
ICANN78 | AGM – Joint Session: ICANN Board and CPH
Wednesday, October 25, 2023 – 10:30 to 12:00 HAM

FRANCO CARRASCO:

Hello. Welcome everybody to the Joint meeting between the ICANN Board and the Contracted Party House. Please note that this session is being recorded and follows the ICANN Expected Standards of Behavior. Interpretation for this session will include seven languages which are Arabic, Chinese, French, Russian, Spanish, Portuguese, and English. You may click on the interpretation icon in Zoom and select the language that you will listen to during this session.

For all panelists, we kindly ask that you state your name for the record and speak at a reasonable pace. Please note that this discussion will be between the ICANN Board and the Contracted Party House members only. Therefore, we will not be taking any questions from the audience today. However, all participants may make comments in the chat. You may use the drop-down menu in the chatbot and select respond to all panelists and attendees. This will allow everyone to view your comments. To view the real-time transcription, you may click on the show captions button in the zoom toolbar. Having said that, I will now hand the floor over to the ICANN Board chair, Tripti Sinha.

BECKY BURR:

I think it's being turned over to me, Becky Burr. Greetings everybody who is here and good morning, good afternoon, and good evening to those who are online. Thank you all for joining us. This is the beginning

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of day 3 of Constituency Day. So, if we are speaking in whole sentences, that'll be a great thing. I think we're going to start with the Board's question to the Contracted Party House. And I'll turn it over to Sam for that.

SAMANTHA DEMETRIOU: And thanks, Becky. And actually, sorry, we're going to just open with Ashley just to kick us off.

ASHLEY HEINEMAN: First of all, thank you. But we also wanted to make sure we took the opportunity to thank Avri and Matthew for all the great things that you've done during your tenure. We want to make sure that we had an opportunity to recognize that. It's been a pleasure working with you all and we certainly hope to continue that relationship moving forward even though that you are stepping down. So, thank you.

SAMANTHA DEMETRIOU: All right. Thanks for that, Ashley. Yeah. On behalf of the full CPH. So, thank you for this question. The CPH took this back and we've thought about it. And we thought that the topics that we've proposed that we would like to cover with the Board all fit in really well with this question because they are things that are going to continue to play out over the course in many cases of the next 3-5 years. So, one of the things we'll be talking about a bit later was related to subsequent procedures. That timing matches up very well.

The other things we want to talk about, we believe are very closely related to the healthy and effective functioning of the multistakeholder model, but also to the way the outside world and people who don't show up at ICANN meetings all the time see that work progressing and see how we as a community come together and make policy and work on things that are very challenging and impactful to the internet together. And I think that overarching theme that kind of runs through all the things we want to talk about, is something that is a very core and underpinning matter that impacts the strategic plan both in the next 3-5 years, but more importantly in the long run, as Matthew was saying just in the last session right?

Looking doing strategic plans isn't just about looking 3 years down the road. It's not looking 5 years down the road. It's looking 10 years down the road and beyond. And so, we think that while these are very specific matters that we're going to talk about today, they have broader implications for just really the way we as the multistakeholder community come together and do work, and we think that is something that's going to be a key topic now and in the years to come.

BECKY BURR:

Great. I think all of those things are right. Do we have input, questions, comments on that? Great.

SAMANTHA DEMETRIOU:

Then we can just dive into the topics.

BECKY BURR: So, if we move to the first question from the contracted parties on registration data policy?

SAMANTHA DEMETRIOU: Yeah. Ashley's going to lead us on that one.

ASHLEY HEINEMAN: Hi. Thank you.. Ashley Heineman. I'm in with chair of the Register Stakeholder Group. So, yes, we posed this as a topic for discussion because we wanted to make it abundantly clear that we are really excited to get this underway. And we just want to make sure that it was very clear that we are happy to explore options, find ways to move on to the next step with the registration data policy. As you know, there have been some things that have popped up. And I'm going to turn it over to Marc who's been a very active member of Implementation Review Team to make a few other remarks on that.

MARC ANDERSON: Thank you, Ashley. This is Marc Anderson representing Contracted Party House on registration data policy. I've been, as Ashley said, a member of this from the beginning. I was one of the registry representatives to the EPDP. I served on the EPDP from start through its finish and followed that on to the IRT where I continue to be a member. So, I maybe have a personal vested interest in seeing this over the finish line. You spend enough time on something, it becomes a little bit personal, and I certainly want to see this be successful.

But as Ashley said, we thought this topic was extremely important to highlight to the Board just how important the registration data policy is to us, and we really believe not just the contracted parties but also to the community. This is a policy that has ramifications implications beyond just its publication, giving the broader focus on data privacy and protection. A topic I've heard a number of times here at ICANN78 is the upcoming NIS2 regulation and there are certainly implications with that.

And beyond that, we want to be able to point to the registration data policy as a successfully implemented product. We've talked a lot about being able to show trust and support for the multistakeholder model. And getting this policy over the finish line would certainly be a piece of that. I'll stop there and see if there's any reactions, any other comments?

BECKY BURR:

Thanks, Marc. So, first of all, let me just say the Board also is very much looking forward to getting this policy implemented. As you probably know, the GAC has brought it to our attention an issue with respect to the urgent requests aspects of that policy. I think its section 10.6. And the GAC suggestion or request was that the policy goes out, that that section be retained and that we take a closer look at that.

The Board looked into the GAC's request, and our conclusion was in fact there are some concerns about that that we think do require further thought. So, we are supportive of issuing the policy holding back 10.6 and having further discussions about it. We will have to have a conversation with the GNSO Council about how we have those further

discussions, because we're in a unique situation where we've accepted a policy recommendation that we now want to make sure collectively we rethink. But we are very much interested in moving forward on implementation of the EPDP phase 1 policy. So, we're there. Let me just ask for other interventions from either the Contracted Party House or the Board.

MARC ANDERSON:

Thank you, Becky. Marc Anderson again. And I do want to know in the time after we proposed this as a topic, we learned that here at ICANN78 we'll be having an IRT meeting, where that exact topic will be discussed sort of how to go forward with registration data policy minus I think section 10.6 as you said. So, we wanted to keep this on the agenda to highlight the fact that this is an extremely important topic to us and make sure the Board hears that clearly, but I do acknowledge that the IRT is meeting tomorrow to discuss this very topic.

SAMANTHA DEMETRIOU:

Thanks, Becky. And this is Sam again. And just to add on to what Marc said, I think one of the reasons we thought it was so important to keep it on here, and Rick raise the point about the importance of the policy, is because there have been so many conversations this week about regulatory developments, about NIS2, other things coming out of the European Union. And as it relates back to the main question of looking ahead in the strategic plan, engagement with governments and how ICANN presents itself, the community and the work it does to regulators around the world and kind of defends its position and defends its role in developing policies that impact the DNS.

I think it's incredibly important to all of us that we're able to point to really concrete outputs from the MSM. And this is, in my mind, an extremely important example. We obviously know that there are interests on the parts of governments to look into the area of registration data. And we all thought it was so boring. But yeah, there clearly is this interest. And I think in order for us to go out there and have like a really strong support and say this should be handled in the MSM, we have to also be able to prove that the MSM can then produce outputs on it. And so, I think just this is something I think we all understand very well, but I think sometimes it bears repeating, it bears putting out on the record as to why this is something that ICANN always needs to be cognizant of as it continues its work.

BECKY BURR:

I very much agree. And I think your point about not just talking the talk but walking the walk on the effectiveness of the multistakeholder model is something that we are seeing increasingly critical, and something I can assure you that the Board is very cognizant of the need to get policies implemented in a timely fashion so that we can demonstrate that we're doing our job here as upholders of the multistakeholder model. Other? Edmon?

EDMON CHUNG:

Yeah. Responding to Sam. I think that's exactly very important. I just want to I guess want to make sure that I'm clear that it's correct that taking out the 10.6 is okay. We can continue to implement because that doesn't stop the implementation. That actually does show us being

able to move forward. I just want to clarify that that is the correct. Right?

SAMANTHA DEMETRIOU: Yeah. Edmon, this is Sam again. I think that's definitely right. There's so much else in the registration data policy that is important to get solidified and then make effective. So, I think that's really what we were looking at. Not necessarily needing to get into the weeds of the 10.6 issue itself.

BECKY BURR: I haven't been elevated in the Zoom room so I can't see if there are any questions in there. Okay. I'm assured they're not. And although we said we're not taking questions from the audience, obviously members of the Contracted Party House who are sitting out in the audience are welcome to participate in this conversation. And I believe we have a roving mic available. So, I'm just going to give a moment to look at this. Okay. I think we can move on to the next question.

SAMANTHA DEMETRIOU: Thanks again, Becky. The next question on the top or, sorry, the next topic really on transparency of Statement of Interest is going to be led off by Brian.

BRIAN CIMBOLIC: Thank you, Sam. Hello, everyone. I'm Brian Cimbolic, PIR. James Bladel and I are here to talk about a matter that's been gaining some

attention recently which is the question of transparency in representation and participation in ICANN and multistakeholder model.

As you might know, there's a pending recommendation before the GNSO that would preserve an existing loophole where an individual can participate in ICANN and policy making without disclosing the name of its client or customer. The CPH believes that this loophole is inconsistent with ICANN's bylaws. Bylaws require that ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner. Now, legislatures and policy making bodies around the world require lobbyists to disclose and register whose clients they represent regardless of whether or not they're attorneys. This is true in the EU, the US, the OECD, and legislatures all around the world.

And I want to address a concern I've heard that requiring this level of transparency would violate ethical or professional obligations. This is simply not true. While it's true that there are confidentiality requirements around client identities, all that's required is to obtain the client's informed consent. Once the client gives informed consent, then the attorney or its representative can continue to participate in ICANN and policy development. Requiring to disclosure an identity is a norm in policy making all around the world, so we don't understand why ICANN's constituent bodies would hold themselves to a lower standard intentionally.

And while this has come up in the GNSO, we think that this is an issue that goes beyond just one SO or AC, and we think that each constituent

body should live up to the requirements of the ICANN bylaws on transparency. And we think that closing this loophole would be a visible and proactive step to the world, showing ICANN's demonstration to commitment to transparency in the multistakeholder model. We wanted to engage with the Board and see if you've thoughts about the ability of a party to participate in ICANN policy making without disclosing whose interests they are advancing and whether that practice is in line with the transparency requirements of the bylaws.

BECKY BURR:

Thanks. James?

JAMES BLADEL:

Yeah. Thanks, Brian. And James Bladel from the registrar. And I participated on the task force that prepared these recommendations. So, I'm very sensitive to the idea that we may be losing that body of work if we decide to ultimately to vote against these at Council. There're some good ideas in there that unfortunately we'd love to salvage. However, we're in a classic situation where the exception is now swallowing the rule and that any benefits that would have been derived from those new proposals are lost if individuals can unilaterally and without any kind of checks or external accountability just opt out of the transparency requirements that we're proposing.

So, I am concerned about that. But I think Brian articulated it very well is that everyone who comes to ICANN should be very clear about whether they're representing a company, themselves or they're acting on behalf of a third party and who that third party might be. And I think

this goes to a lot of comments that we've heard this week, including Sally's opening remarks about trust, and knowing who we're talking with, and who we're working with, and who we are negotiating with in all of this work.

So, this is something that was shaken loose during the work of the GNSO, but certainly is applicable more broadly throughout the community and something that we wanted to highlight for the Board that I think, I don't want to preempt Greg's work in the Council, but it sounds like this is going to reach a bit of an impasse on the Council. And we're kind of giving you a preview to that controversy. That's coming up. Thanks.

BECKY BURR:

Thanks. Edmond is going to provide the initial response for the Board.

EDMON CHUNG:

Yeah. Thank you, Becky. So, I guess I'm put to kind of get the Board's view on it. And it's interesting that I'm probably the one on the Board that has the longest statement of interest, so I care very much about this, and I think it is very important.

So, first of all, the Board absolutely have been observing the ongoing discussion about the SOIs and we understand that the sensitivities and in some sense, and sometimes it's also hard to fully understand some of the issues that were raised, but I think we concur on the openness and transparency commitment in the bylaws. And I think that's very

important. And I hear very clearly, I think the whole Board hears very clearly that needs to be addressed.

So, I guess in terms of that then, one of the questions I guess throwing back to the contracted parties is you mentioned about the motion that was brought forward and the work that has been done in the GNSO Council. Where exactly it would seem like as you mentioned it's going to impasse? How do we not lose that work and move forward? Is there anything that the Council needs help on or if that's legal advice that might help address some of the issues that were brought up? Obviously can ask us through policy staff to get that legal advice to address the issues that were brought forward.

But I will end my opening and hopefully we'll get into discussion saying that it may not be appropriate for the Board at this moment to kind of intervene and say we think this is right for you, and we think this is right for you ALAC, we think this is right for you. I think we observe from the GNSO really good work that is coming up and we hope to understand them more and help before it. And maybe that can become a blueprint for other parts of the community to also look into as well. I don't know, Becky, if you want to add further.

BECKY BURR:

No. I think just to amplify what Edmon was saying, we understand the questions about whether in fact the non-transparency is consistent with the bylaws. We do think that that's a relevant question and we are prepared to look into that if there's a request to do that.

JAMES BLADEL:

So, thanks, Edmon and Becky. I'll just be blunt. I don't know that it's clear if this were to fail at Council what the next step is. I think that we're hoping that we can preserve some momentum and discussion and not lose that work but essentially elevate it beyond just the GNSO and make more of a community discussion, including getting some expert advice on this from ICANN legal and from possibly other experts that could weigh in.

This isn't a PDP, so the roadmap has always been a little squishy. But I think we're hopeful that by highlighting this and spotlighting this that this doesn't just kind of die on the table.. That it becomes a pre-cursor to launch a broader conversation within the community. And during the course of the work, we noted that this was a GNSO specific project but had applicability to other SOs and ACs both of those that were participating inside the GNSO policy development process, but also, how they might govern their own organizations. So, it has a broader reach than just what we were trying to do.

BECKY BURR:

And we certainly have noted interest from other parts of the community. This was one of the issues that the GAC raised with us yesterday. And as I said we are there, or as Edmund said, we're very conscious of the bylaws requirements here and to the extent that we can bring resources to assist in this policy or in this discussion we are willing to do that. Go ahead, Ashley.

ASHLEY HEINEMAN:

Yes. Ashley, chair of the Registrar Stakeholder Group. Just again, I think this was more to make sure that you are aware of our concerns. I'm not sure that we're actually looking at this point in time for the Board to take concrete action. I think feeding into providing an information is great. That's a good first step. I think we are also considering other ways. I mean, there's lots of tools in the toolbox at ICANN. It's not just PDPs. I think some kind of cross-constituency conversation.

We've got the accountability review. I haven't mapped out what the time frame is for that. But again, I think with the GAC chiming in, it's clear that this is a community interest. And I think getting us all together to fully understand what the issue is and what the concerns are would be helpful for everyone to understand. So, we're hopeful to continue this work and we're really interested in finding some creative ways to do so. Thanks.

BECKY BURR:

Yes. Go ahead. Who am I looking at? Oh, Jeff, go ahead. Could somebody get the mic for Jeff?

JEFF NEUMAN:

Thanks. Sorry. Jeff Neuman. I think whether it was Edmon said that if the Board is asked the question and I just wanted to reiterate because one of the problems with getting this issue to the Board to ask the question is if it has to come from the GNSO Council, of course you know we're at an impasse on the Council. So, would a question raised by let's

say the Contracted Parties House be enough for the Board to officially consider the question, or is it your view that it needs to come officially from the Council as a whole?

This is one of the issues with the multistakeholder model that we've discussed many, many times which is we haven't yet quite found the incentives to come to a compromise or to get people to move off of their initial position. So, I guess my question is, in what form would the Board accept a question on this issue?

BECKY BURR:

So, as everybody's noted, every day we discover some new issue where we have to think of ways that don't because it doesn't fit exactly into a PDP. I don't think that there is any rule that prohibits us from taking questions from any part of the community. If Jay Jason is in the room he can tell me if I'm wrong, but I think it's our job to consider questions from all parts of the community. Avri?

AVRI DORIA:

Yeah. Thanks. I wanted to ask a couple of questions. But I think one of the things that was mentioned is the abundance of tools, and the cross-community working group. And this may indeed-- It's a burdensome fact. I could see people gridding their teeth as I say those words, but this may actually be a good occasion for a narrow question on that. As far as I know, to get that going you only need a couple of the SOs and ACs to buy into the notion.

Normally getting the GNSO to buy into a cross-community working group is a challenge. I don't know if you've got that or not, but it sounds like you have the GAC. It sounds like you might be able to get other groups to do that. So, that's certainly one way to elevate it to something that's near PDP status if you want to do that.

Now, the other thing is you mentioned one word while you were speaking of it and that was the word lobbyists. And I wanted to be careful with that use of the word, unless you really mean everything that comes in that, because that's really a government relation type of concept. But whether you mean-- Of course, it's not the government notion of lobbyists but we include everything that would be included in their type of notion. And so, I just haven't heard the word and having it listed, I really wanted to point at it and say are you sure you mean to use that word. Thanks.

JAMES BLADEL:

So, thanks Avri. Two quick responses. First of all, I apologize. I will work on my poker face a little bit better so that when someone says cross-community I don't flinch. Because it did come up during the work. But yeah, it is possible. We mentioned that as one possible avenue as well as feeding this into the review team but just exploring all the different mechanisms that could elevate this conversation.

If we used the term lobbyist, it was done informally as we attempted to find analogs for this outside of the ICANN space. We have heard for example, and I think very clearly of what you've just mentioned is ICANN is not a government, ICANN is not a legislative body and therefore that doesn't apply, but then we've heard that extended that therefore the

transparency requirements should also not be applicable. I think we have mentioned in our work that there's nothing like ICANN in the world.

So, looking for, or expecting there to be a perfect analog that we can point to and say, this is what we should model after isn't going to get us very far, and that we should be open to finding the closest possible approximations and stand-ins for those models. Particularly as Brian mentioned, when they're almost universally aligned against what some of these recommendations are containing, then I think we should really stand up and take notice.

So, I apologize if that word came out either explicitly or implied, but I think we were essentially just trying to point to other things that folks might be familiar with where these expectations are just a given. And why it's not unusual to consider that we should adopt them in this model.

FRANCO CARRASCO:

We have a question from Michele Neylon.

BECKY BURR:

One second. Brian's going to follow-up. Then Michele you're next.

BRIAN CIMBOLIC:

Sorry, Michele. James and I are sharing like, and I think lobbyist were my fault. So, sorry about that, Jeffrey. I did want to note though that talking about the existing tools. It's hard though when you're trying to

close a loophole, those that want to protect the loophole can exploit the loophole to protect the loophole. So, it becomes a sort of a vicious cycle. And I think that, Becky just put the chat, that the Board has an independent obligation to ensure that the organization is operating in compliance with its bylaws.

So, I think it would be very helpful for the entire community if the Board came out with a clear statement noting its expectations for how its constituent bodies operate. The bylaws don't just say that ICANN will operate, it specifically says that ICANN and its constituent bodies will operate to the maximum extent feasible and in an open and transparent manner. So, that to me is a pretty clear remit and I think it's something that the Board could really help inform the community on what its expectations are on participating anonymously and exploiting this loophole wall.

BECKY BURR:

Thanks, Brian. Michele.

MICHELE NEYLON:

Thanks. Good morning, Michele for the record. I'm not going to reiterate what others have said, but I'm just going to add my own kind of personal flavor to this. This year ICANN is celebrating 25 years of public existence. The unique identifiers that we all enjoy working on in terms of policy and all that have changed. 25 odd years ago, the internet was something that was on the periphery of our daily lives. Today, it is at the core of our daily lives.

So, how ICANN is seen to operate in terms of policy making is no longer just an academic afterthought. The requirements that we be transparent in what we do is something that other third parties look at, and they examine. And it to me this is very simple. When I speak at the microphone you know exactly who I am, you know which company I'm representing. It's the same if James or Alan or any of the other people up there speak. Why are the rules different for some others within this group, within this space we know as ICANN?

To me, that's a simple question of fairness. If I have to say who I am and who I represent, then the others have to as well. Because otherwise we are going to have a constant issue with potential conflicts of interest. You're going to have you don't know why somebody is saying, what they're saying, if they have an ulterior motive, are they going to benefit from that policy. Because the amount of money involved these days is no longer pocket change. You could be talking about decisions that have a massive impact. So, expecting people to be transparent about who they are, and what they're representing, why they're representing, what those opinions is key, and it is fundamental. Thanks.

BECKY BURR:

Thank you, Michele. We also have a comment out here from Chris Disspain.

CHRIS DISSPAIN:

Morning everyone. This is Chris. I just wanted to pick up on the legal advice point because we have talked about how do we fix it, what methods can we use to fix it. I think we first need to establish what we

think the bylaw actually means as they're speaking with an old lawyer's hat on. If the legal advice, we interpret the transparency by law to mean that you must disclose, that means we've got one process we could use. If the advice is we think that the bylaw doesn't help with the argument, then we'd have to go through a different process. So, I'm very keen that we try and get a solution, at least some input legally about what the bylaw actually means before we start trying to figure out what process it is we need to use because it will depend on what the advice is. Thanks.

BECKY BURR:

Thanks, Chris. Any other questions? I now have the ability to see hands, but I do not see them. I think we can agree to use the term advocates as opposed to lobbyists going forward, because that is a lot of what goes on in the policy development process. So, I think that's a neutral term. All right. I think we can move on to the next topic then.

SAMANTHA DEMETRIOU:

Thank you again. I thought that was a really good discussion. So, this last topic may seem a bit familiar based on the last hour you guys spent. And I know Sebastian raised a lot of great points, but I think for today, we wanted to maybe focus it a bit more coming directly from the contracted parties as folks who will be quite directly impacted by future rounds. And so, Crews Gore is going to lead us on this one.

CREWS GORE:

Thanks, Sam. Crews Gore for the record. I'm the chair of the Brand Registry Group and member of the Registry Stakeholder Group. And after the target date of April 2026 was announced in the SubPro implementation plan, gave me a chance to go back to the community and future applicants to discuss what this state actually meant and how they're going to forecast their application. And it really came down to one word that the brands and other applicants not in the brand community we're saying is that they need predictability.

So, that a tentative timeline and target date of April 2026 could create a barrier for applicants by having this broader application opening period of time. Because those applicants need to make sure all their pre-work is completed for that. They need to either meet with their local governments to get certain approval, or they need to get funding within their organization. And a lot of those things require a tentative date to give to their partners that they're working with so that they are able to move forward and apply for their TLD.

And commercial parties are tied to concrete deadlines, as I said. I would be remiss to not acknowledge you. This is an extremely large project and I understand that they are variables, but the commercial parties are also facing a lot of challenges ourselves. And that's what we're trying to figure out to see that if we have an actual tentative or actual concrete date, for example, from a dot brand perspective.

We own our current dot brand, but we weren't an applicant future in round. Our fiscal year doesn't align with the calendar year. So, if we just are shooting for quarter 2026, and these variables are rising, it just shifts by a month or two. That money that I've budgeted, and I've gone

to my bosses and the organization for, that could be taken away if we fall into that next quarter. We would be unable to apply. And that would then bring a lot of un-trust or unpredictability to a corporation's saying okay, well, if they said that they were going to be in this time period it didn't happen. And that could possibly take away that application for that TLD.

So, that's why I think that by supporting a tentative date or a target date, it inadvertently creates that barrier for a lot of future applicants. And could therefore negatively impact the adoption of the program. So, speaking on behalf of future contracted parties and current, I think that it would be appropriate that ICANN Board work with organizations to come up with a concrete date that we can all strive to achieve. It will help future applicants have this predictability that we so need.

And I was also listening before to Sebastian Ducos about an actual when will we need that kind of time, how far in advanced. And thinking about brands, thinking about GOs that need to go to their local, their governmental authorities. I think that two years before the actual application round opens would be appropriate to give those future applicants that time to start their budgeting and financing their operational strategies within their organization, within their partners in the community to make sure that they're ready to go for when that application round launches. So, with that being said, is there anybody else in the community that would like to speak?

JEFF NEUMAN:

Yeah. Thanks. This is Jeff Neuman with—I couldn't put it in the chat—with dot hip hop. Because of the way Zoom works. If you're not a

panelist, you actually can't change your name. But on this comment and I should say dot hip hop has not decided whether it's going to apply or not apply for anything in the future.

But what I wanted to say is that this is not just about setting a date. This is about getting all of what applicants would need to make a decision to apply for the next round. So, it's not just a date we need. It's what are the costs going to be, when is the registry service provider pre-evaluation process going to take place and end. And I know there's some projected dates, but they're not anything that's concrete. Because that will determine a costs or what applicants would have to do.

Almost a way to think about it is everything that ICANN needs to do to prepare for the program internally, applicants need to do a lot of similar stuff. Applicants will need to hire people. Applicants will need to figure out who their contractors are. Applicants will have to-- Because the evaluation it says essentially how can you demonstrate that you already have the ability to launch a new top-level domain. In order do that, you already have to have the resources in place. So, if you think of the applicant like you think of what ICANN has to do to prepare for the round, applicants have a lot of things.

And as a constructive suggestion maybe we can get together and provide you a list of the types of things that applicants would need to know by a certain date in order to know-- If you were to launch, let's say April 26 is actually the right time. Well, we can maybe help and say applicants would need to know this kind of information by this date. Yes, it'd be great that ICANN launches on that date, but unless

applicants know certain things by certain dates, they may not be in a position to apply by that date. So, I think that's how we can help you is to, yes, it's about the date but it's about some other key terms and conditions. Thanks.

BECKY BURR:

Thanks, Jeff. I'm going to turn to Sally for the first response, but I know that there are lots of other people who have responses too.

SALLY COSTERTON:

Thank you. And I'm conscious that there are some people who were in the session that we just had before with the GNSO Council. So, I will say the same thing again. So, apologies for people who were here twice but it's pretty important. So, it merits restatement. So, thank you for that.

The question of the date has been much debated. When will we be ready collectively to open the next round? The that means the application cycle. That's what we all mean. And when the community and the organization and the Board decided in Cancun that we were going to give this our best shot to get us to the point where we could get this cycle open which was a decision. It was an ambitious decision, but it was a decision that we collectively made in Cancun. Everybody stood up and applauded us said go, go, go ICANN.

And we did, all of us, manically for months. Late nights, lots of calls, massive voluntary participation from community members, a lot of hard work from Board members and staff. And specifically, I want to draw out we decided-- We had already had a small team I think before

Cancun, but it really kicked in at this point. And without that, with my view, we wouldn't be here now. That's just my personal.

So, what we've established in the last month since then is an amazing working partnership built on a lot of hard work, but a lot of trust being built, a lot of familiarity in the groups between what are the key issues, and you called some of them out, Jeff, very clearly. Before I came to ICANN, I was a businessperson for many years, so I understand exactly what you're saying. Tell me when I got to be ready and I'm going to do a workback plan because I've got to do all those.

And of course, remember 10 years ago, 11 years ago we did this before. So, it's not we don't collectively know what a round looks like. We do. Last time we didn't, now we do or not as much. And also, some of those things were pretty painful. And we talked about that in the earlier session. I still feel that. You feel that. Nobody wants to quit. We want to learn from the things. What did we learn last time?

And one of the things we learn is that we need to do the work up front collectively to understand what is it going to take for all of us to come to a point in the calendar where we can say, we think we will be ready. And we did, and that was what we published in June in Washington. Sorry, in August. The Board having seen it in June and said, "Okay. In principle, we think this is good. We would go for August." And that's what we did.

And I want to stress, I did it again in the last meeting, but again now. There were hundreds of hours of work done just inside my team. With me stress testing it and Theresa and the team, and Karen and Theresa stress testing it saying, "Are we sure we can do April? Are we really sure

we can do April?" And I said very clearly, "If we have any doubt about this, we cannot write it down. We can't. We shouldn't. We mustn't. This is the lesson of what is good practice, but it's also the lesson of the last round."

So, I completely agree on the need for having clarity. And nothing that has happened since has suggested to me that wasn't the right decision. But we made that decision in collaboration within the small team. The Org didn't go off on its own and make that decision. The Board were having involved, you guys were having involved and we will continue to be so.

Now, built into that, as James said, and as you've said, and as Sebastian said, are some uncertainties. And unfortunately, they are dependencies. So, also from the last round, we know that the Applicant Guidebook has to be finished properly, because if it isn't we will leave risk on the table for the business requirements that go into building the actual application system. That was a huge learning from the last round. We mustn't, mustn't, mustn't fail to do that properly because if we do, we just take more risk. And how crazy would that be to do that having done around before? I mean, that's just nuts. I don't want us to do that. Nobody wants us to do that.

So, one of the big questions is how long is it going to take to finish the work that is going to have to be completed for the Applicant Guidebook to be completed so that it drives the business requirements? The answer is we have done a lot of work together. Those assumptions are in the implementation plan but, we are in that work process now. And clearly, we have to. We cannot rush the completion of the policy making

because some of these issues have a tough and they've existed for it for a long time. But we the organizers, I can tell you from my part and Becky will tell you what the Board thinks and my colleagues on the Board will tell you, we have set up comprehensive internal resources to provide us with capacity to flex, if we're inside that process.

So, Avri's term is there are [inaudible 00:46:07] bits. In the process of getting to the end of the policy making process, some of it is more flexible than others. And as we work together to close those up, put the door behind it, put the ball and move to the next stage, I've made sure there's enough resilience and flexibility in our team that we go with you literally side by side. We will not come to you with a rigid structure that can't move. That has also been part of our planning.

And that's why we put the team structure together for this stage that we have to provide really comprehensive, as I said in our last meeting, people leadership because it's not just about processes. We have to stay on this bus together for as long as it's going to take. And sometimes it's not going to go the way we want, any of us. We've got to have the experience and the confidence in each other to be able to say, okay, so now we have to get back. We have to come back because we've got a deadline. We have got a deadline. We've agreed its April.

So, as we go through that process, just to finish my comments, I'm confident because I have a lot of trust in this guidebook and this work we've done in the last six months. I really truly do. And I've put a lot of my sort of leadership capital if you want to put it that way, into the belief that this is what we will do this together. Because I really believe that we will.

But as we get through completing those policies, we will see more clearly every day probably whether that date crystallizes which is your point the date as opposed to the month. At the moment you said the month. That's in the document. Now, we're saying what's date. So, I think, even at this meeting, I feel we've really progressed this discussion because we're being very open about it and we're sharing it. And I just wanted to close on that that we will need to keep talking about this and we will keep talking about this. And as soon as that visibility starts to come, then we would all feel comfortable to move that forward. That's my take on it. Becky, please.

BECKY BURR:

Thanks. I'm going to actually turn this over to Danko, but I just wanted to say one thing Jeff mentioned was what is it an applicant has to go through? What's the timeline? I do think that would be very interesting and important for the Board to have. So, if there's a capacity to generate that, we'd love to have it. Danko?

DANKO JEVTOVIC:

Thanks, Becky. Thank you, Sally, for these detailed comments. And I think we can all see now why the Board is so confident in Sally and her team to deliver on everything. So, we really trust that the Org is on top the project. But if I may brainstorm a little bit in this very close setting here, also the Board, we started this discussion also about how your businesses are viewing the next round.

So, we had a bit of feedback from the SO/AC leader's session with Sebastian about the date obviously. And we discussed this, and we

understand the importance of understanding your work, your business requirements, your budgetary cycles, that you need the time to gather money, people, and all of that. So, we think it is very important part of the process.

But as Sally explained, there are some things that are still crystallizing in these critical parts that we are looking at. And a lot of those decisions that have to be made are described in the documents. But as we go forward a lot of those decisions are dependent on the community work. And from the Board perspective we have a bit of kind of internal thinking, what is exactly the role of the Board in these processes? Because if we want to have firmer date and more efficiency that we often talk about delivering things, we need to have a backstop to some of those processes.

So, I think this is discussion that will have to come. Do we, "we" meaning altogether, want to have more efficiency? And that probably will mean at some of the decision trees, that we'll need to have the Board as the backstop and then we can be more certain about the critical path and the dates. Or do we want how more hands-off from the Board? And then it means that in some of the cases we will have a slippery timeline, better than slippery slope.

So, this is something that think we need to discuss going further. But the number of those decisions will reduce as we go forward very effectively with our small teams meeting strategy of working together. So, I think we are on a very good path. As I said, we have confidence in Sally, and thank you for explaining that. And these discussions are very important, and we welcome all the information about the timelines that

you need and the information you need and the probably how you're thinking about the processes because we are not dictating this, we are in this together. Thank you.

BECKY BURR:

Thanks, Danko. I've got James and then Samantha in the queue.

JAMES BLADEL:

Thanks, Becky. James Bladel speaking again from the registrars. And I'll try to be brief because I think Jeff and a Crews covered a lot of my statements as well. The finish line for this project that ICANN becomes the starting line for a lot of the work in the industry and therefore, it very concerned to be able to be able to reliably bolt on to that.

But what I wanted to add was, and I am grateful for Sally's explanation and the confidence that she's expressed in the process. But I wanted to add that in my role, I find myself in the position of often describing and defending ICANN to different audiences including in internal audiences in my own company and other venues. And it is my view that this has become a credibility concern for the institution and the multistakeholder model, and I don't say that lightly.

I have heard this highlighted as one example or an exhibit of to why this is becoming a non-viable approach to some of the critical functions that we've asked ICANN to undertake. I've also heard it cited as some of the excitement behind alternative name structures and what kind of feeding those flames, which I have also been a little more skeptical of.

So, I think it's very, very important not to pile on the pressure here. I think we need to have the 360-degree view whether this is a community concern, a Board concern, a staff concern. Outsiders don't care. That's an insider debate that is really lost once we leave this venue. I felt that that needed to be relayed back into this conversation that the eyes are on ICANN to deliver on this question as an example of how it can function more broadly. And it's one of those questions of don't tell me how important ICANN is, show me how important ICANN is.

TRIPTI SANHA:

Thank you for that feedback. And I'd like to say we're going to take that back and we'll come back with some concrete dates. Thank you.

BECKY BURR:

Thanks, Tripti. Sam.

SAMANTHA DEMETRIOU:

No problem. Just in addition to everything James said. I think James put it in such a great larger context. And I also just wanted to go back to one thing that Danko had raised which is, you kind of asked the question what is it that we as a community want here? Do we want more direct action by the Board, or we'd rather the Board take their hand off a little bit? Do we want things to move efficiently? Or what is the question?

And I think as we're looking at the context of the strategic plan in the future of ICANN, why was SubPro more complex this time? It's because the community has expanded so much because of the last round. We

brought in a lot of new players, a lot of new actors. This is more interest and more participation at ICANN than there has been before. And some of our processes have become more robust. And I think that's needed and it it's necessary, but at the same time, does that blow things down?

And so, as we're looking at what the next five fiscal years are going to look, like what beyond is going to look like. This is relevant because the timing of SubPro and who gets involved and who is going to be applying and who's going to be working with people who do apply, that's going to impact what this community looks like in 5 years, in 10 years. And then how we all work together, and how we function and how that then has implications for things like processes, things like the way the community interacts with the Board and with staff. It's all connected here. It's all a piece. So, I mean, I think just to echo James, it's not just about the date but it's about what the date then implies for kind of all of us going forward. Because I'll probably still be here in 10 years.

BECKY BURR:

That's good to know, Sam. Any other?

SALLY COSTERTON:

Well, I just wanted to echo the sentiment of the connectivity, Sam, that you were talking about, and James talked about. And I wanted to reassure the group that I totally understand what you're saying. I think we all do. It's been very obvious to me at this meeting, and we've talked about it at lots of informal meetings and dinners with each other as well as in the formal sessions. There is an enormous focus at this meeting, and I'm very glad there is, on the internet governance issues that faces,

which I think is what you're alluding to. Yes. Even in all our bilateral, my bilateral, this is coming up as you would expect.

And we need to stick together. Nobody's saying we're not, but I mean more than ever before, I couldn't agree more. We have to show that this model works. And the partnership that we built through these last months on both this round, is the thing that gives me the confidence that we can get to the dates that we think-- the April dates, as I said earlier, but also as I said in the GNSO meeting with the Board.

I regularly refer to this partnership, and my belief in the partnership, our belief in each other, to the outside world, to the stakeholders you were talking about, when we're having meetings in IGF, when we're having with governments, journalists, bloggers, that they need to look at this working because this is what it looks like. This is how it works. We partner together where everybody has a hand on the outcome. That's what the process looks like.

So, what we have to do then is keep going. Because the worst thing we could do now is not keep that process moving to deliver on what we've agreed to deliver because I couldn't agree with you more. I think if we do lose focus on that and we can't maintain that partnership, that opens up vulnerability. I think the opposite is also really true. That we're walking through something physically showing the world what we can do when we work together to agreed set of dates. You have me sold on that one. I think it's absolutely linked, and I experience that every day in this role. So, I couldn't agree with you more. Thank you.

BECKY BURR: Okay. I think we're coming down to the-- Oh, we actually go to the top of the hour, right? So, we have extra time. I was going to say we've gotten through all of our topics, but let me just throw this open to Ashley and Sam on any other issues or anybody out in the audience there?

SAMANTHA DEMETRIOU: This is the karaoke portion? I'm kidding.

BECKY BURR: Well, it could be.

SAMANTHA DEMETRIOU: Not from this girl. No. So, I don't think there's anything else that we really wanted to cover today but I just to maybe tack on to the last thing Sally said about our ability to work together. I mean, I think in the time that I've been doing this, in the time that I've been chair, I think we've really strengthened the relationship between the CPH and the Board members. And I think that's just a real testament to the folks who are sitting here around the table today and the folks who are in the audience for making yourselves available and being so approachable and being willing to have these conversations.

I think that outreach that Tripti and Sally do to the community leading into each ICANN meeting, I think that's a real positive development. And just being able to have these relationships and being able to talk through these things in a way that does feel very collaborative, whereas maybe at points in the past had felt like two opposite views on opposite

sides of the table, I think has been a really positive thing for the Contracted Parties House. So, I just want to express my appreciation for the dialogue today. Ashley or Becky, anything else?

BECKY BURR:

Let me just say I actually thought it was interesting the way you guys presented your topics. They weren't in the form questions. They were just we want to talk about this issue. And I think that was actually very useful. The issues changed over the course of the week, but also nobody was coming in with prepared responses.

SAMANTHA DEMETRIOU:

Yeah. It's a little trial and error because the last time we prepared questions, it turned out that a lot of times they were lapsed by events. And so, we figured keeping it a bit more flexible might behoove us.

BECKY BURR:

Yes. Go ahead, Chris. Oh, Chris needs some microphone.

CHRIS CHAPMAN:

I'm Chris Chapman for the record. That was a very useful breakthrough thought building on Jeff's observations and Sebastian's in an earlier session. The project for us is complicated and there are a huge number of dependencies. Therefore, co-dependencies or interdependencies is large. The critical path for us is important, it's emerging, evolving and we're starting to get a handle on that and that's very encouraging from my perspective as a Board member.

But the thing that's emerged from me is the offer of assessing the other side's critical path. And I'm hoping it's not a question of just us getting to the end of our critical path and then you overlaying yours at the starting point to the next critical path. It would be interesting to overlay the two critical paths to see where an earlier juncture can be met. So, I found that interesting, I found that encouraging and I just wanted to add my impressions that from the Board perspective, we're getting some real traction momentum and cooperation. Thank you.

BECKY BURR:

Thanks, Chris. I think people up here are expressing agreement with that as an interesting approach. Michele has a hand up.

MICHELE NEYLON:

Yeah. Thanks, Becky. Michele here. And as you had time, I thought I might just raise one topic with you. This week you probably have heard from registrars and registries and from some of the staff around the voting on the RAA amendments, which we're going through in order to improve things I suppose with respect to anti-abuse. I suppose the ask I have is that from your side, from the Board, and from the organization that you don't come back to us and say no, it's not enough. But we need something else. We went through this entire process in order to address what was felt to be a gap. And I hope that you will actually feel that this fills the gap and that you are able to enforce those contracts. Because I don't see how we can go through this all again and again. Thanks

BECK BURR:

Thanks, Michele. I was actually going to raise that issue, given that we have some time just in terms of the voting and how that's going. But just on that particular point, this was always coupled with this notion of potential for micro-PDPs. So, I just want to make sure you're saying let's not do that. I just want to make sure I understand what you're saying with respect to the follow-on work that was always contemplated.

MICHELE NEYLON:

Sorry, Becky. I didn't mean that we couldn't have PDPs or anything like that. It was more a case of the contracts, the 2013 RAA had certain stipulations within us. Some of us interpret that in a particular fashion. We're perfectly happy to do certain things based on what was in the contract. ICANN Compliance and other parts of the ICANN Org said that that was not sufficient, that they felt they could not enforce it in the way that some of us have interpret it. And so, that was why we ended up with this suggestive new wording.

So, that's specific to the contract. That's not about policy. Policies as you know we're more than happy to engage on policy development, and you being the expert on the picket fence, we'd all know all that. So, no, I'm not saying that it's not a question of there being no new policies. I'm talking about specifically the contractual language itself.

BECKY BURR:

And that's totally fair. We've been talking a lot about trust here. I think the Board unilaterally moving the goal post after a demonstration of good faith on the part of the contracted parties would be not conducive to moving forward. So, I think we're in agreement with that.

MICHELE NEYLON: Sorry, Becky. Not a matter of the Board moving goalposts, but more a case of ICANN Org coming back and saying, no, the new contractual language is not sufficient. That's what I'd concerned about. And I'm not suggesting that likely to happen. The point is that we voluntarily came to you and suggested to change the contract in order to make things better. So, just we hope that will actually be delivered on. That you will be able to enforce the contracts. So, if that makes sense or not.

BECKY BURR: Makes sense. Got it. Sam?

SAMANTHA DEMETRIOU: Thanks, Becky. And thanks, Michele. I want to just point something out. And if anyone from staff who was involved in the negotiations also wants to jump in here. One of the things, one of the principles we set down when we open the way to specifically address that point, Michele, and that question. If we're going to go do this work it has to be something that ICANN Contractual and Compliance can enforce. So, everything that we discussed, and all of the language was viewed very specifically through that lens. And that I believe I can report out on behalf of ICANN staff that they were comfortable that the new language is indeed enforceable, and that's why we were able to get to agreement to put them out for public comment. So, I see Jamie's taking the mic. I think hopefully he's going to thumbs up that.

JAMIE HEDLUND: Yeah. Thank you, Sam. That's absolutely right. We were very happy to be able to participate in the negotiations. And our role was not to say one way or another what those policies should be, but that they were clear and enforceable. We never said we weren't able to enforce the obligations as they exist now. We do. We have the tools to enforce them, and we've never weighed in on policies about what policies should be improved or adopted. But as new policies, new obligations are developed, we in Compliance in order to perform our role do have a strong interest in providing input to make sure that they are clear and enforceable. Thanks.

BECKY BURR: Thanks, Jamie. Ashley, I'm sorry I've missed your hand.

ASHLEY HEINEMAN: No worries. Yes. Ashley, chair of the Registrar Stakeholder Group. Just following on to what Michele was saying. I think we're really excited to see the effectiveness of these amendments, knock on wood, that they go through. And I think we're up a little bit of concern and hesitation that it seems like the rest of the community sees it as simply a gate to the flood of new PDPs. We're not against new PDPs. I think what we want to make sure happens though, whether it's a micro or other, that they're fact and data driven, as opposed to let's try to end world hunger type of PDPs.

And again, I think looking at these amendments and trying to find a way to measure their effectiveness would be really helpful. And again, there are a lot of tools in the ICANN toolkit. I think it'd be great if we can rather

than assuming it has to be a PDP, that there's other things that we could certainly do, but I really look forward to further conversation with the broader community on these issues.

But we are 100% focused, speaking for the registrars, on getting these amendments through. I think what would be horrible if we find ourselves in a situation where they don't. So, I think there might be the perception that the registrars are not engaging on the next PDP at this meeting when in reality is like, let's get over this hurdle first please. We because this is going to be really important and it's going to be such a disappointment if we don't get over this hurdle. Thanks.

BECKY BURR:

Thanks. And I know that this issue has come up in other meetings with SOs and ACs. And the GAC specifically asked us about listening sessions. And James was very clear whatever happens down the road with micro-PDPs or whatever, we're done here. We're getting through this first. We're not going to pile on in the midst of this. Alan. Sorry. And then Jeff. Alan and then Jeff. Sorry.

ALAN WOODS:

Thank you very much. Alan Woods for the record. But this is about a different topic. So, if it's on--

JEFF NEUMAN:

It's on this. Yeah. On this, I always found it interesting that as we go through and we plan the voting process, after the registries and registrars vote, there's like a 2- or 3-month gap before the Board

actually in a plan vote on it. And so, it seems to be a lot of we are eager to get this in places Ashley said, and as the registries and registrars, is perhaps like a show of the community and how much we all together collectively support.

I don't know if there's a way for you all to, if our voting ends in November, to actually vote then sign the contracts and move things forward because we're always seen as such a slow bureaucratic organization that even if the registry is voted and approved it in November, it would still take until March or something for the Board to announce that it's going to be in place, and they take another few more months because of the contracts to actually put it in place. So, has the Board thought about how it could in its processes maybe move a little bit quicker to be ready to sign those or to approve those contracts as soon as the registries and registrars are done and, knock on wood, pass it?

BECKY BURR:

Thanks, Jeff. I don't think I was aware of a 3- or 4-month gap, and I don't know what is involved in it, but Russ is going to tell us.

RUSS WEINSTEIN:

Hey, Jeff, Becky. This is Russ Weinstein from staff. So, we'll go to Jeff's item and then we'll come back to some of the discussion that Michele had. So, first of all, the schedule we have for voting. Voting ends December 8th. So, December 8th, then we go into the holiday shutdown, and God willing, all of our registrars and registries come to

the vote and make this successful, which is what we're lined up and pushing hard to get done. And then it goes to Board action.

And so, there's work to do from our side to prepare the Board to take that action. And we're going to do that as fast as we can. We've been targeting and putting timelines together that are reasonable and make sure that we can achieve them. I'm trying to set expectations that we can achieve each time. And if we can beat them, we will. But I think we're looking at action as late as March but possibly earlier from the Board on that. And just built in the contracts, there's a 60-day notice period that we have to give after everything's effective so that you guys have time to ramp up to the new expectations. I think it's a good plan. I think the best thing we can do is focus on getting that vote, honestly. I think let's let the plan play out, and not try and jiggle the timeline just to save a month here or there.

On the discussion, Michele, Jamie talked about it. We had the whole team in the room from legal compliance, GDS, OCTO, altogether working on this so that we know how to interpret the contracts. We work together with the contracted parties to do that. I'm really excited and think we should continue that discussion as we go through this and as we learn what the real cases are and evaluate how we can continue to improve and continue to push the bar. So, I think we're well positioned as an organization and as an industry to keep fighting abuse better and better as we go. And the contracts are that big important first step that the community can then take forward. Thanks.

BECKY BURR: Thanks, Russ. I think the point that James made in the discussion which echoes Ashley's point is data, as to how the new amendments are working out makes a lot-- it makes a lot of sense to get that data before we think about needing to do anything else. Alan?

ALAN WOODS: Thank you very much. Alan Woods again for the record. And this is if we only have time to talk about this. It's not on the topics and I'm just kind of pulling it out of the air, but we've talked about this before. And maybe is there an update by any chance on those three lovely letters IGOs? If we have time. Thank you.

BECKY BURR: I don't know if Mary is in the room but, I asked Mary about this and I believe that there is a timeline that is being finalized and will be issued shortly. So, there was work going on and movement towards getting this done as quickly as possible. I don't know personally what the timeline is, Alan, but I-- Ah here's Mary.

MARY WANG: Hello. This is Mary Wang from the policy team. And for the benefit of those who have not been following this lovely issue. Together with colleagues from the GDS, legal, IT, and other functions, we have been working on various facets of implementation of IGO second-level protections. And obviously there are one or two that are particular interest to the CPH as well as to community members.

This includes the implementation of the curative rights, policy recommendations that the Board approved in I believe April. And of course, I think there were questions asked earlier this week as well about progress on developing prominent notification system for IGOs. Again, all of this second-level protections. I won't touch on the other things but essentially, I got up here to say Becky actually answered the question. We had hoped to have a very preliminary timeline for all these various work streams ready to share with the community by ICANN78. We are finalizing it as Becky says, and our intention is to share it with everyone. Again, it's preliminary, things can shift, but we do wish to share that with you shortly after this meeting.

BECKY BURR:

Thanks, Mary. All right. Other issues? Other questions? Seeing no hands. Sam and Ashley, I'll turn it over to you for closing words.

ASHLEY HEINEMAN:

I can keep it brief. It's just a thank you again for taking the time to meet with us and entering into a constructive dialogue. So, thank you.

SAMANTHA DEMETRIOU:

Yes. Just a big old ditto to that. But also, I just want to take an extra moment to thank the GNSO and Boards, secretariats and support staff for always making sure that these meetings run really smoothly. So, thank you to you guys.

BECKY BURR:

Thanks. And let me say I thought this was a good exchange, not so scripted and hopefully we'll move things forward. Alan, I will always give you the opportunity to raise a random issue. Thanks very much. Now, I am on the record, but he knows that it wouldn't stop him even if I didn't. Okay. Thanks everybody. We'll do it again soon.

[END OF TRANSCRIPTION]