

Transcription ICANN Toronto Meeting
Non Commercial Stakeholder Group (NCSG) Meeting

Tuesday 16 October 2012 at 13:30 local time

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Coordinator: Excuse me.

This is the conference coordinator. I would like to inform all participants today's call is being recorded. If you have any objections, you may disconnect. You may begin when ready.

Thank you.

Robin Gross: Thank you very much.

Hello everyone. My name is Robin Gross. I am the chair of the Non-Commercial Stakeholders group. And welcome to this afternoon's meeting of the Non-Commercial Stakeholders group.

We've got an attendance sheet going around. So if folks would be kind enough to sign up on the attendance sheet when that comes to you, I'd really appreciate it. But let's get started.

First, we can - let me go through the agenda. We can introduce ourselves, and then we're going to hear a brief update on our morning constituency meetings. And then we've got a few key policy issues that we want to talk

about, and then we can prepare for our meeting with the Board of Directors this afternoon.

And then we can talk a little bit about how we can work better on outreach and participation and getting more people engaged in the policy-making process here at ICANN.

So why don't we get started then. And I'll start down here with Avri. Avri, if you - if you could introduce yourself and then we'll move on down. Thank you.

Avri Doria: Hi. Yes.

I'm Avri Doria. I'm an individual member of NCSG and also a member of NCUC.

Wolfgang Kleinwachter: My name is Wolfgang Kleinwachter.

I'm with the University of Aarhus in Denmark and I'm a - on the NCUC and I council on the GNSO council.

Wendy Seltzer: Wendy Seltzer -- NCSG representative on GNSO council and -- among other things -- founder of Chilling Effects Clearinghouse.

Milton Mueller: Milton Mueller -- Syracuse University School of Information Studies and NCSG Executive committee member.

Maria Farrell: I am Maria Farrell.

I am an -- sorry -- NCUC. I am from - I'm Irish, from the U.K. and I am going to become a GNSO council member for Europe for the NCSG starting tomorrow.

Kathy Kleinman: I'm Kathy Kleinman.

I go back to the founding of the Non-Commercial Users Constituency, now a member of (unintelligible) NCSG, just came off the Whois Review team and -- I don't know -- too many Working groups and task forces.

David Cake: Hi. I'm David Cake.

Currently the - still the - briefly the interim chair of NCUC and on - as of Wednesday an incoming GNSO councilor for the NCSG -- also was formally a member of the Security, Stability and Resiliency Review team, which I mention because it might come up in this call.

Brenden Kuerbis: Brenden Kuerbis -- outgoing NCUC Executive committee member.

Robin Gross: And again, my name is Robin Gross.

And besides being the chair of the stakeholder group, I'm with IP Justice in San Francisco.

Wilson Abigaba: I'm Wilson Abigaba from Uganda -- member of NCUC.

Marie-Laure Lemineur: Good afternoon.

My name is Marie-Laure Lemineur. I'm with (Sicard) Costa Rica and a member of the Executive Committee of NPOC. Thank you.

Alain Berranger: Hi.

My name is Alain Berranger. I'm an Executive in Residence at Schulich School of Business here in Toronto -- York University. I'm also your chair of the NPOC - the constituency.

Klaus Stoll: My name's Klaus Stoll.

I'm the membership secretary for NPOC, also the Executive Director of Global Knowledge Partnership Foundation.

Eduardo Monge: My name is Eduardo Monge.

I represent the Omar Dengo Foundation in Costa Rica, and NCSG and NPOC member. I'm also a member of the (unintelligible) Executive committee -- I'm their Communications committee chair.

Glen Reichart: Glen Reichart.

I am with US Ignite -- a US non-profit whose goal is to create 60 applications that you couldn't run on today's Internet.

Rafik Dammak: My name is Rafik Dammak.

I am a GNSO council for NCSG (unintelligible) tomorrow and I am also a member of the NCSG Executive committee.

Roy Balleste: I am Roy Balleste -- professor and Library Director of St. Thomas University in Miami and NCUC member.

Robin Gross: Okay. Well thank you all. And welcome and thanks for coming.

We thought we would get the afternoon started with a very - some very brief updates from the constituencies on their morning meetings. This afternoon we meet in the (unintelligible) here.

But in the morning NCUC had its meeting and NPOC had its meeting, and so now is our chance to come together and briefly share what we - what we each talked about in our respective constituency meetings this morning.

So I'd like to ask the chair of each constituency if they'd please give us just about a five-minute update on this morning's meeting. Alain, would you like to -- Alain Berranger, the chair of the NPOC - the NPOC. So would you like to give a quick update on this morning's discussions?

Thank you.

Alain Berranger: Sure Robin. Thank you.

We had 2-1/2 hour meeting and we started by going over the activity of the constituency since Prague. And I won't - I won't go into the details of that. We also looked at our activities in Toronto and also a quick look forward on what we were planning to do to Beijing and forward. More about that when we talk about item 5 -- increasing outreach and participation.

We then had the chance to hear about a commonwealth organization called the Cybercrime - Commonwealth Cybercrime Initiative. So it's a - it's an organization to capacity building in the Commonwealth countries, and it's hosted by its - the Secretariat is hosted by COMNET Foundation in (unintelligible).

And we had the chair Dr. Joseph Tabone come to tell us about this initiative. COMNET is a not-for-profit and will shortly become a member of NCSG and NPOC.

We then - we then heard Vanda Scartezini of the - of the Nominating committee and her team come to explain to us what -- well, she gave us NomCom 101 and also to explain the activities of - the 2012 activities on the Nominating committee. We at NPOC do not yet have a position on the - on the NomCom and we have requested it. And it - I think it's - the process is ongoing.

And our next activity is that we were introduced to the ATRT -- so ATRT 101 again for us. And also Alice Jansen and Olof Nordling gave us a presentation on the ATRT too, and asked us to help them with their mandate.

And the last activity we had was in kind of a preparation for our - I guess our most important event tomorrow, which is a multi-stakeholder process discussion. And we are holding that tomorrow in collaboration with At-Large.

So the At-Large representatives Rinalia Abdul Rahim and Jean-Jacques Sunbrenat and Evan Leibovitch came to present to our members and our - and our remote participants the R3 paper and - which will be a part of a - which will be embedded in our discussion tomorrow about the - how to evolve the multi-stakeholders process at ICANN, but also to bring an outlook from the outside with our professor Dr. Sam Lanfranco from York University present a paper on how multi-stakeholder models outside of ICANN are used.

And he will dwell on the ILO model -- he could have picked another model, but that's an interesting one -- the International Labor Organization model. Sorry about the alphabet soup.

And then our meeting - our meeting ended. Thank you, Robin.

Robin Gross: Thank you very much Alain.

If we could now turn to the chair of the -- well first let me ask if there are any questions. I apologize. I apologize. Have any questions? It looks like Avri's got a question. Go ahead.

Avri Doria: Thank you. I have one. Thanks for the report.

I was wondering in terms of the NomCom, has anybody explained to you why you didn't automatically get one on becoming a constituency, because I thought it was all constituencies had a seat on NomCom.

And so I don't understand how come you guys didn't just get one when you became a constituency. Thanks.

Alain Berranger: Hey, I think this is the first time I can actually answer a question from Avri. And not because the question is lousy -- it's because I never have the answer.

So on this one, yes, I think the principle that each constituency has a seat on the NomCom is an -- you're absolutely right, of course. And we were tipped very early - we learned very early that we had to just make a request.

And the reason why it didn't happen automatically -- there was a couple of reasons given, which seemed quite reasonable to me. One was that when NomCom was created some 12 years ago, I believe, or some - a long time ago, it was embedded in the status of the organization. And of course at that time the status did not plan or did not -- on that specific of NomCom participation was silent on what would happen if there was a new constituency.

So then they had to just -- and in order to change the status, you have to prepare the text and then it has to be a board decision. So it had to line up on the - on the board court of decisions.

And the - we - but, you know, Avri, you probably told me a little bit better than a year ago, and I said, "Well, you know, why don't you let - you let us sit as an observer so that we can learn about the process and we will be less dumb when we start next year when we're on the NomCom."

And they didn't buy that argument that we would learn anything. They said the train is - the train has left the station and it's a lot of - we write a lot of CV analysis page and we don't see much value in you doing it.

So we are waiting for the decision. I'm - people whisper in my ears that I - it won't be very long, but I have not - we will not participate in the Toronto meeting of NomCom.

Robin Gross: Yes.

And if I could just very briefly add, it's because it requires a bylaws change to the ICANN bylaws. So they have to actually change the bylaws to say there is a new constituency that gets a seat.

That's how - what - how it was explained to me by the board.

Avri Doria: Okay.

So hopefully they'll fix the bylaws to just say constituencies get a seat, as opposed to having to change the bylaws every time a new one is created.

Alain Berranger: Yes.

I used the - Robin, I used the term status where I should have had used bylaws. Sure. Thanks.

Robin Gross: Thank you.

Okay. Any other questions? Maria?

Maria Farrell: Sorry.

I - my ears pricked up when you mentioned the International Labor Organization just at the end there. And I'm afraid I hadn't caught the beginning of that sentence, so what was that about?

Alain Berranger: Okay.

The - we - tomorrow the NPOC is running a workshop panel discussion on the evolution of the multi-stakeholder (unintelligible) model at the - at ICANN from the perspective of the NGO.

It's a bit of a (unintelligible). It will be from all perspective. And one of the ideas we had was to bring in an outside resource in the person of Dr. Sam Lanfranco, who will present generic knowledge about multi-stakeholder partnership outside of ICANN.

And he will use as one example of the - of the use of the multi-stakeholder model the International Labor Organization, which has a very unique structure, but a multi-stakeholder's process.

Robin Gross: So Wolfgang, you have a question?

Wolfgang Kleinwachter: No.

I have a comment to the last thing. I would be very careful in going along this way, because the International Labor Organization in an intergovernmental organization which includes other stakeholders.

The ILO is not an organization which can be compared with the multi-stakeholder model which has been immersed in the Internet discussion. And, you know, because the nature of the ILO -- regardless of the involvement of trade unions and private corporations, you know, is that the government's on the top of it.

So in the Internet governance caucus, the governments are one stakeholder among others and they have to play the role in their respective role and not as a - on top of a - of a hierarchy, and the ILO with all respect is a hierarchy.

Thank you.

Robin Gross: Yes, Klaus.

Klaus Stoll: Wolfgang, with your respect, we didn't take any kind of position or made any value judgment or anything in - with that respect.

We are just mentioning the paper of somebody who is taking the information with the organization as an example. It doesn't represent any of our positions or any of our proposals that - this is absolutely clear.

Robin Gross: Thank you very much. Okay.

Seeing no other questions, let me turn it over to David to briefly tell us a little bit about what NCUC discussed this morning. Thank you.

David Cake: Thank you Robin.

So we've pretty much divided the - our meeting into two halves -- one about, you know, internal constituency matters and one about an organization and the other half of our policy.

I won't talk too much about the policy half, because almost all of that is - essentially will be in either in 3 or 4 on the agenda here. But in particular, we made a few decisions.

We decided to - that we are going - the NCUC policy event on Friday was such a - we all agreed was successful within the useful outreach tool and other things, so we are going to -- as well as a - but an - but an outreach tool for new members and a good way of making it clear this - the value of NCUC to ICANN in - as a sort of experienced well-focused policy-based constituency.

So we are going to continue to do that and we certainly - we decided - and we decided that Beijing was going to be so important that we will do that again for the next meeting, even though that puts in a fairly short timeframe.

So we made the resolution to have another policy event in Beijing similar to this one, and hopefully with a little more ICANN support this time in terms of both (unintelligible) and simply publicizing it and - but making sure it's on the schedule earlier in time.

We also discussed - added changes to our charter. We are going to revise our constituency -- we already resolved to revise our charter and send an update to the membership in order to better harmonize our charter with the Stakeholder group charter, but we also decided that - made the resolution that in fact we're going to try and modernize our charter in a number of ways and probably change the way our Executive committee is instituting and things like that.

We didn't actually decide what all of those changes would be, but we made the resolution to work on it. We also -- what else did we do? That was the - that was the majority of our - the internal housekeeping work.

We also talked about a little bit about some outreach strategies and so forth, how we are going - very briefly about how we're going to do travel allocation just to clarify it to the membership.

And we met with NomCom as well. We had quite a bit to say to NomCom, I think, about the - how we feel the feedback (unintelligible) were appropriate, you know, how to - how to better focus their -- well, we felt they might focus their choices and called them in for some more transparency in process.

That's (unintelligible) we discussed a number of policy issues that will come up in 3 and 4 on the agenda, so I won't waste any more time discussing them. Yes, we'll get through them then.

Is there anything else? I think that was everything we discussed at the NCUC meeting. Well, I...

Robin Gross: Okay. Are there any questions for David?

David Cake: I think we had - we decided we added - we're going to add a few non-official positions.

So (unintelligible) it was basically getting a bit more organized in terms of allocating people to work on our Web site and things like that.

Robin Gross: Do we have any questions from the membership for David Cake? No?

Yes Alain?

Alain Berranger: Not quite.

I - although I am a NCUC member as an individual it's - I will make a suggestion as the chair of the other constituency. We -- and I - this is a good time to mention it, although I (unintelligible) I could mention it to you.

But I was lucky enough to catch the second half of your policy session on Friday. And I certainly, you know, (unintelligible) that this is something that could have been -- not a criticism, by the way, when I say that -- it could have been a Stakeholder's group policy in the sense that we could have - if we had been involved, we could have - we could have helped.

So not a - not a criticism -- great - it was a great piece of work. And - but the reason I'm mentioning it now is that we at NPOC are planning a one-day workshop too, early in Beijing, and there might be some value in considering having a single Stakeholder's group policy workshop.

I don't have precisely (unintelligible) on the table now. I know what we were - we are planning to do. And what I'm suggesting is that if the idea is (unintelligible), then perhaps we should consider having a group of - another group of - another group look at the possibilities.

We'd help to coordinate also funding and a level of that for some things like that, but that's our suggestion.

Robin Gross: Okay. David?

David Cake: Yes.

Certainly if you're planning a workshop as well, we'd be interested in coordinating so that we don't clash or anything. I mean, we do - we do consider the two - I think we consider the two constituencies a little bit different in that you are a membership-based constituency, or you're, you know, defined largely by your membership and what - in serving their, you know, serving your membership-specific requirements, while we see NCUC as a - has always been a more policy-based.

And there's nothing -- that actually is a - that's not a criticism in any way, as well. That's a useful differentiation. But -- and - but we do realize this is sort of - I mean, this is a policy event, which is what NCUC is for, basically.

So we want to focus on it, but we certainly will be very willing to have - to consider speakers from, you know, NPOC and anything else. We - the NCUC event -- it would be organized by NCUC, but there's certainly absolutely no intention to restrict the participants to NCUC members, quite (unintelligible) we're expecting it to be - to draw on a really broad range of people.

Robin Gross: Yes. Milton and then Wolfgang.

Milton Mueller: Well, I would say that in so -- I mean, again, the focus of our conferences is policy and promoting, you know, really substantive discussion of certain policy issues so that if and when NPOC and NCUC have a consensus on policy issues, it should be discussed at these meetings.

And I would - I would see a definite role for cooperation going forward.

Robin Gross: All right. Wolf?

Wolfgang Kleinwachter: Yes.

I only want to express my (unintelligible) that we avoid such clashes, because this would make no sense, but it means we at least would be a coordination. When the (unintelligible) the NCUC has a large number of members from the academic world.

And what we discussed this morning is that we want to link the event in Beijing and also in (unintelligible) to do outreach in particular to the - such universities in the city, and we have already outreached that we have two or three academic partners, you know, in Beijing so that this will be co-hosted by a local organization.

So it would be not a - let's say a (unintelligible) NCUC event, but I'm absolutely in favor that we, you know, have a high-level communication in regards to the direct preparations.

And as it was said by previous speakers, it should not be seen primarily as an - there are speakers come only (unintelligible) from constituencies. But as a (unintelligible) from outsiders, like an outsiders from other constituencies and in particular from the Non-Commercial Stakeholder group, I think this is for sure.

But let (unintelligible) have formed already a small (unintelligible) committee, and the best thing is we communicate directly at six months to go so that we avoid any clashes.

And if we have two events from the Non-Commercial Stakeholder group, it's even better to raise the voice of the Non-Commercial constituencies, you know, within the ICANN context, so because this voice is probably sometimes a little bit (unintelligible) on (unintelligible) things.

Robin Gross: All right.

Were there any other questions for David from - about this morning's meeting? Okay. Seeing no other questions. Let's move on to the more substantive policy issues on our agenda.

We've got three sort of main topics to discuss today. The first one is the Registrar Accreditation Agreement amendment negotiations -- where we are with that and what we - what we wanted to accomplish and what we think - how we'd like to go about doing that.

The second issue is the developments in IP rights for new gTLDs -- the URS and the Trademark Clearinghouse, in particular. And the third issue -- our - is the request for special rights for - in new gTLDs from the Red Cross, Olympic committee and IGOs and possible consideration of a PDP on that issue. So those are sort of the three main policy issues that we're going to go into it in a little bit of detail today.

So let's start with the RAA amendment. So we understand that we had a briefing in our policy meeting on Monday from some of the negotiators representing the registrars in these negotiations with ICANN and law enforcement -- Becky Burr of Neustar and Matt Serlin on - also both of - with working with the registries came in and spoke with us and gave us a nice

update on what has happened since Prague and where the key levers are now.

Just sort of quickly summarizing that, it sounds like there were 12 main points that law enforcement agencies -- or I should say some law enforcement agencies -- wanted to have closure on/wanted requests for.

And apparently, they've reached a negotiated compromise and accommodation on about 11-1/2 of those issues. There was still a few points that were sort of sticking points ICANN had -- let me just briefly say what they are.

ICANN has asked for a unilateral revocation right to registrars to be able to take away their registrar license at some point, should they decide they want to do that. So the registrars are pretty incensed about that, and from my perspective, understandably so.

The, you know, this is a bit of an overreach, if you ask me, about what ICANN should be asking of registrars. I think it's looking out to promote this corporate interest here and not really the best interest of the Internet.

So that was one concern that was remaining. I'm trying to -- there was a -- help me out if somebody else can remember. I can dig through my notes, but if somebody else can remind me...

Kathy Kleinman: Pre-validation or post-validation.

Robin Gross: Yes.

Can you talk a little bit about that Kathy?

Kathy Kleinman: Sure.

Actually, the full term would be pre-registration validation or post-registration validation. The - I think they're moving toward post-registration validation, so rather than holding up the registration process, people are -- somebody's got mail -- somebody - the idea that the registrars have about 15 days after registration in order to check some amount of data and verify it and have the person prove they're really the person, the organization, or the company.

So they're moving -- the question has been pre-validation - pre-registration or post. They're moving towards post and they're looking for some support on that, but that would be okay with us. The world doesn't come to an end.

And they point out that changing the market significantly probably wouldn't be (unintelligible) people really are used to registering their domain names quickly and getting their causes, their organizations, their fundraising, their business activities out quickly.

The other question was what type of data should be verified -- whether you do it pre or post. And there had been a long discussion in Prague over Email or phone -- could be cell phone -- and they're - the registrars are leaning towards one or the other, which is frankly what some of us had urged them to do in Prague, because it turns out that there are different sensitivities on this.

In the US, I would never put my cell phone number out on a public database. It's a private number. It turns out the Europeans don't have that same sensitivity -- of all things, they're really concerned about their private Email addresses. They don't put their Email addresses into directories, whereas I don't consider that to be a personal piece of information coming from the US.

And I was kind of amazed, and I actually spoke this at the Prague meeting. And you'd be amazed how many people came up to me in the hallways from Europe and from the US saying that they agreed.

So I just thought I'd register with my hat as a member of - as a past member (unintelligible) disbanded of the Whois Review team, the standard that we advised was contactability -- that as long as you could reach one piece of information and reach somebody -- particularly if there was a technical problem -- it didn't matter from the Whois Review team's perspective whether it was Email or phone.

So we've advised the registrars to go either way, and that's what they've advised - they've asked for in the new version. And so I'd love if we could support them on post-registration validation and Email or cell phone -- whichever one is kind of consistent with their culture.

Robin Gross: Kathy, thank you so much for reminding us of that.

Wendy -- yes?

Wendy Seltzer: So I wanted to raise a couple of other points that came out of that discussion.

One was that Becky also brought to our attention some other places where the contracts had been changed and - or where the ICANN staff Negotiating team was proposing changes to the - to the contract that were - we're not getting the -- a change to the contractual picket fence -- the definition of issues that must go through policy development process and when they go through that process can then be changed on the registrars without re-negotiation of the contract.

Things that - so things outside the picket fence are matters for contractual negotiation between registrars and ICANN and can't be changed without changing the contract, things inside the picket fence are items that can be changed by consensus policy and the signatories to the contract are bound by that consensus policy, even if they object and are in the rough on the consensus developed there.

So ICANN has changed in some of the contract that language to include content - policing related to the content at the use of a domain name -- not just domain-level non-content, and that apparently staff has been saying, "Well, the community would complain if we changed this back to make the picket fence more stringent."

I think we should say, "No, in fact the community," or, "This part of the community will welcome that. We don't want registrars policing content. We don't want registrars to be drafted as content police. And so we want these contracts to not give the - anyone the ability to make that part of their role."

So rather than letting the staff continue to argue that they speak on behalf of the community here, I think we need - we could usefully speak up with our input and as well as in the other places where sort of staff has been carrying law enforcement's arguments on the negotiation and needs to hear there are some places where we disagree with the law enforcement position -- some places as were set out in the Article 29 Working Party's letter.

(Derechos Digisalis) from Chile also put in a letter explaining some of the problems with data retention and validation. And I think we need to continue advocating those positions, even if there's only a half a issue remaining to be settled in that negotiation.

Robin Gross: Thank you very much for that, Wendy.

Yes. I think it's worth pointing out (unintelligible) was an issue that will be discussed quite a bit this week -- both at the GNSO council open forum tomorrow and the board - the public forum with the board.

And I think it is important for us to go up to the microphone and express these concerns that we - that we've heard -- concerns about asking registrars to be the police, to control - to police and control what goes on in their systems, and this post registration data issue, and some of these others that we've

heard. So I think where - the place where we can be effective on these issues right now and particularly this week is in these public forums taking (them up on it) and sharing our concerns with the community on these issues. That would be my thought on it. Does anyone else have anything to say on this one?

Okay, seeing no other hands, I've got Kathy and then Milton.

Kathy Kleinman: Just that I think it's a great idea to go up to the microphone, both the council and in front of the board. Because I think in a lot of ways, the registrars have been fighting for a lot of registrant rights, and so I think they need to be applauded for that. They really worked hard.

And Michele Neylon from BlackKnight in Ireland, Elliot Noss with Tucows in Canada, I mean they are going to the mat for registrants. And so if we can kind of support even though the compromise might not have everything we want, to support where they are and support them as a group that they've done a good job, they've worked hard.

Milton Mueller: So just picking up on something that Wendy said and a warning to our M poc colleagues who are new in this space. So apparently, somebody said that the community would be upset if the picket fence was defined more narrowly, and this is a standard thing that happens. That the community gets defined by certain people in ways that clearly don't include us, so just be aware that that happens.

And it's pretty clear that the community that they are talking about are the business community and trademark advocates and those of us who you know don't want to do that, and it also tips you off to the misuses of this term, the community wants that you know definite article. We all want the same thing; it's just that you know we are defining it in a way that doesn't include you.

Robin Gross: All right, any other thoughts on this. all right, okay let's move on to the - actually, let me just comeback to this quickly just to say what we heard in the

forum what are the next steps on this RAA amendments B. the staff is hoping to put out for public comment a draft by the end of this year, so end of December/early January, and they are hoping to have this agreement finalized by April, so that's sort of the timeline that we are on on this issue.

Okay, let's move on to the next issue, which is the recent developments in intellectual property rights for new gTLDs, the URS, and the trademark clearinghouse. Let's start with the URS, and I know Kathy Kleinman has been extremely involved in this issue, so if you could give us a quick update on that, I would really appreciate it.

Kathy Kleinman: For everyone who has already heard me talk about this, I apologized. But you know after - we had a smaller meeting, an executive community meeting, on Friday. And after we had that, I thought you know I may have pitched this wrong. It's not- there are some interesting - let me give it by way of background and then let me tell you why it's actually a positive and not a negative of what we have to do next and that's (not unusual) for us. We are normally in a negative position and we are in a positive position now.

So first, the URS is the Uniform Rapid Suspension. This is the ultrafast, ultra quick, ultra cheap, ultra (unintelligible) of taking down domain names in the new top-level domains. It's strictly for new top-level domains. This is designed to be something really where you look at it and almost on its face, it's very clear.

So you know tiffanycounterfeits.com you know is probably - you can take a look at the Web site and if it's a set of counterfeits, it's going to come down pretty quickly whether it's the UDRP or it is the URS.

And so this was a mechanism that goes back - it was suggested a while ago. And when NCUC came in or MCSG I guess by then, we fought for due process, we fought for additional time to respond, and we fought to make sure that every single dispute was reviewed by someone with expertise. And

that's the situation called the default, and I just want to read to you what we actually wrote into the URS as part of the new Applicant Guidebook, which I still carry around in paper because my network keeps going down.

6.3, all default cases proceed to examination for review on the merits of the claim, and that was a big win. We really feel that in the new gTLDs, you've got a lot of domain names that are going to be IDNs, International Domain Names. They are going to be in different scripts. 14 days isn't very much time, so you can imagine someone getting a notice that they are a part of - their domain name is subject to Uniform Rapid Suspension?

They are a non-profit, they are an individual, they are a small business or an entrepreneur, they are operating in a country where English is not their first (unintelligible), and nor does it fit the spam filter. And I'm not making this up because (unintelligible) the UDRP thing. I mean we get this actually.

And so 14 days, you may not be able to respond, you may not be able to find someone who can help you respond. So the idea that someone with trademark expertise - and it doesn't have to be a celebrity attorney (guys); it doesn't have to be you know the top trademark attorney in the world. But someone with expertise who is actually looking at that to see whether it's a legitimate criticism site or a critique site or a non-profit that just happens to be using a basic word that is also trademarked.

Somebody using their last name like McDonald, or Smith, or Jones, all of which are famous trademarks in certain categories of services, but someone really looking in and evaluating is this - you know is this legitimate on its face. Does it belong in the quick, dirty, cheap process or should it be someplace that takes into account many more of the nuances of freedom of expression, free speech, freedom of assembly.

So there is a push now that the URS isn't cheap enough - some of the big providers. (Unintelligible) Intellectual Property Organization in particular and

has come back and said, "We really can't do it at your price point" and so there is a motion to change the substantive rules and just make it faster. You know if people default and don't show up, why don't we just say they lose. And my answer is no, don't you remember? We've spent a lot of time working on this guide. No, the answer is no.

And a lot of - and I wanted to tell you that the good news is that the community - and let me use that in its best sense. The GNSO, which unanimously approved the STI, which is the small community that worked on this - the STI Group and the (unintelligible) are our friends. And they are our friends guys and they are coming up to bat for us. Intellectual property attorneys, (Paul McGrady), and Mark Partridge, are defending the compromise.

Jon Nevitt said, "Look, there was a whole group of people in Prague at a meeting on this and said we worked through every dotted I, every crossed T, don't change this guys." So where they are going is to recommend procedural changes. Don't have any paper; make it all email. That's fine. I'm okay with that. Batch it so that if (Maria) is a judge, we give her five or ten at a time, so she can just sit there and go through it.

I've got a CircleID article that says not to say accepted or dismissed, have a box that you can click if you are the judge, and say it doesn't belong in this forum. This is not a quick and dirty decision. It doesn't belong here. Take it to a different forum the UDRP or (ORG), so we think that there are ways to make it faster and cheaper procedurally without changing a word of the substance.

And so I wanted to ask you if you see any of the URS proceedings coming up, if you can go up to the microphone or if you can go to the Webinars and say no automatic default, and there is another (unintelligible) I wanted to let you know about. It's called Administrative Examination. That means that

somebody who is not a lawyer is going to look through it and they are not going to know the nuances of the law.

We want a lawyer to look at this and no administrative review; we want a substantive review by someone with expertise of every URS case that goes through. It doesn't have to take a long time.

But the good news is that communities supporting us - a lot of pressure is coming from outside. There are a lot of large intellectual property owners that actually visit the Department of Commerce in the United States every week and have for months now saying they want more protection, and so we don't want to slide changes to the URS into that lobbying effort.

And the community is ready to stick with us. All we have to do is push through support for where we are, and that's a good position to be in.

Yes, Mary.

Mary Wong: I think I'm having the same trouble, Kathy, that you had this morning. And so just a couple of follow on points.

One is that ICANN is very clearly concerned on the URS issue right now really about providing the services as agreed from the SGI recommendations at a price point that the IRT originally contemplated, which is \$300 to \$500 per proceeding. And there is a request for information, an RFI out right now, for providers who think they can do it to submit intent letters to ICANN.

There is a panel this week that's going to be WIPO and NAF, and I don't know who else. I think one way that our community (who has) these contacts can help in the point that Kathy is making is if we know that there are institutions or people who would be able to provide those services at that price point, encourage them to submit the RFI or respond to the RFI. That's one thing that ICANN is most concerned with right now. The more alternative

proposals that are on the table, the easier it will be to divert away from the substantive points.

Then on the substantive points, I think this - the push on the part of some (rights holders) isn't necessarily to go back just on the URS substantive grounds. There is not full agreement on the default rule for example and some of those things are being discussed, but the move I think is broader and to tie into more second level protections.

So that makes the way we manage this a little bit tricky, but I think for now, the immediate priority is if we can get providers that will be able to do it in the price point, then ICANN will be interested.

Kathy Kleinman: And I have a copy of that notice. It's called Uniform Rapid Suspension System for New gTLDs - ICANN Seeks Service Providers, and written responses are due November 20 and there is a set of questions. You don't actually have to put in a proposal request, but it's a set of questions.

Wendy.

Wendy Seltzer: Yes, thanks. I wanted to take a quick take away from that. I hear go up to the public microphone and express support for the FTI Report, which really had community consensus, and you can do that on the substance or on the procedural matter. That is the board overrules this or allows the constituency to circumvent the consensus of the community by appealing elsewhere or rehashing things that were decided, that hurts ICANN in its ability to make decisions by bottom up community consensus.

Kathy Kleinman: Right. The support is for the Applicant Guidebook, as written, as adopted, so again I think that's a great position to be in. On Thursday at 11:45 in Metro East is the URS Session, so it's going to be a big session again on Thursday at 11:45 Metro East, so come in and join us for the fun.

But again, the community is pretty much in the same place. It will be interesting to see where people - some of the people from outside participate and present their case.

Robin Gross: Anyone have anything else to add on this. No questions, okay, and then let's turn to the Trademark Clearinghouse and Wendy is going to give us a quick update on that.

Wendy Seltzer: You know so the trademark clearinghouse had a workshop yesterday and has another presentation later this week. This is the proposal where trademark holders can put their marks into a database that registrations will be checked against as - and notify would be registrants that somebody has made a claim on this name. If you proceed to registration, you may face a challenge to your registration.

It's not a blocker, because as we know, trademarks are in particular classes and jurisdictions. And if you are trying to use the mark or name in an unrelated way or a way that would be permitted by trademark law, you may proceed to register.

A lot of the discussion at this meeting or workshop was about what this clearinghouse will look like. Technically and contractually, ICANN has one proposal, the registries and many others have come together around an alternate proposal that proposes an active query database rather than a distributed list.

There are some bizarre requirements that the Intellectual Property Constituency has putting forward around encryption to keep private the list of publicly registered trademarks. And if you were wondering into that meeting and didn't know what it were about, you might be puzzled to hear privacy arguments being made that sound awfully like the arguments that we sometimes make about privacy of individual persons and associations.

Registering domain names and are argued against by the IPC this time on behalf of companies who don't want their publicly registered trademarks to be widely known even though a condition of trademark use is (used in commerce). And usually, the purpose of a mark is to be widely (known).

So it was a good spirited technical debate around the possibility of encryption to do what the IPC wants and a whole string of technical folks getting up to say this won't work. We will see what comes out of that and how this clearinghouse gets confirmed or reorganized.

Robin Gross: Thank you, Wendy. Kathy, you had something to add.

Kathy Kleinman: Yes, does anybody - has anybody studied the two different models, the two different trademark clearinghouse models on the floor? Good, because I would love to know you know what your opinion is of them.

I did want to add one thing. I attended the Webinar that took place before ICANN to kind of listen to some overview presentations, and I just wanted to let you know one thing that really concerned me was that some people - I think they are consultants to ICANN, but I'm not sure.

They seem concerned that we might even be disclosing the trademark information to the registrant, and I pointed out that, no, that was exactly what (unintelligible) the notices so that the registrant would know what the trademark is that seems to correspond to the domain name that they are holding and also what category of goods and services that trademark is in and what country it's from. This is very important information to the registrant. And I want to make sure that this doesn't get swept into this idea that the database itself might be mined for how many trademarks you have. Whatever (happens is) the registrant really does need this information. I worked on it. Including the notice (you know last period), with the intellectual property guys and we both agreed that the registrant is entitled to this information. So if you

see anything where someone is pulling back on that, please let us know because that's important. Information is the whole basis of this.

Robin Gross: Mary, did you have something to add onto this issue?

Mary Wong: In view of the time, I guess maybe we can talk about it at some other session because there are some details and I really need to cull it up, but let me just say real quickly that not actually on the specific point Kathy just raised, but there is obviously a concern on the registry side about costs and about how to do the model the way that ICANN is proposing or to do everything that was requested. That it would impose a greater burden of cost on them.

So one instance for the alternate model was to try to make sure some of the security concerns, which Wendy is talking about, are met to some degree without too much exposure, but also to meet what they feel is a reasonable cost burden.

Kathy Kleinman: And I thought the registry did a good job presenting it too. Seems a reasonable model.

Robin Gross: Thank you all. Anyone have any questions or something to say on trademark clearinghouse or even URS at this point?

Okay, well I think - thank you guys for this update.

Let's move on to the next issue, which is the special rights for new - in new gTLDs for the Red Cross, the Olympic Committees, IGOs generally, and the consideration of a possible PDP on this issue. And Avri Doria has really been doing the lion's share of representing NCSG in this working group or I should say this (stress team), a very important distinction. So Avri, if you could - if you wouldn't mind giving us a quick update on this particular issue.

Avri Doria: Sure, this is Avri. So at the moment, it's in the GNSO's hands. I guess there will be a GNSO vote on it. there was an NCSG statement on it basically that there are two parts, and one of the things that's always been confusing is that this was ongoing before the board's request for comments before January 12 that they would make their decision.

There is you know sort of a confusion in is this actually (their response). I think it is, but of course, that's then again up to the GNSO to decide what the response is.

The working group - I mean - excuse me. Even I'm doing it. The Drafting Team, which is most definitely not a working group, because it's not chartered, and it's not distributed, and it's not as diverse. They came up with a set of recommendations.

The first is that they do recommend a - whether it's a temporary reservation or a moratorium that there be a moratorium essentially for the same names that (were blocked) at the first level. That they also be blocked at the second level until such time that there was a PDP type resolution to the larger question.

(Unintelligible) the idea that a PDP should be started and that this sort of flows into the PDP for which it was already an issues report request that had to do with IGO names and a subset of international NGO names. Those that were treaty based with national support - with sufficient national support. And then the third part of the resolution is that a letter be written to the GAC saying Dear GAC, this is what's happening. In other words, Dear GAC, we are recommending that temporarily they do what you ask, but that there be a PDP to actually review it.

There was what can be called rough consensus. There was full consensus. No, there was rough consensus (to both). There was rough consensus on the (acceptance) of a moratorium and a temporary reservation with the exception

of me as an individual member and with NCSG backing that up with its own position.

And there was almost full consensus but rough on starting the PDP. Essentially, I think it was the IPC that sort of said, "We don't think it's necessary to do a PDP on this, but if others want to, we can live with it." Now this drafting team was only considering the requests in terms of the Red Cross/Red Crescent movement and the IOC.

It was not talking and it did not consider the IGO issue or the international NGO issue, nor - and one thing that did come up is that - at least my impression was that both Red Cross and Red Crescent and IOC really wanted something other than what the GAC was asking for in terms of - please stop me from echoing. I totally lose my concentration when I hear myself talking.

So basically, even this moratorium that was being recommended for just those names being blocked, for example not American Red Cross, but just Red Cross. But just those names being blocked didn't even really satisfy IOC and the Red Cross/Red Crescent. So I think that's pretty much where it is.

So the recommendations certainly (act in personally) making NCSG hasn't gone quite this far, but I already submitted comments. It is that there is time enough for the board to come up with a temporary moratorium or temporary reservation right before somebody is about to get into the root.

At that point, they could look at how far the PDP had gotten and sort of you know the PDP will have definitely done its initial report by then. It would have definitely received comments by then and should all things being equal be closing in on its final report. So the recommendations of the PDP would be fairly strong and stable, so if they have to make a board decision without a prior PDP decision, there should at least be more information on them.

Whether it's the minimalist that people - I think NCUC by and large takes a minimalist position with some of the other stakeholder so we don't need more reservations. And then there are Mpoc and others that take a more maximum position that we need a wider range. However, it falls along that scale, we would have better information.

The other point that was brought in in a drafting team but is nowhere in the request is that if we are increasing the names on the reserve list, the reserve list at the moment - is there one reserve list. And that would mean that any of these reservations would also involve the incumbent registries and would involve some way of dealing with how the incumbent registries would need to deal with the fact that obviously these names are already out there. And so if they have to pull them back, how much time do they have to do it, how would they do it, et cetera.

So I think part of our recommendations has been - A, and people should talk about it. There is only one reserve name list. There isn't a reserve name list for new gTLDs and a reserve name list for old. You know what's good enough for the new is good enough for the old. If this needs to be done and that's what a PDP is for is to figure out if this needs to be done and what, it should be done for all.

Robin Gross: Thank you very much, Avri. We've got a comment here from Klaus. Let me just take a queue and then - and Alain and then - hold up. Let me write this down. I've got lots of hands and I'm going to...

Man: (Unintelligible).

Robin Gross: Yes, so (unintelligible). Go ahead Klaus.

Klaus Stoll: First of all, thank you Avri for excellent work as usual. And I think on behalf of Mpoc, we would like to congratulate you in participating in that thing.

I would like - everybody knows my private position on that topic and I would have never thought that there would be something actually positive coming out of it, but at least in Mpoc, it is for us. And what happened is that some of the Mpoc members and some of you have seen it. It just simply came up and said look, why should we protect one, why should we protect two, we should think about ways to protect all.

And I think that also we haven't come up with a very practical way to make that happen, but I think it's a good idea of - it's a good starting point for a policy discussion. and I just want to mention it here and I also am quite happy that this seems to show that Mpoc not only could manage to get a policy group together, but also starting to thinking to make policies, which I think is actually quite a good development. Thank you.

Robin Gross: Thank you very much, Klaus. And then I've got Alain and then Kathy and then Milton. Did I see another hand? David, okay.

Alain Berranger: Thank you, (unintelligible). Avri, I really like your approach and your suggestion. It's sound and it's practical, so - and after you explain the rules of support or (silence), I didn't want to be silent on this one, but to tell you that I think it's really a great proposal.

The other thing I would put on a slightly different look is I think what emerged on the Mpoc voice was just a very spontaneous. And for the very first time, we had kind of a floodgate of our numbers being small. A floodgate is a big term, but there was 100% consensus about this situation that - protection for one is just not fair and why not (me).

So this became very clear and we have taken positions in the past going back to Costa Rica. We introduced the notion of putting protection to an international (unintelligible) filter, but then we were getting into the work of a PDP group. We talked about UN plus 10 or UN plus 200 and the reality is that

for the first time, Mpoc loudly on their own email list said - great for the Red Cross, but it's not great for me.

So that's what I wanted to add.

Robin Gross: Thank you, Alain. Okay, let's see, Kathy, and then Milton, and then David, and then Mary. Any other hands? Okay, go ahead.

Kathy Kleinman: Statements in question. First, congratulations to Mpoc on policy work. That's awesome.

I'm coming new to this issue. I haven't been following this closely; mostly because we were finishing up the Whols Review Team Report during some of the initial days of this, but let me just recall the history.

Going back to Network Solutions, there was a case called the Lockheed Martin Case where the registry was asked to review names before registration. And Network Solutions said, "That's not our job. Let trade markers police their marks. Our job is first come first-served registration in a secure way, in a rapid way, our job as the security and stability of the net as a registry, not policing marks."

And they were sued over this. It went to court. This is mid to late 90s, and they preserved that right. So I think that's a valuable right and a little bit of history.

And so you know I look at all the new intellectual property protection mechanisms and new gTLDs and I hope that it will help nonprofits, non-commercials, and (visual) businesses. I hope it will serve the purpose because we've done a lot of work to get to them.

Avri, here is the question. Why would the reserve list - we have so many things that are applying to new gTLDs because they are a little different and

also because they brand new. Why would a reserve list apply retroactively to existing gTLDs and how can we possibly do that?

Avri Doria: Okay, should I answer that or wait until you've gone through your list?

Robin Gross: We will go through the list, yes. Okay, Milton. I'm sorry. I saw a hand from that direction. David, I apologize.

David Cake: I just wanted to say I was talking to people from the Red Cross just during the break between the two - between the constituency and stakeholder group meetings and even within a few minutes you know it was clear that the issues are complicated enough that we really do need a full PDP. It's really - I don't see how - the idea that we can just quickly put something in place rather than a full PDP.

That they are quoting specifics of international humanitarian law, which is very - you know which definitely differs significantly from normal trademark law. And even with that, I think I managed to find a good example of a case where you couldn't just block on-stream at the second level.

And the second entity - there are (string) similarity issues that are really significant. I can't see how anything but a full PDP can be reasonable, so we've just got to bite the bullet and do it, and it's just a matter of how. As Avri explained, how we get along in the meantime.

Robin Gross: Thank you, David. Mary.

Mary Wong: Thanks, Robin. This will be quick. So the council is set to vote on the initiation of a PDP for this issue this Wednesday. And I haven't gone around to the different groups to find out who is voting for what, but assuming that this passes the necessary voting threshold for a PDP, two observations.

One is that I would encourage those who are interested in the issue to look at two things. One is the wording of the motion, and secondly, the contents of the final issue report. Because as Avri says, the scope is for the IGOs and what are called INGOs, International NGOs, and that is somewhat different from how membership started that discussion.

But that really wasn't the point. I just wanted to say that we are going to vote on this and it may pass. And if it does, here is my second point. Then I think that's when some of the real insights will come back. Because since there is going to be a drafting team to charter the working group and it's the drafting team that determines to some extent the tasks that the working group ultimately will set forth, we need to pay attention to that.

And secondly, as Avri says, this was a drafting team that was set up to answer a very specific issue on two organizations in response to a GAC request.

It's very different from a GNSO working group. And therefore I think that from MPOC and NCUC and CSG we should have as many participants in the working group when it is constituted as possible.

Robin Gross: Thank you Mary. Avri did you want to now respond to...

Avri Doria: Sure.

Robin Gross: ...Kathy's question?

Avri Doria: I'll try to respond to a couple of things. One of them is while there are lots of, you know, trademark and other protections, one of the points that's been made about some of these organizations especially on the humanitarian organizations is that they're not necessarily marking all these names through trademarks. It doesn't always necessarily apply.

I think the issue is broader than my understanding, things for a PDP to look at. Do the trademark protections that we've got actually cover it?

From everything I've heard I have heard no one able to say definitively that yes was the answer. So it may be that they do not cover it and something else is involved.

So that - now why retroactively? As I said if we're putting names on a reserve name list there is only one reserve name list.

Now when you say that it is difficult to remove names that is perhaps true. It's done all the time though.

And so one of the things of that a PDP would have to look at is A, do they go on a reserve name list? B, do we have only one reserve name list? C, how does this affect incumbents?

Now the resignation that comes out of a PDP could be oh incumbents don't worry about them. They haven't passed. They're grandfathered in.

It come in - could come in that they have five years to find a way to figure to take care of it. You know, there's any number of solutions a PDP can come up with for how to deal with the incumbent.

But to say that names can't be removed once they've been given out we know it's not true. You know, the trademark mechanisms do it all the time.

So what we're saying here is if the PDP decides that they are to be removed then they've got to figure out how to do it.

So I just wanted to say on the motion we did check, at least I did go over and check with the MPOC folks that were there to make sure that they were comfortable with the INGO according to treaty and national regulation

language that was in that because I think we set - one of our members seconded the motion.

So before we seconded it wanted to make sure that that language wasn't particularly irksome. And I got the impression that it wasn't a problem.

And so therefore then I forget who seconded it but one of us did second one of our councilmen, you seconded it but only after you found out that it was okay.

And finally on draft team determines that's something that really counts. Drafting teams are supposed to put drafts on a table that then those that make decisions can talk about, can change, can alter.

So I think a drafting team performs a very important function of producing a draft for people to talk about.

But the idea that a drafting team put something on that the council has to treat like a working group, remember working group has a strict charter. And it has a process. And it has an obligation to make sure that everyone is covered. It goes through, you know, various reviews and comment periods.

A drafting team doesn't have any of that mandatory structure. So for a work - for the council to treat a drafting team's draft the same way it treats a working group's recommendation is problematic.

And I really hope that councilmembers don't confuse the two and treat a draft as a draft.

A draft is something to be talked about, edited, finalized, and then dealt with. Did I answer everything?

Robin Gross:: Thank you very much Avri. Any other comments on this issue questions, comments? Yes?

Avri Doria: Is this one of the ones that I'm going to have to speak again in front of the board?

Robin Gross: No.

Avri Doria: No, okay.

Robin Gross: But that's a great segue to our next topic which is preparation for discussion with the board.

Okay so we will be meeting with the board of directors right, immediately after this meeting. We'll break at 15:25 from here and we move over to Metro East to meet with the board from 15:30 to 16:30.

And as usual we've gotten some questions that we've sent to them and that they've sent to us and so some topics of discussion that we'd like to go over together.

And so let's go through those. And I think it's important for people to understand this meeting with the board as an opportunity for all members of the stakeholder group to speak.

So if you've got anything to say to the board on any of these issues everyone is welcome to speak.

Can we pull up on the screen the particular discussion topics to be discussed with the ICANN board of directors?

We proposed three and they sent four back to us. And the four that they sent back to us are the four that they have pretty much asked most constituencies about.

So the first issue is concerns over - this is an issue that the - first let me just say that three that NCRG proposed number one, is concerns over the RAA negotiations and the board's reaction to the European data protection officers evaluation of the proposals as unlawful, discuss that topic.

The second topic is safeguarding the integrity of the ICANN policy development process including multi-stakeholders and standing by community, consensus, commitments, and equality of stakeholders.

And the third topic that we proposed was including human rights concerns in ICANN policy development process such as conducting a human rights impact analysis when undertaking an official policy development process, this PDPs that we're - that we hear so much about.

Okay so the first topic that we propose concerns over RAA negotiations and the board's reaction to the European data protection officers evaluation of the proposals as unlawful.

Wendy has agreed to sort of start off, kick off our conversation with the board on this issue. So if you want to sort of give us a quick summary of what you think you might be saying to the board on this.

And again I want to invite everyone who has something to say to also chime in because this is really just sort of a starting point. Wendy?

Wendy Seltzer: So we've talked about the RAA in many previous sessions. It won't be news to the board that we disagree with the law enforcement recommendations that don't believe that they should be negotiating those essentially on behalf of law enforcement against the registrars.

At this point I - we want to emphasize they shouldn't keep pushing the last half recommendation. We still have concerns about validation and data retention.

We think it's critically important that they listen to the privacy protective parts of law enforcement as well as those who have come in demanding that registrars do their record keeping for them.

And that they should remember that the way this policy - the way this contract and policy process fit together the RAA must come back to GNSO Council for a policy development ratification before it's approved.

And so conducting it all as a close negotiation doesn't help if they are going to come back with recommendations that fundamentally we can't agree with.

Robin Gross: Thank you very much Wendy. Is there does anyone else have something they'd like to add to this, to this issue that they would like to bring to the board's attention on this particular issue or ask the board about on this particular issue?

No? Okay in that case let's go on to the next issue okay safeguarding the integrity of the ICANN policy development process including multi-stakeholderism, standing by community consensus commitments and equality of stakeholders.

Wolfgang has agreed to kick off the discussion with the board on this particular topic. And so (Wolf) if you want to get us sort of started in here as well I'd appreciate that.

Wolfgang Kleinwachter: Yes, you know, I we discussed it this morning and I think we should say that we are very pleased that the new CEO has introduced an additional element in the multi-stakeholder governance model when he used

the terminology equality in connection with the multi-stakeholder model to have equal stakeholder participation.

I think this is extremely important because we are based our multi-stakeholder model as its practiced today in ICANN and also in the IGF on the definition which came out from the World Summit on Information Society which just listed the three stakeholder groups and adds that the stakeholders act in their respective roles.

An original idea in the working group on Internet governance was to add on equal footing. And this was not except the World Summit.

And so we want to link this and say it's a very good let's say enlargement of the concept that he introduces now this question of unequal footing which has some implications about how these various stakeholders are really treated not only in their respective roles but also on equal footing.

So that means I will say this I know this very general level and then (Bill) will, you know, continue and say what does it mean for ICANN in particular for the treatment of the noncommercial stakeholder group and their constituencies because this this as some implications? Maybe (Bill) you can add some points?

Robin Gross: Thank you very much Wolfgang. (Bill) we're you going to also address this big topic?

(Bill): You wish to repeat the conversation from this morning?

Robin Gross: Well this is with the entire stakeholder group. So this is a conversation that involves the entire stakeholder group.

(Bill): Okay well we - I guess number one I would have to find where my notes I am. Simply I guess I would say that if we're talking about a quality or I (Foddi)'s

term of the multi-equal stakeholders that this would imply an equal treatment of constituencies in the stakeholder groups and a coherent approach towards them.

And we I think rightly can have greatest concerns and I don't tend to go down into the details of particular cases about whether or not the access to senior staff, the access to resources and access to resources are consistent across stakeholder groups and constituencies rather.

And similarly a concern that if you were to actually look across most constituencies and stakeholder groups in terms of transparency, participation, the ease of forming new groups within them and so on that there's a lot of variability.

If you look on the Web at the who are - if you try to figure out who are the members of some of the different constituencies or get access to full information about what they're doing it's not possible.

We are on the other hand very, very transparent, very open and very easy in these regards. So it's worth I think raising those kinds of concerns.

I think there are also concerns about the larger dynamic. I don't know when people give these kind of highly idealized presentations if they actually believe what they're saying.

I - some - I think often my experience has been people in the leadership of ICANN are not aware of what actually goes on at lower levels sometimes and the ways in which discrepancies can influence, may impact the ways in which decisions are made and reported.

So for example the ways in which levels of agreement within the council gets reported are often make - take note of the opposition of a quarter of the council.

So I just think that these are, you know, it's a general kind of point to make that if we want to be serious about equal treatment then they ought to establish a process to evaluate the extent of which treatment really is in fact equal and one which could use to try to advance that in a fair and balanced way. That's all.

Robin Gross: Thank you very much (Bill). Anyone else have anything they'd like to say on this? Alain please.

Alain Berranger: Thank you very much (Bill). Yes I guess to say equal or unequal multi-stakeholder process is an oxymoron on both expressions. But I guess it's to emphasize that probably it wasn't equal and you would know that better than us.

And so I but I think we should put a positive spin on it. Well you are putting a positive spin on it but I think we should give in the benefit of the doubt.

He called me as part of his job to talk to all heads of constituency. And he was very clear. He spoke in French and he told me about his process and four priorities. And involving the multi-stakeholders process was one.

And I mean I guess it wasn't a private conversation. And while I've been lied to before and but I would like to - I'd like to share my feelings that he was very convincing.

He asked for my advice. I gave him an advice on a specific issue and he said oh my God we've got to move on that. And he asked me immediately to fly down to Washington to work on that issue.

And two days after at the breakfast he had in Washington after doing the tour of the Hill he said I am a man of action.

He was speaking to the table about the breakfast table about the size and he said Alain can attest that I am like that.

And so he has the benefit of my doubt. And if we could put a positive spin on it yes it's been - it's not his fault that it was balanced in the beginning.

And let's give him the benefit of the doubt that he will dig in and make sure that the execution is according to the principles of a multi-stakeholder organization.

Man: Can I just ask David did you receive a similar outreach from (Foddi)?

David Cake: No. I happened - I had a individual video Skype call with (Foddi) but which was very useful. But that's my only real contact with him.

Robin Gross: Did he ask you questions like, you know, about your input?

David Cake: Yes, yes, yes no he did. He asked but well maybe it's just the format. Yes he - obviously I live a long way away so he...

Robin Gross: (Unintelligible) someone.

David Cake: Yes so we had a video Skype call. And he did ask, you know, input about what our constituency is about and that sort of thing and gave me a lot of input about what he was doing about some of our concerns within the (meeting).

I mean I did (unintelligible) he has certainly done the outreach to constituencies better than previous CEOs say.

Robin Gross: Thank you. Klaus please.

Klaus Stoll: Just a very, very rapid question. If he's serious I think he deserves all the help he can get. And some of the help we can give him is to remind sometimes what's still outstanding on the promises.

Robin Gross: Thank you. Yes if I can sort of say my 2 cents on this issue I was really impressed and really (hearkened) by (Foddi)'s remarks in the NCUC conference on Friday, you know, just recognizing that we need equality amongst stakeholders, we need to open the windows, we need more accountability, more transparency, that ICANN needs to take responsibility and admit it when it makes mistakes.

And, you know, I was just, frankly I was very, very encouraged by what he had to say. And I want to agree with you Klaus that, you know, I want to support him in what he says that he's trying to do. So that would be my 2 cents on that. Anyone else?

David Cake: Yes I just want to say what I was particularly impressed with was his transparent - he was really bringing a lot of transparency about how he's changing things inside ICANN the - inside the staff.

And that was something that I don't think we've ever previously had the - always felt like ICANN internally was kind of, you know, quite opaque to what was going on.

And he straight out said, you know, he's - how he was managing different staff issues and, you know, how he was changing staff KPIs and things and stuff like that. It's a very - you know, he was very open about how he has met that and trying to achieve some of these changes. And I thought that was very refreshing.

And that goes along and I don't want to give him all the credit because ICANN too is also being really opening up about things like its budget planning process and stuff like that as well which has been really valuable.

Robin Gross: Thank you David. I've got Klaus and Avri and okay Klaus?

Klaus Stoll: Another trivial point is important to me that we may be also considers a style how we support people.

In the past I've got the feeling that one of the styles to support people was by criticizing them and knocking them over the head and telling them what went wrong.

There are different ways to do that. And I think some positive criticism and a more positive speech would help everybody involved especially when there's anything which was outside ICANN.

Robin Gross: Thank you Klaus. Avri?

Avri Doria: Yes I admit I have never spoken to the man and so all of my impressions are based on watching and listening. And the only thing I got to say is trust but verify.

Robin Gross: Thank you, anyone else on this topic?

Okay let's go on to the next topic including human rights concerns and ICANN policy development process such as conducting a human rights impact analysis when undertaking an official PDP?

Avri this is something that - an issue that you've been carrying the banner on here at ICANN for many years. So if you could just give us a - start off our conversation with the board on this particular topic?

Avri Doria: This is the...

Robin Gross: Human rights impact analysis.

Avri Doria: Yes. Basically we're trying to get ICANN to be a little less afraid of human rights and rights in general.

We finally after years managed to get rights impact analysis included in the PDP. But we could not get human rights analysis, the impact analysis included in the PDP because human rights was much too frightening a concept for most of the people at ICANN.

And I think - and now we're trying to put together a proposal for a new PDP and trying to include some of the human rights and impact analysis of them in the PDP. And we get issues like freedom of expression and association.

Well what does that really mean? That's really aspirational. That's not really something real. And it really comes down to almost any organization that does take human rights seriously, does so because it's leadership because its board has made taking human rights seriously a priority.

Now there any number of ways this board could do it from getting itself involved in the GNI, the Global, you know, Network Initiative that commits itself to human rights to just sort of saying we're committed to supporting human rights.

But we need leadership from the top on that one. So I'm wondering whether they're interested?

Robin Gross: Thank you. Does anyone else have anything they'd like to say on this topic?

Okay Milton and then I saw Glen go and reaching for this button so you're next.

Milton Mueller: Just a question for Avri. Are the ALAC people supporting us on this or are they one of the people that are saying this is vague and aspirational?

Avri Doria: They're not supporting us on this. They aren't saying it's vague and aspirational because that word has been used against them too often.

They're saying it's a distraction from getting the Whois worked on quickly and efficiently.

Robin Gross: Glen and then Marie...

((Crosstalk))

Glen Reichart: I agree with you. I'm a big human rights person too and I, you know, do human rights (watch) and some other things.

In the ICANN context we need to I think tie it to things that ICANN can do. I'm also against hunger. You know, I'm also against - there are other causes as well which are useful causes.

And I think it's the intersection with what ICANN does and making that tangible that will sell the point.

Avri Doria: And I think that's why it we're saying it's an impact analysis that are in everything we do. We need to look at its impact on privacy, expression, association et cetera, and such.

It's certainly not that we have to do something for human rights. We're not a humanitarian organization. It's just that we have to try and not be a counter humanitarian organization.

Glen Reichart: I think you just need to make that very clear when you address the board.

Avri Doria: Okay thank you.

Robin Gross: I completely agree with that Glen. Marie-Laure and then Wendy?

Marie-Laure Lemineur: Yes before I ask the question please forgive my ignorance. I don't know the background or the history behind that but yes to go along the previous comment human rights, it doesn't quite fit human rights in ICANN.

But yes what would fit is pinpointing specific rights, the freedom of expression, freedom of, you know, privacy rights et cetera, that maybe would be less frightening than the whole expression human rights that, you know, relates to hunger and poverty and social rights and all kinds of rights that are not directly related to the work of ICANN.

So I don't - I'm wondering why you didn't go this way and you choose the human rights concepts as a whole?

Avri Doria: I think we started from human rights simply because as a basket. They're what the countries that, you know, we belong to and that belong to GAC have actually signed treaties on.

And then certainly when we're talking about the impacts that what we do have on them they're mostly going to relate certainly to privacy, freedom of expression and such.

But by just tagging onto human rights it would have, you know, the relevant human rights it would have been sort of easier than making sure we list privacy, association, expression.

And then there are probably others that relate but you're right but it just - and I guess I have trouble understanding why looking at our impact obviously our impact has nothing on hunger.

And if it does, you know, (Alan) I saw you going like - Alain sorry, yes I saw you going like that. If it does then we need to look at that.

If, you know, I don't understand how it has but if there is impact then we need to understand what our impact is.

And I'm not saying - I'm not sort of trying to indicate that this predetermined any specific action. It's just that we have to be aware that we're behaving in this context.

And that's kind of what the whole GNI network initiative is is make sure you do no harm in these areas.

Robin Gross: Thank you. Wendy?

Wendy Seltzer: Thanks. Yes, just to echo that we don't propose this as an expansion of ICANN's scope into human rights.

There are certainly other organizations including many in here doing much better more directed work for human rights.

It's the impact, let's make sure ICANN is cognizant of human rights and the potential impacts of its work.

Robin Gross: Yes please. Marie-Laure.

Marie-Laure Lemineur: Sorry. So it would be like the idea is to have like kind of matrix to, you know, so of standards to measure what's going on within the organization and impacts on specific (issues)?

Avri Doria: I don't think I'd ever gotten so far as to think of how we would do it just that we should.

So I think that's a great next step yes, so look at how we would do such a thing. But I've never gotten so far as to even to accept that it's okay to do such a thing.

Robin Gross: Okay Milton and (Desiree) and Kathy and (Bill).

Milton Mueller: Yes the more I think of it the more it must be the case that they are reading what you're saying Avri the way that Glen was that they must think - they must not see that there's any relationship between the policy that they're passing and the specified human rights.

And in this case that is with the Whois - are we talking about the Whois issue? It is so obvious that there is a relationship to privacy and to potentially the freedom of expression so that it, you know, it must not have been conveyed properly.

I just don't so understand any other way in which someone would be unwilling to say hey when you pass this policy please assess its impact on privacy.

(Desiree): So I think we are talking a little bit first of all policy development process in ICANN and how to better it in order maybe from two aspects.

And one is first of all whether we have enough of participants that already do human rights work out there participating in the ICANN process through NCUC or through ALAC or just as individual members and whether we can better that by engaging them to work on the specific issues. As Wendy said they already do.

And secondly what could be done in addition to when you work on the policy development process and want to tie it to specific let's operational part of how the Internet is run.

And I can talk about affiliates a little bit look at this. We have joined the global network initiative and signed up to the principles of advancing user rights in - from the GNI perspective.

So I think technically there is nothing that you can tie us to. But if those operators cooperate within the ICANN environment would actually sign up, either by, you know, becoming observer member and then getting their servers and policies, internal assets.

You already get a better level of acceptance I think within the policy development process of organizations that can run the infrastructure and do not misuse the infrastructure positions to the fact human rights misuse violation and so on.

So I think there are various things you can look at and various things you can try and better help the policy development process.

Robin Gross: Thank you. (Desiree) I've lost my queue here unfortunately and we've got about one minute left before we have to leave to go over to meet with the board now.

So I had - just everyone who is - who wants to say something on this issue could please speak 30 seconds, I'd appreciate it. I've got Kathy and David. Okay go ahead.

Kathy Kleinman: Ten seconds just it sounds like a really promising area for NCUC MPOC and NCSG all together to be working.

Certainly we've argued a lot of the underlying human rights concepts as we see them communications often -- free speech, freedom of expression, privacy since the beginning of time here at ICANN. But let's work on this together. I'm looking forward to it.

David Cake: I just wanted to pass on a message from the chat. I mean it is up there but most people probably can't see it well and have no switches.

Amber Sterling suggested that there are organizations. There's the International Association of Privacy Professionals who we could suggest as a proactive way of furthering the conversation about privacy saying why don't you, you know, contact the IAAF and get them to do a privacy impact assessment on a policy as part of the development process and that sort of thing?

So I'm just passing that on from Amber which I think is a good suggestion.

Robin Gross: Thank you all very much. And I'm - apologize that we have to cut this discussion short because I found it so useful and so fruitful. But we have to now continue this discussion over with the ICANN Board of Directors.

We are - we meet in Metro East from 15:30 to 16:30 which is in about four minutes from now.

And thank you all for coming in participating. I really appreciate this. And Rafik is dying to say something. Go ahead Rafik. What is it?

No and then that's it. Okay.

Avri Doria: We're done?

Robin Gross: We're done. Thank you all very much.

Thank you (Robin).

END