ICANN82 | CF – Joint Session: ICANN Board and CSG
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WENDY PROFIT

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All are welcome to use the chat. Please note that the private chats are only possible among panelists in the Zoom webinar format. Any message sent by a panelist or a standard attendee to another standard attendee will also be seen by the session hosts, co-hosts, and other panelists. I'll now hand the floor over to ICANN Board Chair, Tripti Sinha.

TRIPTI SINHA

Thank you, Wendy. Welcome, everyone, to the joint meeting of the CSG and the ICANN Board. This is our last meeting for the day, and we're hoping that we all have enough energy to have a really vibrant conversation because we've had some really good

meetings all day. So, Chris Buckridge, my colleague, is going to be moderating this session, so I'm going to turn it over to Chris.

CHRIS BUCKRIDGE Thank you very much, Tripti. Hopefully that encourages us to get some controversial topics into discussion. Thank you, everybody. It's great to be here again talking as Board with the Commercial Stakeholder Group of the Non-Contracted Parties House. And Mason Cole is moderating this session with me, helping to steer things through.

We have a number of questions that have come to the Board from the Commercial Stakeholder Group, and we have a question then as well that the Board have posed to the stakeholder group. But I think we'll kick off with the questions from Commercial Stakeholder Group. So, Mason, I'll pass it over to you.

MASON COLE Thank you, Chris. Thank you, Tripti. Mason Cole, Chair of the CSG. It's a pleasure to be with the Board. Thank you again for the opportunity to talk with the Board as the CSG. Chris is correct. We have a number of topics we'd like to cover. One deals with the NIS2 directive. That discussion will be led by John McElwaine and the IPC. We have another dealing with the ICP-2 situation. The ISPCP and Philippe Fouquart will be dealing with that. And then we will talk about the BC's favorite topic, DNS Abuse. And I will kick that one off and then we'll deal with the Board's question to the CSG. So if I may, I'll just pass it over to John.

JOHN MCELWAINE

Thanks, Mason. John McElwaine for the record. So, to give a little background, this is some talking points that the IPC had put together on the NIS2. But as you can imagine, the IPC has long recognized the importance of collecting and verifying the accuracy of WHOIS data, making such data, including personal data, available in response to legitimate access requests that concern IP rights, infringements, and other illegal activities such as cybercrime. Article 28 of NIS2 embodies all of these issues and imposes obligations with respect to them. Of course, as I mentioned, the IPC supports both Article 28 and its rigorous implementation in the EU member states, as such was accomplished recently by Belgium.

And the NIS2 provides a legal basis for legitimate access seekers to acquire information to combat cybercrime. While NIS2 is in transposition, it is still enforceable law in the EU, and the ICANN community should frame its policies with this in mind. Specifically, the Registration Directory Services Data Policy, RDAP, we see overlaps with RDRS and the SSAT model, as well as PPSSAI.

All of these should be reviewed so that they can be consistent with Article 28, facilitate compliance with and among the Contracted Parties. So, the question then is, how will the Board support the implementation of the requirements of the directive that are currently part of the contracted party practices? Again, accuracy, validation, and all those policies related to accessing registration data. Thanks.

CHRIS BUCKRIDGE

All right. Thanks very much, John. It's Chris Buckridge here again. And I'm taking the lead on answering this for the Board. As such, I've been getting updated by my colleagues in Org on the latest status regarding NIS2. I think this is a topic we've had some really in-depth discussions in the community about really since the last 18 months ago I joined the Board. And I think at that Hamburg meeting, we had a very productive session on NIS2. We've had discussions since then as well. So, it's certainly something we're following with great interest.

As you know, it's at the implementation stage now. The transposition international legislation deadline passed in October. But to the knowledge of ICANN, as I understand it, only 10 EU member states have fully or partially transposed that NIS directive into national law at this point. While we're seeing some deviations in the implementation at the national level, and including, I think, some around the legitimate access requirements, but we haven't observed significant deviations from the NIS2 directive text regarding accuracy and validation requirements.

So, we're certainly waiting to see how the national laws all pan out with the remaining EU member states, and whether there are requirements that would necessitate changes in ICANN's relationship and the policies with Contracted Parties. But we've certainly, ICANN has previously communicated with the NIS cooperation work group on Article 828, and have outlined existing and upcoming ICANN policies relevant to that article. The ICANN

policies as they are appear to be consistent with the requirement of the directive's text.

We do see legal frameworks continue to evolve, and obviously Contracted Parties need to comply with all of the applicable laws and legal requirements. But with no direct conflict in ICANN policies, we're not seeing any immediate need to make changes to the ICANN policies themselves. But that said, regardless of existing legislation, the ICANN community can always explore potential policy changes if deemed necessary. And the Board's obviously fully supportive of those kinds of discussions. And certainly, this week, even in the last session with the GAC, we've had discussions around issues of accuracy and verification. So, I think we'll see more discussions about that, but for now, that's I think where we're standing.

JOHN MCELWAINE Thanks. So just a quick follow-up, I think, and it really comes into the question that the Board had for the CSG, in that we think that there's a chance that some of the NIS2 rules, regulations, laws, whatever, are going to require some revisions to policies. I mean, we should get ahead of that. So, we don't want to be reacting to that after they're enacted. And if anything, the NIS2, even if it doesn't require a change, it's sort of a best practices. So, let's start talking and at least get ahead of this potential problem so that we can have, we're not caught flat-footed and having legislation impact this area is our thoughts. Thanks.

CHRIS BUCKRIDGE

Yeah, thanks, John. As I say, I think I fully take that on Board. I think we as the Board are definitely paying attention. And as per the question that we can perhaps dig into a bit more later on, that intersection or sort of point of contact between national, regional, supranational legislation and ICANN policy is certainly becoming something that more and more often is having to be negotiated and understood and developed.

So, I'm sure the discussions or the legislation that's coming from the EU has impact on the discussions in the ICANN community. We need to look at ensuring that our multi-stakeholder model, our multi-stakeholder policy development is able to respond and sustain through those interactions with legislation.

JOHN MCELWAINE

Okay. Yeah, please.

MASON COLE

Thanks. Okay, thank you, John, for leading the discussion on that question. I think we can move to the second question now. So, over to you, Philippe.

PHILIPPE FOUQUART

Certainly. Thank you. Thank you, Mason. Philippe Fouquart speaking, chair of the ISPCP. So, this was written before PREP week. So, bear with us. We had somewhat of a discussion during PREP week. And I would also note that we discussed this somewhat

with the, well, 25% of the SO/AC this morning at our session. We've been honored to have that. But bearing that in mind and the fact that the phrasing is probably more dramatic than intended.

This being said, with the ICP-2 in mind, we generally design a system with sort of the nominal case in mind and we test it against the edge cases. And it seems that the way it is designed today is certainly appropriate for, in a case where we should recognise an alternative, say, regional Internet registry that would be built in a friendly way. But also, we thought that it'd be at some point, and I guess the question is when and on what exactly, but at least from a legal perspective, whether that can be challenged, for instance, etc.

To test the policy against a situation where a set of parties, companies would, for example, be unhappy with a decision by a regional Internet registry, get together at some point and use the policy to get around the decision and question or challenge that decision. That is not totally unlikely, I would say. So, I guess our question is, when the time comes, and we appreciate that there is a review ongoing, how would the Board approach this, including from a legal perspective, whether that's the sort of things that will be tested against? We're not even asking that this be done in public, I guess. But we would certainly think that that's the sort of things that need to be done moving forward. Thank you.

JOHN MCELWAINE Thanks, Philippe. So, I think CK is going to answer this one.

CHRISTIAN KAUFMANN

Thank you. So first of all, as a numbers person, I'm delighted in the sudden interest in our world. So, thanks a lot for that. And if you don't mind, I go one step back to put it a little bit in context. So, the ICP-2 is the document which we use to create new RIRs. And we have used it twice. We have used it for LACNIC in 2002 and for AFRINIC in 2005. When it comes to the priorities, we haven't seen the document yet. It is currently written, and it comes out end of May, then it gets published by the SO/AC. And then we have the first time an idea of what it exactly means and how it looks like.

So, when we talk about priorities, I think they will come out of however they have phrased the new document, and then we will react to that. When we talk about gamed and captured, I'm not so worried for a couple of reasons. Number one, there was a survey out in a public consultation from the ICANN site, and they talked about guiding principles. There were 24 of them, and anti-capture was one of them. So it was always clear that if you have a policy of that order, then you've got to be careful what you do so that it doesn't get gamed.

We don't have a current game plan how we would check it because we've got a C for the wording, but both the SO/AC as much as the Board is aware of capture as a problem, and therefore will have that in mind when we go through the document and look at it. You talked about companies. Again, I have no idea how the new document will look like, but the current document talks about the community on a continental base have to come together to form a new RIR.

Fair enough, that is quite fluffy, but that basically already shows you this is not a couple of companies. Certainly not if you would talk about, and right now it's geographic based. So, it's not that, for argument's sake, all the hyper scalers come together on a global base or something like that. Right now, it is geo-based, and even then, it talks about the community. So, you would have to have the various players in an ecosystem coming together and forming a new one or having an opinion about it. So individual companies, for example, regardless how rich they are or how influential, wouldn't cut it. So, I guess from that part of capture, I'm relatively relaxed. But then again, I haven't seen the new wording.

PHILIPPE FOUQUART

Thanks, CK. Yeah, that all makes sense. I guess, as you said, we need to see the text, as one does. I guess one of the questions is how much, I guess, how much latitude is there in the interpretation of that notion of a community, etcetera?

I guess what we were asking is that precisely to test against a certain, or whether that makes sense to do so, and whether there's latitude in that interpretation, whether that can be challenged using this. Just to be on the safe side, probably to your earlier point, one of the reasons why we're asking these questions is that, as you said, it's the fact that there's a policy that's addressing related that will be coming to the Board and a revision of something that is so important is not that common. Is the reason for us asking these questions, I suppose.

CHRISTIAN KAUFMANN

Yeah, no, and the question makes sense and is very fair. Thanks, Scott. The process foresees a couple of feedback loops. So when we get the document in May, we will discuss it in one of the Board workshops and talk about it. And then not just we, but also the communities, as I said, the RIR and the ICANN community can give feedback. So when we as a Board, I would assume, look at it and test it for anti-capture, and it would be too vague, too fluffy or too much interpretation because we are supposed to be then the one who ratify it. And then we would give that as feedback.

The SO/AC has then around September, October, no, actually August, September, some time as well to rewrite it or accommodate for changes if they want so. So, if the phrasing would be, whatever, not strong enough, let's phrase it like that, then there's a chance to actually review that and react to it. And one last point, as it goes into ICANN public consultation as well, you actually, or we here as a collective can see it. So, if you would have the opinion that it is not precise enough or could fall for capture or any other part, then we would welcome your feedback a lot as well.

PHILIPPE FOUQUART

Thanks, and we will. That's very helpful. Thanks very much. We are obviously working closely with the SO/AC for the next iteration of that document, and we'll be looking forward to the eventual final review by the community. Perfect, thank you.

CHRISTIAN KAUFMANN Thank you.

MASON COLE Yeah, Chris and I were just saying it's 16:48 and we've already covered two topics. We're way ahead of schedule. So, may we proceed with the third?

Okay, so as you see on the screen, the CSG is, we started a discussion in Istanbul about advancing some additional tools to deal with DNS Abuse. The CSG advanced what we think, or hope at least, that our friends in the contracted party house will think that are achievable tools that are not terribly disruptive or invasive to their businesses, but still are utilitarian enough to help deal with this growing problem of DNS Abuse. So, our question to the Board is, does the Board agree with the SAC's advice in SAC115 regarding the need to continually update abuse tools to accommodate new threats? And if so, would the Board support those suggestions as part of a contract review prior to the new TLD program in 2026?

CHRIS BUCKRIDGE Thank you very much. I believe my colleague, Sarah, is going to take this one.

SARAH DEUTSCH Thanks. And thanks, Mason, for the question. I just wanted to remind the Board members about your presentation in November of '24, since it was a long time ago. So, some of, I think there was one slide that you shared with us, and some of the best practice

ideas, I think you're calling them tools, were the ability to act against abuse at scale, act against imposter domains, and then you had various operational ideas like improving the response times and documenting to the reporter the steps that were taken against abuse, who is reveals, etcetera.

So I just wanted to, first of all, thank the CSG for being an early advocate on this issue and continue to raise awareness, because I know that CSG members' names and famous trademarks are high value targets for DNS Abuse. And ultimately, you're here to protect consumers and other parts of the community have spoken to this as well. So, thank you for that. I would say the big picture answer is that the Board agrees that DNS Abuse is not static, and how we deal with it needs to evolve. So, on cyber criminals and their methods are not going away and cyber-crime and DNS Abuse is not simply going to go away.

So one of the ideas also in your slide actually was evolving the definition of DNS Abuse. And the Board and org, I think, acknowledge that the definition we have is it captures a lot of the bad activity at ICANN, but it's not exhaustive and so there's room for the community to evolve that definition so long as it fits within ICANN's bylaws. And I would also add that how we deal with the DNS Abuse will evolve as well.

So at the same time, we should also acknowledge the progress that has been made. We now have a DNS Abuse amendment and they're being enforced by compliance. So, the next step would be to see how compliance is doing that and what data they have to try to

measure the impact of the abuse amendments. This piece of data is only one piece of the puzzle. We also need to look at third party experts for nuances on what they're doing on DNS Abuse and we have all these, we have stuff going on in the policy development process, but we also have activity that's happening outside of ICANN in parallel, which has been really helpful on DNS Abuse as all parties both within our tent and outside work on it together.

So, that's one thing. And then on your specific ideas are on the SAC115. I don't think it's realistic to expect the Board that we can say, well, we love all of them and we're going to act unilaterally and now they're going into a contract. Really the best way to do this is to both to determine the look at the data and see where the gaps are. That would be first and then discuss these ideas with the community. And certainly, the Board can be part of those discussions, we can be in the room, we can help facilitate, we can, we need to be educated on the gaps and what we could do together. So, I would encourage you to continue to share your ideas.

And my personal view is that we need to continue to have these discussions and do those things that you said in the beginning, things that are feasible and aren't super disruptive to everyone's business model, but we all move the needle together.

MASON COLE Thank you very much, Sarah. I appreciate that, that feedback. Allow me to make a couple of points in response. The first is that the CSG, and I'll allude to this in the CSG's answer to the Board's

question to us, but the CSG does not seek an us versus them confrontation over anything that we want to cooperate with Contracted Parties on. We're not interested in butting heads, we're all in this together and we're interested in finding ways to work together with Contracted Parties.

I'll also point out that there was a good idea shared as part of, I believe it was the SSR2 process where, with regard to the definition of DNS Abuse, that the evolution of that definition could become a community-wide, it could involve the entire community. I think, I don't have it in front of me, but I think the recommendation was that there could be a cross-community group that would meet periodically and update the definition of DNS Abuse with the input of the full community and with security experts and those who have a stake in DNS security. That would be something the CSG would advocate for. And I realize all our plates are full, ICANN's plates are full, but that could be a productive exercise.

SARAH DEUTSCH

Yeah, good point. We've also been locked up in Board meetings, but I also understand that the GNSO had committed to review the data collected from new contractual elements to determine whether there are additional measures needed to mitigate DNS Abuse. So, if there are activities happening in the GNSO, please feel free to, you can even talk about them now if you know more about what's happening there as well.

MASON COLE

Not in as great a detail as I think we would like, but I'll hearken back to what you said a minute ago about the existing amendments that came into force in April. That's a worthy first step, and we're as interested in the results of those amendments as you are, and we've seen some preliminary data that's encouraging. But we don't want to rest on our laurels. We know that abuse is an evolving problem and we're looking for, as I mentioned, additional tools that are as minimally invasive as possible.

CHRIS BUCKRIDGE

Anyone else? I mean, I was going to note, and again, just taking moderator's prerogative here, because I know I've had discussions with my colleague Jim Galvin, who's not able to be in this session, unfortunately, but one of the points he's certainly consistently pointed me to as well as the Infermal project, which has recently done the inferential analysis of maliciously registered domain names. And a couple of corridor discussions this week have sort of turned not necessarily to that, but to the need for studies and gathering data on these issues.

So I think that we're seeing those start to bubble up and start to be considered is a really positive thing. And yes, certainly I remember well the presentation in November, and it was a very positive and practical contribution to the discussion. So, thank you again for that.

Any other comments before we move on? Again, probably still ahead of time, but moving on to the question from the Board to CSG. It was, how can we work together with governments to

encourage the public policies are created with an understanding and awareness of ICANN policy and the ICANN multi-stakeholder model?

So this is a question we've been asking a number of the constituencies and coming in, we're recognizing certainly that it aligned, overlapped very much with the question earlier about NIS2 from the IPC, as that being a very specific example of public policy having been created, which borders in ways we can discuss ICANN policy and the ICANN multi-stakeholder model. So, I think this is certainly an area the Board is focused on, is aware of, is looking to minimize risk, mitigate any sort of potential damage to the multi-stakeholder model. And we'd be really keen to hear CSG's views on this.

MASON COLE All right. Thank you, Chris. I'll take the preliminary part of this discussion with a statement that I'll refer to, if I may. So, this may take me a minute to get through, but the CSG carefully worked this out and I want to represent all of our constituencies accurately. So, let me begin by talking about Article 2 of the bylaws, which says that ICANN will pursue the charitable and public purposes of lessening the burdens of government and promoting the global public interest in the operational stability of the Internet.

So right away, we're talking about the minimization of impact of governments. But with that as context, the answer to the Board's question to the CSG may already be somewhat self-evident, but

allow us to offer our perspective, which may be a little different from what you've heard today from other parts of the community.

The answer, as we see it, is that if governments perceive that ICANN or any governance body similar to ICANN isn't fulfilling its mission completely, particularly over a prolonged period of time, they will legislate around it. That's the case, no matter what reassurance that Org offers or what others in the community may tell governments. Governments legislate. That's what they do. And it's what they do when they perceive a problem for their electorate or that there's a vacuum that needs to be filled.

ICANN may be a consideration in their estimation. Some may know about ICANN, others may not, but some do. And what we're concerned about as a CSG, and what you may already be seeing, is that there are potential cracks in the system due to a frustration from an imbalance of outcomes in the multi-stakeholder model. And sometimes that leads to government activism. So, I'll point to at least one participatory organization who said that they are discouraged by what they see as hours that have been unproductive inside the ICANN sphere in a statement that they'll pursue remedies via legislation in the courts. That's a problem.

You have some in the community consulting with governments in various capacities as a way to hedge against ICANN in action on their concerns. So, this may not come as a surprise, or it may come as a surprise, because the discussion about ICANN and its interactions with governments is fairly new, but the action taken by governments is not particularly new. It's been happening now for

a couple of years. So, a result of this is that even as collegial relationships are maintained inside ICANN, as I mentioned before, we have a danger of falling into an us versus them mindset. And let me be really clear, very clear that the CSG does not seek, and in fact we reject that mindset.

As I said, we're all in this together. We should be cooperating rather than competing. And that's how we intend to move forward within the ICANN model. So, how do you keep governments from legislating around you? From our point of view, it's, fulfill your entire mission, engage with governments in a proactive way so they understand what the multi-stakeholder model is capable of doing, and be more inclusive in your consultations and your meetings with the community.

So, I hope you don't mind that frank feedback. We appreciate the opportunity to share our thoughts in this and it's a very good question to have asked the CSG. So, thank you.

CHRIS BUCKRIDGE All right. Thank you very much. And Frank is very much welcomed and as is the practical suggestions that you've come with, which, as I say, we've come to expect from the CSG. So, thank you again for that. Looking to colleagues here if anyone would like to respond. Chris Chapman, please.

CHRIS CHAPMAN That's a very sobering contribution and a very helpful one. And I just want to give you confidence that we're acutely aware of it and

awareness of it is a starting point. One of the many aspects or one of the vital aspects of the new strategic plan is a very firm recognition of the strategic objective. One is, evolve and promote ICANN's multi-stakeholder model to sustain its inclusive internet governance model. And the second one is, enhance organizational excellence and they're related in this context. And the chair has spoken about enhancing further institutional legitimacy. And I think that sits at the centre of what you're alluding to.

So, I'm very grateful for that contribution. I want to give you confidence that we're acutely aware of it. The one thing I did want to tease out is where do you-- Me being late to the party and involved for two and a half years, I see it with fresh eyes. And we've been talking about the reviews and the gridlock that we have and all these sorts of things. So, there's lots of examples where we're not doing it with the speed, the vibrancy, the enhancement, the evolutions that we would like to do. But where do you see us falling short on delivering on the mission? Because that's a slightly different take and I'd be interested in an answer on that.

MASON COLE

Thank you for the question. I'm happy to answer it. I want to defer to colleagues, because I've done a lot of talking here, but would anybody else like to speak first? I want to be careful with this answer. I don't necessarily believe that ICANN is failing its broadest mission. I'm concerned that there's an imbalance in outcomes in the ICANN model. That I can't point to very much, except maybe the contract amendments that were put into place in April, that the

CSG has been able to push through the model over the last several years. And that can be discouraging. So, that's, again, a very frank answer to your statement. I hope you don't mind our candor.

CHRIS BUCKRIDGE

Thanks, Chris. Thanks, Mason. Other comments or reflections on this? I mean, I think this is quite a broad issue. I mean, certainly, just noting your comment just now, Mason, I certainly understand the frustration, but equally highlight that it's a significant achievement. I think those amendments, something that we're, as you say, still discussing, still evolving, but seen as an important foothold for addressing that issue. Sarah, please.

SARAH DEUTSCH

I guess I would flag two categories of risks. One is for activity that kind of affects ICANN, but is outside its remit. That strategy is to stay informed and aware. There's not a ton ICANN can do, but it can educate, it can work with policymakers. But to me, the bigger issue are governments deciding to act on issues that are inside ICANN's remit, but they're dissatisfied either because something isn't happening or it's not happening fast enough. And so, the DNS Abuse issue is a good one to make sure we are on top of it and continuing to show that it's being handled.

PHILIPPE FOUQUART

Thank you. Philippe Fouquart. Just to Chris's observation, I think we may distinguish between institutional credibility, which is one thing, and what Sarah was alluding to and what Mason talked

about, which is what are those areas where ICANN is expected to deliver. And I think the main risk is, well, we may argue, especially given what happened over the last few weeks, but I would certainly think that the latter is probably has been going on for a number of years now.

And it's probably the main, to me at least, it's the main risk. I'm not sure governments would not be, double negative, but legislating in those areas if, from a purely institutional standpoint, ICANN were stronger. It would help, but that's not a silver bullet. I think the silver bullet would be to deliver on items where ICANN is expected. One example being DNS Abuse, for example.

JOHN MCELWAINE Thanks. John McElwaine, for the record. I also would add to that, I mean, I think there are some laws that are not necessarily intended to, or aimed at a failing of ICANN's policy. So for instance, with GDPR, that was, I'm not a European lawyer, but I believe was intended to address privacy law in general and just happened to have an impact on access to registration data. So, that's partly, kind of getting to this question in front of me, an education component. But I also think that there's a component of being able for the community, for the policy making process to work quicker.

We need to be very nimble so that we are working faster than the governments when we identify a problem, so that we don't get outrun by governments, which we all know are slow, clunky, intentional animals. So, that's an important thing is looking at how can we identify these problems sooner? And how can we act upon

them more quickly and efficiently? And how can we get past some of the logjams of policy and not get bogged down? Thanks.

CHRIS BUCKRIDGE: Thanks, John. I know Mason has a comment. I'm just going to say, I think the last few weeks have been instructional in how quickly governments can move sometimes when motivated, but Mason, please.

MASON COLE: Would the Board mind if we turn the question around a bit and ask the Board or Kurtis, what does the Board and the leadership team think ICANN should do to better engage with governments to prevent legislating around the model?

KURTIS LINDQUIST: If I had the power, I had a quite long list of things to bring up, but I think I said this in one of the other sessions today. I mean, I think that it's key that we, I mean, I'll take a point that was made, but also like to observe that a lot of this legislation isn't DNS specific. I mean, this too isn't really DNS specific either. It just happens to have some foraging consequences in that. And this has other sort of other things around these two as well, a lot of scoping.

And I think that the best thing we can do is actually explain the fundamental underlying infrastructure and building block, how this works and what the infrastructure is and keep reiterating that so that legislation isn't passed that will affect, I'm not going to call

them secondary effects because no secondary effects, but, and keep working with the governments. I think the issues we have there is, I mean, the EU or the US might be simple because they're very large economies, very large awareness of the legislation, but to do this on a global scale is a phenomenal undertaking.

So there is also a bit of a scale, but I think on the level of the EU, the US and some of the larger economies, we are working with them and engaging with them and trying to make them understand what the foundational principles of a working internet is and how that creates value. And at the end of the day, there are sovereign states of, my joke in the beginning, our reach is only so far. But we are trying to do that work and we do keep doing that every day. And that's what we keep working on that. And even with NIS2, we've had lots of discussion with the EU about what the consequences of that actually was.

And I think we also keep forgetting that we actually had some, but not necessarily just ICANN, but the European community as well did actually manage to change part of the NIS2 proposal. So, we have had success stories as well. It would be very easy to just stare ourselves blind on the failures, but there are actually quite some success stories to that as well.

CHRIS BUCKRIDGE Thank you very much. As I mentioned, we've asked this question of a few different groups. And I think one thing you find in that, and I think Tripti identified it in one of the earlier sessions is themes emerge. I think one thing that we saw emerging was the need to

tell our story to be very clear and communicative in relation to why decisions are made or how decisions are made.

And we've mentioned things like the global public interest framework checklist as a way to do that and to sort of back up the decisions that are made. So, when I think we're talking about the strength of the institution, the legitimacy of the institution and its decisions, that's something that feeds into that discussion very much as well. Kurtis, please.

KURTIS LINDQUIST I was going to add a thing. I think John started on a really good point. I don't think we should miss this discussion when he talked about NIS2 is also that I'm not a European lawyer either, but I'm not a lawyer at all. But NIS2 is a framework. And while we can influence and do work on the level of the EU forming the NIS2 principles, then every sovereign state goes to interpret this.

So, there's a secondary activity that has to go because we don't know how to decide to interpret this, which creates even more options and more work to do. That's something that we had to then go through and follow as well. So, there's a lot of work to be done in this area, but it's not just about the principles necessarily.

CHRIS BUCKRIDGE So, thank you, everyone, for that discussion. It brings us to the end of the questions that we had set up to ask and discuss here. But we do have around 15 minutes left in the time slot. And a question we have also been putting to a number of other constituencies is in

regard to the reviews process that's ongoing. And I provided a little bit of heads up to colleagues in the CSG this morning that this might come along.

I'm sure others have heard some of the discussions we've had already about the outcomes from ATRT3, the Continuous Improvement Work that's going on, the pilot holistic review, and questions regarding ATRT4. So, we would, as the Board, very much appreciate any feedback or input that CSG might have on that. And we'd like to throw it to you, if you have any response.

MASON COLE

Let me defer to colleagues first, if anyone would like to pitch in. Okay. All right, Mason will kick it off again. So, we did talk about this a bit this morning, and I think from the BC's perspective, you see that there is number one reviews are mandated, they're necessary, it's a healthy part of the functioning of any organization. What you see in the ICANN environment right now is a number of review functions that appear to look alike.

You've got ATRT, you've got Holistic Review, you've got the Holistic Review Pilot, you've got lots of things competing for time, and a very full ICANN plate. We've got New gTLDs coming, we've got the regular work of ICANN happening, we've got government engagement like we just talked about. I don't know that we have a fully formed answer to your question, though, except to say that it's a huge bite to try to bite off, and it's a necessary function that needs to happen.

There needs to be probably a more efficient way to tackle it, and I'm not sure what that looks like, but we're interested in a healthy discussion about how can we get from where ICANN stands today through a review process that reflects healthy outcomes for the organization, and then into a newly formed ICANN that is capable of being more nimble, more assertive, and more balanced in its outcomes. So, I think that's where the BC would come from on this. I defer to colleagues, though, in the CSG for their input.

JOHN MCELWAINE

So, the IPC discussed this briefly in our open meeting, and the conclusion we were coming to is it's just important for, firstly, as a number of lawyers, to comply with the bylaws. I mean, that is just fundamental good Board governance. But secondly, that we shouldn't, if a certain type of review is in the bylaws and is planned for, we shouldn't skimp on that. We should do what we said we'd do to show that sort of accountability.

That said, the community is here to kind of help out. What are the problems with, as I understand it, chicken and egg sort of thing with all the different reviews? And can we do some sort of analysis that gets rid of the duplicative work and come to a conclusion as to what needs to be done first? But ultimately, in our discussions, we did not think we should decide to do a light review. We should do what we've promised to do to the community and really to the world. Thanks.

PHILIPPE FOUQUART

Thanks. Philippe Fouquart. Just to add to what has been said, with which I can only concur, we discussed this within the ISPCP. Our reflection was that with all these parallel tracks in mind and the dependencies and the overlap, et cetera, the workload, we tend to prefer to have a target. And we were expecting that target to be defined by some overarching approach. PHR may have been one of them.

There's some frustration that it may not be in a position to do that. But we were of the view that we should define that overarching structure first, mindful that there are things that were even deferred, like the GNSO review, for that reason. Because there was a sense that given the dependencies of that review, we should first think about that broader context. Thank you.

TRIPTI SINHA

So first, thank you very much for your input. We find ourselves in a very interesting point, which is we've had ATRT3 that was done, which had certain outcomes, one of which was a holistic review, continuous improvement. And when you put all the reviews together, I believe there might have been 163 recommendations, some of which are implemented, some of which are not. And there's a stalemate when it comes to the Pilot Holistic Review and confusion as to how to interpret this, that, and the other. And that's not a good situation where we find ourselves.

And we have obligations per our bylaws towards accountability and transparency, and we want to do right by those obligations. So, the Board is asking, is this a good time to look at the state of

reviews and reinvent them so that they are more meaningful, they do what they are supposed to do, which is have us be accountable to accountability and transparency. And it goes without saying that the community is overloaded. We recognize that.

So, we've got to somehow solve this problem so that we continue to be faithful to our obligations per the bylaw. So, we were just seeking input on how do we get ourselves out of this standstill. We're at a standstill. And we just have to get ourselves out of this. So, we're just seeking input. So, thank you.

CHRIS BUCKRIDGE All right. Thank you, Tripti. And thank you, as you said, very much to BC for all of that feedback. I think we've, as the Board, had a great deal of very useful and important feedback on this topic. And apologies for springing on you somewhat last minute, but very much appreciate you being able to speak with your groups and come in with some positions and some additional food for thought for the Board in that sense.

We have 10 minutes left, but I think we've probably covered the issues that we wanted to discuss here, looking around in case there are any AOBs that people have. But I think at the end of this day, after many long discussions, we're probably all happy to have 10 minutes back to dedicate to sleep or to social events. So, yeah, thank you very much to BC and we will officially close this event. Oh, sorry. Please, Mason.

MASON COLE	Yes. I just wanted to say thank you to Chris and Tripti and Kurtis and our colleagues on the Board for the opportunity to interact. It was very useful and I hope you found value. Thank you for the opportunity. Very much.
CHRIS BUCKRIDGE	Thank you.

[END OF TRANSCRIPTION]