ICANN75 | AGM – Joint Session: ICANN Board and CSG
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MAARTEN BOTTERMAN: Welcome everybody for a session with the Board with the Commercial Stakeholder Group.

MATTHEW SHEARS: Thanks, Maarten, good to see everybody, great to be here, and I think I will turn it over to Wolf-Ulrich because I believe we're starting out with the CSG question. So Wolf-Ulrich, over to you.

WOLF-ULRICH KNOBEN: Thank you for the welcome, and as usual, happy to have this meeting here, and also my colleagues seem to be still on their way. I do hope that we will fill up a little bit here the room later on, okay, I see people coming in. So in preparing for the agenda for today, the format that we have put together, the questions which are displayed here and hopefully all can see on their screens, and then afterwards we will come back to the general Board question which the Board has sent to the entire community, so I hope we will have a lively discussion, as usual. So you can say we start with the main topic for us, is DNS abuse, and for that, the first who will chime here is BC, Business

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Constituency, please.

MASON COLE: Thank you, Wolf-Ulrich. Thank you, Matthew. Good afternoon, everyone. My name is Mason Cole, I am Chair of the BC. For the first issue on the agenda, we would like to cover the issue of DNS abuse. I have a short introduction and then a couple of questions I'd like to pose to the Board, if I may. As you know, DNS abuse mitigation and enhanced compliance capabilities have been part of the CSG's agenda and objectives for some time now. it's gratifying to see that the issue has been embraced as extensively as it has by various parts of the community. However, work remains to be done as by objective measurements, abuse rates continue to be stubbornly high. CSG member constituencies along with the GAC over several years have called for long overdue updates to the RAA and RA that would help contracted parties mitigate abuse and help compliance enforce against those that harbor abuse. The question is, has the Board's small group on DNS abuse developed a substantive roadmap for considering as its next steps helping the community solidify methods of mitigating abuse? If so, please describe this roadmap and if not, can you tell us what steps you are considering and the timing for such resolution? And then I have a follow-up if I may after that.

SARAH DEUTSCH: Thank you, so we have a Board caucus group devoted to this issue and you guys are on the front line of watching this issue and many others in the community as well. The Board caucus is heartened by the public comment period that's open for the proposed amendment to the registry agreement to allow ICANN to access data to extend DAAR to registrars. This alone will increase transparency and help flag bad actors. We're also encouraged by the work of the small team in this area. So the Board caucus group has been systematically working through -- rather than getting bogged down in the definition of DNS abuse, which I think the whole community is getting bogged down in, we're at least now starting with the working definition – we're calling it working because it could be subject to change -- of the elements, phishing, pharming, malware, botnet, spam as a vector, that's for discussions purposes and that's our working definition.

So between now and ICANN 77, the caucus will work with org to recommend a path forward on the pending advice and we're going to review the small team recommendations related to abuse. We can't impose the Board's views but can try to give the Board's opinion and come to a resolution on what the Board should do, and I think the Board would like to support this and

we're very heartened by seeing the progress that's already been made. Part of the solution frankly also lies outside of ICANN, because there are only certain things in ICANN's remit. We know that people in different parts of the stack also have a role to play. So some of this will get resolved outside of ICANN, and again, we're encouraged by efforts of registries and registrars to work with hosting providers, content management, distribution services and create some norms there as well, and trusted notifier, so there is a lot that will happen outside of the ICANN space, but that said, we need to work inside ICANN to do what we can do. So we want to hear from the CSG about your concerns, if there are things that the caucus group should keep in mind as we're going to make these decisions, and again, we are committed to getting something done here and not just discussing it. So we look forward to hearing your views.

MATTHEW SHEARS: Thank you, Sarah.

MASON COLE: Thank you, I want to transition from what Sarah said, because there's a lot of pressure on ICANN on the topic of DNS abuse. And besides highlighting industry-led efforts to combat abuse, how is the Board managing external expectations for Org to act on DNS

abuse and to strengthen its compliance function? For example, has the Board or org facilitated or plan to facilitate information exchanges with other infrastructure providers beyond registries and registrars for a more holistic approach to DNS abuse mitigation?

SARAH DEUTSCH: I think it's a bit premature to know how the Board will work with these other organizations. I think the first thing would be outreach to them and figure out whether there are synergies with what can happen within ICANN's remit and whether for instance if it's an issue of just something that falls outside of ICANN, then it would be up to the host provider perhaps to deal with that instance of abuse. But that said, maybe there are best practices that could be shared across ICANN and other industries and try to bring them a bit more into the tent here. So there could be some common practices to address the issue. We don't want a situation where good practices get created in one space and then it just moves somewhere else.

MATTHEW SHEARS: Do you want to come back.

MASON COLE:	I want to yield to any other colleagues on the CSG if there are follow-up questions or any other comments.
EDMON CHUNG:	Building on what Sarah mentioned, I guess there are some data that is being shared, especially through DAAR and the DNSTICR. I guess we would like to hear back on whether that is sufficient or are you looking for further types of information from ICANN or are you talking more about information to be shared by registries and registrars?
MASON COLE:	Thanks, Edmon. There is a bit of delay, because it's difficult to hear, I'm trying to read what you're saying. I think on the issue of information sharing, the more information that can be shared both inside the ICANN sphere and outside the ICANN sphere, the better. There's been quite a bit of independent research demonstrating the difficulty of overcoming DNS abuse and I know the Board has paid attention to some of those research projects and I hope they continue to do so because it's very good information. So to answer your question, the more information that can be shared, I think the better, both inside the ICANN sphere and out.

MATTHEW SHEARS: Thomas.

THOMAS RICKERT: On the topic of initiatives outside ICANN, I have agreed with the CSG colleagues that I would give you a little bit of information on an upcoming workshop that ECO will conduct in November in Brussels with the European Commission on the topic of DNS abuse. So basically we do appreciate and this is also what is laid down in the study, that in order to efficiently tackle DNS abuse, you need other types of infrastructure providers as well, which is something that can only happen inside the ICANN community to a certain extent. So we will walk through the 27 recommendations from the study, look at what recommendations probably need a little bit of tweaking, which ones can fully be endorsed and for the ones that can be endorsed, specify what initiatives there are inside ICANN as well as outside the ICANN arena and what we need to do in order to become more efficient so that the commission has something to be able to monitor progress that is obviously happening on the topic of DNS abuse. And we are in contact with ICANN org so there will also likely be somebody from ICANN at the table, and after that workshop we will inform this group about the progress that has

been made. Thank you.

GÖRAN MARBY: I know this you have made that request, and we have said we don't think we belong in that conversation, we don't participate in something that could lead to a policy question, so thank you.

MATTHEW SHEARS: Certainly would be interested to see the details of that event though. Much appreciated. Just to follow up on with Mason on a couple of things you said. One thing the Board has always done is encourage the community to come together and to address some of the challenges related to DNS abuse. So it would be interesting for us perhaps to hear how things are moving on that front and for example the GNSO small group and what is happening on that front and how that's helping in that regard. Thanks.

MASON COLE: Wolf.

WOLF-ULRICH KNOBEN: From my understanding, is that something which you already discusses with council or would you like to have something from us to hear about that.

MATTHEW SHEARS: I think we would be interested to hear.

MASON COLE: Sorry, having a very hard time hearing.

MAARTEN BOTTERMAN: Can you update on the progress of the small group.

PHILIPPE FOUQUART: This is Philippe, ISPCP member, maybe I can try to help here. Indeed, the council small team, as you would know, started investigating the issue a few months ago now. They were due to produce their report at this meeting carried over for a couple of weeks. They did that outreach you were referring to earlier, to a number of people, including the DNS Abuse Institute with a number of suggestions made. The remit of that group was to, if you recall, investigate the need for policy-oriented initiatives in the department of DNS abuse. There are suggestions by the small team of a succession of steps that can be taken before that, but that this decision be considered by council once the data has been collected to nourish the decision.

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I should also point out on the previous question -- and given the number of various initiatives that are going on within ICANN, the CCs are doing their job on this, as Matthew alluded to, there's the council small team on the topic, there are the caucuses at the Board level. There was an interesting suggestion made -- and there's obviously SSAC who produced a report on this. There was an interesting suggestion by Rod on Sunday -- he called that a roadmap but I think what he meant was a single entry point where it would be easier, including for other parties, since obviously this is an issue for them mostly, outside ICANN, to have an outlook of what is going on here and also for us to -- I'm thinking of outreach, for example, to avoid duplication and eventual embarrassment of asking the same questions of the same people. So I think that's a great idea for what my opinion is worth now. But I thought I'd point that out, because there's probably a need to coordinate a bit even internally. Thank you, I hope that is helpful, Matthew.

MATTHEW SHEARS: Thanks, makes a lot of sense to highlight all the initiatives underway across ICANN, I think that would be useful. Mason? Anybody else on DNS?

LORI SCHULMAN: Good afternoon, Lori Schulman for the record, president of the IPC, following up with comments on something Sarah and Thomas said, and I think it would be interesting for the Board to know from the intellectual property perspective in terms of the forward movement on addressing DNS abuse. We know there's some thorny issues, and we're hammering them out in terms of access to information, but that aside, I will say that I have noticed this in the last few years. One of the biggest frustrations on the intellectual property side is a lot of voluntary practices were developed without the input of the potential requester, user, enforcer, investigator, whatever words you want to use, it was only coming out of the contracted business end rather than the end that would use it. And I have noticed a trend in a lot of different areas, the Internet & Jurisdiction project, DNS AI, and now, particularly with ECO, and I want to note ECO for this, that they are reaching out earlier and inviting us to the table sooner so that these solutions are balanced solutions. Because that has been a frustration up till now. But we do have members of our community who have been vocal about being sort of on the ground floor, and I think that is being heard, so we're hopeful on that progress.

That being said too, I think Sarah, it's really important to know and can't over emphasize, you are right, we don't want this to be a squishy bubble where we're attacking a problem on one end and squeezing it out the other end and this way, the holistic approach that is recommended by the European DNS abuse study, we do support in that sense, and that is looking to the stack, not looking to registrars and registries as the ultimate place to go and that there has to be training on all ends of this issue. So from that perspective, I think the outlook is a bit better than even three or four years ago, but again, where we're continually stuck is the issue of access and liability and I won't go further with that, because it's not what this discussion is addressing. But the access issue, while it's not directly -- not abuse per se, having access to information for enforcement is a critical factor in how we address DNS abuse. But while we can't conflate the issues, we certainly can understand these are parallel issues and must be addressed accordingly.

SARAH DEUTSCH: Yeah, thanks for sharing those points with us, Lori, I think they are well said and on the voluntary best practices ideally created with all parties in mind, otherwise, it's more like conditions rather than a best practices, so getting the buy-in of all stakeholders and the users of the practices would be very important. And again on the

issue being kind of broader than ICANN, like some of this can be fixed and I'm very encouraged personally to see all the progress that has been made because if the floor can be raised and there are now a series of parties working at a certain level, I think that does place pressure on everyone else about who is not and having increased transparency about who is and who is not is helpful. So I think the Board is very encouraged by the progress we're making, but more can and should be done and just wanted to thank you for that.

MATTHEW SHEARS: Thanks, Sarah, thanks, Lori. Any more on this issue? Wolf-Ulrich, I'll turn it back to you for the next question.

WOLF-ULRICH KNOBEN: Thank you very much, let's move to the next one. We have sent you a duplicate question that is the ODP already incorporates a process but I would like to talk about that, and this discussion was also put forward by our IPC colleagues. Lori, would you like or who was going to --

LORI SCHULMAN: I'm happy to ask the questions. These questions were formulated by members of the IPC, and full disclosure, ODP has not been a particular process that I have kind of been immersed in this year, I have been more in the accuracy scoping as people are aware. But that said, there are concerns about the ODP procedures and then the subsequent ODA and how it fits into an overall timeline for implementation.

So the questions we have, and I think I will ask them one at a time, because they're rather lengthy, the first one is by the time you the Board receive the ODA for SubPro, it will be nearly two years after receiving the GNSO's final recommendations. How will these past two years where the implementation work was basically paused to wait for this process to complete, speed up the implementation of the next round as it was stated as the original purpose of the ODP? So as a short version, there has been a bit of a pause to get the ODP work done, but do we anticipate the benefit of then an accelerated implementation? That is the first question.

MATTHEW SHEARS: Thanks, Lori.

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AVRI DORIA: Thank you for the question. First let me say that we are still learning with how the ODP -- but basically it's not really accurate, and this is something that Göran would want me to reflect, actually, work has been being done on many of the issues, whether it's how to build an outreach communications program, whether it's how to deal with some of the specifically naughty issues like -- I won't go into the issues, but several of them, how to build a sub structure, so it's not that work isn't being done. Work is constantly being done. It's preparatory, fundamental work, structural work, not work that's producing "Here's the product, you can see it," but it is definitely implementation work that is being started.

Now, one of the hopes is that having gone through all that -- and I have to put it as a hope because we're just going through this and learning and it really depends on what comes out in the ODA and how we react to it -- that that will then speed up so that while this may have put extra time between the PDP and the decision, the elapsed time between the PDP delivery and the start of a program will hopefully be shorter, but again, that's still a hope, we'll have to see how it works. That's also why it's called sort of let's try it for two and see how it works. And these two were tried because this is an incredibly complex problem with a lot of substantive recommendations that need to be understood, need conversations, et cetera. So I know that is a sort of a hand wavy

answer, but that's the idea behind it. But the notion that no work has been done or the work has been paused is really not the case, it's a lot of fundamental building blocks that are being created so that when a decision is made, things can move forward.

LORI SCHULMAN: Thank you, Avri. And we do appreciate that clarification because I think there is a perception that work has not been done and I heard you when you said this is internal work, fundamental work, you're not ready with the deliverable, but I wonder if there are dashboards or preliminary reports or assessments that the community could see or look at to let us know sort of the progress of what I would call the operational versus the policy implementation.

AVRI DORIA: That, I would want to turn over to Mr. Göran.

LORI SCHULMAN: Mr. Göran Marby, I believe we have met.

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GÖRAN MARBY: No one has called me Mr. for a long time, thank you. Yes, we have a web page where you'll find information about it, we have regular meetings with the community where we talk about the progress, and it is also of course mentioned in my CEO report, which you have read of course. So I think there's a lot of information there. We often point out as well that if we didn't have this ODP, you wouldn't know anything, because usually what we did was we went in to prepare the Board without talking to the community and many of those issues, as we are dealing with now, would have done after the Board decision, also in sort of – and I remember one of the first time I had the pleasure of meeting Steve DelBianco, really talking to him, was when I met him in Copenhagen. Sorry for pointing at you. I'm going to give you a compliment, by the way. So don't be afraid. And we introduced the Hubba Hubba project to him, and we stand up in my room and I described it, and he said, "Göran, you should know that one of the worst things in all of this – I'm paraphrasing -- is how we do implementation," [inaudible] because nobody knew what was happening, and then things popped out, and we never really got it right. And that has been following me since then.

And you also said "You at least should always participate in all contractual negotiations anywhere in ICANN," but I don't think we figured that one out. That was a good point. And that was one of the fundamentals when we started looking at this, how do we

make the process more transparent, ensure the Board has enough information before they make a decision and make sure that we make implementation easier, because there's a lot of discussion to be done. The ODP doesn't have any value itself if it doesn't produce to Board what they need. So the one we are really going to look at later is did the Board get what they need.

And what we did before we launched the ODP was go through which questions should be answered for the Board and that is a process itself, because you literally have to go through what it's about so they can ask questions. And by the way, we went out to public consultation – not public consultation, we informed the community about the questions the Board are asking, and I haven't heard anyone who said it was too many questions, because many of the questions you want to see as well and it will be public and open. So maybe for the first real time, you will actually see all the material the Board will have to make such a big decision. Can you hear I'm positive?

LORI SCHULMAN: Yes, we are hearing the positivity.

GÖRAN MARBY: On behalf of my team, which I am grateful for, we are running 30, 35 projects right now, they're working very hard and they have a

lot of good conversations with different parts of the community, especially the GNSO liaison. [Many of the things are actually defined in the processes can happen afterwards as well.] We didn't do the same way last time and therefore the time for implementation took a very long time -- and I'm looking for the dates because sometimes we have the feeling it happened [fast], but it didn't. And there were a lot of changes between the Board made a decision until the window opened. And I'm taking course from Avri, who says we are not doing another round, we are still doing the first round, this is the second window in the first round. Because the Board has already decided we are in a round. So it's not a new thing, it's a continuation.

LORI SCHULMAN: I understand. If I could paraphrase maybe, you're saying there are procedures in place from 2012, and we will roll those into whatever happens next and sort of filling in the blanks, I think that's what I'm hearing.

We do have a question though, if Council gives the green light to the WHOIS disclosure system, which I like to refer to as the WHOIS request system, as envisioned by the staff design paper, and I do want to say, Göran, we thank the staff for preparing the so quickly. It is thorough and we appreciate the work that went

behind it. What will the impact on the implementation of the next round? Does the Board foresee any impact if we were to build the system and how it might affect implementation generally? Whatever we want to call it.

BECKY BURR: I'm with you on the name, just saying. So I have defaulted to WDS. So obviously there are certain resources available and demands for those resources and you can do what you can do with the resources that you have. The impact that would have on other development activities depends on the timing. If you are in the midst of developing the next round systems, then you would have to consider -- significantly consider what implications that would have and the community would have to make some choices about what the priorities were. As it happens, right at this moment, there is a good opportunity, if the community was to come together around the WDS, that we could move forward with very little impact, is what the Board is being told. I am happy to talk about sort of the other things that the Board has talked about with the WDS, but that was the answer to your question, I think, so if we have time we could maybe come back to that.

LORI SCHULMAN:	Right. So what I would like to hear because I think that is a very pressing issue for the community. So maybe I would ask for a very simple answer to part three, part C of that question, and then I would love to yield a few minutes to you to explain that as it is the topic of the week, so to speak, and that is once the ODA is received and assuming everything is copacetic, does the Board have a timeline for the decision on the GNSO final report and recommendations? Do you see this sort of expediting a vote or more time to digest the ODA?
AVRI DORIA:	I will have to start out by saying gee, I don't really know, but our hope is, the projection we keep making is, about three months. Certainly don't see it happening in less than three months. It will take time to basically read and digest, come up with a motion and then actually put it forward, so three months I think would be the shortest.
LORI SCHULMAN:	Thank you, Avri. And if you don't mind, I will bounce back to Becky, if you don't mind. If you have more to say, of course, we don't want to cut you off.

AVRI DORIA: Always happy to have people bounce back to Becky or somebody who knows more.

LORI SCHULMAN: We're all friends here. But yeah, we are interested, Becky. Thank you.

BECKY BURR: Thank you, the Board has spent some time this weekend talking about this proposal, and I think the Board is really interested in hearing from the GNSO on what it sees, there are some fundamental questions the Board has which are, we think that we understand that the purpose and potential value of the system is to simplify the process for submitting requests, hopefully deliver better, more complete access requests to registrars which would be helpful, and then inform consideration of the SSAD policy recommendations themselves by collecting usage and outcome data.

We also see there are some important limitations and some things that the system is not, that it's important that there is consensus in the community about this. It's not a new policy, it's not intended to override or displace or replace the EPDP Phase 2 SSAD. It is not the SSAD, it doesn't do a lot of the things the SSAD

does, including the accreditation and verification function, any kind of automated processing, any third-party review of abuse of the system or any billing or cost allocation function. It won't recreate WHOIS, the old WHOIS as we know it, and it won't relieve registrars of the obligations that they may have under applicable law to identify a lawful basis for the processing, including applying the balancing test and dealing with the requirements for transporter data flows.

So we're interested in whether the community sees additional value and benefits for it or if we've got that right, we understand it. We're also interested in knowing that the community has a shared understanding of what the functionality is and isn't, and on that basis, once we understand what the community's views are on that and get the recommendation from the GNSO Council, we would be prepared to act on the council's recommendations expeditiously, and in part, that is because we see a useful window right now for development that minimizes impact.

There are a couple of things that we have been talking about with the community this week. One of the benefits that we identified, the data usage and outcome collection purpose, no matter what, we will get data. The extent to which the data is authoritative will depend very much on how widespread use by registrars and requesters is. That is, the more that we have registrars

responding through it, the more that requesters are using it, the better the data will be. And that is not something the Board can solve but it is something that the community -- there are probably ten ways of solving the problem of how do you get registrars using it, all registrars, so that we get data? I mean, you know, as I said, there are ten ways. But you could imagine a parallel PDP process where the community said if ICANN builds a WHOIS disclosure access system, request system, registrars will use it. You could incentivize use of it by permitting registrars to require requesters to use that system to the maximum extent permitted by applicable law because obviously, they have to process subpoenas and stuff. So that is one way but I think there are lots of ways to make sure we really get good data if that is one of the purposes.

Another thing that I think is actually pretty interesting is if the WDS goes forward, we have an opportunity to actually implement the privacy and proxy policy. All of the same issues that have been causing deferral come up in that place. Again, not a gating issue, something that could be done in parallel with the processing. But we have been thinking about a couple of other things that we could maybe take care of as we're doing this. Of course, one of the things that the council asked for was something simpler, faster, cheaper. So the more bells and whistles we put on, the more complicated it will be. But the bottom line is, does the community

understand what it does and doesn't do under the circumstances? Does the community believe there is a value and the Board is really happy to move quickly once we get an indication from the council as to where it's going on that?

LORI SCHULMAN: I want to thank you for that very detailed response, and I think it's good for particularly CSG to hear, because we do again have some of those concerns and I would say this is a particular group of people that do understand. Matthew, that is the last of our questions, so I don't know if others from the CSG wanted to weigh in.

MATTHEW SHEARS: And we have of a couple of others that want to speak.

BRIAN KING: Brian King, for the record. Thank you, Becky, that is really helpful to understand where the Board is coming from with this paper and we have had a lot of discussion and debate already within the IPC in particular about the WHOIS request system. There are some things that we would like. The one thing that I think we should probably clarify now and you alluded to this earlier in the

session with I think it was the GNSO, that people will need to use the system in order to get the data that the Board is looking for there, both requesters and contracted parties.

Speaking only about registrars for a moment, and we think registries should also use it. But staying with registrars, it seems the paper contemplates that this would happen with the naming services portal which I think is a good idea to help keep costs down and make this more accessible to registrars. I was a bit confused or concerned and maybe we could make this easier if we understand -- I believe all registrars have access to the naming services portal today. So I think it would be better if we didn't assume or contemplate that registrars might need to do something additional to sign up to receive requests. I think requesters will expect that any domain name that they submit a request for will go to the appropriate registrars. It wouldn't make sense for a requester to think maybe some registrars will get these and some won't, and maybe the data will or won't be logged depending on who the registrar is that gets the request.

And I understand, I read through the paper and there is some thought about personal data of the requestor being transferred to the contracting parties and maybe across borders and that is GDPR concerns, and it occurs to me that that's probably – well, that is already happening with abuse complaints submitted to

ICANN compliance and the person who submitted the abuse complaint, their personal data goes with the ICANN compliance complaint to the contracted parties, so that's probably already contemplated and manageable. I hope we are not putting unnecessarily hurdles between what we want to do and the ability to have all registrars be able to access these. So I hope -- maybe I'm not over simplifying, I hope it can be that simple and we can get all registrars in. Thanks

BECKY BURR: It's helpful to hear these things. I think on that particular issue, Göran has a few things to say.

GÖRAN MARBY: I want to back up a little bit before I proceed and answer that question. This system was not designed to be something that the average Internet user will ever use, it's not WHOIS, because to get access to what is deemed by legislation to be private information, you need to go through a process and prove why you need to do that. And what we call it in simple terms, which you will see, what we call the intake system, is that you as a requester have to provide a legal basis for you to get access to this data. And I know you are lawyers here so you know that better than me, but it's good for the audience, this is not opening the WHOIS system

again.

And as you also know, there are provisions -- if you look at only GDPR, there are provisions how to get access to the data. In NIS2, they added some new ones, especially for security, but you are the lawyers, but you have to construct them. So we've got questions about this. One of the things we have not done and that is a fair discussion to have with the GNSO, is that when we now see things that is not in the policy, for instance that you can go directly to the registrar or you can go through the system for instance as a voluntary thing, we haven't – you have probably very good ideas but as long as it's not in the recommendations, it's hard for us to add them in. So it's [inaudible] continue the discussion, but as the Board and we would say, very interesting discussion, belongs to the bottom-up process. Thank you very much.

But to your question, since this question came up a couple of days ago, we started looking into the design to see what we could do and remember, we have said that we can probably do this during a nine-month development after three months freezing down what we have -- for instance, we don't want to interfere with the current ODP for SubPro. So we need to close down that and some other things we can start. So every time you add a functionality to it, it will take time and complexity and stuff like that. So there

might be things we could do more if we had time or more things, but what we came up to do -- and I have to say my team is absolutely amazing. And when you see -- don't hug anyone because of COVID, but at least wave to them and say thank you – so what they did since last night, they did a little of a change in this design. And I'm [not] going to read from it.

What we can do is log a notification, trigger an email to the primary account holder in the naming services portal. The notification could simply state that a non-public registration data request was made for [inaudible] which is under their management and it could specify the domain name. There is a little bit of a caveat to that because you know that a domain name can contain personal data, but I'm willing to take that risk. göranmarby.org, I don't own that, I think, so I hope no one registers that right now. But something. The email notification to the non participant registrar will not include response from the registrar. The email notification could include information indicating how a registrar may participate in the system, sort of saying you are not part of the system so you don't really get the data; if you did actually participate in the system, you would get this process. ICANN could also explore capturing within the system's own reporting what type of requesters are requesting the data. If the system is logging this data, we can report on the number of requests for domains from non-participant registrars,

which registrars are receiving these requests, and potentially the types of requests.

I will put this in the chat very soon. And the primary account holder in NSp is most likely not -- we need to figure out who to send this email to as well. So that is what we can do in the current design. There could be other things that could be done but we have to look at it from a Data Protection process issue, et cetera, et cetera, and we probably have to build in things there. And that's one of the reasons we proposed that after a year after this is up and running, we go back to the GNSO Council together – and you're part of the GNSO -- and look at additional features that could be made. And I hope that helps you and I hope you appreciate the fact of my team -- and to my team, thank you very much. At least it's a way forward.

MATTHEW SHEARS: Thanks, Göran. Brian, do you want to come back on that?

BRIAN KING: Thank you, Matthew and Göran, that actually perfectly addresses the point I just made. I think that is exactly what is required, is for all requests to be able to go to all registrars. So thank you very much, we might have -- do have additional things that we would

like to see changed, and we'll work through the GNSO on that, but you have directly addressed my point. Thank you.

MATTHEW SHEARS: Susan has a follow-up if you don't mind.

SUSAN PAYNE: A follow-up to Göran, just to understand -- and it is very much appreciated that you have already started looking at this idea of being able to generate an email, and thank you to your team for that. I would just like to understand that that email would include the nature of the request, so the recipient registrar would therefore be aware of who has made the request and what data they're requesting as opposed to just simply being told oh, there has been a data request under domain name such and such.

GÖRAN MARBY: Not trying to be negative and say we don't want to do anything. It's just that we have promised a timeline to do something. And not trying to be problematic about this, but we've been trying to fix up a timeline to say if we get an answer to this very soon, we can start building it, we have figured out the timeline, but it has very little effect on other priorities in ICANN, but that's a window.

So what I'm cautious about is to either spend more time looking into potential new features, because then I have to take resources, for instance from SubPro work which will delay SubPro, which I don't want to do, and on the other hand, that timeline will also maybe put the development out of the potential window. Does that make sense? There are constraints here. So you ask good questions, but we're saying what we're doing right now, we've sort of reversed it, what is possible for us to do within this time frame, within the potential -- the time frame, the resources we have right now.

And I need to go back and look more closely to your question before I can answer if there's something we can add. So not trying to be negative, just trying to put sort of a round hole – whatever it's called, ball through a square hole, my English is not good.

SUSAN PAYNE: Thank you, and I appreciate that and appreciate that you may be able to look at this further. I just would note that when the naming services portal rolled out to registries, not all registries immediately signed up to the terms and conditions and were participating. And those who didn't, received an email that told them what was in the NSp so that they wouldn't be able to log into the system but they were getting the information by an

MATTHEW SHEARS: Thank you, Susan.

STEVE DelBIANCO: I represent the BC on the small team for SSAD, and was here this morning when you went through this with council, and what Philippe brought up this morning is something we discussed at the CSG and then Brian has covered it. Very much appreciate the earnest way the staff prepared the proposal. And Saturday when we first looked at the document, I brought up the concern that staff had proposed not even to log legitimate gTLD requests if the registrar that it would go to had not yet opted in and accepted the terms of service. From what Göran just described, staff has come through yet again by suggesting maybe that was a hiccup and we can log all the requests. And on top of that, if it's practical, the Salesforce system could generate an automated email, although as you just discussed, it's not clear what contents can and would be in that email, but I wanted to bring this to a higher level.

Because within the small team, IBC, BC, and SSAC have continually raised questions, either Steve Crocker or Steve D. that

raises this, about whether there is an adequate incentive for requesters to use the system and for registrars to use the system. Because if the incentives are not there, you will not accumulate statistically significant data or that would support the decision that we would like to make a year from now. And that was part of your question, Becky. And I do believe logging all requests and having the email would definitely increase the frequency of use over what it would have otherwise been. But we shouldn't be under the illusion that that would be adequate to generate the information. For the outsiders who don't already work within ICANN circles, we will have to do advertising to make sure they know that if they can't figure out how to get the information they need, they need to be able to get an email address, get an account here and log in. And if that experience is productive for them, they will do it again and again, and we might be able to, over time, educate, recruit, and then cultivate people who use the system. Hard to say whether in one year those outsiders would contribute enough data, especially if they know they can go direct. And Steve Crocker brings this up on every call we have in the small team, and we have another one this Thursday. But requesters like Brian at MarkMonitor have relationships with registrars and if they can easily determine if the domain name in question is with a registrar they have a relationship with, it probably won't go into this ticketing system, so we will have this lack of data even though there has been a in many cases a reasonable access that was

granted to a legitimate request. So let's have open eyes about limitations on incentives for requesters, do what we can to limit that, and realize registrars may not use it as much.

Now on the requesting community, we would love at the end of a year or two to be able to say here's the data, and the data shows that there's significant quantity of legitimate requests from a variety of requesters in the community, and we would also like to say that X percent of those were ignored, so many percent were denied within X days and in many cases disclosure occurred. That data will be difficult to gather and we shouldn't expect it to be statistically significant and it will ignore transactions that occurred by going direct. Having said all that, I am part of the team working hard to make sure it's as good as it can be, but we shouldn't assume it will be good enough to give you reasonable data.

BECKY BURR: And I think it's great and absolutely right that we should be realistic, we should not be remotely unrealistic about what kind of data we will get. We will get some data no matter what. The question is how useful can it be, how ubiquitous can we make use of the system, all of those things. And that is all part of the value proposition and what the Board is wanting to make sure we

understand is in the commune's view, given a common understanding of the functionality of the system, is there a value in proceeding.

STEVE DelBIANCO: If I could answer that, three years ago, the BC through Alex Deacon, he was quite skilled at the use of the Salesforce tool and knew that that's what we were using for ticketing systems here at ICANN, and we sent the Board a letter describing how you could modify Salesforce to provide a ticketing system. And some of that showed up in what staff came back with. We were glad to see. But the value is also weighed against the cost and time. If it is relatively inexpensive and can be generated quickly, then the prediction the value proposition could be somewhat lower, because it doesn't have to justify the significant tens of millions of dollars of expense. So I think we are trying to fashion this to maximize the value and usage and minimize the cost by not asking for things that require extra development. That is the theme. I am gratified that the process fixed itself. Because Saturday, we brought up this issue of log them all or throw them away, and it's only taken staff three days to take a harder look at that hiccup, to get rid of it and fix it, so I think we're on the right track to maximize the value and minimize the cost but it still may not generate the data you need.

BECKY BURR: It's not a question of the data I need. It's a question of, is the data that it does generate, along with the other benefits of a centralized template and all that, if that delivers enough value to justify the cost and time. And I agree it's fabulous that org jumped in on this issue and put its thinking caps on. I just want to emphasize that this is something that could become an endless cycle. "Oh, we just need one more thing," and then we will lose the windows and drive up costs and all that. So I do really appreciate org's jumping in on it, and I do appreciate the identification of something that is critical to the value proposition, but we should also be realistic that, you know, we could incrementally build the SSAD over time doing this and we would never get there. So you know what I'm saying.

STEVE DelBIANCO: Yes, without the requirement for reasonable response, reasonable access, hard to say that you could build towards SSAD because the IPC and BC and council did not vote for the SSAD proposal, because we felt it was inadequate. And this is just as inadequate and more so because it's really just a ticketing system. On the other hand, we will do our best this Thursday to complete our homework doc that staff gave us where we indicate

very specific answers to questions about the proposal so that we could move this into Council in October with an effort towards meeting the timeline to do it quickly.

MATTHEW SHEARS: Göran, did you want to come in on that?

GÖRAN MARBY: I like the discussion, but many of the things you pointed out is the same for SSAD and this system, because there are things -- and I see in the chat, for instance, someone writes that we should be able to force. It's not in the recommendations. In SSAD, the difference is we don't have the data today, and I agree with you, with some of the data, we would have the same problem if we built the SSAD as well.

And I liked fact you said let's move the discussion higher, not only about the system, but the same problem exists for the SSAD model as well. And I think that's an important distinction to make because right, we lack the data. If you look at the data we have, we say very few complaints to compliance and when we check with registrars, they say very few requests coming into them. So I think we're -- so I totally agree but as a very smart Board member said, if we build this system and don't have usage, that is a data

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point as well. And today we don't have any data. So...

MATTHEW SHEARS: Steve, quickly.

STEVE DelBIANCO: Today you do have some data but it comes from sources that are challenged by people on the other side. Appdetex just put out a latest set of compilation statistics on how many requests were submitted, how many were ignored, how many fulfilled. And when that happens, the registrars get upset about the lack of validity or specificity of the data. But here, if we have a ticketing system that ICANN is managing and running, the hope is the data we do learn from there will not be challenged as being invalid or biased. It may not be sufficient to make decisions but at least it's going to be objective.

GÖRAN MARBY: And [then you can help me to mark] the fact that if you don't get that data, please send a report to compliance.

MATTHEW SHEARS:	There was a hand up from Scott Austin. If you are online or in the room? Not hearing anything, perhaps we can turn to the Board's question. If we could put the Board's question up, that would be great.
WOLF-ULRICH KNOBEN:	Yes, thank you very much. So it's fair to spend the last 15 minutes for the Board question at least, because it's a very broad question as usual and to the entire community. So when we discussed this first time, we were happy that a question came early and your support was hammering on us to [indiscernible] with answers. The first time we were [indiscernible] okay, why is that a general question? So we have answered a lot of times in that way and we could do that again, easily answer. Just do your work, org should do their work, the Board should do their work, and then it could happen that we could be satisfied. But we all know that is not that easy to do that and therefore we have also started to a little bit more detail our question down. it is done by the different constituencies. I don't know where to start, is it -- I saw Susan Payne's detailed question list or remarks to that, and I would like to say please start with that.

SUSAN PAYNE: Thank you, yes. Hi, I'm Susan Payne. So we did have comments. As Wolf-Ulrich said, we did find this question very broad and our immediate response was kind of whose strategic priorities are we talking about here? Because each group's priorities are somewhat different. So when we were thinking about this, we were naturally tending to focus on our own, and particularly the CSG priorities we shared with the Board at ICANN 73. I should say before I start that we're extremely appreciative of the work of the Board and staff on all of those matters and the comments that we're making and suggestions, and not here as criticisms but it is meant to be a genuine attempt to answer the Board's question.

In terms of those priorities, they incldued -- and it's non-exhaustive, and I will keep this quite short, obviously, improvements to the access of the registration data, and we spent a lot of time on that. Completion of the implementation of data processing agreements between org and the contracted parties, and indeed sort of finishing the implementation of current recommendations before perhaps opening sort of new PDPs and new pieces of work. So a good example being before we start looking at rights protection Part 2 and the review of the UDRP, we need to implement rights protection part 1 and we are very appreciative of the messaging we have received here at this meeting this week that that work is now scheduled to begin.

But we did want to, before talking a bit further, touch on a really practical action that would greatly assist collaboration from the perspective of the IPC at least, and that is please don't drop multiple important documents on us in the days running up to the ICANN meeting and then think that we're able to come to the meeting, not only to have a sensible discussion on them, but also in some cases -- and the WHOIS disclosure document is a prime example -- be encouraging us to try to make go or no go decisions in the space of the meeting when -- you know, some people were probably on a plane when it was published, and that was a prime example, but it's not the only thing, the holistic review terms of reference, GNSO operating procedure changes, proposed amendments to the RA and RAA, a number of things published very close to the meeting.

And one that came up during this meeting, Göran, you made reference to your report and slightly [inaudible] commented that of course, we have all read it. Well actually, Göran, no, we haven't all read it because it's dated, as I understand it, on the website as the 1st of September but the blog that announced it, was published on the 1rth, and morning of the 15th, I was getting on a plane for a 13-hour plane ride. So no, I haven't read your Board report. I wish I had, I think there is an enormous amount of useful information in there, and perhaps we wouldn't have these discussions where we're slightly at odds with each other if we had

had the wonderful opportunity to read that before we got here. But no, I would be surprised if anyone in the room has read it. So we really would appreciate that.

And there used to be rule that there was a kind of moratorium and if there were important documents to be discussed at the meeting, they had to be published at least three weeks before the meeting, and we would really like that reinstituted and not just sort of a hope that that will be achieved but a resolution from the Board that would ensure it was honored, and it would really assist in us having more collaborative and informed discussions. So this isn't a criticism, just an honest attempt to convey how difficult it is for us to come in as a community and discuss these things when we haven't seen them sometimes and certainly haven't had time to discuss amongst ourselves or absorb them.

WOLF-ULRICH KNOBEN: Thank you very much, Susan. And to that, especially so these requests have been well received, I suppose. And is there any comment from the Board side to those suggestions or those requests from our side?

MAARTEN BOTTERMAN: Just that I hear you and we hear it all the time. That information is out there, granted, a week or even a month before and it's not

always seen by people, and fully appreciate that sometimes things come at the last moment, in particular now with the positions of this just after summer, has been extremely difficult. I agree that we may be able to have a kind of understanding on key documents.

At the same time, we also don't want to hamper the work to progress, that is the other thing. So if things are produced, that they become available at that point to inspect time, it's good. I think just like with most documents that are put up for public comments, at least you have an initial opportunity to talk about it. You're not expected to have the answers this week, we do value that period for a response. But I hear you and I think it's a challenge to all of us to keep up to date with all the information out there produced by ICANN org and otherwise. So my sympathy, but let's find a way where we don't hamper the progress to work, and we will continue to value the dates for which you have an open window to at least react, I think that that is the least we can say at this point.

WOLF-ULRICH KNOBEN: Thank you very much, Maarten, for that. So we have also discussed this morning with the CFO, with Xavier, about improvements with regard to prioritization, so that is also

something which we have in mind and to that, I would like to hand it over to Thomas to ask the question.

THOMAS RICKERT: Thank you, and there are a couple of times in the transcript it said Thomas Rickert when it was actually Wolf-Ulrich Knoben. It's flattering to be mistaken for him, and vice versa, I guess, but we look all the same with the masks on. And the topic that we discussed we will present here is exactly what I presented earlier today to the Board, i.e. the suggestion that we should all work together to make sure we do as much of an assessment of the implementation during the PDP's Working Group prior to the consensus call. So I won't repeat that in order not to bore you to that. So maybe if there are other reactions or if you would like to continue the dialogue, we can do that here. But given it is already late and only a few minutes left, I'm not going to repeat this.

MATTHEW SHEARS: Thomas, thank you for that. This morning, you provided a very good overview and I think it's something that we have commented on and responded back to you. So I don't know if there are other questions.

WOLF-ULRICH KNOBEN: Thank you, and there is at least a color difference between Thomas and myself, it should be recognized, and it has been, so thank you. And what I would like to add, I have one example where I'm happy that this has happened, and that should happen more in the future. I would say you are asking for collaborative action, but collaborative actions are, depending on off and on decisions made by the Board or to be made by the Board. And one example is the work on the holistic review or the pilot project on this holistic review terms of reference. I was very happy that someone from the Board, Avri, picked up that point.

Also, there was not – has not been given a priority in advance to that point, but she was able to pick it up and to invite people from the community to work a little bit ahead, in advance, not just waiting for decisions to be taken and so on, just trying to do that. So I would be very happy if that could happen in the future more often, that people, especially from the Board, are in a position or to take us and say okay, let's do that and try, and then we will see what is going to happen. So that is the comment from my side. Thank you.

MATTHEW SHEARS: Avri, do you want to comment?

AVRI DORIA: Yeah, I think it's an important thing to do. I appreciate that it was appreciated. Not always sure that those things are, but I very much appreciate it.

MAARTEN BOTTERMAN: And we're constantly looking for ways we can improve processes and make things happen, and we started to give ourselves permission to experiment with that as well and see how that works. So thank you for the compliment for trying.

WOLF-ULRICH KNOBEN: Is there any additional question or comment? Please, Brian.

BRIAN KING: One further strategic priority that we have been thinking about that we would like to raise with the Board, an opportunity to collaborate together, is that we understand that ICANN and the contracted parties are working together to negotiate a data processing agreement for WHOIS data and conceivably for other data. We understand that those contract negotiations tends to be

bilateral and that ICANN steps into the shoes of all of us in the community in those conversations.

But is there an opportunity to collaborate together, and it would be helpful I think for increased visibility, transparency into how those conversations are going. I sit here as an attorney today but when we finished the EPDP Phase 1 when that recommendation was introduced, my mom had to drive me to the meetings, it was that long ago, because I didn't have my license yet. That's a joke, but it feels like forever since those have been happening, and we don't have visibility into how they're going. And this is such critical work that will underpin the entire concept of WHOIS that is so fundamental to what ICANN does, that we need to collaborate on that. So is there an opportunity to help? Thanks.

MATTHEW SHEARS: Not sure if anybody from the Board wants to comment on that. Becky or anybody else? I don't see so. Okay. Thank you, Brian.

BECKY BURR: All collaboration is always welcome.

WOLF-ULRICH KNOBEN: I think we have come to an end. So if there is nothing else, thank you very much for the opportunity.

MATTHEW SHEARS: I don't think anything else from our side. Thank you very much, Wolf-Ulrich and all CSG members, always a pleasure and thank you for the good and robust discussion, and the session is closed.

MAARTEN BOTTERMAN: Thank you, guys.

LORI SCHULMAN: Thank you. It was a good session.

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KUALA LUMPUR