ICANN81 | AGM – GNSO: CSG Membership Work Session
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BRENDA BREWER: Hello and welcome to the CSG Membership Work Session. My name is Brenda Brewer. I am your Participation Manager for this session. Please note 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 may 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 CSG Chair Lori Schulman.

LORI SCHULMAN: Good afternoon, good evening, good morning, wherever you are. Welcome to the CSG Working Meeting. My welcome will be brief as we're starting a few minutes late, but I do want to thank those who were able to make it to Istanbul to thank you and glad you're here in the room today because we need a lot of support.

I do want to let you know that our Day Zero event that happened with NCSG on Friday was productive and we will have a full readout as part of our agenda today.

I want to thank and not forget to thank Mason Cole, who is the Chair of the BC, for putting together along with Julf Helsingius from the non-contracted party side a really robust schedule and Paul for his wonderful moderating and mediating as always. Yes, we'll kiss the ring afterward, Paul, don't worry.

I also want to thank our other constituency leader, Philippe Fouquart. We were sharing a dance today to talk about getting to know the ISPs, CPs, IPC, and all those Ps and Cs and Is were just really confusing people, but I think we got through it.

So what I'm going to do is jump right into the agenda and not take a full five minutes. I'm very, very pleased to introduce Elizabeth Field. She is our new ombuds. We're not using gender, which I think is pretty cool. She's here today to tell you a little bit about herself and where she sees the office going. So I will hand the mic over to you, Elizabeth.

ELIZABETH FIELD: Thank you, Lori. So I'm Elizabeth Field, or I also go by Liz. I am based in Geneva and just as I introduce myself, I'll cover three things. I'll do a little bit about the role of the ombuds in the background and just a couple of words about where the office is now and share with you, as Lori said, three principles, what I'm anticipating taking the office forward, so three principles for evolving the office.

For those of you who don't know the role of the ICANN ombuds, I'll just give you a very brief summary of what that is. It's set out in ICANN's bylaws. As ombuds, I provide an independent internal evaluation of complaints from the ICANN community who believe they've not been

treated fairly. I also handle complaints under the anti-harassment policy. I handle requests for reconsideration. And within the bylaws, I'm also given a mandate for an advocate for fairness.

What this means and how I take this is I work beyond, as well as the complaint. I also offer services and support and insights and guidance to the community and others and leadership on conflict and addressing and behavior and repairing and building relationships. I think two things are important as well. I report to the board and I am independent. And as an independent, I work for the whole of the organization rather than a specific part.

My background is I've got two decades of experience as ombuds and conflict resolution and organizational development work. I'm a mediator, a conflict coach. I do dialogue, group process, facilitation. I also have a background in anti-harassment, and that includes both sexual harassment and other forms of harassment, such as bullying and discrimination. And I work both at the level of prevention as well as response. I feel very well prepared for ICANN. All of my roles have been in multilingual, international, global organizations. So I've worked with UN agencies, human rights movement like Amnesty International, the UK Civil Service. I've had private sector clients as well. And I have country experience in every region, so I understand from this there is no one size fits all to behavior and conflict. And I speak a little bit of French, or sorry, I speak French and a little bit of Spanish, so you can contact me in those languages.

Just a couple of words on where the office is now. I want to say I believe there is a solid foundation to build on. The interim ombuds has done a

lot of good work to evolve and develop the office. The principles of responsiveness and respect and professionalism and the intentional efforts to build trust, I will be taking these forward. The evolution of the office will be driven by data and the needs of the community. So I'm very eager to hear from people in terms of what they need from the ombuds so that I can respond to that.

In terms of the three principles for evolving the office, I mentioned data, so I want a data-driven strategic approach that has prevention at the core. I have a heavy emphasis on communication and engagement. And the third principle is a positive framing, so looking at what you do want in terms of the environment and behavior alongside what you don't want, so the positive framing. And looking at supportive services that I can offer alongside the handling of the formal and complaint. So my aim is to work collaboratively with the community, and I'm looking forward to working with you. And I'm really interested to see if you have any questions or comments. Thank you.

LORI SCHULMAN: Do we have any questions? And Brenda, I'm going to ask you to help me monitor the chat, because as you know, I'm not the best screen multitasker. So if there's any hands raised in the chat, could you please let me know? Are there any now? Okay. I will ask a question.

Yeah. And it comes based on the experience from the IPC. You may be aware there was a request for reconsideration, and we're currently involved in a cooperation engagement process. And I think the CEP has gone generally well in terms of reaching some common

understandings. But I want to understand where the ombuds might fit, because our experience was that we filed a complaint. We had a meeting with the Board Accountability Mechanism Committee, BAMC. I would say that the conversation with the BAMC wasn't terrific for our side, quite frankly. We were told that, well, we had a valid legal point, that we should just take the win. And if we didn't withdraw our complaint, that we were going to get a decision, and we wouldn't like it. And that's a direct quote. So that made it very difficult from our perspective in terms of how we might negotiate this in faith, in good faith, I'm going to add that, because this complaint was filed in good faith. We saw what we saw in terms of misapplication of the bylaws and the Board's voting power. And in fact, the Board recognized this. So that's a plus. We won. We won the point.

But unfortunately, I felt that the process was very formalistic. And we decided to roll the dice and say to the Board, we're not prepared to withdraw until we understand, you know, where these remedies might go. So we got a complaint that was quite harsh. You can read it. There are three elements to it. We disagreed to all three elements of the dismissal. It was summarily dismissed. One element in particular had to do with whether or not we had the standing to even file. And the other element is whether or not it was timely. There were five issues we raised. One was timely. Four were deemed not. We will stipulate to that. But the one timely, in my view, should have carried the day.

Alright, I'm giving this all as background because we're in the process, and I just want to make it clear where we're coming from. When we eventually entered the CEP process, that went well. We had a good

conversation. We transmitted our points. We reiterated them in a letter. And we feel like we're moving toward resolution. We at no point were asked to engage the ombudsman, the temporary ombuds. We were in no way, I mean, that's just not how the line worked. So where do you see yourself in that line and how it might mitigate some of the zero-sum game that was played in this particular situation?

ELIZABETH FIELD: Thank you for the background and thank you for the question. So first to say that I'm aware of this issue. I have not had a chance to read it in detail. I would like to. I think it's very important, especially with the context that you've set out. So I would like to understand it fully. So I'm going to give a partial answer based on what I am aware of and understand now in terms of the role of the ombuds.

The role of the ombuds and the request for reconsideration is set out in the bylaws, as I'm sure you're very familiar with. And the process is, you know, kind of constrained. Constrained is not the right word. The process is set out clearly there. So that's, you know, there's the one dimension to my role, which is there. I think there is another dimension to the role, which is looking at, you know, sort of how the system works, how people are treated. You know, and how things can be, you know, as you said, moving away from the zero sum towards a more collaborative, which sounds I'm very pleased to hear that you feel that the CEP is going well and you're moving towards resolution. And I'd also be interested in hearing about those factors that are helping to generate that positive shift or transition. So that I understand. I

recognize this is a very sort of unsubstantial response, but what I would like to say is I would like to talk more about this and hear more about it.

And as I said in the beginning, the role of the ombuds as I see it is to respond to and support the community and the needs of the community. And this is one of those. So my understanding of issues like this will be critical. So I would like to discuss it further if that is okay.

LORI SCHULMAN: Right. I can raise a singular point now, but please feel free. John McElwain and I are representing the IPC in the CEP. Right now there is an agreement that we only speak—I am the sole representative for the IPC, and John Jeffrey is the sole representative for ICANN board. So if we were to talk, I would really like to see a waiver to make sure that we're within the rules because I certainly don't want to, you know, I'm very limited in what I'm saying here in terms of our thinking. So I would just want to know where the boundaries are so neither side is crossing the boundaries and we're not perceived as acting in bad faith.

ELIZABETH FIELD: That's a very good point, and thank you for that. I think maybe I should also set out very clearly that at the level of an informal conversation, that is, you know, it's confidential. Your contact with me is protected. Your identity or anyone's identity is protected. Contact with me is confidential. That is not to say that I have a formal role in that. It is, you know, the information, the support, the problem solving, and being able—Now, if it moves into a formal role, then we have to look very

carefully at these different, you know, what's, you know, the roles, the bylaws, et cetera. Does that make sense, Lori?

LORI SCHULMAN: Yes, that does make sense. And I will add something that's probably common knowledge, which I don't think JJ would mind because, I mean, basically on our end, we're free to discuss almost anything we want. I feel like it's our confidentiality to waive or not in terms of, but I also don't want to, as I said, violate any protocols or rule. But I will say this. It is going well, but there's still a sticking point that, in spite of the fact it's going well, the most recent response received asked us to withdraw the complaint again before the resolution is passed. So from my view, procedurally, well, that might be very friendly. From an advocacy perspective, that's really not feasible. So I would love to sort of get past some of this in a way where, again, we're not put on this weird kind of defensive when, in fact, we're really aiming for positive community change.

KIRSTA PAPAC: The only thing I want to add, and just for those of you who may not know, I've been the interim ombuds about a year since the previous ombuds left, and Liz and I have, as we've been calling it, been attached at the hips. She started in early October, you know, transitioning the office, but also bringing her up to speed on issues and things like that.

So the first thing is, as she said, she's aware of it, I've been aware of it. I did not know there was a CEP, but, you know, I don't follow it, you know, detail for detail. I don't know if it's new information for Liz, but it is to

me. And the thing I would add, wearing my ICANN org hat and not my interim ombuds hat, is I don't know the rule. Your question about the CEP and the confidentiality or whatever around it, I personally don't understand those rules, and there's a part of me that's saying, let's make sure we understand where the lines are, which is, I think, a different way of what you're saying, right, Lori? But let's make sure where the lines are before that dialogue. And, again, I'm not trying to put my finger on the scale as an ICANN org employee, but just kind of representing the org side of it, you know, to say that I think that's something that they would probably want to make sure that everybody's on the same page.

[LORI SCHULMAN:] You're confirming what I started with, quite frankly. As I said, we're happy to talk, but we don't want to do anything that would compromise the goodwill that has been achieved in the process. So, you know, whether we talk now or when the process is deemed concluded, that would be the only issue. I think once the process is concluded, there's no issue talking about it. But since we're in the middle of it, I certainly do not want it perceived at any level that somehow we're going around the parameters set by the process and by ICANN legal generally.

KIRSTA PAPAC: That sounds like a wise approach, not that you're asking. If I can just add one more thing for people in the room as well, because, again, maybe not everyone knows, I've been the interim ombuds for the last year, but I have a job with ICANN Org as the complaints officer, so I've

been holding both roles, which are complementary, but there's different lines. So that being said, as I'm transitioning the office over to Liz, I will be resuming my job as the complaints officer, and so that's where my, like, I have my ICANN Org hat comes on. Thanks for letting me explain myself.

LORI SCHULMAN: No problem. We understand you've worn many hats, so we understand completely. We all do, I think, at certain times within this community system, for sure. So, you know, I've been talking a bit. Does anybody have questions based on the last exchange? Any clarifying issues you'd like to ask Elizabeth? Or even Krista, since she's here, we'll put you on the spot. All right. In fact, we're right at time. Yeah, so I want to thank you so much, and we really appreciate it. I want to let you know that Liz reached out to us, which we really appreciated, and we think that's a fabulous start. So thank you.

We're going to move on, on time. Yay. So the next I had referenced in my welcome about our Day Zero event on Friday, we had the event. We also had, in the interim part of the event, we had the two leaders, we had Julf and Mason, do a presentation in front of the board. And you want to talk a little bit about, and I think honestly about that presentation. It was not really, unfortunately, I don't think it went as well as we would have liked. I think Julf and Mason made a great representative team, but I do think that some of the issues that were raised and the way they were raised is sort of going to some of this zero-sum and defensiveness that we've been experiencing. So I'm going to leave it there and pass

the mic to Philippe with the readout of the day and any next steps. Thank you, Lori.

PHILIPPE FOUQUART: Thank you. So for those of you who were not there on Friday, we met as a full house. I was trying to think about the last time we had met. I couldn't remember. It must have been a year or something. We might have had an interim virtual session of sorts, but probably a year for the face-to-face meeting. The whole day was moderated by Paul as efficiently, as brilliantly as usual. Thank you, Paul.

I'm not going to go into all the discussions that we had, but very briefly we talked about the tools of collaboration that we can use. We will try and not merge but converge hopefully into a single system or at least consider a single way of managing members given our respective needs, which may differ from constituency to constituency. We talked about the opportunity of having a single mailing list and the pros and cons of this as well as, unsurprisingly, more regular house meetings. I think on all accounts the tone and spirit of cooperation was such that we do need regular meetings. So as a rule of thumb, we'll be meeting face-to-face or at least requesting a day zero once a year, tentatively at the policy forum, and go for quarterly calls between meetings. On the policy issues, some of those will be addressed, well, DNS abuse will come on soon in a moment, so I'm not going to go into too much detail. It's a policy of understanding each other's views, even if we would not align on some of them, including DNS abuse, but I think it's time well spent.

We talked about, we reviewed the status of NIS2, as well as the role of the small teams on council, and the need for more support for those mindful that they're generally, and they are, a more efficient way of progressing the issues. The board workshop, I guess we'll talk about that a bit later. I think most of us found the tone cordial. We can talk about the substance, but at least on the forum, it was certainly cordial. And finally, we talked about the updates on Team 14 that will be circulated to our respective constituency. If you haven't received it, please complain to your officers. You should have received it by now. The team came up with three recommendations. Hopefully we're going to have a fourth one by the first quarter, so that we can trigger the initial stage by the next ICANN meeting, as a matter of fact, to consider. So that would be 18 months prior to the AGM, on which the seat 14 is reconsidered. The appointment, that is. I think I'll stop here as a brief summary of what we discussed.

LORI SCHULMAN: Thank you, Philippe. I want to add a couple of things. In terms of issues we care about, both sides absolutely agreed that we care about domain abuse. There is universal, pardon the term, acceptance, pun not intended, universal acceptance of the fact that domain abuse is bad. However, where we absolutely diverge is where do you deal with it? Do you deal with it inside of ICANN and build bridges out, or do you just deal with it outside of ICANN? And the NCSG is very clear that this is something that should be entirely dealt with outside of ICANN. So that position is challenging for us on the CSG side.

But now, you know, we've always known it, but the fact that it was articulated that clearly and that strongly definitely gives us, I think, maybe a little bit to talk about in terms of compromise, because the idea of bridge building itself was not rejected. So there may be a way to come to some sort of agreements about if changes aren't done directly through the policymaking process, are there changes that we could possibly do by building bridges, like, for example, with host providers that we're not doing now, at least not in any sort of formalized way. That was the takeaway I got from that.

And the other issue on board seat 14, which I personally found very challenging, is that when we were going through all of this, and I was chair of the CSG during that time period, the one issue where we just couldn't get past is, how do you break stalemate? Now, Team 14 has done extremely well, I want to say, and I want to thank Paul and the others who have been involved in Team 14. Damon Ashcraft is, but he's not here today. I mean, I think he's in another meeting, but we've had a really dedicated group of people working on this thorny issue for the CSG, and we were told on Friday in the meeting from the NCSG side, in no uncertain terms, that they will not engage in any sort of voting or any kind of process with stalemate.

So to me, while it's good to have procedures and a timeline and straighten out the process, which is a huge win, considering where we started a year or so ago, where we just didn't have a sense of how things might work, and now we have a potential roadmap for how they could work, is a big win. There's also acknowledgment from Team 14 that their work isn't done, so it's very possible that these opposite sides of

we need a way, we're never having a way, could somehow be melded together in a way where both sides feel fairly represented and do not hold up the nomination process. Because where this house fell down is in exactly that, the back and the forth, back and forth, back and forth, never quite understanding how we would break a stalemate.

We came up with a short-term solution that was never intended to be the long-term solution, although I do feel that that short-term solution did work to the extent that we got a nominee, and we got the nominee timely, which is the point. So that was my impression, that that's a piece of work I still think we really need to dedicate ourselves to and understand the other sides, as fixed in their position as we are in ours, and so there is going to have to be movement toward the middle. What that looks like, oh, Paul, good luck. Yeah, and you can speak, absolutely.

PAUL MCGRADY: So the first three recommendations are, some of them are process only, right? Some of them are not. So, for example, the search team is meant to rank candidates and then send that out, right? So there is, again, there's a little bit of substance in there, a little bit of influence in there to try to get early alignment on the universe of candidates. I don't know that our work is completely done on recommendation four. In fact, I know it's not, and I don't know where we'll end up on that, and I wouldn't try to guess or impose my view. But all the work that's been done so far is meant to not push us up against a wall, right? So that we have time to make a good decision.

So maybe we'll have more progress on the recommendation four in a way that Lori would like to see. Maybe we won't, don't know. But I'm also an incrementalist and think that positive change is positive change, and we're better to have some even if we can't have it all. So stay tuned.

LORI SCHULMAN: Thank you, Paul. We're in violent agreement about that. There has been good progress made. We don't want to hide that behind wanting bigger goals. But since that was a real sticking point on this side of the house, I did feel the need to highlight it now, just to set expectations about what Team 14 may or may not be able to do before it's time to thinking about, believe it or not, reappointing a board member. Mark, please go ahead.

MARK DATYSGELD: Something that I heard in the meeting that was a little bit disconcerting as someone who went through the lovely process that was the selection thing, let's call it that, is that there has been unwillingness in doing joint interviews, which, you know, I understand why that was seen as a problem because the interviews were very different. From one side it was very unstructured and from the other it was just a pile on. So I don't know if that is something that we should consider accepting at face value. That's potentially something that needs to be discussed further because it won't benefit anyone in the future to go through that experience in that shape.

So out of everything that I heard from yesterday's meeting, that's the thing that struck to me as particularly concerning. The rest is par for the course. It's things that we have been discussing and we know. But that particular point, I don't know, I wouldn't recommend following that direction, but that's just my personal insight. I just think it's something worth really going for. Thank you.

SUSAN MOHR: Thanks, Lori. This is Susan Mohr for the record. I thought one of the positive things that came out of the discussion, if I understood it correctly, was in taking into consideration perhaps unwillingness to have a vote if there's a stalemate, as an alternative, what I heard was that there's an intention to start much earlier in the process. And that was part of, I think, what drove us where we ended up that resulted in the creation of Team 14. If we do start 18 months in advance, and we do the interviews that they've talked about so that we have a joint view on the success or failure of the board member, then it seems like that advanced 18-month process does have a good likelihood of getting to a point where we can reach some agreement early in the process either way. And to me, that seemed like, it's an interesting approach, and it doesn't mean that it's going to be, that it's foolproof, but I felt like that was a positive outcome from the discussion.

PAUL MCGRADY: Very briefly, aware of time, that this isn't the main topic for today, but yes, thank you. And I think that's part of it, right? Yeah. Starting early, I think that taking each other's temperatures on the current incumbent

frequently is part of it as well. That way nobody is surprised one way or the other when the time comes. We've actually seen this process work with the, hopefully on Wednesday, the re-election of Greg and Tomslin into their leadership roles, like that's by a claim within the House, right? And so when there is a good incumbent that's doing a good job, this work anticipates essentially that it could be very possible that it'll be a non-issue in the case of Christopher. It could be a non-issue for four more years from now, right? I mean, it could be a long time. So yeah, starting early, knowing where each other are in terms of the current incumbent, getting early rankings from the search team to get us going towards, you know, a particular candidate or group of candidates to select from, developing a pool of people who maybe are not the favorite but are acceptable, right? That's the idea. All that to give us plenty of time not to miss the deadline. I guess from my point of view, the primary problem that Team 14 is meant to solve is getting a candidate selected by the deadline. It's not meant to solve the deliberation, right? It's not meant to solve making a difficult choice easy. It's meant to make sure that we don't embarrass ourselves and get a nasty gram from the board chair again, right?

LORI SCHULMAN: Thank you, Paul. I appreciate that perspective. So we are at time now for this particular section. Does anybody have any questions? And if you don't, we're going to roll right into Mason's presentation. Who's got a question? Oh, hi. Please go ahead.

TIM SMITH: Hi. It's Tim Smith with BC. Just a couple of comments. I find this really interesting. The sense that NCSG wants to do separate interviews with a candidate, I mean, I think there must be, and there are people in the room who have more experience of this than I do, but there must be some good best practices in human resource interviewing that would suggest if we come together beforehand and determine what it is we're actually looking for and create a questionnaire of what it is we want to find out from the candidate and have everybody from both sides of the house hearing the same responses, that that is positive. And I would think, well, I would hope there's a way to talk about that within Team 14. So I mean, I guess that's just one thought that I have.

The other thing is, did you get any sense from them why they wouldn't want to come up with a process to break a stalemate? Because ultimately we have to come up with a solution, and everybody wants a solution. So anyway, I'll just leave it there.

LORI SCHULMAN: Agree. Everybody wants a solution, but not that solution. I think that's important to note. And also, what came across to me personally, I did not understand, and I had a real learning on Friday, and I'm glad I had it, although it's a little late because I'm rotating out of leadership, but it's never too late to learn how to improve relations. You're going to see in the meeting that we have this afternoon with the joint parties of the house that we're going to be instituting a policy of making sure that if one CSG member speaks, one NCSG member speaks. And so it's a different format. It was suggested by NCSG.

There is a visceral concern that NCSG just does not feel heard, period. And when we were going through the alternative method for choosing the candidate, the temporary method, it did at one point require a vote. And what was expressed to me privately from the other side, and I will not mention names, is that there's a concern because of the legal training on our side and because of the business focus on our side that somehow a vote may actually be gamed or strategically manipulated in a way. So this idea of being fairly represented, fairly out in front, by requiring compromise, which is what Steve and Farzaneh did years ago, by requiring the cyclical nature of this process that you have to reach consensus, period. And that goes to the ethos of NCSG. This is what I think. So I think the idea of saying to an organization with that kind of ethos, but wait, we're on a timeline, and we're willing to make as many circles as we need, but there's going to be a point where we've got to stop, is just difficult for the group.

How we get around that difficulty, if we can translate it in a way that says if we find a process that is built in and fair, that is considered a best governance practice ... I mean, those of us in the room who've mediated or have gone through decisions like this before know that in a lot of cases, there are steps, steps, steps, maybe two or three escalations, but the final escalation could be a coin toss. And the idea of that kind of an outcome to NCSG is just simply unacceptable. And I understand the argument, but I also understand we have to meet a deadline. And this is where this tension is arising from my point of view, because I obviously can't speak for NCSG.

SUSAN PAYNE: Yeah, really quick. It's interesting to hear you talk about the voting and that being the concern, because that didn't come across. And so I got that there was a wholehearted opposition to voting, but not really why. But I would say that if it's that, that they feel like they'll be outvoted by the CSG, which I'm getting the impression is what you're saying. There's a possible solution for that, which is being employed at the moment by the contracted parties where they've got the same, I mean, okay, they're kind of much more aligned, but they're at the moment trying to select seat 13. And you know, there's a difference in membership size, again, between the registrar stakeholder group and the registry stakeholder group. And so they've found a way to kind of give like proportionate weightings to the votes so that you address that. So it's about the percentage of the vote you get in your house for a particular candidate rather than the percentage the candidate gets across both of them. So there are solutions there, if that's the problem. There are solutions there that could be used, that are being used in the CPH at the minute.

LORI SCHULMAN: Susan, I want to thank you for that. I'll just ask Paul to take that on board. And we'll take it on board as the IPC to look into that solution to see how it's working on the other side. I do know too, you know, right now we're voting as House v. House. There's an idea that we could vote constituency by constituency. So there's six votes instead of two, which would not eliminate but potentially minimize the issue of stalemate. There'd be more flexibility. So I think there's a lot of options there where

we might be able to get to a good yes. But again, my point was level setting that that might not be something that is resolvable.

Right now, we just expect that Team 14, to Paul's point, will do the best it can to make sure that a candidate is chosen on time. And I think I'm going to end it there. Yeah, we'll move on. And since we talked a lot about the RFR with Liz, I'm not taking five minutes. I'll just take a quick minute later. But I'll hand the mic over to Mason Cole now to talk about DNS abuse.

MASON COLE: Thank you very much. Mason Cole, Chair of the BC. And I'll set a bit of context for what these slides mean and why we're bringing them to ICANN 81. So the CSG, and I can speak for the BC in this context too, have been extremely active on DNS abuse for the past probably three to four years. And the reason that we have been is because, from the BC's perspective, DNS abuse costs our members millions and millions per year. We have a DNS that is not as secure and stable as it should be, and there's an opportunity to work through the ICANN model to fulfill that part of ICANN's mission and make sure that we have a DNS that is secure and stable for everyone.

So we led up, after we sort of beat the drum now for several years on abuse, we were able to get ICANN and the contracted parties to agree to some amendments to the registrar accreditation agreement and the registry agreement that dealt specifically with DNS abuse. And by specifically, I mean with the five types of defined DNS abuse. There's

phishing, pharming, malware, botnets, and spam as a delivery tool. And that's a good start.

We were promised by the contracted parties and by ICANN.org that those amendments would be the first step in handling what is a persistent and ongoing problem with abuse, and in fact a growing problem. And you'll see in these slides how, in fact, it is growing.

The objective of bringing these slides into ICANN 81 is to propose to contracted parties and to org to let them know that DNS abuse remains a significant problem, it remains a growing problem, it deserves ongoing attention, and that we have some ideas that we want to propose to the community about what next steps for DNS abuse might look like. I vetted out these ideas with fellow leadership within the CSG, and so we've got some agreement across the house, or the stakeholder group, and I want to present those to colleagues in the room now. Next slide, please.

Again, as context, we're interested in following up on contracted party and community assurances that the April 2024 amendments were just a first step. Abuse continues to be a persistent and growing real-world problem, and if you've read any of the news lately, you realize there's increased pressure on the ICANN model from governments and regulators, both in Europe and in the U.S., and probably elsewhere before too long, if abuse isn't consistently handled.

So, the CSG understands the contracted party house perspective on implementation costs of tools to fight DNS abuse. You might remember back in, I believe it was the San Juan meeting, we got a bit of static from

the contracted parties who told us, you know, the ink isn't even dry yet on these amendments, why are you talking about what next steps might look like? And don't you understand that we bear the implementation cost of whatever you put in our contracts? Well, yes, of course, we understand that. So, I don't want to let that point slide, because we need to address the fact that contracted parties do bear implementation costs, but at the same time, the contracted party side needs to understand that we bear the costs of DNS abuse and the impact it has on the people that we represent.

So, this is an opportunity for the CSG, the contracted party house, and for Org to work in good faith and in the public's interest to demonstrate progress on the multi-stakeholder model. There are several ways to do that. ICANN is doing that via the new gTLD program and some other initiatives. This is a way to show the rest of the technical world that ICANN is equipped to deal with a problem that is persistent and ongoing, and it deserves an opportunity to do that. Next slide, please, Brenda.

So, it's a good start, the April 2024 amendments. We're grateful for those. We remain concerned, though, that because abuse tends to evolve continually, that the April amendments are insufficient to stem the financial losses that the organizations that we represent sustain over time and their customers and users, and those are the people we're here to represent.

So, I had a conversation with Tripti, the ICANN board chair, back earlier this summer, and it was very productive, and one of the issues that I raised with her in that discussion in my capacity as BC chair was that, in

fact, businesses suffer financial losses due to DNS abuse. She asked for substantiation of what that looked like. So, I prepared some figures and sent it to Tripti and the board. Hopefully, it's been shared at the board level. I'm not sure that it has yet, but nonetheless, you can see some of these figures here on this slide. There are real-world costs to DNS abuse, so I'm not going to go through all of these, but you can see that problems such as government impersonation, ransomware, botnets, phishing, and malware, these are seven- to nine-figure damage figures that actually impact the people that we represent. Next slide, please.

So, this is just some more in the area of statistics, but I looked also for international validation of this, not just U.S. authorities, because I live in the U.S. I wanted to see what is out there internationally, and I found this from the International Monetary Fund, which was very interesting, that the average size of losses has more than quadrupled since 2017 to $2.5 billion. So again, not only do you have a growing rate of incidence of DNS abuse, but you've got a growing level of impact of that abuse over time. Lori, should I go ahead and take questions here?

SUSAN PAYNE: Yeah. I mean, if anybody has questions about the data,

SUSAN PAYNE: Yeah, yes. It's on the data. On the previous slide, Mason, do you know, are those figures, are they kind of self-reported by the victims of crime? So like that's, you know, that 394 million losses to kind of members of the public? Or is it kind of members of the public plus what businesses have lost, you know, kind of like an aggregate figure? Or do you not

know? But I mean, I'm just interested, I mean, obviously, to the extent that it's members of the public, that must be really meaningful.

LORI SCHULMAN: Susan, do you mind repeating it more slowly? We're having a little issue with understanding the audio.

SUSAN PAYNE: I'll try again. And I will also go on my headphones in a minute. Thank you. I just was wondering whether that, say that 394 million in the first one, is that self-reported by the victims of crime? So that's like members of the public? Or is it kind of an aggregate figure of members of the public plus business and others? I don't know if you know.

MASON COLE: No, thank you for the question, Susan. That actually is a figure that represents self-reporting to the US FBI by the victims of the crimes.

SUSAN PAYNE: That must be meaningful then, surely.

CHRIS LEWIS-EVANS: Yes, that is self-reported by the victims of crime, so that is members of the public and businesses, and could also be government entities, because government entities are victims as well sometimes. So it could be all three.

PHILIPPE FOUQUART: Yeah. Along the same lines, the categorization of the abuse as being DNS-based is done by the reporting party, this sort of ticker box or something, because one figure that strikes me is that malware is 1 million, which seems very low for malware in general.

CHRIS LEWIS-EVANS: And I'll be careful here, because this is the US, not the UK, and I'm... So it will be both self-reported and investigated. The certain levels will not receive the same amount of investigation, depending on others. People don't understand malware when they're reporting it, so they will tend to say, and that's where you'll see ransomware. I mean, ransomware is probably the biggest impact in type of malware on the public, and everyone knows what ransomware is. It's easy to define. Malware is quite hard to define for people, so they will tend to say, I lost a lot of money through my bank account, but that might have been a malware that was stealing bank account details, but then that would probably come under some sort of fraud. So that malware figure might be a lot bigger but would be tied up somewhere else. And it tends to be, this is very UK focused, the crime type that is the more serious. So writing malware is seen quite low in the UK. It's a lot higher than in the U.S. But committing fraud is a higher offense. And so that's why it's so important to have a strong law enforcement in the room.

MARK DATYSGELD: So just to complement what Chris much better, more aptly said, but any botnet possibly starts as a malware. So you start infecting the machine with a malware and then what you see the result of is the botnet

because it has become a zombie because of that. So the malware both affects disproportionately end users and it is the entry point for a lot of the problems that go above it when it starts to become an operation for something else. So that might explain partially the difference between the ratings there.

MASON COLE: My understanding, too, is that not all crimes are self-reported. So there's a level of crime that exists that doesn't get reported to self-reporting outlets. So there's a level of crime that exists that doesn't go in terms of the real financial impact of these kinds of crimes. So here's some specific information on phishing. You can see the growth rate in phishing. You can see that the Cybercrime Information Center observed an 85% increase in domain names used in phishing year over year between 2023 and 2024. According to IBM, the business recovery cost of a single phishing-related data breach is $4.5 million. So not only is the rate going up, but, again, the scale of impact is also increasing.

So on the issue of DNS abuse definitions, this was a subject of debate before we took on the April amendments. So the current definition of abuse, as I mentioned, malware, botnets, phishing, pharming, and spam as a delivery method. This is a very narrow definition. If you go back to the SSAC's report titled SAC-115, which came out long before we did these amendments to the Congress, this is a very narrow definition. If you go back to the SSAC's report titled SAC-115, which came out long before we did these amendments to the contracts, you can see that it says, this definition doesn't represent all forms of DNS abuse that exists, are reported, and are acted upon. New types of abuse

are commonly created, and their frequency waxes and wanes over time. No particular list of abuse types will ever be comprehensive.

So what we're looking for as a CSG is an expanded definition of DNS abuse, or at least the willingness to accommodate new threat vectors definitionally as those threat vectors evolve. So if we stick with the definition as it currently exists in the contracts, the bad guys are going to outrun the good guys pretty quickly. So we need to take on the idea that that definition needs to be more expansive.

And in fact, I went back and found an old SSR-2 recommendation, which kind of calls for a cross-community working group that would establish a process to update the definitions of DNS abuse at least once every couple of years on a predictable schedule. That recommendation has never been adopted, but it's a good one, and it should be. So we're trying to bring that out of retirement to see if we can push that forward.

UNIDENTIFIED SPEAKER: This alternative of revisiting it every two years, was that considered and rejected at some point during the negotiations of DNS abuse? DO we know whether that's been on the table?

MASON COLE: I'm sorry, that's a good question. I don't know that it was discussed. I've seen no evidence that it was. So I assume that it probably wasn't, but I don't want to speak for the whole community.

LORI SCHULMAN: That's easily followed up on. We can go to SSAC and see if they've been tracking this. Is this a natural point to stop? Okay. So Paul.

PAUL MCGRADY: So Mason, thank you for all this work and thank you for sending the information back to Tripti. But one thing I've noticed, and this is something I like for the entire house to consider, which is one of the things that have brought us together is we quit doing the fake math, right, designed to separate us. And Farzi and I recently had a good experience in the standing committee for the RDRS about pushing back against fake homework, right? And so, for example, when Farzi kept pushing for the aggregate country data to be disclosed, the staff led by ICANN Legal came back and said, please write us letters about why we should, essentially why we should be transparent. And the response back was, this is 2024, we're not writing to you about why you need to be transparent. We're not doing the homework, right, no more homework. So I'm not being critical of the fact that you got back to Tripti, but I kind of wonder as a strategy, homeworking us to death is not something that they do. And instead, just the response to Tripti, maybe in a letter saying, you asked us to put this together, but is ICANN really unaware of the cost to the economy of DNS abuse? If it is, we can quickly educate you, but it's hard to believe you in making policy in this space without knowing anything about DNS abuse and its cost to the economy, let me know, love Mason, right? And again, I'm not being critical of the fact that you did it, thank you for doing it, lots of hard work, but at some point, like the fake math, I think we need to start rejecting fake homework.

MASON COLE: It's an excellent point, Paul, you're right. I don't wanna assume what the board knows and doesn't know, but you're right, we don't want to homework anybody to death. I did this as a courtesy to Tripti, and I don't know whether it's been shared with the board or not, so I don't know how much they do know. But there's been enough voice in the community over time that has said DNS abuse is not that big a scale of a problem and we don't need to pay that much attention to it, and I wanna refute that, because that's not the case. So, but I take your point very well.

LORI SCHULMAN: I'd like to get in the queue wearing my INTA hat, not my CSG chair hat, but this past year actually, actually it was May 2023, INTA passed a resolution endorsing a different meaning, a different definition of DNS abuse that took naming specific harms out of the definition and focused on intentional harm, period. Now, to recall different models of what DNS abuse definitions could look like, when the EU report came out two and a half years ago, the EU broadly defined the term as anything that causes harm. Where we felt, where the EU fell down, is that in order to look at this from an enforcement perspective, some sort of criminal intent should be from a due process perspective included. And that's what differentiates ours from the EU definition. Some people have said our definition's broader. It's broader to the extent that, not only do we mention traditional domain names, but we also include the possibility of web three domain names. And I would like the CSG to seriously consider endorsing the INTA definition. I'm going to put a link to our

resolution in the chat, as well as the definition. But I think it would serve a purpose, and we've been lobbying other IP associations globally in Asia, Europe, and Latin America to adopt this, and some are in the process of doing so right now. Because where we fall down, I think from a strategy perspective, is most of the community, including many CSG members and IPC members, signed on to the voluntary framework as a show of good faith. And what we want to do is say, great, that was the floor. It's not the ceiling. We can do better. And I think if we spin a message that way, and saying, of course, we're going to sign on to whatever's going to fight abuse, but there's better ways, is a very fair position to take in this advocacy work.

MASON COLE: Okay, thank you, Lori. That's certainly something that CSG should consider doing. So thank you for raising that. All right, I think the queue is clear. So let me just cover these next two slides quickly, because I know we're close to time. Constructive ideas for what's next. Underline the word constructive. So, here's what we plan to go to the community with next as our asks. The ability to act against abuse at scale. Meaning, the opportunity to take out larger swaths of abuse by acting at the account level, rather than going whack-a-mole and going domain name by domain name. So, there's an opportunity here to utilize what the EU Cooperation Group on Article 28 of the NIS 2 Directive said, which is that risk-based analysis can help identify where those problem names come from. So, there's an opportunity for registrars and registries to employ that kind of system.

The ability to act against imposter domain names. You saw this raised in a letter from Senator Warner here in the U.S., who is chairman of the Senate Intelligence Committee. He raised that issue in the context of Russian propaganda in the U.S. election, that there are imposter domain names feeding misinformation to U.S. citizens. This happens in other contexts as well, where you have governmental entities, you have companies, you have others, whose names are copied almost exactly in the DNS and used to perpetrate bad acts.

In terms of operational upgrades, things like improvement of response times, documentation back to the reporter of abuse, of the steps that were taken against the abuse, an affirmative duty this time for registries to mitigate abuse, requiring a who is reveal when there is DNS abuse, particularly when that abuse is occurring at scale, so you can deal with the problem quickly and more comprehensively, and then identity verification, which is you're starting to see this employed by registrars in other contexts. For example, GoDaddy now does this for their auction platform. We have prohibiting CSAM on here. That stands for child sexual abuse material. I'm not sure anybody can really argue that that has a place in the DNS, but there's no outright prohibition in the contracts for that. And then, again, the evolving definition of DNS abuse, which we talked about just earlier, that that's going to need attention over time.

cNow, what happens next with these ideas? We're going to talk with a contracted party house later today. We're not going to get as nice a reception as I'm getting right now, I'm sure, but nonetheless, I did speak with CPH leadership before

we arrived in Istanbul, gave them a heads-up that we were going to bring these ideas to the table, assured them that we were doing this in good faith and not just to push around the contracted parties, and we may get pushback anyway, but there's no excuse for not trying. So then we have a session with the board later in the week where we're going to bring this up with the board as well. So those are our next two steps. You can also refer, if you'd like, to a Circle ID post that I published on the Monday before we left for Istanbul, and it details these things as well in that post. So that's our plan going forward. Lori, back to you. Happy to talk about any more questions if there are any.

LORI SCHULMAN: Yeah, I'm going to hold off on the questions for just a minute. We have ten minutes left. You heard me discuss the RFR, so I'm not going to discuss it again, except to say we're toward a good resolution. Our intention is not to withdraw until the actual cure is made, which means the resolution is passed and it cures the defect. We're not going to withdraw on a promise, number one. Number two, the decision that we got now raises this second issue of who has standing to challenge a board resolution, and is it through the RFR? That's going to require community work. So our next step, no matter what the outcome is, and we hope the outcome and expect the outcome to be quite positive with the board resolution, we still are going to have to work on what do we need to do to agree about standing. This is something that the IPC cannot do alone, and we will have to, in my view, ask our GNSO councilors to ask ICANN to relook at ICANN's fundamental bylaws and the accountability mechanisms. We very carefully, and Steve, I

remember all those gazillion sessions of navigating this, but sometimes you don't see something until it happens, and we're going to have to agree to disagree with ICANN on the standing issue. We don't resolve it through a CEP, but it needs to be resolved, and I'm going to stop there.

The last, we've got exactly nine more minutes, and so I wanted to talk about common issues. Now, we have the DNS abuse issues, and we have the recommendations from the BC, which I think are comprehensive and very good, and I want to thank the BC and Mason for putting it together. Before we go to questions from Mason, are there any other topics that we didn't bring up today that anybody feels we need to discuss before we close out this working meeting? If there isn't, then I'm going to swing back to Mason.

Yeah, Marie, yeah, please.

MARIE PATTULLO: Hi, Marie from the BC for the record. Briefly, but I'm actually going to pass this one to Mark when you discuss it because he knows more about it than I do. I am a little bit confused at the moment with something that's happening about Latin diacritics. On the one hand, I think it's extremely important that we get that right for the community affected, but I'm a little bit confused about the process. So when we get to that, could you please get Mark to explain the issue? Thank you.

LORI SCHULMAN: Yes, so the diacritical mark, sorry, we call them diacritical marks in trademark law, and I'm just shifting that way. The use of diacritical

marks in words creates, and we know in the DNS particularly, can create a lot of confusion when those diacritics look very close to English and they're transposed in a way that can really effectively confuse consumers, even though they're intended for a very specific audience speaking a specific language.

In terms of the process, I'm going to defer that to the next CSG meeting. Do you want a minute, Mark? Okay. We're going to give Mark a minute or so, and then we'll get back to questions for Mason. So go ahead, Mark, because I saw your hand a little bit. Oh, when the time comes. So we're going to defer that and I'll make a note for the next CSG meeting to discuss this with the group, and that'll be under the chair of Mason at that point.

MARK DATYSGELD: If it is the next meeting, then no. If it is when the time comes now, yes.

LORI SCHULMAN: I'm confused. Should we talk about it now?

MARK DATYSGELD: We have on Wednesday a vote on the Council about this. This was split unnecessarily into two issues, the charter and the PDP. The PDP is set on being approved. The charter, people have miscellaneous objections solely on the composition of the group, and if this vote goes up separate, then the PDP gets approved but cannot get started before the charter gets sorted out, and it is very unclear what the problem is in terms of the composition. So if the CSG could let me or the chair or

whoever know if there are any issues on our side as far as the composition is concerned, it would be very helpful, because then we can move along with this and get this vote done instead of moving it ahead to God knows when for no specific reason. That's about it. Thank you.

LORI SCHULMAN: Okay, Mark, this issue came up in the IPC as well, and I do believe we instructed our councilors, Susan's on the phone, to vote in favor of the charter, right? That's not where the question lies, but I forget what the vote is this week.

MARK DATYSGELD: The PDP seems to be fine. There were no material objections. The question is the composition of the working group specifically on the charter.

LORI SCHULMAN: Susan, are you still on the call?

SUSAN PAYNE: Yeah, I'm here.

LORI SCHULMAN: Can you refresh my memory as to what we decided to do on that?

SUSAN PAYNE: We decided to vote on the PDP. There isn't a vote on the charter. I don't believe. I think it's been moved to a discussion item. I think I'm one of the ones who think that the makeup in the group is not ideal, and part of that is I just don't see why there's a kind of… Paul's been talking about fake homework. I mean, I think this is an example of sort of, you know, fake limitation on participation. I don't see why there's any need for limitation on participation in this group. I think it will self-limit by those who are interested, and I don't see why we should be cutting off participation because you've only got three seats or whatever it is. So that's my objection. I would have liked to have found a way to fix that without us having to defer work on the agreement on the charter. But, that's the reason.

LORI SCHULMAN: Okay. Mark, do you have a response to that?

MARK DATYSGELD: Yes. So, Susan, thank you. If we can try to, I don't feel any particular way about the composition. I would agree with whatever you put forward. And since you were part of that dissension, if you could bring this up in the exact way that you put it right now in the council meeting, and we can agree to move forward with that, that would be super helpful to actually get this project going and get everybody on board on the same page.

LORI SCHULMAN: Thank you, Mark. And that was the conclusion that the IPC came to, that we would support the vote on the PDP. I couldn't remember about the composition issue, so thank you, Susan, for the clarification. We're only down to a couple of minutes, so I will take one question on DNS abuse, if anybody has it. Oh, well, actually, there's two. So, Philippe and Steve, I don't want to cut either of you off, so be quick.

PHILIPPE FOUQUART: Yeah, just a point of order, and I'm sorry about that. It's on the ISPCP agenda. It's it being the diacritics PDP. I don't know what the answer will be, for the record. So we will vote what we will vote, what we decide on Tuesday.

LORI SCHULMAN: Okay, that's great. Thank you, Philippe. And Steve, you will have the last question of the day.

STEVE DELBIANCO: In the presentation today with the CSG and the contract parties, was it your intention to do that whole slide deck on DNS abuse?

UNIDENTIFIED SPEAKER: Yeah, pretty much.

LORI SCHULMAN: I believe that there will be stewing and steaming from contract parties if you go on and on for it. I would strongly recommend, I loved all the

content, but I would strongly recommend stopping at each slide and looking right at the contract parties and saying, this is the time to share what you feel about that, and then we'll move on to our recommendations. I'm just afraid that it'll just build, the tension will build if they have to sit still for the entirety.

MASON COLE: Okay, thank you for that advice, Steve. That's good. Can I take the point of order floor for a minute? I know we're short on time. This is Lori's last public meeting as CSG chair. Let's have a hand for Lori for all her hard work.

LORI SCHULMAN: Thank you. It feels weird, I have to say, but I do enjoy this group. Our issues are tough, and every time I've asked for support on anything, I've received it, and I think that says a lot about our side of the house. I'm glad we're on our side of the house, and I'm not going to miss some of the stress, I'm not going to lie, but I do enjoy being in the mix in the way that I've been the last three years. I've learned so much, and I feel like my relationships here, particularly inside the house, have really strengthened. I just want to say thank you and really wish everybody the best. With that, I will call the meeting adjourned. Thank you.

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