ICANN Prague Meeting
RAA negotiations PDP - TRANSCRIPTION
Saturday 23rd June 2012 at 13:00 local time

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(Stefan):   We'll start in one minute. Can you record, the person doing the recording please start the recording.

Coordinator: The recording has been started.

(Stefan):   Okay. Let's start then with this afternoon session. The first one is on the RAA, the Registrar Accreditation Agreement. As you all know there are negotiations underway between ICANN staff and the Registrar Stakeholder Group on this document and for today we have a presentation by Margie to bring us up to speed on what's been happening with these negotiations.

We have some registrar representatives here, Matt Serlin who is the new Chair of the Registrar Constituent, Stakeholder Group, I'll get that right one day, who's sitting over there next to Ching and he will be helping us out as well on this RAA update.

So Margie are you ready? Yes?

Margie Milam: Hello everyone. I'm going to provide you an update, this will be high level and not go into specific issues because we have got sessions throughout the week to deal in depth on some of these issues, particularly on Monday, but I'll give you an overview of what's going to happen on Monday.

And I'm also going to try to focus on the policy aspects because the Monday session will focus primarily on the negotiations.

So as you may recall in (Decar) the board asked for negotiations to commence on the RAA and since (Decar) there's been active negotiations, there's been a group of registrars and group of staff members that have participated in these negotiations which has been over 18 plus meetings.

Some of them day long, some of them face-to-face, very extensive amount of work that's been done to try to evaluate the amendment topics that have been proposed by the GNSO and ALAC drafting team as well as the law enforcement representatives that have submitted some amendment proposals.

And in addition to that there's also been topics from the registrar team and from the ICANN team. Just so you know that there's a community Wiki that, where all this information is posted. Since Costa Rica we received updates on certain of the law enforcement recommendations, specifically on WHOIS validation and data retention on April 30th and May 6th and if you look at the Wiki you can see the clarifications that were provided by the law enforcement representative.

And in anticipation of Prague there's a series of documents that were published by ICANN staff and just recently we also received some documents from the Registrar Stakeholder Group, and Matt can talk more about that when we get to that point.

The other aspect of this project is the issue report, and I don't know if you recall that the board went, directed that the negotiations begin also asked for an issue report request to address any of the remaining issues that essentially are not incorporated into the negotiated agreement at the conclusion of these negotiations.

And so prior to Costa Rica we had a preliminary issue report and then a final issue report was published. And the idea is that once negotiations conclude then the GNSO council can commence the PDP on the topics that weren't addressed.

So with respect to the current status of the negotiations, as I mentioned there's been some informational documents posted, I wanted to clarify that it is an ICANN draft RAA proposal that has been published, it's not negotiated and it's not agreed to by the Registrar Stakeholder Group, but it just gives the community an indication of where ICANN was with respect to the issues prior to the Prague meeting.

As you look through that document you'll see that there's a lot of new topics that have been proposed to be included in the RAA including verification and validation of WHOIS.

There's an enhanced data collection on registrants that stemmed from this clarification that I mentioned from the law enforcement representative they're seeking for additional information with respect to registrants. There's also enhanced resale or obligations in there and the concept of creation of a privacy and proxy accreditation program and also language related to an abused port point of contact for instances of illegal conduct.

There's also additional registrar information that's incorporated in this draft and information that came from the compliance department to try to enhance ICANN's ability to deal with compliance efforts.

And finally there's also a prohibition of cyber squatting, and these are just some of key amendments, there's a lot in the document, I think there's 70 plus pages that were published including a full RAA that has a red line, again only reflecting the ICANN (unintelligible).

And so on this slide I've highlighted the documents because I think, you know, depending upon your interest you'll want to take a look at them and be prepared for the Monday session. There's, as I mentioned, the draft RAA that is ICANN's latest proposal. There's also summary documents that highlight for example how the law enforcement recommendations were addressed and other key recommendations.

And if you're interested in how the agreements changed from the 2009 agreement we've also published a document that reflects at a high level what the changes are from the 2009 version of the RAA that's currently in effect to what is ICANN's latest proposal.

There's also been an attempt to incorporate specific specifications, so if you look at the new GTLD registry agreement you'll see a lot of similar type information that is dealt with in a specification format. We have a WHOIS SLA for example that's been proposed, language that would implement the accuracy requirements that ICANN has requested, and additional registrar operations requirements that relate to the (unintelligible) (IPB6) and (IDN)s.

And also there's been an attempt to try to think up the differences between the consensus policy approach under the RAA to make it more consistent to what's in the registry agreement right now.

And then there's also a specification related to specific additional information related to registrars that would be listed in this document. So if you look at the, the Web site you'll see a lot of information that will show you what the latest ICANN proposal is.

And then this week we've also received documents from the Registrar Stakeholder Group and I've listed them here, I haven't had a chance to review them, and maybe Matt can comment on it after, or if you'd like to comment now Matt?

Matt Serlin: Yes. Thanks Margie. So yes as Margie said the stakeholder group just published a set of documents, we didn't, that ICANN had posted enough for everyone to consider, so we thought we'd add to it, and really what we tried to do is provide not only a high level overview of where her, we think the draft ICANN RAA is today, but also some specific comments on some of the amendments and on consensus policy, data retention, WHOIS.

And then very specific comments on the side of law enforcement recommendations that have been kind of at the heart of what the negotiations have been about thus far. So all of that has just recently been published and a lot of what the discussion is about in the Monday session.

(Stefan): Thanks Matt. Can I just add that, I'm sure all of you have seen it but you know I've sent those documents to the council list, I believe it was either (unintelligible) or this morning so the document's listed and that Matt and Margie have just mentioned are all on the council list for everyone to access.

Margie Milam: Posted it on the community Wiki as well, so it's in there for others to look at. I think it probably posted on the Monday session to so, information so that when people go into Monday they can see, have access to that information as well.

But this is all, I think when you read both the ICANN documents and the registrar documents you'll see there's been a lot of thought in this process. I mean these negotiations are extremely consuming both on a registrar side and ICANN side and involve executives and many members of staff trying to understand and appreciate the other sides concerns to come up with something that is, you know, feasible.

And I just want to, you know as you look at it you'll see this is not something that's been quickly put together but has in fact, you know, been thought through and hopefully will lead to the conclusion of the negotiations fairly quickly.

And specifically with the respect to the Monday session I wanted to highlight that the goal of the Monday session is to get community input, and there's a lot of key issues that are in the documents that have been posted for the Monday session, but I really encourage you to come into that prepared to answer some of those questions because the negotiation teams want to take that information back, assess it and try to, you know, morph the negotiations in order to address some of the concerns that may be raised.

And so it's very important to get as much information as we can in Monday and the questions that we're going to focus on on Monday relate to some of the very difficult issues that we've dealt with in the negotiations.

So for example the question of whether verification of WHOIS should happen pre-resolution or post resolution, that's one of the questions we'd like to receive input on and we've actually identified in the documents that we've published a series of questions we'd like the community to comment on.

Another one is the, when the law enforcement request was phone verification, where they're seeking a return of a unique code, and there's a lot of questions about how that could be implemented so if you look at the session information you can see what we'd like to hear back from the community.

The other law enforcement request is that this information be verified annually, and so we'd like to understand how that would impact, you know registrants and the registrar marketplace and the registration marketplace.

And then an issue that's been highlighted by the registrar stakeholder group is the concept of universal adoption of the other, of the RAA. In other words the RAA if it changes in the way that it's been proposed, is going to incur additional costs and there may be a disproportionate impact if some registrars are on the old agreement versus the new agreement.

And the idea is how to get everyone onto the new agreement at the same time so that one registrar wouldn't be disadvantaged because it's operated under the new rules versus the old rules, and that's the concept of universal adoption and we've identified options in the papers that we've published, we hope we can get community feedback on the Monday session.

So I provided a link to you know, a lot more analysis on what we'd like to talk about on Monday but I wanted the council and members of the various stakeholder groups and constituencies to really try to come prepared on Monday to share their views on these important issues.

And just to highlight, I've made a presentation on this before but once the negotiations conclude we still have, the council still has the issue of following up on the issue report request.

And so the recommendation and the issue report was that the council would initiate it once they receive a report that the negotiations have concluded and that presumably in that report there would be identification of amendment topics that haven't been addressed and then some sort of board direction on you know, that the PDP should begin to address some of those concerns that may not have been incorporated into the RAA.

And finally on the next steps, you know we talked about this community consultation, the other thing I wanted to highlight is that in the GNSO open meeting on Wednesday this is also an opportunity for stakeholder groups and constituencies to provide feedback on some of these questions if they're unable to formulate a position or make suggestions during the Monday

meeting the Wednesday session is also going to have that as an agenda item.

And then it's anticipated that the negotiations will resume after Prague and then the next steps after that would be that the fully negotiated RAA would be published for GNSO approval then there'd be board approval, and then somewhere along the lines is council would commence the PDP remaining issues.

And then I've provided here just information on where you can get some of the documents that I've talked about.

And that's it.

(Stefan): Thanks Margie. So before I open it up for questions let's just check Matt. Matt did you want to add anything to that presentation or should we just open it up for questions? Okay.

In which case I'll start taking queue, before I do that though I've realized that I've forgotten to do one very important thing which was to thank both Wolf and Jeff for standing in for me this morning and to apologize to you all for being late, unfortunately I had other business which prevented me from arriving on schedule, so once again thanks to (Jeff) and (Wolf) I believe, so everyone tells me anyway it was perfectly executed stand in so well done, and thank you.

So can we open it up for questions? I have (Thomas), I have (Wendy), I have (Jeff) next to me, (Wolf), let's start with (Thomas) then please.

(Thomas): Thank you (Stefan). Thanks for the presentation, I have to say that I don't envy you for being landed with this topic, which is very controversial, and extremely challenging.

I do understand that in this effort you have, or not maybe you personally, but that staff has drafted a new version of the draft in order to make it easier for people to follow the conversation. I have to say that I don't find that very fortunate because the law enforcement requests are requests. Once these requests are transformed into a draft it's not like a requesting party asks for something to be incorporated into a contract but like the registrars now are trying to negotiating something out of the contract.

So it might just be something not, you know just trying a level playing field for everybody to work on, you know so that was my instant reaction, although I see the benefit, but I just think that it sets a different type of tone right, the law enforcement requests are in the agreement and the registrars are trying to get it out and I feel sort of uncomfortable with that notion, particularly since some of the requests that are made (controvene) the laws of the jurisdiction that I'm living in.

(Stefan):   Thank you (Thomas). (Wendy).

(Wendy):   Thanks. I agree with much of what (Thomas) said, I was also concerned by the degree to which staff appeared to be adopting wholesale the recommendations of law enforcement despite most of opposition from the community.

And so the question that I have is really where can the community comment and how can we get feedback on our comments and that those comments have been heard. I have made some comments on the Wiki and as far as I know they've evaporated into nothingness because the number of Wiki pages keeps proliferating, is there a reason that a public comment forum with a standard threaded e-mail isn't set up so that the comments can be collected someplace?

I appreciate that there will be an opportunity to say something in a microphone on Monday or Wednesday but I think it would really be good to

have a place for collecting public comment rather than simply encouraging (unintelligible) to file comments with the board because that's the comment's spot of last resort.

(Stefan):   Thank you. (Jeff).

(Jeff):   Yes before I make my comment can I just ask a question, who from ICANN's negotiating team is actually in this room? One...

Woman: (Unintelligible).

(Jeff):   Okay good. That's, I'm glad to see that because I think that's, this is an important discussion.

Woman: And Tim Cole and myself as well.

(Jeff):   Oh you're on it as well?

Woman: Yes.

(Jeff):   Okay. Great. Thank you. The...

(Stefan):   Sorry (Jeff) can we just name the people then because just a show of hands just doesn't come across well on the people for the people listening in remotely.

Woman: From, that are here or...

(Stefan):   Just the people that, can you just give us the names of the people that put their hands up so the people listening...

Woman: Oh sure.

(Stefan):   ...remotely can know who they are?

Woman: Yes Sam Eisner and Tim Cole.

(Jeff):   Okay. So I want to echo the comments raised by (Thomas) and just add another layer to that because the registrars are very much in a defensive mode, which I don't think is actually appropriate.

                 I also want to add it's not just the law enforcement requests that are soon to be adopted but ICANN requests. There are a lot of provisions in that, in those documents that just came from ICANN, didn't come from law enforcement, didn't come from anyone in the community, things like the ability to revoke the contract because you decide that that's not the right business model or whatever the words are used.

                 I think it's totally inappropriate, it was inappropriate when it was inappropriate when it was attempted for the registries, it's just inappropriate here but now unfortunately the registrars are in a defensive position, and I noticed that it's not even a topic for Monday.

                 All of the topics for Monday are ICANN topics that it wants feedback on as opposed to you know why is there no feedback asked from the provisions that ICANN has asked to be in those agreement which came out of nowhere?

                 And I'm not saying that they're not good thoughts and I'm not saying that you know but it seems like it was derived by the legal team of ICANN and but without the community basis for those, and so things like you'll, what (unintelligible) included or changing the picket fence, things like the revocation, that's, that should be on Monday's agenda as well.

(Stefan):   Thanks. (Wolf).

Man: I have...

(Stefan): Sorry. Thanks (Jeff). I have (Wolf) next) and then I have comments remotely from Steve Metalitz and Avri and Matt wanted to be in the queue as well. So (Wolf) please.

(Wolf): Thank you (Stefan). Well just for a question for my understanding where this negotiations team is staying. You have showed in the slides, slides today the documents so from staff and from the registrants and I would like to know the what is the status of source documents, is it, so what is, if its are these partly or in total accepted documents or are these (unintelligible) documents where are we, what is the expectation with regard to those documents. Is there a qualifying possible to have an outlook on what we can expect from those documents?

You know that is also interesting for the question we raised with regards to the, in connection with the WHOIS motion, WHOIS which is on the table and I would like to learn about that and would really know what is going on, what can we expect from that? Thank you.

Margie Milam: As I mentioned the documents are not agreed to by the registrars so we're not presenting that in any way as a fully negotiated document. It reflects a lot of discussions over the last few months but there's, you know areas of disagreement and I think the documents that were posted by the registrars actually identify where there's disagreement and Matt did you want to talk about the approach you guys took in putting together your documents?

Matt Serlin: Yes that's right. So the documents that we posted both talk about where there is agreement where there's currently outstanding agreement as well.

Margie Milam: But in terms of timing I don't, I don't know that we have any you know, estimate at this point, I don't know.

Matt Serlin: No I don't want to set expectations so I don't think that we're in a position to talk about a timeline at this point.

(Stefan):   Okay. Thanks to you both. Can we go to Steve Metalitz remotely please?

Woman: Yes (unintelligible) reading on behalf of Steve Metalitz. He makes a comment stating (unintelligible) to (Thomas) it is useful that staff has published a complete draft (unintelligible) RAA so that the community can see actual contract language on the discussion rather than paraphrases or brief summaries.

                 And if we can go on to the question from Avri. A question from Avri Doria, have the data protection and privacy authorities from the interested nations been consulted on the same level as the law enforcement authorities in the same respect and with the same focus?

Margie Milam: And to answer I believe on Monday's session it's one of the questions we've posed to the community is how to get the data protection authorities interested in this issue and that's something that we'd like to hear from the community on how to do that.

(Stefan):   Thanks (Margie). So Matt and then (Alan).

Matt Serlin: Thanks (Stefan), I just wanted to make a couple additional points and to pick up on what (Jeff) had said, you know it's our expectation that there are some items that are in the draft documents, which at least from the registrar side will not be in the final documents so there'll be some things that we hope to have (unintelligible) from the current agreement and then we anticipate that there will be additional things that would get into the agreement and again those are topics that we have put in our posted papers as well.

                 And then I do want to continue to encourage, you know public input both to Steve and to (Wendy)'s point about you know draft documents being out

there that the goal really was to get a sense of where we were and to get community feedback on the documents as they exist today, so I don't know Margie I don't know if the comments on the Wiki aren't, you know if (Wendy) thinks those comments aren't there or we just need to make sure that those comments are, you know, that that comment forum is sticking. Thanks.

(Stefan): Thank you. (Alan).

(Alan): Thank you. There was a comment about the desire to make the new agreement effective immediately and not have to wait for five years to ensure a level playing ground for registrars who are subject to new agreement, to the new terms. Is there any methodology discussed of how that might be done?

Matt Serlin: No and it's a good point and I think that is one of the points on the Monday session is we haven't yet talked about how to get registrars onto the new agreement when it's final.

(Stefan): Thanks. Marika can I have another remote question I believe?

Marika Konings: Yes this is Marika, I have a question on behalf of Kristina Rosette. She asks has ICANN staff generated a summary chart of the high and medium priority topics that came out of the GNSO drafting team and if not are there plans to do so?

Margie Milam: We did that after the Costa Rica meeting but I don't think it's been updated to reflect what was in the latest draft so, I know we did do it at one point, I can push it back to (unintelligible) if you want to look at it, but we certainly have been looking at those, I mean the negotiations did not focus just on the law enforcement ones but did look at the broader high and medium priority topics from the RAA drafting team.

(Stefan): Thanks Margie. Any other questions, and I will remind everyone in the room that there are two microphones there and I suppose they work, please do

stand up if you're not on the council and do want to make a comment or ask a question and come to the microphones as (James) is doing, and just introduce yourselves and ask the question. Thank you. (James).

(James):   All right. Thanks (Stefan). (James). Margie would it be possible on the next iteration of the scorecard or the staff draft that you would indicate what the origin of each of those changes would be whether you can draw a straight line to the LE or GAC recommendations, or if they originated within ICANN legal or ICANN staff, I think that would be helpful to label those so we can see where they're coming from. Thanks.

(Stefan):   Any other questions or comments? If not we will bring this session to a close early and use the time for the next sessions, I'll look towards the people handling the remote participation just at the back of the room just to tell me if that's possible because we have, we still have a lot of work to cover including the preparation session for our meeting the GAC later on today.

And that's just to remind everybody that we are meeting with the GAC today and we usually meet with the GAC on Sunday, we had to bring that forward for this meeting and we will also be preparing our session with the board tomorrow and there are a set of questions that have been sent to the list by Glen on the board, our meeting with the board.

And as far as our meeting with the GAC goes you have on the sheet in front of you the list of questions and topics that we have written down through our discussions over the past weeks in preparation for this.

So let's bring this RAA session to a close, have a five-minute break and then restart with the next session, which is one where we will discuss two important points for the council and the GNSO community. One is the workload that we all face and how to deal with that workload generates, and the other is the motions that we will be considering on Wednesday during the open council meeting.

Five minutes and then we'll start again. Thank you very much.

END