ICANN Prague Meeting
Registrar Meeting 4th Session- TRANSCRIPTION
Tuesday 26th June 2012 at 15:30 local time

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Coordinator: Excuse me. This is the operator. This conference is now being recorded. If you have any objections, you may disconnect at this time.

Please go ahead. Your lines are open.

(Tim):   Thanks (Matt).

I was asked to just put out a reminder about these - the strategic planning sessions that are set for this week. One is set in direct conflict with (James)'s thing tomorrow from 9:00 to 11:00, so we don't really want to push that one. But, there's also one on Friday if people are still here from 8:00 to 10:00 in the morning.

But you know, this is just to provide guidance to the current strategic plan process, so it really probably would be good if some people could attend one or the other of those sessions just to make sure your voice is heard. Thanks.

Man: Thanks (Tim).

Hi (Wendy).

Man: Microphone's - all right. Tomorrow morning from 9:00 to 11:00 and then another - the same thing. I mean, so either session is just a duplicate of the other one, so...

Man: Congress 3.

Man: Right. Congress 3. That's this room.

Man: But registrars are busy tomorrow at 9:00, right?

Man: (Unintelligible).

Man: To tell other people from other stakeholder groups.

Man: No, you (unintelligible). (Mike Long) will attend.

Man: Oh, okay. Thanks.

                   So we've got (Wendy) here who's joined us. Welcome (Wendy). And she wanted some of our time, so we definitely wanted to make room for her on the schedule. We've done that. We've got the registries coming in at the top of the hour, so I'm just going to turn things over to (Wendy), and the floor is yours.

(Wendy):   Thanks. So I'm here from the non-commercial stakeholder group. And as some of you may have heard in our interventions in the discussion of the registrar accreditation agreement, we have grave concerns about many of the demands being pressed by law enforcement for data collection, data retention, and WHOIS validation and verification.

I think that many of the specific requirements there would be harmful to privacy interests and harmful to the free expression interests of individual and organizational non-commercial registrants. And we're looking for the best ways to give input to the negotiations process and to the negotiation team. We think we share a lot of common interests with registrars in avoiding burdens that would be passed on to registrants.

Any burden on the registration process is one that makes it harder for you to offer services to us as customers. And so among the specific things that we're doing, we're convening a drafting team tomorrow morning to work on a one or two-pager to send to privacy and data protection officers to invite them and encourage them to send input into the process so it's not only one sort of law enforcement that's being heard, but those in charge of enforcing the consumer protection laws as well, and - because there are governmental interests in data protection and data privacy. And so we hope to engage some of those voices in the discussion.

We are also planning to write in individual comments and encourage others to make their voices heard in this process. So I wanted to - sort of a dialog around that and to ask if there are other ways that we might work together on these issues.

Man: Sure. Thanks (Wendy), and I've got Jeff, (James), (Elliott), and (Greg).

Jeff Eckhouse: Okay, thanks. Jeff Eckhouse here.

So we appreciate it, and I think one of the - some of the feedback that I received after our just sort of session there with the Board is they've seen - the Board members have seen the ICANN staff document - the draft. I guess you could say that's, you know, their draft at how they would like it. And, their sort of thought is, "Well, staff likes it. It seems the community likes it. Why can't registrars just sign it?" It seems like they're the ones who just are against it.

I think for the non-commercial stakeholder group, and I think you made your voice heard yesterday, but I think it might be imperative to let Board members know that you as members of the community do not agree with the draft as posted by ICANN and that you are not happy with it and you cannot - as members of the community, you don't want to agree to that either as it's drafted.

And I think that that would be a huge help to us. I mean, we've been pushing that argument and let people know that, but I think they just - you know, as I think (Mason) has stated, they think of registrars as the stakeholder group of (no), so I think they - you know, they sort of discount that.

But what I hear from other members of the community that they are not happy with the drafted agreement as posted that it would be a huge help for us.

Man: Thanks Jeff.

            (Wendy), you...

(Wendy):   Yes, so we're meeting with the Board in parallel to this, and as soon as I leave here I'm going to go over there and make sure that they've heard that concern both at this meeting and in follow-up written communications afterwards.

Man: Thanks.

            (James)?

(James):   Hi (Wendy). Thanks. And you know, we're fortunate in this particular issue that the wrong thing to do is also the expensive thing to do. But you know, we want to emphasize I think that it's not necessarily about the bottom line. I

think that in private conversations, I've kind of half-heartedly commented that, you know, if we could completely eliminate cyber crime and only double the prices of registration and inconvenience everyone, you know, I think that would be worth entertaining.

But I think at the bottom of this entire discussion is that this is a completely ineffective way to approach the problem.

So I think we're encouraged that other stakeholder groups are interested in this and that are seeing the bigger picture here, which is that registrars are not just simply taking their ball and going home. That we are looking out for our customers because you know if we don't do right by them, they won't stay our customers very long.

I'm curious though, is there any other discussion within other stakeholder groups regarding the staff issues and the way - I'm - the more I listen to folks and the more I discuss these, the more our meetings I'm growing increasingly uncomfortable with the idea that the GAC and the GNSO and law enforcement put forth this raft of issues, and that staff just kind of put a wish list in - attached to that - stapled to the back of that page.

And some of those are extraordinary in - just in terms of contracts in general, but in terms of just having a nuclear option over this entire industry.

And so, I'm wondering has there been any discussion aside from WHOIS validation - verification and WHOIS - and data retention? Has there been any discussion about the staff issues in your stakeholder group?

(Wendy):   Thanks (James).

I think we started with the WHOIS issues. But to the extent that the other issues would be used as ways to impose a form of intermediary liability or

pressure if not quite liability, because there's the threat that if you don't act right we can revoke the contract, they would be of concern.

I would be interested - now that we have the draft with the language that they're trying to push, I will be looking at it more closely and would be interested in having conversations with any of you about other issues that you find concerning.

Man: Thanks (Wendy). Thanks (James).

         (Elliott)?

(Elliott):   You have (unintelligible) - two points (Wendy). The first is that - you know, just a note - you know, a thought to keep in your head. I've had a couple of people play back to me the - you know, that in the discussion on the RAA yesterday that they heard you concede that verification is inevitable.

         Now, I was in there. I heard what you said. I also know the part that might have confused them, and you know and that coming from you, it carries a fair bit of weight on this point. And so I note that for you to maybe, you know, be a little careful about that.

         The second is I would really encourage you guys, you know you, (Robin), whoever - I mention the two of you because you're both lawyers, although there's a number of them on the (NC) side. You know, both the staff version of the agreement and our version of the agreement are posted, and I think if NC was to post their version of the agreement that would be very, very powerful.

         There's nothing that would stop you guys from doing it. I think you probably wouldn't have to engage in a ton of work because you don't have to go through the whole agreement. You can really focus on the one or two sections that are most important for you. And you know, you could also do

that, you know, with the patina of you know being the folks who understand the privacy both issues and laws best. You know, better than either staff or registrars do.

And you know, there's nothing to stop you guys from doing it. It becomes very public. And you know, my experience is that those things have a lot of weight. And so I think that that would be probably a very material contribution.

(Wendy): Thanks for the suggestion, and I will see whom I can recruit among my lawyer colleagues to help with that project.

(Elliott): Let me know if you need help recruiting.

Man: I've got (Ray) and (Volker). (Ray)?

(Ray): Hey, thanks.

To kind of follow-up on (James)'s thought might be - another area, and this is one of the staff recommendations I think, and we talked about it with (Curt) this morning about the rescission of the contract if the business models change as kind of an opportunity to really change things up.

And I'd point - I'd direct you to that because I think in - you know, the greatest voice that you guys have and that we have in a lot of members of the community have is through the GNSO. And if there's the development of kind of external extra GNSO processes for policy development, those will likely get used more. And I think that the - it's my thought that - as someone who has a great stake in the GNSO, that your voice would then be diminished.

So if you're looking for areas where you could provide input and it's not the kind of previously well-known hot button issues, but also the staff ones to put more color to (James)'s comment, I think there could be some traction there.

The second one would be - this is - and this is not necessarily for this meeting, but another area of collaboration I think between our groups would be in the (unintelligible) - we just came from the Board discussion where we talked about the - you know, kind of emergence of (ITU). And just as, you know, we have an alignment of interest with respect to certain aspects of the RAA, I certainly think that we could have an alignment of interests with respect to, you know, transition of authority to the (ITU).

So as you guys are thinking about that and we're thinking about how to respond to that, you know, there could be opportunity for collaboration. And so just to suggest to think about it and maybe next time we talk in Toronto we'll have more commentary.

Man: Great. Thanks (Ray).

(Volker)?

(Volker):   Yes, just to add to Jeff's and (James)'s comment. One of the problems that we faced during the negotiations has always been that when we raise privacy issues and public interest issues, ICANN staff has kind of accused us of making this a cost issue only.

When we voice these issues, we're not as believable as parties that are directly involved. So we're welcoming your involvement and your willingness to engage ICANN on these issues. And coming from other parties than registrars, these issues will be a lot clearer to the Board.

In the end, we believe that a lot of these propositions, while they may aide law enforcement, in a way they are way out of proportion to the goals that will be achieved. Effectively, we are shooting guns - cannons at little birds to achieve these goals if we were to follow ICANN's suggestions.

And we believe there's severe privacy and security issues for the Internet and for the registrants that have to be addressed. And we cannot address them effectively because we are always - we'll always be seen as having ulterior motives bringing these up.

(Wendy): Thanks.

So I'm hearing that the arguments about cost are not particularly effective, but are - so we tend to emphasize the arguments about privacy, security, integrity of domain registrations, and ability to engage in lawful uses of the Internet.

None of us on non-commercial stakeholder group wants to see lawlessness on the Internet either, but we don't think that these are effective means for attacking unlawful activity. So I think we share a lot of those concerns.

(Volker): Cost has never been an argument that I can accept it, so we have not relied on that argument. Still, every time we make an argument that is not related to cost, we are pushed back to what will the cost of this be and are making it a cost issue?

I think - I've got the feeling that for many members of the ICANN negotiation team this has also been a matter of public image. And I think we would be sacrificing a lot of freedoms and consumer choice for public image measure.

Man: (James) real quick and then Michele.

(James): I'm not sure that it's a cost issue or cost argument. It's thrown up at us whenever we try to advance other arguments. It's kind of the counter-argument to anything registrars think. "Well, you don't want to do that just because it's expensive." And the answer is it's - regardless of its cost, it's wrong to do this.

And so, you know, I just wanted to clarify that. Thanks.

Man: Thanks (James).

Michele?

Michele Neylon: Again, just reiterating what everybody else said, we really do appreciate having input from the non-commercials. And one of the things that - I don't think has been raised is with the - with a lot of this talk about the validation or verification, there is a very high risk that you end up with registrations only being offered to people in certain countries and by companies in certain countries.

I believe one of the African registrars was here this morning and spoke to us about how in certain parts of Africa they can only - the only thing that is anywhere close to reliable is a mobile phone, yet most of them are pre-paid so they don't really tie back to a real person anyway.

I personally have very strong views, and as I think you've seen my Tweets and blog posts and everything else on that, so I won't bore you with repeating it. But again, as (unintelligible) have said, for us to make any statement of this kind, it is far too easy for ICANN and others to think that we have ulterior motives.

Of course we've a vested interest - well let's face it; for some of us, we make more money from hosting than we do from domains.

So we know it's - and ultimately if our clients are upset, if their domains go dark because they missed a revalidation email or something like that, who's going to actually protect them and who's going to protect us? It's completely unreasonable.

(Wendy):   Thanks. I think that that's where it helps that we can point to members in countries in the developing world who have direct experience with some of these challenges and can help speak to the problems that they would face if forced to validate or if forced to interact only with businesses that could do that. The barriers to entry for businesses from those countries and the barriers to registrants who might not have easily verifiable information. But nonetheless, want to engage in online activity.

Man: Thanks.

                  (Volker)?

(Volker):   You know, one further issue is that verification also is complicated when the registrar is doing business internationally. In many countries, the registrant will probably prefer not to go through a registrar in his own country because of security or privacy issues because that registrar might be bound to release that data under certain conditions to people that the registrant would not like this data to be released to.

                  He would then turn to an international registrar who suddenly became unable to provide registrations in certain countries because he's not able to validate the data because of certain national/local specialties.

Man: Thanks.

                  So I think, unless anyone else has any other comments that we are probably going to free (Wendy) up to - Thomas? Yes?

Man: Just Thomas, if you would, just make sure to state your name because we've got some folks from (unintelligible)...

Thomas Rickert: My name is Thomas Rickert and I'm one of the non-com appointees to the GNSO Council, and thanks for giving me the opportunity to speak.

I would just like to make one point that I already made to the Council, and that is that I think that the cost issue is an issue that needs to be raised. I think with every dollar that a domain registration costs more you increase and perpetuate the digital divide. And I think each region of the world should have reasonably cheap or affordable access to their piece of virtual property. Thank you.

I don't say that I disagree, but this is an argument that we could not make stick with ICANN staff. Every time we try to raise this topic and broach the issue of cost, it was quickly turned around not to the cost of the registrant but the cost to us and our bottom-line.

So every time we make that argument, it backfired on us.

Man: It - just one thing. I think though that Thomas said it well, and the argument needs to really be not that it's the cost to the registrars, it's the cost across the entire ecosystem. And not just dollar costs, it's social costs and (unintelligible).

Yes, (Chris)?

(Chris): Yes, that's exactly what I wanted to say. I think the twist here is that it's not - usually, the ICANN's hearing like, "Ah, it's too expensive so that is hurting your business," and that's the edge - what they don't like.

But what Thomas was saying is not - it's not about our profit and our costs, but it is about what end-users which are not capable of paying let's say $10.00 or so, have - what kind of problem they have.

So I think it's a new twist to that argument.

We fully agree. The only problem is whenever we raise that topic and raise that topic as cost to others, ICANN only wants to hear the other parts. No matter how we raise it, it's understood in the wrong way. So if others raised the topic it may become heard. If we raise the topic it will always be - it will always fall back to our costs.

Man: Yes, (James), go ahead.

(James):   Just to be clear, it's not a matter of whether it's true or whether ICANN believes it. It's a tactic that's used to discredit us. So it's - yes, it's - I mean, we can believe it. We can violently agree with each other and with the other stakeholders, and I think Thomas makes a good point about the digital divide. I mean, there are I think two registrars serving the entire continent of Africa.

If it becomes too risky to serve Africa, there will be zero registrars serving the entire country. You know, so it's - but it is - it's not a matter of the cost is real or not real; it's the tactic.

Man: Okay. If it's the tactic, what can we do to counter-tactic? Is that a word which even exists?

(James):   Rely on friends to raise the - friends and allies.

Man: Okay, I think we're good (Wendy), if you want to go two doors down. Thanks for your time. I appreciate you coming in.

(Wendy):   Great, thank you. And thank you all very much for the meeting that we've had and look forward to continuing the conversation.

Man: Great. Thanks.

So we have a - we can take maybe two minutes while the registry folks bring themselves in and come up to the front of the room.

Oh, right. So yes. Sorry. We need to stop the recording now and then we'll start it up again after we start with the registry folks.

Well, I see Jeff Neuman at least. The single registry representative. I thought you guys were like the - oh, (unintelligible). Sorry. So NuStar has the entire registry market cornered here. Great.

I did also want - I also wanted to remind folks that we have drinks with the Board tonight at 7:00 in the Atrium, which I think is that - up on the Mezzanine level. Is that right? Jeff, do you know? When they say the Atrium what the hell they're talking about?

Man: (Unintelligible)?

Man: No. No. No. It's above - I think it's above - I thought it was upstairs where the little café - yes, right. Right. That's what I think too.

               Anyway, we'll - we will...

Man: I'll check and let you know.

Man: Yes. It's 7:00.

Man: If you see a bunch of registrars, that's probably where it is.

Man: That's a good point.

Man: (Unintelligible).

Man: (I had two in the fridge).

((Crosstalk))

Man: Yes. Send them up to my room man.

Man: Microphone, very - for very important information.

Man: It looks like it's between check...

END