ICANN81 | AGM – Joint Session: ICANN Board and CSG
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FRANCO CARRASCO: Hello and welcome everybody. My name is Franco Carrasco and I am the participation manager for this session. Welcome to the Joint Session with the ICANN Board and the Commercial Stakeholder Group.

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The discussion today is between the ICANN Board and the CSG only. Therefore, we will not be taking questions from the audience today. With that, I will now hand the floor over to the ICANN Board chair, Tripti Sinha.

TRIPTI SINHA: Thank you, Franco. Welcome everyone to our first bilateral meeting with the CSG. And from the Board, Chris Buckridge will chair this session. So, without any further delays, I'd like to turn it over to Chris.

CHRIS BUCKRIDGE: Thank you very much, Tripti. Chris Buckridge speaking, for the record. And yes, welcome to, I think, as Tripti noted, the first of these constituency meetings between the ICANN Board and, in this case, the Commercial Stakeholder Group of the non-contracted parties house of the GNSO. I think I probably speak for all my fellow Board members when I say after three days of talking to each other, we're really raring to go and looking forward to speaking to members of the community.

And on today's agenda, we have four items, any one of which I suspect we could speak for an hour about, but we'll try and time manage a little better than that. But yeah, looking forward to going through those. And I might kick off, as discussed with some of my CSG colleagues, with the question which the Board had for the CSG.

So, that question is, as we approach the one-year point in the trial of the RDRS, the Board would like to understand and discuss CSG's views on the system, the results that have been observed over the past year, and ways forward in addressing the need for legitimate access to registration data. So, I'd like to invite colleagues from the CSG to respond to that.

JOHN MCELWAINE: So, this is John McElwain, and I think I drew the short straw to talk about this. So, in answering the question, as you know, the Registration Data Request Service, RDRS, was established to assess the viability of the EPDP system for Standard Access Disclosure, known as the SAD. The decision to move forward with RDRS as a pilot project allowed ICANN and its stakeholders to test key concepts of the SSAD in a controlled

environment. This approach aimed to gather critical data on the system's operation, its effectiveness, and all of this in a smaller scale setting to kind of get a feel for the cost and the use of the system.

It was a practical next step to establish and evaluate the feasibility of the SSAD and to ensure that any future system would be both effective and compliant with international standards and regulations. In other words, the goal of the RDRS went beyond merely measuring the number of requests each month. In fact, a proper analysis of the volume of use, which is what was put into the paper initially on it, is to understand two main elements.

The first is the quality of the information and the services provided, evaluating the ease of use, predictability, efficiency of the RDRS system, as well as the accuracy and the value of the data that you can access through it. Second is to understand the potential volume of the requests in light of this element. In other words, you have to be able to have a good product out there to have the volume and the demand to use it.

However, there's been significant challenges in impacting the evaluation of the RDRS service and the quality and the value of the registration data and information that's provided. The first being a lot of the data is behind privacy and proxy services, and this was an issue that was identified initially in the paper put out by staff. A large number, if not a majority, of the domains under management of the participating registrars are behind such services, and when you make a submission

for that data, then you end up getting a denial, which is skewing the results of the statistics.

The second is that there is what we appear from the requester community is seeing arbitrary and opaque disclosure decisions. The registrars often make disclosure decisions in an inconsistent manner and leading to unpredictability in what information will be made available in those requests. There's also a lack of transparency as to why a request was denied or granted, with the results kind of come back into more, shall we say, a stock phrase.

So there's not a lot of individualized rationale like was required under the SSAD to be presented to the requester. There's a lack of knowledge of the RDRS system, and that's something that ICANN staff has done a great job of promoting, but we still see a lack of knowledge of the system. And lastly, there's incomplete data. The lack of required registrar and registry participation leads to an incomplete data set and, therefore, a drop in the number of users.

Lastly, there are other challenges that we think could result in some improvements, and that would be implementing some of the policies, etc., relating to the NIS2 Directive. So as we see, there's going to be some overlap there, which should improve the efficiency and the type of responses that requesters get. Now, with that, I think there's other folks in the BC, Steve, I believe, has got DelBianco has got some additions to this. Thanks.

STEVE DELBIANCO: Thank you, Steve DelBianco, the Policy Chair with the Business Constituency and a member of the small committee, sorry, the small team in the standing committee for RDRS, one year later. The BC perspective is distinct from the IPC and yet consistent. Our distinction is that we're looking at the use of registrant data to stop existing and ongoing fraud and abuse of our customers, as well as the BC members, which are the businesses running domain presences.

From the beginning, before the RDRS even began, Steve Crocker and I were on the small team that became the standing committee and continually said that it would not be a very adequate, RDRS would not be an adequate measure of demand for registrant data if those requesting it had zero expectation that they would get responses even for legitimate requests.

We said over and over again that optional participation by registrars, which is, I realize all ICANN could do at the time, was meaning that we would not necessarily have an expectation that the names we're looking for would be covered by registrars in participating. And for those that were there, we understood that there were no firm policy requirements for responses and no standard way to evaluate whether we had provided the legitimate information. So from the beginning, we said, don't expect this to measure demand because the demand will not materialize or sustain itself when the results that come back are completely missing the mark.

So what do we know a year later? We know that our community in the business protection world, and Steve Crocker will talk about the

cybersecurity world, we encouraged participation to try RDRS over the last year. And we had some success at getting people to try, but we had no success or expectation they would continue to use it if only 10% of the responses included any disclosures that were meaningful. And that's where we find ourselves a year later.

And so I would suggest that we can evaluate the RDRS right now. And if your view is that it's going to measure demand, you can already conclude that it did not measure demand, which is different than concluding there was no demand. It never could measure demand for a system that actually disclosed when legitimate requests came in.

On the other hand, there may be users of RDRS, both on the requester and the registrar side, who find value in it. Let's continue to gather those statistics. Governments, for example, law enforcement have had far more success getting disclosures to their requests. So let's not do anything to interfere with what governments may consider to be something that's rather helpful, a ticketing system. So there isn't any need to gather demand data that won't be forthcoming, but don't shut the system down arbitrarily if governments are enjoying some use from it. Thank you.

And I will pass now to Steve Crocker, a member of the BC as well as a member of the Standing Committee.

STEVE CROCKER: Thank you very much. So as mentioned, I'm a member of the Business Constituency. I'm a longtime member of the Security Stability Advisory

Committee and once upon a time was on the Board and Chair of the Board for several years. One of the things that I focused on at that time was watching repeated failed efforts to develop any kind of useful policy regarding WHOIS. And since leaving the Board now, and embarrassingly long, seven years ago, I've been focused on this issue because it just sat in my craw and working with a set of people trying to think hard about the problem.

With respect to RDRS, I agree with everything that's been said. As an experiment to measure demand, it's deeply flawed. If this were presented as a class project, they get a four grade. If this were done in a commercial setting with a product manager bringing out a test product, there'd be a reassignment of responsibilities. And it's worse than doing nothing because it has the appearance of collecting data that you might find useful, but in fact the data is just way off. We can document some of that. Law enforcement was mentioned, for example, so you can ask how much use are they getting out of it. You get a number. Then you go ask them what do they do otherwise. They get orders of magnitude more satisfaction from other channels. So this is just not having any leverage.

That's a piece of the problem. A much bigger piece of the problem is even if this were designed to be much easier to use, the deeper problems are how do you know if you're making a request that it is or isn't going to get satisfied. And on the other side, for the registrars, they're presented with a fresh problem each and every time I request in, and it's expensive, very expensive and time consuming to go deal with all this. This is not something that is fit for purpose in an internet

environment. There's more to say, but I think that sketches out the main points.

Like what Steve DelBianco said, it's not the biggest issue as to whether to shut it down or leave it going. You might as well let it go as long as people are getting some use out of it. And there is anecdotal, not quantitative, but anecdotal experience that will be educational for designing future interfaces or for dealing with some of the issues. But it really requires a sharp step back to step back and think about the overall scheme that is in place, what it's trying to accomplish, and to what extent the approach here. I will say that having ICANN try to build a system that is imposed on everybody is contrary to the way the internet was built, which is building a much more distributed system.

If you roll back to what existed before all of this, WHOIS, there was no centralized lookup system. It was a protocol that everybody implemented their part of it. There is no reason why you can't take roughly the same approach even when you have to have credentials or vetting of the requester and determination whether that's the balancing test and whether the use is appropriate. But all of that, all of that can be done in a distributed fashion.

And the implementation of taking, doing that sort of approach, the implementation process has two dramatically improved properties. One is you don't have to do it all at once. And the other is the cost decompressed from a massive amount that is imagined that has to be borne by the ICANN budget to a distributed system that is borne by the

cost of the people who are using it. Just the way the rest of the internet is built. Thank you.

CHRIS BUCKRIDGE: Thanks very much, Steve. I'm keeping one eye on the clock here. And I have a couple of Board members who would like to respond. I think we've already, we have a very rich response to our question from CSG. So if I can throw it to Becky.

BECKY BURR: Thank you. First of all, I just want to assure that the Board has not contemplated shutting RDRS down in case anybody is worried about that. That's not on the table. We are having an interesting discussion about whether we are going to learn more by running the experiment for another year. And I think there's a question about whether we need to remain in experimental mode. You're absolutely right that the nonparticipation of all of the registrars creates some issues. The fact that the privacy and proxy data is not accessible. You can't submit a request through this system for that. Definitely an issue that needs to be addressed. And Steve, you're absolutely right in terms of what happens with the registrars. It's because there's no API, they have to do the work twice. And we're very conscious of that.

So the question that we are really just beginning to talk about and want to talk more with all of the community about is, should we be thinking about what next steps are? I mean, you've all heard me say about more times than you want to hear that given the information and authority

that we have right now, it's very difficult for ICANN to produce any kind of a system that will provide guaranteed or predictable results. And that's just a thing. Because we cannot cause registrars to do something that they believe violates the law. But putting that aside, we do think that there is some value in a uniform intake. That doesn't necessarily mean it can't be distributed, Steve. So I'm not ruling that out.

So I don't think we're taking anything off the table. But the question is, should we be moving into more of the next step discussion?

STEVE CROCKER: I think you should. And aside from whether you shut it down or let it go or however long it goes, the real work needs to be done to think hard about what those issues are and to compare that thought process against the mindset that was central to what led to RDRS and SSAD before it. There's a number of assumptions built in there that I think need to be really challenged. And I'll just leave that as a teaser for longer discussion.

CHRIS BUCKRIDGE: Thanks, Steve. We do need to move on. Duncan, can I give you the last word and then we'll move on to the next point.

DANKO JEVTOVIC: Thank you. Very briefly. So Becky said it all. But my kind of additional comment, I think we all are trying to be more agile in doing things. So I

think if you compare the mindset between SSAD and the mindset between RDRS, I think that's a significant improvement.

There are faults to the current system as a measuring tool, which is giving us the lower bound of the possible requests. So we think and we believe there is much more possibility to get requests than what are we getting now. Definitely not less. But in order to understand what needs to be done and to identify all these potential points of improvement that Becky has said, we need to think agile, we need to develop things and we need to work forward. I think trying to do something like SSAD was trying to do to make ideal system from the beginning is getting us into trouble. I think this is actually the way forward. Thank you.

CHRIS BUCKRIDGE: Okay. Thank you very much, Duncan. And I think we do need to move on. But as Steve said, this is a teaser for a lot more discussions of this in the course of the week and looking forward to that. The next point is moving on to questions from the CSG to the Board. And Lori Schulman, I think is leading the question on this, which is regarding accountability of the Board. And Lori, I'll let you provide the context there. Thank you.

LORI SCHULMAN: Thank you very much, Chris. My name is Lori Schulman. I am currently the Chair of the CSG till the end of the year. I'm also the current president of the IPC. I want to start off by thanking the Board in terms of the RDRS discussion and this discussion. I think we have not, I think, I know we have seen some good progress in what Danko has just

identified as becoming more agile, more practical, a little less seeped in our own process, and perhaps trying to find solutions in a more dynamic way than we have in the past.

And I think that is all good. And I can also say, at least from-- I represent an organization that represents trademark owners. And from our perspective, the concept of having a singular input point, the concept of having a relatively quick responsive system is all good. And we certainly don't want that to get lost in the conversation about where the design flaws are. And noted, as particularly noted by Dr. Crocker, there's significant ones. We get that. But we do think that there needs to be some acknowledgement and appreciation of the attempt to get the ball rolling.

So to that effect, we say, thank you. With that, I'm going to go to two topics. I'm going to run them together because it is basically they're the same topic in a lot of ways. Okay. And that would also cut down on some timing issues as well. And there's two areas right now where the CSG, and particularly my constituency, the Intellectual Property Constituency, has been very deeply and actively engaged. And that's in the area of accountability. If those of you who know, we have been involved in a request for reconsideration process.

We received the determination from the Board. The determination was a determination that we felt needed more discussion as our complaint was dismissed. But our issue was fundamental, we felt, to the governance of ICANN and making sure that when even well-intentioned rules, like protecting auction proceeds, which was very well-

intentioned, are done in a way that are in accordance with the bylaws that recognize the ranking and importance of fundamental bylaws in terms of how they may be amended versus other types of bylaws.

And that it's very important as a keeper of the public trust and of the public fisc reminding people that ICANN is registered as a non-profit organization in the United States. The reason it has that status is because it is seen that ICANN can step in and fill a public need that the government might otherwise fill. That's the genesis of where the tax exemption comes from. Feeding people, housing people, clothing people. In this case, making sure that we have a reliable, stable DNS. So from that perspective, we have a public trust that is very deep and essential. And we know that the Board understands it through its own duties to ICANN and to the greater good that we're all here to serve.

With that being said, we felt that the initial part of this process was viewed as what we would call a zero-sum game. That we were asked by the Board Accountability Mechanism Committee to have a meeting in Puerto Rico to discuss outcomes. And we appreciated that the Board acknowledged our essential point on the governance part and has gone through actually two iterations of resolutions to cure what we felt was the defect in the process. And we consider that a win. And we appreciate that. And we appreciate the Board being open to hearing what we had to say when we said it.

That being said, we were told at that point that if we did not withdraw our complaint, then we would get a decision that we didn't like. Rather than perhaps finding a way at that point to resolve decisions. And

there's process involved and procedure involved. So we were not surprised that when the decision came down and on all the counts that we had entered, we were unfavorably, what's the word? The determination was unfavorable to our side.

So that was not great. To be honest, even the wording of the decision itself I felt was quite strong and at times harsh. When in fact we're trying to improve and it was acknowledged that we were trying to improve the governance mechanisms here at ICANN. And then to my delight, we entered into the cooperative engagement process. Where we had a one-on-one conversation with the general council and his team to discuss how we might settle this reasonably and fairly. And I feel that that process has gone extremely well. What I have been confused about and I feel needs to come to the intention of the community is two things.

One, why such a hammer? Why such a hammer when the point was a good point, acknowledged as a good point, but then we received a decision that in my view is really disproportionate to what we had been asking for. So that's number one. Number two, when we filed our complaint, we got the response that well we don't have any standing. That the RFR is written, did not provide the kind of room for complaints that we are filing on behalf of ourselves. And it turns out now something that the community entirely has an interest in. So if we don't have standing to do this and the bylaws are written in a way where it doesn't allow for this type of intervention, then we have a real problem with the bylaws.

And I think it's very important no matter what the outcome of our CEP process is, and I think it will eventually be good, we're going to need a lot of community work on looking at what we thought accountability might look like 10 years ago and what it should look like today given the needs and interests of the community. And not just us in the ICANN bubble where to whom the bylaws apply, but also to those outside of ICANN who are looking to us who manage the public FISC, who've got the money and the resources for reliable DNS to keep doing what we're doing so we are trusted.

So I'm going to end that there and then I'll go on to my point about communication. Okay, so is that a natural stopping point or would you like me to continue with the communication piece? I'm asking the Board members.

CHRIS BUCKRIDGE: Yeah, sorry, sorry, Lori, and thank you. To me, the communication point seems a natural attachment so perhaps it's easier for you to continue with that unless my colleagues who are on the BAMC wanted to respond to the point. Leon, please.

LEON FELIPE SÁNCHEZ: Thank you, Chris. Thank you, Lori, for bringing this point. I think we've been through many conversations and we acknowledged during the process that this was an important point and a very relevant point to the community. And I see your concern. I understand in a way why it could have been perceived as a harsh response, the resolution about

not having standing as the IPC. But what I would like you to consider and to reflect upon is that, according to the resolution, you might have not had a procedural standing.

But as a Board and fulfilling our duties to the community, to the organization, we were conscious that you had standing and that's why we decided to go back again to the community and say yes, we admit that this was maybe not the best wording for the proposed bylaw amendment, so we want to listen to you, we have heard the IPC, we are committed to doing it right. So we went back to the drafting team, we redrafted the language and we came back with a different iteration.

So, to me that's maybe not a legal standing, not a procedural standing, but, you had standing. And it was demonstrated that you were there and that you were taking into account that there was an action upon the points that you were raising. And yes, I mean, sadly processes, and as you rightly said there might be an opportunity for us to review the bylaws in whatever way the community thinks that they should be reviewed. I mean, we're almost hitting the mark of 10 years after the transition. So I mean, it could be good to explore the idea of maybe having a review of the bylaws after 10 years.

But what I'm trying to say, and what I'm trying to convey here is that yes, we definitely think that it was a good point, a good concern that you raised. We acted upon it. We wish and we hope that we have solved it and that we've made it right this time. And in a way I think it's what we're supposed to do as a Board, to deliver, to fulfill our duties of care to the organization, to our community, and to take into account those

very valid points and concerns that you raise upon us. Regardless of having gone through a process that, as you said, had a resolution that was not favorable to the request itself, but the net result was positive and actually achieved what you were looking for. But I don't know Becky, if you would like to add to this.

BECKY BURR: Yeah, I just want to weigh in very quickly. Leon, what you said, I think what Leon said is exactly right. The accountability mechanisms in the bylaws, we have the rules that were developed by the community and we can't apply them selectively. We have to apply them carefully and the way they're written. That said, if you found that the Board was not accountable to the concerns, then it would make sense to look at the bylaws. And I'm not saying it doesn't make sense to look at the bylaws anyway from time to time. But the Board was responsive to the community concern and quickly responsive, I think.

Accountability comes in all kinds of ways. There are all kinds of tools for accountability. And you want to build in a bylaws accountability mechanism when the other ones don't work. But it worked here. We talked to you. We worked through it. I really strongly want to say, I'm not saying we shouldn't look at the bylaws. I would personally like to make sure that IRPs are not available to ICANN vendors as we've discussed. But I just think it's very important to understand, we heard you. We have to apply the bylaws in the way that they are. We can apply them selectively as much as we understood and heard the importance

of the issue. But I don't think there was a failure in accountability in that because we were responsive and accountable.

LORI SCHULMAN: I'd like to respond. I think we agree in that sense. I don't think there was a failure of accountability at all. I think it did work the way it was supposed to. And that was the thank you part of my introduction. But where I have concerned is, and this is important, and I think you're right. Accountability does come in all different forms, 100%. But if we have a set of bylaws that are in a procedure that is set up to address it, and it's not fit for purpose, which this one isn't for this, quite frankly. I don't think it's fair to the community and certainly to those who come after us who may not have the same relationships we do, quite frankly.

A lot of this is based on personal relationships and the fact that we have mutual respect for each other, all of us on this panel do, I know that. That it's important to leave the right mechanism in the right place for the right purpose. That's not happening now. So when I'm talking about accountability, I'm not saying the Board's not accountable, not at all. That's not the message. The message is, is that the accountability measures should be aligning up to the purposes for which we as a community intended them. And if they're not, then they absolutely should be looked at and improved because otherwise you're going to have a deterrent to this kind of questioning. And this questioning is healthy.

Luckily, we have a very strong leadership team right now with a lot of capable people who are able to kind of get through it all. But for many,

and people argue and I agree that there is a lot that goes on in ICANN that's weighted toward the legalistic, right? But at the same time, those legalisms should be accessible. The rules should be accessible, understandable, not as complex, so that you don't need five sophisticated legal practitioners to get it all sorted out. And that's the point. Not that ICANN is not accountable, but that ICANN can improve in a way that supports healthy questioning. And questioning is presumptively healthy.

BECKY BURR: If I could just respond. I mean, I think that the bylaws, that the accountability mechanism is fit for the purpose that is described in the bylaws, right? All I'm saying is the community said we want the request for reconsideration to be available in a specific set of circumstances. We found that that specific set of circumstances didn't apply in this case. So I do think it's fit for the purpose that was described and asked for by the community.

All I'm saying is, if the Board was accountable, why would-- what you're saying is we need to change the purpose of the request for-- so I just want to make sure we're talking precisely because I think it's inaccurate to say it's not fit for purpose. What you're saying is you want it to have a different or broader purpose. That's what I think.

LORI SCHULMAN: I'm going to say that there's a semantic point here that is probably not worth super pursuing at the moment, but yes, that's the point. So

here's an element, here's a procedure that when you look at it on its face should be, or we thought is the appropriate mechanism. As determined by the Board, it was not the appropriate mechanism. So what is the appropriate mechanism? And if the appropriate mechanism is not this and we need one, then yes, we need to do some work on the bylaws, on the accountability mechanisms. When we say accountability, and this is going to-- I'm going to dive right into my discussion on communication with the ICANN environment, if there isn't any, because this is the point.

What I have experienced, particularly in the last year, has caused me great concern about how we're working as a community. It seems like all of us, and I include myself in this because based on, I gave a report about the RDRS last spring in Puerto Rico, everything about that project was well intentioned. We worked with Steve, we worked with lots of members of the business community and law enforcement to come up with a report about how are the first few months of RDRS going.

I made a mistake when I reported the results. I revealed the reporters and I revealed exact quotes, which in hindsight, to Becky's point, could have been done differently. So it was perceived as extremely aggressive. My tone was not necessarily aggressive, or at least that wasn't the feedback I got, that it was that what was said as opposed to how it was said, okay. So there was a lot of contention there in the community, unintended, but it was there.

Then we move on and we have our RFR experience, as I just described, and again, it's looked at, and even today as we're talking, the Board

perceives it as, well, we were accountable. Well, I'm not saying you're not accountable. I'm saying that the accountability mechanisms themselves need to be rethought. So I feel there's like a lot of crosstalk going on, and there's a lot of communication that could be improved, particularly, I think, when it comes from the Board and the Org to the community about that this is not a zero-sum game. This is about making a functioning system work. And when people post legitimate findings, and people post well-intentioned thoughts and prerogatives here because we're trying to make improvements, and then the feedback is extremely harsh. It makes it very, very difficult to work in these environments. I'm just going to say it.

And I think all sides, and as I just identified myself, have had a part in this, and this is something we really need to improve. Because, as I've explained, I'm very unhappy when I walk into rooms, and there's this immediate sense of polarization. And I think that's why I found the CEP process so positive. We walked into a room, and we were asked, really, what are you thinking? And it's the first time that that has happened in a way that I felt was non-confrontational. Just what are you thinking, and why?

And I explain my side, general counsel explain your side. And your side meeting the Board because here he's representing the Board. And we're figuring it out. It worked. Why can't that happen across the organization? And that's what I have a real concern about. And I think the Board sets the tone. And that's why, and I appreciate it, Tripti and I have had this talk privately, that the tone of decisions, the tone of how you respond sets up the environment inside of ICANN. And it is up to

the Board to set the kind of cooperative environment that we need in order for the multi-stakeholder to work as it was intended. The Board's feeling threatened from external sources.

I mean, many of us were at the WSIS. Many of us are in forums. We're in New York for the Global Digital Compact discussions. And there are real concerns about where does ICANN fit in the system? How should ICANN be working? This idea that the community, as a community, can run the DNS without any hard government intervention is a good idea. I can tell you, as a business community, when we go after and advocate for regulation, that's a last resort. I don't think there's any business owner in the world who's basically going to say, yeah, yeah, let's have some more regulation. We love it. That's not how business works. That's not how we work in our private lives.

So we get it. But I think if we stop this us versus them mentality, and we're working on that in my constituency, for sure, then that would be very productive to the ICANN community. And of course, the Board setting the leadership and the tone in that regard.

CHRIS BUCKRIDGE: Okay, thank you, Lori. Tripti, I think, is to respond to that.

TRIPTI SINHA: Thank you, Chris. Thank you, Lori, for being so candid. So first, I want to apologize to you for any hostility that you may have felt. And I can speak on behalf of the Board and say, that is certainly not the intention. And we're going through some difficult conversations when we are

crafting policy or whatever the case be. And maybe emotions get the better of us. And we walk away with these difficult feelings.

But I can assure you, that is not what the Board intends. And again, my apologies on behalf of the Board for that. And the tone getting set at the top, I couldn't agree with you more. Absolutely. And we are working towards a better place. And in the morning, that's exactly, pardon me. Okay, sorry. So, as I said, early in the morning, we have had some tough situations where actually, we've changed our position after getting input from your constituency. And so, and I'm glad to hear that the CE process went very well for you. I heard that as well. I shared that with you privately. And we all have to work in good faith with each other.

And as Leon was saying, the bylaws were written 10 years ago. I think your recent situation with the RFR, they did that in good faith, and they came out with an outcome. But perhaps it is time to look at our bylaws and see where the gaps are. And we shouldn't be afraid to do that. But if I could just reassure you, and again, and again, and again, that there is no intention to have a them and us environment created. So thank you.

LORI SCHULMAN: I want to say that I deeply appreciate that. I really do. This was in a private conversation we had. And basically, I gave you the heads up that I would be talking about this. But I do appreciate the apology. I really do. It's a human thing. We're all humans. We're trying to do the best we can here. We truly, truly are. Because as we all know there's arguments here about who gets funding, who doesn't get funding,

who's paid to do the work, who's not paid to do the work. But the bottom line is, no matter where you sit on that spectrum, we are all here because we believe in what ICANN does.

And some of us have been here probably way longer than we should have been, but we're still here. That means there's something to this. And I would really like-- we all came together as a community 10 years ago. We wanted IANA to work. We wanted to hold ourselves accountable. And we got it through. And 10 years later, I think it is a good time to reflect, to self-reflect, particularly what's going on in the previous session about geopolitical developments and political developments and what's going on at the intra-governmental level and the inter-governmental level. There's a lot pushing in on us. But that's not the time to retreat. That's the time to reach out. Thank you.

CHRIS BUCKRIDGE: Okay. Thank you, Lori. I'm going to move us on to the next and final item, which is a question regarding DNS abuse. Mason, we have 17 minutes left. That's not a lot of time for such a big topic, but I'm sure you will lead us through concisely.

MASON COLE: All right. I'll try not to talk like an auctioneer and get through some of this. I appreciate the Board raising or accommodating the issue of DNS abuse. This has been a topic of interest for the CSG for some time now. And we have some suggestions we'd like to advance to the Board, as we have to the rest of the community. I'm going to set context for those

suggestions first. And then I hope that these ideas are received in the good faith and goodwill that they're offered. So, if I may, Franco, could you put up my slides, please?

FRANCO CARRASCO: MTS, please display the second slide deck for this session.

MASON COLE: Okay. There we go. Thank you very much. All right. So, yes. Next slide, please. So, in terms of context, as I mentioned, the CSG is interested in following up on Contracted Party House and community assurances that the April 2024 RA and RAA amendments are merely a first step. We know that DNS abuse continues to persist as a growing problem. The pressure for new action is growing inside and outside of ICANN. I know that the businesses that the BC represents are having difficulty with DNS abuse, as are other parts of the community.

I don't want to ignore the fact that the CSG understands Contracted Party House perspectives on this, that our asks represent effort, resources, and cost for contracted parties. That issue is not lost on us. These are good faith asks for help as a community, not just one side asking the other or making a demand of the other. So, this is an opportunity for all of us to work together for the public interest in good faith to demonstrate progress in the multi-stakeholder model.

Next slide, please. So, we are very grateful for the April amendments to the contracts. We are concerned, however, that given the continual

evolution of abuse, that they will be insufficient over time to stem the losses that the organizations that we represent suffer over time.

Next slide, please. So, we did some early quantification of the impact of DNS abuse. I'm certainly not going to read all of these line by line, but you can see that there is a real-world financial impact that DNS abuse has on businesses, on governments, on individuals, and it's measurable and understandable. So, I wanted to demonstrate some of this to the Board so that it's clear that this is not an esoteric problem, it's a real-world problem.

Next slide, please. Again, real-world costs here. I wanted merely not to have a U.S. perspective on this, but an international perspective. This is an interesting statistic to us, that the average size of losses due to abuse that flows through the DNS has quadrupled since 2017 to $2.5 billion.

Next slide, please. Again, here, you can see trend lines. This has to do with phishing. The Cybercrime Information Center observed that there was an 85% increase in domain names used in phishing attacks year over year into this year. The average business cost, according to IBM, of a single phishing-related data breach is now $4.5 million.

Next slide, please. So, in terms of abuse definitions, we're looking for a way forward on this. As you know, DNS abuse is defined by what we'll call the famous five, malware, botnets, phishing, farming, and delivery of those via spam. I want to refer back to the SSAC's publication of SAC-115, which documents that there never really will be a comprehensive list or a comprehensive definition of DNS abuse due to evolving threat

vectors. In researching some of this as well, we found an old SSR-2 recommendation, which called for a community working group that would periodically review the definition of DNS abuse and make updates to it as threat vectors emerge and should be considered.

Next slide, please. All right. This is the payoff slide, and I want to preface it by saying the bullet number four on here, when we had this discussion yesterday with contracted parties, caused some concern. And that has to do with prohibiting CSAM or child sexual abuse material. I want to make it clear that no one in this community thinks that contracted parties don't do enough to deal with CSAM. It's obviously a despicable crime, and we know that contracted parties do everything they can. There is no suggestion on the part of anyone on this stage or in this community that CSAM is being tolerated by contracted parties. I want to make that clear.

But I do want to talk about what we would like to see in terms of some constructive ideas for what we can do next to deal with DNS abuse. For example, the ability to act at scale and not just play whack-a-mole as we do now. That involves the ability to take out swaths of bad behavior at one time rather than dealing with bad behavior domain name by domain name. The ability to act against imposter domain names. Operational upgrades to the ability to fight against abuse. Things like improvement of response times. Documentation to the reporter of abuse of steps taken to deal with abuse. You can read the rest on this slide. I know we're short on time.

But these are some constructive ideas that, again, are being brought in good faith to the community and to contracted parties where we're asking for cooperation and agreement. I believe that's all. There's one more slide. The thank you slide. There you go. So thank you all very much. I appreciate the opportunity to talk about this with the Board. And I yield back, Chris. Thank you.

CHRIS BUCKRIDGE: Okay, Mason, thank you very much. And thank you for the very concise and very informative slide deck there. I think really useful information for the discussion. Jim, I believe you're going to lead us out on this.

JAMES GALVIN: Yes, thank you. James Calvin, for the record. And I wish I had a bonus slide so good. But no, thank you, Mason, very much for the suggestions and for the discussion. I would say that DNS abuse is most definitely a priority of the Board. We believe it's a priority of the Org at the same time. And because we all agreed to contracted parties and org had gotten together, the important thing that was accomplished with the DNS abuse amendments was to have an impact and appreciate your acknowledgement that that was a starting point. It's a step and a movement forward. And everyone agrees that there is more to be done. There will always be more to be done. You acknowledged the SAC 115, which I will also acknowledge. Definitions vary. What is abuse and what is not abuse varies with time. Because technology changes, world changes. And so we all have to keep that in mind. And we all do agree on that point.

So I think that what's important here is it's up to the community at this point to make that next step and come forward and to begin to look at what it wants to do next. We need to have our own discussions in the community about the definition of DNS abuse. I think that's an issue here. ICANN has a definition that it has now established. And when I say ICANN in this case, I mean all of us, the community and the Board and the Org. We've established a baseline. And we agree that this is what we're going to do.

We have to figure out what we can do next that's within our overall remit. Part of the problem here is that not everything that even on your list and what came out of the statistics that you offered there, they don't all represent abuse that would be within something ICANN itself could do. We have to work together to draw that line and figure out where to go with it. And the opportunity is there. We're certainly committed to participating in that discussion and believe it's important to do that. Thanks.

CHRIS BUCKRIDGE: Yeah, thanks. Mason, please.

MASON COLE: Thank you, Chris. And Jim, thank you very much. I appreciate that input. I'd like to repeat in reply to what you just said that this is a starting point for discussion. The CSG wanted to bring some constructive ideas forward to the extent that they can be used as fodder for the discussion on next steps on DNS abuse. That was our intention.

JAMES GALVIN: Yes. And thank you for that very much. And they've certainly taken in that spirit. I do think that there are some good ideas there to be considered. And so we should start that dialogue in the community. Thanks.

CHRIS BUCKRIDGE: Okay. We find ourselves so violently in agreement on those points that we've gone through it much more quickly than I anticipated. That was the last of the questions that we had on our list here. We do have an additional five minutes. I think we're also happy to wrap up a little early, but I wanted to throw it particularly to colleagues from the CSG. This is your opportunity to talk to the Board if there is any final brief comments you wanted to make here. We'd be very open to them.

LORI SCHULMAN: To be honest, we prepared, I think, fairly well for this. And we had constructive dialogue. And I do believe, and as I said, I believe in the sincerity of the Board's intentions. And I think that this idea of intention and how it appears to others, even when we may not be self-aware, is a key element to moving forward at ICANN.

I also think, too, if there's some way, I mean, I'm going to put my foot on the third rail because we have three minutes and I will. Okay. With sort of the ongoing debate, which we will not solve here, and I do acknowledge, about in terms of fighting DNS abuse, when there's this back and forth about where content fits into ICANN's remit, where people go on the side of it doesn't. It doesn't. Right? That's doesn't.

But then there's the reality of what's going on and how we approach even DNS abuse.

And when you look at the industry accepted definition, the voluntary DNS framework, which we're all working from, the big five, as Mason calls them, in fact, they for the most part all have a vector with content. Because in order to figure out whether or not the DNS is being abused and looking at domain names as domain names, we're looking to content to see whether or not there's speech involved there that's free and allowable and fine or whether there's a terrible crime like CSAM. So there, to me, we're kind of on polar opposites in a weird way that I would like to see maybe more thoughtful discussion on is it's not all or nothing. It can't be. It isn't now. Right? Because if it were truly applied now, then we wouldn't be attacking CSAM as a problem. We would acknowledge it's a problem but say it's technical. But it's not. It's a horrible thing that needs to be fought no matter where we are.

And what I get confused by sometimes, and I am confused, is why other horrible content isn't given similar weight. And I'm going to leave it there to say that the content discussion itself I don't think is black and white.

CHRIS BUCKRIDGE: Okay. Thanks, Lori. Jim, you had a response?

JAMES GALVIN: So, James Galvin, for the record. I want to say something about CSAM, which it's a particular characteristic which is often lost in these

discussions. It's difficult to compare all content to how one would treat CSAM. And it's really an unfair comparison, honestly. CSAM has a particular characteristic which I'm not aware of any other content that has this characteristic. And that is that it is essentially illegal everywhere. It's really the only content that has that characteristic. Everything else always has other externalities that apply that one has to judge as part of whether or not it's abuse, different jurisdictions one has to deal with. And that makes it a difficult problem. That's the difference between CSAM and every other content.

So, I don't want to take away from having a content discussion of some sort and doing all of that. That is true. But I do want to caution us about always comparing content to CSAM mitigation. Thanks.

LORI SCHULMAN: Jim, I want to answer that just quickly. And that's well noted. That is well noted. And we noted that yesterday in the meeting in terms of how we referenced it in the future. We are going to reference it differently. That is for sure. So, we did take on that message. I'm only using that today because it was mentioned in the slide today. But there is horrible, harmful, hurtful, destructive content out there. And where are we drawing the lines? And I respect and understand why it's CSAM. It's the same thing.

If you had to fight one thing on this earth, what would you fight? It's a no-brainer. But there's a spectrum of harm where people lose their lives and limbs or their livelihoods. Are we empowered to draw the line? Maybe we shouldn't. Maybe people are right. No. I still don't think

we've had the right kind of gradation or thoughtful discussion. To your point, it's all polar. It's either CSAM, which is outlawed everywhere, or it's nothing. That's something that the business side of the community has always had difficulty with.

CHRIS BUCKRIDGE: Okay. Thank you very much, Lori. Again, a discussion that will go much longer. But we have run to the end of our hour. I would like to thank our colleagues from the Commercial Stakeholder Group. Particularly thank you for your responses to our question on RDRS and for the very thought-provoking and discussion-provoking questions that you provided to us as the Board. Thank you to my Board colleagues who were engaged in the answers.

I will note we've had a cat wandering around up here who was not given the mic. But I'm reasonably sure he's from the Non-Commercial Stakeholder Group. So he'll have to be told to come back tomorrow.

Thank you, everyone, and look forward to continuing discussions later in the week.

FRANCO CARRASCO: MTS, please stop the recording.

[END OF TRANSCRIPTION]