on Saturday - when the Council went to them, it's clear they do not understand the policy development process. They do not understand the differences between someone asking for something like the GAC asking for the registrars to implement something. They do not understand that that needs to go through a policy development process.

And when that was brought before them, they were not very happy and still said, "But I don't understand. You need to implement this because you told me to do so." My fear is that once the review team says you should implement this there's going to be no patience for anyone and Chuck could probably identify.

If the review team comes out and says this must be implemented and it's a policy matter, we're going to be on the defensive completely and saying that's great. Let's put it through the policy development process.

I even think the Department of Commerce will also because they're going to say wait a minute. We asked for this in the affirmation of commitment and now ICANN you must do it. That's my deep concern.

Kathy Kleinman: Wait. But didn't I - I mean we had a lot of discussion on this in the review team in which some people explained there is a policy development process and know we can't make policy. But if something goes into the policy development process, isn't that the right way to go?

Jeff Neuman: It would be but it doesn't sound like what's coming out is recommending. It sounds more like this is our conclusion. Now go put through the policy development process.

And I think it's a problem in one sense because you're setting an expectation in the policy development process that they have to come out that way is going to be too much - if it doesn't come out that way, the policy development process is going to be broken. It's going to be such criticism of it.

It's like the IRT, right. The IRT was a review team in as it wasn't set up (5 AOC). It didn't have any formal standing. But it was essentially a review team to review the intellectual property measures that were in place for existing gTLDs and how to improve on that. Right.

When it came out with its findings, you remember how the community took that. You had the IP community expecting everything to be implemented. And then you had the other side, which I think you were a part of, who said now

wait a minute. You made recommendations there. That has to go through a policy development process.

It went through the PDP process but you remember the - I'm trying to use nice language here. Do you remember the criticism? Do you remember the outcrying and furor from the IP community and the governments when we didn't adopt everything that the Implementation Review Team -- it was called a review team -- when they didn't adopt everything that the IRT had said.

It's going to be that times 100 with this because this is an official review team with official status under the AOC. And when they come out with recommendations that the PDP does not take every word and adopt it, it's going to be ten times worse or 100 times worse than what happened with the IRT.

Kathy Kleinman: I may have misrepresented just a bit. There's none of the detail that the IRT had. I think they're totally different scenarios. These are - this is the review team under the affirmation of commitment. We're following, you know, kind of the lead of the ATRT in terms of its high level for generally.

And no, Jeff, be sure that we have a number of detailed findings. It doesn't mean there'll be detailed policy requirements. We can't. We're a review team.

Chuck Gomes: Thanks Kathy. That's helpful. As I'm listening here, it's all in the wording, right.

Man: Right.

Kathy Kleinman: Yes.

Chuck Gomes: Yes. And I think you've got it so I'm not sure I need to say anymore there. And as long as the review team comes back - it's one thing to recommend that an issues report be done and policy development process be considered

and to give information that can go into those. The issues report to start with and so forth.

It's quite another to say we recommend that - the auspice of a policy and that that go through the policy development process. I would avoid the former there and word it very carefully.

Jeff Neuman: Or you can just add recommending that standard rules be established for privacy and proxy services also may be a - one that's close to over the line. You could recommend an issue report that the GNSO take up the issue of whether there should be and you could present your findings.

But to come out with a concrete recommendation saying there must be standardized guidelines for privacy and proxy services or there must be an accreditation procedure for proxy or privacy service providers again is a policy recommendation.

And if you say and we think there should be an issue report in doing that, you've already presupposed the answer. You haven't said the details to what those regulations should be but you've left no room for the policy process to come out and say no, we think that there maybe shouldn't be.

You can - see I see a review team as pointing out the problems and not having those standardized processes and procedures in their issues and it's causing confusion and people are being harmed. But to go the one step further and say and that's why we must have accreditation procedures and we must have consistency and we must have all this, that to me is presupposing a policy outcome.

(David): Thank you.

Chuck Gomes: So just to follow on that just a little bit if that's okay. So saying that rules should be established is very different than saying consideration should be

given about possible rules. Very different. So again, it comes back to wording. Just being very careful.

Kathy Kleinman: I hear what you're saying. There are other communities saying very different...

Chuck Gomes: I know.

Kathy Kleinman: ...things. There's a lot of - there's a lot of contention on this and we share with you because we've all been through this together for many years. An immense amount of frustration and anger on this particular issue for the - for spending so long with so little that's come out of it. I just share that because we're hearing it across the board.

Jeff Neuman: And there's nothing stopping the GNSO now from taking up that issue. We don't have to wait for the review team.

Kathy Kleinman: No. There are more task forces or something being set up.

((Crosstalk))

Jeff Neuman: ...they're starting on it now. It's the question is how does the study - sorry, when is your final report due?

Kathy Kleinman: November 30. Long before any study...

Jeff Neuman: Right.

Kathy Kleinman: ...(unintelligible).

Jeff Neuman: So your conclusion will be made before the study comes out but still leaves no room for the study to find something different or the GNSO - I mean that's what I'm saying about setting expectations.

And I agree with Chuck as far as if you say that you should consider adopting standardized rules and procedures because of all these findings that (we have) and the confusion and, you know, all that stuff is very different than saying you must have these rules. Now go do an issues report on establishing those rules. And it's different in the expectations you set.

And I know it's difficult. And I know it's impossible. And we're asking for the impossible and I know you're fighting a champion as a champion. So it's perhaps...

((Crosstalk))

Jeff Neuman: ...that we should tell the review team ourselves but I don't - there's no initial - is there - there's no initial report out there. Your final report is due the 30th but no initial report.

Kathy Kleinman: The initial report will come out November 30...

Jeff Neuman: Okay.

Kathy Kleinman: ...if all goes well with the draft recommendation. And there'll be a very, very - and don't worry about Christmas deadline. Very, very long time. Some time at the end of January will be the end of the comment period. And then we'll still be in Costa Rica collecting comments. And lots of months and time to talk about this.

And part of the reason I'm here is actually pleased that you guys read it and respond and help me through some of it.

Jeff Neuman: Thanks.

(Keith): So this is (Keith). I would just like to take the opportunity here to thank Kathy. I mean we may not be done but I just wanted to jump in here and really say Kathy thank you for your volunteer service, you know, on behalf of the stakeholder group in this thing.

Sitting in those meetings this week and also in Singapore I am very grateful for your involvement in it. And, you know, as you mentioned or as you alluded to, you know, obviously you're there on behalf of the registries. James has been doing a great job on behalf of the registrars.

We as contracted parties have been very well represented. But I acknowledge that there are a lot of other interests and a lot of other groups represented in the review team and appropriately so. But it's - I understand it's challenging and, you know, that there's disparate interests represented in that group. But again, thank you.

(David): Amen. I think that concludes our meeting.

Man: (Did great).

(David): Well yes until we get to the registrar joint meeting.

Man: Yes. So for specifics if anybody wants to come along from 4:00 to - sorry, 4:30 to 5:30, is it an hour? Four thirty to 5:30 in Meeting Room C1. We will continue and the - well, we'll conclude our meeting over there with the registrars. Thanks.

Man: So just from this call, I think the meeting is in (Salonber).

Man: Oh yes.

Man: Did it change?

Man: Yes.

Man: Okay. Sorry about that.

Man: (Salonber).

Man: Instead of C1. Thank you (unintelligible).

((Crosstalk))

END