
DUBLIN – Joint Meeting of the ICANN Board with the Registries & Registrars
Tuesday, October 20, 2015 – 14:15 to 15:15 IST
ICANN54 | Dublin, Ireland

MICHELE NEYLON: Registrars, if you could please take your seats. I might suggest the same to registries.

STEVE CROCKER: Well, welcome, everybody.

So we have an unprecedented situation here in which the registries and the registrars have gotten together. And I assume that you guys are going to gang up on us in force here.

No. But it's a real pleasure. Thank you for all of this. And Keith tells me we have a selected split of the topics that we're going to use to focus on.

I want to take this opportunity to introduce our three new board members.

Do I have -- do I know where you guys are all sitting?

There's Lito. Stand up. And Lousewies and Ron? Is Ron somewhere in here? Yep. There he is.

[Applause]

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.

It's important that you know who they are so that we can distribute the load that is placed on us. You can convey your opinions to them as well as to us.

Take it away.

KEITH DRAZEK:

Thanks very much, Steve.

Keith Drazek, chair of the registry stakeholder group for about another two hours. And I'm joined by Michele Neylon, chair of the registrar stakeholder group, registry colleagues, and registrar colleagues.

We're going to change the agenda that we had originally sent today. We've got -- yeah.

So I have -- there's three topics that we are going to talk about today, and certainly if the members of the ICANN board would like to raise any questions or topics with us, we're certainly open to that as well.

The first topic that we'd like to cover -- and I'll run through the three and then get into the substance -- is a question on the criteria for the selection of members to the CCTRT, the competition consumer trust and consumer choice review team.

We all know that the -- the members will be selected by the chair of the GAC and the CEO of ICANN, but it's unclear to us what the criteria for selection will be. And as the registry stakeholder group and registrar stakeholder groups look to try to identify potential candidates, it would be helpful to us to have a conversation and have better visibility into what the selection criteria might be.

The second topic is sort of a general topic, wanting to send a message that the contracted parties are interested in seeing a new gTLD round, the next new gTLD round, accomplished or initiated in a timely fashion.

And then the third topic is about content regulation. We understand that there's been some recent communication from another group in the GNSO about this issue, and certainly there have been some recent blog posts on the topic from -- by Allen Grogan and some commentary by Fadi Chehade at the opening ceremony and in some other venues.

So I think this issue of content regulation is of significant concern to the contracted parties, and we wanted to have sort of an open and frank dialogue on that.

On that point, we will have a very short statement to read and then we'll want to open it up for discussion.

So let me pause there and ask if Michele would like to say anything, and then Steve, and then we can kick it off.

MICHELE NEYLON: Thanks. Keith. Michele Neylon. I'm chair of the registrars, and as I am Irish, welcome to Dublin, welcome to Ireland, if I haven't seen you already. I hope you all enjoyed last night, and I'll hand it back to Keith.

KEITH DRAZEK: Thank you, Michele.

MICHELE NEYLON: I'm the fun registrar.

[Laughter]

KEITH DRAZEK: Thank you, Michele, and yeah, I did have some fun last night. Steve, would you like to make any comments?

STEVE CROCKER: No. I think we're now under way. I'm thinking about the selection of the participants on the CCT -- is that the right initials? -- but the competition choice consumer

trust, and so forth, review coming up, and the selection as you said made by the chair of the GAC and by the CEO. I don't think either of them is here so that's a weakness in whatever discussion we want to have.

Speaking purely by myself without any coordination and with the benefit of having been one of the selectors for the ATRT2, where the ATRT selections are made by the chair of the GAC and by the chairman of the board as opposed to the CEO -- and so I've been through that process at least on that one -- two thoughts come to mind which I offer, again, with the caveat that it's just from me and it's to stimulate discussion as opposed to be definitive.

Clearly, it's good for all the parties that are involved to put forth candidates, and although the results aren't always what each of the groups that put forth their candidates wants, I'm sure there are -- and I know in the one I participated in, I'm sure they're always taken very seriously. And, you know, as a general criteria, one looks for people who are thoughtful and focused and, you know, productive and so forth.

The other thing that occurs to me is that if we look ahead at what's happening in the CCWG, I haven't been following the details but there is some language that tries to specify more precisely what the Affirmation of Commitment-based reviews

are going to look like, and just as good practice, it would occur to me, if I were in that -- you know, in the selection seat, I'd say, "Why not try to use a process that matches what it will be, so that it's a continuous process rather than this is our last time to do it wrong, in a sense, you know, to do it in a way that looks awkward." So those are just kind of heuristics that come to mind, and so -- you know, as a smooth introduction to the what will be in the future, as opposed to a last gasp of we want to do this one the way we used to.

I don't know what the delta is. I haven't looked closely at it. I don't imagine it's really all that big, actually.

KEITH DRAZEK:

All right. Thanks very much, Steve, for that. And, yeah, that's a great point about the language that's in the accountability proposal under development. Yeah, definitely something worth cross-checking.

So I don't recall what type of format we were using for this particular session, whether we have the opportunity for people to speak at the microphones or -- so let me just ask there's anybody --

There are microphones. I just remember in Buenos Aires we used a different format, so --

Anyway, is there anybody that would like to speak to this topic?

I see James Bladel approaching the microphone. If anybody else would like to get in queue from the registries or the registrars or the board or anybody, feel free.

James?

JAMES BLADEL:

Thanks, Keith. Thanks, Steve. Appreciate -- yeah. We appreciate, I think, any sort of clarifications or guidelines or rubrics that I think the board, the CEO, or the chair of the GAC can provide as far as selection into these review teams.

Particularly this one, because it focuses on consumer choice and consumer trust, we think that having a good representation of not just the domain name industry but all of the different facets, markets, and business models, at least trying to cover as many of those bases as possible, is important, and I think having a selection process that is somewhat opaque, it incentivizes us to send more candidates, and I don't think that that's what you want from us. I think you want us to endorse those that most closely align with whatever criteria or qualities or expertise you're looking for.

So, you know, the closer we can get to that match on the first attempt I think will streamline this process and expedite the selection and I think that's just what we're looking for.

KEITH DRAZEK:

Okay. Thanks very much, James.

So anybody else like to get in queue or make any comments about this? Any feedback?

If not, on this topic, that's okay, but I think we would look forward to maybe having some follow-on communication with you to better understand what those selection criteria might be.

Okay. No more people at the mic.

Would -- I guess the next topic, then, would be just a discussion about new gTLDs, looking forward to a next round of new gTLDs.

As I said, contracted parties are interested in seeing that process move forward in a timely fashion. We fully understand that there are several reviews and processes that need to be initiated and need to be undertaken, and so certainly cognizant of that and the substantial workload and resources that those will take.

But I think the general message is, we wanted you to hear that there are those in this community who are very interested in

seeing a next round of new gTLDs take place as soon as possible under the understood circumstances.

So let me ask if there's anybody else that would like to speak to this.

MICHELE NEYLON:

Michele. I'll take over briefly from you briefly as well.

It's -- I mean, you're -- Keith is framing it around a -- what was the word you used? "Timely" I think was the choice of words. I think the more important word, speaking personally, would be "predictable."

In other words, you know, time lines are decided on and time lines are actually respected.

Because one of the issues with a lot of things involving ICANN is that time lines are seen as a kind of guideline which generally slip, things fall behind, and if you're working on developing anything, be that from the coding integration through to marketing plans through to anything else, having that level of predictability with respect to the time lines of various projects is important.

KEITH DRAZEK:

Okay. Thank you, Michele.

Would anybody else like to speak to the topic of the new gTLDs?

Bret, thank you. Bret Fausett.

BRET FAUSETT:

I'll just repeat a comment I made at the public forum in Buenos Aires, and that was that ICANN has a lot of work charts right now that show work in progress. It needs to complete them, though. It needs to take it all the way out to the right side and show us an estimated date for another application round.

There are a lot of people who want to be in the next round. They need to start planning. They don't know if they need to start planning now or whether they need to start planning next year. You need to complete the time line, and even if it's an estimate, give us an estimate. We know it's going to be plus or minus six months, probably, but give us a date when you think it's going to happen.

STEVE CROCKER:

That presumes that the outputs of the review will fall within whatever your time lines are.

BRET FAUSETT:

Well, true, but I think we also need to make sure that the working groups don't have open-ended time lines. We need to

hold the people that are doing the reviews to task to finish in a timely manner, because if we give them open-ended periods to work, they may work forever.

BRUCE TONKIN: Yeah. I think that's a fair comment, Bret, and I made a comment in one of the earlier suggestions today with respect to review teams that we need to tighten up the terms of reference I think a lot more with the review teams, and one of the things is to prioritize their recommendations and also that they're actually, you know, actionable recommendations because in the past when I look at some of the ATRT2 stuff, for example, it just sort of pumps the question. It just says, "We recommend that you do another review of the ombudsman" or "We recommend that you review the IRT," instead of something that's actually -- yeah.

MICHELE NEYLON: Just a reminder. Please state your name because there are people who are remote who are having difficulty following.

BRET FAUSETT: Thanks. Bret Fausett, Uniregistry. And everyone should keep in mind that there are people who don't want to see any more new TLDs ever. They don't say that out loud. The language they use is "We need to continue to study it."

So if you allow the people who want to thwart the process to keep studying, they really will study forever.

KEN STUBBS:

Yeah. My name is Ken Stubbs. I have some concern because I've seen projected time lines for the work that the board feels needs to be done before they can start with the second round.

I'm having a lot of difficulty understanding why the technology, the technical part, they're proposing two years to study the impact of security and stability and I find it quite difficult to believe that with the resources ICANN has and the competency that is here -- you may end up delegating this study to another organization, but I'd like to see some transparency on what guidelines you're looking at and I need to know why you feel it takes two years to study the impact of something like this, you know. And I'm speaking as a nontechnical individual. Thank you.

KEITH DRAZEK:

Thanks, Ken.

So Akram and then Edmond.

AKRAM ATALLAH: Yeah. To address Ken's question -- this is Akram Atallah -- there was a session today at 1:00 p.m. for exactly the technical review and it addressed basically the framework of what they should be doing and there will be public comments on that. After that, there will be a provider that will be selected to perform the review.

So please participate -- well, you missed the 1:00, so please send your comments and they will be taken into consideration in setting up the framework of the work. Thanks.

EDMON CHUNG: Edmon Chung here. So just building on that discussion from Bret, I think there are a number of reviews and a number of projects that were identified, but perhaps not every one of them are on the critical path.

So I guess the suggestion perhaps is, before we get to time line, perhaps we identify the critical path, the items on the critical path, and then we can, you know, start thinking about the time line.

Because it seems like right now, we don't -- we're not really sure exactly what is on the critical path and what might not be.

KEITH DRAZEK: Thank you, Edmon.

Jordyn?

JORDYN BUCHANAN: Well -- yeah. Sorry. Jordyn Buchanan with Google.

Just to expand a little bit on what Edmon said, it may not even be that each study is necessarily on the critical path in terms of are these requirements -- does the board -- I guess our question would be does the board perceive these to be requirements before we go into a new process of allocating additional new gTLDs?

And there are many studies going on. Some of them the board may perceive as being necessary predicates in order to proceed with allocating additional gTLDs. In some cases, you guys may think that it's up to -- you know, you're waiting for the GNSO to tell you which of those things are necessary. In some cases you may have other requirements that we just don't -- we don't know about, but I think having at least the board's perspective on an enumerated list of what those requirements look like.

And it may not always be a one-to-one mapping between what you guys think is required and the studies that are going on.

So for example, I know that the board passed a resolution saying "We're not going to allocate additional gTLDs until we do some" -- and I don't remember the exact language.

Basically, "We're going to look and see if it's hurting the root server infrastructure."

So that seems like a reasonable statement.

And there is a root server scalability study going on, but that's quite an ambitious study that involves like lots of simulations of potential future things and so on.

And to the point that Akram made, there was the 1:00 session and one of the gentlemen who worked on RSSAC 002 pointed out like, "Hey, we identified criteria back in RSSAC 002 as to what early warning for root scalability -- root stability would look like," and that seems -- in my mind, at least, that maps more closely to what I read the board resolution to read. It was like, "Hey, let's look at the data we have so far and make sure nothing is breaking, basically, before we want to proceed."

But it would be helpful to get a sense from the board. Is it -- is it - - do we want to wait until the entire root server scalability study is done or do we want something like RSSAC 002 that's just going to give us an early warning indicator of whether the steps we've taken so far are damaging the infrastructure today or not?

KEITH DRAZEK: Thanks, Jordyn. So I guess if I could summarize -- and I think this is a question. Whether it can be answered now or not is another question but we'd like to have a dialogue.

You know, we know that there are studies required. We know that there may be expectations and -- that vary on this point. And the question is, at what point can we have some predictability, as Michele said, around exactly what is necessary to be accomplished before the next round can be initiated.

So maybe that's the summary.

Yes, Bruce.

BRUCE TONKIN: I'll try and give a response that -- I don't know whether it will help or not, but I think what we committed to do was to complete the AoC review. So we will complete the AoC review.

And as I noted before, hopefully the -- that we set the terms of reference that the outcomes of that review are actionable.

With respect to a lot of the other things, they're just additional pieces of data, and I think once we've done that AoC review, we can look at what data we have to make the right decision.

It's very hard to predict timing because you don't know what data you're going to get, so if we did get a piece of information saying that, you know, the root servers were falling over, then obviously we would have to take that into account in our decision-making.

But as I noted to Phil Corwin in one of the earlier sessions, that there's likewise policy work around WHOIS. I don't think that policy work around WHOIS has to finish before you can start new gTLDs, but obviously in the new gTLD agreements, you would build in the fact that if a new consensus policy around WHOIS is developed, you know, they'd have to comply with that. You know, it's not a precursor, it's just something that can happen in parallel.

Likewise, with rights protection mechanisms, you can continuously evolve those, and in fact, as I noted in the earlier session, the domain names that are registered in new gTLDs are probably about .5% of the total namespace, so anything that you're doing around rights protection mechanisms there has minimal impact. Really you need to be looking at rights protection mechanisms more broadly through a policy development process, and then when those policies are approved, then the new registry operators and registrars need to comply with them.

So I think we just need to understand that we already have a mechanism for registries and registrars to comply with new policies as they're developed.

But what we have committed to do is to do the AoC review before we launch another round, and then, you know, we'll make our decision once we've heard -- seen the results of that review and once we've seen the data at that time from many of these other activities that are underway. But they're continuous activities.

KEITH DRAZEK:

Okay. Thanks very much, Bruce, for that very helpful feedback.

Any follow-up questions or comments before we move onto the next item?

Okay. Seeing none, the next item on the agenda is -- sorry, next and final item on our agenda, unless the board has something it would like to raise with us, is the topic of content regulation.

I see Allen Grogan is here. Thank you for rearranging your schedule to be here for this one.

Yes, Michele, go ahead.

MICHELE NEYLON:

I thought I would kidnap this part of the session from you.

No. Joking aside, we did -- we have discussed this a little bit at the beginning of this session, and we have been working behind the scenes since we became aware of the particular framing of the issue on a short statement which I'm going to ask Darcy to read.

DARCY SOUTHWELL:

Darcy Southwell, secretary of the Registrar Stakeholder Group. Regarding the content issue, we have this statement on behalf of the Registries and Registrars Stakeholder Group.

We are aware that earlier today the IPC asked the CEO and the board to have ICANN play a greater role in content regulation. The IPC suggested that ICANN leverage its contractual compliance powers to require registries and registrars to adopt and implement so-called voluntary standards.

The Registries and Registrars Stakeholder Groups strongly urge the board to not become involved in this debate. Our contracts are with ICANN. ICANN's exercise of its contractual compliance powers as requested by the IPC would render such standards anything but voluntary.

A statement that there needs to be teeth behind voluntary standards particularly when made by the party involved in a contract means they are no longer voluntary. Moreover, many

of the terms requested by the IPC could in some cases remove legal protections provided to registries and registrars under relevant national safe harbor laws.

Finally, the IPC is essentially seeking rights from ICANN that they have been unable to secure from legislatures globally.

We understand that ICANN's board faces pressure from specific interest groups. But we urge ICANN's board not to put ICANN staff or the community in the position of content arbiters. It is outside the remit of this organization and creates a slippery slope.

We believe that ICANN compliance should rightly be involved in working to see that all registrars should respond to requests under RAA Section 3.18. While the I.P. community may not always be satisfied with every response they receive, the vast majority of submissions are responded to and a significant portion of those requests are resolved to satisfaction. Registrars who do not respond to validly formed submissions should be pursued.

While we recognize that groups such as the IPC have a right to bring any matter they desire to the board and staff, we would welcome a dialogue with them and would request that the board feel free to advise them to approach us directly, especially in matters that are outside the remit of ICANN. Thank you.

MICHELE NEYLON:

Thanks, Darcy.

Before I open this up to further discussion, just to add a little bit more flavor, Allen Grogan and the registrars have been having a lot of discussions around this particular subject. It was something we brought up in the meeting in Buenos Aires. It's something that has evolved to the point where I've probably spent more time on the phone to Allen than I have to some of my best friends. So Allen is my new pen pal. Yay.

On a more serious note, we have been working on a number of -- how can I describe them -- on a number of projects within the -- within industry working with operational security professionals. On Sunday afternoon, we convened a meeting which was held by the Secure Domain Foundation, the internet Infrastructure Coalition which invited a large number of registrars, registries, operational security. Law enforcement agencies and others were there to discuss a more effective way of reporting and dealing with abuse reports.

There's also been some good dialogue between registrars, registries, and law enforcement and also with the ASOP EU, the Alliance for Safe Online Pharmacies. The session yesterday afternoon which finally was scheduled at a time when people

could actually attend was so busy that it was standing room only.

I will pass this back over this way maybe to Keith. No, Keith is passing.

Anybody else? Let's open it up then.

Mr. Nevett.

JON NEVETT:

Thanks. Jon Nevett from Donuts. A couple of things about this content issue. Let me be clear. I guess -- we don't have a statement prepared other than what Darcy said, which was prepared pretty quickly right before when we saw what happened in the prior session.

But I think I speak on behalf of most of the registries in the room that say -- when I say we want ICANN compliance to enforce existing contractual provisions. We're all spending a lot of money on compliance. And those of us who find that as an important part of our businesses, we want everyone else to be playing by the same rules as well. So we're ardent supporters of ICANN compliance, and we want you to make sure that all registries and registrars comply with their provisions.

Now, when you are talking about new provisions, provisions that don't exist now, we think it should be an industry-led effort to deal with some issues related to content. There are some things that we probably have unanimity on, child pornography or something like that, that most of us will act on immediately. But when you are looking at contractual requirements for content, then we get into a really dangerous area.

Involuntary requirements with teeth so essentially contractual requirements are no longer voluntary, as Darcy said. And I don't think we should be fighting over whether something should be voluntary or something should be required. If we go down the required route, we have to go through a PDP. And then we're fighting over -- years over how do you define content, the slippery slope, all the other issues that Darcy mentioned. And it's not going to help solve any problems.

And the registries and registrars will be in a position of we might be in breach if we don't do something so we want a lower level of requirements.

I'd rather be aspirational. I rather look to see what's the right thing to do. And the best way to be aspirational is to work with other folks in the community, be it, I.P. lawyers, law enforcement, and come up with some kind of voluntary standard with some kind of incentive program, be it a seal or

whatever, and that we work together cooperatively to come up with, you know, what we think as a collective group would be the best way to handle these content issues.

It should be led by the industry. It should not be led by ICANN. It should certainly not be led by ICANN compliance because ICANN compliance means contractual requirements. And if you don't follow what I say, you are in breach.

So, for example, the trade association, the Domain Name Association, is working on a healthy domains initiative where we in the industry could work together to come up with voluntary standards and working with other groups that Michele mentioned. We could be in a position very quickly to do something as opposed to a drawn-out fight over what should be in a new contractual requirement that we would be not likely to want to support. Thank you.

MICHELE NEYLON: Bruce, go ahead.

BRUCE TONKIN: Just an observation. I've been involved in a few attempts to kick start something like this, probably over about ten years. And one of the things that nearly always pushes it underground is when there's a thought that it's going to start getting tied into

contractual compliance. Basically, what happens -- I mean, a number of the larger registrars communicate amongst ourselves. We often resolve issues, whether it's major malware issues or it could be pornography or other things that Jon's referring to. Those are done via informal arrangements that tend to be in place amongst the large registrars. And then they are afraid to actually to put down in writing what those processes are because they feel that somebody, whether it is a government or someone else, is going to try to tie it into compliance.

I think that's the best way of killing it, to say, hey, we are going to start putting teeth into it because that means, hey, we are going to start pulling back all our words and make it as minimal as possible. Whereas, if it is generally voluntary, I think we are all quite prepared to share our best practices that we mostly already have in place but actually share them amongst each other in a more open way. It becomes a bit more open and transparent.

And then the smaller operators can then use those because at the moment the smaller operators don't actually see what the bigger guys are doing.

MICHELE NEYLON: Rinalia.

RINALIA ABDUL RAHIM: Thank you. Rinalia Abdul Rahim for the record. It's a question really.

So you want to come up with a voluntary standard by yourselves. Would you be open to input from user, consumers, registrants and it would be an open process that would be factored into it?

KEITH DRAZEK: Absolutely. Just like I said, I think it's very important. It's vital. If we just do it in a vacuum, it's not going to be as helpful. So reaching out to law enforcement, reaching out to I.P. lawyers, reaching out to consumer protection folks, absolutely, they should be part of the discussion. And we in our industry-led effort would absolutely reach out to those folks and would include them.

MICHELE NEYLON: Volker.

VOLKER GREIMANN: Volker Greimann speaking for the record. One thing I noticed when I was listening to the IPC folks making their case here earlier today was that they consistently conflated the terms

"Web sites" and "domain names." Let me be clear. Web sites are not domain names. What happens on Web sites is not necessarily within the remit or within the power of a registrar or registry to change. Web sites may be hacked. Web sites may be used for various purposes.

Domain names are just what makes those Web sites reachable. I'm sure everybody knows that. But we've seen repeated attempts to make these terms into one, and I want to make sure that everybody stays on that level. "Web sites" are not what we are dealing with. We are dealing with domain names and use of domain names.

MICHELE NEYLON: Thanks, Volker.

Over to Erika.

ERIKA MANN: Erika Mann. Because I made a comment before, I think it's fair just to say something. I think you made your case very eloquently. And since I and Bruce were working with Ellen on this, there's no intention to change anything. And I think when you read the blog carefully from Allen Grogan, there is no indication that there are changes recommended. But we would love to have a deeper debate about the topic to understand if

something is missing right now. And I appreciate very much the comment you made with regard to compliance. But I think Allen probably should have -- talk about himself. So we are looking forward to the discussion tomorrow. And I would assume you will be probably present as well so we can then have an informed debate either during the discussion tomorrow or in follow-up discussions and I hope we can work together. Thank you so much.

MICHELE NEYLON: Erika, thank you. Just one clarification. Which one of the many sessions tomorrow are you referring to?

ERIKA MANN: That's a good point. We will send it to you. It's a special workshop.

MICHELE NEYLON: Thank you. That will be helpful.

ERIKA MANN: I will ensure that you receive it. Thank you so much.

MICHELE NEYLON: Elliot.

ELLIOT NOSS:

Thanks. It's Elliot Noss from Tucows. I think it's a good juncture to talk about some work that the registrars have commenced. Starting in Buenos Aires, we have given many in the community some visibility to the work being undertaken, which is to produce a set of abuse practices that are currently engaged in by registrars.

One of the great frustrations is to hear over and over the meme, the constant lament, that registrars are doing nothing. So what we are engaged in is a piece of work that will be public very, very shortly that will be a start point for a dialogue inside and possibly outside the broader ICANN community even around what registrars do about abuse today, around attempts to categorize that abuse, around ways to form better and more impactful complaints and reports of abuse and around ways to move this whole process forward.

There's a number of things I want to say about this work. First, it's intended to be a start point. It is not intended to be a in-stone position that is not open to input.

Second, it will be an iterative, ongoing, living document. We have already reached out informally to members of the IPC community, members of the law enforcement community, members of civil society, others interested in the topic. You

know, one of the issues that is central to any registrar abuse complaint is conflict of laws. We've exposed this to Bertrand de La Chapelle and the work that he's doing around conflict of laws.

These are complicated issues. And I think that what we hope comes from this document is that we can stop talking past each other, stop having the exercise be one of complaints to the board, complaints to national governments, complaints to other regulators and, instead, constructively move forward to solving these problems.

I think that it's very, very important that everyone in the community recognizes that the biggest volume that registrars have to deal with in terms of complaints is simply informing -- well-intended but uninformed members of both the legal and law enforcement communities, the regulatory community about what we do and how we do it. I said earlier in the week that we estimate we have 2 1/2 full-time equivalent employees who do nothing but explain what WHOIS is to lawyers and law enforcement. That just is.

There was a plea that I made on Sunday which was for members -- and I should note, this is a plea that I have made earlier and often in public forum comments going back to, when I check transcripts, 2007, which is for members of the intellectual property community and law enforcement communities to help

us by helping inform their communities about the proper roles, about the proper form of complaints, and about the substance that we should be dealing with and that we shouldn't be dealing with.

There may be disagreements around the edges, but the vast body of complaints are dealt with or are resolved to satisfaction. And what we have to be doing is recognizing that this is not an exercise in perfection. Every complaint will not end in a take-down. We need to stop talking past each other and start, hopefully with this document, to start working together in a truly constructive way.

So if you have any questions about this, I'd -- yeah.

[Applause]

STEVE CROCKER:

Yeah, I, too, think this is a very good statement, Elliot.

In listening to the various pieces of this back and forth, I wonder how much is lack of understanding about what the process is supposed to be, how much is lack of belief that it works the way that it's stated, how much is -- I understand all that, but I don't like it, I want it to be what I want it to be instead of what you say it is. And maybe there's more. But some combination of those effects leaves the community spread. And it would be very nice

to get things to have a shared model of what's supposed to happen, a buy-in into that model, and a belief that that model is, in fact, being adhered to as opposed to in name only.

ELLIOT NOSS:

I think, Steve, you are talking right towards the goal. We have a paradigm that we use at Tucows which is three levels of question. It's understand or don't understand, agree or disagree, and like or dislike.

I think too often around this problem here -- and I heard you talking about the same thing -- they get conflated. And what the primary goal of this piece of work is, is to start to narrow it down. Let's not talk about, now, registrars responding, enforcing contractual provisions. Let's talk about what we should be talking about in a specific context with a specific type of content take-down. Who is the proper party in how to deal with it as an example -- as one of a dozen examples.

And I truly believe if we can take this two, three, four levels down into the details, not only can we have much more constructive dialogues, but we're going to be solving so many more problems and clean so much cruft out of the system.

STEVE CROCKER:

Thank you.

MICHELE NEYLON: Okay. This is wonderful silence. Elliot, you've managed to silence the entire room. Well done.

STEVE CROCKER: Again.

 [Laughter]

MICHELE NEYLON: Yes, he's a repeat offender. I'm not sure -- Allen, would you like to say anything or Fadi? Since I do take the perverse pleasure on putting people on the spot.

ALLEN GROGAN: I don't know about Fadi. So in the session that I'm conducting tomorrow which is at 10:00 a.m. just to be clear, I'm talking about voluntary solutions. Voluntary means voluntary. And if you come, it will be clear from my presentation that that's the focus of that session. There will be eight or nine different panelists who have all participated in industry solutions, in various industries. All of those were either privately-negotiated between parties where they reached an agreement or understanding but that was an agreement or understanding between themselves to take certain actions under certain

circumstances or its reliance on a voluntary trusted third party. I mean, a malware block list is a, you know, classic example, right? Nobody forces somebody to rely on or use malware block lists. They do it because it's in their interest to do so.

MICHELE NEYLON: Thanks, Allen. I don't know if -- I don't think we're going to let you off that easily. Please go ahead.

ELLIOT NOSS: An important comment there. I want to pick up on something Rinalia said. You know, a lot of the voluntary -- the existing voluntary industry solutions that we have been pointed to tend to be two things. National often -- often national in nature and virtually always commercial in nature. One of the frustrations about this dialogue to date is too often it's between, you know, either intellectual property interests or law enforcement or governments and registrars. There are -- there's an important party not at the table there which is civil society. People really looking out for the interests of registrants and individuals. We all can purport to, we hear everybody on the other side of the table purporting to, we hear our own noise around purporting to, but there are other groups that represent those interests and ICANN is not a strictly commercial enterprise. It's a community and it's a global community. And so one of the things that I

think we uniquely need to do with any voluntary effort that we have is to be broader and more inclusive and give those parties who rarely have a seat at that table not only a seat but a big comfortable one. Thanks.

MICHELE NEYLON:

Thanks, Elliot. I'm conscious that we're running out of time so maybe Fadi might have a couple of words he'd like to add?

FADI CHEHADE:

Sure. Thank you, Michele. I think that we all share the frustration which I've heard Elliot voice many times before about lack of evidence, lack of real understanding of how these things will be determined and how we would need to act. I think what I was trying to do Monday morning, and I think we're -- we're -- most of us are there, is to keep emphasizing that we cannot act. We as ICANN registries, registrars, we cannot act without clarity and deterministic factual direction, which cannot happen at ICANN. It is not our place. It's not our remit. And I think that was a first big win for us, is that we're telling all these communities, whether it's law enforcement, whether it's copyright owners, whether -- that ICANN is not the place, the solution for them to have us come up with these determinations as well as potentially as they have been asking for us to also enforce them.

So first we need to move that dialogue outside of ICANN. It's not our remit. We are not -- we're not going to be managing these determinations nor do we frankly have the ability to. And I think we've passed that point. This is a good thing. We're at the point where they're saying okay, fine. We get that. Now where? And how?

So if this community would allow us to continue that dialogue with them, we need to help a little bit, but we cannot be "the" solution. We can be part of the solution. We're not shirking away our responsibilities. But we cannot be expected to be the platform.

Now, in terms of my comment, I wasn't in the room when someone brought up that I made a comment about voluntary needs to have teeth, and I don't know if you want me to clarify what I meant by that.

MICHELE NEYLON:

That would be very helpful because we're having difficulty understanding how it can be voluntary and have teeth at the same time.

FADI CHEHADE:

Okay. No, I did not mean they have to be voluntary and have teeth at the same time. That negates one negates the other.

Voluntary works, and there's proof that it is working in field after field after field. Having said that, people do things voluntarily typically because they have incentives. And these incentives could be because reputation. Let's start with that. Many of you are growing and becoming, you know, significant -- many of you are already significant companies, reputational incentives are important. I mean, if -- if a voluntary mechanism that is multistakeholder and has all the views determines an action and we choose to flaunt it, then that has a reputational impact on us. Because we're saying no to a mechanism that is not at ICANN, that is outside of ICANN, something like Spamhaus did or others did in other fields. Reputation is an issue.

The second one is financial. So credit card companies stopped processing credit cards for Web sites that are engaged in illegal activity because it was impacting them financially. And so that was an incentive for them. We have in our own contracts with you certain elements that could be also used as incentives, but I'm hoping -- I'm hoping we never have to get there. I'm hoping - - because I know the good will in this community. I've seen it. Registries and registrars, most of you, if there are mechanisms that are multistakeholder that are clear, that are coming from broad community factual understanding that leads to a determination, my guess is that's what we've all been waiting for. And if we don't solve it for copyright, next we'll have the

pharmacies, then we'll have the crime, then we'll have terrorism, then -- and it's issue after issue where there is no mechanism of determination that we can frankly all coalesce around it. That's where the battle will be now in the next few years, is to figure out how these mechanisms will be enabled. I just -- it was late because I was meeting with a pretty big government, very big country, you know, that has serious concerns with terrorism and they -- their national security adviser has very clear determinations of sites that are causing terrorism in their country. And the inclination would be to say, why don't you tell your registrars to shut these sites? And I said, on what determination, sir? On your word that you've decided this is bad for your country, therefore we should shut the sites? We can't do that. And so he says okay, I understand, but what would be the mechanism? How would we go do -- I said well, it's not at ICANN. Let's start with that. Unless you guys are ready, I don't think we're ready to determine which site is pro terrorism and which isn't. We're not equipped to do that. It is not (indiscernible).

So that's basically the distinction I was trying to make. And I urge us, I urge us to work together to figure out in the months ahead, how are we going to find these mechanisms and how are we going to support them. But I urge the IP folks who are here to

-- to remember very clearly that we -- this is not our remit, to come up with those determinations. It is not.

MICHELE NEYLON: Okay. There are several people in the queue there. George, go ahead.

GEORGE SADOWSKY: Thank you. I think the people behind me are interested in continuing this topic. I have a new topic I would like to raise, and I will go to the end of the queue with the understanding there will be time to do that. Thank you.

JORDYN BUCHANAN: Thanks. So I wanted to pull together a couple of thoughts.

MICHELE NEYLON: Would you state your name, please?

JORDYN BUCHANAN: I'm sorry. Jordyn Buchanan with Google again. I wanted to pull together a couple of thoughts that have been percolating around. I think there's actually a lot going on right now in terms of these voluntary efforts. Elliot talked about the registrars initiative to put together some best practices. There's the

healthy domains initiative. There is the -- the board has asked for and the community is rallying around the notion of a framework for responding to security responses. There was a session earlier in this meeting about putting together common reporting formats for abuse. Actually probably so many things, it's hard to -- for someone not deeply involved in the work to really wrap their heads around the fact of what's going on. So just thinking aloud for a moment, one thing that we may want to do between the registries and registrars is somehow better track and report out on the voluntary efforts that are going on. I don't know if the board would find that helpful, but that might be some sort of communication we could put together for you. And then as Rinalia suggested, you know, we want to involve these other groups and they do come to you and so maybe if you guys had a stronger sense of where the voluntary efforts were happening in the community you could help point people into those as opposed to trying to have it happen within the ICANN bailiwick, and as Fadi said, that doesn't really seem like the right place for it.

So that's one suggestion I would make is that we ought to come back to the board maybe with the places that this voluntary work is coming so that when people come to the board and complain about these things, you guys can point them to where the voluntary work is going on. Because -- and I will take this a

step further to elaborate on the point that I think we're all agreeing on but I just want to take things to their logical conclusion because as Volker said, you know, we keep talking about Web sites and content and domains don't really have anything to do with that, right? ICANN also hands out IP addresses, but no one ever comes to you and says oh, my God, there's some terrorism site. Why don't you guys tell the RIRs to revoke the IP address that that's hosted on? Right? And why not? Just because you guys don't have this nice contractual hook into the RIRs to force them to do that. But probably if you did they would. But today everyone thinks that would be fairly absurd to propose that. And that's really not any different than the domain names. They're both just things that point at the actual content.

And so there are sets of problems. You can think about things like command and control networks for security threats where the domain really is central to the threat or trademark abuse and domain names. The domain itself is the problem. Those are the places where we should be focusing our attention in the domain name space and then have a much broader effort to look at the content side of things that is far away from ICANN and far away from the domain name space I think. Thank you.

MICHELE NEYLON: James.

JAMES BLADEL: Hi, James Bladel speaking. And so good points, Jordyn. Thank you. And I think -- you know, just musing here from the hip, censoring IP addresses actually might be more effective at dealing with some of these issues than domain names. You know, if you had any deep-seated political or religious objection to the number 127, I think you could go pretty far with that paradigm.

But -- so just thinking a little bit here, and I think this goes back to what you were saying, Fadi, is that when people come to the board, they come to ICANN, is they have these content issues that need your help and you say well, you know, this is not the place, this is not a remit. And they say, well, where do we go? I think that we need to stop the conversation right there because there is an assumption baked into that question which is that there is one single place where all of these issues can go or should be one single place where all these issues can go. And the answer is -- and I think we've touched on it -- with all these voluntary organizations and issue specific or regional specific issues, there's a patchwork, a quilt, not a blanket, of all the different organizations working together on this. And there may be some holes that we stitch up, and I think that's fine. So

maybe one answer would be -- and looking at my colleagues here in industry -- is instead of creating a new group, is that we create a -- a shepherd or a Sherpa or a navigator, someone that can say, you've got this kind of an issue, you take it to that group. You got this kind of an issue, you take it to that group.

But it's more of a traffic cop of directing these requests around to the areas. And some of them may say, you know, "There's not a place for that issue. What you're talking about is censorship and it's wrong. Stop asking."

That could be a viable response from the traffic cop.

So maybe that's a different way of looking at the problem than just saying, "It's not in ICANN, where do I go," because I think that there's an assumption that that blank needs to be filled in and I don't think that's the case.

MICHELE NEYLON: I'm afraid this session is -- has run a bit short on time, so we'll cede to George and you, George, will get the last word.

GEORGE SADOWSKY: Thank you. I hope not. I hope I'll get a response from some of you.

So this -- excuse me.

My intervention is on the CCWG accountability activity, and it's a process intervention, so it does not have to do with substance unless you want to take it there.

So in a month or so, or maybe -- we hope in a month or so, maybe longer, the GNSO and other ACs and SOs are going to be asked to sign off on a document, a plan, and we all hope that this is an acceptable plan, that it's something that we can live with and we're going to sign and we're going to move forward with the transition, et cetera.

In talking with some of the other groups we've had contact with today, there's been an admitted variety of opinion on exactly what should happen, what the plan should consist of, et cetera, et cetera, and in fact, in the ICANN environment, if you found two people who agreed on something, you might attribute it to measurement error more than agreement.

The -- you -- I would guess that you will want to be approaching this acceptable -- acceptability decision in a fairly congruent way with what's happening in the CCWG right now, and in particular what your representatives are saying, and I'm just curious the extent to which that's happening.

Are you -- so I'm asking you to say something about your internal processes.

Are you -- how -- is your representative coming back and talking to you? Are you telling him something about the way in which you're thinking, if you're thinking in any kind of a congruent way? How do you -- help us to understand how you're going to come to closure internally with this process. Thank you.

KEITH DRAZEK:

Very good. Thanks. Thank you very much, George. Great questions, and I think it's an important question, you know, looking backwards, but also probably a more important question looking forward.

In other words, how do we as a stakeholder group -- and I'll speak for the registry stakeholder group here -- get to the endgame and how do we ensure that our membership is fully informed, making informed decisions, but it's -- as you noted, it's not only about the final decision, it's about making sure that the stakeholder group -- registries, in our case -- are providing regular input to know that our member and other participants from the registry stakeholder group are not acting unilaterally. And I think that's a very, very good question and it speaks, I think, directly to some of the questions and concerns that have been raised within the CCWG about, you know, how are stakeholder groups themselves accountable.

So all very good questions.

I can simply give you the answer based on my experience.

Becky Burr is the registries stakeholder group appointed member to the CCWG. I'm a participant. There are multiple other participants from the registries group.

I am also the ICG's liaison to the CCWG.

So I'm there in multiple capacities.

The registries have biweekly teleconferences, and I would say for certainly the last nine months every two weeks we have an update on the accountability -- well, it was initially the CWG transition, the ICG process, and the CCWG accountability.

So there were regular updates on ongoing developments, and of course as everybody knows, this has been quite the moving target.

So to the point that these updates have been very important.

We had a dedicated call -- I think it was two and a half weeks ago now -- leading into this session here in Dublin to discuss only the accountability process. So there was a dedicated hour and a half, I think it was, call to discuss just that and to bring the membership up to speed and to get feedback, to make sure that we were not getting too far out in front of the stakeholder group members.

And I will speak before handing it over to Michele. Just in our joint session here today, just prior to the lunch -- prior to lunch before this meeting, we agreed that the contracted party house would get together next week or very -- you know, in the next week or two but probably next week for a dedicated joint conference call, teleconference, where we would have an update from our respective members, the participants in our groups, and we're also planning to invite Thomas Rickert, who is the GNSO's co-chair, as you know, and to have a dedicated call and have a Q&A session.

So I feel quite confident in stating that we have kept our membership advised along the way consistently, but there's a lot of detail and there's a tremendous amount of nuance and there are legal discussions going on, and quite truthfully, there is only so much that you can accomplish in giving those updates.

We've been very consistent in making sure that key documents were forwarded, with explanation, and trying, you know, to provide a summary so people are informed without having to pore over hundreds of pages of documents.

So I feel very good that the registries have been very well informed and the members have received feedback accordingly, but, you know, it's a constantly moving target and we can -- we're going to have to keep working at it. Thank you.

MICHELE NEYLON:

And I'll just add from the registrar side very, very briefly, because I'm conscious of the time.

James Bladel has been -- well, is our elected representative and has been trying his best to keep us abreast of the various developments.

As I've said in other fora over the last couple of days, just because we haven't -- the registrars may not have been as vocal or as visible as other stakeholders, it doesn't mean that we're not tracking it. And what we've been -- we have an elected representative who has -- who's participating in that particular workstream. We have somebody -- well, it's Graeme Bunton who is now our vice chair -- who was following the other side of the transition work. And what they do is they come back to us and try to explain it to us in bite-size chunks, because reading all of that, every single email, every single document, would probably be a full-time job, and unless the board instructs ICANN as an institution to put a pause on all other policy work to free up the time so that we can read all of those documents, that isn't going to happen.

I think I'll hand this back over to Steve because I'm conscious we're -- of the time.

GEORGE SADOWSKY: Thank you very much.

STEVE CROCKER: Thank you, everybody. Thank you, Keith. And this is your exit from here, right?

KEITH DRAZEK: It is.

STEVE CROCKER: And you're headed to the GNSO Council and Paul is going to occupy this seat next time?

Congratulations to you both. Thank you, everybody.

KEITH DRAZEK: Okay.

[Applause]

[END OF TRANSCRIPTION]