
ICANN81 | AGM – GNSO: NCSG Policy Committee Work Session
Saturday, November 9, 2024 – 10:30 to 12:00 TRT

ANDREA GLANDON: Hello and welcome to the NCSG Policy Committee Work Session. My name is Andrea Glandon, and I am the Participation Manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior and the ICANN Community Anti-Harassment Policy. If you would like to speak during this session, please raise your hand in Zoom. When called upon, virtual participants will be given permission to unmute in Zoom. On-site participants will use a physical microphone to speak. Please state your name for the record and speak at a reasonable pace. I will now hand the floor over to Manju to get us started. Thank you.

MANJU CHEN: Hello, everybody. So we're starting our policy meeting. So Peter was supposed to chair this, but he might have some difficulty finding the room. We'll just get started. Let's start reviewing the council agenda for this week. Thank you, Andrea. So for item one, which is administration matters. We're not going to care too much about this. For item two, open remarks, that's also not a big action item that we will pay too much attention to. What I know is that usually, so we were starting in the council to do the same when we reviewed the project list and action item list. And the beginning of the year, at the end of the year, and I'm not sure if we're doing this during this council call, probably we're doing it in the working sessions instead of this. So that's going to be item two,

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which we should have reviewed everything, and then we'll mark down anything that we missed, and we should proceed.

Item three is the consent agenda. First is the defer of the RPMs phase two, for another six months. The second is the adoption of the revised charter of this permanent standing committee for continuous improvement. If this sounds new to you, because it's because we changed the name. So now it's the standing committee on continuous improvement, SCCI. We haven't decided how to, you know, pronounce it in a succinct way, it's still under debate. But yeah, it's, if you remember, we used to have this very long name for a committee, which is called CCOICI. It's a continuous improvement committee of the GNSO Council. We're now changing it to the standing committee for continuous improvement, SCCI, because the new charter will include members who are not council members. So each stakeholder group and constituency will have their representative on the standing committee, like any other committee that's under the GNSO Council. For example, the RDDS committee, standing committee, or the selection standing committee. So this is going to be a consent agenda where we don't need to do a vote. But I'd like to remind all of you that, as I suggested, the standing committee is no longer only a council thing. We will need participation from each and every stakeholder group and constituency. And in the coming year, next year, there are going to be a lot of continuous improvement kind of work going on. The holistic review pilot is going to start, and then there's going to be the ATRT 4, which is the accountability and transparency review. And then we're also having this other group, which is the continuous improvement community coordination group. They are going to start doing their real

implementation work of reviewing their own, each stakeholder group and constituency for continuous improvement next year, based on the principle they're planning to publish by the end of this year. So as you can see, there's going to be a lot of continuous improvement work going on next year. And this standing committee will be carrying on a lot of work in respect of the council thing, too. So we will need people on this committee. We will need people from NCSG, aside from the councilors. So just be prepared to volunteer when we start the call for volunteers.

And then item four is council vote. We are adopting the phase two final report of IDN EPDP. I was the council liaison on this PDP. I thought we did great work. It was a very collegial, very consensus-driven process that we managed to overcome some peaky issues. And I think the final report, so from an NCSG perspective, I don't see any huge issues. And all of the recommendations of this final report actually have full consensus. So I don't think there's going to be any surprise when we vote for this final report.

Let's move on to item five. So item five is also a council vote. It's the initiation of policy development process for Latin script diacritics. So this was about, if you guys remember, the .quebec issue. In the first place, when .quebec wanted to apply for a new gTLD, they were advised to not have the diacritics in their applications. Because at that time, the rules of applying for IDN gTLDs was not very completed. So they were worried that if they apply for diacritics, it's not going to be accepted. And also, according to the Latin Label Generation Rules panel, diacritics are not considered variants in IDNs, which is internationalized domain

names. And they created some problems for .quebec, because now they're using .quebec without the diacritics. But for themselves, who speak French, it doesn't feel like what they know as the .quebec. So we're doing this working group. Hopefully, it's going to be a narrow scope working group that finishes this work within two years. Once we adopted this motion, they will initiate the call for chairs. If any of you are interested, you can put in your applications. Or else I already heard somebody who is very keen on being chairing on this group. So if you are interested to know who that is, you can come to me later.

Yes. So item six, we're going to discuss, again, the policy status report on RPM PDP phase two. If you remember, we will already be adopting the motion of deferring for another six months. Yes, Kathy, let me just briefly explain. So this will be a review again to see if that decision is OK. And six months is the right time frame to defer. And Kathy, please.

KATHY KLEIMAN:

So we should talk about this. This is really important to us. Rights Protection Mechanism phase two. No one said the magic word, UDRP. This is after 25 years, we will be reviewing the first consensus policy of ICANN, which was the UDRP. And five minutes after NCUC was founded in Santiago, Chile, we passed a resolution saying the UDRP was fundamentally flawed and should not be adopted as a consensus policy of ICANN the way it was going through. And then we held up the first public forum, actually second, because there had been one in Berlin. Then we held up the public forum with lots and lots of people telling

ICANN they should not adopt the UDRP. And that's where, and we had six weeks to balance it and put it in place.

So this is really important what's coming up. I favor a delay because we're not ready to do it now. We're so busy with new gTLDs. So what you were saying is we would start in six months. That's when the charter would be signed or that's—or the PDP would be signed. What happens in six months? Thanks.

MANJU CHEN:

Thank you, Kathy. So the defer for six months I think is for—we decide after six months if we want to defer to even later because if we review it—because I think for UDRP, most of us, what I observed during the council discussions was we don't fix what is not broken. So people were favoring delaying because they felt like it has been working and as you said, we don't have the time to review it yet and it hasn't had huge issues. So we're deferring for six months now and after six months probably we will have another policy status report to check whether during this six months, if anything changed, if nothing's changed, nothing major comes to our concerns, it could be another discussion of whether we're delaying for another six months.

KATHY KLEIMAN:

But at some point this goes into a PDP.

MANJU CHEN:

Yes. Well, definitely because it's a phase two. I mean, we already reviewed the whole—all the other RPMs for the new gTLDs. This has to

be done, but we have to prioritize the policy work on the plate of council.

KATHY KLEIMAN: Absolutely. Thanks. And we're going to be looking for lots of volunteers when that happens, guys.

MANJU CHEN: Peter, do you want to—do you have any?

PETER AKINREMI TAIWO: I just wanted to add that this is just for council to look at the timing and just to prepare the groundwork to see whether they need to request for policy update. So the council will look at the timing and what needs to be done. You just wanted to have—like, when you asked that what would be done in the next six months, this is just to look at the feasibility of the whole things and perhaps requesting for update to the policy status report.

MANJU CHEN: Thank you. So moving on to item seven, it's the draft charter on Latin diacritics. It's the same issue. We were going to adopt the initiation of the PDP, but then we have to review the charter to see if the scope is correct, if it's narrow enough, if it's focused enough. And so if you're interested in the charter, please go to council agenda and click on the hyperlink to review it. I personally have reviewed it. I felt it's okay, but

it's my personal opinion. So I will rely on a lot of you who have more knowledge or expertise to probably have other opinions.

KATHY KLEIMAN: Can I ask? I mean, Farzi's been doing—sorry, Farzi, I'm going to do a shout out. What do you think of the RDRS charter? Because I know you've been doing a lot of work on RDRS.

FARZANEH BADI: We haven't moved there.

MANJU CHEN: So we're moving on to the RDRS committee update. I think Farzi has updated us the last meeting about this thing that they kind of wanted to push back on the national—like, states' governments' requests. And now it's back on, but I'll give it to Farzi to—

FARZANEH BADI: Yes, thank you, Farzaneh Badi speaking. So RDRS is the triage system for different stakeholders that need access to registrants' private information to submit the request, and then that triage system forwards this request to the respective registrar who has opted in for the RDRS. And so, as you remember, they have, like, some kind of—like, it's not monthly reports. They have quarterly reports, right, the RDRS.

LISA CARTER:

Thanks, Farzaneh. This is Lisa Carter from ICANN. I'm the program manager for RDRS. We do have actually monthly metric reports that get published for RDRS on the RDRS page, and then we also have quarterly survey reports that get published to the RDRS page, just for clarification. Thanks.

FARZANEH BADII:

Great. Thank you. So we requested as NCSG that in those reports, they report on law enforcement's location. And we had a few issues to discuss during the standing committee, but then in the end, ICANN decided to report on that, on the requests for—like, whatever requests they get from law enforcement with a certain caveat. But, so we are on track, and it's all good.

One of the things that was mentioned during the RDRS standing committee was that ICANN is doing a certain outreach to law enforcement agencies around the world on how to use RDRS. And I thought that that would be an interesting topic for NCSG to follow, because we want to hold law enforcement accountable, and we want to know what sort of outreach mechanisms are—what sort of outreach ICANN is doing. And that's why we have invited Rodrigo from ICANN to give us a short presentation on what they are doing with that, and we can ask questions, and also, if we want to give feedback, we can give feedback. I do not guarantee that our feedback will be taken on, but go ahead, Rodrigo.

MANJU CHEN: Sorry. So actually, this will be after we finish the council agenda, but thank you very much. It's going to be in five to ten minutes.

KATHY KLEIMAN: The standing committee, is it members of the GNSO Council only, or is it appointees from the GNSO?

MANJU CHEN: Appointees from across the GNSO. So that's how standing committee works under the GNSO Council. Most of the members of standing committees are not councilors because we have a lot to do already and we rely on members from stakeholder groups and constituencies to be on the standing committees to discuss issues, like Farzi on the RDRs standing committee. So the second to last item is the liaison to the GAC annual report. This is going to be the last report from our current liaison, Jeff, who is going to be termed out by the end of this meeting. Our next liaison to the GAC is present here in the room. I don't know if he's prepared for this. Like, he's sitting here because we're reaching this item, and he wants to share his aspirations of how he's going to fulfill his new role.

SEBASTIEN DUCOS: No, no, I wanted to talk about RDRS afterwards.

MANJU CHEN: Okay, thank you, Seb. So, well, that will be the annual report. Well, we'll see what he's going to report to us. The last item, so any other business? Oh, Farzaneh, please.

FARZANEH BADII: So, I think that, so for the GAC liaison, that's a very important position that, like, so GNSO GAC liaison, no, sorry, it's GNSO liaison to GAC, observe issues, and I think that they are responsible to bring issues to the GNSO Council to discuss, and so can you tell us a little bit about the role and how you're going to make sure that you stay within the mandate of the role?

SEBASTIEN DUCOS: Okay. So, this is not on purpose to teach, but indeed my predecessor, who did a fantastic job in enhancing the role, also viewed properly the role as a participating councilor in GAC and vice versa. This is a bit of a special liaison because it's the GNSO liaison to the GAC. The GAC has a point person, but not a point person that comes to the GNSO, so that liaison goes pretty much both ways, but indeed, yeah, it's a different remit. So, it's about informing the GAC and updating the GAC on the current thinking of the GNSO where it's at, answering questions, and the same way when the GNSO is discussing issues. I wanted to add a bit to the role, and I'll have to see how that works out, but in terms of capacity building, the GAC has a lot of turnover, they're going to go through capacity, and I think that it would be of interest to the GAC to have that beyond three hours once a year, and create a bit more of a permanence in it. I know that the CPH is working with them, and they're

trying to create an interaction, I don't know if it's really iterative, but I'd like also to make that role something about that, and obviously I'm CPH by nature, I know those problems, and we're able to answer them, so I'll come back to you guys also when these things pop up.

PETER AKINREMI TAIWO: Removing the hat of GNSO councilor now, so I want to speak as NCSG, just wanted to be sure that the role should be neutral, and we don't want a situation whereby GAC advice is influencing the council situation, and policy, and stuff like that. So we just want a situation whereby there's no influence whatsoever, so then putting on the back of the councilor.

MANJU CHEN: Thank you, Peter. So, for what I know, the capacity building sessions during every ICANN meeting for the GAC, it's usually that region, like the GAC representative from that region will be organizing and deciding the agenda for that time's capacity building, the content of that time's capacity building. So next ICANN meeting is going to be Seattle, I suggest our American friends reach out to their GAC representative and tell them, whoa, NCSG is interested in telling them what we do, or those kind of things, and just probe on what they're going to do, probably would be a good idea too. Of course, Seb would do a fantastic job, but yeah.

KATHY KLEIMAN: Just a heads up that our GAC representative from the United States may be changing.

MANJU CHEN: Oh, yes. Yes, my condolences. But yeah. Okay, let's move to any other business. 10.1 is the update from the Council liaison to the Registration Data Policy Implementation Review Team. So as you know, probably, the policy has been published. Now it's in the transition period for the contracted parties. They will have 18 months to fully implement the policy. But the thing is, there are things that's unfinished from this IRT. For example, one of the issues still going on now is the urgent request. So what urgent request means is that when law enforcement, they sent in the urgent request that they think is very urgent to the registrars, they expect the registrars to respond to the request within 48 hours. But in the original policy from EPDP Phase 1, they left the time undetermined, but it says X business days. So according to the policies, you cannot change during the implementation review team from days to hours. So that has been a long-standing issue during this IRT. They couldn't find any way to resolve it. So in the end, they published the policy without any rules regarding this urgent request. And then the boards, I don't remember if it's this year, probably this year, sent a letter to GNSO council. So they say, oh, we know we updated the EPDP Phase 1 report about this, and we agreed on X business days. But after second thought, considerations, we felt like if it's so urgent, if it's like that threatening, you know, events, probably shouldn't be just days. But then they also realized that it's very hard for registrars to know if these kind of requests really come from authentic law enforcement. So there are also this

issue of how do you verify this kind of law enforcement are really who they claim they are. So I'd like to share that actually this week, this Monday, we had this dialogue between the GAC, GNSO Council, and our board members, well, actually a bunch of board members to talk about this issue on urgent request. It was actually very last minute. I think they sent out the meeting link on Sunday, and the meeting is Monday. And then during that call, GAC has told us that the Public Safety Working Group within the GAC is going to work on the verification of law enforcement. They are going to tell us how to verify the law enforcement, and they hope us to work in parallel based on assumptions of, you know, we can verify the law enforcement to decide the days or hours or whatsoever to respond to urgent requests. So we're going to discuss this during our working sessions, GNSO Council working sessions. I don't know if it's tomorrow or the day after tomorrow, but like in the coming two days. I personally am going to make a comment, which is this is just impossible to do, because the essence of the legitimacy of ICANN's multistakeholder model of policy development is in total contrary of law enforcement, the legitimacy of national law enforcement. So there's simply no way that ICANN can verify any law enforcement and, you know, put it into contract for the contract parties to do it. So that's going to be my argument when we're discussing this, but I'm opening the floor to see anybody has any other things you'd like councilors to raise when we're discussing this.

ANDREA GLANDON: Manju, we have Rafik and Stephanie who have their hands up. I think Rafik was for a previous topic. So Rafik, do you want to wait after Stephanie?

RAFIK DAMMAK: Okay.

STEPHANIE PERRIN: Rafik has been there for quite some time. Maybe he should go first.

ANDREA GLANDON: Yeah, that's fine. I do know that Rafik wanted to ask about a previous topic, though, so I wanted to see if we could stay on topic and then we can go back to Rafik. Rafik, go ahead.

RAFIK DAMMAK: So, yeah, going back when the topic when we talked about the GNSO liaison to the GAC, maybe to a point since Sebastien is with us, I mean, I want to highlight it's the GNSO council liaison to the GAC and not the GAC liaison to the GNSO. So I really want to stress that and, I mean, not going how the previous maybe liaison behaved or acted. It's not the topic for discussion, but we would like change in terms of behavior and expectation. It should not be the reason the spokesperson for the GAC within the council. And the other point also, the being a liaison doesn't mean to be an elected councilor in the way to try to intervene and interfere in the discussion within the council. So Sebastien, not kind of warning to you, but really just more an expectation and how we would

like to have the GNSO Council liaison act and behave and perform. So I know that kind of maybe the previous scope kind of overstretched. And I think even beyond the boundaries and expectation and personally would like that should not happen again. So that's all what I wanted to say.

STEPHANIE PERRIN:

Thanks very much. On the previous topic, seeing as how we're on it right now, great to see Seb doing this job, and I totally agree with what Rafik just said. However, in that limited role of being the GNSO liaison, it would be really, really nice if we would occasionally have someone remind the GAC that they have a human rights and data protection role, even if they don't very often bring data protection authorities to the GAC. There is a Council of Europe liaison, and sometimes that liaison is more active than others. It would be good to know if they are doing any thinking on the human rights side. Normally, we just hear about abuse from the GAC and law enforcement requests, public safety, but there is also another aspect to their work that would be good to hear about or to remind them of our interest in that work. Thanks. That's point number one.

Point number two, on this whole issue of authentication of law enforcement, I don't want to bore everybody with my off-sighted view that I can't see how law enforcement officials are going to find the SSAD or the RDRS system particularly useful. The one useful thing would have been some kind of a registry of law enforcement so that you could at least ascertain that there were law enforcement officials who had been authenticated, but ICANN has not taken that role on, so the system

doesn't really help a registrar or a registry ascertain whether the law enforcement official is the real thing, or even once you know that, that doesn't mean that they have a legitimate request. Why they would use this system is still a mystery for me, so we will continue, of course, to get into these arguments about whether we're responding fast enough, but it's my understanding that law enforcement usually have the power to ask for a lot more data than they're likely to get out of the RDRS, and I'm still mystified as to how this door helps them, particularly if they have the power to get things instantly. So, but I'm just, since I will be on that committee, the standing committee, I want to let everybody know that that's still my position unless somebody can enlighten me as to the error of my ways. Thanks.

MANJU CHEN:

Thank you, Stephanie. Kathy?

KATHY KLEIMAN:

I do not think there's an error in your ways. I did want to ask a question, though, and queuing it up because Sebastian might know the answer, but others might as well. Once you've identified, once you've authenticated who law enforcement is, is there still a question of whether they should get the data or not? Assuming, authenticated that it's Russia, and they're going after groups in the United States or in the Ukraine, is it a legitimate request? Shouldn't jurisdiction be checked? Is there something we should know about the way requests are handled now? So, a question maybe GoDaddy, if you're willing to share, but if it's a human rights group and they're outside the country of the law

enforcement that's requesting it, is there any way under RDRS for the registrar to say, no, I'm not giving you that data?

SEBASTIAN DUKOS:

This is Sebastian Ducos because you're asking me the question specifically, personally. Within RDRS, it hasn't been discussed. I have tried to steer this as a project development of a tool and not discuss the policy, the political part behind it. But I think that the point that you're, personally, the point that you're raising is a super important point about this urgent request, about all these things. We are, because of who we are and the people that are present in the room, establishing rules of engagement with law enforcement based on North American law enforcement, based on Europe present, and then setting up standards based on that for the rest of the world without looking at the fact that not all law enforcement players play the same game. I'm not a lawyer. I would assume that one criteria is that it is law enforcement identifying, that that law enforcement has due process behind them, that it's not a random cop asking, but that might be a judge behind it asking the question. That's a second level. And then the third is, obviously, is it legal in my country to give you that information? And that is not part of the discussion. I haven't heard it. I'm very happy that you should bring it. Thank you.

KEN HERMAN:

Kathy, I recall in our discussions that we had on the initial rollout of RDRS, and remember we held the sessions with Tucows who provided us with some background, and my recollection is that there is no

guidance currently within the environment for authenticating law enforcement or on what they do with that request. Each registrar was kind of up to themselves, and they made it clear that they determined on their own basis based upon where they worked. So in the countries where that particular registrar had a presence, they were obliged to respond to law enforcement requests in a particular way. The rest of them, my recollection is that they ignored them, basically, if they didn't feel that they had a standing in that country.

KATHY KLEIMAN:

But, Ken, what I'm wondering, and that's a really good point, how normal intellectual property, because that's what Tucows told us, was normally these are intellectual property requests through RDRS. Find out who's behind a domain name and a website. But in this case, are urgent requests are going to change what's going on? Is there an expectation for an urgent request coming from law enforcement—to those not in the room, I see Farzi nodding, affirmation. For urgent requests, Ken, is there now an expectation? Once it's authenticated, that data will be revealed within 48 hours, absent any human rights assessment. And I think what we're hearing is that this may be considered a subcategory, and I'd say this really raises human rights concerns. Because even when you're dealing with Interpol, there are massive exceptions for political, for moral, for ethical, for religious. That's when the law enforcement game and cooperation stops. And yet, it's possible with these urgent requests, we're not going to have exceptions or rules or guideposts for how this data is held back. I'm not sure there are exceptions. So whoever's on this committee, please

negotiate. And we have to look at the content of the request and the jurisdictions.

MANJU CHEN:

During that dialogue, what surprised me was, of course, the GAC, well, at least that person who I assume was from Europe, because he didn't really identify his name, but from his accent, he's from Europe. Anyways, he was saying that he, what he assumes is that once they are verified, they get response immediately. Of course, there was immediate pushback from the council and, well, from GNSO side and from the board side. So I think that's an issue still to be discussed. I expect we will definitely be pushing back on that. And I think we definitely insist that there has to be still a process, even if they are verified. The contract parties will still do their due diligence, but it's an issue to be discussed if there's a policy to be have to be developed. And it's like the first ever initial discussions we're having, and it was in a weird, unofficial setting. It's not even a committee, just like they send out the invite to council members. And so I don't know even if it's GAC or just PSWG, and then just several board members. So we will have to question that in our working sessions. And of course, when we get the answers, we'll bring it back to you guys.

STEPHANIE PERRIN:

Thanks very much. We've been arguing about urgent requests, I think, for as long as I've been at ICANN. And I have fond memories of, I think it was Volker, and it might have been on the WHOIS 2 review, saying basically, and those of us who are on the RDRS recall it took a long time

to fight over this urgent request issue. This data is the most important from a human rights and due process perspective to our constituency, to our stakeholder group, so we shouldn't be in favor of immediate requests. There is legislation for human trafficking that would allow a fast as possible response for that, that most countries have signed on to, that I'm aware of. However, you might be getting a request from someone who hasn't. In all these cases, you have to be careful and be sure of who you're dealing with and that you're not actually dealing with the bad guys. But in any case, one of the problems is that there has to be thorough scrutiny of the request by the company's lawyers. And if it's a weekend or a holiday, and this is one of the issues we've been arguing about, is how fast you have to respond over holidays. Maybe you've got lawyers on speed dials when you receive a request coming casually floating in over a holiday weekend, and maybe you don't. It's much easier for the big companies to respond to this than it is for small, independent registries and registrars, and we should not be on the side of survival of the fittest and only the big will survive, in my opinion. And I think that's a long-held approach that our stakeholder group has taken, that we should be for diversity, not just to let the big win. So I think it's a very important issue on so many fronts, due process, and it's been a stumbling block at the Council of Europe Cybercrime Treaty negotiations for decades. So this is a very troublesome issue, and I cannot believe we're getting pushed the way we're being pushed to just get over it and make a 24- or 48-hour time limit on it. Thank you. Sorry to be redundant and go on and on about it, but the issue goes on and on.

MANJU CHEN: Thank you, Stephanie. And we expect you to say exactly the same thing again when we were in our working session.

FARZANEH BADII: So just very quickly, Manju, there was a letter from GAC to the board on October 15. And in that letter, they are suggesting some very odd things, such as, so they want two tracks. One is authentication, so PSWG is going to hold an event on the sidelines of ICANN 81, like this meeting. And then they are going to work with the contracted party, only with the contracted parties, to come up with an authentication process for urgent requests. And then there is the response time that in parallel of this work, the GAC should resume discussion on the issue of urgent requests. And then the response time for urgent requests should be based on the assumption that urgent requests received by registrars have been authenticated. And so I think these two suggestions are very problematic, and we need to challenge them, and we need to tell them that, no, they are not going to get what they want.

MANJU CHEN: Definitely, Farzi. So yes, that letter was a blow in my mind, too. So also in that conversation, that call, they shared that they're going to have this session where they invited like, you know, prestigious contracted parties to this closed session where they're going to showcase how they're going to verify law enforcement. And of all the contracted parties I've met and I've asked, nobody has been invited. So I guess I'm not prestigious enough to know prestigious people to know who was invited. So that closed session is supposed to happen either today or

tomorrow. I don't know where and when. And I don't know if they're going to share whatever they said in that session. And definitely in the working session, we will definitely push back on the parallel thing, because it's just simply impossible to do that. And I think Greg has diplomatically kind of said, oh, okay, we'll discuss this in the council. But I am sure most of the councilors were not going to be allowing this to happen, or so I hope.

KATHY KLEIMAN:

Thank you. And thank you for what you're doing. Thank you for what all our councilors will do on this. And with our new GAC liaison from the GNSO in the room, if there's things we can do to help on this one and avenues that you see that are not closed rooms, that we can help either both the contracted parties and the GAC, PSWG, please let us know. We may not see those opportunities. Often we don't know something's happened, even if it's open till after it's happened. So thanks for sharing the word and for all that you're going to do for human rights. We appreciate it.

MANJU CHEN:

So the rest of the items are not very important, because we are having a discussion item in our agenda on SOIs. So we will discuss about that when we reach that item in our agenda. And I'm sorry, I know I promised you it's five to 10 minutes, but it's been several minutes. So we're moving to you.

RODRIGO DE LA PARRA:

Yes. Hello, good morning. This is Rodrigo de la Parra for the record. Thank you very much for having us. Here is my colleague from the project managing for RDRS, Lisa Carter is here with me. Actually, you were having a very good discussion. I have prepared some slides, but you are very well aware about RDRS. So these are very basic slides. You're very familiar. You are discussing very important deep issues surrounding RDRS. So this previous discussion was really useful.

I am with the global stakeholder engagement team at ICANN. I take care of the Latin American and Caribbean region, but I have been assigned to coordinate the engagement efforts for RDRS globally. So I coordinate with my colleagues in all the different regions in order to raise awareness about the RDRS system. So maybe we can move some slides and take perhaps this one, the first one. And just to clarify about this engagement and outreach efforts, as you all know, the RDRS was designed and still is a pilot program. People were really trying to test how useful this is for both requesters and registrars in terms of managing the data. But I think you were right about some things when you were discussing RDRS, but it's important to clarify that this system is really only about connecting requesters with registrars. It's not really about how to obtain the information on how to obtain it. So one, the system makes the connection between the requesters and the registrar holding that domain name. It's really about the usual way they were supposed or they are supposed to disclose that information to the requester.

I was also planning on showing this to you because maybe you can remember where this is coming from, but after listening to your

conversation, I think this is going a lot back, but this is the who is discussion. GDPR came into place and now data is being redacted, so enhanced privacy. So what the RDRS is trying to do is given this restriction of making this data private or not public in the WHOIS directory, how are organizations with a legitimate legal interest able to obtain this information which is also important for their work. And this is what we're doing. So we're trying to reach out to, of course, law enforcement agencies because we have, you know, designed different categories of potential requesters for this information. [Big disclosure that] doesn't grant them the access to the information. This just put them in connection with the registrar and then the registrar probably according to their own legislation and their own jurisdiction will be able to disclose this information. I know some registrars need to have like a very formal court order from the appropriate law enforcement agencies in order for them to provide this information. Other jurisdiction will rely only in an administrative organization to do it. But this is well beyond the scope of the RDRS. So the work that we have been doing and we shared with the standing committee a few weeks ago, the list of the law enforcement agencies that we have reached out. And not only those, but other potential requesters as well. What else can we say about this? Because this presentation goes into the detail of how the RDRS works, but I'm pretty sure that you are based on your discussions very knowledgeable about that. Probably what we can do and having Lisa here and myself just open a good dialogue and speak about your concerns and answers.

MANJU CHEN: Just before, so we have 37 minutes left and we still have three topics that we're gonna discuss, this being one of them. So I wish we stopped this before 11:40. So we have at least 10 minutes for each before we finish the meeting.

FARZANEH BADII: Just, Rodrigo, I was hoping that we could know a little bit more about the outreach that you're doing with the law enforcement agencies and the discussion like how many law enforcement agencies, like what you presented during the RDRS. Would that be possible?

MANJU CHEN: But before that, please, Kathy, was it?

KATHY KLEIMAN: Yeah, and I was wondering, Rodrigo, if you have other slides just because some of us have been living and breathing this since the beginning of time, doesn't mean that everyone in the room knows. A lot of people might benefit from a quick going through of the slides that you're about to present because we're always in education mode and we'd like everyone to kind of know more about it. So I'm guessing there are some interesting slides underneath there, but.

ADAM PEAKE: If you ever want a webinar on any topic, including it could be the level of detail, couldn't be anything from a 15 minute introduction to 30 minutes or whatever you would want. And that's the same for any policy

topic that we're working on. So please remember that we're here to provide that kind of ...

RODRIGO DE LA PARRA: Well, can we go to the next slide, please? Happy to do it, but we are short in time and this is a long presentation. We'll try to go very quickly because this presentation can take up to 15 to 20 minutes. So if we want to focus on the engagement efforts that could be actually faster and we can take on Adam's offer and maybe schedule a more detailed webinar about details of RDRS. Yeah, I hope this Kathy more or less helps your comment because it's important to know about this, but honestly, I think this is going to take—

KATHY KLEIMAN: Do you wanna just advance through a little bit?

RODRIGO DE LA PARRA: Yeah, yeah, can you just go to the next?

KATHY KLEIMAN: Because you've got everyone's attention.

RODRIGO DE LA PARRA: Everyone's attention, but I don't have a lot of time.

MANJU CHEN:

Yeah, in the interest of time, let's just talk about the engagement of law enforcement. And these slides, we will definitely circulate in our mailing list so everybody can go. And if they have questions, we will host a webinar in the future.

RODRIGO DE LA PARRA:

I think there's a good slide that can summarize a little bit of what RDRS is doing. Can we go to the next one, Andrea, please? Okay, so this is a good one. So what RDRS is doing. So it's actually the process for submitting and receiving requests for non-public gTLD registration data for requesters and ICANN-accredited registrars, which is now streamlined through this single platform. This is actually what this is doing.

Good elements here to highlight. This is, of course, non-public registration data, and it's the gTLD. This is not applicable to ccTLD, so we have good clues on this slide. And for ICANN, I created registrars, so resellers and other registries, they are not participating in this effort. Then what happens is that requesters of any sort could be, well, law enforcement agencies will fill out a standardized form. Key word here is standardized. This is a benefit for both for the requesters and the registrars. They will use the same form for each disclosure request, which didn't happen in the past. This is a new feature of the system. And then as participating registrar, key word here is participating, which is it's on a voluntary basis, registrars sign up to be part of these efforts, and they will determine if the requester has a legitimate interest in the information. Now, this is a really open concept about whether the

registrars determine this. Actually, they are under some jurisdictions and laws that they should be observing as they are doing now.

So the data disclosure. The Registration Data Service request, that the request does not guarantee access to the registration data. This is very important to take into consideration. All the communication and data disclosure between the registrars and the requesters takes place outside of the system. Also very important, RDRS does not cover these kinds of conversations between the requester and the registrar. If the data is granted, the disclosure of the data, then will take place directly between the registrar, this is what we have mentioned. So these are the key elements of RDRS. We have been informing about the data and statistics about how the system is being used. And what we recently showed to the standing committee is how we are handling the outreach and engagement. So we have reached out to, at the very beginning, we sent letters to basically as many law enforcement agencies as we could, both from our global engagement with Interpol, for instance. Originally with Europol, we have also done that. In each of the regions, we've reached out to regional law enforcement agencies. And also, because we've been talking only about law enforcement, what we have done, also some outreach with intellectual property organizations or consumer protection agencies that may also be interested in knowing about the system and using it. We've been doing webinars, public webinars, global webinars, and regional webinars focused on that particular regional needs. And what we want to do, as I mentioned at the beginning, is really to have as many people testing the system as possible to tell us how useful this is. Maybe now Lisa can tell us about

what's going to happen also during this week in ICANN with the interviews.

LISA CARTER:

Thanks, Rodrigo. This is Lisa Carter, ICANN.org. As Rodrigo mentioned, I will be doing, during ICANN 81, user experience interviews for RDRS. So we will, with the goal of speaking to people who are using it on the registry, it actually direct feedback beyond just the surveys that we send out. And there is, there will be signs up around the tables, et cetera, at ICANN where you can actually sign up to give me your feedback and we'll take that back and we'll share that with the standing committee. And we're hoping to get a little more detail than we get in the survey. I also just wanted to state that for the newcomers, I did drop a link in the chat. We do have links to recorded webinars regionally on the ICANN.org page now, so you can look at those as well for anyone who wants to learn a little bit more and doesn't know about RDRS.

ADAM PEAKE:

We tend to treat any requester as the same. So this is a similar deck to one I used to present to Europol about a month ago. You'll see the first slide is a bit of old WHOIS data that I used from a domain name that I own. So you can see the evolution of WHOIS, of how everything used to be there when I lived in Japan and how nothing is there after GDPR. It's a very similar deck to the one I used to talk to BEUC, which is the European Consumer Organization, and a similar one we used to—Essentially what we're doing is treating requesters or people as the same. We're not giving out different information to different groups.

Obviously the questions will be different when you're in a different audience. But other than that, what you're seeing is a standard set of information. We just want this pilot to work, and that means input from you to tell us what needs to, well, not us, to tell the community what needs to be improved, what the board needs to do to improve the system. So I hope that helps as a bit of background.

MANJU CHEN: Thank you. So Peter and Ken.

PETER AKINREMI TAIWO: Yeah. Thank you so much. I still want to follow up, because the question I was actually asked has not been answered. The purpose of the outreach, what does the outreach actually contain? And my second question, as a follow-up, is why are we outreaching to law enforcement agency? Because when you train them, you're giving them license to be requesting for data. And we want to keep this data private, and we don't want them to utilize it for different kind of things. When we train them, and we are just giving them license to come, and now we don't have a way of authenticating the information that we're discussing, and there's no due process in place, after we authenticate them, then what happens? These, we're sort of giving the registrar just disclose, because ICANN doesn't have any due process in place. They cannot even interfere. So they determine from the publications and the recent report shows number of requests from different kind of group, and which is something that is concerned to us. We want to limit as much as possible access to this data, and we are outreaching to different group

and say, oh, come, we have data. Just come requesting for that. Just wanted to know the content of that, and why? Is it a purpose of testing, and what's the purpose? So those are the things we just want to hear from you.

MANJU CHEN: Okay. Sorry. So let's collect the questions all at once, and you guys can answer all at once.

KEN HERMAN: Yeah, Ken Herman for the record. And just to follow Peter's questions, perhaps you can clarify for us exactly what ICANN's role is in RDRS, because I'm becoming a little confused. According to this slide, RDRS is simply, and ICANN's role is simply to connect the registrar to the requester, full stop. So it sounds to me like ICANN is now becoming involved in providing guidance or instructions or policy for registrars on how they should respond, and is that the role that ICANN will play as well, and is that the role of the consultations? But I know you're not involved in that, but perhaps you can just state for us and clarify for us exactly the role that ICANN plays in the RDRS.

SEBASTIEN DUCOS: ICANN's role here is project manager and developer of a tool that indeed, as you said, connects requesters with the relevant registrars. It does a bit more. It first sort of filters and makes sure that the domain that the request is, is a well-formed request and etc. to the registrar. It remains completely the responsibility of the registrar to decide if there

is disclosure or not. ICANN is not there to facilitate the data or anything like that, they're just there as an address with that domain name that indeed is not a ccTLD, it's a gTLD, for a gTLD that we're supporting, etc. There is the registrar, please give me your information, that's their only role.

To answer your question, if I may also, Peter, the discussion about disclosure, and I personally to agree fully with you, I'd like to make sure that that data is not out there nilly-willy. That remains with the registrar. The role of this is to make sure that we funnel in the cleanest and most useful way, by having a templated form, by having the right contact details on the registrar's side and so on, for the request to be sent there. It's not by shutting our eyes, by hiding the information, or hiding the context that we're going to protect the data, it's by making sure that legitimate data gets released if need be, and by having a form that is well-formed and the right person to contact to, we're avoiding time-wasting and iterations and etc. We're not promoting the liberation of data.

Now, what we are doing, and it's not the aim, but it's a direct link to it, is creating an expectation, and that I agree with you. As I said before to Kathy, and here comes my little soapbox, what we've been focusing right now is product development. It's the development of a ticketing system without any political side to it, and I have, to be discussed this week with the council, I have read the charter that was given to me as that, product development. There's going to be a second phase that is going to be policy development, one to decide what we're doing with the old set of policies that was SSAD, and how we adapt that for this

new reality, if RDRS is or is not the right tool for it, and so on, but that's a political discussion that we need to take afterwards. So soapbox, we are about to pivot the discussion within the standing committee from the phase where we're doing the development of the tool, the phase where we're developing the reports, etc., to the phase where we're going to build our recommendations. I've heard already, in this week that's still very, very short, complaints about the fact that RDRS is useless because the data is not disclosed. This is not the problem of RDRS. This is the problem of GDPR, the registrar's interpretation, policy behind it. That's a discussion that we're going to have. I'd like to ask you, and I'm remaining outside of the political arena here, but I'd like to ask you as a group, representing at least some form of the requesters, also representing the people whose data is being disclosed, to go against that particular narrative. RDRS is not there to disclose data. RDRS is there to pass the message on, and it's doing its job, and it's doing its job because more than half of the registrars, more than half of the domains under management out there are represented by a registrar that's participating, because in the discussion with registrars, these registrars say, yeah, we keep on receiving requests directly that are outside of RDRS, but RDRS is more than half of what we receive. And so we've got at least 25, possibly 50% of the traffic of those requests that happen since GDPR are in RDRS. So it is a relevant tool. It is a tool that needs to be fine-tuned and policy behind it, etc. But let's not throw the baby with the bathwater. It's not because requests are not fulfilled the way people want it that RDRS is a bad product.

MANJU CHEN:

Yes. Thank you very much. And one sentence from Farzi.

FARZANEH BADII:

I just wanted to mention that while promoting the system is good and it's okay, we need to promote using the system so that they use the system in a responsible way. And they should be also aware of what are the consequences of abusing the system. So I think in your presentations, as well as inviting them to use the system, to be doing it carefully and proportionately. Thank you.

MANJU CHEN:

Okay. Did you feel like your questions are answered? Do you have one sentence too?

[LISA CARTER]:

Okay. I just wanted to respond to what Farzana said, that we do have language within the user interface of RDRS that explains what misuse of the system would be in violation of terms of service and misrepresenting yourself as law enforcement. That's actually all within the UI now. And there is an item on the standing committee list to talk about ways that people can report that abuse or misuse.

MANJU CHEN:

So in the interest of time, because we only have 18 minutes left, Kathy, can we do item four and five together, which is the Code of Conduct and SOI and the Anti-Racism Policy?

KATHY KLEIMAN: Do you want to start? Do you want me to start? We're talking about two different proposed ethics policies. Two different policies that are actually three different policies pending right now.

MANJU CHEN: Okay then, so I'll be very strict on time. This is until 50, and if we go over 50, we'll just cut it off and straight going to the anti-harassment. Thank you.

KATHY KLEIMAN: And sorry, I didn't realize I was actually presenting. I would have put slides together by now. Manju's been working on the participant code of conduct for a long time, so let's start with the new proposed ICANN Community Participant Code of Conduct concerning statements of interest.

MANJU CHEN: Okay, so if you guys remember, we did this SOI fight, which is statement of interest. You should state who you represent, who you work for, where you get money from when you're participating in policy work. But then we kind of have this back and forth between where you have to disclose everything, and there are lawyers who think because they have confidentiality obligations to their clients, so they cannot reveal. So we reached a compromise where you don't have to reveal the name, but you have a description, and then you list out the legal details why you cannot reveal, but then that didn't get passed either, so it reverted back to the original one, which is you just put private if you don't want

to reveal anything. And then this goes to the GAC, goes to the board. The board said, okay, let's do a code of conduct. And then they published this code of conduct on SOIs like this month or last month. It essentially, I think, the most important part is it says if you are not going to reveal, you are not allowed to participate in policy work. So I think that's definitely what we would like, and we can definitely anticipate pushback from those who have pushed back in the past too. That would be my very short introduction.

KATHY KLEIMAN:

So, and guys, this might apply to us too. There may be some people who are going into policy development processes from NCSG, I don't think there'll be very many, who don't want to disclose or can't disclose what groups they're in. But the fact is, lawyers and others involved in policymaking processes, not in the litigation, not in other types of client work, but in policy, disclose who they are. In fact, in Washington, D.C. and other countries, if you're lobbying to change a law, you have to tell who's paying you and you have to register it publicly. So I think what the ICANN board has done is extraordinary. There will be, and they say it's very clear, just as Manju said, when disclosure cannot be made, the participant must not participate in ICANN processes on that issue. Meaning, don't show up if you can't tell us who's paying you to be there. This will be a major change in the policy development process, will be a major change in our working groups, and I think we should write a strong statement in support. And I want to thank Manju for starting the process, leading it, GNSO through it. If you hadn't done that, we wouldn't be here now, but the ICANN board is making the statement. If

anyone objects, please let us know. Otherwise, let's write this huge, strong statement and have lots of signatures and give it up to the board.

MANJU CHEN: Thank you, Kathy. Well, I didn't start it. I didn't know I was signing up to this when I put out my hand, but yeah.

STEPHANIE PERRIN: I'm actually surprised. We should have had this come up in our Noncontracted Parties House session we had with the business community yesterday because we'll be going head to head with them on this issue. I'm sure their comments will not be in favor of disclosure of clients. So I think we should carry that over to our ongoing efforts to improve our relationship because this is a major battle we will be fighting on this one. Thanks.

MANJU CHEN: Thank you, Stephanie. I'll let Julf to deal with that trouble whether you want to put it into agenda. But I think we're, I'm not seeing any more hands. Let's move on to proposed revisions of the community and die harassment policy. This one I'm not as familiar with, so I will have to rely on Kathy. Please, can you give us an introduction?

KATHY KLEIMAN: ICANN's been talking about anti-harassment for a long time. One of the types of harassment we've had is sexual harassment. It goes back to the beginning of ICANN. But also a question of how people are treated when

they have different opinions. So there's a new proposed anti-harassment policy and I know Farzi's been thinking about this as well. So Farzi, perhaps you can chime in. But let me just read to you. As a condition of participation in ICANN's multi-stakeholder processes, those who take part must, and the language I'm reading is the draft that's been just presented, I think, last week. One, behave in a professional manner. Demonstrate appropriate behavior and treat all members of the ICANN community in a respectful and dignified manner irrespective of specified characteristics so that individuals of all backgrounds and cultures are made to feel welcome. There's more, but I'll go on to number two. Refrain from harassment of any type and refrain from retaliation. And then there'll be processes for raising concerns through the ombudsman for making formal and informal complaints. And there will be a new harassment complaint procedure. There were informal procedures before. There'll be a new one. And this has been proposed. And the question is, is this something, have to review it. Maybe we wanna call a special meeting to think about it. But as Farzi said on the list, and let me just say, these things can be double-edged swords. Sometimes they can be used against us when someone feels that we're being too strong on something. Do we think the right balance has been struck here? And it may be too early to ask that question.

FARZANEH BADI:

So about the anti-harassment policy, I have not looked at the changes that they have made, but what is, like, we can make all sorts of statements that harassment is bad and people should not harass each

other. But as long as there is no effective enforcement mechanism in place and the Ombuds office is empowered to independently look at the issues and come up with a remedy, we will not see, we cannot make this environment safer and healthier and harassment-free. So what we need to focus on, I think, is to see, we are going to have a meeting with the new Ombuds person during the NCSG meeting this week. So we need to ask questions on how the office has been given independence from the legal, ICANN legal, and how, like, the office is going to enforce the anti-harassment policy. So the guardrails that I think we should have for the ethics policy. So ethics policy, I believe, is a different thing. That ethics policy can be, like, people who don't like others, they could, like, be going around and saying that, oh, no, you're being, like, you're not being ethical, and kind of, like, try to remove them from the community with these, like, claims. So we have to be very careful when we come up with ethics policy so that it doesn't get abused. Sorry, thanks.

MANJU CHEN: So do you wanna include that in NCSG's response to the open public comments of this ethics policy?

FARZANEH BADI: Are you telling me to write it up? Yeah, sure.

KATHY KLEIMAN: Thank you very much, Farzi.

BENJAMIN AKINMOYEJE: Kathy, I wanna ask you, as we look at this anti-harassment, is it at ICANN meetings or in all ICANN engagements, like mailing lists and things like that? And someone has also had situation where harassment was mentioned. Is it, when we're looking at anti-harassment, are we looking at somebody's feeling that I'm harassed, and should that become recognized, or we're identifying some terms or behaviors or even words to mean these are harassment terms and should be noted? So how are we looking at anti-harassment? Is it at the meeting? Is it in all ICANN engagements? So those are kind of questions that would be helpful to engage this public comment. Thank you.

KATHY KLEIMAN: And the quick answer is I think it's all ICANN engagement. So a PDP, the Policy Development Process Working Groups I've been on, can meet for years. They'll meet in person a few times, but most of their work is online. So I think it covers the whole life cycle. And Kathy, you wanna make a comment, or Peter has a comment?

KATHY KLEIMAN: I'll help Farsi with the response to the ethics policy, which I think is actually a broad policy for how we make more policies. Or kind of a new thing. Also, I just wanted to point out, it's my understanding that the ombudsman does not deal with any issues involving ICANN staff. So ICANN staff I think can report concerns to the ombudsman, but the ombudsman, there may be some limits there involving them. I think this is member-to-member, stakeholder-to-stakeholder, I think.

PETER AKINREMI TAIWO: Yeah, thank you so much. Just when I was like, anyone that feels that they want to review that anti-harassment policy can join. And because we raised the issue that this should not be used as a weapon, so we should look at it critically and provide comment. It shouldn't be just only anyone that is interested. We can join together and look at it, yeah. So if you're interested, please, can you just raise up your hands, or maybe we can share that on the mailing list as well. Okay, I see. Awesome.

MANJU CHEN: Okay, so actually, we still have five minutes for any other business.

ANDREA GLANDON: Manju, Adam has an AOB.

ADAM PEAKE: So two things, really. Wednesday lunchtime, we have reserved this room for some visitors from an organization. Well, it's a project called the Cade Project. I don't know if it's any relevance or reference to Marilyn Cade, but it's a civil society project that was a competitive bid organized by the European Commission. It's a 48-month project looking at civil society capacity building around internet governance and policy processes. ICANN is one of the identified processes in the project, and there are two people who will be here. I think they have some time on one of your meeting agendas, but they also are gonna hold this sort of listening and hearing and information session in this room at 12:00 on Wednesday, and they'd love for all of you to attend. I've sent an

invitation to all of those who were named as incoming or outgoing leaders of the NCSG, NCUC, NPOC, but we can forward that on to a list, I can write to the various mail, forward that on. Anyway, 12 o'clock for an hour here. And then going back to this offer, or this request, actually, please ask us for webinars on things. And so RDRS is one example that we've discussed this morning. There's the next round and applicant support program, which you'll hear about, of course, in here, but not everybody will be able to go to all of the meetings, because we have clashes with other things. If you want a webinar on a subject, we really are here to do that, and happy to arrange it. Or Coalition for Digital Africa, which you may or may not have heard about, but it's a project that we have that's working to build a coalition with organizations in Africa to talk about internet policy, governments, and extending the internet, and good things. If you'd like to hear about that kind of thing, then that's what we're here for. And then Universal Acceptance, which I know you all know about, but are you interested in the progress with it, and the challenges with it, and how do you get Meta and other organizations to even put Universal Acceptance within their software development stacks, which is incredibly difficult, but it might be of interest. It's about access for users to the internet. Webinars, if you want them, we're here, and we should discuss with the various chairs. Thank you.

FARZANEH BADII:

Tomorrow at 10:30 AM., we, NCSG, and then Contracted Party House DNS Abuse Working Group, have a session on human rights impact assessments and DNS abuse mitigation. I expect to see all of you there.

PETER AKINREMI TAIWO: Yeah, thank you so much. And I would like the house to actually appreciate the outgoing counselor and the new one, Wisdom, term limit, as well as Stephanie. They've done great work. Can we just appreciate them? Thank you. And we're having Farzi and Julf joining the council. Thank you all for joining. Oh, okay.

KATHY KLEIMAN: And one more announcement. Maybe Pedro, do you wanna, NCUC issues forum on Tuesday that Pedro is leading at 10:30, where we will be educating each other on an NCSG view of the applicant support policy handbook.

PETER AKINREMI TAIWO: Thank you all. And a lot of us will be there talking, so please.

ANDREA GLANDON: Thank you, this concludes today's meeting.

[END OF TRANSCRIPTION]