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TORONTO – ccNSO Members Meeting Day 2  
Wednesday, October 17, 2012 – 09:00 to 15:30  
ICANN - Toronto, Canada

LESLEY COWLEY:

Good morning everybody and welcome to Day 2 of the ccNSO Members Meeting. We're going to start off bright and early with a discussion on local and community WCIT initiatives, then we have another visitation from the GNSO talking about the locking of a domain name subject to UDRP or dispute proceedings.

That takes us to the coffee break at quarter to 11 following which we have an update from the NomCom and then our ever-popular ccTLD news session and regional organization news. We break for lunch – I'm afraid we don't have a lunch sponsor for today so each to his own arrangements or her own arrangements.

But come back promptly if you will for 2 where we have our popular panel discussion on Registry Principles. We also have a new session after that which is a Q&A for the candidates who are standing for election in the AP and EU region which should be good I hope.

We end the day then with the ccNSO Council Meeting. So again we have a very full and varied agenda for Day 2 and I will endeavor to insure that we run to time but also cover all of the aspects so far by item list. So over to you, Keith, for session No. 1.

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

KEITH DAVIDSON:

Thank you, Lesley and good morning everybody. This first session this morning is on the topic of the WCIT – the W-C-I-T – and following on from ICANN Prague, we agreed to have this meeting and really as a reporting end session from various ICANN folks who have been stimulated into being engaged in the WCIT process.

So before we start, just a point of clarification I think. There seems to be a little bit of tension that ICANN is wanting to sort of beat up on the ITU and stand in its way and so on. And I think our purpose is not to try and encourage people to do that and yeah, there will be a wide range of use from the ccTLD community alone as to whether they support or don't support the ITU including internet matters and so on.

The issue here is to encourage participation from whatever form or place you're coming from. This is one of those instances where there is a treaty coming out of the other end and if you don't participate in the process, you shouldn't be surprised with what comes out of the other end. So it is your chance to influence it in whichever form that takes. So I think that's really important to note as well. This is not anti-ITU; this is about finding a treaty that will suit your needs best or that you need to be involved in the process to assert what you need.

So this morning we have a panel of which three members are currently missing who have not apologized and two have apologized for non-appearance due to other commitments. I think rather than introduce everybody, I'll introduce the speakers and hopefully not have to shuffle through the order too much.

But our first speaking slots were for Bill Drake from the NCUC of the GNSO and then Olivier Crépin-Leblond from At-Large. Olga Cavelli was



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going to give us a report from the GAC but she can't make it at all, so I think, Bill, can we hand over to you and I think you're going to give us perhaps a little bit more of a background than just purely the GNSO's look at this item because you've been following it quite closely over the recent years. So Bill, for up to 10 minutes, the floor is yours.

BILL DRAKE:

Thank you very much and good morning everybody. I'm very happy after four years in GNSO Council to be over visiting the other side, as long as that's a relevant distinction and I can't say that there's a GNSO view on WCIT. It's not really a matter that's come up in Council discussions at all. But there is of course a great deal of interest in the internet community more generally.

In fact we did a panel on this at NCUC's policy conference on Friday with Tarek Kamel and others talking about how people saw the potential impact of WCIT on ICANN's operations which I thought was rather interesting.

I've been working on these kind of issues for a long time as an academic, actually wrote my doctorate 25 years ago on the International Telecommunications Regime and I've published a great deal since then on the ITU and its regulatory arrangements.

So I have the distinct weird distinction I guess of being an ITR junkie – International Telecommunications Regulations. I have every copy of them going back to 1865 in my office and I've written about them, so anything you want to know about telegraph rates, just ask me.



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We'll be doing quite a lot about this in Baku as well. I'm organizing with ISOC a workshop on this and we'll be talking about it in the main session on CIR – Critical Internet Resources – and in some preparatory meetings as well, so a lot going on.

As we all know, there's been a great deal of hype and hysteria around WCIT, a lot of people saying that the sky is going to fall, the internet is in its greatest danger ever and so on and so forth because of this and that, of course, has then led to a lot of politicians in America jumping onboard and using it as an instance where they could push their own agendas vis-à-vis the United Nations and so on which has been a little bit unfortunate.

The good news about all that mania has been that it mobilized people, got them focused on a process that really otherwise would have been an in-house ITU activity and one that could have potentially impacted a great deal of players who are not at the table or even aware of what was going on. So that's the good news about the mania.

But the bad news of course has been that there's been a tendency sometimes to overstate or misstate exactly what the impacts can be which of course for one thing allows the ITU and the governments that favor some of the more regulatory types of approaches to step back and say, "Well you don't understand; you're engaging in myth-making; this is not true; you're mischaracterizing the whole effort," etc. So that's the downside.

There have also been skeptics who have reacted to all this and said, "Well you know, it's no big deal really. The U.N. is not going to take over the internet and all the bad actions on the internet take place at

the national level anyway so what do we care about the ITU? And anyway governments that don't like some of the proposals can always issue reservations," and that's true.

It's a standard practice going back 100 and something years for governments to issue quite elaborate reservations on the International Telecommunications Regulations and its predecessors and these can be quite sweeping. For example, the 1988 regulations – the U.S. Government reserved its right to make any additional reservations at any time and reserves its rights to take any action it deems necessary at any time to protect its interests. Well that pretty much means we'll follow this as long as it's compatible with what we want and we won't when it isn't.

But the problem is it's not so simple. The fact the governments can take reservations on bad proposals doesn't mean that the bad proposals can't have any bad impacts because what can happen of course is that some governments will choose to fully implement and stick to those bad proposals, both in their domestic environments where they will say to companies or users and so on, "Well, gee, I'd like to allow you to do X, Y and Z, but I'm party to an international treaty that tells me that it's no good; you can't do it," and similarly they will also perhaps argue to bilateral correspondents, countries with whom they have telecommunications linkages that these linkages must be subject to the same provisions.

So you could get then a certain amount of fragmentation in the internet overall. If you get patches of the internet where say, in Russia and the CIS countries, they were pursuing a different approach towards routing



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that was more restrictive and more interventious in terms of security, etc. then that could impact the way traffic has to go around the world and how everybody would have to adjust to things. So it could raise costs, it could lead to technical problems. It's not a negligible issue.

Moreover, some of the proposals go quite far beyond what you might expect in terms of their scope in ways that really could open up a lot of further political moves to try to territorialize and apply national sovereignty and monopoly control again from the telecom environment into the internet environment in ways that could also further fragmentations.

So there is a risk of the sort of cyber neo-medievalism here where you get very fragmented patterns of authority and operating conditions around the internet globally and that wouldn't be a good thing. So there's every reason for people to be concerned about these things and to stay engaged.

And quite frankly, the story won't end with WCIT either because what's really interesting of course is what's behind the proposals. There are a lot of governments that will continue in the years ahead to press for more regulatory, more restrictive approaches to certain aspects of the internet and this will come up again in multiple international forums.

So irrespective of what finally happens at the WCIT, these issues won't go away. We have a sizable number of governments that do wish to have a more regulatory, more top-down approach to the management of the internet at a global level and they will continue to push for that in various forms.



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I don't really have time to go through all the history of the International Telecommunications Regulations as much as I'd love to. It's one of my great passions. I know (Inaudible) would really like that conversation but I'm not gonna do that.

I will tell you though that there has been a very elaborate process for preparing for this conference - it's been going on really since 1999. Because frankly a lot of governments and their national telecommunications administrations who have lost out in the process of liberalization and privatization as they see it have been pushing for a long time for revision of the telecom regulations to strengthen them in light of the new environment and that has generally involved a lot of... and the internet is central to that environment thinking.

So if you look at the whole tortured history of the proposals that have been involved through the ITU preparatory process and partly through the regional coordination process which is very important in U.N. contexts, you will see that there's been quite a strong trajectory. I mean, there have been times when people were putting almost anything into the pot; it became like a Christmas tree - I'm mixing my metaphors – where anybody could hang anything they wanted onto it.

There's a core set of concerns that have to do with telecommunications and money and the organization of global market but then there's some ancillary concerns that people have used the opportunity to toss into the pot.

There were times when there were proposals for the ITU to become a global registry for IPv6 numbers; there were times when there were proposals that would impact directly ICANN's management in names



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and numbers. Most of those things have gone to the wayside and we're really back to the boundary lines between telecommunications and the internet and whether or not telecom style regulations should apply to the internet, particularly with regard to the global organization of traffic.

So let me just quickly mention a few of the potential issues here. One is who is to be covered by the International Telecommunications Regulations – proposals that have a lot of support from many developing countries – Russia, China and others – are to say essentially that all companies involved in providing any kind of international communication service should be subject to the regulations.

They wanted to take out this critical term of recognized operating agency and just say any operating agency that's involved somehow in global communications would be subject to the regulations. This would have a very sweeping impact. It would mean that meant all ISPs in the world and potentially even so-called over the top providers of services could be subject to the regulations.

What is to be covered? Well, some have proposed essentially to alter the definition of telecommunications to include an information processing which basically means that the internet becomes telecommunications subject to the... And then everything in the regulations would apply to the internet.

There are proposals to add telecommunications and ICT to expand the ITU's jurisdiction to all information communication technology through this agreement. There are proposals to standardize new terms like internet traffic termination services. This is like I guess when a YouTube



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call is finished; this is telecom think applied to the internet. So when you hang up your computer, your call is subject.

In any event, then there's a lot of proposals that have to do with things like spam, online fraud, number abuse – that's an important one for many developing countries and the telephone environment – and again, depending on how you define the internet in relation to telecom, that could apply to numbers that we work with.

So number abuse, privacy, child protection, emergency telecom services. Security – there's a lot of proposals in security. Russia wants limitations on the use of information; warfare, mutual obligations to avoid anything bad coming across national frontiers so you can all closely police those teenagers in the garage that are releasing code out into the wild.

China wanted to have a proposal where states are all given the responsibility to supervise all entities using ICT in their territories to insure security and trustworthy conditions. They forgot to say harmony but I guess that's in there too.

There are proposals to make technical standards mandatory rather than voluntary as they've always been; to make the ITU a dispute resolution body for issues pertaining potentially to the internet as well, depending again on the definitional questions, and so on.

The hottest topics of course though have to do with the money and this is in particular proposals around routing and being able to identify where everything comes from in order to insure proper charging, etc. Of course in the internet environment, being able to identify where

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everything comes from becomes a little bit different task. And there have been proposals of course having to do with trying to reinvigorate the old accounting rate system that was used to settle accounts in international telecommunications which now only covers about 2% of global traffic and some people are saying let's reboot that.

And finally there's been this proposal – I'm sure everybody's heard about it – from the European Telecommunications Network operators – that would essentially try to seek regulatory relief from European regulation from multi-lateral treaty. They don't want to be locked into any net neutrality types of requirements and so on and so they're proposing that the International Treaty should officially bless quality of service on the internet - and they're not kidding; this is about the internet – quality of service and also sender pays settlement systems.

They want to establish a framework for the negotiation of commercial contracts that would be subject to an international regulatory treaty. So these are quite serious proposals and those have been picked up in particular by the Arab countries and a number of the African countries that have serious financial concerns about what's going on in the global communications environment.

So all of these issues are serious; they can't be wished away; it's not the end of the world but there could be some bad outcomes if language is included in the process of negotiation and how these negotiations will go down to the 11<sup>th</sup> hour and will result in compromises and so forth.

If there's any words left in there – any “as” instead of “these,” that somebody could interpret as giving them a mandate to apply these regulations into the internet space in some way, then you could have



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some countries seeking to do that. So it's important to remain engaged and be mindful of these things and I'm glad that if nothing else, the amount of hyper on this issue has at least gotten people to focus on it globally.

We're going to be exploring these things in Baku at the IGF in some detail and I hope people will come to those events and we'll have a chance for a real open multi-stakeholder dialog around this. So that's that. Thank you.

KEITH DAVIDSON:

Excellent. Thank you, Bill, and that sets the stage nicely for this morning. Can I just ask one question to bring this back to ICANN and the GNSO? In talking to your colleagues in the GNSO, I assume there are a number who will be engaging through industry groups in the WCIT process as well – would that be fair to say?

BILL DRAKE:

There are a few people from the GNSO community who I know will be on the U.S. delegation – as am I – but I can't say that I've detected a great deal of interest across the board in the GNSO community and certainly in the Council we've never discussed anything related to this.

KEITH DAVIDSON:

Okay, thank you. Just yesterday in the ccNSO meeting with the ICANN Board, the topic of WCIT came up and we were seeking the ICANN Board's elaboration of their strategy for WCIT engagement. One of the topics that came up was that perhaps ICANN might open a mailing list



for people who are attending so that we can remain in contact with each other during the meeting to cover off on drafting decisions and so on. So if you could just pass that on to anyone you know who is attending, I think ICANN will let us know in due course what the greater details are that something's happening.

Anyway, thank you very much, Bill, and we'll hold back Christian's until after we've heard from At-Large and then we'll go to Christian time and that way if either Bill or Olivier need to dash off to other commitments, we can let them go and then carry on with the ccTLD. So our next speaker on the panel this morning is Olivier Crépin-Leblond who is the At-Large Chair and please Olivier, could you give us five minutes of update on At-Large's involvement in WCIT? Thank you.

OLIVIER CRÉPIN-LEBLOND:

Absolutely, Keith, thank you very much. I'm Olivier Crépin-Leblond for the transcript records. Just two things – I'm sorry to have arrived a bit late. I've sampled one of the many times running between one end of the conference center to the other and it's raining outside, so that just adds a little more fun.

But I'm also glad – one of the only sessions I'm actually glad there's no interpretation because the speed at which my friend Bill here went through his part was quite incredible.

Anyway, down to At-Large. We basically, as you all know, are pretty much interested in the internet users' point of view and the WCIT ITRs are said to really impact on the internet users. I gather the information content providers are going to be equally as impacted since the charging



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is being proposed as being changed and Bill has very kindly gone through the whole list of things.

We've actually had three things that we've done – the first one was a WCIT webinar so as to explain to our members what the issues were and Nigel Hickson has very kindly held that seminar and we had a very good attendance on that. We definitely have many of our At-Large structures interested in the subject, specifically because one of the – I wouldn't say a task – but one of the suggestions we have made to many of our At-Large structures is to try and find if they could act locally.

Acting locally with the government because ultimately the WCIT will be a meeting of governments and several of them do entertain very good links with their governments. So several have government involved at local level when there was a multi-stakeholder process put together by the government in order to sort of feel the temperature of what the country felt like.

Of course in some cases governments did not indulge in any multi-stakeholder processes; they just made their positions... did this behind closed doors. But in some other cases, some governments have held both meetings, face-to-face meetings – British government for example has done that – I know the U.S. has created a mailing list with much traffic and discussion going on in this.

And so as a first step forward, several of our At-Large structures have taken part in those discussions in their respective countries. And we hope that their input into the process has somehow swayed the direction in which their country will decide to go. Whether there will be... obviously we're all for the multi-stakeholder process, so effectively



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sway the country away from being aligned with some of the propositions that China are bringing forward and the Arabic countries, etc.

At the same time, some have actually got even further and have managed to shape the response from their country simply because their governments were not particularly well knowledgeable about the issues and so through education of their officials they've been able to really decide on which direction the country would go.

Several IGFs taking place locally have had some of our members take part and I know for a fact that at least two or three – one of which I've actually attended – have actually decided to change their opinions and decide to go towards the free internet that we know today rather than establishing more control over the internet.

Now in addition to this, in some cases we've even managed to have some of our members go into the delegations that will be going over to Dubai, so that really is an ongoing process. I think the worth of having so many members that speak to each other is first one of coordination. Several will be speaking to each other and probably act as a bridge between the delegations – that's just one hope of course. We can only speculate at this time.

But in order to also help with this, we have a Wiki page which has been set up which actually provides links to all of the resources – maybe not all because there are hundreds of resources out there – but most or many of the resources – let's bring this down one level – many of the resources that are WCIT-related – both on the ITU website, but also the other websites out there that deal with such information.



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Several of our members, our Internet Society Chapters so they also have a process in the Internet Society to share information and as you all know, the Internet Society has been a very strong defender of the internet so effectively they've actually been able to provide a lot of input in being able to share this with other members of our community.

Apart from this, obviously we're all looking forward to see things move forward. There is a concern that we might be focusing a lot on what's going to go on in Dubai, but this is not the end of the process. There is going to be something after Dubai – we're all aware of that and one of the threads has been to think well, what happens next after Dubai and to prepare this.

So really it's not a short-term effort to look at things and say in December that said our job is finished. It really is an ongoing effort that will continue way after Dubai. Aside from being able to coordinate between the different At-Large structures that we have, there isn't that much more that we can do. So that's it. Thank you.

KEITH DAVIDSON:

Thank you, Olivier and it sounds like there's been some real effort going in in At-Large. I'll now open up the floor for questions for Bill and Olivier specifically. So are there any questions?

CHERYL LANGDON-ORR:

I will identify myself indeed for the transcript record. It's Cheryl Langdon-Orr. I wondered if it might be of some use, Keith, for the URL of that resource Wiki page to be part of the meeting notes from this gathering. That's all.



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KEITH DAVIDSON: Thank you. Good thinking, Cheryl, and we will note that and pass it around to the ccTLD list. Thank you. Any other questions; any other observations; any other feelings about other than ccTLD world, any other feelings about ICANN’s involvement?

BYRON HOLLAND: My name is Byron Holland from .CA. Bill, I’m just curious, in all the research that you’ve done, just to simplify it, what are the top few issues that you really think the CC community directly should be most paying attention to or most concerned about? Cause you’ve certainly given a broad range of issues but what in your opinion would be most concerning to this community?

BILL DRAKE: Well, Byron, that’s a most interesting question because when Keith asked me to do this, my first thought was, “Really? The CCs are interested in this?” I wondered well is there a distinctive agenda that would be more specific to this CC world than just the internet environment generally and I can’t tell you that I’m deep enough inside your considerations to be able to identify what those distinctive issues might be.

Again the big proposals, the ones that have potential traction, that could cause some concern pertaining to, for example, the economic organization of traffic flows, and depending again if people start to interpret telecommunications to encompass the internet and therefore argue that telecommunications policies pertaining to number abuse and



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fraud and so on, also apply to the internet environment, particularly give that most public switch telephone networks are moving towards IP core networks anyway. I mean, these convergent issues are interesting.

You could get obviously some circumstances where this would impact the way traffic moves around and the way all number resources are being used and addresses and so on. But it's an abstraction at this point. If you look at all the different proposals, if you understand the way the ITU process works, you got a lot of countries just doing wish list kind of things.

Whatever problems they're encountering in their markets, they come up with a proposal that would address it and so they toss it in there. It doesn't necessarily mean that they think it's going to actually end up in the final agreement. So you could focus on individual proposals and think, depending on what happens with this other one, this could really mean X and Y and Z, but there's no way to really gauge what the prospects of that staying in are going to be. You know what I mean?

So it's very hard to tell right now what the scenarios will be in terms of what language will remain in there and what won't and therefore what might be most problematic. But with regard to it being specific to ccTLDs as opposed to TLDs generally, I don't know that I can get my head around that right now. I was hoping you guys were going to explain to me precisely what you thought those connections were. Maybe somebody else here can do that.

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KEITH DAVIDSON: We might come back to that question at the end of the session. Next, Olivier?

OLIVIER CRÉPIN-LEBLOND: Thank you, Keith. Two things I think – the first one being the change in the charging model of the internet which might have one consequence which is effectively the breaking up of the universality of the network and therefore having two internets or more. There's a breaking up of the whole net as such into those countries that will charge one way and those that will charge in another way and traffic not being able to go across everywhere – that's one big concern.

The other one is the setting of a precedent that changes a multi-stakeholder model of governance into a multi-lateral model of governance and that's a concern as well. Just to add to my previous intervention, I've put the WCIT At-Large page onto the chat for this room.

KEITH DAVIDSON: Thank you for that. Adam.

ADAM PEAKE: Good morning. Adam Peake. Just to note that [Hammond Torez] said very specifically that the narrower internet governance issues will not be part of the WCIT. And as the Secretariat he can say that whether a member state can still bring up issues that aren't narrow internet governance being ICANN related, ccTLD related and IP address related.



They've been quite specific saying those will not be part of WCIT. But that's the Secretariat saying that. A member state can still introduce anything they want. But at this time I don't think there is anything that is very specific within the WCIT documents that relate to ccTLDs, other than the fact that anything impacts on the internet and the ITU's involvement in the internet may find that you will find that the ITU becomes a greater authority for internet-related policy issues. Therefore ccTLDs would be spending more time and energy in ITU environments.

But at the moment, if we believe him, and we should do, cause he's a nice man, then no, there won't be internet governance issues in WCIT.

KEITH DAVIDSON:

Thank you Adam. I think that was more an observation than a question. Is there a response? Okay, back to Byron.

BYRON HOLLAND:

I think maybe the devil's in the details around the term "narrow internet governance issues." For those of us – and not everybody does – but for those of us who actually operate all our own DNS infrastructure, I'm trying to get my head around how might that be impacted.

If you find yourself subject to quality of service regime that's not a narrow internet governance issue, but how might that affect us. So I think that would definitely be one issue that – while not a narrow internet governance issue – could potentially have a dramatic impact on us I think but I really don't know and don't understand yet.



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And I think also security related issues. We in this room have access to an unbelievable amount of DNS data and if national governments got interested in that and we're subject to some kind of new security arrangement, those of us who direct the traffic and have the data may find ourselves suddenly in a very different world and environment maybe. I don't know so that's really my question – how might we be impacted at that level if QLS or security goes a certain way?

ADAM PEAKE:

I guess the point I was trying to make is the potential impacts are as far as I can see generic across the internet, not specific to the CCs. So that's not to say CCs shouldn't be concerned, but rather that CCs should be concerned, along with everybody else in the internet environment if I wasn't clear about that. So I'm not dismissing that there's any reason for you to be concerned, I'm only saying there's nothing targeting CCs per se in the language.

Let's take a hypothetical. Let's say that they keep in the provisions a proposal to make sure that all traffic routing is identifiable to the incoming operator. For example, when you talk to people from developing country delegations, often around ITU, they'll say, "Look, we got a lot of this kind of funny stuff where traffic is being spun around the world through hubs and lease cost connections, etc. in ways that deprive us of some income.

If the traffic was being routed in the traditional bilateral way that we're used to between two major national carriers, subject to the accounting of settlement system, we got a big chunk of change but now the traffic

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is being spun around the world through hubs and all these other kinds of techniques that reduces the income that comes into us.

So we'd like to know where all the traffic comes from. So we want to put that into the agreement and we think that that applies not only to voice telephony, but communications generally."

So what would that mean for an infrastructure operator like yourself if all traffic has to be... the movement, the patterns of traffic, the sources of it, etc. all has to be identifiable to a recipient national carrier? I would presume that this would add trying to accommodate that request would add quite a great deal of complexity to your operations, given the way the internet works.

So that's something where I don't know how you would deal with that. If for example traffic is going to let's say Russia or a Middle Eastern country that says well that's how we interpret this and it's coming from Canada in some way as far as they're concerned and they want you to provide a full transparency to them about exactly where the bits move across the network and who's making money off of handing it across each link, etc., in the peering arrangements until it gets to them – I don't know how you would deal with that, but it sounds complicated, doesn't it and it sounds like a potential source of problems in commercial negotiations and perhaps inter-governmentally.

So again all of these things could... if again there's the fundamental question of whether the boundary line between telecom and internet gets blurred, then all bets are off in terms of how all these provisions could be interpreted – the financial ones, the routing ones, what is fraud?



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If suddenly you have a multi-lateral agreement on fraud that covers by extension fraud on the internet – whoo – we’re in fun times because there’s quite a bit of fraud. So these are concerns.

So the core definitional ones – and I have to say when we were at the Asia/Pacific Internet Governance Conference in July in Tokyo, I was on a panel with a gentleman from the... a senior person from the Japanese government who said – I almost fell off the table – he said, “Well as far as we’re concerned, the existing definition of telecommunications under the ITU already covers the internet.” And I went, “Oh really?”

And I pressed him for clarification on that and he said, “Yeah, I don’t see why not. It signals.” So we tried to talk about computer II and how in the U.S. historically the internet was viewed as an application and it’s not the underlying transmission, etc.

But they were saying it’s all in a digital-based IP network; these are not useful distinctions anymore. So I think a lot of governments are struggling with exactly what are the boundary lines between traditional telecommunications, regulations and obligations for quality of service, for safety of service – all those kinds of things.

And the U.S. Federal Communications Commission has had to try to think about those things too and I’m sure Canada and elsewhere. Do you have 911 type calling and other things over the internet – what obligations should apply?

We will continue to struggle with this boundary line question. As long as that’s the case then you’re going to have variable efforts in different environments to say that the kinds of provisions that one would



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normally associate with telecom need to apply to the internet as well and you're going to have to cope with that.

KEITH DAVIDSON:

Thank you, Bill. And that reminds me that that session that the Asia/Pacific regional RGF was a very interesting discussion and I believe that's online so you can probably track it through APRIGF.org or APRIGF.asia. So if you're interested in having a look at that I'm sure you'll find the link there. I think we have a question from Jay and that will have to be the end of questions so Jay.

JAY DALEY:

Thank you. This is Jay Daley from .NZ and I'm quite happy with a shortened focus answer to this question. Let's imagine that the new ITRs and all of the proposals from all of the countries a slightly different view on multi-stakeholder governance from us are all approved. How much of a difference will that actually make? Who would actually take any notice of it?

KEITH DAVIDSON:

Sorry, we didn't quite hear the question. You may be hearing the microphone better at that end of the room but we're really struggling to hear.

JAY DALEY:

Okay, Keith. I'll try again. Just to start by saying I'm quite happy with a relatively short and focused answer to this question. Let's imagine that the ITRs that are being proposed by countries with a less enlightened

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view of multi-stakeholder governance to us and the internet are actually all approved. How much effective different will that make? Who will actually take any notice of it? Will it matter to us?

KEITH DAVIDSON: So I assume you're suggesting that enlightened countries may be able to ignore the treaty that comes out? Olivier would like to respond.

OLIVIER CRÉPIN-LEBLOND: Thank you, Keith. The ITRs – if they get all approved – do have to be ratified into national law by the different member administrations. So some might; some might not and then it's a big question mark, isn't it because what happens when the ITRs are implemented by some countries and are not by other countries.

And this is where it comes back to the risk that I mentioned earlier – the breakup of the internet into two different types of internet and there is no real understanding of how the two would work together.

KEITH DAVIDSON: Thanks, Olivier. Martin?

MARTIN BOYLE: Martin Boyle from Nominet. I think the really big difference that will happen is that it will move the forum in which you discuss the policies and the standards and the processes away from an arrangement which is essentially built on a multi-stakeholder pattern into one that certainly at the moment is very heavily dominated by the telcos, by the people



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who provide the normal telecommunication services and one in which it is generally speaking, very difficult for smaller organizations and for internet organizations to develop their position and their influence in that discussion.

So I think the short answer to your question, Jay, is that it will make it very much more difficult for the whole of the small definition internet governance organizations to shape the environment in which we work. Thank you.

KEITH DAVIDSON:

Thanks Martin. I think can we now give our thanks to Bill and Olivier for their time and just in case either of them have to run in the meantime. So please join me in thanking both Bill and Olivier.

We'll now move on to the aspects of the ccTLDs and what ccTLDs have been doing and where they're at. But before we go to that in detail, Allan MacGillivray from .CA has a presentation for us – The Eight Things to Remember about WCIT. So Allan, five minutes – the floor is yours.

ALLAN MACGILLIVRAY:

Soon there will be my list of eight things on there. So first thing very quickly because Keith is holding me to five minutes so I'll try and be quick and this is actually going to repeat a lot of what's been said already. This always happens but that's fine.

No. 1 is the WCIT is about telecommunications. It's not about the internet only and for example, there are going to be other issues that have nothing to do with the internet community. I think the largest is

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probably mobile roaming. I think anyone who travels internationally knows what a problem that is and it's a problem in the world and it's one of the issues they're going to try and tackle actually in Dubai.

So it isn't all about the internet. I think the most important... if I can make one or two important points today, one is this is a government meeting. It's only going to be government people talking to themselves. So this is an important point to understand and I think we'll talk a little about some of us joining our national government delegations. I think ISOC and others are going as sector members.

But at the end of the day governments are going to be taking the decisions. Government officials for the most part but there will be some elected officials as well. And I guess what's part of this as well only government proposals can be put on the table so for example the ETNO Proposal which has been around. ETNO has no authority in its own right to put a proposal on the table; it would have to be one of the member countries from the EU, from Europe who would actually put that on and from what I hear I don't think that's going to happen.

Actually the third point is there's been a lot of debate about the transparency of the progress and the ITU has published the so-called Temporary Document 64 – TD 64 - in the summer which was the result of a very long preparatory process. And while there's a lot of valuable insight in that document as to the nature of the proposals that could come forward, TD 64 is not itself a proposal anymore. It's just now a background document, even though some of those proposals are now coming forward again in the proposals from both some of the regions



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like APT and C-Tel that are part of the process as well as the member countries.

Thirdly, I think as Adam said, internet governance is not the subject of any specific proposal that has been made to this point, including in TD 64. I heard a story about someone from a very large Western country commenting on the fact that since internet governance has not been mentioned in any of the documents, what's this big concern about everything.

But actually it's all in the detail of the implications of some of the proposals for changing IP addresses, on security, etc. which, if those were implemented would in fact give the ITU a role in that and that would therefore take away some authority from ICANN.

The implications of what some of these other proposals have made are huge. We've already talked about them a lot. Bill has talked about that. Actually ISOC has done a lot of very good work on that I've read and a lot of what I've learned is from that and so even such proposals of making standards mandatory – which is the approach the ITU takes in the T sector in the internet world standards are not mandatory; they are in the IT world.

So obviously we talked about the interconnection model the sending party pays. That would have a huge impact on the internet which has nothing to do with internet governance. It would just completely change the flow of money in the world. The ETNO Proposal is about money; it's not about a power grab within the ITU.

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Process – so they can't really think that they can do a revised treaty in two weeks. That's completely unrealistic. It's actually 12 days. I personally am involved in trade negotiations over the years. They go on for years and we argue about little words that go on for years and years.

Actually I did a little research – the Law of the Sea Treaty took nine years to negotiate from '73 to '82. So I don't think anyone should feel they should be panicked into something because the ITU has decided they want a decision by the 14<sup>th</sup> of December. So what's the hurry?

And I think as someone's already said, in fact it isn't gonna be over in December, so next year we have the World Telecom Policy Forum in May; we have WSIS Plus 10 and we have the ITU's planning policy in 2014 which I think is going to be the main event in this title fight series that we're in. So I think this is just the preliminaries.

So the final message is coming back to what we were talking about before – this is a government meeting; there's a lot of concern. A lot of what I hear is actually what we would call preaching to the choir. I think a lot of us would probably share the same view on some of these issues in this room but we shouldn't be talking to each other. We should be talking to our governments.

So I really suggest that you inform yourselves on these issues, go back, we can give you the URL so you know who in your home government is the contact person in the ITU and that's how you can input in your process. Actually I committed in Prague to doing a little bit of a briefing that might help you start that process and I've done a draft of that and maybe will tweak that after our sessions this week and get it out to you. So that's it.



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KEITH DAVIDSON: Okay and after tweaking and sending that out to the ccNSO members list that might be quite a useful resource document to lots of people. Okay thank you, Allan. And just a question before we move on. .CA is engaged with the Canadian government delegation?

ALLAN MACGILLIVRAY: Oh absolutely. Actually Canada is running a preparatory process domestically for that. Both Byron and I are participating in that and giving our input. So actually I've seen the draft of our proposal and we'll go back. Actually we have a meeting on Monday to talk to them about that and so we'll do that and we actually plan to go to Dubai as part of the Canadian government delegation.

KEITH DAVIDSON: Alright, thank you. Now we'll move on to Martin Boyle from .UK and Martin, five minutes on an update of UK government via delegation and the role Nominet will play in that. Five minutes – thanks, Martin.

MARTIN BOYLE: Okay thank you, Keith. And it's useful to keep those eight things to remember about WCIT in front of us just to remind us of the sort of shape in which this discussion is going. I think I do have a lot of issue with the revised treaty in two weeks is unrealistic. I think the pressures within the government organizations do mean that whatever you do you are going to end up with a treaty and that is one of the dangers I think we have got in this process.



There will be enormous pressure for compromise and the wording of that compromise will be very difficult. I pick up on that because it's very much at the bottom of my mind in Nominet's engagement with the U.K. government because what we're looking at trying to do is make sure that our government representation is well informed about what is happening, what the issues are and what the impacts that we've heard from previous speakers might be on the way that the internet develops and in particular, the way in which future policy starts being discussed.

We've actually started discussing with the U.K. government about a bit over a year ago, not with a great deal of success. We managed to get a U.K. coordination up and running early this year. And a lot of that was a denial mentality that was running through this process that because internet governance was not named as one of the things in the treaty, that therefore this was not about the internet and it was not about internet governance in spite of the fact that an awful lot of the proposals on the table are covered issues that underpin the way in which the internet works.

And so that became really a priority – trying to make sure that our government representation understood the issues that are associated with the internet-related proposals that were on the table and I will do a shameless plug for ISOC and the analysis work that they have done as being an excellent source for helping us identify and talk through the issues with our government.

We've had four coordination meetings so far and a lot of the work in that has been to help shape the U.K.'s input into the CEPT – the European Regional input into the treaty. And we've got a CEPT position



that I think generally speaking is quite a good one, high level strategic and policy issues concerning international telecommunication services and facilities, consistency with the definitions of the ITU's role and such things.

And in particular through the negotiations, the great push there is to move us beyond ITU looking after telecommunications which it does in a particular environment in the telecommunications industry into the wider internet through the definition of ICTs.

We've now had announced the U.K. delegation to WCIT and that will include some familiar faces in the ICANN community – Tony Holmes, who is in the GNSO community; Olivier is also on the U.K. delegation, as is Desiree Milosevic from Afiliat. And I am also on the U.K. delegation.

And our expectation is that in WCIT, in the discussions the discussions will break down to small drafting groups and the U.K. has taken the philosophy that it wants to make sure that we can get into all relevant drafting groups so that we can influence the way that the discussion is going. So I'm very pleased with the way the U.K. government has picked up on that.

If I can just use the last 30 seconds or so I have for my time to pick up on something – the discussion with the Board said yesterday and this is being echoed here today that this is the first of a series of discussions over the next few years.

This autumn the United Nations General Assembly will consider a whole string of world summits on the Information Society Reviews. And that includes the wonderful words of enhanced cooperation which



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essentially is how do you oversee the international internet's managements process and it will also look at the reform of the Internet Governance Forum and my guess is that the pressure will be on trying to get a phase 3 of WSIS a phase 3 of the World Summit perhaps sometime starting in 2015. I hope I'm just being my normal happy pessimistic self but I fear that I'm not.

And as Allan also indicated, we have the World Telecom's Policy Forum – actually it's the World Telecom's/ICT Policy Forum and that is massively wide-ranging but what is coming out there is a very strong focus on the role of ICANN; the role of ISOC; the roles of the regional internet registries.

And an awful lot of the discussion is a discussion that fails to understand the way that the internet works. It's got an informal expert's group; the documents repairing on the website for the WTPF and involved in the discussions are Verisign, the London Internet Exchange, ISOC, the NRO, ICANN and I'm turning up on behalf of Nominet as sector members.

The discussion again is going to start looking at things like the internet exchange points and IPP stakes and multi-stakeholder model and looking at my neighbor looking at her watch, I realize the time probably gone. Be on my time so I'll cede the floor. Thank you, Chair.

KEITH DAVIDSON:

Thank you, Martin. Now we have some record file updates from three ccTLDs so firstly Lise Fuhr from .dk. In three minutes can you let us know what .dk is doing?



LISE FUHR:

Thank you very much and good morning everyone. I'm Lise Fuhr from .dk; I'm the COO. Well in Denmark we are really struggling to get an overview of WCIT out of all the papers. So what we're doing, we're trying to read as many position papers as possible.

But we're also discussing WCIT with our member organizations [Devo] as an association and we have member organizations that are large telco companies and those guys do know a lot of ITU and the work there so we have a lot of bilateral discussions with them.

We also arrange to meet with our regulator, the Danish Business Authority and to exchange views on issues that we're concerned about. So we'll have that in November. And we have arranged a conference call the internet day. It's not only about WCIT, but we have a panel discussion on internet governance, but that's with Martin Boyle and it's with Nigel Hickson from ICANN and the director of the Danish Business Authority for the international part – (Inaudible) is going to be there and he's going to be part of the Danish WCIT Delegation.

So we're hoping to get a good discussion and we're really hoping to reach out and get the internet community to respond on if they WCIT as anything they should be concerned about or not because what we find is that it's a very difficult issue to get through to the community so I hope this Internet Day will help and I'm looking at Martin and say you need to help us.

And this session will be moderated by a professor who's very much into internet governance. I hear that everyone says it's not about internet governance – the WCIT – but I think it's a change in a way of thinking if we get internet included in this treaty. So that's one of our worries.



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But we have a very good communication with our government because any way we have to meet them a lot this fall because they're changing the domain name act in Denmark, so we're using these meetings to get updated all the time on their views.

KEITH DAVIDSON: Thank you, Lise. Now we move to Paulos Nyirenda from .nw. Welcome in three minutes the floor is yours, Paulos.

PAULOS NYIRENDA: Thank you, Keith. I'm going to talk briefly about what we're doing and especially what we're doing in our region, the Africa Region. WCIT is consistent of quite a few small ccTLDs which are not really active in consultations with WCIT as such but are active in the regional setting.

We of course realize just as on the eight things, that WCIT is a government process and the authoritative entities are government, so nothing that I'll talk about is from an authoritative finder here because I'm not on a government platform.

In the Africa region the WCIT [prepared data] process is largely being coordinated by the Africa Telecommunications Union and in 2011 and 2012 there have been three preparatory meetings – one in Cairo in November 2011; one in Durban in May this year – 2012; and the most recent one in Accra Ghana in September.

And in these the ATU has 40 members out of the roughly 50 African countries so it has relatively a wide mandate to coordinate the activities. As has already been mentioned, there have been quite a few



proposals on WCIT from the African Region and these have attracted wide ranging discussions and some of the papers are available such as those on the IT website.

Proposals, for example, have come from countries like Egypt, Rwanda and Côte de D'Ivoire which there is some participation from the CCs but this is really small in these countries. The position of each country continues to evolve and there is no real defined Africa common position but the ITU has established a mailing contact point where countries are putting in their input in the process.

All the issues through the consultation process that have a reason that is important to the region and to governments in the region, definitions in the ITRs; the scope of the ITRs; issues on connectivity, cost accounting; corridor service; the charging economical polarizations, standards development; routing as already mentioned and dispute resolution.

So Africa is highly engaged in the revision of the ITRs and the CCs are participating, not as individuals but as part of a regional process. Thank you.

KEITH DAVIDSON:

Thank you, Paulos, and that sounds like substantial interest and input from Africa. And last but by no means least, Young Eum Lee from .kr. Young Eum, three minutes.



YOUNG EUM LEE:

Yes, Keith, I see you're becoming kind of nervous looking at your watch so I'm actually timing myself. I first need to kind of explain the background or the current status of KISA. KISA has become a government-controlled organization since 2007 when the Internet Address Law was instituted but the current status of KISA is that it is actually being controlled by the government but actually has found a way of promoting the multi-stakeholder model of internet governance.

There are several tracks for the non-governmental group involvement cooperating with KISA and KCC with the Korea Communications Commission, the ministry level branch responsible for the communication and technology policies.

There is the KIGF – not directly related with the IGF but IGF-like organization in which KCC is actually involved in and there is the Internet Infrastructure Committee initiated mostly by the Civil Society. And then there is the Internet Address Policy Review Council which is part of the governmental branch to review the policies.

Now KISA's position so far is that it has been strategically dealing with internet governance and it has been trying to promote the multi-stakeholder model. However, stronger governmental involvement by other states is not desirable and ICANN's multi-stakeholder model, while it has its deficiencies – we all know that – is still the better of the evil.

So the KCC is a primary branch responsible for internet and information technology related policies. However, because WCIT was a U.N. and ITU initiated issue, the department responsible for internet policies that



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cooperate with KISA was not consulted initially. There was another branch dealing with that.

That department actually didn't know what was going on so it consulted another civilian organization called TTA – the Telecommunications Technology Association – and that's the organization responsible for setting various standards in telecommunication information technologies.

However, because there were several tracks for non-governmental involvement, eventually the TTA and the IGF-like body got together to discuss Korea's stand on WCIT. So far we have decided that there's no need to actively support the proposition of ITU and WCIT but there is no need currently to actively oppose it and so we're still trying to make sense of WCIT and also the WTPF in 2013.

So far there was one meeting within KIGF of Korea with TTA. We're planning to continue to meet and to discuss this issue, not just WCIT, but also WTPF and whatever comes after. And so we are aware of the work of ICANN and the way internet governance has been working within ICANN and we will continue to cooperate. Thank you.

KEITH DAVIDSON:

Thank you, Young Eum. It sounds like at least the confusion has been resolved and it's now a question of finding a way forward. Okay, that's it from our presentations and we have a few minutes to spare. So are there any questions to any of the panelists? Any observations?



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PAUL SZYNDLER: Paul Szyndler from .au. Apologies for the confusion – I was on the panel; off the panel. I thought we were a little crowded for time. Is that better, Keith?

KEITH DAVIDSON: That’s a little bit better.

PAUL SZYNDLER: A little? I can hear myself; it’s unnerving.

KEITH DAVIDSON: It must be louder at that end of the room than this end. Can our sound people do some adjusting cause we’re really struggling to hear people in the microphones.

PAUL SZYNDLER: Hopefully this is better. All I wanted to say was I think it’s an issue about a call to arms because the reason why I didn’t particularly feel I had value to add or something to say on this panel is cause we’ve been very fortunate in Australia where the Australian government has been incredibly open and consultative on its position for WCIT.

To be honest that took a little bit of prodding from us and APNIC and others to start with because we got to the game first before they were really formulating their thoughts. But every draft regional positions has been shared and discussed with stakeholders’ regular series of teleconferences so we’ve been very lucky.



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But in a way I think the sense of comfort and calm is in itself a little bit discomfoting. As we become better informed as we've heard the words of [Hammond Torez] everything seems to be okay; this is not about internet governance – I think I've heard that before. And I can only imagine what would have happened at WCIT if we weren't all there.

So from an Australian perspective we're largely going along or will be on the Australian delegation APNIC will be there as well. We're largely going along because it's at your peril that you're not at the table. So I think this is something that I wanted to reiterate that even if it looks like there's no concerns domestically I would still encourage CCs to keep their finger on the pulse.

KEITH DAVIDSON:

Thank you very much, Paul. Bill, did you have a point?

BILL DRAKE:

I just want to make a small point here. One of the strategies that has been pursued by the ITU in sort of downplaying the concerns of the internet community around the WCIT has been to say, "Well, we're not doing internet governance and so therefore you shouldn't get yourselves all twisted up," and this is a reflection of a longer trajectory which is that the Secretariat has always tended to equate internet governance only with the management of names and numbers in what we call critical internet resources in IGF land.

And we had had this experience even in the working group in internet governance in 2005, 2004 when we first met to try to define internet



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governance and write a report for the U.N. that would help break the deadlock in WCIT about all these issues.

The Secretary General of the ITU came in and started us off with a little speech, telling us that we should only talk about names and numbers and that we shouldn't talk about anything else. So we all said thank you very much and we all proceeded to develop a definition and an approach to internet governance that took into account all forms of global frameworks public, private, multi-stakeholder and so on pertaining to internet's underlying resources and their use for information communication and commerce.

This broad understanding of internet governance has been nominally the agreed understanding of everybody involved in the internet governance form and so on going forward. And yet the ITU keeps referring only to names and numbers as internet governance is saying since we're not talking about ICANN's issues, we're not talking about internet governance.

To me if there's a multi-lateral regulatory treaty that impacts the internet routing, security, fraud, whatever else, that is internet governance. That is specifying rules that shape how the internet is configured and used – I'm sorry. So the notion that there's no linkage here I think is a political stratagem but it's not a very accurate description of reality.

KEITH DAVIDSON:

Point well made. Thanks, Bill. Young Eum and then Nick.



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YOUNG EUM LEE: I just wanted to add that the TTA person that was following WCIT actually believed the statement that WCIT was not involved with internet governance and he would say, “Oh, this is not about internet governance.” No, it is about internet governance so we had to kind of educate them.

KEITH DAVIDSON: Thank you. And I think the final point from Nick.

NICK THORNE: Keith, thanks. Nick Thorne. I’ve been very interested in this exchange and I think my first comment would be well done. Since the last time that we discussed this in Prague, I think some real process has been made, particularly in getting people who understand the internet onto the delegations who will be in the room in Dubai.

I was sparked to ask for the telephone by Paul’s reference to WCIT where I played a role in 2005 and I think my addition to this discussion will be just to emphasize that at WCIT there was a long preparatory process in which diplomats and politicians participated.

In WCIT we will be dealing with a group of representatives from member states and in parenthesis it’s wrong to demonize the ITU – that’s just the vehicle of the forum – the ITU is the sum of its member states.

But the folks who will be around that table – some of them have got rather different agendas from you and many of those agendas are driven by a deep feeling of resentment which emanated WCIT where



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certain countries felt and still feel that they were bounced into a multi-stakeholder process which allowed folk like you in civil society to have a say in how the internet was run.

There are a number of countries out there who don't like that and who have regretted it ever since WCIT. They will be in the room; this will be a U.N. conference and what happens at U.N. conferences – and I'm sorry – I've done lots – is that at the end of week 1 you will get the Chairman's proposal which will be a compromise to count through the crap – if you'll excuse my bad language – and bring things down to a manageable set of proposals.

There will then be a long argument over the weekend and the middle about that; there will almost certainly be no agreement because a few countries will be standing up solidly and saying no; there will then be a second Chairman's compromise.

Both of these compromises – those of us who know the system – will recognize will have been written by the same guy sitting inside ITU – at least that's how some speculate. But my point is that there will be new proposals on the table in the room and if you are not represented in that room, those who are representing you will probably not understand the impact of those proposals on the issues which are of real concern to you.

So steady as you go. The more of you the better on your own delegations. Thanks.



KEITH DAVIDSON:

Thank you, Nick. And I think your call to action when you're on our panel in Prague we can say has been well and truly answered and certainly the ccTLD world has become very aware of the issues, so if not engaged, at least aware and I think in that regard our job here is done.

And it's been really refreshing to hear that significant African participation is coming and so on and so forth. I think the response – the call to arms has been forthcoming and I think probably most importantly it's to remember that this is not something that finishes on the 14<sup>th</sup> of December; it's actually probably a three-year process. So I think we need to gird our loins and go forth for two or three years on this matter.

Anyway, our time is up. In fact we're over time a bit. Apologies to you but please join me in thanking the panel for their excellent presentations. Thank you all.

LESLEY COWLEY:

Okay thank you very much, Keith. Next up we have another visitation from the GNSO which is very good of you to come back. We obviously didn't scare you enough last time. This is Michele who many of you know already come to talk with us about the locking of a domain name subject to UDRP proceedings. Okay so the quicker we settle, the quicker we can get to coffee. Okay so welcome, Michele and over to you.

MICHELE NEYLON:

Thanks Lesley. Good morning everybody. Michele from Blacknight. I'm one of the Chairs of the GNSO Working Group UDRP Lock. For those of



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you who aren't familiar with UDRP, it's the Dispute Resolution Policy that is used with all gTLDs and I realize that several of the ccTLDs use it or a version of it; whereas others of you probably have your own dispute resolution policies, for example, I know Nominet has their own.

The reason that I'm here talking to you – apart from the fact that I love hanging out with ccNSOs since you're always so polite and friendly – apart from roll-off obviously – is because we were hoping to get your input and assistance since we know that many of you have already dealt with the issue and one of the things that several of us feel is that the CCs – you've been around for a very long time; you've got very well-developed policies; you've got procedures that work; whereas, the gTLD space sometimes – these things become overly complicated and not that functional.

There were discussions in the GNSO about a wider review of the UDRP in its totality; however, that's been punted until after New TLDs go live. However, we were able to get the GNSO to give us the opportunity to review a particular aspect of the UDRP which is one to do with the actual procedure and process. It's basically down to the locking, the freezing of the domain names and when that happens during the dispute.

At the moment the UDRP makes references to maintaining status quos; it makes references to when this happens, but it's not that clear. And what we've been trying to do is to work out exactly at what point within the process – when should it lock up and how quickly should it happen; when should these locks on the domain be removed; what constitutes a lock because that itself isn't really clear.



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And so what we've been trying to do is trying to get input from people in the GNSO, the ccNSO and the wider community just to help us with this. So today Marika of course has been helping us with this as always. You'll have to excuse me. I was actually at the [Ari] event last night so I'm a bit frazzled as usual. I know, Lesley, it's terrible.

So that's basically where we're at. We're just trying to get some input from people so if there's any of you who happen to have experiences with dealing with UDRPs or other dispute mechanisms, how do you actually handle that? When do you lock the domain names down or do you lock the domain names down?

I don't know what you all do within the CCs. So we're just looking for any input, any assistance, any help or you can just tell us we're all crazy – that's perfectly okay too.

LESLEY COWLEY:

We know most of you are crazy. Okay, so what experiences do we have to share either on your UDRP or your UDRP predecessor or successor or equivalent regarding locks. Debbie?

DEBBIE MONAHAN:

Debbie Monahan, .nz. While we're in control of our own systems, it's going to be much easier than it's going to be under the UDRP. Essentially as soon as a complaint comes in and it's deemed valid, the registry undertake the lock for us and it stays locked until the end of the process basically. The parties either come to an agreement and they negotiate their way out; the expert determines, makes determination or the complainant drops the complaint.



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So basically from [go to work] it's locked and no change can be made to the record. It doesn't change the DNS of course and there's no change, so the name continues to resolve; it's just purely that the record can't change.

MICHELE NEYLON:

So if you don't mind me just following through, when you say lock in, do you allow any changes to the domain name of any kind or is it if they change the name servers can they change registrar? Is it completely frozen?

DEBBIE MONAHAN:

It's completely frozen. I can be renewed I mean, basically but no, there's no change to any record. If they have a major issue, for example that they... We have had a case where the DNS provider fell over so we actually, with the registry's help processed the change of the name server. But no, normally, it's just totally locked down; no change to the record at all.

MIKE:

Hi, Michele. Mike from CIRA. Just to let you know again, we have our own version of the UDRP but essentially once a complaint is officially in the process, it is locked in the sense that they're not allowed to delete it or transfer it to another person. But I believe they would be able to potentially allow it to transfer to another registrar.

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MICHELE NEYLON: Just following on that, how do you decide when the process is actually started because this is one of the problems we're facing.

MIKE: We have two official dispute resolution providers and once they notify us that they received a complaint and all the checkboxes have been ticked off, that's when we alter the records in the registry.

MICHELE NEYLON: Thanks.

LESLEY COWLEY: Sabine?

SABINE DOLDERER: I'm Michele Sabine from .de. We have not a dispute resolution in place but we usually refer people to the courts. But what we offer is if somebody can prove potential rights to a domain, we lock the domain and then the complainant can go to court and actually resolve the problems with the court over the actual domain holder.

And we lock only the change of ownership. So the domain can be transferred to another registrar; it can be changed, the administrative contact it can be changed, the technical contact can be changed of the name service but it cannot change the holder of the domain because that actually is from our perspective the one in charge for the domain.

Until the complaint is either resolved, or it's deleted by the domain holder itself or it is actually... we receive a court order and will admit it

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currently to one year and if it should be extended more than one year, then we actually the complainant has to provide us with the documentation that he actually... or any court claim or something like that.

**MICHELE NEYLON:** Sabine, just following up on that – what would happen, say, if the domain was about to be deleted or expire when this kind of thing was kicked off?

**SABINE DOLDERER:** We don't have any expiry in the domain; we have a sort of a permanent contract so it can only be actively deleted by the... actively cancelled by the domain holder and then actually we offer it to the complainant so he can actually get the domain for the cost; we don't care anymore.

**LESLEY COWLEY:** Okay, thank you, Sabine. Roelof?

**ROELOF MEIJER:** Roelof Meijer from SIDN .nl. Yes, we have a lock on domains as well and one of the situations in which we do it is if we have a complaint that is handled by WIPO, we have something like a UDRP but our own version. It's run by WIPO. As soon as we get notified by WIPO a lock on the domain will be implemented; means it cannot be cancelled; it cannot be transferred to another registrant.

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But in most cases it can be transfer to another registrar. And the lock will be there until the procedure is completed.

MICHELE NEYLON: Thank you.

LESLEY COWLEY: We have Ondrej right at the back and then Annebeth.

ONDREJ FILLIP: Ondrej Fillip, .cz. We use the Czech Arbitration Court that's also a UDRP provider so if there is a dispute and we are informed usually online from Czech Arbitration Court or we will get a paper from state court we should lock the domain so it cannot be... administrative and owner contact cannot be changed and the domain cannot expire.

And this lock is for about four months. So if we will not get any information in four months we just [raise] the lock. And in the lock you can change the owner to the swing parties so that's possible. And this can be done just once a year, so if it's another case, you need to go to court ordered to avoid too many lockings of the domain. So that's how we deal with that.

LESLEY COWLEY: Okay, Annebeth and then Lise.



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ANNEBETH LANGE: Annebeth Lange from .no. We have our own dispute resolution body based on the UDRP so it's about the same rules but we handle it ourselves. And when a complaint comes to our registry, we block the domain name at once and it will be blocked all the way through until the decision is implemented.

And if it's deleted – sometimes we experience that they try to delete it while the process is going on – and then it's still blocked for a while until the decision is taken and you cannot transfer to another registrar either.

LISE FUHR: Hi, I'm Lise Fuhr from .dk. Well we are a regulated ccTLD and we have a complaint board that's defined in our law that takes care of complaints. So whenever a complaint is received to the Board they tell us and we'll lock the domain but the .dk domain is a sole registry so you can't do any transferring; you can't do anything. The only thing you can change is the address of the registrant.

MICHELE NEYLON: Thanks. It seems like you all have slightly simpler process which is wonderful for you.

LESLEY COWLEY: Simpler is normally better, yeah. Okay, anyone else? Marika?



MARIKA KONINGS:

Hi, this is Marika. I'm the policy person supporting this working group. Maybe another question as well cause some of you spoke about that you lock the domain when you're notified by the dispute resolution provider or when you receive a complaint.

One of the issues of the working group I think is struggling with as well that they're having many instances depending on when you lock that there might be cyber flight. So if you wait for the official notification from the UDRP dispute resolution provider, the domain name is already transferred out somewhere else cause they have been notified though the registrar because the complaint was already received.

Is this an issue that you also see in your communities or that's not an issue at all? And if so, how have you dealt with that or are you dealing with that?

SABINE DOLDERER:

Hi, yes. [I deal] directly with the complainant and usually we recommend the one who has a problem to first contact us then set the lock and then contact the domain holder. So that's actually not an issue.

MICHELE NEYLON:

Just to clarify something. Do you all have a contractual relationship with the registrant?

SABINE DOLDERER:

Yes, or I think most of us.



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MICHELE NEYLON: Are there any of you who do not have a contractual relationship with the registrant? I see a hand back there.

LESLEY COWLEY: That's Debbie and they should have found another way.

DEBBIE MONAHAN: We do have some sort of contract or a relationship but not a direct one. The registrant signs up with the registrar, but as part of the terms and conditions, we control what terms and conditions have to be in the registrar's agreement that the registrant signs and they get bound to our policies through that particular agreement which means we can enforce it.

And so the clause says they're bound to the DNC policies which may change from time to time. And so basically they're all bound through that third-party.

KIRSI SUNILA-PUTILIN: Hello, I'm Kirsi Sunila-Putilin from the Finland Communications Regulators Authority and we are actually running Dotify so since we are an authority, all the decisions, also the grounding of the domain name, they are administrative decisions – that's why we don't have a contract with the registrant.

But we are also following the same kinds of rules that have been already explained here and just to comment on your question about what



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happens if the domain name expires while there is a lock, usually in our case the whole case ceases to exist so we will just inform the person or the organization that started the process that it's no longer pending because we have also a special feature for Dotify which we have in-house dispute resolution.

LESLEY COWLEY:

I think you've got plenty to be going on with and also we've demonstrated that one size doesn't fit all once again, but clearly a lot of experience and case studies I'm sure to share with you.

If you'd like to do follow-ups with any particular CCs, do let us know and we'll arrange that.

MICHELE NEYLON:

Thanks, Lesley and thanks to all of you for sharing your experiences and if any of you are willing to share more experiences with us or help us and advise us, we would look to you because I think you do have a lot of experience.

LESLEY COWLEY:

Okay, so if you'd like to send an email to the Secretariat, we can put it on the list, particularly if you're focused on the questions you're asking – that would be incredibly helpful and we can probably be a bit more informative in our responses. Thank you very much for that. We're going to break for coffee now and we are back here at 11:00 please.

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[break]

LESLEY COWLEY: ...the NomCom final report to the ccNSO so could I just ask everyone to grab a seat and settle if you would please? Okay so welcome back everybody and greetings and welcome to Vanda and Yrjö.

VANDA SCARTEZINI: Thank you, Lesley, thank you everyone to have us here. The general idea of this meeting is not make really a presentation; just talk with you like we did before during this year and last year to check what will be your recommendations for leadership positions, specifically for Board members and also for the member of the ccNSO.

And first of all I really appreciate the way you mentioned last year. That was very specific and clear recommendations for us and I would like you to go on on these recommendations and check if there is anything that you want to add or withdraw or even to just make a more wider or [restrictive], whatever.

Your recommendation is quite real important. One important issue is about the number of participants in our pool so we have a very few members from Africa this year, really less than 10% of the applicants were from that region. So I would like to encourage you all from the region specifically to talk with all the leaders in your region to apply.

So it was very, very important to make some balance on those applicants for having an opportunity to choose candidates for all regions. So in our... I just can show you quickly that's your



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recommendation of that – very clear to our wide ccNSO member who has a chance to participate through the internal process, but must be someone with knowledge of ICANN.

And the NomCom really took these recommendations into consideration very deeply and to choose the selected person that we already did for the ccNSO and we hope that she can perform as you wish. Just for information, that's a general matrix that we just check each candidate that was selected as ATRTR recommended.

And how we do that – we do that with two ways – one, we have information from internal analysis and on the other hand, for some candidates we have also information from external contractor companies. That gives us detailed information about the profile trying to match that information that we receive from many, many members and IACs and SOs around ICANN and try to match them with the candidates we have selected for these positions, so just to show you this kind of things.

Of course for Board requirements and requisites, there is also a matrix over there and what we really need to do now is if you allow me, Lesley, before I believe you have opened the floor for the questions, I'd like to pass the floor to Yrjö to present himself in his new group. Thank you.

YRJO LANSIPURO:

Thank you, Vanda. Yrjö Lansipuro from ISOC Finland is my name. We start the work of the new NomCom, NomCom 2013 on Friday. It'll be here Friday and Saturday when everybody else left and goes through our Rules of Procedure. We are getting recommendations which are



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actually part of this final report, recommendations from the 2012 committee and we see how they can be implemented or are incorporated in our Rules of Procedure.

We also plan our timetable which is a challenging thing this time because as you know, the ICANN meetings next year are quite late. I think that there's never been a spring meeting as late as the Beijing meeting will be so that will impact our timetable.

Basically I don't have much to say because we started our work only on Friday. Just two things – we are going as open and transparent as possible. There's only one exception and that is that we are absolutely protecting the candidates. That has to be under strict confidentiality but otherwise, I don't see any reason why we should keep somehow secrets our procedures and processes and where we meet and so on and so forth.

The other thing is that I ask for your help and I think Vanda already mentioned that is to say we need good candidates and everyone of you of course knows people who would make good ICANN directors or council members or whatever so please ask them to apply. Thank you.

VANDA SCARTEZINI:

Apply easily online to [NomComICANN.org](http://NomComICANN.org). Any questions?

LESLEY COWLEY:

Okay, thank you very much both. Any questions or comments from the ccNSO please? [Jan], I don't know if you want to say a few words because I know you've been our representative on the NomCom.



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FEMALE: Probably you already know I'm the representative from our ccNSO to NomCom so if you do have any questions or comments or concerns, do come to me. I will be a liaison to the NomCom.

And also for our coming 2013 NomCom I think Vanda just showed us the criteria as a recommendation ccNSO sent to NomCom last year, I think we do need some kind of clarification on those recommendations.

For example, like we did say we don't want any ccTLD managers, ccTLD members come through NomCom to ccNSO Council but how to define ccTLD members. So that's just an example so I think there's still some work needs to be done so I would like to be coordinated between ccNSO...

VANDA SCARTEZINI: We have some discussions on that. The clearer the recommendation, the easier to get the right person and the right candidate. Thank you.

LESLEY COWLEY: Okay, I think the Council looked at the issue last year and I think we do need to revisit that and see if the requirements or the comments remain current or we need to update and so on. We're happy to do that. Cheryl, did you want to come in?

CHERYL LANGDON-ORR: Just briefly. Thank you, Lesley. Cheryl Langdon-Orr. If you're wondering why the hell I'm sitting up here, it's not just to add color to



the front cause Lesley and I need to sort of balance the bit of bling up here.

I have the honor of serving with Yrjö in his 2013 Nominating Committee as the Chair-Elect for the 2014, so I'm already thinking about how we're going to be doing 2014 but before 2013 starts. So you know me – I hope you know how to find me. I'm a resource; I'm accessible; call me.

LESLEY COWLEY:

Okay thank you all and I wish you all well in your work. I know it's a very big challenge and a lot of sessions, interviewing and meetings and so on that we're aware of and very much appreciate. Thank you.

Okay so we're going to move on now to our ccTLD News Session where as always we have a host of people keen to share developments and news and I know how many of us appreciate this session and Katrina has been kindly volunteered to Chair the session. This will be followed by the Regional Organization News and both sessions run up to lunch at 1:00. So if you are presenting a session, can I encourage you to come up front please?

[break]

LESLEY COWLEY:

Okay welcome back everybody. I think we've lost a few people to lunch but I'm sure they'll join us as soon as they're able. We're going to close off our day with the ever-popular panel discussion which this time is on



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the subject of registry principles and I'm delighted to hand over to Keith to chair that session.

Just as a trailer though, at the end of this session, some of you will remember we promised you gadgets if you filled in the ccNSO survey. So just to encourage you to stay for the entire session, at the end we will be giving out the gadgets if you filled in the survey. If you didn't fill in the survey, you don't get a gadget. So we're going to need to rely on you. We have ways of knowing you filled in the survey; it's okay. We're relying on your honesty, Roelof. So without further ado, let me hand over to Keith.

KEITH DAVIDSON:

Thank you, Lesley, and good afternoon everybody and I see that there's a couple of strange faces in the room. So my name's Keith Davidson if I haven't met you before. This afternoon's session – the panel discussion – is on TLD principles and I introduced the topic in a very brief session during ICANN Prague and asked for a show of cards and there was a sea of green wanting a greater bit of information and discussion on the idea of these principles.

So just recapping – internet .nz developed a framework of seven principles that it believes to be relevant to the way we would upgrade our TLD and may be applicable to other TLDs. This is not an attempt to assert that our principles are always right and always applicable everywhere; it's just merely that we have been through a process and developed them.



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So today we have a panel who will be giving us a look at their sets of principles as well and we'll see what levels of alignment there are and perhaps out of it we may find that we're missing some aspects or there are some gaps in our principles. So it should be an interesting and lively session in that regard.

For us we found our TLD principles quite useful in evaluating whether or not we would participate in applying for new gTLDs with our principles on things like first come; first served and some of the ICANN restrictions over gTLDs we felt that was too inconsistent for us to apply and so on.

So we have in a nutshell seven principles. They are 1) that domain name markets should be competitive; 2) choice for registrants should be maintained and expanded; 3) domain name registrations should be first come; first served; 4) parties to domain registrations should be on a level playing field; 5) registrant data should be public; 6) registry/registrar operations within a TLD should be split; and 7) TLD policy should be determined by open multi-stakeholder processes.

So I guess as a matter of record principles should be enduring and remain relevant and applicable across environmental changes. There may be occasions where principles come into conflict with each other which might require consideration of their application in those specific circumstances.

Okay, I think internet .nz developed its principles in a semi-open and transparent semi-consensus based way but certainly stakeholders who had strong interest had the say and that ended up with us dropping a couple of principles because we couldn't achieve consensus on them so we ended up with our seven.



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Anyway this afternoon we have our moderator, Byron Holland, who has found time and has an otherwise hectic schedule as the host of the meeting here in Toronto and again our thanks for hosting us here. But, Byron, would you like to introduce our panel and I'll just merely sit and Chair and call order and timeliness if necessary. So over to you, Byron. Thank you.

BYRON HOLLAND:

Okay well welcome everybody and after lunch hopefully this will be a lively discussion, recognizing that it is just after lunch. And I know that between Keith and Lesley literally I will definitely be kept on time. We had some challenges with the sound this morning. Everybody good? Everybody hear me in the back? Okay.

Well I'm just going to very briefly introduce everybody and then I'm going to ask each and every one to just let us know in terms of principles in their own environments very quickly – do they have principles or are they without principles – principle-less – and just how did they get there? Some perhaps through legislation; some through a consultative process, but just a very quick overview of where you're at.

So we have a range of folks here from a range of registries, although we're pretty well represented by .nz I think. But we have Demi – and please, if I pronounce this incorrectly, let me know; I know you will - Getschko from .br.; Mathieu Weill from .fr; Lise Fuhr, from .dk; our illustrious Chairman from .nz; Annebeth Lange from .no; Debbie Monahan and Jay Daley from .nz and Roelof Meier from .nl.



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So maybe just going from left to right, if you could give us an idea about whether you have principles or not.

DEMI GETSCHKO:

Yeah, we have some principles, I hope. As Byron said, I am involved with the registry in Brazil, .br. It is a quite old registry – since '89 – when we began to register names. We have some specificities that are different for other registries. Maybe we can discuss some of them in the middle of the panel.

But of course we also think that some of the principles have to be common to all the registries and I suppose we will take advantage of this during the panel. Thank you.

MATHIEU WEILL:

Thank you, Byron. Under .fr, as some of you may have heard this morning, we have some pretty extensive regulations including specific Domain Name Act where under (inaudible) principles are embedded and they include first come; first served. They include the principle that registration rules are open, transparent, non-discriminatory; that registries may not be registrars – vertical separation is among those principles; and that registries or registrars actually cannot cancel or block a domain name unless certain configurations appear, including legal action and so on.

So those are just examples of the principles we have and our specificity compared to .nz is definitely that it's in the law. It's something we have contributed to in the operation of the text, but it's not within our



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control, it's not an AFNIC designed document. It's embedded into the regulations of the country.

LISE FUHR:

Yes, I'm representing .dk Hostmaster.dk. We're also heavily regulated and well, most of our regulation is about principles because it's a framework regulation where we have to fill in the blanks about the registration of domain names. But we do have to represent the Danish Internet Community and it has to apply to private uses, professional uses and suppliers.

We do have to be non-profit and we do have to be very transparent. So we're trying to fill out these principles and we do have some other principles that we put in ourselves, but that really does make a lot for our government structure that we have this formed in the regulation.

BYRON HOLLAND:

Thanks, Lise. Annebeth?

ANNEBETH LANGE:

Hello. In Norway we are also regulated in a way but a little more lightweight than in Denmark. So some of the principles we live after are in that framework regulation like cost effectiveness, non-discriminatory, transparency and those things that Mathieu mentioned as well.

But then we had to fill in with some more that we have in our management plan and in our revisionist strategy that we thought were lost in that regulation so we really wanted to have it even more principles.



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And these principles have been... even the framework was out on a hearing and asked all the stakeholders in Norway to come with suggestions. And when we do some changes in our policy, we ask a little dependent on how important that change is, whether it's a full hearing out to the multi-stakeholder society or we have a policy board that we ask for advice representing the stakeholder groups in the country.

BYRON HOLLAND:

Thanks, Annebeth. Maybe Debbie, I could just get you to speak to .nz's position and maybe if you could also just articulate the structure of .nz so people get a sense of why there are so many of you up there.

DEBBIE MONAHAN:

What I was going to say is basically .nz is run by Internet NZ with two subsidiaries essentially and so why these three are up here is that the Internet NZ principles that resulted in the session, all three entities actually sign up to. So the Domain Name Commission, which I head which is the policy and regulatory business of Internet NZ. Jay heads the registry and we're two fully owned subsidiaries for Internet NZ.

So when Internet NZ was developing these principles, they not only consulted with us, they consulted with their membership and so this is actually something that the members and the two subsidiaries have actually signed up to and they do reflect how we should operate at our ccTLD and the policy framework we have within the ccTLD. So these actually document, if you like, the approach that we take to our policy CC and how we actually, if you like, operate our CC.



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BYRON HOLLAND: Keith, did you want to jump in for a sec?

KEITH DAVIDSON: Just to elaborate that a little bit further. So the perspective from .NZ today is I'm not from .NZ; I'm just here to cheer. Debbie's here as the regulator for .NZ and Jay's here as the registry operator for .NZ so I think it's often quite interesting to get the comparison of the difference of view and using principles from those two different perspectives.

BYRON HOLLAND: Are you suggesting a regulator and an operator are different perspectives? [laughs]

KEITH DAVIDSON: Occasionally.

BYRON HOLLAND: Okay. We'll get the operator in shortly but first let's go to Roelof.

ROELOF MEIJER: Thanks, Byron. Yeah, we definitely have principles at this IDN and you also asked the question where did they come from. I think quite a few really stem from RFC 5921. I think also quite a few come from what this sector concluded to be best practices. So first come, first served is something which is in the RFC more or less but is also something that is wildly adopted I think by most registries.



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An example of principles that we established more recently are our governance principle, so we have an independent supervisory board for instance and quite a few of our principles we have also let's say guaranteed their continuous existence because we have incorporated them in the confidence that we bullied our governments to sign with us.

So some are technical; quite a few are economic, so we're not-for-profit but we still want to make a positive result every year so that we can use that money for reinvestments or for research or for any other relevant good purpose.

And quite a few of the principles that .NZ uses I think we would subscribe to; quite a few we wouldn't by the way because they are not in line with our policies or values. We have also corporate values which is I think quite similar to principles but we haven't – like .NZ has done – we haven't listed them all together and I think that's quite a good idea. If we would, I think we would have slightly more, but then we might conglomerate quite a few of them [also].

BYRON HOLLAND:

Thanks very much and as we go through here, I would be interested when each of the participants next speak, if you could actually just tell us – we all have principles, but are they crisply and clearly articulated in one place where everybody can see them and read them and you can be held accountable to them? So just yes, we have principles, but are they easy to find; are they written down and are they clear? I would be interested in hearing that.



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Before we go there, can I get one of the .NZ folks to talk to us... Let's just go back a step why did you do this? How did you get started going, "You know what? We need a clearly articulated set of high level principles to guide us?" Just take us back to the why.

JAY DALEY:

We have traditionally made friends in the ccTLD community around things such as information sharing, being at similar levels of maturity within the organization, even common language or things like that. And I think that we realized that as we were moving into a new phase of TLDs with the introduction of New gTLDs it was going to be more important for us to find something stronger that we had in common with people that would enable us to work as one to influence the future direction of ICANN.

Us all being country codes is a nice community, but many of us do things very differently and there are some things that other country codes do aren't necessarily things that we would accept within New Zealand.

And so Debbie and I very much asked for these principles to be drawn up or a process to go through for these principles to be produced so that we had something that codified the way that we worked and the strengths about the way that we worked and the things that we thought were fundamental about the way that we worked that we could share with others and start this conversation going with others about what really matters, why do we do things, with the hope then that this will then move forward into the rest of ICANN.



I think we all know that when we look at ICANN and its processes, there is a distinct lack of principles driving things. That's not to say they don't have principles somewhere down there but very rarely does anybody go back and refer to those.

And so you look at something like the GNSO WHOIS debate that I think has been going on for about 75 years now – had they had principles and agreed principles up front, they might possibly have solved that. And I think that because we do have principles and have developed them, we can contribute best to the ICANN debate through those principles.

BYRON HOLLAND:

So that's interesting. That's a fairly lofty goal. Did I hear right that one of the reasons that you developed them was to hopefully start to influence the entire ICANN process? Interesting.

Let's drill down on that a little bit. In terms of how you got to the principles, we certainly understand that you put it out to the community. Could you give us a sense of how you got to these principles? What was the process and therefore, how do you know you got the right ones?

KEITH DAVIDSON:

Can I respond to that, Byron?

BYRON HOLLAND:

No, you're the Chair; you're not allowed to talk. [laughs]



KEITH DAVIDSON:

Okay, but I'm not the Chair for this particular occasion; I'm a person of many hats or at least I probably should wear a hat with a hairline like mine. But I was actually contracted by Internet .NZ to develop the principles along with Jordan Carter who some people will remember from .NZ. And we used initially RSC 1591 as our base and just interestingly Roelof was talking about 1591 and I think one of the principles that we dragged from that was concerns about rights and ownership of domains are not appropriate. And that was one principle that didn't get through our process for some reason and I still really don't understand why you would oppose that.

But anyway, we were contracted to go through a process so we consulted with the three parts of Internet .NZ – the society that heads the .NZ delegation, the regulator and the registry out to our members, out to some key stakeholders who we knew would have strong opinions. In year 2000 we had a commissioning of a report for our registry which we referred to as the [Hind] Report which a professor at our Wellington University had created which was the principles for the creation of the registry and the regulator functions for our model and that provided us with guiding principles.

So it was a question of developing and finessing those broadly captured policy guideline and principles and codifying them as if they were principles and then testing them against our stakeholders and going through several iterations and several last minute iterations and then resolving.



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We've just been through the same process for a set of policy principles as well so this is our set of TLD principles. We also have another set and I can see us developing probably other sets of principles along the way.

BYRON HOLLAND: So that's interesting. So what policy areas do they guide and do the set that you shared with us – they don't guide one of the parts of the business? Or the other part of the business has a whole separate set?

KEITH DAVIDSON: The Internet .NZ, the society, participates in a range of debates and on a range of issues that are probably more aligned to ISOC issues, so broader than the ccTLD by a very long way. So if it came to us creating a submission on say, copyright law in New Zealand, we would use the policy principles to guide us in that and that might be that termination of internet access is not appropriate as a penalty for copyright infringement or something along those lines.

So using the principles as they're applicable. But I think that's a little bit off the subject of the TLD principles, so maybe we shouldn't dwell on that. And that might be a topic for a...

BYRON HOLLAND: I agree with that and that's what I'm trying to understand is how each of the parts of the organization would use the principles and do they all use the same set?



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DEBBIE MONAHAN: The policy principles that Keith has just spoken about are actually Internet .NZ's policy principles. The TLD principles are ones that we all signed up to. Now the general intent behind Internet .NZ's policy principles, we of course agree with but that's not when I use when setting policy for the .NZ space.

The TLD principles are more on the side of me developing my policy along with a policy development process which is actually one of our policies. So we come at that from that perspective and that policy actually says that we'll go out for public consultation and that policy actually brings in a lot of the principles that are actually in here. So the policy principles Keith spoke about in that setting are actually Internet .NZ's.

BYRON HOLLAND: Okay, I think I understand that maybe. Demi, maybe we could pick up with you. I know you had a short presentation – a couple of slides and maybe we could pick up on what's going on in .BR in a little more depth.

DEMI GETSCHKO: Okay. First of all I want to explain that we have a separation between two different bodies in Brazil. We have the Brazilian Internet Steering Committee that is a committee composed by 21 members that represents different stakeholders in the process. We have nine members from the government and we have the other 12 elected members that composes this Steering Committee.

The Steering Committee delegates to the NIC.BR the operation of a lot of services, including of course the registration under .BR and as we



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have a surplus of money, we have to apply this in other initiatives on the internet.

But just to frame the question, since 2008 we began to discuss a set of principles for the internet that also reflects in principles for the Brazilian ccTLD because of the pressure of new laws that are trying to pass in Congress. And these laws can represent a threat to the internet in a good faith. The legislators always want to have things in the right way, but in many cases they don't understand exactly what they are doing when they are proposing some new laws.

Then the Steering Committee spends one and half years discussing principles and we elaborated in 2009 a set of 10 commandments, 10 principles of the Steering Committee. And some of them are really in some ways related to what the CC has to do or how will be their liability of the value string of the whole internet.

For example, it was important to stress that one of the principles says that the principles says that the (inaudible) is not guilty of the things that happens over the internet because in many cases we had decisions in courts that order to take off some service because of some bad things that are there.

For example, YouTube was chosen to be offline for two days because of some videos that can be considered damaging for reputations and such. Then we tried to set up a set of principles that tries to defend or to protect the internet itself. The principles are... These are the 10 principles that the Steering Committee has released in 2009.



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For example, net neutrality is No. 6, then net unaccountability is No. 7 and this relates more or less to the CC operations also. The next slide is about what we are talking right now. I suppose we can divide the principles for CCs in two sets.

One is general principles that may be applied to every CC – of course it depends on exclusion – and the other part is the principles that are very specific on .BR. .BR has some very different specificities in some kinds.

For example, I think or we think in .BR that first come, first served is a very general and very important principle for registration. We also have the registrant data public in a very neutral way. What I mean with neutral way is there is no privileged access for some institutions or some legal institutions or that try to get access to data to see various violations of rights or property. We have the same data exposed to everyone in a way that is public.

We think that the policy in each CC has to be defined inside the territory by the multi-stakeholder process. We think that the process has to be fair; it has to have transparency in the rules, it is the rules of the Steering Committee for (Inaudible) in our site since 2009.

BYRON HOLLAND: Can I just ask you – just quickly intervene – who developed the principles?

DEMI GETSCHKO: The Steering Committee – 21 members of the committee discussing one and a half years. It was a consensus decision.



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BYRON HOLLAND: Okay, so it was a consensus decision within the 21-person Steering Committee?

DEMI GETSCHKO: Yes.

BYRON HOLLAND: Outside input from other organizations or was it strictly from the Steering Committee?

DEMI GETSCHKO: Yes, how the representatives of the Civil Society got elected. We understand that this is a way to have representation of outside organizations – we have four representatives of (inaudible); three representatives of the academy; three of the industry.

BYRON HOLLAND: Okay.

DEMI GETSCHKO: And we think stable and secure operations is very important. We have DNSSEC full deployed and we think that the collaboration that is the basic of the beginning of the internet has to be strength all the time. We have strong collaboration of all the CCs for [secondaries], for regional training. Then I think these are our principles general.



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Just to go a little bit further, the next slide lists some of the principles that are specific for .br. We are open just for Brazilians. This is good and bad depending on how is the view you take. For example, it is easy to have resolution in national courts in any case because all the parties are from the same country, under the same law.

We are a thick registry. We have all the data inside our registry and at the same time we are open in a sense that any provider can act as a registrar. We don't have a credit registrars; we have providers that act as registrars and we have APP available for everyone that wants to use APP. Of course has to bear to some conditions and rules but it's open to everyone.

We have the second level closed. We don't have registration in second level except on some exceptions and we treat differently the different registrants. For example we have natural persons that can be professionals or blogs or vlogs or something like that. We have a non-for-profit that has to prove that it's non-for-profit; we have enterprises and we have some sponsored though restricted domains for government; for judiciary, legislative and for banks.

In this case we impose the use of DNSSEC in the whole three of these domains to give the users a little bit more safe browsing and safe use of this.

We are very constrained in the liberations and constraints of domains. This is a quite strange thing. We have paperwork to transfer a domain or to liberate a domain to all the users because we are afraid of fraud in this instance. For example, if the old administrator is not anymore the administrator of that domain but he has the password, then he can



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provide some kind of transfer, then we are very old fashioned in transferring and liberating domains.

And finally we [reacted] many years to have a domain resolution policy. We always send the processes to the judicial, to the courts, but since three years we deliver the local UDRP – this is quite the same of the WIPO; and we are not involved in the process itself. We have three chambers. The litigants can choose any chamber they want to solve the conflict we have. Until now we had 12 cases of litigation using UDRP. And it seems like the weather is quite calm in this area.

This is my presentation. I have another one slide if you want just to maybe...

BYRON HOLLAND:

We'll let somebody else come in now but I want to make the observation that it would appear you have done a significant amount of work on principles and have multiple levels of principles very clearly laid out and we can see it right here. I think that's a very interesting distinction between some of the very high level principles yet you've gone right down into relatively close to operational principles as well. That's a lot of work done.

Maybe Annebeth, can I go to you as I think the only lawyer on the panel but also have principles that are bound somewhat in regulation and legislation. And if you could tell us a little bit more in depth about where the .NO is and the impact there.



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ANNEBETH LANGE:

.NO started actually without any laws at all so they were for many years in so-called understanding with the government and never having talked with them but then suddenly they found that they needed to have the relationship with the government to be more legitimate.

So what started the process was actually to go through the RFC 1591 and it's a red line going through the history of all CCs actually – it's used the 1591 and it's a lot of principles set there that form the background for many of us. You see that when we discuss today.

And then we also took the GAC principles actually and they had been made over the RFC 1591 but just deepened a little. So the principles we have in the framework, some of them are there and they are more just the same principles that come from this area – from the 1591 with transparency. But first come; first served actually is not there. So that's more a tradition that everyone uses at least after a while because it's scalable and I think that must be it.

In the beginning, I think that a lot of registries, when they are very small, start to do a proper... they take the documentation that you send with your application and find out if you have it right. Then you don't have the first come; first served actually, not really.

But when you have an automatic system and don't check anything, the only way to do it is to have the first come; first served. But then that leads in my opinion to another principle that you have to have – that you also take care of what happens afterwards. So one form of dispute resolution is also baked into our principles.



So I think that it's a good idea, what the .NZ has done to really make it very visible for everyone going into the webpage of the registry to see what kind of principles do you live after. In Norway it's some in the framework; it's some in the vision; it's some in the goals so it's not really easy for people to find, even if we live after them.

And the end set principles we see here that I think they could be good for a lot of us. And it's interesting if we could make some investigation of what all the CCs have of principles, then we could easily see is it something here that we lack and learn from each other. And that's part of this process in my view.

BYRON HOLLAND:

It is interesting because what are the best practices? And this is the first time I've heard that RFC 1591 was very much responsible for the principles that you have, layered on with the GAC principles which I think is the first time we've sort of clearly heard that articulated.

As a moderator the technical stuff going on here is making it a challenge. Any idea how much longer you're going to be? Gentlemen? You good? Excellent, thanks. Lise, is your presentation ready to go? Ten seconds away?

LISE FUHR:

Well, I can do... you're asking about if we have our principles written down and actually in 2008 we made an offer for a tender and in that offer we needed to put down the principles of the .DK registry. And then actually the principles were put into our permission so you can easily see what the principles are but you need to go through a lot of



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reading to find the specific principle because it's entangling all the other stuff that's also within our permission.

And I really get inspired from this session that we should have like a one-pager of these are our principles. But one of our most important principles, apart from being transparent and representing the Danish internet community, is that we are a sole registry and we have been that since '99 and by being a sole registry we mean that we have registrars that register our registrants' domain names. But after that we have all the contact with the registrant and that is because we want to insure that the registrant has the full control of the domain name; that there is no middle man and they can complain to us and they can transfer; they pay directly to .DK after the second term.

So this is one of our most important principles and that was one of the reasons that we won the tender in 2009 because a lot of people wanted to keep this system. But we are looking into it all the time, even though it's a very important principle to us because I think you might think you have a good principle, but the world might change so we are looking at it all the time to insure this is a sustainable principle that we should live after.

But that's very important to us and that's our business model so that makes what you're asking about – is this important for how the business operates? It's very much; it's a culture; it's that the registrant is the one who's taking control of a domain name.



BYRON HOLLAND:

And I think you raise a very interesting point in that's one of those things that's so simple yet often so many of us forget it. If you have a set of principles, are they front and center so people live them? Are they on your homepage or at least when your staff signs their initial paperwork, are they signing off on the principles?

All that sort of basic stuff, but it often gets lost in the shuffle somehow. Mathieu – and I do notice there seems to be a commonality of the Europeans – they all have legislation. Can't get enough legislation in Europe I guess. Mathieu, let's hear about yours.

MATHIEU WEILL:

I think France is quite well known for its ability to produce more and more legislation and regulation so I consider ourselves quite advanced in terms of more regulation but I'm not sure it's positive.

So as I was explaining this morning, the regulation itself was quite light until 2009 but basically there was this litigation in front of the Constitutional Council that said domain names are getting extremely important for business, for freedom of expression and therefore, if it's important, there must be principles embedded in the law because that's our legal system.

So what's interesting is that these principles – and what the Council said was – and so we have no problem with what AFNIC has been doing so far on this thing, but it's too important; it cannot be left to a registry, even if it's an artistic holder or whatever, has to become part of the legal system.



That has several consequences including the very significant one that you have to be extremely careful on compliance. It's good to have principles; good to show them on your website, but when it's part of the regulation, then somehow it becomes quite easier to say, "Well, I have to take them into account; otherwise, I'm basically taken to court." And there's no internal ombudsman before.

So I think one of the aspects that make these principles matter is the way we live them, the way we communicate about them, but also the way we enforce them and we are accountable to them. This is totally similar with things we hear in this ICANN world very often.

How are we going to make ourselves accountable to these principles? For us it's very simple. It's a matter of whether we want to win this court case or not. If we do not live with the principles that are in the law, someone will come and get us and we have a number of people in France who have been trying to get us on this in the past and we know we are being watched. And that's a good incentive; extremely good incentive actually.

But when we are just self-regulating into these principles, I think one aspect that's often forgotten is how we enforce them within our organization and how we make ourselves accountable to these principles. And for us now it's a settled question but before the regulation was set up in France, I wouldn't say we were very mature on this.

BYRON HOLLAND:

Thanks, Mathieu. Roelof, in your regulation-free environment.



ROELOF MEIJER:

I wanted to react to something you said earlier first if you allow me because you mentioned putting principles on paper so that your colleagues, your employees read them whenever they sign off and join the organization, etc.

I think we have to be careful that we don't throw all of the principles in just one big heap because I would call those core values that guide the people who work in your organization. And I wouldn't want every person who works at every SIDN to sign off on we have an indirect registration model and we are not-for-profit. But I would like them to sign off on we are trustworthy and accountable and we have the customer as our prime focus – those kinds of things.

Now for principles without regulation... of course we have to adhere to the national laws in the Netherlands so quite a few principles have been taken care of in that aspect. And like I mentioned before, we voluntarily entered into a contract with the Netherlands government, and in that contract we put in a lot of our principles.

So for instance that our Board is independent; the main aspects of our policy will be formed through an open multi-stakeholder (inaudible); that we have indirect registration; that we use the principle of first come; first served. So it's not so much in regulation of the registry as in legislation and in the fact that we entered into a contract or a confidence as we would call it.



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BYRON HOLLAND: Thanks very much. Since we've had the opportunity to hear a little more in depth from all of the participants, are there any questions at this point for any of the panelists? Clarification? Questions?

MALE: I notice that in two cases one of the principles is that all registrant data should be public. Have you encountered any problems arising out of that principle in terms of violations of data protection laws or people mining your database to harvest email addresses or perhaps people trying to find where somebody lives or some illicit purposes? Or if somebody would ask for a full copy of all your registrant data for every single domain – would you be able to say no if you have a principle that all the data is public?

BYRON HOLLAND: Lise and then Demi.

LISE FUHR: Well in Denmark we have as many data public as possible except for the email address. And we took it out and we have had some requests for bringing it back. We have a phone number but we have to apply to the data protection law so if people are protected by other laws and are not supposed to have shown their name, they'll be anonymous.

DEMI GETSCHKO: Just to make a clarification. What is open in .BR keys is the data of the registrant, not the personal data including, for example, we don't collect credit cards and don't put the physical address of the natural person



available. But the name and the number that unifies in a unique way the registrant we think is good for protection of the registrants themselves.

Then we have some mechanisms to not permit the harvesting of the data. We have restrictions of number of queries you can do from some IP, but normally it is open.

BYRON HOLLAND:

Debbie, did you want to chime in?

DEBBIE MONAHAN:

I just wanted to clarify the actual principle because below these bullet points is actually an explanation and what this one actually refers to is a free and publicly available search of the register. So it doesn't specify that all the data has to be available. What it says is you've got to be able to search the register and find the registrant. So the explanation underneath it actually clarifies.

That said, we do like Demi and we've got rate limits and other such things as well to protect it. But we didn't actually specify that all of it be public so the data protection stuff is for each registry that she manages the data of. There should be a free and publicly available search of the register.

MALE:

Just a point of clarification with Demi. Is there any data that you collect but you don't make available, for instance, postal address or something?



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DEMI GETSCHKO: Yes, postal address is not exposed.

MALE: But you collect them?

DEMI GETSCHKO: We have to send emails; physical mail in some cases. We have to have paperwork.

MALE: So No. 5 reads something like registrant data should be semi-public.

DEMI GETSCHKO: The problem would be the definition of registrant data.

BYRON HOLLAND: So we'll go to Jay just on this direct one.

JAY DALEY: If I could just add briefly I think we're using the word registrant in two different ways here, okay? By registrant, I think those of us who are using it must be public is who is the legal entity or the entity that is the registrant? We don't need to know anything more beyond that about him so we don't mean other data associated with the registrant; we just mean that one thing about the registrant who the legal entity is.



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BYRON HOLLAND: We've tapped something here because everybody wants to talk. Mathieu, I think you had your hand up first though.

MATHIEU WEILL: Just to mention I mean WHOIS data is mentioned in our regulations and it's mentioned that it should be subject to the National Privacy Law and the conclusion of this when implementation came through was that registrant data is except if the registrant wants it, it's anonymous in the [Dalifar]. So I think we're touching on a topic... of course there is the WHOIS debate and the media lists. Can we do media lists piece process for the WHOIS or something?

And there's the whole Article 29 working party letters – very hot topic. But that's typically not – in my opinion – a principle that applies consistently across TLDs. First come; first served – I don't know of any registry who actually works with something else than first come; first served. Registrant data available – public – I think there's a lot of differences so it's not the same level of universality of principles.

BYRON HOLLAND: So without drilling down into privacy *per se* – we want to keep it back up at principles – did anybody else want to follow up? Stay out of the privacy debate *per se* – the WHOIS debate. We'll go to Annebeth.

ANNEBETH LANGE: I just wanted to share with you an interesting example. You asked Patricia about could we say no if they asked for the whole database. And they had a case in Sweden now and it's just at the court case where



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the tax offices came to the Swedish registries and wanted to have all the WHOIS data to use them to something completely different and they said no and they got support from the government. And now it's been a court case on it and they won.

BYRON HOLLAND: Good for Danny on that one. Are there any other questions? Right here – Hong?

HONG XUE: I want to go back to principles. I know for gTLDs there are many discussions about difference between open gTLDs and private gTLDs. Well ccTLD's situation is also complex. There are a few ccTLDs that is open for registration, not only for residents within the territory, but also for residents in other territories, so just .TD for example. Even .CN is an open TLD – a foreign dot can register in .CN.

So I wonder whether there's different principles could be applied for these open ccTLDs or it would be different from the purely territorial ccTLDs.

BYRON HOLLAND: Demi, you want to take a shot at that?

DEMI GETSCHKO: Just a follow up question I want to ask to the panel. When we're talking about legislation or relation over to the CC we have to have in mind that in your country in your part of the world you can use also the genetics.



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Then I don't understand exactly how the legislation can apply to the CC without prohibiting the use of genetics that is impossible of course in case of internet.

Then in some cases this may be an unfair competition or an unfair treatment of different CCs or TLDs that has the same rule in the internet.

BYRON HOLLAND:

That's a really interesting point and that in any given jurisdiction you have access to theoretically all the Gs. Your CC is bound by the laws of the land and there may be light of day between those two. And what does that mean, is there an advantage, etc.? Roelof, you had your hand up. Did you want to say something? No?

Maybe we could change tack just a little bit here and think about how principles actually impact the organizations, a little bit more concretely and maybe Jay, I could go to you on this since you have well developed principles and you've been living with them for a little bit. Help us understand how they impact you on a daily basis or on an organizational level. How do you live those? What does it look like?

JAY DALEY:

As the registry operator, one of the things we are always looking at is expanding the service we provide to our registrars. We're looking at potentially ways that we increase the monetization of the service that we do and we're always looking to do things differently better expand, grow – those things.



And the principles as a very clear statement of principles, insure that we know whether the way that we are going is going to be acceptable to the regulator or not. It provides a clear interface between us and the regulator for their decisions. And it also to our benefit means that the regulator cannot take a decision that is outside of those principles as well because we can argue that.

So it provides us a very clear, reasonably unambiguous external and verifiable mechanism for understanding the acceptability of future changes.

BYRON HOLLAND:

What's the regulator's take on that?

DEBBIE MONAHAN:

He didn't sound too pent up when he spoke about coming to the regulator. Actually it's very true because I spoke before about the consultation we're doing on registrations at the second level and as part of the decision making criteria, the principles are actually a key document that my Board is actually considering.

And it does come into our... when we are actually developing the policy and trying to make a decision, they are actually seriously considered about whether we're actually taking ourselves away. And I think the thing is we're not saying that we can't... if we turn around and say that principle doesn't apply, then why doesn't it and is that principle invalid?

And I think we're not saying that this is it and this is how it's even going to stay. It could well be that there might be something that comes



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along and we realize we've got two principles in conflict in a particular situation and we need to make amendment.

But that hasn't happened to date at the moment; there's still the test of time. And as Jay says, I'm a great believer that you need to have a reason for saying no. You need to have a basis rather than just reject something and the principles are a good guiding document to turn around and say if we go that path, it's inconsistent with this. Or if we go that path, it's likely to result in that further down the line and we can't tolerate that step. So that first action might be fine but where it ultimately leads to could be where the problem comes in.

BYRON HOLLAND:

Anybody from the floor want to jump in? And I know, Annebeth, you wanted to say something too in a second. Eric?

ERIC:

Thanks, Byron. Maybe it's a confused question that will make, but I am confused. Normally the principles are not in the laws but the laws affect the principle that we can have in the activities of a ccTLD. If I am correct, that unique document that has the principles, is that RFC 1591, if I am correct.

Sometimes the ccTLDs make rules internally more than appear in the RFC 1591. How is it related that new principles or new rules when appear a specific law in the country that affects directly to the ccTLD? Normally the country doesn't have laws about domain names; have laws about other issues that affect the domain names. So it's not clear

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for me where is the level of the principles in the internal laws or is only the RFC 1591 that you need to document the principles?

BYRON HOLLAND: Does anybody want to tackle that one? Mathieu – waving your hand.

MATHIEU WEILL: So it's typical lawyer question. If I understand correctly, you're looking for the legal basis of this and I think for some of us there's an explicit legal basis in a domain name law. That's the case for Annebeth; that's the case for Lise and .DK; that's the case for .FR.

And so that's where the principles are and then we can rephrase them but basically that's where they are. And I guess for those who have principles that have self-elaborated, of course they inspire themselves from existing internal laws to make sure they're consistent and they're not breaching or infringing on any existing provisions of the law.

I would not imagine Debbie trying to define a principle that would go against whatever freedom of expression or others, but when it's not explicit, there's an interest in putting forward how you interpret the current framework to apply for your TLD. So as long as you don't have a specific law, I think it's valuable to have these principles. Did I by any chance respond to at least 50% of your question?

BYRON HOLLAND: Annebeth?

ANNEBETH LANGE:

I think I can illustrate it here by an example that in the framework we have, it's not actually a domain law, Mathieu, it's more like a second level so it's more soft. But what they put in there is that we should form our policy or terms and conditions after these principles.

And two of those principles, especially, within the same principle, it's a kind of contradiction. So promote the interest of internet users individually and collectively. Sometimes you can't do both at the same time. Promote national interest and take into account the national development in the area.

So we were sued not long ago and the lawyer tried to say... one of his points was that our terms and conditions – we are in contradiction with these principles in the law. So that was treated by the judge and he said that in practice we know that the different principles often collide, they must be balanced in regard to each other and some principles will receive greater weight according to the specific rule under consideration.

So they have been trying to use that our name policy is not legally based because we haven't done what the law said. So that's also a problem.

BYRON HOLLAND:

Debbie, I'm going to get you in on this but I would also like you to think about – can you give us an example – something concrete – where an issue you're wrestling with that ends at actually you overlaid the principles on it and it clearly helped you make that decision?

Now I think I heard you earlier say you have yet to have principles come into conflict but have you had a [conflictual] situation maybe with say,



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the operator, where you had to go to the principles to help you come to a conclusion?

DEBBIE MONAHAN:

Well I think she got the example from the early days when we were actually setting up our shared registry system because one of the principles was that registrars should be equal. There should be no favoritism to registrars. So we have a standard Authorization Agreement and the two biggest telcos join forces to fight that particular policy position.

And the policy was formed because of the principles that we actually had. So they went to our Commerce Commission and argued that I was breaching competition or Fair Trade Act and all these various other such things.

Now we won that because our argument was that we were trying to create a free market and the way to create a free market with registrants and registrars and everybody had their role to play was that you have a Standard Agreement and bind all registrars to it.

And so we ended up winning that argument with the Commerce Commission. Now the question would be what would we have done if the Commerce Commission had then turned around and ruled that we actually had to negotiate separately.

The negotiations of course – and these all have to be done in good faith – but it doesn't mean that you have to move very far necessarily from the position you've got. So we would have found a way of actually doing what we had to do in the law, but trying really hard to keep



without our principle of not extending too far to offer unfair advantages to larger registrars over smaller ones.

So we have actually kind of done it in that situation. I suppose in respect of we haven't yet encountered a situation with the registry where we've actually come into conflict and I think that's because we're lucky enough that we were close enough to get on the policy development that we've actually solved any issues before it's got that far.

BYRON HOLLAND:

Thanks. Jay and then maybe just while you're answering Demi, I'll put you on the spot. Very well developed set of principles. Do you have any examples you could share with us? Jay.

JAY DALEY:

Thank you. I just want to talk about the law as well. RFC 1591 is something that we all sign up to but we all actually do things very differently and increasingly different over time. And I think that proves that RFC 1591 is not enough; we need something beyond that and that may be one of the drivers that principles that apply to TLDs are being encoded into law in some countries because RFC 1591 is insufficient.

By having a set of TLD principles that we have within the regulation and the registry here that are very clear, I think we reduce the chances of any specific legislation that reflects specifically on TLD principles because we've got them, we've demonstrated them and they go beyond RFC 1591 into the areas that matter now.



**BYRON HOLLAND:** Interesting. So a core set of principles could be argued or articulated in 1591 so that'll be sort of the fundamentalist version of what we're signing up for. But you're layering on top a number of extra principles. Are there any thoughts on – is 1591 not enough and we absolutely have to be layering things on top of it in terms of principles? Look, look, Becky's suddenly looking up. 1591. Any thoughts on that?

**BECKY BURR:** Well I think that the question is at what level you're laying on principles. It doesn't seem to me particularly troublesome that within the context of a specific ccTLD, the community might want to provide additional clarification or other things like that.

But as we all know, there's a lot of work going on in just interpreting 1591 at a more broad level. And Keith's up there so he can actually say this, not me.

**BYRON HOLLAND:** Thanks. Demi, did you... do you have a concrete example where you could share with us where your principles really impacted how you made the decision or what decision you came to and have you ever had conflict where your principles helped lead the way?

**DEMI GETSCHKO:** Not exactly an example of how the principles can make the laws better. Maybe they can prevent bad laws to be imposed in the Congress or so. Just to give you an example, there was a law project in the Brazilian



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Congress that says any email provider in Brazil has to have correct identification of the users of that email.

Of course this would be a death sentence for any provider of emails because you have so much good emails for free with a lot of space and without any questioning about who are you. If you have this kind of law passed, it's just the end of part of the industry of services in the internet and in many cases the legislators don't have a clear idea of how the things are interlaced and how global is any decision over the internet.

One of the things we are trying to do *via* the principles is to provide some grounds to not have these kinds of laws. And as a last comment, I suppose we are quite happy not to have a lot of laws in this area because all the people that were in a hurry to have laws, they made laws to be sometime totally obsolete or not compatible to technology advances.

BYRON HOLLAND:

Lise?

LISE FUHR:

Well we want to represent the Danish Internet Society and we have an example – we're about to change our terms and conditions. So we sent them out for consultation so everyone who is interested – put it out on the website and email people.

And the comments we get, we would answer and say we have taken this into account or we can't do this because... and we have to explain why. And I think that's a very important part of the transparency and

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the multi-stakeholder model. If you do something you have to ask people and if you don't follow some of the things people say to you, you have to explain why.

BYRON HOLLAND:

Thanks. Roelof, maybe I could go to you, and you touched on it. I said something about living the principles and maybe when your staff join, they should be aware of them and sign up for them and you said maybe; maybe not. Can you talk to us a little bit about how do principles and strategy and values – how do they interact?

I mean, principles and values are similar but they – as you pointed out – can be different. How do strategy, principles and values interact so that you have an effective organization?

ROELOF MEIJER:

In my opinion it begins with your strategy and if you don't have principles in the way you operate and we've been discussing about them, and values in the way that the individuals in your organization behave, then you will never be able to reach your strategic objectives.

So I think the relationship between the three is that the two – the values and the principles – help you realize your strategy. And of course there should be a logical connection between the three. If you want to be a market leader, and then it's really difficult to be that and also be not-for-profit for instance.

And if you're not-for-profit and you don't think that it is important that your people are trustworthy and accountable, then also I think there is a



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conflict there between values and what we've been discussing about between the fair use and your strategy. So I think they are strongly connected to serve the third.

BYRON HOLLAND:

To serve the third. Any thoughts on that? Comments? Questions? Alright. Any thoughts on that from the rest of the panelists in terms of that interplay? Everybody up there is a CEO, COO – you have organizations to run. These are some of the fundamental documents that would underpin how you run and govern yourself. What are your thoughts on the interplay there? And is there one that's paramount? Mathieu?

MATHIEU WEILL:

I really echo Roelof's statement that it starts with the principles and the values and when these principles are embedded in law – and for us for instance, we are consistently put into competition tenders and so on, the values become one way to demonstrate that you will operate and have people individually behave in a consistent manner with the principles that were set by the government.

And so they become one of your main arguments to demonstrate that you are the right person to operate the TLD according to these principles whatever your strategy on the other side which can be beyond the TLD or within the TLD.

And so that's... yeah, I think Roelof summed it up pretty well. These principles, whether explicit or not and the values are the basis on which you build your organization and strategy comes next.



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BYRON HOLLAND:                   Annebeth?

ANNEBETH LANGE:                I agree with the point that they act together and it seems today that the principles we're talking about according to the name policy and the ccTLD principles, they are quite equal in the way we think.

But as for core values and strategy, that can be different from one CC to another and it's important that when you take big decisions... One good example and one you had in the briefing paper we got was more how did you think when you decided should you go into the gTLD market or not. And that has more to do, not with the principles for the ccTLDs, but more which values do you have in your company.

As Roelof said, it's difficult to be market leader and not-for-profit. Do you want to have one more leg to stand on or will it be difficult for the core values of your company to be both a gTLD and a ccTLD. As for Norway, we have a very strict model for the ccTLD. It's just for the Norwegians; it's a quota; it's a rule from what you get and it's a total different model than the ICANN model for gTLDs.

So I think the values we have and the mission we have has to be taken into consideration when you do make these heavy decisions for your company.

BYRON HOLLAND:                Thank you. And what about at another level of corporate culture that you have, if we're not-for-profits; if we have altruistic missions and we



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operate stuff on the ground, but many of us have a somewhat altruistic side to our organizations. The corporate culture that we want to create that facilitates that – what do you think the interplay there is with setting out principles and can the principles themselves drive your corporate culture? Jay?

JAY DALEY:

I think Demi's presentation showed this very well. If you have multiple layers of principles, then they work at the different layers that you talked about there. So we are talking currently about TLD operators, TLD managers at this middle level with TLD principles, but when you look at the greater good for the internet and for our countries that we wish to achieve, you're going up a level there and that's up to the principles of internet governance Demi showed there which is the policy principles that we have that Keith referred to earlier. So those are the bigger ones that set the broader picture.

BYRON HOLLAND:

I think that's a good distinction to make again. We touched on it already and using Demi's as the model, that's I think three levels of principles that govern the respective parts of the organization. And depending what it is, I think they're going to be critical to developing the corporate culture which in turn will sustain what you're actually trying to achieve. Lise?

LISE FUHR:

Well I think the principles can't work without the values. They're very important and they have to work together. But in my opinion you have



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the triangle, as others have said. You have the strategy; you have your values; you have your principles.

But my opinion is that the values and the principles are more sustainable. They should stay for a long time. It's important that the strategy can expand within this. So I think the interaction between the values and the principles are very important because they're going to be there for a long time. The strategy of course, it has... that's going to be a product of the others and the market of course.

BYRON HOLLAND: Roelof?

ROELOF MEIJER: I think you have a big influence and sometimes you have also an influence that you don't want to have. For instance, if your principle is that you're not-for-profit, and your strategy is diversification and continuation of your organization so you have to be one of the world's best – those two are not easily to combine because very often being a not-for-profit brings something in your organization that doesn't make it very responsive, reactive, innovative and risk-taking.

And to be the very best, you have to be just that. So that's sometimes a difficult act to defer.

BYRON HOLLAND: Oh that's fine. You got some hands up with that one. Just being cognizant of the time, we're going to take hopefully a couple of more questions. And one thing I would just like to pose to the audience right



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now is – and this probably sounds wrong – but who doesn't have principles? And are you thinking about putting some in and has this conversation changed your opinion at all?

So while you think about that, we're going to give Keith a few minutes to consolidate his thoughts as the Chair as we move towards the end of the session. Don't worry; we'll get to you; we'll get to you.

LESLEY COWLEY:

I think Roelof's comment has now opened the way to another new panel discussion I suspect. So thank you for that. I disagree. I think it's a challenge but it's not impossible to be both commercial and have a public purpose and act for your internet community and a number of us do it in different ways. That's what I heard you were saying.

ROELOF MEIJER:

Did you say you agree or you disagree?

LESLEY COWLEY:

I never agree with you. I disagree. I think it's not impossible. It's a challenge.

ROELOF MEIJER:

I didn't say that. I said it's difficult to combine; not impossible.

LESLEY COWLEY:

I think it's good to combine.

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ROELOF MEIJER: Ah, okay.

MATHIEU WEILL: Yeah, I think Lesley's right. It's certainly another panel but I think what Roelof's conveying on, yes, if you're not-for-profit, then you are not very efficient or whatever is typically something we need to fight. I know a lot of companies that are totally inefficient and they survive anyway.

ROELOF MEIJER: You guys have to start listening because I didn't even mention big offices being inefficient or efficient, so I don't know where this is coming from.

MATHIEU WEILL: And not-for-profits are just – and it's a lot of us – are just like companies. We just don't give dividends to our shareholders. Okay? We work like companies; we're efficient as companies; we have private contractors; we have the same regulations and the same tax system in many cases but we work for the public benefit.

How is that less efficient? It has to be something we promote in our models that the fact that we're not-for-profit is actually a benefit to the society. But that's another panel.

BYRON HOLLAND: So I posed a question to the audience. Does anybody want to respond to that? Lack of principles? Gonna put in some principles now that you've heard this changed your mind after listening to the panel? No?

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3:20 on a Wednesday just waiting for Keith to wrap up? Okay. But Debbie?

DEBBIE MONAHAN:

You asked a question before, Byron, about whether having principles can change behavior and the answer to that is yes. And you see that in a big group like the Internet NZ Council for example, when new people are voted on and they come in and they want to do things that they want to do and they're inconsistent with the principles that we have.

And you rely on those principles and the other people being able to articulate those principles to change that person's approach, behavior and thinking. And so you can actually see that at the governance bodies when you actually apply the principle up the line.

BYRON HOLLAND:

Thank you very much. And right before we go to Keith, I think you brought up a very interesting point and I'm going to leave the audience with that – is that do principles survive changes in Boards very easily or does a new Board or whatever the governing body is come in and say, "Yeah, those were nice but we're not that interested and we're going to change them." So what's the interplay between new Boards and principles?

But with that, I'll turn it back to the Chairman, Keith, to summarize.

KEITH DAVIDSON:

Thank you very much. Look, this has been a fascinating session and I think just reflecting on the panel and their viewpoints, the reasons for

the principles have arisen either through hard law and legislation or through soft law, through the RFC 1591 or GAC principles or other processes.

And perhaps that's a reflection of the different regimes in which we live. In New Zealand we've had a succession of governments over many years that really believe in a light-handed regulatory framework. So usually they'll say to industry, "Self-regulate and if you can't then we will regulate and you won't like it, so please act properly and act reasonably and we'll stay away from legislating."

And so for us we have fear incentive in that regard. But for all of that I think this has been a session where it does encapsulate the idea that there's no one size fits all nor should there be and we should be a reflection of our local internet community, not of the global community necessarily.

But there are linkages of commonality between what we have evolved as principles which is really important and I'll take up Byron's challenge to the audience and just finish off that these principles do give you a base on which to stand and I'll remind you all that if you stand for nothing, you'll fall for anything.

So with that I'll draw the session to a close. Please join me in thanking Byron for moderating and the panelists for contributing so positively. Thank you.

LESLEY COWLEY:

Okay so for those of you that are not in the Asia/Pacific Region or the European Region, you can get coffee or you could stay for a Q&A



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session with the current candidates. But we're going to have a break and just swap over for the Q&A session with candidates. There is also the offer of gadgets if you filled in both days' surveys or if you are quickly now filling in the survey for Day2. There are some gadgets kindly supplied by CIRA at the back of the room for that. After the Q&A session, we're then going to go straight into the Council meeting at 4:00. Thank you.

[End of Transcript]

