ICANN80 | PF – GNSO: NCPH Work Session
Wednesday, June 12, 2024 – 10:45 to 12:15 KGL

ANDREA GLANDON: Hello and welcome to the NCPH Membership Session. My name is Andrea, and I'm the participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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I will now hand this over to the NCSG chair, Julf Helsingius. You may begin.

JOHAN HELSINGIUS: Thank you, Andrea. And thank you, everybody, for coming. Welcome. I will be chairing this, hopefully, assisted by Mason and Paul. I do note this. There's a bunch of our people missing, but they will hopefully pop in soonish.

We have a rather full agenda, actually. It looked pretty short when we started planning it, but then it filled up very quickly. Does anyone have anything they want to add to this agenda? Shall we just jump into it, then?

Our next item is a Team 14 update. I don't know who's here from Team 14. Ah, yes. Go ahead.

PAUL MCGRADY: Thanks. This is Paul McGrady, erstwhile chair of the group of delightful cats that we call Team 14. We have met. We have formed a team. We have formed a culture. We are currently collecting information from our individual constituencies and stakeholder groups. It's actually a diagnostic information about what we think went wrong last time, to put it politely. Farzaneh essentially was the thought leader on the survey, and folks are using similar formats, I understand, to collect that information.

We missed a meeting or two because of scheduling difficulties. So we're a little slower out of the gate than we expected, but our agenda is small, relatively speaking. And we still remain very hopeful that we will get a report back to the broader group on schedule, so we can hopefully have all the work wrapped up by the end of the year. If that slips, it won't be by much.

But the main thing to report out is that we're getting along, which is great. Thanks.

ANDREA GLANDON: Julf, Steve has his hand up. Steve DelBianco.

JULF HELSINGUIS: Steve, go ahead.

STEVE DELBIANCO: Paul, thank you for that. For context and relevance to the group, who is on the team, and what do you see as the Charter of what you want to accomplish by the end of the year?

PAUL MCGRADY: I'm going to get it wrong if I try to remember everybody that's on the team because it's really—but maybe, Andrea ... Oh, here it is.

ANDREA GLANDON: Yeah.

PAUL MCGRADY: I can remember. I'm on the team. Damon, Marie, Philippe, Bruna, Rafik, and Farzaneh. So it's a group of folks that have been around for a long time.

Our remit is small. Some had suggested that we take on the fun task of trying to figure out how to normalize the GNSO vice-chair selection, and we decided that, one, we didn't have time to do that. And, two, it sort of expanded beyond what we wanted to do.

Our remit, like I said, is very narrow, and we are attempting to develop a structure that everyone can agree to and that can be documented so it can be referred to in terms of how we select the Board Seat 14 to represent this house on the Board. So there have been, in the past, folks that thought that this issue was settled and there was some kind of agreement. And there have been other people that believe there were affirmational structures. Other people believed nothing had been done. So we are attempting to create something that everybody can buy into and will stick.

Part of the sticking is that Andrea pointed out that we have a Wiki, and that's further down the line. But we will now have a repository for that document once everybody adopts it. It's not a foregone conclusion that we'll get there, right? But I think everybody on the team wants to get there. It's just more than good faith. There's a real camaraderie.

STEVE DELBIANCO: One follow-up is that the failings of our previous efforts to make this work smoothly were not fully attributable to the lack of a repository documenting the procedure. The procedure we worked up in Hyderabad, we passed it around. It was a document that we had in our hands. The GNSO policies/procedures had a copy of it in there, so we all knew what it was. It just didn't work very well if we couldn't come to consensus on a candidate. So the key is not that it's documented but that the document describes a process that breaks the log jam of a lack of consensus.

And then there was an unrecorded assumption about taking turns or something. And nothing like that ever happened. I was in the room when it happened, and we never made that. And so there was some notion that documents were left out, but that was just a myth, right?

So the key is to solve the problem when there's a log jam. And I'm just making this appear to you because I'm not on the team. Marie and others are. But I'm just making an appeal to you to make it more about solving a log jam problem than anything else.

And then with respect to the long-term timing, we're well-represented by Chris in Board Seat 14 right now. What are the terms of Board Seat 14 in the number of renewals and term limits so that we have some sense of when we know we have to have this procedure perfected?

PAUL MCGRADY: Thanks, Steve. So, yes, you're right. It's more than just creating a document that we can find, and it's more than just buy-in from the House in general. It is, in fact, incumbent upon us to come up with something that solves the problem.

However, even the term "log jam" is political because there are those who do not have a problem with log jams in this context, right? And so our rhetoric is about meeting deadlines. So you'll see meeting deadlines more than log jams or choke points or whatever. But, yeah, that's good.

In terms of timing, yes, Chris is new. So that gives us a bit of

runway to finish this up. It doesn't have to be done by December. We have two years, right? But what I find is that in negotiations, sometimes things go more smoothly when there isn't artificial time pressure.

And we also have to realize that Chris can be called up to major league baseball tomorrow. You know what I mean? He may not want this job forever. He may want to be shortstop for the Phillies. So, still, even though there is this two-year window, we still should get it done. Yeah.

JULF HELSINGUIS: Thank you. Any more questions? Comments? Input? Opinions? I don't see anything online. All right, let's move on to the next thing.

Board's dismissal of the IPC's Request for Reconsideration. Who wants to talk to this issue? No one?

PAUL MCGRADY: I nominate Michael or Damon.

ANDREA GLANDON: Julf, Lori Schulman is on Zoom, and she has her hand up.

JULF HELSINGUIS: Okay. Lori, go ahead. Lori, you're muted.

LORI SCHULMAN: Oh, sorry. Hi, thank you. Just keeping my screen off when I'm not speaking, for bandwidth purposes not because I don't love you to see my freshly washed hair.

With that, I'll give a little update of where we are, what we're hearing from the rest of the community, where we think we might head. I am the sole point of contact for the IPC for the negotiations with ICANN Legal. J.J. is the other sole point of contact.

Although, that being said, neither one of us is alone in the room. John McElwaine is the co-chair on this with me to discuss what reasonable outcomes might be achieved before we would hit the level where we would file an action like an IRP.

J.J. has two of his staff members, regulars in the governance sphere. Their names are escaping me right now. I apologize. But I know if Jan's on the call, he knows them. He can type them into the chat, as he works with those staff members frequently.

So right now, just to recap for those who may not have recalled, the IPC took issue with the Board resolution regarding limiting access to community remedies, community mechanisms for resolving disputes from applicants that were denied grants or, really, any applicant that might t have any claim against ICANN in terms of the granting of auction proceeds to the program.

What concerned the IPC is not the intent. The intent was to protect the auction proceeds from litigation. What concerned the IPC is that this vote by the Board made an end run around the fundamental Bylaws. That this type of change limiting the remedies—if there's uncertainty or the remedies are not fit for purpose—the idea is the Board can't just literally contract around them or make a resolution around them. There has to be a fundamental Bylaws change. So that was the principle we started with.

The result that we got was not unexpected by quite disappointing. We were summarily dismissed—which means you're done, you're over, the ICANN Board doesn't feel you have a case—on three bases.

One, that the issue is moot. Moot meaning that the issue has been resolved. How was the issue resolved in ICANN's mind? It's that the

Board decided to reissue a new resolution that would be more inclusive of its intents, not focused solely on auction proceeds. And that would resolve the issue, as the new resolution would be proposing a fundamental bylaws change.

So they got our point. So they considered the issue settled. However, the issue is not settled because that resolution, not only did it not pass—it's never going to get to the floor—we still have the resolution from October. And we have in the Applicant Guidebook for the auction proceeds that they cannot use community remedy.

So nothing's been solved. A point has been recognized. Recognizing a point does not solve an issue. So it's not moot.

Number two, we were dismissed for timeliness. We talked about several Board actions in the claim. And of the four actions we discussed, three were dismissed as timely. One was timely. So that means the action was timely. It was just untimely on three of the fact points. And that's fine. We got the facts into the record, and we can move on, on the timely file—fact. So no timeout here.

And then, finally, the issue of standing—and this is the most important issue—that the IPC could not contest this decision because we were not materially adversely harmed. We didn't suffer actual, direct harm.

There's two standards of harm. There's adverse harm, which could potentially be future harm, you could argue. Or there's material harm where we've actually suffered some kind of loss. One standard is different. The RFR requires adverse consequences, whereas an IRP would be material loss.

Which, when you think about it in terms of what the community accountability mechanisms are supposed to do, it makes no sense. It would be virtually impossible to figure out how to do an RFR or an IRP on perspective harm. We as responsible community members do not want to wait for harm. We want to mitigate harm before it even happens. So it's, in our view, not even logical or built for purpose.

This has also been recognized by the Board. Becky Burr very recently said she understands that we really might have to relook at the RFR. And if we look at the RFR, the IPC will certainly push, also, for relooking at the IRP.

We do have review teams now on the IRP, and we have work going on. But I don't know that any of it is directly addressing the questions raised by the IPC in its complaint.

So once this complaint was summarily dismissed, we asked—which was our right—we asked the ICANN Board to enter into what we're calling, what they call a Cooperative Engagement Process, CEP. And through that process, which I described earlier where John and I are negotiating on behalf of the IPC with ICANN Legal, is to see if we can come up with any compromise or resolution, or whether we need to go further. So there's been some discussion about entering into a community IRP.

There's been some discussion about negotiating perhaps an end result that requires opening up the processes that we're challenging. We're not there yet. We owe some kind of written response to the Board action. We're negotiating a time frame for that, but it will be sometime this summer and very soon after ICANN80.

There's also issues that are certainly better described by our counsel, Petillion Law, Flip Petillion and Jan Janssen. And Mike Rodenbaugh wrote the first complaint that we did on the RFR. So we have a lot of qualified IPC lawyers who've looked into this issue who feel we are on some pretty solid ground.

And in terms of what happens next—which I haven't gone into—procedurally speaking, the RFR was not considered properly. Meetings weren't held timely. Preliminary decisions weren't conveyed. We had one discussion with the IPC and the Board Accountability Committee at the BAMC, and we were basically told we can either take the so-called win by acknowledging the fact that the Board acknowledged that our procedural point was correct, even though not corrected; or we wouldn't like the outcome of the decision. And that's exactly what happened.

So now we have it in writing about how the Board feels. The IPC is not satisfied with that writing. We're in negotiations. We have been talking to the community about what the next steps should be because there is agreement in the GNSO and among constituencies that were this issue to continue, this is not something the IPC can carry on its shoulders alone. This is something the entire community should be behind. And perhaps the answer is a community IRP.

To that the response has been lukewarm to the community IRP, much warmer to staying in a negotiation phase and trying to figure out a process out of the mess that would avoid such a community action in terms of the IRP.

I'm going to stop there. Our counsel is in the room. I know Flip is there. I haven't looked at the whole list. I'm not on the Participant List screen. But Flip, Jan—and if Mike's in the room—anybody can talk to this who would like to add to anything I've said. Thank you.

JULF HELSINGUIS: Thank you, Lori. We also have Becky and Chris here in the room from the Board, so if they want to comment. They're, of course, very welcome.

LORI SCHULMAN: Yes, of course. I'm sorry. Now I have the list open. I apologize. I see everybody's here. Thank you.

JULF HELSINGUIS: Chris.

CHRIS BUCKRIDGE: Thank you very much. Look, I won't say too much here, particularly. As Lori says, there's ongoing discussions there with John, which I certainly wouldn't want to prejudge or get in the way of.

We have had a number of discussions of varying levels of formality with Lori and with others over the last few months. I think that's positive and important, and I hope we can continue doing that. I think on the Board, we certainly feel it would be good to try and manage this at a cooperative negotiation level rather than escalating it to a more formal, expensive, intensive IRP process.

I think we're also, while acknowledging and understanding the importance and the legitimacy of the concerns here, looking at what the impacts practically might be. For instance, on the Grant Program and its ability to move forward. So that's absolutely a concern for the Board, but I think also probably contributing to a general sense of let's try and move this forward and get some resolution here.

I see Becky has moved to the table as well and maybe has some additional insight.

BECKY BURR: Well, I guess I endorse all of the things you said. I have to confess. I'm a little puzzled, guys. You won. Once we correct Recommendation 7 to make sure that it gets at what we all thought was going to happen, there's going to be a Bylaws amendment in the nature and character that was recommended by the Auction Proceeds Working Group.

We definitely would like to resolve this cooperatively, but at the end of the day, I'm going to be very hard-pressed to see what the harm has been. And there is a harm standing because the Bylaws will be amended in the way that the Auction Proceeds CCWG requested, which is a specific carveout.

JULF HELSINGUIS: Thank you, Chris. And thank you, Becky. Anyone else want to comment on this? Go ahead, Steve.

STEVE DELBIANCO: Becky, separating the use of proceeds from our surprise about the harm standard, those are completely distinct issues. Because if, in the future, an RFR were filed by the community or by a member of the community, where is the standard of harm to establish standing, where is that in the ICANN documents? Or is that something that is applied, I guess, volitionally by ICANN Legal? Where does that standard show up?

BECKY BURR: Well, the standard is articulated in the bylaws, and there's certainly precedence in the Reconsideration Request, although those are not—there's information about how that's interpreted in the Reconsideration Request, those are not precedential.

The standard of harm in IRPs is different. We went to great lengths to say that we thought—we were not saying that under the circumstances, you could never make out a case of harm. We didn't think that particular request articulated the harm in a way that met the standard, but that was not a statement that that set of circumstances could not have been articulate in a way that met the standard.

The BAMC does follow the rules very strictly. For the requirements for harm and reconsideration, we apply those rigorously. I don't think I'm in a position to say, "If you had written it this way, it would have gone through. But you didn't write it in that way, and so it hasn't." I mean, I understand that there is value in understanding this standard better, but that's a conversation. That's not a Dispute Resolution Process, and so maybe we should just try having the conversation.

STEVE DELBIANCO: To follow up on that—whether you have time on the agenda for that conversation now or later is up to you—and yet working closely with you during the Transition when we designed these mechanisms, the community would be amazed if it couldn't bring a challenge to a Board decision where that decision merely modified the methods and processes. And when you challenge a procedural change, you may not have any harm to describe. It's all harm in the future, potential harm that might occur, and it's a hypothetical situation.

So not being a lawyer, I'm a little confused about how a harm standard will work when the community is challenging a decision that merely modified processes and there isn't an actual incident on the table about which harm can be documented.

BECKY BURR: I think that's a really good question, and it's a question we should have a conversation about. That whole section of the Bylaws—which, I mean, you guys have all heard me say this—part of my problem with the way that's constructed is we now have a situation where, actually, responders to an RFP can bring an IRP. That's not what we intended.

So there are a lot of things to discuss in that part of the Bylaws, and it would be an interesting and relevant thing to have a deep dive on that. I'd be perfectly up for doing that. On this particular issue, ultimately once we get the fix on Rec 7, which there are some groups that haven't signed off yet. I understand that most of the CCWG participants have. But once we get that, because of our desire to get the auction program off the ground, we will proceed with a Bylaws amendment in the form noted by the CCWG.

So I guess what I'm saying is, I mean, you guys can all take advantage of any of the accountability mechanisms you want to pursue this. But it seems to me a conversation about all of these things is in order. I'm sure that there could be an analysis. Somebody could do an analysis on all of the Requests for Reconsideration and the harm standard. It's also based on, you know, there's a lot of U.S. case law that is precedential for what harm is.

But I just want to be very clear because the BAMC was very clear in its thinking that we were not saying you could never pass the harm standard here. We were saying that particular Request for Reconsideration didn't articulate it in a way that met the standard.

JULF HELSINGUIS: Okay. Jan Janssen [inaudible] waiting for a long time with his hand up. Go ahead, Jan.

JAN JANSSEN: Thank you. And I recognized Lori's comment, "We're not in court." But there was something interesting, Becky, that you said about the standard for harm. You said that the standard is not the same in a Request for Reconsideration compared to an Independent Review Process. But my question for you would be, which would you consider the higher standard and the more difficult standard to meet?

And a second question related is that, as you said, there is some U.S. case law precedent, there is some IRP precedent articulating a standard for showing procedural harm. This has been articulated in the Request for Reconsideration that was issued by the IRP, but the BAMC did not engage with the arguments on procedural harm. And so I was wondering why was that, as you said that you had very thorough discussions on that with the BAMC? So I would appreciate if you could clarify that.

BECKY BURR: So first of all, I'm not sure I said that the standard for the IRP and the Request for Reconsideration are different. What I said was that to the extent there are discussions in the IRP about the harm standard, those are precedential. I don't believe that there is any precedential value associated with decisions related to Requests for Reconsideration. I think that's just a straight read of the Bylaws on this.

When we created the revised IRP, we specifically said that it would be precedential. We didn't say that about the Request for Reconsideration.

Second, I'm not ICANN's lawyer. I'm not ICANN's lawyer. I'm not ICANN's lawyer. I just want to say this over and over again. I'm a Board member acting as a Board member. I'm not a lawyer here. I would have to go back and look carefully at the language, both of the Bylaws, the BAMC decision, and the procedural harm issue because I honestly can't tell you as I sit here that the harm standard would ...

I don't have an immediate confidence in my ability to describe what would happen with the procedural harm because I think the harm standard is articulated in a way that is clear. But I don't want to speculate on that, and I don't want to play a lawyer in the Non-Contracted Party House Working Group.

JULF HELSINGUIS: Thank you. Any more comments? Opinions? Lori, anything you want to add?

LORI SCHULMAN: No. I had put in the chat that—yeah. So, yes. I had put in the chat that both John and I felt that the initial conversation was positive. It was not as confrontational as we thought it might be, so I do think there might be some room here to move forward in a way where the outcomes are really win-win. However, again, this legalistic approach in terms of the ...

I understand that we have to follow procedures, of course. I understand that we are, obviously, wedded to our Bylaws, which is the point of the whole RFR. But in terms of this legalistic issue regarding harms per se, I almost feel at some point, perhaps, we could sever it. But I don't know that, and we're nowhere near that. But I also think that's what Becky's saying. Just have the conversation. But it would be helpful ...

At least from our view in terms of ICANN Council and the Board, to the extent that it works with Council as well as the Org, that having this extremely hardcore, legalistic approach on this particular issue at this point in the game, I think could actually hurt the progress. And I'll leave it at that.

JULF HELSINGUIS: Thank you, Lori. Stephanie has her hand up. Go ahead, Stephanie.

STEPHANIE PERRIN: Thank you very much. For the sake of us not-lawyers who are trying to follow this argument—and you've been very clear, all the speakers—I just want to make sure that I'm getting this correctly.

To me, the problem is that I'm participating in a policy process. We have observed that there is a policy gap, that the way the Board was moving forward appeared to be in violation of what we thought were our policy remedies. They have said, "No, you're wrong because you haven't had"—what I would call in my layman's term—"a material harm." The two harms that Lori described are both material harms.

We are bringing this forward, or IPC brought it forward because we're trying to recognize a procedural problem. And, obviously, we wouldn't have any gain or loss in a procedural problem. That would be a conflict of interest, right? And I'm not trying to raise conflict of interest as an issue here. But we're here speaking as participants who are trying to create a fair policy environment.

So to be thrown out on these grounds strikes me as very odd, indeed. How on earth did we create a remedy in which we had to be litigants? And, again, I'm not using these legal terms correctly. I hope you see my point and my question. Thank you.

JULF HELSINGUIS: Chris, go ahead.

CHRIS BUCKRIDGE: Thanks, Julf. I think we're sort of coming to the close of today's particular discussion, but I think there are two quite distinct issues here. And in some ways, I think the priority should be on not conflating them. I think the discussion we've had about the RFR about standing is an important one. And I think I haven't heard all sides or all elements of it, but the point's made in the chat and in the discussion here point to further discussion that needs to happen about the RFR process.

I think what I would hope is that we can keep that as distinct, as I say, from the specific process that inspired this discussion. It's good that it inspired the discussion. It's pointed to a gap that needs to be investigated further, discussed further. But separately to that, hopefully we can find a way to move forward with what needs to happen to allow the Grants Program to proceed at the end of the year.

JULF HELSINGUIS: Thank you, Chris. And I think that makes perfect sense. Anyone else? If not, I'm going to move ahead on the agenda. And we have a bunch of housekeeping issues. There is an e-mail list, both for the leadership and, I think, for Team 14. But whether they actually have the right persons on them or not is something we need to look into and update.

We have a Wiki, but we have the usual problem with Wikis. We don't have much content there, so that's something we all need to work on.

So let's at least first look at those two items, and then we might discuss the intersessional separately.

Andrea, do you want to comment on any of this and describe what the situation is currently?

ANDREA GLANDON: Sure. Regarding the e-mail list, as it says, it was established long ago. And it's just for leadership, so we can certainly get back to that one.

I know there was discussion before about an all-NCPH e-mail list, but that seems large. We can certainly do it. It's completely up to you guys if you want to, but that could possibly get out of control. So another method would be to keep the leadership list established and then have the leaders disperse information as needed from there. That way we don't have this huge list of NCPH.

As far as the Wiki, we do, of course, have the Wiki there. There is some old information there. We added the Team 14 underneath that, and we keep their documents, recordings, and all of that type of stuff there. Also happy to update it with any other NCPH information that may be needed. So, yeah, just let me know if anything needs to be added there or changed as well. I think that's it for me.

JULF HELSINGUIS: Thank you. That's very helpful. Any questions or comments on that part? I don't see anything online either. Yeah, we definitely need to work on the content. But I think I support the suggestion that we actually only have a leadership list, and leadership can distribute the information.

Then we have subpoint 4(c), and I would kind of want to combine it with point 7. We really wanted to have an intersessional meeting. And if that's not possible, then maybe a Zero Day.

Paul, can you actually give an update on what the discussion has been about the intersessional [with the Org]?

Mason will actually speak to that.

MASON COLE: You're off the hook, Paul. Thank you, Julf. So just a bit of context on this. We had a Non-Contracted Party House Day Zero event in—it was Hamburg, right? That was the first one we'd had since before COVID, and it went extremely well. We had great participation. We made a lot of progress on issues. We resolved some conflicts. It was a good investment of time. I think everybody would agree.

I was sharing [with the] CSG at the time, and Julf and I agreed that we would make another bid to ICANN Org to have a Day Zero event here in Rwanda. And we put in a request. You have to do so 90 days at least before the start of the meeting. We put in a formal request to ICANN Org for that, but we were turned down. The reasoning being provided that because of the high-level governmental meeting, too many ICANN Org resources were required to support both the high-level government meeting and a Day Zero event for us.

So we're sort of back to square one. We have a couple of options to consider, going forward. If we want to maintain the momentum as the NCPH that we started in Hamburg—and speaking for the BC, I think we do—then we can either organize and request help from ICANN Org to have an intersessional, which would be a separate event from an ICANN meeting held somewhere in the world that would be at least somewhat convenient and cost-effective for ICANN Org and us.

Or we can aim for another Zero Day meeting probably in Istanbul or, potentially, in Seattle in March. Do I have it right so far, Julf? Okay. So that's where we are.

Speaking for myself, I'd like to open this up for discussion. There are reasonings for both options. One would be for a formal intersessional. We used to have these. The contracted parties certainly enjoy these. There's a summit in May in Paris where Contracted Parties had, I think, a three-day session plus plenty of interactions with the Board, which is something we haven't enjoyed for some time now.

So we could look into the possibility of aligning an intersessional with a Board Workshop or something similar, if that were reciprocated by the Board. Or we could go the Day Zero option and simply add a day to one of the meetings coming up. That would extend the meeting time for us by at least a day, so you're looking at eight days of meetings in Istanbul rather than seven. If that's something that can be tolerated by the Non-Contracted Party House, that's an option as well.

At Philippe's request, I'm handling this issue for the CSG. Julf and I have not had any discussion about this, really, since we were denied the meeting here in Kigali. So that's where we stand right now.

Julf, correct me if I've left anything out.

JULF HELSINGUIS: No, that's perfect. You're next. But before that, I was going to say, yeah, I think [inaudible] the Istanbul meeting is going to be a very long one anyway. And if we add one more day, it's going to be extremely long.

ANNE AIKMAN-SCALESE: Thank you for bringing this up. I would favor the intersessional approach for a couple different reasons, but mostly because I think there are a lot of complex topics that have come to light at this meeting that, as the Non-Contracted Party House would help us to come together on some of those ideas and approaches and especially as we're working with the SubPro IRT, etc., that intersessional could hopefully happen sooner. I don't care where it is. Wherever it's the cheapest. Wherever it's the most convenient. I don't have to go to—

JULF HELSINGUIS: It's definitely not Iceland.

ANNE AIKMAN-SCALESE: I don't have to go to Paris.

JULF HELSINGUIS: I have Paul next. Then Damon. Then Rafik.

PAUL MCGRADY: Thanks. So just to clarify, we're not going to Paris, right?

JULF HELSINGUIS: Yeah.

PAUL MCGRADY: So, Chris, this is for you. Poor Becky, we've already beat up on too much. So, Chris, this is only you. I know that sometimes we feel like we're the stepchild and we can't get approvals, but other folks go to Paris. And I think sometimes the thinking behind that is that the contracted parties supply the money, so maybe the purse strings should be a little bit lighter.

But the contracted parties only aggregate the money. The people who are actually paying the money are the end users. And that's the business community and the day-to-day folk out there who own domain names. So if the standard is going to be the decision we made based upon who actually puts money into the system, we wholeheartedly agree with that. And so it should be us, right?

But the good news is our tastes are not champagne. We don't need Paris. Like Anne said, where's the cheapest place to do this? We'll keep a tight agenda. We don't need a week somewhere. We can get it done in a couple of days, most likely. But also, as Anne said, there's a lot of complex issues here, a lot of things that the Board has done that are good and clarifying but we still need to react to.

I personally don't care if it's an extra day or two at the next meeting, but I hear other people who say that will make it a very, very long meeting indeed. So I'm just going to encourage you when you're talking with staff about this in how liberal and kind they should be to take that message back to them.

And I understand that this is also a year where ICANN has made some painful choices about headcount, too. So we're not immune to that, but that may call for a broader view of the three-meeting system. But for this next year when we're trying to get everything wrapped up for the next round to start, this would be a good year to let us do those things.

JULF HELSINGUIS: Thank you. Damon.

DAMON ASHCRAFT: Yeah, sure. I'm going to thank Paul. You made a lot of good points, and there certainly seems to be a lot of support for having an intersessional. It sounds like a good idea.

That being said, with respect to timing and stuff, I think they put together that Day Zero in pretty quick order last year for Hamburg. And it would be a long meeting, so I think that I would certainly keep that option on the table because I found Day Zero to be really, really productive last year. And it would add to an already long meeting, but in the short term, that seems like an easier thing to make happen. So, just consider that. Thank you.

JULF HELSINGUIS: Marie. Then Rafik. Then Mason.

MARIE PATTULLO: Sorry, I thought Rafik was first.

JULF HELSINGUIS: Sorry. You were right, actually. My mistake. Rafik, go ahead.

RAFIK DAMMAK: Thanks. If people are thinking about a cheaper place, fortunately for some, Japan becomes a good option.

But, anyway, I'm more in favor of, I think, a Day Zero. I get all the arguments that maybe an extra day extends the meeting, but I don't get how having an intersessional of two days and adding the two days for travel is more effective. People now are spending now, like, almost three weeks in the three ICANN meetings. And I think another intersessional will make one month of meetings for ICANN face-to-face.

So I would believe or think that just adding a Day Zero is maybe something that can be managed, and particularly if it's the Policy Forum, which is a shorter meeting by design. And then we can just, with that, start [inaudible] something, we can advocate more easily than pushing for a whole intersessional, adding that a lot of, I'd say, [inaudible] preparing and so on. It's one day.

It can be productive, and it's all about preparing the agenda beforehand and having the regular discussion between the two groups anyway at ICANN meetings. We don't need just to wait for the ICANN meeting to discuss some of the topics. So that's my thinking here.

JULF HELSINGUIS: Thank you, Rafik. And by the way, just purely as an informational item, I want to let you know that Rafik will actually be taking my position at the next ICANN meeting.

Marie.

MARIE PATTULLO: Thank you. Marie Pattullo from the BC for the record. I think we all agree there's a lot of value in face-to-face meetings, looking somebody in the eye and meeting a human being.

I completely understand what Rafik's just said about the policy forum being the shorter one so that makes the most sent, but that's a year from now. And going back—I think it was you, Paul; I'm sorry if I'm misquoting—but having a meeting on the back of or next to another meeting helps with logistics and costs. Some of you will remember we had an intersessional on the back of a Council SPS, you know, when you've already got some people there, some people traveling. So there are things we can do here to minimize.

First up, the idea that we should be speaking between meetings. We had considered, maybe every two months, we have an NCPH call. And I think that's something we can promote and look into.

But one more practical question. The Day Zero in Hamburg was not NCPH in total. It was a representative model, to use Council terminology. So this is something else that we need to clarify. Do we want the NCPH to be invited, or do we want ExComs plus/or whomever to be invited? That's something, also, to have thrown into the mix. Thank you.

JULF HELSINGUIS: Thank you. Mason.

MASON COLE: Thank you, Julf. Actually, Marie raises a very good question. We did have a representative model, if you will, in Hamburg. To that point, I would favor a broader participation on the part of the NCPH.

My understanding is the Contracted Parties Summit had something like 500 people there. So it would be extremely valuable, I think, to have more participation in the room—more opportunity to collaborate and more opportunity to raise issues that are important to the Non-Contracted Party House.

The point I raised my hand for was to raise the possibility—and I don't know if, Chris or Becky, you'd like to address this—but we would welcome interactions with the Board as well. That would be valuable. I listened to the recording of one of the presentations in Paris where the contracted parties briefed the Board on issues about the state of the domain name market, what it was like to operate as a contracted party in that marketplace.

I would welcome the opportunity to brief the Board on similar issues like the impact of DNS abuse on businesses or the role of the ISPs in the ICANN model, or whatever we all decide to raise. That would be a valuable spend of time. If there's an opportunity to do that and maybe piggybacking, again, on a Board Workshop or invite a couple of members of the Board to our meeting, I would find value in that. So I just wanted to raise that for the body here.

JULF HELSINGUIS: Really good point. Thank you, Mason. It's Chris next. And then I think it's Bruna, Susan, and Manju.

CHRIS BUCKRIDGE: Thanks, Julf. I'll be brief because I think this is a very good discussion. From the Board side, I would want to sort of push back on the idea that we met with the contracted parties because they're the ones who pay the bills. I don't think that was in anyone's sense. I don't think that was part of the thinking there. That was a regularly scheduled Board Workshop, and we have made efforts—I know Tripti's been very keen on this—to try and find ways to leverage the Board coming together with other events that might be useful to the Board.

And I think the Contracted Parties Summit is one that already exists and is of value to the Board to get some insights there. But absolutely understand it's equally a value to get insights from the Non-Contracted Party side. And so we needed to look at what possibilities there are for that. I will certainly leave logistics of any of this to others more able to make those decisions.

But I think the briefing that you mentioned that we had within the Paris workshop prior to the Contracted Parties Summit was very positively received by the Board. I think if we were able to coordinate something similar, I would certainly be supportive. But I will, as I say, leave this to others to look into the logistics of that.

I think, certainly, engaging with the Board needs to be attached to another event. We've made reference to cost, to logistics. We need to look at ways to leverage synergies there and not have everyone flying all over the world for one-off kinds of things. But I think there are those opportunities, fully acknowledging that ICANN meetings themselves are as busy as ever, and everyone can be a bit exhausted. But I hope we can find further opportunities there.

And in the meantime, if there are, for instance, an NCPH call, I'm certainly happy to be joining those calls. I'm doing something similar with the CSG and happy to be engaging there in those kind of fora.

JULF HELSINGUIS: Thank you, Chris. Bruna.

BRUNA MARTINS DOS SANTOS: Thanks, Julf. Just on the model, I think historical intersessional has been on a delegate basis, right? We've always, I don't know, picked up a small group of delegates. In our side, it was almost always EC. Two people from each of the ECs and the councilors, if that's the case.

So I just wanted to maybe ask, perhaps this does add a little thought on the openness side because although I think that broadcasting the meetings is relevant—it addresses transparency and openness; it's really good for us—I just don't think we would have as many people to attend as some of your groups. So my point here is more about balance and equity for the discussions. We can open it. We can for sure have some sort of a broadcast kind of meeting, or folks can just come in and listen and so on. But for equity purposes, I would maybe perhaps ask for us to consider the delegates model, as it's the one that's been working so far.

And also adding a plus one on a Zero Day because, personally, I don't know if I can add another trip to my calendar this year, but maybe a Zero Day is doable. And I think it's the case for many of us in this room. So this would be my true thoughts on that.

And as I was helping with the previous in-person intersessional [inaudible] something like that. And then we also had a very in-depth discussion about what would be the priorities. [I also asked] for a lot of preparation from both of our sides of the house on priorities on what could be the agenda, what would be the points.

We also fostered a model that would have some sort of a kosher [goal], I don't know, moderation of sessions and so on just so it was balanced through and through. And I think that could be a model moving forward just in terms of the meeting organization and so on.

I have the same question as [inaudible] in terms of what's the basis? Do we want to do this on an everyday basis? Do we want to do this every two years? So what's the proposal at the table, if there's any? Thanks, Julf.

JULF HELSINGUIS: Thank you, Bruna. And just to quickly address that one, I think the current thinking is let's try it once again and see if we then want to make it an annual or bi-annual or whatever.

Susan.

SUSAN MOHR: Thank you. I mostly wanted to just echo a lot of the comments that were already made. I think we did have a really productive meeting in Hamburg. I thought we were able to resolve a lot of the issues that have been in place for some time. And I like the recommendation that we do it again, that we have an agenda that's really tight. And the notion that there's some opportunity to bring our issues to the Board and have that face time and transparency.

It strikes me that having a Day Zero event in Istanbul would be the most pragmatic next step for all of the reasons that have been said. That would give us a chance to really work through the technical issues that have been raised at a high level, come together as a house and identify where we have alignment and really develop a strategy for what we would want to present to the Board.

And then I like the idea of seeking that alignment. If there's a Board meeting somewhere, that we would come together during that board meeting to be able to do that presentation, whether it's at a Board meeting or at a future event. So those are my thoughts.

JULF HELSINGUIS: Thank you. Manju.

MANJU CHEN: Thank you, Julf. So people have very great points of having Day Zero instead of intersessional, so I was actually thinking of lowering my hand. But I just wanted to add one reason for people to consider why it's easier to have a Day Zero than an intersessional. I think for most of the folks here, you're suggesting, "Oh, intersessional. We don't have to be in Paris. We'll be in the most economic place that ICANN considers," which could be, well, most probably in the U.S.

And it's easy for you guys. It's like, oh, two to three days for you, but five-plus days for us who stays in the APAC area. So, yeah, probably I think we definitely start with a Day Zero. It will be easier to manage for all of us. And I guess, in a sense, because we are thinking of more transparent, open observations, it would be easier for folks to come to the ICANN meetings earlier to observe our discussions [inaudible] than if we have an intersessional. And how do we get them there? Thank you very much.

JULF HELSINGUIS: Thank you. Anne.

ANNE AIKMAN-SCALESE: Thanks. On the topic of how open that meeting is, and not really talking about funding per se, I think that a hybrid model could work in terms of funding delegates but making it an NCPH fully open, whether it's Day Zero or intersessional. Because one of the issues that we have is, you know, some folks say, "Well, there are only a few people doing all the work." Well, why is that? It's in part because others feel that they don't know enough, that they have no influence within the organization, that they're not well-educated enough to step forward and participate.

So to the extent that you maintain meetings that are simply representative whenever they occur, you're actually not developing your additional volunteers. And that is a very serious issue for this organization, so I would encourage you regardless of whatever funding model is adopted to keep that meeting open on the NCPH side, or anybody else who wants to show up for that matter, I guess. But probably focus on NCPH, and open in nature.

JULF HELSINGUIS: Thank you. I have Stephanie next.

STEPHANIE PERRIN: Yes, thank you. I think one of the things that we need to focus on in trying to design a workable program here is that one of the goals is to get this house functioning properly in the context of the multistakeholder model. And quite bluntly—how can you tell I won't be around after the fall—it doesn't function very well.

We need to pull together even though we are strange bedfellows and make this thing work because we are in a bit of a existential crisis in terms of whether the multistakeholder model actually works or whether the civil society element is a mere fig leaf to cover contractual negotiations and the kind of litigation that we just spent quite a bit of time discussing. I think it's truly important that we look at this thing holistically.

And I would say, as a longtime participant here, one of the reasons that members don't engage is we have come together to discuss what are largely, I would say, political issues—picking Board seats, picking vice-chairs. And people get heated and pick sides. I think we work best when we find common issues regarding how this policy world functions that we can actually cooperate on.

And to that end, I fully support the idea of a hybrid model that gets us getting to know one another and bringing in recruits a little better than we're doing right now. People shy away from these politicized struggles every couple of years over a Board seat. Thanks.

JULF HELSINGUIS: Thank you. Bruna.

BRUNA MARTINS DOS SANTOS: Just going to reinstate, just so I'm being well understood. I'm not against an open meeting. I'm not against a broadcast hybrid, whatever. What I'm saying is that we need some sort of—as for the interventions part and who gets to speak at those meetings and represent the groups, it might be better and more balanced to consider a delegate model as opposed to a fully open one.

We can do the delegates. We can have a Q&A open for whoever is attending to bring in their thoughts and ideas, but I think I disagree with both Johan and Stephanie that this is a meeting for people to learn or for people to be taught how we work and so on. A lot of the work is about getting the house in a good state and so on, but a lot of the discussions, as well, are very minimal and very detailed, such as who is taking a Board Seat, who is going to be the next chair, and so on.

Maybe people can pick up a thing or two about consensus and [building] needs and so on, but I don't really think it's a place for people to come in and learn a couple of things about how multistakeholder model works and so on. I might be wrong here, but I would maybe perhaps just ask for us to consider the delegate one because, again, at the end of the day, we have very few people in our group that self-fund to these meetings.

So it might be the case that the delegates we can offer are the delegates that are funded by ICANN. And that needs to be put on the record because we don't have as many people as you guys most of the time, and there would be an issue of balance and equity in this meeting if we open it fully.

JULF HELSINGUIS: Thank you, Bruna. And, yes, I would also like to point out that that is a concern. If we look at balance, there is an unbalance in terms of resources within the parts of our groups. Yes.

ANDREA GLANDON: Julf, can I just say one thing before we move off this topic? I heard a lot of people leaning towards the Day Zero, so I do want to let you know that request has to be in at least 90 days before the next meeting. So we want to start on that right after this meeting.

JULF HELSINGUIS: Thank you for that reminder, and we'll definitely keep that in mind.

I don't see any more hands, I think. Mason and I have gotten a lot of good input here, and we'll conduct this based on that. So thank you, everybody. I'm going to move on.

Our next point is going to be the GNSO chair discussion kickoff. Who wants to kick it off? Nobody?

Paul. GNSO chair discussion kickoff.

LORI SCHULMAN: I will, Julf. But Manju's hand is up.

JULF HELSINGUIS: Go ahead.

MANJU CHEN: Is it me? Are we talking about next year's GNSO chair? Well, I think Greg is doing a good job. If he plans to continue, I would definitely support. So that's my kickoff.

JULF HELSINGUIS: That's a good kickoff. Any comments on that?

LORI SCHULMAN: Yeah. The earlier we start, the better. I just wanted to also mention the vice-chair option to the whole room in case people haven't been on particular lists and been busy in the meetings in the halls.

There is a proposal up that we keep the current leadership in terms of the vice-chairs and the chair the same next year in order to have some consistency, in order to give us some time to sort out our issues with Board Seat 14 and not get into a prolonged discussion over the vice-chair, as I know many believe that Tomslin is serving very ably. So I want to just throw that out there. I'm wondering if that's something we could even decide today in the room. But I'm open to listening to what other people have to say.

I only sent the query to the IPC yesterday on the list. That's my error. As many people know, for the last four weeks, I have been to back-to-back-to-back conferences like this, which is not an exaggeration. So I haven't been on top of the list as much as I should be. But if that's something we could resolve today, I think that would take a big burden off people's plates.

JULF HELSINGUIS: Thank you. Anne and then Mark.

ANNE AIKMAN-SCALESE: Mark may have been first. But anyway, I'll be very short. I would support the notion of maintaining the existing leadership. I know that Greg is interested. I'm hoping Tomslin is interested in continuing. I'm seeing, yes, maybe. And I think the current leadership has done a very good job, and I would support sticking with them for continuity and just out of respect for the work that they've done. Thanks.

JULF HELSINGUIS: Thank you. Mark.

MARK DATYSGELD: Thank you. First of all, to reinforce that the current leadership is doing a very good job. I think the Council feels very respected and that we really like working with the current setup. So that's good.

I'm looking at the GNSO Council page. So both Greg and Tomslin are out on AGM 2025, possibly termed out. That's the thing that we would need to have it looked into because I know there are some special circumstances when people serve parts of other terms and so on.

But a first order would be to understand where we are with that because then we don't fall into an agreement on something that's not possible. We have done that in the past, so let's just check this off 100% before moving this question forward because, otherwise, it's pretty straightforward. I think that maintenance of the leadership sounds good. Thank you.

JULF HELSINGUIS: Thank you. Yeah, I'm not hearing any opinions against keeping the current leadership, so I think we have a fairly consistent opinion here. Nice to hear.

Paul.

PAUL MCGRADY: Just procedurally, I am 99.9% sure that neither Tomslin or Greg are facing a timing-out issue, for what it's worth. I always say the .1 because

ICANN documentation isn't straightforward, but I'm pretty sure we're on solid ground here.

Tomslin, you're just doing a great job. And you provide a steady voice, and you're getting work done. People love and respect you. Fabulous. If you're willing to serve again, and it seems like you are, wonderful.

MANJU CHEN: You pick very good restaurants.

JULF HELSINGUIS: Some of us don't get invited. Thank you. Moving on. Item 6 is something I actually drew up after we had a quick discussion with Paul after an earlier meeting where we realized that a bunch of us are all struggling with the same issue of having a membership database system, or CRM, that isn't really very good. And we're wondering if this might be some idea.

I'm trying to look at cooperating and maybe getting even something that's run by ICANN or something that, actually, we can all benefit from. But that's just something we decided to throw up in the air and see how people feel about.

PAUL MCGRADY: I'm talking too much, but I was listening to the NCSG talk about their problems with their CRM system. I spilled the beans that the IPC is super not in love with MemberClicks either. I don't know what BC's using and if you're in love with whatever you're using.

UNIDENTIFIED MALE: MemberClicks.

PAUL MCGRADY: MemberClicks? Yeah, I don't know if you're in love with it or not. No? So it seemed like this was something that if we combined our voices, we may get something more modern that's easier to use and somebody else maintains. So that's one of the reasons why Julf raised this.

Lori, I hope it was okay to spill those beans, but I think it's an open secret. So it would be great if we—this is another cooperation point—if we can all agree that this is something that we would at least like to pursue together. We don't know what the end decision is and result would be, so there's no decision to be made today other than maybe putting together a small team to figure out what we want, maybe even go out and look around the marketplace a little bit, and then go with our hats in our hands to ICANN's CFO. Thanks.

JULF HELSINGUIS: Thank you. Yes, I think that might be a way to proceed. First, just [basically] put together a list of how many people are actually interested, who are all the ones who are having this issue, and then putting together some sort of small team to look at the thing.

Any more comments on that, or opinions?

LORI SCHULMAN: Yeah, Julf. I will forgive Paul—

JULF HELSINGUIS: Lori, yeah.

LORI SCHULMAN: Yes. I will forgive Paul for his indiscretion. But it's okay. We fully agree, and it has been no secret that we've been unhappy for a number of years.

I can say, personally, I helped install MemberClicks for the IPC when it was rolled out, and I will probably be the first leader to uninstall it in terms of how it will work for IPC because it doesn't work, and it has created, really, very serious problems for bookkeeping and member communications across the board. So no matter what happens, IPC will not be using MemberClicks for CRM. So just to be clear on that.

ICANN funds—and I'm assuming everybody has the same funding. For those who don't know how it works, ICANN has a group membership for MemberClicks for any constituency who wants to use it, which I think is a very good endeavor. And, again, it's not the endeavor we're challenging. It's the product.

And there's been problems with it from the get-go, and after these many, many years of trying to work directly with MemberClicks, there's no fix. Because I can tell you that the IPC was super diligent about this.

So we each pay, as far as I know, $4,000 each to use MemberClicks. So if we could understand who is getting that $4,000 from ICANN now—I could tell you the IPC is—and we get an idea of what the budget is, we could shop around, I am sure, for a CRM that costs much less and does much more. I actually think for what we're getting, the cost is too high. So that would be super helpful.

So my first suggestion is if people who are using MemberClicks could e-mail me. And then I'll share it with the CSG ExCom as well as NCPH that we know who is actually getting the subsidy, so we have a budget that we could think about.

And the other is I would suggest that if it's the secretaries of your constituencies that are using this system, that the small group contain the secretaries or whoever is absolutely responsible for the administration. Because if you haven't worked with this system and don't understand the bugs, it's going to be very difficult to articulate why we need the changes.

JULF HELSINGUIS: Thank you. Rafik next.

RAFIK DAMMAK: Yeah, thanks. So since the problems never end when we thought we fixed them [inaudible] the issue of membership system. Like, it was more than 10 years ago, and that's how we got the budget.

I'm not going to ask what kind of issues are faced by the CSG, but what [inaudible] even if we try to work out is we in the NCSG, we didn't succeed with a hosted in-house [inaudible] option. And CSG have problem with the managed service, so it doesn't give so much confidence that we can find a good option. But just to keep hoping there.

We can work out the requirements—what is needs. Probably each group might have different needs at the end, and we can try to explore the solution. Sometimes it just can be something simple that can be maintained and sustainable.

So I'm fine if we can coordinate in terms of how we can explore and try to see if there are some solutions. I'm happy to put my [inaudible]. I'd like to think about, also, the challenge we will have, like how we will migrate and so on.

JULF HELSINGUIS: Thank you, Rafik. Anne.

ANNE AIKMAN-SCALESE: I'm sorry. This is not about MemberClicks. I'm hoping that we could go back very quickly to that topic of whether NCPH has communication like Zooms or whatever on a regular basis during the year. Because, again, it sounds like people are coalescing on a Zero Day in Istanbul.

But, honestly, there are so many issues that have come up with this meeting and with Board action and with what we're doing in the SubPro IRT. We really need communication that is among all of us much sooner via Zoom or whatever. If there could be some planning outside of this particular session where we could—I suggest it in the Zoom—do a regular NCPH Zoom more frequently, it would be very helpful. I'd love to be able to see one very, very soon.

JULF HELSINGUIS: Thank you. Mason, I'm sure it's something we can actually look at, maybe having a Zoom call. Yeah, it's a good idea.

Any more comments on that or the membership database issue?

Lawrence.

LAWRENCE OLAWALE-ROBERTS: Yeah. I just wanted to put it on record that the BC also uses MemberClicks, and we also get [pre-funded] by ICANN. It works pretty well. It's a very good CRM for membership management. For us it works pretty well, not just for the front end as a website, for archiving policy statements. It also helps with sending out automated invoices and all of that.

It has a bit more functions that we don't utilize, but I agree that it has some bugs. But it's nothing that we can't get fixed if we open a support ticket with MemberClicks.

Basically, where I think we have some struggle, I see in the chat QuickBooks and all that. MemberClicks is not such a good CRM for accounting and bookkeeping. We don't use it. So if we're looking at something that doesn't have to do the accounting side of the business, I'm sure we can, [except] we find a better option, we can leave with what we have.

JULF HELSINGUIS: Thank you. Anymore comments or views on this? [inaudible] want to speak.

[CALEB OGUNDELE]: I'm quite curious. So has anyone tried to use Frontiva as a CRM before? It's just something that we are also thinking of. It's not something that is on the table yet. We are trying to explore to see if it's something we can use at our own end as well. So I'm just asking generally if anyone has maybe tried Frontiva before. It's a CRM.

JULF HELSINGUIS: Thank you. It is the CRM that Internet Society is using, so that's probably [inaudible] question. Yeah, I don't think we need to, at this point yet, get into specific software. But we need to look at who has the need and how we put together a team.

Any more opinions on this? Views? Suggestions? I don't see any hands.

I guess we are at the end of the agenda. Does anyone have anything they want to bring up or, in general, any other business? Or do we all just want to have lunch?

If so, I really thank you all for being here. I think it's been a very constructive meeting, and I really appreciate how the spirit in this whole room has been so much better than it was a year ago or so. Thank you, everybody, for working together.

Mason, do you want to add anything?

MASON COLE: Just to each that. Thank you, Julf. And the CSG says thank you to the NCSG for the cooperative spirit and the working together. And it will be good to gather again in Istanbul. And Julf and I do have a lot of work to do to figure out this Day Zero or intersessional issue, and we'll be back in touch as soon as possible with options for that.

So thank you, Julf.

JULF HELSINGUIS: Paul, do you want to add anything?

PAUL MCGRADY: Just to echo the thanks to everybody for the spirit of cooperation that's in the room. You know, when we look back on where we were a year ago, I think the culture here has really been a change for the good. And I love it. I appreciate all y'all. Thanks.

JULF HELSINGUIS: So thank you, everybody. I close the meeting.

ANDREA GLANDON: Thank you. You can stop the recording.

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