
ICANN75 | AGM – Joint Session: ALAC and GNSO Council
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YEŞİM SAĞLAM:

Hello and welcome to the joint ALAC and GNSO Meeting. My name is Yeşim Sağlam, and I'm the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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And with that, I will hand the floor over to Justine Chew, GNSO liaison. Thank you.

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JUSTINE CHEW: Thank you, Yeşim. Welcome, everyone. I am, in fact, the ALAC liaison to the GNSO. But all good. I'm basically the bridge between the two groups that are meeting here today. And it's a pleasure to welcome you all to my home city as well. Let's not dwell too much on introductions.

Firstly, I'd like to call upon Maureen Hilyard who is still the ALAC chair for maybe a few more hours. I don't know. Anyway, Maureen if you would like to say a few words a welcome, please.

MAUREEN HILYARD: Thank you, Justine. Yes, I would like to welcome our GNSO colleagues here today. And I understand there's been some major changes in your system, which I'm sure we're going to hear about. I'm really looking forward to that and, of course, to the discussions that we're going to be having today as well. I would like to now pass over to my vice-chair of policy, who is very much more au fait with what's going to be discussed today in collaboration with Justine. Thank you.

JONATHAN ZUCK: I didn't know I was going to get called on, teacher. My name is Jonathan Zuck and as Maureen mentioned, I'm the vice-chair the ALAC for policy. So I, along with Olivier, manage a weekly call, the

CPWG call, that's become pretty infamous around the ICANN community. It's my understanding that the At-Large community met with the GNSO community with some regularity a long time ago. And I'm very excited to begin that collaboration up again. So thanks so much for joining us here and keeping the lines of communication open. Thanks.

JUSTINE CHEW:

Thank you, Maureen and Jonathan. Now I'd like to invite Sebastien Ducos to say a few words. And I would like to make mention that Sebastien Ducos has just recently been installed as the new GNSO Council chair. Sebastien.

SEBASTIEN DUCOS:

Thank you, Justine. Yeah, are my first appointment. Very happy to join you. So just for the record, I'm Sebastien Ducos. I am, indeed, the new GNSO Council chair. I am a Frenchman, like the other Sébastien in the room. I normally live in Australia, but I'm right now in Europe and I have been in Europe for a number of months, or years now, due to the pandemic. I just wanted to thank Justine for having organized that. Before becoming a chair, I was vice-chair. So, part of that organization in the last few weeks.

And I'm very glad to be here. I'm very glad to have the discussion. And definitely seconding Jonathan's comment. We should do this, and we should do this often. Thank you.

JUSTINE CHEW:

Thank you, Sebastien. Now I'm going to do this a little bit differently. Since this is my first face-to-face meeting back and there has been a change in Council, a change in membership of the Council and there is going to be a change in the membership of the ALAC. So I want to take maybe 5-10 minutes or so to ask for people to introduce themselves going around because it's also good to actually put a real face behind the name rather than a Zoom picture. Okay?

Look, I completely didn't recognize Farrell because his Zoom picture looks very different to what he looks like now. So I think that's worthwhile doing. So maybe we could start with Bruna. Just your name and your position. Just keep it short. Thank you.

BRUNA MARTINS DOS SANTOS: Thanks, Justine. Bruna Santos, GNSO councilor representing NCSG.

WISDOM DONKOR: Wisdom Donkor, representing NCSG on the GNSO Council.

DANIEL NANGHAKA: Daniel Nanghaka from At-Large, chair of Outreach and Engagement.

TOMMI KARTTAIVI: Tommi Karttaavi from ALAC, incoming ALAC member from Europe.

MARIE PATTULLO: Marie Pattullo from Belgian Business Constituency. Hi, everyone.

STEINAR GRØTTERØD: Standard Grøtterød from EURALO with my EURALO hat on. Thank you.

SÉBASTIEN BACHOLLET: I was told that there's another Sebastien who speaks French. My name is Sébastien Bachollet. I'm the chair of EURALO. Congratulations, Sebastien, on your election.

NATALIA FILINA: Hello, everyone. Natalia Filina, secretary of EURALO.

MARCELO RODRIGUEZ: I am Marcelo Rodriguez. I am an ALAC member from [inaudible]. I am the incoming member. Greetings, everyone.

GUNELA ASTBRINK: Gunela Astbrink, incoming vice-chair of APRALO.

ALAN GREENBERG: Alan Greenberg, past chair of ALAC—almost past-past chair. And somewhere in the deep dark past, I spent eight years as liaison to the GNSO.

EDUARDO DIAZ: Eduardo Diaz, current NARALO chair and incoming ALAC rep for NARALO for the NomCom. Thank you.

HOLLY RAICHE: Holly Raiche, outgoing ALAC member for APRALO. Thank you.

BILL JOURIS: Bill Jouris, incoming ALAC member for North America.

CHERYL LANGDON-ORR: You've got your microphone on.

BILL JOURIS: I'm sorry.

CHERYL LANGDON-ORR: Thank you. Cheryl Langdon-Orr, Australian, past-past-past chair of the ALAC, and has also served as the liaison to the GNSO from the ALAC.

THOMAS RICKERT: Hi, everybody. I'm Thomas Rickert. I'm the councilor, or one of the councilors, from the ISPCP, the Internet Service and Connectivity Providers. Thank you.

GREG DIBIASE: Greg DiBiase, GNSO councilor from the Registrar Stakeholder Group. And I'm also the vice-chair from the Contracted Party House.

TOMSLIN SAMME-NLAR: Tomslin Samme-Nlar, the outgoing Council vice-chair from the Non-Contracted Parties House.

MARK DATYSGELD: I'm Mark Datysgeld from Brazil, GNSO councilor for the Business Constituency.

JONATHAN ZUCK: Jonathan Zuck from NARALO, former mascot of the Intellectual Property Constituency. And I am the incoming ALAC chair, newly elected. But most importantly, I get to call friend the Tony Award-winning Jeff Neuman, who is the GNSO liaison to the GAC.

JEFF NEUMAN: Yeah, thanks. Not expected. Jeff Neuman. I am the GNSO liaison to the GAC, as well as the GNSO liaison to the Subsequent Procedures ODP. Thanks.

SARAH KIDEN: Sarah Kiden, ALAC member from Africa.

HADIA ELMINIAWI: Hadia Elminiawi, At-Large Consolidated Policy Working Group chair.

PETER MMBANDO: Peter Mmbando, first-time ICANN75 Fellow. Thank you,

SEUN OJEDEJI: Seun Ojedeji, AFRALO chair.

LAURA MARGOLIS: Hello, everyone. My name is Laura Margolis. I am from Uruguay. I am an ALAC members from the LAC region, elected by NomCom. Thank you.

JOHN MCELWAINE: John McElwaine, a GNSO councilor from the IPC. And I'm the vice-chair from the Non-Contracted Parties House.

PAUL MCGRADY: Paul McGrady. I am the Nominating Committee appointee to the GNSO Council for the Non-Contracted Parties House. And I am also a Cheryl Langdon-Orr superfan.

[YUNG-HSIENG WEI]: Hello. My name is [Shawn] from Taiwan, as an individual student.

OSVALDO NOVOA: Osvaldo Novoa from Uruguay, a GNSO councilor for the ISPCP.

SUSAN PAYNE: Hi there, everyone. I'm Susan Payne. I'm from the UK, and I'm an IPC GNSO councilor.

YRJÖ LÄNSIPURO: Yrjö Länsipuro, EURALO delegate to the NomCom.

MANJU CHEN: This is Manju Chen. I am an NCSG councilor on the GNSO Council.

NACHO AMADOZ: Nacho Amadoz, GNSO councilor for the Registries Stakeholder Group.

BENJAMIN AKINMOYEJE: My name is Benjamin Akinmoyeje. I'm NCUC chair. Thank you.

AUGUSTO HO: Good afternoon, everyone. My name is Augusto Ho, and I am LACRALO chair.

JUSTINE CHEW: Thank you. In the interest of time, I'm going to apologize for not having the roving mic going around the rest of the room. My sincere apologies again.

I've just been prompted to explain ... Sorry, Sebastien, that's the way it goes. I've just been prompted to try and explain what RALO is to my colleagues on the GNSO Council. So RALO stands for Regional At-Large Organization. At-Large is obviously organized by regions. There are five regions, so therefore there are five

RALOs. And some of the representatives and chairs of those RALOs are here at the table.

All right. So just pressing on with the agenda, we have two things to cover today or try to cover today. The last time we tried this, we had a jam-packed agenda, and I've been trying to be more conscious of that. Too many things is not necessarily a good thing.

So we've whittled it down to two items, the first one being DNS abuse. And that something that's been on the top of the agenda for At-Large and ALAC. And I'm just taking this opportunity to mention that GNSO Council has been working on DNS abuse as well, and they created a small team called the Council Small Team on DNS Abuse. And we have the co-chairs here with us together with some of the members of that small team, I might add. But we have the co-chairs with us today, and they're going to talk us through the report of the small team which includes a set of recommendations.

And I'm just going to hand it over to Paul McGrady to start proceedings. And if you or Mark would like to tell us a bit more about the effort that has been undertaken in terms of the outreach, and then go into a bit about the report and recommendations, if you will. Paul, please.

PAUL MCGRADY:

Thanks, Justine. We'll let Mark get into some of the nitty gritty details, but I wanted to just talk a little bit about the process which was that we are a small team of the Council and we will be reporting our findings very shortly to the Council. And Mark can go into some of those details.

But we're at a unique moment, I think, in the community history where there's a lot of momentum within the community. Not just with the GNSO, but throughout the entire community to really dig in and start to find solutions to this plague. And so we had a lot of feedback from the community, and that was all taken in. And Mark can walk through some of the some of the findings. But I just wanted to say thank you to all who participated. And it was great fun to work on the small team, actually, because I feel like we've done some good work in a short amount of time.

So Mark, if you want to give us a tour of the findings.

MARK DATYSGELD:

I will. And at the same time, I'll start with an apology. To those of you who already saw part of this or all of it, I'm very sorry. But I will try to make it interesting. I'll try to do it slightly differently so that we don't repeat ourselves.

So before I even get to what's on the screen, I would like to thank ALAC for having provided us with two things. First, extensive comments, which were very helpful. And second was Justine

because she was such a key team member that it's hard to emphasize how important her participation was. So I would like to ... I told her in person, but I would like to publicly acknowledge just how important she was. Thank you so much, Justine. Yep. A round of applause, please.

So let's go. We have an impression of what DNS abuse is, based on exchanging information with the ICANN community. Our impression is that it has phases. And we might be disproved, but from our gathered knowledge, from our accumulated knowledge, we think it starts with Phase 0. And what is Phase 0? It is before anything have even happens.

So even on the ALAC comments, the concept of pre-emptive DNS abuse mitigation was present. So this is something that reflects pretty well in the current iteration of this lifecycle idea. Before the malicious actor can even register a domain, or during the registration itself, we can already implement measures that will generate some sense of mitigation.

So with that in mind, there is a period where ideas such as predictive algorithms, such as using industry knowledge, using cybersecurity best practices, watching out for keywords, watching out for conflict, that's where it would apply.

In Phase #1, it is something that is for all of us to think about very seriously. It is for the harmed parties to know how and to whom

a complaint should be sent. Why is this important? It is important because we talked to so many members of the Contracted Party House, and all of them had the same thing to say. “We get incomplete reports. We get reports that are not actionable. We get things that are meant for other people in the chain. It's not even for our registrar.”

Registries get things. Registrars get things. We should start thinking about communicating to the people in our communities where to send their reports. Not so that we are the end of the chain, but so that they can solve it themselves within their communities, within their environments. Right? This is something that we have been very poor at doing and should seriously start considering doing something about.

Phase #2 ensures that we are helping them create good reports. There are initiatives such as NetBeacon from the DNS Abuse Institute. For those of you who haven't checked out NetBeacon yet, give it a look. It's a very interesting system that sort of preformats a DNS Abuse Report. And it feeds into Phase #1. If you want to give a quick tour to someone of how to report properly, tell them, “Hey, NetBeacon.” Right? This is a good place to start.

Now let's suppose that all of this went well. We enter Phase #3. And that's where a well-positioned party can actually act upon that complaint. And this is where we are sort of going to delve

deeper. Right? As we move further into the presentation, this will be kind of where we will be having discussions.

Everything above is very important and is something that I would like to bring particularly to the ALAC's attention because you guys are the masters of communication. And, yeah, let's make this an explicit request. We need your help. We need to start figuring this out. We need to see how we can accomplish all of the above. Right? So, formal request here.

And finally, if everything goes wrong, ICANN Compliance enters the picture. And this is something we didn't know as well. When we began this process, we called ICANN Compliance to have a chat with us, if the team members will recall, and we had a bunch of doubts as to what did they actually do.

The answer is, currently they cannot do a whole lot. Within the limits of what is allowed or understood that it is their roll, they perform their role. It's just that we wish they would act if all of the above fails. Right? And this is not exactly what happens currently. They have the power to basically contact people. They have the power to log incidents, but not to really take action in case something is not going very correctly in the implementation of Phase 3.

So these are general findings. And let's say this is the knowledge sharing part. This is what we are trying to bring to the community

in a simplified manner from our six months of discussion. This is the boiled down version of that. And what does that mean? Where does that take us?

So we're making a few recommendations that are part of our report. It is a draft report in the sense that we are taking final comments. But in the next GNSO Council meeting, we will have a finalized version of this ready for the Council's review. Why is it important that I'm saying this right now? Because the GNSO Council will deliberate upon our suggestions.

We are a small team, and everything that I say here is not the truth. What I say here is the impressions of the small team of what we would like the GNSO Council to consider. Okay? It is our hope that they will understand or ask and be faithful to them, but it is not their obligation in the least to do so.

So with that out of the way, Recommendation 1. So this is about something that came up during the [online] era. As you recall, there was a very impactful DNS abuse report that's distinguished between malicious registrations and compromised domain names. What we have found out is that pretty much no actor from the cybersecurity sector does that differentiation currently. It might seem a little shocking, but it is what it is.

We are not tracking this, and therefore we are creating a big problem for ourselves because let's take into consideration what

is a maliciously registered domain. It is something along the lines of, let's say, a misspelling of ALAC. It's ALAC with a "K" in the end. And it's a phishing website to steal credentials from members of ALAC. This is a malicious registration.

The other thing is for someone to hijack ALAC's website and use it as a mechanism to do any harm. These things are very different. And they're fundamentally different things. Step #1, if you think about maliciously registered domains, that is literally our problem as a community. It's nobody else's problem. We are the stewards of the DNS, and this is our problem. Period.

Compromised domains. That's different. We are talking about hosting providers. We are involving ISPs. We are involving all sorts of variables that make this [chain of] resolutions much more complex.

So our Recommendation 1 is that we look into malicious registrations, we talk about this as a community and see if a PDP would be required for this. Or do we want to look at this more holistically? There's many ways we can go about this, but we need to start charting a path towards addressing malicious registrations. That's Recommendation 1. Potentially a PDP. Let's call it that.

Recommendation 2—

PAUL MCGRADY: Mark, can I jump in?

MARK DATYSGELD: Yes.

PAUL MCGRADY: And so one of the reasons why we are thinking about maliciously registered as a possible starting point is that one of the operating ideas behind our little group was that it's better to do something that we can do instead of worrying about doing everything that will result in us doing nothing. Does that make sense?

And so some of these, when you see these, they're not narrow because we don't have a lot of creativity. This first one and the other ones that follow are our focus what we don't want to do is bite off so much that the community just can't do it. And wading into domain names that have been compromised, we thought, would result in more nothing being done instead of a more focused something, if that makes sense. Thanks, Mark.

MARK DATYSGELD: No. Thank you, Paul, for keeping me honest. That's why this co-chair dynamic has been working so well. Recommendation 2 is a suggestion from ALAC—bulk registrations. Thank you for bringing this up. We weren't going to discuss this and now we are. What

are bulk registrations? How do they work? What are the practices?
What are the statistics?

We found out that nobody knows. This is an unknown factor, uncharted territory. Compliance doesn't know. We don't know. The registries and registrars have some statistics, but they are not aggregated. What do we do about bulk registration? Is there are potential vector for all kinds of things, especially when you're talking about CnC botnets? But we know very little about that. [Let's explore this—how the Council shall tell you. The community shall say, “We don't know.”]

Recommendation 3. Let's promote the tools that we are starting to have. NetBeacon, the DNS abuse tool from Tucows, the emerging technologies that we are seeing such as [Clear DNS]. We have many new solutions that some of us are aware of—not all of us—that we could be socializing because they're good. They come from our community. It's the people that we know and who are sitting here who are developing them.

So why exactly are we not promoting them? There's no reason that we aren't, other than nobody's telling us to. So this will be one of our recommendations. “Hey, community. Let's start valuing the emergent work, and let's get to advertising this to promote more safety.

Final recommendation. And let me stress, recommendation. We have no mandate over this. So, no mandate. Repeat. We are asking that the Contracted Parties have a look at very specific sections of the contracts that say things such as “reasonable action against DNS abuse.” What is reasonable action against DNS abuse? I can ask all of you, and each of you will have a different answer. So that should probably not be in a contract. It doesn't seem like the best language to be there.

So we are asking that the CPH have a look at this. And how we'll proceed is that we intend to send a letter to the Council addressed to the CPH and addressed to ICANN so that they can potentially look into this.

So this is the introductory section. And the remainder of our time, we really wants to get to talk to you. We want to hear from you since [inaudible] importance [in the] proceedings.

Paul.

PAUL MCGRADY:

One quick thing, which is that the Council could get our letter and say no, we've wasted our time. Right? It's not a done deal, but that's where we are in the process. We're going to write to the Council as a team, recommend these things, and then see what the Council does with them. But we remain hopeful that we've hit the mark. So, just procedurally. Thanks.

JUSTINE CHEW: Thanks, Mark. And thanks, Paul. I'm going to open the queue now for questions or comments. I see Theo's hand up. Theo, please go ahead.

THEO GEURTS: Thanks, Justine. This is Theo Geurts from the Registrar Stakeholder Group. So Mark, thank you and all of the people who worked on this small team. Thank you for all of your work and input and efforts. I have one comment, maybe a question. I'm not sure.

But when we are looking to prevent malicious registrations, we are basically seeking a pre-crime solution. And that is a solution which is very complex. It's not a new solution. We've been chasing it as a society for many, many years, and we've written books about it—movies, TV shows. God knows what.

But the reality is, we don't have a pre-crime solution that is actually effective. And that is going to be a very complex piece of work in the sense that we are already working on some pre-crime solutions, but what we notice is that it's a process of iteration. And the process within the PDP is that you do one PDP and that's it. And that I think that's going to be problematic if we need to work on the solution.

So any thoughts on that? Thanks. That was my comment.

MARK DATYSGELD: Do you want to [inaudible], Paul?

PAUL MCGRADY: Yeah. Thank you for that, Theo. Yeah, I'm allergic to PDPs, too. Right? And that's one of the reasons why we wanted to give the community some time to look at the other items and see, after some discussion, whether or not a PDP on maliciously registered makes sense.

One of the concerns I had is that people say, “Well, there's a PDP so we might as well throw everything in it and solve everything all at once.” And then we're seven years down the road. Right? And then we go into implementation and ODPs, and carry the one. And so from that point of view, one of the reasons why it's more narrow is because of that.

I hear you when you say, “How do we get to all kinds of solutions?” But we philosophically made this narrow because we didn't want people to put their pens down on all of the other really good community efforts we're seeing—the informal things that are out there—just because Council has a knee-jerk reaction and do what we mostly do, which is launch a new EPDP. But we're just not there. Thanks.

MARK DATYSGELD: Yeah. I am posting in chat some of the things that we discovered during the process of doing this exploration. Some—definitely not solutions— but some pathways of projects that are ongoing and that help automate the combat of DNS abuse. This will very likely not be suggested as part of a PDP, at least I hope, but just to point out that we do have some potential avenues to think about Phase 0 in a way that saves us time, saves us money, and at the same time moves the conversation along. Thank you.

JUSTINE CHEW: Thank you. I'd like to thank the people in the chat that are translating all of these acronyms along the way. I think the At-Large folks are quite familiar with what PDP means, but CPH stands for Contracted Party House.

Jonathan, you're next. Please.

JONATHAN ZUCK: Thanks. I have a couple of things. On this question of pre-crime, it's sort of a way to characterize predictive analytics in a stringent manner when, in reality, I think those of us that have been talking about it for a long time are talking about it more as an opportunity to potentially slow a registration down or do some additional checks as opposed to making it prohibitive. And

they've had some good success with .eu and also in other experimental studies. And we've recently learned that they're making real headway with it inside ICANN and making predictive analytics be part of the next rev of DAAR, as well. And so there might be some tools along those lines.

As far as the scoping thing, I am inclined to agree with you, Paul, and with the group's conclusion about trying to do this in bite-sized pieces. I guess my concern is how to have—and given that you're a lawyer, maybe it'll help—a clause at the bottom of it that says “none of this represents a concession that this is the sole definition of DNS abuse or things like that.”

I feel like there's this perpetual narrowing that's happening a little bit in what's being discussed. And I think that's a great thing from the standpoint of making progress, but it can be a complicated thing down the road when it appears to have been a definitional concession, and I think we need to make sure that we aren't all there. Not that we have a consensus alternative definition.

But even so, the new report that came out of the DNS Abuse Institute, for example, doesn't make any reference to spam even as a delivery mechanism for phishing. So that's something that we heard about as part of the list for quite some time, and now it's not on the list anymore. So I don't know what the right clause is for you to put at the end of your letter, the legal disclaimer that

says “this is for efficiency and not a finalized declaration of definition.”

PAUL MCGRADY:

Thanks, Jonathan. Yeah. I guess I would be a bit more worried about that and definitions and such if this were a scoping document for EPDP. This is really an informal effort by the Council leading to more informal efforts by the Council to encourage what we're already seeing in the community and nudging that along.

So for example, in one of Graeme Bunton’s various presentations that he's done here, I again raise the issue, as I have on a couple of other occasions, of the idea of phishing by impersonation and how that's different from the technical definition of phishing that they have been dealing with in terms of their online reporting. And he says that being able to report that kind of phishing is going to be in development in a couple of weeks.

So I think that as long as the Council is seeing the community make progress, then us getting in its way by trying to tack down a definition or do those kinds of things, I don't know that it would necessarily be helpful. But if this were a scoping document for a PDP, you bet. Because what we wouldn't want to do is to develop that kind of document, have it be vague, and then have half of the

team burn out trying to come up with a definition and it's taking two years. So I'm with you.

JUSTINE CHEW: Thanks, Paul. Just a procedural question before we move on to the next person. So the intent of this report is that it's going to go to the GNSO Council for consideration. But is there going to be space for the other parts of the community to comment on this draft report?

MARK DATYSGELD: Thank you, Justine. So in terms of the ICANN policy development process and the way this works, the answer is that we are doing that commenting period right here because this is the outcome of a small team which has no binding power over any aspect of policy. So therefore, it's not material to community comment.

JUSTINE CHEW: Thank you for the clarification. Ephraim, I jumped over you earlier. Sorry. I didn't see your hand before that. So please go ahead.

EPHRAIM KENYANITO: That's okay. So one of the things that's been touched ... Hi, everyone. For the record, this is Ephraim Percy Kenyanito. So the

question that I had was the issue of definitions. So that is the question which has already been spoken a bit. But just to flag, for example, the 2020 CPH Definition of DNS Abuse talks about malware, botnets, phishing, pharming, and spam. And then the 2019 Framework on DNS Abuse talks about all of that, and then talks about, additionally, website content abuse. And then the 2020 ICANN Guide to Registrar Abuse Reporting Practice talks about phishing, spam, malware, trademark and copyright infringement.

So I'm just curious. On those tools that are being developed by various members if there's someone maybe mapping ... Maybe this tool does follow this definition. For example, as you might be aware, there's a tool that maybe doesn't talk about spam or it doesn't map spam. So I'm just curious if that [clarity] is coming out even as we are talking about DNS abuse and all of these various tools that are being developed here. Thank you.

MARK DATYSGELD: Thank you, my friend. Long time no see. So fundamentally—

EPHRAIM KENYANITO: I'm around, just that I'm in a different room. But, yeah, we can meet after this.

MARK DATYSGELD:

So the idea here is that we are looking at this from the following perspective. What is ICANN and what is its mandate? And what is already in the contracts? And how can we act in the face of the fact that if you look at any of the ongoing PDP processes/ODPs—pick your acronym—none of them have generated fruit in five years. Okay? They haven't and they're stuck. So what do we have that's actually there, actionable, and needs minimum push for us to be able to advance this subject?

We could do the DNS abuse PDP. That was totally on the table. We could be starting a process that would take seven years of our lives and that our grandchildren will maybe see through and have every definition. We really could. But the thing was, when we got together—and I think Paul was very instrumental in this—we just said, “No. Let's give the community something actionable, incredibly tightly scoped, and that's totally within what we can accomplish in this medium term.” Nay I say short term. But medium term.

So that's why we're sticking to what's already there. Are there the other pathways? Yes. But would that be practical? I don't think so. Paul.

PAUL MCGRADY:

Yeah, real quickly. Ephraim, thank you. You kind of proved the point because there's all of these countervailing definitions and

such. And so that's why we didn't get bogged down in that. And we're kind of in a fun territory where, really, what we're asking the Council to do is to use its persuasive ability to continue to encourage the community to do what it's already doing, which is that this issue is thawing and the community is going in the right direction. How do we encourage that without getting bogged down in details?

GREG DIBIASE:

Sorry. Just one other comment from the small team. There were some comments also that we received advising us not to get wrapped around the axle trying to define abuse. There are these categories that everyone agrees are abuse. Let's tackle those. So just another note on the definition aspect. That was some relatively clear feedback we got from the community, generally.

JUSTINE CHEW:

Yes. Okay, we need to press on because time is short. I'm going to cut the queue off with Alan, and I think we can take [Anne's] question in chat offline. So Stephanie, please.

STEPHANIE PERRIN:

Thanks very much. I'll try to be brief. Much as I sympathize with the desire to stop abusive registrations, I'm a little uncomfortable with the use of predictive analytics and to be sort of throwing

spaghetti at the wall to see what will stick amongst a group informally. Heaven forbid that we started another three-year PDP. But these are basic rights. There could be human rights implicated. Unfortunately, when one is defending human rights, one has to defend the human rights of criminals.

And I'm not the lawyer here, so I've given up hesitating to lecture lawyers on human rights because I think at ICANN we don't pay enough attention. The Council of Europe have brought out a very detailed and worthwhile document on doing human rights impact assessments of the use of AI and, for that matter, predictive analytics. So I would urge you to have a look at that.

And, frankly, I don't know how you can assess what you're doing without coming up with definitions because you have to define the kinds of actions you're looking for. What I'm talking about is, for instance, we had a presentation from Patrik Fältström in Barcelona where basically he and Rod Rasmussen from SSAC said, "If you see 400 registrations coming in from one registrar, you can bet they are abusive registrations." So you could easily be monitoring that, and I can't really see a human rights implication that would cut things off.

But if you started to look at particular populations, particular countries, then you could easily be accused of discrimination of

all kinds. What would be your rationale for monitoring those folks and what would be the trigger for addressing this?

As Theo said, you can predict all you like, but ... He didn't say this, but he did bring up the technicalities of predictive policing. You can watch people, but you still have to wait until they commit the crime. And unfortunately, when it comes to malicious registrations and abuse of botnets and that kind of thing, there's damage done as soon as you're waiting for them to commit the crime.

So I'm wondering if you have any comments on that. And I'm just using predictive analytics for shorthand because someone mentioned it. What we're talking about is programming that addresses the problem. A rose by any other name would smell as sweet. Thanks.

MARK DATYSGELD:

Thank you, Stephanie. I would like just to remind the entire room of the point in which we are on this project, which is the small team's report for the GNSO Council which does not contain any of that. So we are bringing to the attention of the Council that there are these steps. And no material or substantial discussion on any of this has started. We are currently discussing with the community, among the many things that were raised, that this is a thing. So this is the subject of the potential PDP on malicious

registration, if it exists, and therefore something to keep into consideration.

But since it is not something that we can even predict will be discussed, would not be exactly the thing that we will be looking to discuss for the moment. Thank you.

JUSTINE CHEW: Thank you. Moving along. Thomas.

THOMAS RICKERT: Yeah. Thanks very much. I understand that some of the commentators are disappointed with lack of a definition. And let's just put this into perspective. We're having this discussion inside ICANN, and it is really a very limited bubble. And there's another discussion taking place in the real world, so to speak. The only reason why we're talking about DNS abuse is because that's language that's using our Bylaws. So ICANN can do something about DNS abuse, but ICANN must not do content regulation.

And that's where the rub is because some of us want to squeeze as much as possible into the definition of DNS abuse so that ICANN can take action. And I think there's a risk with that. It's convenient to ask for domain names to be suspended, deleted, or whatever. But there might be a lot of collateral damage because

the DNS industry—the registries and registrars—only have a binary choice to make: switch a domain name off or keep it alive.

And if you switch it off while you shouldn't because there are multiple customers on the domain name, you might actually shut down legitimate content. Also, if there are domain names that are compromised and that are not registered for the purpose of committing crimes with it, that's a problem. And therefore, we need to take a broader look at things.

And what we are doing inside my job with an association called eco (an internet industry association) where we have a ton of hosting providers is to talk to them. They maintain the customer relationship. They can make sure that their customers fix their web hosting, patch and update it as to remove the contamination.

And if you talk to abused folks with ISPs and say, “Let's talk about DNS abuse,” the response will be, “What is that?” They don't know what DNS abuse is because that's not the world they live in. They talk about phishing, pharming, spam, malware. So let us talk about these real-life scenarios as well and speak the language that they're speaking. And I think our common goal should be to limit the uptime of domain names that are abusive. Typically, most of the harm is taking place in the first 72 hours that the domain names are live.

So we need to up our game in becoming faster and establishing connections not only for a domain name that is being used but domain names or multiple domain names that are used for phishing campaigns. Sometimes it's hundreds of domain names, multiple websites. But it's the same perpetrators doing that. So we need to up our game in exchanging intelligence beyond the silos of the DNS industry. And this is something that we are trying to do. And therefore, also take note of the initiatives taking place outside the ICANN bubble.

And whilst a lot of bad stuff is going on, I think the discussion that we're having here, the study that's been commissioned by the European Commission on DNS abuse, has really sparked off the wider debate which I think comes to fruition with a lot of things happening in the registry/registrar community, the small team, the DNS Abuse Institute, and others. So I think we're not hopeless, but we're at the beginning of a journey that I think is very promising.

JUSTINE CHEW: Thank you. Alan, I hope it's a short question or comment.

ALAN GREENBERG: It's not a question. I started off by putting my hand up to say I agree with most everything Jonathan said, if anyone remembers that far back. I don't want the great big PDP in the sky which will

take us seven years either, but ultimately we have to move from volunteer work—from volunteer actions on Contracted Parties—to policy when we can find it. And we should do it in small chunks and all of that.

And I understand the need to move slowly and make sure we understand, but I'll quote James Bladel from a meeting earlier today on DNS fragmentation. He said, “We need to learn to do things quicker or other people will come in and do it for us, and we may not like what they do.” And we're talking about governments. And heaven help us, he's right.

If we do things in small chunks—and “Let's take it quietly and make sure we understand and don't do a PDP until we know it's going to work”—we'll be here for another four decades and we won't have accomplished anything. So, yes, let's do it reasonably, but let's do something. And ultimately, policy will have to be made. So let's not pretend that it's not going to be. Thank you.

JUSTINE CHEW:

Thank you, Alan. So I'm going to stop the conversation on the DNS abuse and move on to the second topic because we don't have much time. I'm going to suggest that we just talk about the ODP concept, the Operational Design Phase concept as a concept, not go specifically into the SSAD ODP or the Subsequent Procedures ODP.

So we're just trying to get an idea from GNSO Council or the councilors, whether it's in your personal capacity or whatever, some thoughts about how you feel the ODP concept—whether it's good, whether it's effective, whether it needs to stay, whether there are certain things that we might want to try and change if we could.

It's basically an ICANN Org process that's done in conjunction with the GNSO. And the rest of the committee's don't really participate. We look from outside, so to speak. So we just want to know from the GNSO perspective whether you think the ODP is working well or not or what sort of things you might want to change. That sort of conversation.

Sebastien, are you still with us?

SEBASTIEN DUCOS: Yes, I am still with you.

JUSTINE CHEW: Sebastien Ducos, are you still with us?

SEBASTIEN DUCOS: Sebastien Ducos is still with you. And I'm going to make it very quick in the interest of time. If you remember on the SSAD ODP, it was actually Janis Karklins who liaised on this. I only picked it up

afterwards when the ODA was published. So I might have things to say about that, but I'll pass it on immediately to Jeff who can speak better to the ODP process itself, and then maybe to anybody else. And I might join the queue later.

JUSTINE CHEW: Okay. Jeff, you're up.

JEFF NEUMAN: Thanks. This is Jeff Neuman. I'm the GNSO liaison to the SubPro ODP. I really want to just—

JONATHAN ZUCK: The Tony Award-winning liaison [inaudible].

JEFF NEUMAN: Sure. So I just really want to have time to take questions and I know we're running out of time. In brief, the Council has been having a lot of discussions on it this week and actually brought it up in front of the Board and the GAC. And I can't speak for the Council, but I think the GNSO finds an ODP as a concept to be a very useful tool but really thinks that should be much earlier in the process and that it should be done during the work of the PDP, at best, or very shortly thereafter.

But mostly what the Council—at least my impression of the Council discussions this week—is that getting GDS—and that stands for the Global Domain ... Sorry, they changed their acronym. What's that?

JUSTINE CHEW: Strategy.

JEFF NEUMAN: Strategy. Global Domains and Strategy. That group should send a liaison to all PDPs or working groups and, on a rolling basis, provide their input on feasibility costs, etc., so that we're always thinking about that and we don't have to have what's happened here which, unfortunately, the GNSO Council for SubPro had approved the recommendations in March—or sent the recommendations to the Board March 2021. And it seems like the earliest we're going to get the Board to consider and vote on the recommendations will be March 2023, which is two years. And that's a very long time.

So that's what the Council has been discussing. But if anyone has any specific questions on the ODP, let me know and I'm happy to answer any questions.

JUSTINE CHEW: So we have Alan.

ALAN GREENBERG:

Thank you. I am going to make reference specifically to the SSAD ODP. The fact that it was largely done by staff, with no feedback until it was finished, ended up implying that they made some critical mistakes. They made some decision points along the way that they thought were reasonable that were not. And they ended up, I believe, very significantly complicating the process and increasing the cost unreasonably. And if there had been some sort of input or feedback along the way, I believe the outcome could have been very different.

Now the ALAC didn't like the SSAD as specified by the PDP, but what came out of the ODP was much worse. So I think their process has to be refined to get input along the way. The original ODP process allowed for that. It was then changed to one GNSO liaison. That clearly didn't work in this case. And so I think that's one of the parts of the process. There are just too many decision points that are being made without any consultation, and it's problematic. Thank you.

JEFF NEUMAN:

One quick response. I think it's improved from the first, from the SSAD one to the SubPro. And there has been communication back and forth between ICANN and the GNSO Council through the

liaison on many questions and clarifications. So I think that aspect of it has gone much better.

ALAN GREENBERG: Yeah. It may also depend on the liaison.

JUSTINE CHEW: Kurt, you're up next.

KURT PRITZ: Thanks very much. And thanks for all of your work on this, on constructing this session. So I want to build on what Alan said and take us back to that EPDP. The ODP was basically born out of, first, the EPDP Team asking ICANN, “We're designing this SSAD thing. How much is it going to cost? Because we want to inform our deliberations with some operational information.”

And ICANN came back with a cost of \$7 million. But my sense at the time was the EPDP Team was really asking a more detailed question, although it's hard to articulate. But they were seeking some information so they could do a cost benefit analysis. And they could not. So when the model was fully fleshed out, the recommendations were passed on and said, “We're for this, but we think the Board ought to do a cost-benefit analysis,” which gave rise to what became the ODP.

And like Jeff said, and to cure the problems that Alan accurately identified, moving part of that analysis into the EPDP so, when appropriate for that PDP—and PDPs are like snowflakes—staff can come in and provide some analysis. They can listen to the conversation and go back and do costing analysis and provide input more or less on a real-time basis for the EPDP Team. It's the same amount of work. It's just done earlier.

So the way the ODP could evolve over time ... Because the ODP is another handoff in the process and another silo in a process already full of those things, the ODP could dissolve over time, and a portion of it could be pulled forward into advisory roles to the PDP team so they can make—well, we call it a fact-based decision—but better-informed decisions and then a portion of it afterward to inform the IRT.

So I think the cure to that problem is moving a portion of that work upstream. Thank you.

JUSTINE CHEW:

Thank you. Did you have a supplementary comment? I'm just doing a time check. Yeşim, are we out of time? We're out of time. Okay. I noticed it's 5:30. All right. Look, I think in terms of concluding remarks, the discussion has been very rich. I'm tempted to ask Jonathan and Olivier ...

I don't know that Olivier's listening, too. But perhaps we could have a separate online session maybe between some councilors then the CPWG to carry on the conversations and to have two separate calls for the two separate topics. It's something to perhaps consider. And then we will have more time to actually discuss each of the items. Okay, Olivia is listening. Thank you. All right. Because there's a lot of nuances in between and it's very hard to get to the bottom of things in just an hour.

So with that, I want to apologize again for not allowing the roving mic around the room. And I also was reminded that this is also a physical and hybrid meeting, so my apologies to also the people who are logged into Zoom. I think some of you are here, so it's bit hard to tell whether you're here or you're actually physically in your house somewhere around the world. Insofar as I know that you are not physically here, I've made a point to say hello.

So with that, I thank you very much for the conversations. And I hope that you will be able to join the next conversations that we have. And look out for announcements. Thank you.

JONATHAN ZUCK: Thanks for stopping by.

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