ICANN70 | Virtual Community Forum - Joint Meeting ICANN Board and GNSO Council
Thursday, April 1, 2021 - 14:00 to 15:00 EST

WENDY PROFIT: Hello, everyone. My name is Wendy Profit, and welcome to the joint meeting between the ICANN Board and the Generic Names Supporting Organization. I will be your participation manager for this meeting.

We are holding this meeting in a Zoom webinar format, and so speaking is reserved exclusively for the panelists in this session. It's an interaction between the GNSO and the ICANN board members. So for this reason, we have the Q&A pod disabled, and we won't be taking questions from the audience; however, for all participants in this meeting, you may post comments in the chat. You can please use the drop-down menu and select "Respond to all panelists and attendees." This will allow everyone to see your comment.

Note that private chats are only possible among panelists; therefore, any messages sent by a panelist or standard attendee to another standard attendee will also be seen by all other hosts, co-hosts and panelists.

For our panelists, if you would please raise your hand in Zoom in order to join the queue to speak, we have you all muted by default so you will need to unmute yourself when you are given the floor.

Before speaking, if you would please ensure that you have all your audible notifications muted, and please clearly state your name before speaking.

Also, reminder to please select the language in which you will be speaking within Zoom, including English. Please remember to speak slowly for the scribes and interpreters.

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Finally we kindly ask everybody in this meeting to abide by the ICANN Expected Standards of Behavior, and you may view these in the link provided in the Zoom chat.

I now hand it over to Maarten Botterman, chair of the ICANN Board.

Maarten.

MAARTEN BOTTERMAN: Thank you, Wendy, for this introduction.

Welcome to Philippe, to the GNSO Council and the GNSO members that join us tonight for this meeting with the ICANN Board.   Thank you for joining, and we really appreciate the opportunity, because it's important to align, to understand each other.

Unfortunately, the last time we were able to do so in the room was in January last year, in L.A.   And it seems like ages ago.   At the same time, it's just a year ago, and a lot has happened since.

So in our system where the community sets the priorities, the public set the policies, where the org facilitates this all to happen and where the Board has a role in overseeing that this all happens according to fiduciary duties in line with the bylaws, the law, and in all reasonable (indiscernible), it's super important we understand each other well.   And this dialogue contributes to that.

So with that, I'm really looking forward to engage on a number of subjects that you raised. And, Philippe, maybe you would like to say something and introduce the first subject for discussion.

PHILIPPE FOUQUART: Thank you. Thank you, Maarten.

Good morning, good afternoon, good evening, everyone. And thanks for the continuing discussion with the Board on a number of topics.

I think we've mentioned our intention to essentially, rather than going through a list of diverse topics, to go into more detail following up on our discussion on the SSAD, building up from the meeting we had with you on the topic in February and the letter you sent on this.

So with this, I would just suggest to go into the core of the matter. And -- And so initially, just to be completely transparent, our intent was to directly follow up from our last meeting and your letter, Maarten, and we followed that with hindsight and the approval of the actual approval of the ODP last week, we'd rather shift our focus on the reading of this, taking on board our

questions that we initially had following up our last dialogue so that we make sure that this meeting is as efficient as possible.

So if -- with your concurrence, Maarten, what we might offer is to go through that -- that list of questions, and I think that can be an informal dialogue. And so what we did, our small team came up with a set of questions, six sets of questions, essentially. And just to go through them very quickly. On the timeline, the benefit, assessment, the prioritization, the sort of phased approach that we might have, the impacts on future -- of future laws, and bylaws considerations.

Also, I can add that we had a follow-up discussion on this basis as well within Council. So councilors will be free to join me, obviously, during our discussion.

So what I would like to suggest, and with your approval, Maarten, would be to turn to -- to Pam, who led that exercise, to help us go through that list of questions, and we can have that discussion.

Pam, would you mind doing that?

PAM LITTLE: Hello, everyone. Hi. My name is Pam Little. Of course.

So we do -- We intend to share those questions on the screen. Maybe I will just give it a bit of an intro. Hi, board members, again.

As Philippe just said, these questions we have proposed are really trying to -- to -- sort of came from our comparison of what the Council has input in our letter to the Board on the 22nd of January this year, and also there -- also, we were in the course of developing some questions for this meeting, but in the interim, during ICANN70 meeting and the Board has decided to initiate the Operational Design Phase. And so, therefore, we already have the benefit of looking what's covered in scope of this Operational Design Phase scoping document. So we thought we did a bit of a comparison and to see whether there are anything that are not covered in the ODP but was part of the Council input. And we also have some clarifying questions about the ODP -- ODP scope.

So the first question really was sort of the -- the ODP, design phase assessment said -- the Board said to be completed in six months from the date of the Board's request provided that there are no unforeseen legal or other matters that could affect the timeline.

So it seems to us six months is quite long considering that the SSAD-related recommendation -- i.e., Phase 2 of the EPDP final report -- really, we thought the content should be reasonably familiar to ICANN org and ICANN Board, and we do have liaisons

from the org and the Board to the EPDP Phase 2. And we also had the thank you ICANN org earlier seemed to have indicated that the ODP is simply formalizing what org would usually do in preparation for Board's consideration of GNSO-adopted policy recommendations.

And, you know, the other thing we -- we feel that, you know, the Council under the PDP manual, there is a requirement or really expectation that the Council take formal action on the final report no later than the second council meeting. So we really strive to do that, and the Council adopted the SSAD-related recommendation in September 2020, and then the recommendation report was submitted to the Board in October 2020. So that's almost six months ago.

And we're also mindful that in the bylaws, the Annex A went to the ICANN bylaws, Section 6 (indiscernible), the Board will meet to discuss the EPDP recommendation as soon as feasible, but preferably not later than the second meeting. I guess that one can say, you know, to me, doesn't mean you have to make decision. But overall, we just feel that the six months' lead time seemed quite long. So we would like to understand how was the six-month ODP assessment lead time determined, of why so long even without the proviso which means they could be, you know, even longer than six months.

So I'll stop there and see if any board member would be willing to take that question.

Thank you.

MAARTEN BOTTERMAN: Yes. Of course, Pam. And thanks for the question.

Normally we don't jump to conclusions the document reaches our desk, right? And just to make sure that we get the ins and outs well in this unique new way forward in things and also moving ground. We'd like to make sure that we're well briefed and well aware of what we're saying yes or no to, how it's going to look like. And, therefore, we felt that a proper briefing seemed to be the appropriate way and taking the decision to ask the CEO to do that seemed to be the right action for the Board at this moment.

But I'm sure Goran can tell a little bit more why -- why the ins and outs is not something of weeks but really of months. And the aim is six months, and that's based on our current understanding.

Goran, can you explain a bit?

GORAN MARBY: As always, Pam, thank you for good questions, and this also gives me an opportunity to, not for you but for others, explain this.

So first, formally, ICANN org take its instructions from the Board. So it's the minute when the Board makes a decision about something that we actually have budget or can actually do something when it comes to what would lead up to a decision.

So for us, formally, the clock actually starts when the Board makes a decision. And that's when -- So some of the things you said. We have, of course, been well aware about the discussions and we have prepared as much as we can internally when it comes to looking at the resources, looking into all those things, but we cannot formally start anything until the Board makes a resolution. So that's good to know. The clock started when the Board makes a decision.

This is not about the implementation of policy in that sense. This is about building a data system. This is a -- I mean, no one in the world has ever built anything as the data system that we're talking about. And, yes -- you might say yes, there are, but yes, but they have done it for different purposes. And I often talk about just to come up with a how to identify the individual that wants to come into the system and make a request is one of the

biggest problems that we all know, you know. And that's like a payment system. You know, that's what the credit card companies do or PayPal or anyone else. We haven't figured that out.

So one of the things we're planning to do is go out with an RFI, a Request for Information, where we invite -- and maybe some of the companies on this call right now who provide cloud services is now stretching their ears. To be able to do that, we have to formulate the questions. What are we trying to achieve from a technical perspective with the -- or you know, with the request. So we actually know how to formulate that, not from a policy perspective but inside the policy, from a technical one. So we have to go through that. And the RFI will then hopefully produce for us answers how -- you know, we will ask this is what we want to do and invite companies to help us to achieve that.

And then what would happen is we would have to go out, and then we will know roughly what it would cost and the time for implementation, what was (indiscernible). And you know as well as -- and everybody on this call who ever built a data system knows that.

So it's a technical thing. So why do we need to know that? Because you have requested it as well. You want to know the cost,

and we can't really do the cost until we do at least the first RFI, or maybe even when we go in for a request for a real proposal. And also because of the rules -- and I'm not complaining about the rules. Some of those things takes time for we have to be transparent in what we do.

So it's now a mechanical thing. The Board and you wants to know the cost. And to be able to do the cost, we need to design the system. We're going to need help to design those systems. So it just takes time.

And the reason we're put in there things might happen is because, as we've said many times, the ODP is not a fixed document.

We're going to figure out things during this process that the Board wants to more about, things that we would like to engage with the GNSO about, things that when we reach the design level of this, we have to clear out. So we understand there could a technical solution that fits for purpose but it's not within the policy. So we have to talk to the GNSO so we don't break the policy from the GNSO Council.

So that's why we say that things might be change and might take longer time or shorter time. I tell you, when I look through the resourcing of this -- because this is also going to take resources

internally, we don't even have some of those resources because we never had -- we never ran an SSAD system before. So we are trying to do the best we can.

Remember I said when the Board made the decision for us, any other discussion stops. Our job right now is to figure out a way to make it happen. That's the only thing we're trying to do for this. We are not trying to open up any policy discussions. We're not trying to -- we're just trying to figure out and make it happen.

I hope that answers your questions, Pam.

PAM LITTLE: It does. Thank you, Goran, and Maarten.

PHILIPPE FOUQUART: A follow-up if I may, Pam, to the -- thank you -- to the duration. I don't know if it's for Goran or anyone -- anyone else.

One element in assessing that duration is whether there are precedents of doing the same thing. What's good about the ODP -- or the scope of the paper is that it shows something quite unique because of what you said, the identity management.

I was wondering -- and because of the identities that you have in front of you, the nature of those people who -- at least part of them who would be triggering the system.

I was wondering whether in that exercise, there was -- "benchmark" is not the right word, but there might be systems if not similar in terms of identities -- obviously the data will have to be different, otherwise, we wouldn't be here talking about it.

But in terms of identity management, I was wondering whether there's an intent to sort of review system of the same nature in terms of identity management?

GORAN MARBY: So that's why we're thinking of doing an RFI, to sort of present the problem and have other companies who has done this before to come up and help us with solutions, not to shortcutting a way instead of we sitting at home and trying to figure out solutions and then go out and asking people to do it. We think it's much better that someone comes in and tells us.

I mean, in the discussions we've had -- and I mentioned that. The credit card companies around the world are doing this as bread and butter, identification of a person.

We also have to take into account so we don't break any GDPR laws, and we also have to take into account that we actually fulfill the GDPR laws when it comes to -- because this is going to be individuals representing an organization presumably. It has to be logged so we don't break anything there.

So, I mean -- I have to admit that I'm sort of shylessly think this is very interesting from my previous life of being a system engineer and working on things like that because this is really fun. But that's the way we're thinking about doing it. We're going to invite other companies to help us to come up with that solution, yes.

As you agree, I mean -- if we didn't have that, to build a system would be easy because it is, sorry to say -- it's not a decision-making system because of GDPR. It is a ticketing system to enhance the ability for people to know where to go. GDPR, as you know, didn't help -- you couldn't make this into a decision-making system in that sense.

PHILIPPE FOUQUART: Thanks. Thank you, Goran.

And it makes sense to go through an RFI for that reason.

PAM LITTLE: So, Philippe, may I just add to that, I believe when the draft operation design phase paper was put out for input from the community, one of the council's comments was whether in some cases that the initiation of ODP should be brought forward.

And so I -- I see Jeff -- Jeffrey Neuman put a comment in the chat, or question, similar along the line maybe for some project like this one that is quite a major undertaking and, similarly, perhaps sub pro as well, that the Board can consider initiating the ODP much earlier than after receipt of the final report.

So I guess we are -- as Goran said, we've never done this before, the SSAD design and build and all that and this is complex. So it's a bit of a learning curve for everybody.

So with that, I would just -- I would suggest we maybe move to the next question, which also has something to do that Goran just said. The next question we have in mind was -- Goran, you just said the council wanted to know the cost, so does the Board.

But I just want to clarify, the Council really in our initial request was interested to know the cost versus benefit. So we were actually asking for a cost-and-benefit analysis. And we see in the

ODP scope paper, it seemed to cover cost and resources, assessment. But it doesn't seem to cover benefits assessment.

So our question is: How will the expected benefits be identified and measured? Because from the Council's perspective, our major concern is really, can we actually make -- or for the Board in this matter, how do we make a decision without the cost versus the benefit kind of weighing up and then a decision as to, you know, maybe fundamentally whether to build such a system. I do know Goran has said the job for the Org is to make it happen.

But in this case, we were very mindful, "we" being the Council, there were a lot of minority statements, there was a lot of concern about how this recommendation may serve the purpose of the user group.

So, hence, we wanted to know whether really is this a worthwhile exercise that we should pursue. So that is a question: How would benefits be measured? It doesn't seem to have been covered in the ODP scoping paper.

Thanks. Anyone?

BECKY BURR: Maarten, you're on mute.

MAARTEN BOTTERMAN: Am I? Can you hear me now?

BECKY BURR: Now you're unmuted.

MAARTEN BOTTERMAN: Thanks for the question. We have two people on the Board who worked closely with the EPDP, as you know Becky and Matthew.

Becky, can I ask you to answer this, to take this one?

BECKY BURR: Sure. First, let's just start off, in a world where this costs nothing, we would assume that the part of the consideration of the PDP was the percent of benefit and that's why we want it. Obviously, this doesn't cost zero. And so that -- we have to look at the question of how many users we think there will be, how many requests we think there will be, where the users will come from and all of those questions.

And so while at a theoretical level, benefit is kind of assumed absent the cost thing here and taking into account the input we receive from you, we have revised the scope to look at those

questions. So it will be -- we will be looking at what the expected volume is and who expected users are.

With respect to opportunity cost, the way we budget and the way we budget for projects at ICANN, it builds in this whole opportunity analysis, right, because the whole thing that we're doing with prioritizing projects is going to -- that essentially is an opportunity cost we want to do this instead of that or we want to do this before we do that.

So that is built into the way that we do budgeting.

Again, you know, that is all assuming that after we look at the cost that we expect to incur in building the system in the first place, the cost expected to -- need to be borne in operating the system, the volume of users, the types of users, and, you know, once we have a sense of all of those things, that that information will be available and we think that's the kind of information that is needed to make the assessment of whether in a world where the cost is not zero, it is in the interest of ICANN and the ICANN community to go forward with the GNSO Council's recommendation.

Just to emphasize, all of that would be transparent; and we would certainly expect that once this data is in, we would come back to the Council to speak with you about next steps.

PAM LITTLE: Thank you, Becky.

MAARTEN BOTTERMAN: That helps. We're looking at the cost, as Becky said. And we're also looking at the cost not only for us but for the users and those that will come.

And it will take some time to set it up because it's not only cost for when you build it but also when you maintain it.

What Becky said about the opportunity cost, indeed, how do you budget, that is the community process we know.

Goran, you want to add something about resources?

GORAN MARBY: Yeah, I keep coming back to this one because there is something that in the -- you know we are starting to talk more about prioritization and planning, which is not something that we've

been -- which is hard to do in this environment. But there are fixed resources.

Right now, as you know, ICANN Org and the Board has -- we have SSAD. We have sub pro. We have the auction proceeds. We have hundreds of your review recommendations, SSRT2 as an example. All of those things are happening at the same time.

One of the things we need to do -- and we are doing it together with the Board now -- we're looking at the resource planning because many of those things -- we don't have staff to -- if there are 2,000 applicants coming into -- on the next round, we don't have staff to handle them right now. So we don't have resources, I would say. I'm not saying we should add staff everywhere. But we have all those things right now on our table.

And I know you, guys and I know you respect that. I know how much you respect myself as well. But we are going to, together with the Board and you guys, actually have conversations about when we actually can do things because everything is on the table right now.

And so -- funny enough, one of the constraints we don't right now have is sort of financing of things. As you know, we've been cost

saving. We haven't increased costs. We also saved money because we haven't met each other unfortunately.

But it's resource and competence and people on board, people on the street to do all those things. And I really want to be open to you about this as well. I'm not going to shy away from telling you where we have problems because of doing this, and with the Board.

So I want to come back to your question, which is a fair one, Pam, when I see Jeff is active we should start doing the next round, we also have to -- we also need the people -- people doing a lot of that work as well. And that is an opportunity, discussion, we should have as well. And because the policies are set by the GNSO Council, you're, of course, invited to that conversation.

MAARTEN BOTTERMAN: I have also -- on when to start, we obviously don't want for jump the gun on what you want to propose as a policy. We know your discussions have been lengthy, too.

Matthew, would you like to add something here?

MATTHEW SHEARS: Thanks, Maarten.

Just to add on to what Becky said, I think one of the other important factors is that the benefits could accrue depending on how well we can scope the evolution and plan for the evolution and plan for the scaling of the SSAD. So I think there are a number of other questions you have asked and a number of other dimensions that actually bring -- can bring further benefit. And we have to look at this in kind of a static cost-benefit sense in the immediate term but also how that changes over time. Thanks.

PAM LITTLE: Thank you, Matthew.

Hi, this is Pam Little for the record again.

I just want to come back on the question of opportunity cost. And a couple Board members -- and, Goran, you already maybe have touched upon that.

So our question about opportunity cost originally came from our letter to the Board in January. What we were concerned with is exactly what Goran said. There's so much coming to the Council, as you can see how much is on our plate.

And we are also very -- very mindful that there's a lot in front of the Board. So our question was really: How do we cope with all

this? Is there something -- how would, say, any projects will be affected or put on hold or even not proceed because of these major projects that ICANN have to do?

So that was our -- kind of that context of opportunity cost is our concern about resources, how we prioritize what is most important and pressing. So that's the context of the opportunity cost. And, yes, we are very mindful of how this is a very huge undertaking for ICANN, for the community as well as the Org and the Board, everybody.

So with that, may I suggest we move on to the next question. And it really has something to do with -- the concern about time line and the enormity of these projects. So the question is actually included in our letter again, the January letter we sent to the Board.

So the various forms of phased implementation which might inform the feasibility analysis, so the question to the Board was whether the Board will consider alternative solutions or a phased deployment of the SSAD, or at least a question for the Org or the IRT expected to consider this sort of implementation alternatives, if you like?

GORAN MARBY: May I?

PAM LITTLE: Sure.

GORAN MARBY: I think it's dependent on how we can see the technical design. So I make a difference between the policy itself and the technical solution to support it.

And as of today, I don't know if it's -- if you can do a technical design sort of step by step. Maybe you can. But I don't know because I don't know how it's going to look like, but it's a very good question.

I wouldn't call it policy. I would actually just call it technical implementation.   Is it possible to do a technical phased implementation?

There's always -- there's always bits and pieces of a policy that you can break out, which I think we did for this one. So we tried -- because we sorted out the problems in phase 1, I think. So you might say we've already done a phased approach policy. When it comes to the actual solution, I hope that in -- in a couple of

months when we have this conversation, we can talk about -- you can see the RFI. You will see what we're doing. And I'm already starting to receive emails from interested companies who are listening into this call saying they are looking forward to an RFI. I'm so surprised.

PAM LITTLE: Okay. Good to know there's lots of interested companies. Maybe they already have a good idea about how to do this. Okay, great.

Any other comments? Otherwise, I would suggest we move on to the next topic or group of questions, if we may.

So we know that in the ODP scoping paper, there was an -- Item 372 said: What are the dependencies, if any, on existing laws to implementation of the SSAD?

Then 372.1 says specifically: What is the impact of the NIS2, should it be adopted?

So we're very curious to see that because the dependency was about existing law. Then it sort of highlighted the NIS2 as a potential dependency as well.

So in our letter in 22nd of January, the Council also would like to know or suggested that ICANN clarify what further legal guidance it expects to receive, if any, before it feels it is in a position to operationalize the SSAD.

And I think, Goran, in the past conversation, you mentioned many times about the legal uncertainties and there were high-level conversation with the GAC and with the European Commission.

So our question is really: Why is the NIS2, a proposed legislation, being singled out as a potential dependency?

And does the Board agree consideration of impact of future laws like the NIS2 could render the existing policy development and implementation life cycle a bit unpredictable, or even unworkable, because the law -- new law comes on all the time. So how do we really manage that, if we need to sort of take into account future legislation?

I'll pause there to see if anyone would like to take those questions.

MAARTEN BOTTERMAN: Of course. For sure the uncertainty is clear; and things move faster and faster, as we also see in the legal environment. So that's why we are following that closely.

NIS, specifically, is truly deeply touching upon how we deal with that system.

Should I ask Becky or Goran who is deepest on that?

GORAN MARBY: Becky first, I think, and then I can follow. Or I start and she corrects me.

BECKY BURR: [Laughter]

Either way, Goran.

I don't want to correct you.

So a couple of things. ICANN Org is following the NIS2 directive very closely. And comments were issued. And in a significant way, we're asking for more information and for clarification that will help us.

And, of course, you're right in the sense that if we -- laws change all the time. And if we said that with an absolute dependency, we'd never be able to do anything particularly in this particular area.

NIS2, because it does seem to have very specific provisions related both to the legal versus natural distinction, the obligation to provide information to those with legitimate interests and accuracy seems particularly close to the work of the EPDP and this issue.

And so I think it is reasonable to take a moment to think about the extent to which its passage in its current form or in some modified form would render this more or less -- the SSAD a more or less cost-effective solution and rather the SSAD as currently planned and designed is sufficiently flexible to address changes that might come down through the enactment of NIS2.

And, remember, it's going to be very complicated with NIS2 because it's a directive, not a regulation. And so it can be transposed into member state law in ways that are not entirely consistent.

That said, the EPDP Phase 2(a) legal time has also focused on the extent to which the presence of proposed legislation and the

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views that are expressed, the values that are expressed in the proposed legislation could have any impact on, for example, the balancing test or could have an impact on the risk associated with the inadvertent publication of personal information in the context of a legal person registration.

So there are a lot of ways in which NIS2 comes into this, and I don't think that we could reasonably answer -- provide answers to the question and provide the information that the Council is seeking without thinking about the impact of NIS2 as it is currently written and as it may come down the pike.

Now, Goran, you can correct me.

GORAN MARBY: There's no way I could correct you.

So the NIS2, the legal problems we see with the SSAD is still there. I mean, international data transfers, for instance. How are we going to deal with that? Who makes the decision?

But that is actually an additional -- it's more for the contracted party when they make their decision, they also have to make a decision whether it's legal to internationally transfer data. So it becomes sort of an addition to the balancing test in that sense.

As Becky said, NIS2 is about how to make the balancing test more than anything else. SSAD is a ticketing system that provides the contracted party with a request. And then based on current legislation or NIS2 legislation, they have to make a balancing test based on that. It's still in the contracted party house.

And the law has nowhere -- the NIS2 doesn't change the principle we try to do to give ICANN Org the legal entity -- the responsibility for the balancing test. We were not successful about that. We never got an answer from the data protection authorities or the European Commission about that. This law doesn't change that.

Let's say -- because I hear this from some parts of the community, let's say that tomorrow we wake up and the legislation now do that, gives ICANN Org a legal responsibility for it. That will just be an additional function in the SSAD system. We just move one decision from one place to another. By the way, that would give the ICANN community the ability to make policies within the law about who should get access to the data, which is now in the contracted parties house. They are the ones who make the decision based on law who gets the data.

So I think it's a very fair question. But the answer is, as Becky said, SSAD is a system we're building to make it easier to get someone

to ask the question and hopefully make it easier for the contracted parties to receive the questions.

It's still up to them how to do the balancing test and how to transport the data. That's according to law. And not everybody loves that, but that is the interpretation of the law.

And if that would change, the SSAD would still continue to be a system where it could help for people to ask questions through it. It's just that that is moved to someone else. Potentially ICANN Org could make that decision or someone else in the legislation decides to make that decision. So I hope that answers your question.

It's a very, very, very good question. And as you can hear, we have spent an enormous amount of time trying to formulate ourselves around that specific question.

So SSAD, in that sense, would never be a waste of money for a legislation change.

PAM LITTLE: Great. Good to hear.

So, thank you, Goran and Becky.

I have a hand up from Tatiana. So can I suggest we let Tatiana have the floor.

Over to you.

TATIANA TROPINA: Thank you. Thank you very much, Pam. Tatiana Tropina for the record.

And I don't know if my question is to Becky or to Goran. However, I want to ask when you consider -- when you factor NIS2 into your considerations, your hard stop in terms of time, does it depend on the ODP process and what you're doing, what you're considering, or does it depend on the NIS time line?

And I will explain why I'm asking. Perhaps -- like, looking at the process with the regional NIS, perhaps now it will start changing. There will be comments. There will be discussions. Then it will go to trial, which is never transparent, and so on and so forth.

So when is the hard stop when you say, okay, now we know enough and we can factor it in? Is it the -- something that depends on the external factors like those legislators who are discussing it now, or is it ICANN?

For me it is the timing issue. If you are taking into account the proposed law and the law can change in a nontransparent way, when do you say "I know enough"? Thank you.

PAM LITTLE: Thank you, Tatiana.

MAARTEN BOTTERMAN: Becky, please.

BECKY BURR: I will take a quick shot at it.

I think the answer is -- the question really is: Is the system flexible enough to continue to be useful in any of the ways that the law might change?

And we can't say we know that the legislation is going to come out exactly as it is today or we know that it's going to come out in some different way.

The question is really more of a flexibility. And as Goran said, the expectation, since it is really an intake system, is that it shouldn't affect this. But it's a question we need to ask.

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GORAN MARBY: So can I just -- it's a good question, Tatiana. The thing is, we have -- so we have seen no indication to change the role of the contracted parties when it comes to the disclosure of data and their need to do the balancing test. That would be the big difference in a system like this.

But the system has to be designed to add a functionality that someone else is doing it. It's actually one of the problems, is that in the system we have 200,000 contracted parties out there. How do we make sure that we send the question to the right one who can actually simplify the system as well?

The SSAD we deem lawful, if we build it, according to the GDPR, of course, because it's not a decision-making system. That's not because of the policies. That's because of the law. And I think that's a very important distinction because I hear that many people claim that the ICANN community decided that this would be the case. And I would say, no, it's because of the interpretation by the data protection authorities that this happens to be the law.

PAM LITTLE: Thank you. Thank you, Goran. Thank you, Becky.

MAARTEN BOTTERMAN: Please allow me to point out we have about 15 minutes. So if you would like to go to sub pro as well, it might be a good time.

PAM LITTLE: Great suggestion. I was going to do that. Pause to see whether maybe we should switch to sub pro's questions or dialogue.

Philippe, could I hand it back to you to maybe just manage the conversation on sub pro?

PHILIPPE FOUQUART: Thanks. It's up to you, really.

I have to say I'm somewhat hesitant to interrupt the conversation that we were just having because I think it puts -- but maybe just one last question, if I may, on the SSAD.

PAM LITTLE: Sure.

PHILIPPE FOUQUART: From a purely naive perspective, I appreciate that the ODP's operational.

When we talk about deployment, everyone knows that -- but you consider shortening the problem space. And by this I mean either you take friendly-user testing, et cetera, so that's the user part. Or you shorten the problems in terms, for example, of the limited gTLD space, for example.

I was wondering whether there's been any thought on this as to, for example, if we consider that problem as being too wide as to consider that same problem or assessing or producing, to use the term that's in the ODP, the system on a more limited problem space in that regard, either because the requesters would not be the whole range of those that were originally planned but a subset, et cetera.

If anyone has a view on this, I think that would be interesting.

Thank you.

MAARTEN BOTTERMAN: Okay. Avri, can you continue on that?

AVRI DORIA: I'm not sure I can. I mean, I think I missed a point of the question. Please forgive me.

PHILIPPE FOUQUART: That's all right, Avri. I will take that offline then, and I'll try and make sure that I can get the message across. Thanks.

AVRI DORIA: Maybe someone else caught it, though.

GORAN MARBY: Philippe, you're asking a very good question, which is an essential question for the multistakeholder model. And you know that you are asking a question about the multistakeholder model underlying it because you and I talked about it before.

So according to this model, which the Board and we and all are here to support, we have a process. We have a PDP. And the PDP, it's -- as Jeff probably would agree with me, it's a really interesting process itself. It's tedious and it's work and it's compromising and all of that. It's sort of designed to be hard because we should only do policies when they really need it because that seems to be by design.

And then it comes by design to the GNSO Council who takes in all of this into account. And some people think it's a rubber stamp of the PDP. Some people think it's the GNSO Council

(indiscernible). It doesn't matter. The multistakeholder produces a document after all this hard work.

And then how do we handle the situation when the world moves on? So let's say that we have people vocal in the ICANN community who says we're not going to use it anymore. But we are not building this for the ICANN community, are we? We're building this because the ICANN community thought it was a good thing for the Internet and for the users of the Internet and everybody else.

So the question is really hard. When we designed this system, it's not the people who come to ICANN meetings. It's for everybody to use. The WHOIS is not for ICANN people. It's for the Internet.

I think your question is fair, and I think we don't know that answer. But one of the things we've set inside the PDP -- sorry, the ODP -- too many acronyms -- is that we're actually going to go out and talk to people. We are going to go outside the ICANN community and speak to law enforcement and other ones who are interested so we can get the feeling out of that. It's actually inside the ODP. We don't know how to do it, but we know one thing: We don't make policies for the ICANN community. We make policies for the DNS, for everyone.

I know I don't answer your question, but you produced the policy because you thought it was important. Of course, we have to have a dialogue about if that importance doesn't help anymore. And then we have to have the dialogue with the GNSO Council because, as I used to say, you're the policymakers.

Did that answer your question, Philippe?

PHILIPPE FOUQUART: In a way, yes, Goran.

I get your point. I think I was trying to get at really the deployment phase. As we move along with the ODP, I think some of these things will get clarified.

My question was really not to -- certainly we're not in a position to restrict the scope of this, not at all. It was more about the practical aspects of deploying this and designing that system -- and whether on a limited problem space, whether that design might have been simpler sometimes or whether a limited subset of users, requesters, this might have been simpler. But we'll take that offline.

I think your point is well-taken. What I take away from your answer, Goran, is that moving forward, "we" being, as you said,

the policy development body, need to remain involved in that ODP process. And we certainly agree with this.

Apologies for taking too long on this rather than going into the sub pro element which we approved the recommendations report of at our meeting last week. I think you will hear about this, if not already.

So we would expect the corresponding ODP to be launched accordingly. Maybe you can help us with this as to the time line of this. I think that was one of the questions that people had.

And I think I can after that turn to my fellow councillors for additional questions on this. But maybe we can kick off the question with that one element, if you would.

AVRI DORIA: You want me to start, Maarten? Or are you going to start --

MAARTEN BOTTERMAN: No, it's -- well, as our fearless leader, we've been following sub pro for a long time.

And we've not been -- we've really been briefed and looking at the questions. And Avri has been leading this on our side to make

sure that we're well-informed. Now we're there to this point where sub pro has been adopted by the Council on the 25th of March, as expected.

Yeah, we are ready for next steps. So, Avri, please.

AVRI DORIA: Sure. Thanks. And not to start out by disagreeing with the greater leader, but Becky and I have actually been working on this together.

But, yes, so we've spent -- and I think I've mentioned this in a lot of places. We've spent a lot of the last year sort of trying to follow along, trying to understand the issues. That's where a lot of the questions in letters came out because we were really quite following it fairly closely. Now we are at a point, you all have decided in the council that this is something you're recommending.

I noticed -- I was just checking today that the public comment hasn't even started yet. So, you know -- in honor of not jumping the gun type of philosophies, certainly we have to see what the comments are. Yes, we can have a certain assumption of what some of the comments will be, but we really can't say that we know them yet.

We have -- a funny thing about the ODP -- and you folks have talked about it a lot under the SSAD -- is the ODP as a process has a preprocess.

Part of what we give the ODP from the Board is the set of questions, and I think that that has been mentioned.

So we have started having those discussions. There are already meetings between the caucus working on sub pro that's going through all the policy issues and a group of people within the Org staff that are basically, you know, going through what are some of the issues that they need to look at in terms of how this can be done, when it can be done, what methods, et cetera. And so we are starting to build that question list.

I think that the ODP needs that set of questions completed. Not only is that the way it's written in its plan but any time you're going to start a process and you don't really know what the questions are that you're asking to ask -- that you're asking it to answer, it's just going to elongate that process. So we're really trying at this point, while waiting for the -- while waiting for the comment period to at least start, you know -- I was a little edgy in ODP that we requested -- I mean, in SSAD that we requested the ODP a couple days before the comment period ended. Other

people are a little more flexible with that than I am. So, you know, I'm fine that we did it.

But, again, doing it even before we start the comment period would be difficult. But we are talking through the issues. I expect it will be a similar time line once we get the questions gathered. And it is, you know -- however large some constructions are on the SSAD side, this is a major system that needs to be built. It has many, many pieces. It's got many, many people interacting with it, spending money and getting upset. So it is something that they have to build correctly.

And I see Jeff has his hand up so I should probably stop and get to a question. Hopefully, I have given an initial answer.

PHILIPPE FOUQUART: Thanks, Avri.

Jeff, I suppose that's in your capacity as a GAC liaison, is it?

JEFF NEUMAN: Yes, sure.

PHILIPPE FOUQUART: Over to you, Jeff.

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JEFF NEUMAN: So the question I have on there is what steps need to happen because groups obviously need to get prepared, and some groups have been starting to prepare public comments.

Is there any kind of time line you can give us as to when the public comment period will begin?

AVRI DORIA: I think it's really -- that would -- perhaps Goran or someone else can tell me. But I don't think there's any steps that the Board has to take for that to start. I think it's going through a -- you know, a process that we had ICANN70. It was going to start shortly after ICANN70 and such.

I don't think -- Goran, again, it's for you to correct me. Are there any process steps that we're missing there? I don't think so.

GORAN MARBY: No, I don't think so either.

But I know one thing, we're trying to prepare things as carefully as possible so we don't mess things up.

I know, Jeff, because I know you said this in other lists and stuff, that we should just get going.

Maybe I'm Swedish. Maybe it's a culture thing. Right now I want to get it right. So we're going through internal process to look at things and we want to make sure that we have -- I think that if we speed up things too much in one area, we might end up losing a lot of time -- someone is trying to steal my car apparently, if you hear that sound.

I need to go and check to see what's happening. Just a second. Thank you.

MAARTEN BOTTERMAN: So basically, it's in the pipeline, Jeff. And there's nothing keeping it other than practicalities of getting going and also considering whether we don't put too many heavy demands on the community at the same time in the same period. So it's also looking at that.

JEFF NEUMAN: Can I just -- oh, thanks. Sorry I didn't mean to interrupt.

I just wanted to respond since Goran had said in my other capacity, I was saying sort of the, you know, "let's get going."

I don't think I've ever wanted to be on record to say that we need to kind of cut steps out or -- I just think we have a lot of bureaucracy in our way. We know that there's an ODP. We know that there's an implementation phase. And if we take -- if we take another three months to start a six-month ODP, it means we can't start implementation for at least nine, ten months, you know. And then we have a two-year implementation period or whatever it is. We're now into 2025, '26.

So I don't mean to be on record as "let's just get this thing started and cut corners." That's not what I'm saying. But I do think there's ways to get this right and also ways to not stand in our own way with bureaucracy to, you know, take months just to consider whether even to start an ODP.

So, anyway, thanks.

GORAN MARBY: Because I'm back -- it was teenage son.

I think -- and I love this discussion because time is -- we always talk about if we do this now, that adds to time.

I think that we actually do this process right now with ODP before the Board makes a decision, it will ease out a lot of the things in

the implementation because I -- first of all, I tend to believe, and many of my staff believe, and I know some of the Board members were there, I said that after the Board makes a decision, it went into a not-the-most-transparent hole sometimes. There's a lot of decisions happening. There's a lot of things happening.

And I think that some of the criticism came how we did things was fair.

So I think if we do our work, if we build the foundation right now, we're going to save a lot of time and unnecessary discussions in the end.

So we might -- but I don't think we're going to be able to short out anything, if we short cut it for a very long time. This is the 300, $400 million project. And as I wrote in the chat, we identified about 40 different work tracks right now, anything from building systems to get -- updating the applicant guidebook.

As you know, there are things within the PDP that needs further discussions within the Board, discussions about the -- the PICs discussion. All those things need to be happening.

My aim and the Board's aim, think about this, build a foundation, make sure we have transparent conversations about it and we will save time in the end.

Jeff, I agree with you in the fact that I think the next round is important. It's important not for the English-speaking people around the world, it's important for getting people in other parts of the world, so they have the ability to connect on this global thing, which is also welcomed. It's an opportunity for people who use their own context for naming on the Internet. I don't want to delay that one single day. I want that to happen because this is about democracy for me.

So believe me, it's not for bureaucratic struggles or anything. It just want to do it right, and I want to do together with you.

Sorry for the speeches. It's the day before Easter, I feel like preaching.

MAARTEN BOTTERMAN: Thanks a lot. Just pointing out, it's also past the top of the hour.

I hope we did get across in our interaction as well that what we're doing here is really to make best use of the multistakeholder system and get things done at the same time.

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With you as policymakers, it's the responsibility of making the policy and the priorities with the Organization to find appropriate ways to implement and to inform also the Board on whether we can and should, indeed, agree with the policies as proposed so it can be implemented.

And thanks, also, for the earlier questions. Importantly some of the ones you asked, Philippe, just before we went into the sub pro, these are the ones that we think also would fit in the ODP process. This is not the organization going into their offices -- they don't gather anyway -- close the doors and then come out with a solution. The plan is to continue to interact.

And the Board will follow every step, and the community will be following the steps as well. Transparency is the key in making it all work.

Thanks from our side very much for this interaction. And I think it's valuable, as always, because it's really about getting things done together and understand what the issues are and what the intent is. I hope it helps for you guys, too.

Philippe?

PHILIPPE FOUQUART: Thank you, Maarten. And thanks for the dialogue. Thanks to all who has put so much effort into this.

I think it was really useful. We're looking forward to more interactions.

I do note we have to appoint an liaison to the SSAD ODP. We'll do that, a call for volunteers. We'll do that shortly.

But again, thanks. Thanks and looking forward to more exchanges.

Thanks, Maarten.

MAARTEN BOTTERMAN: Thanks, everybody.

AVRI DORIA: Bye, everybody.

MAARTEN BOTTERMAN: The meeting is closed.

[END OF TRANSCRIPT]

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