

**ICANN Prague Meeting
Joint ccNSO/ GNSO Council meeting- TRANSCRIPTION
Monday 25th June 2012 at 12:30 local time**

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(Leslie): Okay everybody we're going to make a start. We seem to be missing a chair and a vice chair. So this is my opportunity to chair two things at once or something like that.

Thank you to the GNSO for exchanging the list of topics. And I hope that you're aware that the ccNSO also provided a list of topics.

Let me just open with those and then we can start to work our way through them. And Stephane and Jeff and others can catch up.

So the proposed topics from the ccNSO point of view were the framework of interpretation working groups, just a very quick update for your information on that.

The work and you know this is ongoing work that we've been doing on the ICANN operating plan and budget and the issues surrounding that and the cross community working group proposal that I know you have been working on and we're trying to contribute the ccNSO views to that.

From the GNSO perspective this is where I try and do a Stephane impression and would fail miserably.

So as I understand it the issues from the GNSO are around the impact of a huge number of new registries on the work and structure of the GNSO and ICANN more generally.

The reveal of new gTLD applications, yes I was there which is how can we collaborate more in the future given that there will be some common issues, a nice controversial for some about how we can engage with issues around cognitive positive international law enforcement requests.

Now that I know that you've had a number of discussions in that regard. And of course we have had discussion in country as well and have some experience we can share.

Next on the GNSO dance card was the RAA negotiations and interested in hearing I understand from ccTLD members as to how we engage with law enforcement and data privacy officers at a national level.

And finally the implications with new gTLDs for example multiple dispute resolutions processes and registrars who maybe are seeking to be accredited in the shared space.

Okay so that's the agenda for today. We have until 2:00. And the Western people have clashes and will need to come and go in the meantime.

Wolf?

Wolf Ulrich-Knoben: Thank you (Leslie). I have to apologize. The chair's just coming so I just try to step in because as the only one vice chairs that's just available. But I see Stephane arrive. So thank you.

(Leslie): You're just in time principal.

Stephane van Gelder: Hi everyone. Sorry I'm late. Thanks Wolf and (Leslie) for helping out. And as I've just arrived I don't know if you started discussing the topics or not.

But I heard you say that we have a list of topics the GNSO council sent the ccNSO a list of topics this morning or yesterday evening so very late in the day. And I apologize for that as well. It took us a while to finalize our list of topics.

And we received topics from the ccNSO very early on, very much earlier on in the day so appreciate that. And we will try and get better organized in the future.

(Leslie): Glad to hear it. We've shared the list of topics already.

Stephane van Gelder: Okay. Good. So did you decide how you wanted to - did you want to run through the topics just one by one or...

(Leslie): We've run through the topics. We didn't decide how we were going to do them. I suggest we do one then you do one done and would that help?

Stephane van Gelder: Fine, yes.

(Leslie): At least then we tried to ensure everything's covered.

Stephane van Gelder: If there's time to eat...

(Leslie): Maybe give you some time to get something to eat. But the first one's quite a quick one.

The framework of Interpretation Working Group (Keith) will speak. This has been a major work item for the ccNSO and (Keith) an update.

(Keith): Thank you. I think just to look backwards a little bit on the framework of Interpretation Working Group we - the ccNSO ran a process called the Delegations and Re-delegations Working Group.

We analyzed all the ccTLD delegation and re-delegation decisions since the inception of ICANN and tried to spot that gaps of where things might have been not based on proper policy decisions and so on.

And the output of that report led to the establishment of the framework of Interpretation Workgroup which comprises members of the ccNSO GAC, GNSO and at large constituencies. So it's a large and interesting working group.

And we are developing what we call the Framework of Interpretation to enable the ICANN or the IANA to follow a predictable process of examining delegation and re-delegation request in coming up with predictable and conforming results.

The policies course for ccTLD delegations and re-delegations arise from RSC1591 which was created in 1994. And it's somewhat vague in terms of its policy position.

So that interpreting those what they are to creating policy on the fly has been the challenge for the group. And, you know, the role of governments in helping us in those interpretations has been quite crucial.

We've divided our work into four separate discrete areas. And we've been summing up these.

The first topic we covered was the topic of consent and what consent to a delegation or re-delegation might mean and is it an informed consent and is it

consent with someone with a gun held to their head and so on and the (tips) that IANA might be able to apply to evaluate that.

We finished that topic. It's been out to the public consultation. And we've closed that as a check to one of their work.

We more or less finished what we call significantly interested parties in identifying what specific parties might be interested in the delegation or re-delegation of the ccTLD.

That paper has concluded its public consultation. And just in the last two or three days we received an input from the GAC on that.

So we have a bit more work to do to finalize that paper. And the current work that we're doing is on unconsented re-delegations which is the theory match, the hot topic for us.

And we're currently into the subtopic of revocation of a TLD and what that might mean under RSC1591 which says that in the case of substantial misbehavior by a ccTLD operator that the delegation might be revoked so just exactly what that might mean and how that might be implemented is of course not a simple or trivial task.

Once we've concluded that chapter we need to produce a glossary of terms so that IANA uses a consistent glossary of terms to describe there what has happened in the course of an investigation into the delegation, re-delegation.

And then finally we need to create a template for the implementation for IANA.

So we're in the middle of a huge amount of work. I think it's something that, you know, at the inception of ICANN or even ICANN too we could not have

approached from ccTLD, get perspective to the probably the lack of trust between governments and ccTLD operators.

And I think it's shown restraint of both those constituencies that we can confront these fairly significant issues and issues like sovereignty and sovereign rights of the ccTLDs and so on and do it in a useful and progressive way.

So it is making good progress and I think our work will be concluded by the middle of next year. Thank you (Leslie).

(Leslie): Thank you very much (Keith). Any ccNSO comments or question or comments from the GNSO please?

Okay your turn? Stephane?

I try not to (unintelligible) the microphone.

Stephane van Gelder: I know you did that on purpose. Thanks. But perhaps we can go to one of the GNSO topics and if there are (normal) comments on that one.

And we wanted to first of all discuss with you the changes that we see on - we all see on the horizon.

So one of the points we had was- and these are discussions that I think we've already touched on both of our groups and that we were interested in pursuing.

On the effects of having new registries coming in into ICANN this is a look at the overall effect rather than specific SO effects.

And we wanted to have a look or discuss with you what your thoughts were on the possible impact of a huge number of new registries coming in.

And we also had a kind of additional point to that. So if I can mix the two in it was listed on our list as a separate question.

But perhaps we can address both points in the kind of single batch. And I use that term obviously with intent.

One of the other things that we wanted to discuss was looking at it more specifically from the ccNSO point of view with some of your members now operating or lining up to operate gTLDs was the implication of that new landscape and looking at it from possible practical points of view like having several, you know, one registry operator running several different dispute resolution processes, a one for the gTLD that it might operate in the future and one for the ccTLD that it operates now. And those two systems might be very different.

So that's the lead into that discussion. And let me open this up for discussion both from the GNSO and the ccNSO side.

This one's going to be a quick (unintelligible).

(Leslie): So from the point of view of adding some statistics to that discussion I think from the cc perspective it's important to keep it in perspective.

So yes there are indeed some (Gs) that are moving into becoming gTLD operators my own organization being one of them. And I think there are six or so others doing the same.

But it's interesting to reflect that we have had gTLD operators in the cc community for many, many years for the (unintelligible) VeriSign, Nuestar and so on who also operate ccTLD registries. So we've kind of been able to accommodate that.

I think the issue especially from a GNSO point of view is in terms of scaling as well. Thank you.

Stephane van Gelder: Thanks (Leslie). Let's turn to (Jonathan).

(Jonathan): Thanks Stephane. I suppose I've got a couple of different thoughts (straw) comments. I mean the first is that within - I guess one needs to think about this or I'm thinking the question and within the existing structures how do - how does that work and within existing ways of operations how does that work?

And then the second component in my mind is how might those structures or organizations of ways of working change in the future? And then those are really - those are the sort of partitions I see the question in.

And then the second thought is one and I guess in partial response to (Leslie)'s comment and just to make you aware to the extent that you may not be that certainly with - there's been this board question floating around about how might the organization adapt and change in ICANN in the broadest sense with the impact of the new gTLD program?

And one of the answers we've given both in response to that question and in general from the Registries Stakeholder Group is that we have done quite a lot of work in the past to reorganize our chart and reorganize our group to anticipate and be able to accommodate these changes such that as you will - you may be aware that there is the possibility of an observer status as an applicant, as a new gTLD applicant within the registry stakeholder group and anticipating that those observers might well transitioned to be full members of the Registry Stakeholder Group in the future and, you know, as successful applicants.

So there's that - that work's been going on and that opportunity to cross over. There is one - and there is an awareness though that there may be issues of

thought being a - certainly within the GNSO side of things being potentially a voting member in more than one area.

And our charter precludes being a voting member in two different stakeholder groups from - from a same entity.

Stephane van Gelder: Thanks (Jonathan). Anyone else want to - yes.

(Thomas): Thank you Stephane. I'm (Thomas) (unintelligible) one of the NCAs to the GNSO Council. And I think that an awful lot of thought has gone into how to scale and how to deal with the huge number or possibly huge number of registries entering the ICANN ecosystem.

However my thought is a little bit different if not contrary because I think that at least from my personal experience when talking to applicants that they are not the least interested in engaging with ICANN.

So since some ccTLD operators provide registry backend services for applicants how do you envisage to reach out to those?

Because I think it's not only a matter of scaling but also in terms of outreach to be inclusive and get all those who should play a role and make themselves heard into this room or rooms such as this to discuss with us.

(Leslie): Wolf go ahead.

Wolf Ulrich-Knoben: You know, I've been questioned with regard to the legal implications., You know, a ccTLD operates under (national) restriction and has probably only an exchange of letters with ICANN.

CTO registry operates on the basis of a contract with ICANN. So that means could you imagining that there are cases of conflict and the contractual

arrangement with ICANN could be in conflict this (unintelligible) restriction?
And if this is the case, you know, what would be then the answer?

(Leslie): So one would hope that applicants had performed that assessment before entering into that application process. But you never know.

You're quite right we identified that the policy for Cs is made at a national level. And that is absolutely key for us.

So we hear people suggesting it would be easier perhaps if we all work the same. But to use (Chris)'s words of course we're not the same at all. We are very different.

And particularly national policy appropriate for your local Internet community is a cornerstone of the cc world as I know you know.

Stephane van Gelder: Can I just add that - and this is a personal comment if you're looking at contractual - if you're looking at this from the contractual side I actually don't see much of a difference with the state of play today.

So for example a registrar that's based in a European country will have to first and foremost conform with the European laws and the laws of that country and will still have to sign a contract with ICANN.

So this is the debate that I think - or a subject sorry, not a debate, that I think really doesn't change that much with the potential arrival of ccTLD operators in the gTLD space from just that contractual point of view.

Any further comments? (unintelligible).

Woman: So from a ccNSO perspective I mean we're aware of the various SO reviews. And it -just comes to the end of working through our review recommendations and know that the review will be around soon.

When is the next GNSO review and does this impact upon this discussion?

Stephane van Gelder: Obviously this is another question of a major I was going to say interest but I guess worry would be the best term for us at the GNSO.

The next review is scheduled for next year. And the timing for us is less than perfect for two reasons.

First of all we're exhausted from the last one. And secondly in the context of the new gTLD program this comes at possibly a bad time because this - the timing will be too short for us to be able to gauge exactly the impact of new gTLD applicant arrivals on this ecosystem.

So we would have - we would prefer to be able to defer the review, the start of the review for at least a year I think although that's not an official position because we don't have one yet.

But that's what comes out of most of the discussions informally that we've had on the matter.

However my understanding is that because this is a bylaw mandated review cycle it's very unlikely that that would change. And we certainly shouldn't expect it to change. So short answer next year.

Does anyone else want to comment on what we've just been discussing?
Please?

Man: (unintelligible).

(Leslie): (unintelligible) speak into the mic.

Man: It's not a question probably from a different angle. It's not only the question that's facing the GNSO. Also I'm speaking on behalf of the original TLD organizations.

But the IGF in (unintelligible) last year with informal meeting center I'm also (president) of (that) TLD center and (Lat) TLD. And we had the same question of how do we handle that at the original TLD level membership of the new breed of the registries or TLD operators who will emerge from our region also crosscutting for example ccTLD operating at gTLD?

Should they be a member of center as well? How - what kind of membership and also the same issue of IDNs or ccTLDs where Egypt is a member of FTLD but has the (modeling). (while) do you handle that (model)? What's it like to see them at the (unintelligible) gTLD. But you don't want one contract and two votes okay in your organization.

So it is an issue where we're both (observing) it also from the original TLD organizations. And if we find an answer would be very appreciate it as well.

Stephane van Gelder: Thanks. That's - thanks for that point of view because that's the interesting.

And if I can offer just a comment on that taking a leaf out of (Jonathan)'s work and what he was explaining earlier on I think, you know, in that GNSO world we've had similar kind of issues for a while where people can actually fit into more than one constituency.

And the way that we tend to solve problems like that is to not disallow anyone from being, you know, both in one constituency and another because that's applicable to the way they do business or the way they exist on the Internet although their activities in general but to not allow more than one voting presence.

So you could be for example (Jonathan) explained earlier on that the registries have an observer status. The registries could also ask someone to not vote for example.

Other constituencies in the non-contracted party's house which is the other house in the -there's two houses in the GNSO, non-contracted and contracted parties.

In the non-contracted party's house for example you could easily imagine that - a situation where someone might be in the business constituency and the registry or the registrars because the business constituency is exposed to group businesses. So by definition you could be in both but only vote in one.

Man: Thank you. I'd like to go back for a moment to the review cycle that you were saying. And you ended saying there's very little chance it'll change.

I find it hard to imagine - well I can imagine but this is high on my list of things that I imagine are a waste of ICANN money and volunteer time to have an external group come in, review the GNSO essentially as it is now.

By the time to report is tabled and analyzed there's a good chance the GNSO structure and dynamics will be very, very different.

So to start a reorganization and a review that's going to be based on something which is obsolete before the review is likely delivered never mind dealt with in ICANN because we're following rules to the letter seems rather silly.

Stephane van Gelder: Yes I didn't actually say there's very little chance. I said my understanding is that we shouldn't expect it. I don't know if there's little chance or a good chance. (Jonathan)?

(Jonathan): Supposed unnatural - and this is a brief response to (Alan), not the point I was going to make. But the brief response is that I suppose what we need to do is understand what if anything is technically possible in terms of going against the provisions of the bylaws in this respect. I mean and that's what we may need to look at.

But that wasn't - the point I was going to make was it struck me that in this conversation that clearly the work that we have done and that you replied to get a comment on on the cross community working groups which was much appreciated.

And I know we were sensitive all along and doing that work with that GNSO did on the cross community working groups that there was a risk would be seen as breaking out on our own. But we did very much feel that it was something where we had to do some initial work.

And so we very much appreciate the input that you gave to that. And it's clear I won't highlight any particular members of the community and/or ICANN, the corporation.

But it's clear that there is some reasonably strong feelings in - within the broader community that this may well be a very productive way to go in the future.

So to the extent that it is likely to be the case in terms of how we work together on issues of common or cross community interest, you know, your help to date is - or your input to date is great.

And I - it's very likely I suspect that - it is my personal opinion anyway that it will spawn what you suggested a - I thought so with a straight face completely but a cross community working group to work on the future role of cross community working groups within ICANN.

But yes then I can say with a straight face. But just to remind you actually that on the session there is an open session on that where we'll be reporting that work and trying to weave in your initial comments and in essence kicking up off that next phase of this piece of work this afternoon.

So to the - I know you have a class or I believe you have a class representation but...

(Leslie): We could have another working group on several tranches. So I think we agreed that we tried to cover that within this session because it is very relevant. And obviously we have experience to offer to that.

Stephane van Gelder: Yes on your earlier subversive point of trying to bend the rules as far as we can not to do a review, that's obviously not a GNSO council position, just your own personal, yes. Any further...

(Jonathan): And to collect - I didn't suggest bending the rules. I suggested looking within the rules as to what was possible.

Stephane van Gelder: Stretching them, just a bit of humor there. Any further comments on that?

Do you want to (Leslie)?

(Leslie): I was going to suggest maybe that segues nicely into the Cross Contingency Working Group discussion because I think there was an offer of sharing some of the presentation that you were going to make later on and getting some early ccNSO input.

Unfortunately the scheduling for us is really not good. And so we're having difficulties in attending that session.

Stephane van Gelder: So on that (Jonathan) are you going...

(Jonathan): Yes just a quick comment that (Becky) just helpfully pointed out to me that the rules. And the rules do seem to create some flexibility for the review based on the feasibility within the board's discretion.

So it does appear that there may be some room for maneuver without bending any rules.

So and on the CWG thing (Leslie) I was aware that you did suggest that. And I'm afraid I - I mean I'm sure we can do something on the fly but I wasn't prepared.

(Leslie): I thought you agreed to that.

(Jonathan): I might say I wasn't aware...

(Leslie): Not you personally.

(Jonathan): No.

(Leslie): you generally, yes.

(Cheryl) did you want...

(Cheryl): Thank you very much (Leslie). And I guess I'm kind of acting in my liaison capacity here because it's intelligence that I have from the at large advisory committee's involvement with the review processes and the structural improvement committee that I'm privy.

And so I'm happy to share that by the ccNSO. But in fact there is a presentation that will be given I believe Wednesday by the Structural Improvements Committee that - and if not it certainly will be out fairly soon.

I've seen a draft. It is looking at a different approach. It's also looking at a can I use the word batching?

And it's also using a setup which is vastly different to what we experienced in the first time around which I think will be a relief to everybody -- GNSO, ALAC and anyone else who went through it.

For example they will be setting the criteria and then getting it to the externals. And that criteria will be established with us as community, big tick from my perspective and I suspect may help some of the issues with GNSO and just getting it right.

And the other thing is the intention is to have and we- this is we may be clustered together along with ASO even and sort of all done in parallel is to have us have a year of review and implementation, so data with what to do then we make it happen. And in two years of running under those new systems before the next cycle happens.

So it's a type of turn around and a very different flowchart. So sorry to take so much time but I'd didn't want us to go down a rabbit hole that wasn't necessary. The change is there. And from my perspective at least it's not all bad. Thank you (Leslie).

(Leslie): Okay so the ccNSO council has already discussed I think your initial Cross Constituency Working Group paper that. And we did make a contribution. I'm not sure if everybody has have the space to read that.

(Yolam) I think you had just a few summary comments?

(Yolam): Thank you (Leslie). I'd just like to mention that we recognized your - the decision you made at last March with regard to the Cross Community Working Group principles and that you were seeking input on the principles themselves and maybe a road the forward.

When we look at the principles it - I mean we - the cc and the GNSO community has been involved in several joint working groups, for example the IDNC, ccPDP, the DSSA.

And when we looked at those principles we realized that there were some differences between the ccs and the GNSO with regard to how we treat these working groups.

For example that there are differences or there were differences in the purpose and the scope and the expected outcome of the Working Group which is that with regard to the ccNSO our working groups serve a variety of purposes. It could be administrative. It could be an alternative vehicle for a policy.

But it seems that with the GNSO these working groups have a major purpose of having something to do with the policy.

And so we saw a difference there. And so as a consequence the expected outcome of the working group activities seemed to be different.

And in addition to that the role of the council and the Advisory Committees with regard to the work of the working groups and the membership of the community seem to be different.

And in addition to that some of the internal or operational rules and processes seem to be different.

And so - I mean we have our different expectations. We have our different ways of viewing or treating these working groups.

And yes it is noted that there were some common ground - that there was some common ground when (specifically is that) these cross managing

output should not be taken as an expression of common (consensus) except if endorsed by the (ECO) or the (AC).

And that the (FLs) and (ACs) should commit to timely review and (financing) of the action but we've also noted that there were some aspects in the principals that were not covered.

One of which is who should define the purpose and this goal of the CC working group or the cross manage group. Number two is what should be covered in the charter and as I mentioned there are various - the varying degrees of expectations about each - about what to do with the results of the working group.

And thirdly there seems to be assumptions that when the working group comes up with a recommendation it would be naturally automatically almost automatically accepted by the councils.

And in the (BCs) case that is not always true and so I think we need to - we discussed the need to come up with (making groups) for dealing with cases where differences do occur between the working groups and the councils were - between the councils.

And then finally the closure of the working group, there was no mechanism or any principals describing how to close the working group.

And so as a route forward the (BC) councils discussed that - I mean that we proposed to maybe setup a cross managing working group discussing the principals of the (unintelligible).

Right because we need to talk about the (unintelligible), we need to come up with a common set of principals and identify the areas of (divergence) in the guidelines and the practices of the various (SOs) and the (ACs) and so...

(Leslie): Thank you (ma'am).

Woman: Yes.

(Leslie): It's really helpful and we'll try and keep (unintelligible) and I think what we're saying is we do have some experience now but we need to (bring) that discussion and (Alan) and then (Jonathan).

(Alan): Thank you. As the (unintelligible) person on that working group I think I can say with some authority that you're not the only ones to have those kinds of positions.

We ended up because of the dynamics of the group and the desire to have something which was accepted by everyone on the group we ended up with almost a lowest common denominator of the set of rules.

And which perhaps should have been better presented as a range of options which might be the outcome depending on discussions and that did cause a bit of dissatisfaction within other parts of at large because indeed the outcome did not reflect what we felt should have come out of it which I think is closer to what you're talking about.

And I think there's plenty of opportunity once we now have this next cross community working group to talk about cross community working groups to bring out all of these issues and indeed put it in a frame of reference which will be more acceptable to all the groups.

Stephane van Gelder: I mean the first thing I'd say is thank you because that's a very comprehensive and typical of what I've experienced in your group of doing some proper thorough work and the critic and some practical inputs so it's very useful to get that.

And I'm not sure it makes sense to use this to break down the response to those points because it's quite clear we have a potential working group in which to work through those.

And as (Alan) says we - the way we work is we were attempting to obtain initially and we knew the risks with that a GNSO agreed position but at least it sort of - it forced us to have the discussion to work through things.

And of course at hindsight it may have been that it's come out with something more open ended but nevertheless that this little objective of our work was to come up with an agreed position and your response that is to say very helpful. And if you can offer the link to that I think it will feed into the process.

And I say this without any irony. My one concern is that we - what are the rules of engagement for our actual how we work on this (unintelligible) we're going to have to come into this with open minds because how we work going forward we're determining yet we've actually got to work in that way or as close to it.

So it'll be interesting to see how we get on.

(Leslie): I have - if I wanted to make a comment (unintelligible) just to interject some humor maybe have a happy working group on cross working groups.

Stephane van Gelder: Well (I'll) research and I'm not going to make that (unintelligible) point just to offer a suggestion. One thing that I've felt chairing the GNSO and working with the CCNSO chair and the CCNSO as a group is there seems to be a very strong desire from both communities to work together and to increase.

I'm just talking about these two (SOs) for now to increase the level of collaboration that we have and I think that's an excellent starting point and it also offers an opportunity to maybe not to get mired into the kind of bureaucracy - I can't even pronounced the word - that tends to hinder some

of the work that we do at ICANN sometimes because there are rules because we do want to get things right because we do want to get into the detail of stuff.

But I would venture and this is just, you know, brainstorming but whilst we work on this together we may just want to work on it together and not bother or too much about the structure of the work just try and come together and even if its informal things.

I mean that - what (Jonathan) has just explained why the GNSO went about doing it the way it did was also I think stemming from that in that in the end we thought well we need to get started from our end, you know, for just our community.

And then once we have we'll try and include people, you know, (throw) out the results and then we're thinking it was in no way an attempt to try and grab at the topic and, you know, make it our own. It was just a way of getting started and then in the end just trying to get the ball rolling. Thanks.

(Leslie): We appreciate it. I think maybe a working group can proceed because there's certainly some people interested in this topic. (unintelligible).

Woman: I think that the future community actually understood your intentions of not wanting to grab the topic but what was really clear especially when I was involved in one of the cross community working groups which was (unintelligible) was that first happened with the single character recommendation.

The expectations of - our expectations seem to be very driven from the expectations of the GNSO representative and show I think that's what really made us realize that there maybe differences and we were discussing that and (unintelligible) for taking the initiative. And I would also like to mention that I owe this summary of our discussion to (unintelligible).

Man: Yes thank you for the (unintelligible) thank you. We had a discussion in our constituency (GISP) constituency on the impact of the implementation on (unintelligible) and just (contacts) came in such a very off discussion but we came to one conclusion that we are expecting the need for cross community activity and they're in place.

So that's one point and therefore I think we agreed to work on this how we could deal with it and on the other hand what is also going to (unintelligible) expected and what we could see from our experience in the past we are dealing with different things but treating some in the same way.

So if you look to our core business it's just policy making. If we have some issue to treat these cross community (wise) then we treat it the same way as we are doing with (unintelligible) related things with (outreach) things and the other thing and we should do and think about, you know, how to categorize certain things in that matter or how to make facilitate the way for these different items. Thank you.

(Leslie): Thank you for that. I think we've exhausted that topic for the time being. Let's move on to the item next on the ccNSO list was the operating plan and budget and finances.

You'll be aware if you've survived one of these lunches before. The ccNSO also has a key new trend in ICANN strategy and operation plan and budget and true to form we've put in some comments on the latest (iteration). Olof will speak.

Olof Nordling: Yes thank you (Leslie) and our interests go so far that we have our own working group for that which is called the (SOPWG) and the group - the working group that is. (Initial) objective is more contributions from the ccNSO constituency into the budgeting and strategic planning process.

Like (unintelligible) said I presented comments that we made on the budget and the strategic plan before and before my time (Byron) did. As you probably are all aware during this meeting the ICANN board approve the FY 13 operational plan and budget.

We commented on that budget I'll just share the highlights of those comments with you and well (of course) being the chair of the working group I would recommend for those of you who are interested to read the full list of comments.

Sometimes we keep repeating ourselves and on one of those issues is on the process itself. As a result of recent changes in the process because of the IT outcome, IT recommendations but also because those are very late and not very optimal planning we had a very short period to come up with comments and this is being more often the case.

So we really recommended ICANN to come up with a predictable and stable process and not change it every time and look ahead. Look well ahead and plan (for instance) conference calls earlier in the schedule.

Conference wise I think most - one of the most important comments we made is that ICANN urgently has to professionalize. It has operational excellence and world class (unintelligible) is one of the key objectives and it's our conclusion that there's still quite a way to go.

And if these recent developments it showed that his is definitely a subject that we have to (forge). It is mentioned in the plan for professionalization of the organization but it doesn't get enough attention, not enough priority I think and the changes ICANN is going through make it I think make it very urgent that this happens.

What it also needed was more focus. The plan has 13 strategic priorities and 25 projects. Some run over from the present fiscal year and that if you add

the new (IT) program to that I think the agenda is definitely overloaded and we know that things will have to be (scraped) and its better to prioritize in the beginning to avoid the discussion along the way.

Another comment we made is easily on the present budget is that there's an in balance and there's an operating loss. If you don't include the new (unintelligible) projects or process the cost increase was just under 20% and the revenues increased with just over 10.

And we think it's very important that ICANN gets a grip on their expenses and stops the tendency to - the cost of everything increases every year somewhere between for some projects just under 10% with other projects increased with 85% in costs.

As before we still feel that ICANN has to include qualitative or quantitative measurable milestones in their operating plan. It is very difficult now at the end of a fiscal year to judge if ICANN has reached its objectives because the goals that are formulated are very often in terms of improve, enhance, increase and they're not measurable.

It will be very difficult I think for a CEO or for boards to limit the progress and to correct if things tend to go wrong or too slow in the wrong direction. One of the last remarks I will make and then I will handover is that in earlier budgets we had what we called expense area groups and they're no longer there and I think (Byron) the chair of our finance committee wants to have a bit on that.

(Byron): Thanks Olof. I'll just provide a very brief overview of our most recent finance working group meeting so again those of you who have participated in this lunch before will know that the finance working group is focused on examining the CC contribution methods and levels of contribution to ICANN.

It's a process we've been working on for about 18 or 20 months now and we were well down the path and coming to a conclusion of a revised - potentially revised formula and certainly a revised dollar contribution.

In the meeting that we had yesterday the ICANN CFO indicated to us that one of the primary tools that we were relying on in terms of understanding how ICANN allocates cost to the CCs of course is a number that then provides the key input for us in terms of what we believe the contribution should be to ICANN financially.

Fundamentally the CFO is backing away from that tool AG or expense area grouping that Olof just mentioned and suggesting that it is a tool that he is not prepared to rely on and thus makes it difficult for us to move forward at this point given that the ICANN finance team is no longer confident in the fundamental tool that both parties or both sides of this discussion have been relying on.

As a result it leaves us in a bit of a quandary for the moment which we are working toward sorting out. But it has definitely forced us to begin the process of re-evaluating where we're at in this.

(Leslie): Any comments or questions?

Man: For those of you who have been at this meeting before will know that I'm usually very pleased to hear the kind of work you're doing because it's certainly encouraging (unintelligible) and it's (unintelligible) at a bit of an impasse as far as that's concerned.

(Byron): The news is a considerable surprise coming the better part of two years into a quite well-established, well-defined process so to be perfectly blunt we're at something of a loss, quite surprised at this coming at this stage. So we are in the process of regrouping and reflecting on very new news.

Man: I mean with regard to the comments that Olof went through and of course (unintelligible) we - I mean these have been submitted by the public comments process in any event so they're available - I mean I vote for my reading and making sure that everyone else is aware that this is - that we can easily access what you've done.

My thought is - and this is very much my personal thought - I wonder what, to what extent we would be able to if there's any of us - and maybe it needs to go back to stakeholder groups.

That's probably the best way to do it. But that's useful certainly from my perspective and I know many in my stakeholder group would be interested to see this overlap to some extent with feedback we've given. But

(Leslie): Thank you. That's appreciated (unintelligible) on that. You know, more than happy to share the inputs.

Unfortunately, because of the timing of the comment (unintelligible) to the moment they are giving us a real problem in terms of getting good, meaningful and well-considered input into numerous consultations.

I know everyone must struggle with this unity. We have been talking about the need to balance the desirability for speed in consultation with the desirability of communities being able to give thoughtful and well-considered input particularly the change to the reply period and so forth has shortened for the time initially which is undesirable.

Something that we've been talking about with ICANN this week.

John Berard: This is John Berard, GNSO Counselor from the Business Constituency, and I wonder if you can make sure that I understand before we leave this room exactly what you were saying.

We at the Business Constituency have as keen an interest as the ccNSO does in understanding ICANN budget and Chris Chaplo is Lead for us on that.

And my suspicion is that if two years of your work has been undercut in the last 24 hours then perhaps some of the work that Chris has done has been undercut. So you said that the CFO was backing away from the EAG as a useful tool.

Now are we talking about you know, it's a glitch, it'll be up and running in a little bit? Are we talking about we've been - the money's been siphoned off to former disgruntled employees?

I mean what exactly, when I walk out this door do I get to appropriately say about the exchange you had with the CFO?

(Byron): So the EAG was fundamentally a reporting tool that sits over top of the various financial statements. So there is no impact on the financial statement.

As far as disgruntled employees walking away with money, that has nothing to do with it. This was simply a way of looking at the financial statements through the lens of allocating the expenses to different constituencies, stakeholder groups, etc.

In terms of our contacts, the cc contacts, we were having a dialogue about what is a fair and appropriate contribution number and methodology. That was the key tool by which both parties were viewing the question.

And it's also relevant to the other constituencies because that was the tool that was being used to say GNSO cost this much, (unintelligible) cost this much, etc.

For us it's a particularly high profile topic so we were very reliant on it, very focused on it and had worked with ICANN over the last 24 months in detail on this.

And it continued to press for details and I think as time went on and we kept unpacking this, the numbers coming from this tool, it became evident that it was not to be relied upon in the way that the ICANN finance team was hoping.

I think things as simple as if we recall back one year ago this meeting in Singapore, where our unpacking uncovered the fact that there was a \$2 million reporting error contained within that tool or as a result of using that particular tool.

You know, I think that was just one example of the work we were doing on it, trying to get an understanding in good faith; glad the ICANN finance team to come to the conclusion that they didn't feel confident in what it was producing and therefore want to back away from it at this point.

But I want to be really clear. This is just a reporting tool that takes financial numbers out of the financial system - which are not in question by us - simply that that reporting tool layered on top came into question and not ICANN themselves don't want to rely on it.

(Jonathan): That's a helpful clarification but - this is (Jonathan) - to the extent that if I understood you correctly we as a particular, I guess, the contracted parties decided the GNSO who (unintelligible) sense that that's partitioned up.

They had - the financial management have been using that tool for their costs and the basis on which they might.

(Leslie): Let me just give my clouded view of the world. So there's a new CFO who's a very experienced chap and this is probably key to implementing a new financial reporting system. Big challenge, etc.

So it's a very brave new CFO that comes to CC and says the last two years of work you've been doing is having a change of plans. But however, that's a very honest and useful thing to have now rather than further down the line.

But it does mean we need a bit of a re-think. I think one of the other key message is, is that it does mean that previous stickers that may have been banded about may well be incorrect.

It's rather a frustration and we need to work through a way for it. We will certainly come back to you with (unintelligible).

Stephane van Gelder: So if there's no more discussion on that point, let me just add my thanks and appreciation for the work that you're doing on this and your explanations right off, (Byron).

They are extremely useful to us and for the reasons that (Jonathan) alluded to earlier on we don't necessarily have the ability to do that and that work ourselves and it's certainly good to see that that work is going on from your side.

You mentioned the \$2 million clerical error that you found last year which is probably small change now but still, nice to know that that's a

(Byron): A rounding error now. Yes.

Stephane van Gelder: Nice to know that that can be going on so thank you for that. I suggest we move onto one last topic.

((Crosstalk))

Man: If it would help you we would be very willing to email our comments directly to you at the moment we send them to ICANN as well. Yes?

Stephane van Gelder: That would be great, yes.

Man: Anybody special who we should address it to?

Stephane van Gelder: Send it to me and I'll... thank you. Thanks very much. So (Leslie) and I are suggesting that we just move to one last topic due to time constraints.

And one of the topics that we had was based on the ongoing RAA negotiations in the context with law enforcement and one of the things that we wanted to discuss was the fact that out of those discussions there has been one of the things that has risen from that is the possibility that we bring - well the LEA not us - bring a national data privacy standards into the negotiations that are currently ongoing.

And we wanted to know if there would be - if there were similar experiences from the ccNSO side in dealing with LEA and dealing with data privacy offices at national levels, if that had been addressed at all or not.

And while we're at it we could also just very briefly just looking at (Becky) who's very involved in that, update you on the RAA negotiations.

I mean there's been a - I've just come out of the session on that and that may not be useful because that session was just held before that.

But if (Becky) is willing to be thrown in at the deep end and just give a very quick update on what's happening there that might be useful as well to the ccNSO.

And I see there's a head waving around and jumping up and down on their seat but I was just reading from the text. Feel free to.

Man: Thank you. I think you're absolutely right. Just one point I had agreed to discuss. (Mason) and me had made the point earlier. It may have sort of got lost in translation.

It's not just about the privacy rules. I think they're very important and we'd like to know how different ccTLD operators actually deal with privacy issues when they're dealing with law enforcement both within their countries under national law as well as on cross border transporter availability of data to law enforcement outside of the country.

And that I think the issue also which would be useful is to know how do you deal and how do you give information to law enforcement when a request comes from another country's law enforcement?

Do you say for instance as an example, well you have to (rule) it from my government or my law enforcement or do you say, fine depending on a, b, c, and d criteria I'm willing to give you the information?

That's another additional question that I'd like to sort of, one of the things we intended to bring - (Mason) especially.

(Leslie): I think just the RAA maybe from a ccNSO point of view there is a lot of stuff, a lot of experience to share as (unintelligible) I would say we're certainly not one size fits all.

It very much depends on the relationships in the legislation and regulation and so forth but maybe that area, given we've only got ten minutes left, could form the basis of a useful exchange at our next session. (Becky).

(Becky): Just a brief update. I think that it's fair to say we have succeeded in changing the tone of the conversation with law enforcement and we actually - the gentleman from (unintelligible) got up and mentioned that we had made progress.

That was like a very important thing for us. We've moved forward on a lot of issues. We're quite conscious of the differences in country - from country to country and the significance of having a situation where registrars are dealing with their own law enforcement and dealing with applicable law and applicable law procedures.

But just to follow up on that it would be incredibly helpful for the registrar group to have the kind of input and experience that you have had because we have not been completely successful in persuading ICANN staff that indeed there are serious data protection and other issues.

Stephane van Gelder: Thanks (Becky). (Thomas).

(Thomas): Thank you Stephane . Some of you but not all of you certainly do know that I am also working with (ECO) the German Internet Industry Association which has been fighting topics on data retention for many, many years.

And I think quite successfully so because the European commission now financially punishes Germany for not transforming European directives into national law but that shows the level of complexity that we're dealing with.

Not only at the global level or at the regional level but also between one member country and the European Union. Having said that I think there is a great danger because some of the (unintelligible) operators might say so what because we have a good working relationship with our government and with law enforcement agencies.

But I think that this overall discussion might impact all of us equally because the requests are beyond what is legal in certain jurisdictions. Governments sometimes tend to subscribe to law enforcement requests without taking a closer look at that.

That's my personal opinion but I've been president of the (unintelligible) association for three years which is an organization of national note taking complaints about illegal primarily child abuse material online and we've seen an awful lot of that happening at that time.

So just a word of caution. I think we would all be well advised to talk to our local (unintelligible) representatives and speak to them in terms of managing the expectations that law enforcement should have particularly in the RAA discussions but also in other locations. Thank you.

Stephane van Gelder: Thanks (Thomas). I want to just echo one of the things that (Becky) said which I feel is important from the registrar point of view which is that there has been and there was also in I believe it was on Saturday or maybe yesterday - I forget now - in a session with the GAC.

They're also very positive comments from law enforcement on the status of the negotiations so I don't want to go into detail but just to highlight that as you mentioned in the tone of the conversations changed and I think that is very positive for all the parties involved.

(unintelligible).

(Thomas): Thank you, a comment and a suggestion. First of all I think it does I think it does have and there are certain different views within the GNSO about how much we should use backdoor lobbying with GAC members to try and impact the negotiations anymore.

I think we've gotten to a stage as Stephane and (Becky) respond when things are actually moving smoothly forward. If we were to try and create any waves God knows what might happen. I would caution everybody before they did that one.

But it doesn't take away from the fact that the issues related to that need to be the sort of analyzed and gone into and I think one of the reasons that GNSO wanted to also have more interaction with the ccNSO and pick up, you know, a lot more information from me on this was because you'd like to understand how do you deal with these situations.

It's not just about a question of saying well this is the reason we want to use this exercise for a political angle or a purpose so this is the outcome we're trying to achieve - no it's more about lets sit down and discuss what we can learn from each other it would be helpful.

In that respect thank you for making a point (Leslie). Is it possible and I'm not saying that there's sort of a GNSO question yet and I'll let Stephane respond to that.

It would be helpful that during this meeting and the next we're going to be at that possibly work maybe on an informal working group or something of that nature where we can have that exchange.

It can help with the negotiations currently going on and help many people generally speaking as well. Thank you.

(Leslie): Yes if we can. I think it would be great if we depart with that before this week because we could have done that this week. But yes there are a number of (CCs) who do have a lot of experience in this area such resources we'll just have to share what we can.

I was going to go back further so that it's very clear that you a number of you are very heavily involved in the registrar accreditation agreement negotiation and some of the (CCs) will be approaching this a bit like the financial discussion that we're having.

You've not been involved you're not really sure what the bullet is to ICANN is. I don't know if there's anyone who could speak to that just to get some understanding from the ccNSO perspective but at a high level of what the conversation is about. We don't need negotiation details obviously that would be inappropriate.

Stephane van Gelder: So let me start by saying on the negotiations themselves. It's not quite accurate to suggest that a number of us are involved. There are two parties negotiating, ICANN staff and the registrar's.

If you're asking for a list of the actual discussion points the discussion started from a set of recommendations that were put forward by the law enforcement agencies - 12 of them.

And I'm speaking under (Becky's) control because she knows this stuff a lot better than I do so she'll correct me if I say anything stupid or wrong which is probably about to happen.

But there are 12 law enforcement recommendations 10 of which now appear to have pretty well some level of agreement between the parties involved so two outstanding on which discussions was still going on which I hope you'll agree is why we feel there is some positive progress and I hope if you'll agree that is positive progress towards, you know, resolution of these negotiations to mutually agreeable results.

The actual points themselves I'm not sure time permits now. Do you want to attempt a very short high level...

(Becky): Yes. The law enforcement request involved the greater transparency about the relationship among registrar families greater information publically available about how to make a complaint about abuse of registration.

A better communications channel for serious problems, some clarification with respect to the kinds of abuses that might constitute grounds for termination of the registrar accreditation agreement.

And then verification of the accuracy of the registrar to its data and data collection and retention. The last two points being the ones that we have not completely closed off.

Having said that on the data retention and I think it's relevant the request from law enforcement was essentially to collect as much information as you can and to keep it for as long as you can.

And then that was translated into a very long list of some specific elements and the request was that all of those elements be retained for the life of the registration plus two years and just to hit the highlights that included (log) data.

So, you know, we're talking about keeping web logs or however the long the registration lasts. We have had very very useful conversations with law enforcement.

There in - this is the group actually that probably knows more better than any other group in this organization that when law or government asks you for something they're going to ask you for more than they know they can get and they're going to be willing to accept something less and the odd thing about that is that dynamic had been very difficult for ICANN to understand.

So for example they've asked us to sort of when we said we think law enforcement is okay with us stratification they want a letter saying its okay like that's not what law enforcement is ever going to do.

They're going to say we asked for this we got that it's a good start and they're going to sort of grumble but they'll be, you know, move forward so I think that the - while it's important not to makes waves with the GAC I do think that there has been a sort of - the GAC numbers have sort of started from the whatever law enforcement wants that its beginning to be more nuanced.

But I do think that it is an issue that if it, you know, sort of filters through the registrar accreditation agreement there is no reason that you would not see that coming back to the (CCs) in your individual countries.

(Leslie): Thank you (Becky) and I personally found that incredibly helpful and I hope colleagues did and (CCs) have requirements that we have exceed that but from obviously (cover something) completely different.

So, but actually just learning the stages of those negotiations and their content is I think very helpful to us. We're running out of time I'm afraid. Stephane do you have any closing comments?

Stephane van Gelder: No I was just about to suggest that we need to bring this to a close and just to thank you once again. I've said it before and I will say it again I'm extremely happy that our two (SOs) are pushing towards closer collaboration but the spirit between the two (SOs) I think is very constructive.

It's certainly something that I've seen is part of my mission as it were as GNSO chair who make sure that we have a good relationship with the ccNSO. I believe it's something that the GNSO council as a whole agrees is important and I've certainly felt that it's something that the ccNSO is on the same page with us.

So just a big word of thank you and I look forward to speaking to all of you again very soon. Thank you.

(Leslie): Thank you everyone.

END