
ICANN75 | AGM – RSS Governance Working Group Meeting (6 of 6)
Tuesday, September 20, 2022 – 16:30 to 17:30 KUL

OZAN SAHIN:

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With that, I will hand the floor over to Brad Verd.

BRAD VERD:

Thank you, Ozan. All right, guys. We're in the homerun stretch here. Last hour for the GWG today—actually, for this meeting. In our previous session, we ended with a bit of a grenade that was thrown in the room, so I'll just ... Let me reiterate it. This was a question. Should we come up with a principle that RSOs should not be the source of finance?

And I'll just share a couple of thoughts. To me, it creates perverse incentives which risks the degradation of trust. And second, it's not a sustainable or a secure source of funding, if it was to be looked upon as funding. If we go back to the funding discussion that we had day before yesterday, we want that to be secure, reliable, and predictable—stable. This could be a one-time thing or whatnot. It's just not that.

So with that, I'll open up the floor for questions or comments. Wes, you've got your hand up this time.

JEFF OSBORN: Yeah, I do. And I think, Brad, that's a fantastic question. It was a great thing for me to think about for 30 minutes. And I think that the right thing to do there is, in the process of defining the governance, that we simply state, at least in the starting rules—again, the governance can change over time—that ICANN or any of the entities must not take a financial ... contribution? I don't know. Finances must not be involved in the creation of a new RSO. Done.

BRAD VERD: Thanks, Wes. Ken.

KEN RENARD: Agreed with not trying to avoid that. You could very easily hurt diversity. Only rich applicants would be able to do that. Even though there was something in RSSAC058, I believe, that talked about if that were to happen, the proceeds would go to ...

BRAD VERD: Yeah. I think in RSSAC058 there was a success criteria that being an RSO should not ... It shouldn't be for profit or something to that effect. I don't remember the exact verbiage, but there was definitely something in there.

KEN RENARD: There may have been another one with respect to if money was paid to become an RSO, that money should be go to the RSS.

BRAD VERD: Certainly.

KEN RENARD: Thanks.

BRAD VERD: All right. Thank you, Ken. Mr. Osborn.

JEFF OSBORN: Thanks. Jeff Osborn, ISC. I think it's a really good idea to document this and ... I'm trying to figure out how to say it without being insulting. There are some people who have long-standing distrust of ICANN who view much of what is going on as a chance for them to sell off root server seats for a whole bunch of money. And so you can call it silly if you want, but I think it would be really valuable to have this explicitly defined to negate that.

BRAD VERD: Geoff Huston, if I can just tease Mr. Osborn for a second. Those people who you describe that have this distrust or whatnot,

what's the best way to mitigate that? In words or, you know, what would you—

JEFF OSBORN: By explicitly stating that nobody is going to auction off root letters to the highest bidder.

BRAD VERD: [inaudible]. Fair enough.

JEFF OSBORN: Explicitly. That is that is an explicit fear I have had remarkably smart, educated, intelligent people tell me is a legitimate concern.

BRAD VERD: Okay, great. Geoff Huston.

GEOFF HUSTON: In the interest of diversity, let me put forward an alternative position that when you have an allocation problem of a scarce resource, auctioning that resource has a sound financial basis. It exposes that resource to be used by the most efficient exploiter who is able to bid the highest price. And so this is precisely the

reason why Spectrum is auctioned to the highest bidder. This, oddly enough, is the same reason why TLDs are auctioned.

And so it is quite a conventional form of resource management when you have an allocation problem to actually send it back to the market and let the folk who wish to be users of that resource directly compete against each other to find who is willing to pay the highest premium to have access to that resource.

So I can well imagine, from a viewpoint of public economics, a solid argument. Not necessarily one that is compelling, but a solid argument that says that's actually not bad. And so the real question is, why is it so bad? And part of the issue is that you are trying to avoid economic exploitation of being an RSO. And RSO should not generate revenue. You're actually saying it should be a sink of revenue, I suppose, I've heard [some of this time].

But even that doesn't strike me as a compelling counter the economically rational argument of why isn't this a conventional piece of public good? Why isn't it subject to basically an auction? Because administrative allocation function is always going to be unfair to someone. And while I don't agree with that argument, I think the case needs to be stronger to say why it's not appropriate in this particular juncture. Thank you.

WES HARDAKER:

Brad, can I tease Geoff?

BRAD VERD: I'm sorry?

WES HARDAKER: Can I tease Geoff like [you did]?

BRAD VERD: Please, go ahead. Jeff Osborn, your hand is still up.

JEFF OSBORN: [Oh, my fault].

WES HARDAKER: So Brad's given me permission to tease the other Geoff. So, Geoff Huston, excellent question. I need a follow-on. Right? So the examples you listed have explicit value. Spectrum has explicit value because you're going to resell it.

I don't remember what your other example was, but it has—oh, TLD. It has an explicit value. Right? You're going to be selling sub-allocations in that. What is the explicit value in a root identifier that an entity would get that's worth selling that is worth more than the diversity of not selling it?

And so there's been a lot of discussion in the past that you don't get much from being a root server. Trust me, you don't. So why would someone be—

GEOFF HUSTON:

I'm hearing conflicting stories here, Wes, because in the last hour someone opined ... There's no evidence, but if we said there was two more slots or N more slots of root service operators being opened, there'd be an endless queue of folk wanting to be that. And so without trying to figure out why they want to be there, it's certainly the case that demand exceeds supply.

And I can't figure it out either, Wes. Lining up just to spend money, your own money, without compensation seems crazy, too. I don't understand that, but the fact that the demand exists means there is a competitive value being placed upon it implicitly by the fact that there is a demand, an evident demand for this if I wanted to take this on.

I suppose it's an inherent contradiction in the system that that exists, but recognizing that that exists, that there is competition for a finite number of slots, and you've got an allocation problem who gets. Then economically, an auction can perform that function.

BRAD VERD: Jeff, your hand is up.

JEFF OSBORN: I might be the only one in the room with an economics degree, but I'm going to try not to run with that. Geoff, allocation of resources by auction is one of the great arguments for the free market because it is the way you allocate scarce resources. But there's a reason we don't auction off our daughters. It may be an efficient method, but there are other things than efficiency to consider.

I think the reason the line would be so long if we opened it up and said, “Anybody who wants to be a root server operator can be one,” is that there would be some set of people who would sign up for it having no concerns about the costs or how to do it, but just because it would look good. It sounds good. It looks neat. It's something I want to have. Everything from national and regional pride. There are a whole bunch of reasons.

But also, I think if you literally just opened the door and said, “Everybody can have one,” there are lots of people who think, “Oh, I'm going to be able to exploit this thing. My blockchain earnings are down. I've got all kinds of CPU. I wonder how I can mess with this.” And those are the people who most concern me.

So as an organization that sells a complicated thing—the advanced security notifications for BIND—we are very cognizant

that you cannot just take money to sell a vulnerable position where somebody can harm you just because it's a good way to allocate a scarce resource. So I'll argue that there are more important things than efficiency.

BRAD VERD: Wes.

GEOFF HUSTON: If—

WES HARDAKER: Thank you.

BRAD VERD: We'll come to you right after that, Geoff Huston.

GEOFF HUSTON: Sure.

WES HARDAKER: Wes Hardaker, USC. Again, the only hat I'm wearing today is representation of our root server from USC. I'm sorry, I didn't say that earlier. But for the session, that's what that means.

Jeff, thank you. You actually just answered the other question to Geoff which is, it looks good. So there's the value.

BRAD VERD: Geoff Huston.

GEOFF HUSTON: The key thing I got out of that is that there are other factors other than exploitative efficiency. There are other desirable attributes you have from the system that doesn't necessarily go with auctioning as an allocation mechanism. Selling off the slots to the highest bidder, in other words.

I can take that as an assertion, but it is just an assertion, still. And to my mind—and I'm not saying we should answer it as a group right now—but it is one of those token holders to go ... You know, when we think about this, we should answer that because in some ways what you've just said is, in the designation function, you can't just use it as highest bidder. You can't just sort of auction off the next slot, whatever that might be. The designation function has to reflect the values that you're saying why auctioning shouldn't work is inappropriate.

So however you design an administrative role that selects a designated operator for whatever reason, it has to reflect those values that say we choose not to sell this slot off in an auction. We

choose to do it in a deliberative process because (...) And the (...) is what needs to be answered in that process. Thank you.

BRAD VERD:

Robert, I'm going to jump in front of you on the queue. I was in my head. So the question I keep hearing ... And I've heard this is a couple of times when we had the finance discussion day before yesterday, and clearly it came up just moments ago. This free market analogy on ...

I think what we heard in the financial discussion was put it out for the for the highest bid and do an RFP and that type of process to pay for the service. But I really liked the example you gave, Jeff Osborn, that you don't auctioned off your daughter.

So how do we codify that in principle? I think that's what you were getting at, Geoff Huston. How do we codify that in a principle so that it's applicable here? And I don't know the words right now. I think, Geoff, you said that maybe we don't need to answer this right now. But I think maybe that's what we need to cogitate on a bit.

Jeff Osborn.

GEOFF HUSTON:

That's my point, Brad. Yeah.

JEFF OSBORN:

Yeah, and mine as well. This is the difficult problem that economics addresses. It's the study of scarcity. And anytime you have a finite resource that more people want than is available, you have an allocation problem. And the easy way to do it is whoever has the biggest club or the more gold wins. And then in a civilization, you have forms of regulation and governance that improve on those two. And so we are the ones here improving on those two. So, yes, it's hard. This is the whole megillah.

I would argue it's hard to imagine that you could simply say the highest bidder wins because, as a very wise man from Australia said yesterday, money always has an agenda. But on the other hand, how do you pick, absent that? That's why we're all here. That's why so many smart people are in this room, I think. We have to solve this.

BRAD VERD:

Yeah. Just to add to that, and then I'll give it to you, Robert. Going back to what I've been saying for a long time and I keep saying in my head is that while your general economic principles of free market and whatnot you want to apply, the root, to me, feels different. While on paper or over the wire it's just a zone, it feels different.

Robert?

ROB CAROLINA:

Yeah. I just wanted to pick up on a couple of the great points that have been made here. One of them is that if you're looking for reasons not to auction something ... I've been living in the United Kingdom for 30 years, and I would be happy to spend hours pointing out all sorts of bits of infrastructure that were auctioned off, including 3G licenses which ended up bankrupting the entities that overpaid for them because ...

Erum earlier talked about people acting out of ill logic, and you can create some really unintended consequences with an auction. Auctions work really well for maximizing revenue for governments who are managing scarce resources. I'm not so sure they work well in every circumstance.

But I think one of the adjusting things that comes out of this, because I heard one of the things that went by during the discussion was the concept, was the phrase “not-for-profit.” And in the RSSAC058 Success Criteria, there is an express acknowledgment ... Well, there's a couple of Express acknowledgments that might have a bearing on this. One of them is the express desire to maintain the RSS as a public good. Meaning that, like a lending library, it's free at point of use. There's a desire in the Success Criteria expressed that we want to maintain that.

And there's a second criteria that expresses this idea that the governance structure itself—for want of a better term, let's call it the secretariat—or whatever finances are involved in running the governance structure, whoever the umpires of the system are, that that is run on a not-for-profit basis.

Part of what I think is coming out of this, because it was mentioned in a previous meeting but I think this is a good point to bring it in—or I think it was brought up the other day—are we looking at an express criteria that the RSOs themselves, if we conceptualize the RSO business or that aspect, the RSO operation, is that also being done on a not-for-profit basis. And I can't remember ... I think this might have been mentioned briefly in the finance session yesterday.

But if that is a principle, that's a financial principle that's going to be adopted. In other words, it's going to be a public good. Not going to charge for it. There's not going to be invoices issued to access providers based on how many lookups they make or something like that. And you're supposed to be operating on a not-for-profit basis.

Then the only incentives left for over bidding in an auction, it seemed to me, are perverse incentives because there's no longer an economic incentive to jump into an auction to run something that you're not allowed to make a profit from. That means that

something else must be driving the bidder other than just a desire to be the world's greatest and most trustworthy RSO.

So I'm not sure where that leaves us. But, yeah, so that means I'm done.

BRAD VERD: Thank you, Robert. Wes.

WES HARDAKER: Actually, much of what I [had] has already been said, so I'll quote the people that said it. Jeff said that an entity that is the highest bidder has an agenda. That's spot on. Right? Robert just said that we want entities that are a public good. Also spot on.

I will add to that then I'll rephrase the public good statement that the goal that we really want is that the root should be run for the best global public good. It is a global service. Right? Brad, you said that the root is different. That's how it's different. Right?

It should be neutrally globally good. And anybody that we add should only ... That should be their primary motivation, to increase the global public good impact. And the instant we accept money—we being ICANN or something—that will be harmed.

BRAD VERD: Thank you, Wes. Robert, your hand is still up. I think we've got "Kim phone" in there. I assume that's you, Kim, down ...

KIM DAVIES: Sorry about that. Hearing the last couple of speakers, it occurred to me that there are some parallels between this question and the methodology that we use to appoint trusted community representatives for key signing ceremonies and oversight of that aspect of operations. There we have a finite number of seats. How do you pick the right ones?

And in that instance, there's sort of a set of qualitative criteria against which applicants are ranked against and considered in the aggregate against all of the other participants. So when we have a vacancy, we look at: what are the gaps? What can the additional participant bring that the other, in this case, six or seven do not have? Or where can they add the most diversity? Where can they add missing expertise? Things like that.

So if money or auctioning is, you know, obviously is one way to look at it. But I think there's a potential there for a model where if a set of criteria can be devised of desirable properties of a root server operator, a selection mechanism along those lines could be something to consider. Thanks.

BRAD VERD: Thanks, Kim. Geoff Huston, I'm going to ask a quick question to Kim real quick. Kim, is it possible for you to share that? Not to say that it would be applicable here, but there might be some principles that are kind of general things that we could pull out if there's such a document like that that you could share that we could look at it and maybe extract something from.

KIM DAVIES: Yeah, certainly. I think you're right. It's not going to be directly applicable, but just to give you a sense of that selection criteria, I'm happy to.

BRAD VERD: Yeah. I think that would be really interesting. Geoff Huston.

GEOFF HUSTON: I've asked this question in previous rounds of discussion on some of these things, but would this apply equally to the existing root service operators? And some of these folks are for-profit. Some of them are government entities from a particular government, etc.

And the issue is to be careful of stating values about “new” when the values for “existing” are different. And how do you resolve that? How do you sort of say, “Well, as we move forward, we should ...” But the existing folk, the incumbents, don't meet that bar. Surely that, oddly enough, undermines trust in the current

selection of RSOs if your values for new RSOs differ from the characteristics of the incumbents.

So you have to consider, when you state such objectives, how you would apply it to meet the current RSOs who, by and large, are functions of history, and a slightly evolving history over time as the collection got augmented as distinct from what you're trying to phrase here.

So some care should be taken in saying what a new RSO or what a designated RSO should be all about, particularly when it may not actually match what the existing RSOs are, do, or are domiciled. Thank you.

BRAD VERD:

Thank you, Geoff. Wes, Ash, and then myself.

WES HARDAKER:

Geoff, you bring up a good point. Right? Where is the line in the past? So I'll ask Jeff Osborn really quick. Hey, do you make a profit? Robert, you answered for Jeff by laughing profusely. But I think that the current expense rate of all of us are probably very much in the negative. I don't know how anybody makes a profit on this service.

But more importantly, Geoff, your point is very valid. However, we are trying to draw a line in the sand for what is the right way to do

this in the future. We are bringing in an older system that was beholden to my predecessor at ISI to make assignments. You're right that those assignments may not match the future expectations and requirements, and I don't think that there's any way that we should create the rules that would go back and say, "Hey, if these rules had been followed by Jon Postel in the past, they would come out the same answer." That should not be our goal today.

BRAD VERD:

Thank you, Wes. Ash, myself, and then Mr. Osborn.

ASHWIN RANGAN:

When I read the principle, the last but one there, it's talking about the RSS. The governance structure itself should not be a for-profit. And then I think we're conflating that with individual root server operators. I think that's a dangerous combination to bring about. I think we need to keep those two things completely apart or else we're going to fall apart while we're trying to figure this out.

The second thing that I want to also bring out here as a point is that we're talking about RSS being a not-for-profit governance structure. Yesterday or the day before, I think, we talked about how we could potentially get a source of funding going here. So

we need to keep those two in mind at the same time and not get ourselves confused in the tangle.

There are multiple things at play here. I think the fundamental principle is that the governance structure is not-for-profit. That is the only way in which we can hold the aspirational purity of ensuring that decision making is not swayed by money. Otherwise, we'll just come completely apart. We'll just get tangled up here. Thanks.

BRAD VERD:

Thank you, Ash. You kind of took ... Let me just build on what you were saying. The conflation, I think, is an interesting thing to point out. I think there's two separate things. Right? There's the RSS governance category and then there's the RSOs.

And I guess, Geoff, my question to you—and it's a rhetorical question, you don't need to say anything—is ... Maybe it's to the group, then. The RSOs have multiple funding models. Right? We have for-profit. We have university. We have government. We have not-for-profit. If I can maybe try to add some clarity to that bucket of the RSO, I think what we're trying to say is that the RSO providing that root service—there should be no profit tied to that service versus it being a not-for-profit company.

[GEOFF HUSTON]: Correct.

BRAD VERD: I think that's what we're trying to say. And I don't know if that brings clarity to your question, Geoff Huston, or not. So I'll turn it over to Mr. Osborn.

JEFF OSBORN: I run a complicated version of a non-profit that has a for-profit component to it, and I spent a lot of time thinking about tax and liability and all of those implications. What you're asking is complicated, I think, on an accounting basis, especially for the for-profit companies, to sort of parse that. I think that would be hard. But that wasn't really why I asked to speak. Do you want to go ahead?

BRAD VERD: Well, just really quick, I think ... And maybe I'm being too careful with my words. I think what we're trying to say, and clearly we need to go back and think about how we're saying it, but I think what we as a group are trying to say is that any RSO should not be making a profit from the root, from providing that greater good service of providing the root. That is distinctly different than, say, for me and my company which is a for-profit business. I don't make revenue from the root. It's an expense. And that's just my

example. I don't know what every example is, but we need to try to figure out what the words are for every example.

JEFF OSBORN:

I'm just trying to caution that none of us are accountants and that we don't want to make a financial conjoined twin. And that kind of feels like what you're doing. We've very consciously been separating the effort expenses for about three years on purpose. And if we'd had to go back and pull them apart without having a running start, it would have been really hard. It's all accounting. It's just when you say you have to be a non-profit, then somebody's going to ask you to go prove it. And that might be harder than we think.

BRAD VERD:

I think that's the difference of saying you need to be a non-profit. I don't feel we're saying that. I feel what we're saying is that you should not be making profit from providing the root service. That's what I feel like we're saying, but if I'm wrong, please. [inaudible].

JEFF OSBORN:

That was what I thought the intention was. I'm just warning you that it might be hard to audit.

without the “because” it sort of says, well, yeah, why? And it seems to me to be only sort of an assertion without a reason. Right?

BRAD VERD: The assertion that I shared, Geoff, was my interpretation of the room.

GEOFF HUSTON: Oh, yeah. Right. And I was just trying to complete the sentence to say why that would make so much sense.

BRAD VERD: Yeah. I appreciate that. Thank you.

GEOFF HUSTON: Thank you.

BRAD VERD: Jeff Osborn.

JEFF OSBORN: Mr. Huston, I think ... I think the way that sentence would have ended is “in order to prevent the perverse incentives that would exist if this was simply a free thing everybody could get. And then

they'll figure out how to make money out of it later.” I think that filter needs to exist up front, that somebody taking a look at this has to recognize that this is not some way you're going to make a buck. Just sign up for it and then figure it out later. That's my own thought on it.

The actual reason I put my hand up was about four questions ago, though. The idea that we're creating a bar that we ourselves are not capable of meeting up to is an interesting one. And I've been thinking about it. Basically what we wish we could sign up for if we were adding a root server operator is somebody who has 20 years of successful experience operating a root server. But we're already here.

So this backup would be that either you have 20 years of successful experience as a root server operator or this other set of things. And that sort of gets rid of the category of, “Hey, wait a minute. You aren't tall enough to ride this ride.” But you have in fact ... It should count for something that we have successfully done this so well for so long. So, just a thought.

BRAD VERD: Robert, your hand? No? Okay.

[CARLOS REYES]: Ash.

BRAD VERD: Oh, I'm sorry. Ash, go ahead.

ASHWIN RANGAN: Thanks, Brad. I think we were saying a few things. I want to be sure that I understand what we're saying. We're saying that root server operators individually are providing a global public interest service without a profit motivation. That is what we're saying.

We're also saying that in order for them to do that—this goes back to the discussion two days back—they need to figure out a way in which they can have a sustainable future. Those two are interlinked. The concept of being a global public interest service without having to charge a fee—

BRAD VERD: For the service.

ASHWIN RANGAN: For the service.

BRAD VERD: A fee for the service.

ASHWIN RANGAN: Fee for the service. The third thing we're saying is that a root server operator may have a business that is for-profit, but this service shall not be a source of that profit.

The fourth thing that we're saying is that the Root Server System, which is the aggregation of the root server operators, shall govern the root server operators' functions without a for-profit motivation. That's the fourth thing that we're saying.

And based on that, I think we need to have a clear principle that says that if there is an occasion to promote a new root server operator, the principle that we hold ourselves to is that we have the highest principles of technical and background and reputational checks in place so that when we admit them, they in fact will conform to all of these other things that we're saying; that they're not coming in and trying to challenge the status quo, but instead are compliant with the status quo right from the get go.

And that becomes a governance principle so that we make sure that nobody is admitted unless they check all of those boxes that we've already said are here and true and we're holding.

BRAD VERD: Thank you, Ash. Wes.

JEFF OSBORN: Ash, that was wonderful. I need to think about it for a while. I hope you write that down and send it to the list or something because that was a really well-said, a good point.

The only thing I wanted to add to it is that we've been talking about for-profit for the last couple hours. But I'll remind us that the previous two sessions before this was talking about how to recoup finances from something like a modern source. So recuperation is not necessarily ... It's not necessarily for-profit.

BRAD VERD: Right. All right, so that was 37 minutes on that grenade. Who's got the next one?

JEFF OSBORN: It had a long timer on it.

ASHWIN RANGAN: It was a 37-minute. It was 67. That was 30 minutes [inaudible] think about it.

BRAD VERD: Fair enough. All right, who's got the next one? Geoff Huston.

GEOFF HUSTON: I'm going to follow up on what Ash said and simply observe that the governance principles for sustaining a cartel are precisely the same where the incumbents set the terms and conditions of entry into the cartel. And that's about as good a working condition as you get.

While I agree with the principle of what Ash is saying, how that principle is devised, accepted, and promulgated has to have an entirely different appearance than simply being, “Well, this is what the current incumbents say.” Because at that point, you start taking on an even more substantive appearance or be an effective cartel or monopoly, and it's a whole restraint of trade issue in a regulatory sense.

There are reasons why. And I think we all appreciate it in this room, and that's fine. But how to present that in such a way that it simply does not appear to be self-serving is the challenge here in my mind. Thank you.

BRAD VERD: Thanks, Geoff. Yeah, I don't disagree with you. And I think that's ... When the rubber hits the road and we start trying to pull out what these principles are that we'll be using to defend the functional document, I think you're right. It's not going to be as easy as we think.

Sam, you're next.

SAM EISNER: Just on Geoff's point... And here I'll make my announcement. This is Sam Eisner. I am an attorney for ICANN. I have a background in competition law. I would encourage everyone who's taking part in this conversation, if you are concerned about competition issues that are raised by your participation in this conversation to go back and talk to your counsel about that. I cannot advise you on that.

I do you think that there are many differences between regular cartel situations and the services provided by the RSOs. But I do take Geoff Huston's point—and it's something that I listen to intently while I'm in this room—that we do need to be careful about that level of any type of exclusionary conduct or creating any sort of barrier to entry that is not appropriate in this situation.

So I think Geoff raises a good point, and it's something that we should all be very carefully attuned to as we proceed within this conversation.

BRAD VERD: Thank you. Geoff Huston, your hand is still up. Did you want to respond?

GEOFF HUSTON: Sorry. Too many things. Not enough hands or mice.

BRAD VERD: Understood. Wes.

WES HARDAKER: So Geoff’s point is 100% valid. I’ll reiterate one of the things that I said earlier today at some point, which is that it is the duty of this group to create a group that has the procedure in place for challenging the existing cartel of, “I believe a change is needed. Here’s my evidence for why it’s needed. Here’s my logical argument for why it’s needed. Please make the change or consider it at least.”

I would argue, especially to Geoff now, that the purpose of the GWG is to ensure that there is a forum today so that when we are enumerating the elements of what it takes, that the cartel is challenged today before those rules get in place. Right? The purpose of the GWG is to create a system that is therefore approachable in the future and everything like that.

And if it looks like there’s a cartel today that is excluding bullets from being placed or is excluding things today, bring it. Right? We need to know that now. And now is the time to go on ICANN public record and transcripts and everything else to say, “I think that the system that we’re creating is a cartel.” If that’s the case, we need to know now.

BRAD VERD: Thank you, Wes. Ash and then Liman.

ASHWIN RANGAN: I think we need to be extremely careful about the choice of words, folks. I think Geoff Huston was using the word “cartel” to illustrate something. We need to be very clear that we're not a cartel. “Cartel” has a certain connotation, especially legally, and these are recorded conversations. So I strongly urge us to stay away from that word. Or I, as a representative of ICANN, am going to withdraw myself from these discussions. That’s one.

JEFF OSBORN: That's a very fair point. We use analogies wide and loose, and we probably shouldn't in many cases.

BRAD VERD: Yeah. And just to add to that, I think you hit the nail on the head with the language there. I think there are people outside of this room who have heard different conversations and there have been misperceptions and caused issues and led to things that we are still trying to reel back in. So let's be careful with our language.

Liman.

LARS-JOHAN LIMAN: Thank you. Liman here, trying to be careful. I see a difference between what Geoff Huston described and what we're trying to create here, which is that if you have a group that has an internal set of rules where a new player is required to fill the set of rules set by the current players, you have a problem. I agree with that.

But if you have an external body that sets the rules for joining the group, you have a different situation which I think is better. You could have a government that gives out certification to do something or that licenses something. And then the external body, in that case the government, is actually the barrier for entering into the system. And I think that's what we're trying to create here, and I think that's a better situation. Thanks.

BRAD VERD: Thank you, Liman. Geoff Huston.

GEOFF HUSTON: And therein lies, I think, the major issue here, Lars-Johan. I think it's very true that more people than just the folk doing this job should think about such questions like, why can't we say yes to everybody?

Why can't we open it up ...? Why can't we? That should be a much

broader bunch of folk than the RSOs who are currently doing that role today.

You could make the case that it should not even include the RSOs who are doing the job today. You could make that case. But we talked, oh God, in a previous year—one of the five previous hours we've been together in this room or on this forum—about the idea of being open and inclusive and allowing folk who are doing the job, singing the song, dancing the dance to have their views, their perspectives brought into such discussions.

And it's that careful dance in any governance structure that gives these folk a voice but does not give them undue influence or control when you come into—I'll call it decision making—but when you come into trying to get outcomes. And so this is even harkening back to the separation and balance of powers discussion. That diligence about discussing these meta issues of how do you join this group? How do you become one? Under what conditions? Where is this going?

The discussions that are inclusive of a diverse set of folk, much broader than the RSOs only for these kinds of reasons to avoid that perception, unfounded, that it's the incumbent setting the rules. And that's not what is ever desired here or anywhere else. But the structures have to reflect that principle and desire in this area as much as any other. Thanks.

BRAD VERD: Liman, your hand is still up. Did you want to add something?

LARS-JOHAN LIMAN: Yes, just quickly. Yes, I agree with you that we have a problem with the breadth of the group discussing here. I would have liked to see a broader group discuss these issues. I am struggling with ways to find ways we can fix that, but let's try to work together to fix the problem. Thanks.

BRAD VERD: Yeah. Ash, real quick, if I may. Just real quick. We'll do Ash and then Robert. Myself first. I just want to remind everybody that our task is to create a recommendation to the Board. And so we are not defining, I guess—

UNIDENTIFIED MALE: Specific.

BRAD VERD: —the specific governance stuff. We're going to define the fundamental docs, and then there's going to be a lot of other people that are going to have to figure out specifically what I feel we were just talking about.

Ash and then Robert.

ASHWIN RANGAN:

Thanks, Brad. I think this goes back to an earlier segment that we really need to nail down, and that is what are the conditions that trigger having to examine who are the current root server operators? And therefore, that condition becomes the gating condition warranting a relook or a look at potential new candidates. And then the governance mechanisms kick in behind that in terms of how the candidates are reviewed, etc. I think that's something that we need to capture, and we have to put that into whatever it is that we're recommending back to the Board. Thank you.

BRAD VERD:

Thank you, Ash. Robert.

ROB CAROLINA:

Yes, thanks very much. I wanted to mention in passing a comment that's already in the document and that many of you have seen before. And that is in Success Criteria 1.7.3. There is a discussion of the concept of fundamental change to the Root Server System itself. And a fundamental change there is defined as an action arising under the governance structure that involves, amongst other things, designating or removing the status of an RSO.

So the Success Criteria already suggests that the act of designation, the act of removal is already conceptualized as what's described as a fundamental change. And the criteria goes on to say that in order to make a fundamental change, you should assemble some type of supermajority of—it doesn't say this—then existing RSOs, of the RSOs. “Supermajority” is not defined in that criteria. That's something to be debated and figured out later.

So it stands for the proposition ... It sort of folds back into this earlier comment about how this is a small “c” conservative system. You don't want to change too much too quick. You don't want to run too far too fast. You don't want to risk the very thing that you're trying to preserve.

What I'm wondering is this. Is there a hidden principle lurking in here from this discussion that's just happened that certainly designating and perhaps removing—but certainly designating—should also require the approval of ... And then fill in the blank of identified stakeholders who are closest to the problem, closest to the risk, who most need to be assured, you know, closest to the coalface, let's say, of needing the RSS to be bulletproof?

So at the moment, we have a principle that says ... And, you know, one of the potential criticisms of RSSAC058 is that it's very RSO-centric. So looking at that broader universe, is there a hidden

principle here that says, “Well actually, designating is the sort of thing ... It shouldn’t just require a supermajority of RSOs. It should require a majority or a supermajority or a significant agreement by ...”

And then let's fill in that blank somehow. I don't think today is the day to fill in that blank, but it's like “of other significant stakeholders” or something like that.

BRAD VERD: Thank you, Robert. Time check. We've got nine minutes left. Go ahead, Liman.

LARS-JOHAN LIMAN: Yes, Robert. I don't think that a Success Criteria excludes that.

ROB CAROLINA: I agree, Liman. The success criteria does not suggest that that is not appropriate. It's silent on it. My suggestion was meant to be is this the point or is there a principle that should be expressed that says, “Well, yes, they should”? But there's other people that also must be. It can't just be the RSOs alone. Because I'm wondering if getting that principle down on paper—“it can't just be the RSOs by themselves”—starts to help us navigate out of this uncomfortable gray zone we've found ourselves in briefly.

BRAD VERD: Any thoughts or comments on that?

ASHWIN RANGAN: I agree with what Robert just said. I think we're starting to ... We've said a lot in the last two or three days, and I think we need to start thinking of how those dots connect. I'll just use this as an example. Let's assume this for just a moment. Right?

We said that one way in which we could seek a source of funding is by asking domain registrars to provide an additional penny, as an example. A perverse incentive could be that no matter the situation, we don't want anyone else to be in the RSO business because, given the same amount of money divided by more people, there are fewer dollars at stake. That's right arithmetic.

So I think we need to start thinking along those lines saying, "What all are we saying?" Is it not, "What are we now saying?" But what else have we said that now influences the next decision that we're going to be making. So start sort of holistically thinking this through. I think that's going to be the next challenge here.

So from that perspective, having a body that's larger than the current players is a good thing to have, particularly if they are not incentivized in the same fashion as the current players so that

they have a pure motive in judging whatever case is going to be made. Thank you.

BRAD VERD: All right. Thank you, Ash. All right, so we've got six minutes left. I want to close the queue unless there's somebody that really wants to raise something or throw another grenade.

[CARLOS REYES]: A new grenade, yes.

BRAD VERD: No. All right, great. So I want to suggest a path forward, if I may. I've been trying to figure out kind of what Ash just said. We really need to dive into this. And what a lot of people have said is ... We've had really good discussions and I really, again, thank everybody for the contributions and what's been put down on the document. Robert, thank you for taking notes on that.

I think what I'd like to propose going forward, based upon the paper that I sent out with the rapporteur process, what I would propose doing is not having a meeting on October 6th. And what I would ask—to kind of assign homework to everybody to go do—is to take these notes from this document back to your constituencies, back to your organizations, back to your group and have that discussion. Start asking those questions on how,

where, when, what? How do we apply this? What are your thoughts on this?

And I would actually say document your thoughts. Document your feedback. Document your comment in a separate paper. And if need be, Carlos and I will send out independent Google Docs to everybody if you can't create your own. And that would be your homework for the week of October 6th.

In the meantime, I'll work with Carlos and we will put together an e-mail to send out to come up with a process ... Maybe everybody nominates somebody for the rapporteur process, or we have volunteers or something. But we need to identify a small writing group who can take some of this stuff and start pulling out some of these different pieces.

And then we can regroup when we get back together on ... I don't know what's after the 6th. Is it the 20th?

[CARLOS REYES]: The 20th.

BRAD VERD: The 20th. So that's a suggestion I wanted to put out there and see what the thought process was of the group. Does sounds like a reasonable approach or does somebody have a different idea?

Geoff Huston.

GEOFF HUSTON: Thanks, Brad. I have tried during this process to ask the IAB's views, as appropriate, from time to time. I feel that what you're asking for now, as the IAB's person on this, or one of the two—hi, Jim—is very, very difficult to implement. These notes are certainly broad, are self-contradictory at times. It's hard to ask a crisp question of the IAB that would allow any kind of response from them, no matter how much time they devoted to it. I think that's difficult.

BRAD VERD: Yeah—

GEOFF HUSTON: I'm not sure how implementable that is. My second response to you is, I think pulling a writing group for the entire process is, again, asking too much of too few.

I actually felt your initial approach of trying to divide and conquer and look at certain subject areas—which actually matches the three days of themes we've had here—and try and coalesce these principles in those three topic areas and at the same time separately and independently think about the structures that would address those principles from the perspective of finance,

from the perspective of balance and separation of powers, and from the perspective of additions and so on of RSOs might help us to gain some progress.

I think a small group doing all of the above is a little bit like writing the history of the world. It's a very big ask. Thank you.

BRAD VERD:

Yep. Fair enough, Geoff. And I completely understand the challenge you have with the IAB. And I guess my suggestion is not to suggest to go back to the IAB and come up with some final piece that you ... It's more kind of, much as you have pointed out numerous times through the last six sessions that the more people who see this, the more input we could get, the better output we might have.

And my suggestion is based upon kind of the conversations we've had here which is that this has been ... There have been numerous opportunities where we've stopped and said, "We need to spend more time and think about this." And what I'm asking is taking the next session. Rather than come back and try to do what you said and try to document anything, go back and talk to a couple people. Get some thoughts. Get some more input so that we can have a better informed thought process in these three subjects. And I'm not talking about condensing the subjects at all. So that's my thought process on that.

If a small writing group is not ... If it's too big of an ask, that's fine. Maybe we just stick with the individual writing groups and get people to create the comments on their own. and we can come back and reassess after that. Does that make a reasonable step forward, Geoff?

GEOFF HUSTON: Yes. I think it was addressed to me, perhaps?

BRAD VERD: Yes, I'm sorry. Geoff Huston.

GEOFF HUSTON: That sounds more reasonable to me.

BRAD VERD: Okay.

GEOFF HUSTON: It just seems that dividing it up a little bit [inaudible] focus and makes the work, I suppose, achievable. It's not quite the time I would have thought to try and pull all of this back together again [inaudible].

BRAD VERD: Yeah. I was not suggesting to pull it back together. I'm sorry if that was the takeaway. Okay.

GEOFF HUSTON: I think, then, we're in agreement.

BRAD VERD: Great, okay. We're a minute over. So really quick, the meeting scheduled for this week that's still on everybody's calendar is going to be canceled. Carlos did not want to cancel it and have you think that we weren't meeting here. So that cancellation is coming out shortly. That's for the normally scheduled GWG meeting.

We will probably leave it on your calendar for the 6th but not give any meeting contact Zoom links or anything. I just want to keep it on people's mind to go back, think about what we've done, write some comments down. And we want to get those comments from everybody as you've thought about this and had more time to think about it.

And then I'll work with Carlos and we'll try to come up with another path forward. Does that sound reasonable? All right.

UNIDENTIFIED MALE: [inaudible] Brad [inaudible] you owe me.

BRAD VERD:

Everybody, thank you so much. The six sessions have been wonderful. Again, it's been a great gathering of data, and I appreciate all of your time and your contributions. So everybody, thank you. Safe travels and have a wonderful rest of your meeting. Thank you. We're adjourned.

[END OF TRANSCRIPTION]