
ICANN82 | CF – 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, and I am the 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 will be given permission to unmute in Zoom. On-site participants will use a physical microphone to speak. Please state your name for the record and speak at a reasonable pace. And I will now hand the floor over to Mason Cole. Thank you.

MASON COLE

Thank you, Brenda. Good afternoon, everyone. Mason Cole here, chair of the CSG, at least until the end of June. So there you go. Good to have you all in the room. I'd like to just cover a couple of housekeeping items, and that is if you are in the room, please go ahead and sign into Zoom so we can manage the queue. And if you want to speak, please raise your hand in the Zoomer so that you can be called on. Also, public service announcement. Don't forget to set your clocks ahead tonight. Daylight savings time starts

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tomorrow, and it'd be terrible if everybody were an hour late for ICANN tomorrow. So don't forget that. So the agenda is on the screen. We are privileged to have Russ Weinstein, ICANN's new senior VP for Policy Development Support, with us today. He's going to deliver a couple of remarks, although I don't think, Russ, you need half an hour, right? Yeah. OK. All right, but Russ is open to your questions and constructive dialogue. So have your questions ready for Russ after he gives a brief presentation. And then we have the rest of our CSG issues up on the screen. Before we start with the meeting, are there any updates or additions to the agenda, please, or any AOB issues? Okay, don't see anything in the queue, so we'll go ahead and get started. So Russ Weinstein is with us. Again, he has assumed the role that David Olive had before David retired. And he is taking over as senior VP for Policy Development Support. He agreed to make time out of a very busy schedule to come and talk with the CSG. Thank you, Russ, for your willingness to do that. And let me give the floor to Russ. You're going to deliver some remarks and then take some questions, if that's okay.

RUSS WEINSTEIN

Yeah, thank you, Mason. Thanks, everyone, for inviting me here. I'm honored to come speak with the CSG. I thought I'd give a little intro about myself and then a little bit about what I've been doing since I started in this new role, and then turn the floor over to you to hear from you all of questions or anything you want to chat about. So I've been with ICANN for about 12 years now. I joined ICANN back in 2012 to support the new gTLD program. I joined, I like to say, after we accepted applications. Some things went wrong. And I got

joined in that next wave to try and help get the program back on track and start working towards getting applications processed and move toward delegation and things. And it was a fantastic learning experience for me, where I learned a lot about the ICANN system and also just a lot about hard work and how to get something done that seemed impossible at the time. But it was really sort of a start of seeing how collaboration with the community can help us forward. And there was a number of things that weren't really super clear, or there wasn't really a clear path forward. And working together as staff and with the community, we figured out ways forward to move forward on the applications. From that point, I joined what used to be called the Registry Services and Engagement Team that was responsible for our relationships with the registry operators, the contracts, the services we provide to them. And in this context, service for ICANN, a service to the registries, is really mostly in the contractual sense, largely. Our contracts obligate the registries to get ICANN's permission for a number of things, whether it's changing their name, selling the business, adding a new service. And the services we offer were how do we review and approve or deny those, what were the criteria, what are the cycle times, all those kinds of things. I added the registrars back in 2019. We combined the teams and became what we called the GDD accounts and services team, affectionately known as the GAS team. And that was the job I had before I left, before I joined the policy team. And again, that was just a really good experience to learn more about the community, different aspects of the community, how the business side of the

industry works, but also hearing about the issues and the challenges that other parts of the community had with the way the business operates today, the way the registries and registrars are obligated to do business or do business. Got to experience a lot of interesting things on the policy implementation side over that period. While I wasn't directly responsible for the implementation, my team often supported policy implementation quite a bit. We tried to support policy development as well. And so getting to peek into that process and try and identify things early on. And I think that's an area where we can continue to get better as I can. We can talk more about that. What attracted me to the policy role? People often ask me that, so I figured I'll tackle that one. I'm big into collaboration and I've fallen in love with ICANN and the multi-stakeholder model over the course of my time. It's so unique and it's just really magical when it comes together correctly. And so this policy position was just like a combination of things that I enjoy and that I think I'm pretty good at, which is both sort of the process and operational aspect of things and how do we make order out of chaos in a lot of cases. And bringing people together and collaborating and driving towards common solutions. Even when there's different sides of the table, different perspectives, which is the design of the ICANN model and really its secret sauce. It just seemed like a really exciting and fun challenge. We get to work with a great team that supports the community who I've known for a long time in different respects. And it was just, it seemed like a really good opportunity for me to change roles, stay within ICANN and also to be at the executive level and be able to help out ICANN

from an organizational standpoint, being with the organization for as long as I have. We've been in a tough way the last couple of years. It's been challenging inside the organization and I thought I might be able to help out from a leadership standpoint at this level. And so those were all the things that sort of went into me wanting this role and Kurtis putting his trust in me to do it. My official first day I think was January 16th. I started hopping on community calls probably a couple of days before that even as after I was announced a couple of days before that. As we've historically done, the CEO likes to do one-on-ones with the different leaders of the different constituency groups in between ICANN meetings. And it just became a perfect insertion point for he and I to quickly get to know or at least start developing relationships with each part of the community from a leadership standpoint and just be a really instructive, good start to listening, trying to understand where different groups are coming from, what's on their mind, what priorities are, where there might be common themes. And we extended that into, we did a couple of town halls with the two houses of the GNSO, which we did, I think the one with the non-contracted party house on, was it just Monday? Yeah, I think it was Monday before we left, which was great and really appreciated that. I always like having these opportunities to talk directly with the constituencies and their members. And so that's why I'm here for this. And hopefully we have an open door kind of mentality. I appreciate the dialogue. I think we can always work towards resolution when we start talking to each other as opposed to just sort of formal written letters of anger and vitriol and things like

that. So that's why I'm here and happy to turn it over to you guys for questions and dialogue.

MASON COLE

Thank you, Russ. Questions or comments for Russ, please. We're privileged to have him here with the CSG, so let's take advantage of the opportunity. So let me check the queue.

MARK DATYSGELD

Thank you for joining us, Russ. How has it been doing this handover, sort of? Because it's been a long established role. And from our perspective, we always wanted maybe that role to be a little more close to the business side, something that some of us have talked over time. So how has it been, this transition, and what are the plans in terms of integrating the business community within these new plans? Thank you.

RUSS WEINSTEIN

Yeah, thanks, Mark. So the transition's been pretty smooth, I think, so far. Sally Costerton was helping oversee the function after David left. And Sally and I have had a longstanding relationship at ICANN. We both ran teams that had engagement functions. And so it worked together quite a bit in that capacity. And in her role as CEO, we got to work together even on more things related to the contracted party side of the business. My background before ICANN, I didn't mention that, is commercial. I worked for aerospace companies that built rocket engines for NASA and Air Force and things. And what I love to be able to say is, guys, we're actually not

doing rocket science here. I know what that looks like. And this is not it. It's only domain names and a little bit of numbers. So I have a commercial background. I have an MBA. I went to business school. And so when I look at problems, I tend to look at them a little bit more from a, how do we get from here to there, and not so much, maybe, I don't know how to say it, as much from the traditional policy route, I think. And so I'm often trying to think about, how does this affect businesses? And not just businesses from the way we often think about them in ICANN, which is the contracted parties, but the businesses that play on the internet and have important responsibilities to their customers through their internet presences and things. And so it's a really important role, I think, within ICANN. And it's an important voice that needs to be heard as part of the policymaking process. And I'm here to listen and see where we can help you.

MARK DATYSGELD

That's super refreshing to hear. Thank you very much.

MASON COLE

Thank you, Mark. Susan Mohr, please.

SUSAN MOHR

Thanks, Mason. And Russ, it's great to see you. And thank you for taking the time to meet with us here today. Thank you for the listening sessions that you've been doing. I think it's always important to do exactly what you're doing when you're new to a role to really understand the community. And so I think that's

helpful. I wonder, it seems like what you're trying to do is really, at least one piece of it, is to almost create kind of a simple ledger of, what are those things that work well from a policy development process in ICANN? And what are those things that could be improved? And so I wonder, are you starting to coalesce around that inventory? And is there anything you can share with us today?

RUSS WEINSTEIN

Yeah, great question, Susan. I think, from what I can tell, the improvements that GNSO has put in place and is still working to put in place to the PDP process is going really well. And we're actually starting to see some of the fruit of that labor already with the two most recent PDPs coming in on time, as planned, with recommendations that seem clear and ready. Obviously, the teams are doing their analysis now to prepare those for the board or for the council, as it may be, between IDNs and transfers. But I think that's great early indicators of things are getting better. I think there's a perception that policy development isn't going that well. And I think, when I look at it, I think it's, without trying to judge it too early, it feels like the lifecycle of policy needs improvement. And that lifecycle includes the implementation side and feeding the analysis of implementation into the development process earlier in the process so that we're able to give the community information that can help them iterate within solution space. So we don't get development that goes in a direction that's unimplementable or makes it really challenging to implement or really costly and things like that. So figuring out how to do that is much harder than saying it, especially I've lived on the

implementation side. It was hard to keep up with development of policy when you're already trying to implement other policies and run other programs and keep that side of the business going. So it's going to be a challenge. But it's one where I think it's within our grasp. It'll probably take some time to improve on. But I have really good relationships on the GDS side. The whole GNSO team that supports the work and policy does. And I think it's an area where Kurtis is looking at and Theresa Swinehart's looking at. And we're really committed to how can we make that better. So those are sort of the early indications I have from a policy side. Thanks, Susan.

MASON COLE

John McElwaine.

JOHN MCELWAINE

Thanks. Russ, thanks for being here. John McElwaine for the record. So the comments that you made concerning people getting together to talk rather than writing letters back and forth, I think we've seen some significant improvements in that over the last year, year and a half or so. I was curious if you have any other, or you can elaborate a little bit more on how you might suggest the community engages in dialogue processes, et cetera, that get past some of these difficult, entrenched issues. Any sort of elaboration on that would be great.

RUSS WEINSTEIN

Yeah. I don't know that I have any solutions quite yet on that front. I think what the GNSO has started to put in place in terms of things

like small teams and evaluating things in that context and not trying to jump right into PDPs has been an improvement. I think the behavior of each of the constituency groups continues to improve in terms of actually wanting to talk to each other. So I applaud all of the constituency groups and yourselves. And I was looking at your agenda, and you have several sessions with other groups. That's fantastic, both as this whole body of the commercial stakeholder group, but also I know the component parts are doing similar things. So I think trying to get those issues out on the table is really helpful. And trying to find workable solutions, obviously, is the goal. I think also just keeping in mind at all times, policymaking is a game of trade-offs and a game of compromise. And there's not winner-take-all solutions. And when everyone comes to the table with that good faith, we're a lot more likely to end up somewhere that works. And so no easy fixes there, but sort of my early indications.

MASON COLE

Thank you, John. Marie?

MARIE PATTULLO

Thank you. Marie from the BC, and joining with everyone else, thank you for being here. One step backwards before we go forwards, one thing that we found in some of the former policy PDPs, in particular, I'm thinking about the RPM ones, where many of us aged many, many years, many years. And a lot of that was to do with the charter didn't have the baby and the bath water. It had the bath. It had the paint on the walls. And it had the baby's name.

The charter was everybody plus everyone sticking in stuff. And that's something that I know, looking at John under his leadership and counsel, we were really trying to ensure that when we come up with a charter, it is defined. It is scoped. And it doesn't allow for the entire gamut of goodness knows what, because it creates nothing but trouble. But that's the back story. Going forward, and this is something that we talked about briefly in the town hall online, we are not just the not contracted parties. We're not just here for talking to each other and then the imbalance in the voting that you know for well means that nothing really goes through unless the CPH agrees to it. And here I speak purely for the BC. This isn't just about businesses. This is about our consumers, our users. This is about my nephew, my grandmother, believing that they are giving the right credit card details to a decent person online. So we're not just here for the dollar signs, we are here for not just the user community, but for the BC, the consumer community. And we do see an imbalance in the appreciation given to the non-contracted party house. We do see an imbalance in us trying to put our views across. "Oh, you would say that, you're industry." And something that I have ever said from the perspective of the BC, yes, we go from the Fortune 500s, and then we go down to Lawrence, or to Mark, and these guys are the standing proof of what the BC does, the global south. How can we help you to ensure that the voice of the commercial side of this house is heard in the policymaking process? Nice, small, easy question. Thanks, Russ.

RUSS WEINSTEIN

Thank you. Well, I'll start off with kudos to the first part of your statement, I guess, on that side. I think you're spot on. PDPs tend to be doomed to fail if the charters aren't done well, if there isn't clarity of purpose and some level of sort of knowing where you're going before you start. Focus, focus, focus, right? The time it takes the community to develop policy is really valuable time, and it's essential time, but it won't be spent well if it's not focused work just from the start. So kudos to that recognition and those improvements that have been made to get that going. And I think the whole GNSO is pretty supportive of that, from what I can tell. I hear the contracted parties say that all the time as well, from my prior experience. So it's great that there's alignment there, too. In terms of having your voices heard, I recognize the challenge, and I think it's probably one way of improving is about the communication, perhaps. Have we talked more about the why, not the what. What are we trying to, why are we trying to close a loop or improve something, not what are we trying to force from an action perspective, but what is the outcome we're trying to seek, and what are ways or symptoms or that sort of thing? That's sort of what comes to mind, is trying to get the agendas off the table from a, it's all about adding cost one place or avoiding cost in another, and that sort of thing is really about what you're talking about, consumer protection, and what is the experience. We talked about this with the At-Large the other day, with the board as well, representing those end-user activities and how important that is, and it sounds like you have an alignment there, from your perspective, yet I don't know how often you guys think of actually

being aligned with the At-Large on things, so maybe that's an area of opportunity to better voice your positions in the policy-making, yeah.

MASON COLE

Marie, thanks. Dean?

DEAN MARKS

Thank you, Mason, Dean Marks with the IPC. Russ, thanks again for being here. I had a question for you, actually, about policy that has reached consensus agreement and board approval, but yet has yet to be implemented. I'm thinking in particular about thick WHOIS policy, which to a number of us is a source of great frustration that a policy that was adopted by the ICANN, PDP, and the GNSO, and the board has had an indefinite hold on it, and then somehow unilaterally, without community input, was made optional. Could you please comment on that, because that, I think, is a source of great frustration to those of us who are involved in policy development, where a consensus policy somehow never gets implemented.

RUSS WEINSTEIN

Yeah, Dean, I think that's an incorrect framing, to be honest with you. The way I thought the GNSO council responded to the board when they were talking about one of the recommendations in the phase one of the registration data policy was the council made it pretty clear that they believed they approved a supersession of the

thick WHOIS policy. So I think you're talking to the wrong party as who you're upset with.

DEAN MARKS

Okay, I guess I had thought it was the board's responsibility and the org to implement policy once it had been developed, and I didn't realize by the bylaws the council itself could overwrite that just by itself. Is that correct? According to the bylaws, the GNSO council can say once policy has been approved by the council and the board that it no longer is policy? And if you could cite the bylaw to that, I'd really appreciate it.

RUSS WEINSTEIN

Yeah, Dean, I'm not going to get into that level of debate with you, but I think there's been –

DEAN MARKS

I'm just asking for information, Russ. I'm not debating. I'm not asking this rhetorically. I'm asking it sincerely.

RUSS WEINSTEIN

Well, I'll let the record speak for itself. I think there's a lot of public correspondence between the board and the GNSO council as to what was intended in the registration data policy. I don't know all the facts off the top of my head. You can see I don't have a computer in front of me. But I think my recollection was that the council clarified to the board that they fully intended to supersede that policy with their new policy, which the board accepted. And

that's how lawmaking works, right? You enhance and improve and modify things. The newer thing takes precedent often.

MASON COLE

Okay. Thanks, Dean. Other questions for Russ, please? All right. So the queue looks pretty clear, Russ. We kept you for a good, solid half hour. Thank you.

RUSS WEINSTEIN

Thank you.

MASON COLE

So I just wanted to add just on behalf of the CSG that, you know, I think everybody here in the room recognizes that at times the community falls into an us versus them mindset. We don't seek that, nor do we particularly want it. We're all in this together. We're looking for ways to cooperate with contracted parties to achieve some of the objectives that we've been frustrated about now for several years. So hopefully working with you and your team, we can smooth that road out ahead and get some work done together.

RUSS WEINSTEIN

Yeah. Thank you, Mason. Thank you for inviting me here for the discussion we had and to your point, yeah, collaboration is the way forward in my mind. And we heard that resounding across the board from all the different constituency groups when Kurtis and I met with them in the virtual one-on-ones and they carry out today. So please keep that perspective and that approach and let me

know how I can help, whether it's fostering it or bringing people together or any of those kinds of things. So thank you very much and have a great meeting. I know it's a lot of work. We appreciate the time you all put into it. This model doesn't work without the time you all put into it and the energy. So thank you in advance. Good luck.

MASON COLE

Russ, thanks for making time for us. Appreciate you being here.

RUSS WEINSTEIN

Absolutely. All right. Thanks, Mason. Take care.

MASON COLE

All right. Thank you. Okay. Thanks, everybody, for that constructive dialogue with Russ. Let's move on to the second half of our agenda. We have half an hour left together. We won't get to everything today. We've been off a little more than we can chew with the agenda, as sort of is our normal habit. But we do have a couple of sessions that are coming up this week that are important, one with the contracted party house that has been very, very carefully structured, and one with the board, which I believe is Tuesday afternoon. And then if we have time, we can talk about DNS abuse, RDRS, any other business, although we've got a couple of things that we really need to cover about these sessions coming up with the CPH and the board. So let's tackle the first one, and that is our session with the CPH, and I'm going to turn the floor over to Marie

Pattullo because she's been on point for the CSG on this issue. So Marie, over to you.

MARIE PATTULLO

Hi, everyone. Marie Pattullo from the BC. Tomorrow afternoon, this room, this time, it's going to be fun. There's going to be dancing. There's going to be singing. And there's probably going to be lots of really interesting conversation in all seriousness. Now, those of you who were at the last meeting, Istanbul, sorry, couldn't remember where we were. Jet lag. We'll remember that we had a quite interesting session with the CPH. We want to work with them. We need to work with them. So the way that we structured it this time is there's going to be five cases presented by us, edge cases, if you like. We know that the CPH sticks to a very strict definition of abuse, and we all know that the reality of how that works in the real world is not necessarily the strict definition. So, from the BC you're going to have Chris and Vivek and we also then, I can't remember the order, forgive me, but we've got a couple of cases in the IPC from John and Philippe from the ISPs, if you guys, I'll hand it over to you in a sec. The idea is, this is the scenario, what do we do? The CPH are also going to present some cases and from what we know at the moment, from what they've told us with their slides, it's more or less along the lines of, guys, stop reporting this as abuse because it's not abuse, but what we are trying to get to tomorrow is a discussion. We're not going to have breakouts, we want it in plenary so everybody knows what everyone is saying. This is what I've encountered, where do I go? The idea is that we all know how

best to present an abuse case and hopefully how they will react. So, John, Philippe, I don't know if you guys want to take over from ...

JOHN MCELWAIN

I mean, the only thing that I'll mention is that we sourced our two edge cases from the IP perspective, sent it out to the list, so we've got one that's sort of copyright related and we have one that is unregistered trademark related. We're just trying to find these difficult cases, all have a sort of abuse angle to them as well, so it should just be a really good discussion, I think.

PHILIPPE FOUQUART

Thanks, Mason. Philippe here. On our side of things, yes, we came up with a use case that's hopefully non-contentious. We've agreed not to mention names, so we won't, and that's a real case with my affiliation, to be transparent. Thank you.

VIVEK GOYAL

I have a case where a brand owner changes the brand identity, so there is no active webpage with the old brand identity, but the old one is being used to create a fake webpage and conduct fraud. So, since there is no old website with the old branding to show us comparison, how does the contracted party take action, or will they take action?

CHRIS

Yeah, thanks, and without ruining it for tomorrow, we've got a banking issue where when is the right time to act and how is the

right place to act? We're always told go to the host, go to the UDRP, so I think we're going to try and pull that out a little bit to hopefully entice some good conversation about when it's appropriate to act quickly to stop the harm.

MARIE PATTULLO

Okay, so please do come, and please do come and talk, because the whole point of the session is for us to get closer to understanding why your reports are not being actioned, and from the contracted party's side, why they believe they should not be actioning them. This is not supposed to be contentious. If you want to chuck tomatoes at each other, please do, but please don't do it in this room, because we really want it to be successful, and I am not cleaning up tomato mess. Michael, please.

MICHAEL

Yeah, just real quick, the contentious part of it may be the definition if we use the term domain name system abuse or DNS abuse, because it's defined in the RAA by ICANN, and yet we all know that there are different types of abuse. So my cautionary hope would be that we dispel the idea that we're talking about required action on DNS abuse, that type of abuse that's in the contract. We're talking about things that happen on the Internet that is abusive, that's utilizing domain names in one way or another. I don't know how we do that.

MASON COLE

The impetus on this is there are several things. One is, the main one is, how do we improve our relationships with the contracted parties in a way that gets them to take more action on abuse? Some are going to fall within the definitions only. Some are going to be more cooperative. We can't really control that. So it's our hope that we intentionally identified edge cases so that it wouldn't necessarily fall into the definitions of the contract, but maybe on the edge of a couple of these so that we could understand better where the contracted parties feel like they can and can't act and where our frustrations are with contracted parties when they don't act so that there's better understanding on both sides. The definition of abuse, that's going to come up in different forums over the course of this week. In fact, I'll talk about that when we talk about our preparation with the board. So I guess to wrap that up, I would say we're going to present edge cases and they're edge cases on purpose, and hopefully we'll get friendly reception from the contracted parties. I think we probably will, and we're going to try to have a constructive learning conversation on both sides. It's not a one-way street where they just bark at us and say, no, you guys are stupid. You shouldn't be reporting abuse that way. They intend to educate us about what a productive abuse reporting structure looks like, and we intend to instruct them on where the difficulties are on our side. I hope that helps.

MICHAEL

Yeah, no, and I think that's the proper focus, is not this should be abuse, but what do we do with this? You know, to work with you

because you don't want it happening. We know that, but you also have limitations. So what's the best way?

MASON COLE

Crystal, your hand is up. Go ahead.

CRYSTAL ONDO

Yeah, thanks, Mason, and apologies I'm not in the room I will be in tomorrow. But I just, one thing the contracted party houses started using is online harms. So it might be worth trying to avoid the capital DNS abuse, you know, with capital A and lower case A to talk about online harms that may be occurring just generally, and I think this approach to conversation, discussion topics are the right way forward, and I think it's a great endeavor to do. But online harms, I think, is one thing that at least the contracted parties are comfortable talking about.

MASON COLE

That's good intelligence to have, Crystal. Thank you. Yeah, I think we can update the terminology. Thank you very much. Other hands in the queue on this issue as Marie has brought it to the CSG?

MARIE PATTULLO

Can I just point out there's a question in the chat for Philippe.

MASON COLE

Yeah, Philippe, please.

PHILIPPE FOUQUART

Thanks. I was going to answer, Steve. Not that I'm aware of. The question was, are there any hosting providers in the session, or will there be tomorrow? I don't think so.

CRYSTAL ONDO

Sorry, can I just jump in, Mason? Many registrars are hosting providers. So for example, I'll be there, Google has a hosting provider, GoDaddy also is a large hosting provider, Black Knight has a hosting provider. So while they might not be there with their hosting provider hats on, they could probably speak to it as well.

MASON COLE

All right. Good. Thank you, Crystal. That's helpful. Okay. All right. Did I cover everything in the chat and in the queue? Okay. Very good. All right. Let us proceed then to the next issue, which is our prep session with the board. I'm going to have to rely on some old notes here. So if I get a little far afield, if someone from the ExComm could call me back, that'd be great. We have a session with the board coming up. As usual, we were asked by the board to submit our questions to them, and then they submitted a question to us as well. And we've been, the ExComm has been preparing for those. So Marie, I hate to put you on the spot, do you have the agenda that we were going to present to the board on our questions? I know we had one on NIS2, one on ICP 2 that I think, Philippe, you were going to lead, and then one on abuse and contracts that I was going to talk about.

MARIE PATTULLO

The board, while I'm still looking for it, but somebody will be able to correct me. The board came up with different questions, and we could choose which one we wanted to answer. The one we're answering, and I don't have it, so I'm doing this from memory, is why is it that governments legislate?

MASON COLE

I'll tell you what it is. How can we work more closely together to ensure governments are encouraged not to legislate around the multi-stakeholder model.

MARIE PATTULLO

It's what I said, just with more words. So Mason, John and Philippe are going to be explaining why governments make legislation. Because if there is a lacuna, a gap, then governments tend to look after their citizens, it's kind of what they're there for, only with more words and much more politely. And then what we're hoping is the hour will be divided into 15-minute blocks, because then John will go through NIS2, accuracy, Philippe will talk about something technical, and I can't remember the acronym, it's ICP2, yay, and then Mason will talk about DNS abuse. So, John, do you want to take over?

JOHN MCELWAINE

Sure, so we're just going to essentially talk about how NIS2 should be taken into account already for RDRS requests, accuracy, et

cetera. Just essentially give the statement that this is, as pulled up right here, all 750 words of it, a law that needs to be respected and acted upon now, and essentially go from there. So that's a good statement, and I can actually circulate it if you like.

PHILIPPE FOUQUART

Thanks, Mason. Philippe here. Yeah, as far as ICP2 is concerned, we'd like to, so for those of you who might not be familiar with that, it's the review of the policy that's defined by the ASO, and that defines the way in which a regional internet registry can be recognized, so an update to the policy. That's an issue that was, let's say, triggered by the issue with AFRINIC, but it's much broader, as you can expect. The question we'd like to discuss with the board is how the procedure will be stress-tested, for lack of a better word, moving forward. We're confident that the procedure is robust enough for it to cover cases where the recognition would be non-contentious, i.e. a set of parties could get together with the approval of the internet community and get a recognition. We're not that confident. Well, we would like to know whether the policy could be gained. If you look into what happened with AFRINIC, we're wondering, and it's more of, I don't know if it's an academic question, but we're wondering whether in that sort of situation, a limited number of parties that would be frustrated with the decision by a regional internet registry could use this to put an alternate candidate and argue for this to be recognized by the procedure. Am I making sense?

MASON COLE

Absolutely. Thank you, Philippe. So that covers what John's going to cover, what Philippe's going to cover. We'll also talk about DNS abuse. As we did in Istanbul, the CSG is bringing some constructive ideas about tools that we'd like to use to combat DNS abuse that go beyond the contract amendments that were put in place in April. We'll be talking about those. What I'm talking about specifically is the ability to act at scale at the account level to deal with abuse, act against imposter domain names, improvement of response times, requiring WHOIS reveals when there is DNS abuse. The things that we advanced in Istanbul are still on the table in terms of what the CSG is advocating for. So we'll talk about what those are as well. Then there comes the question of the board asking about how do we get governments to quit legislating around us. And I don't want to spill all the beans in here, but the ExComm has developed a set of talking points that we're going to use to address that question. And what it boils down to is probably what you would expect, which is governments tend to legislate because that's what governments do. They tend to fill a vacuum that they perceive needs to be filled when their constituents have an unmet need. That could be in the DNS or it could be anywhere in our world, as you've seen. So governments legislate, they fill vacuums. They may not even know really very much about ICANN or the DNS, but when they suspect something's going on that their constituents need protection from or a cause advanced, then governments tend to act. The way that ICANN can prevent being legislated around is for ICANN.org to do its job completely according to its charter and according to its bylaws and according to the needs of the full

community. And that means producing balanced outcomes, not just favoring one house over another, as we sometimes witness, but otherwise fulfilling the real promise of ICANN. You have a multi-stakeholder model where groups come together, there's compromise brokered, and you produce outcomes that not everybody's going to be happy with, but it's progress. And so that's the general message that we're trying to deliver to the ICANN board. It's a little surprising, frankly, that they're asking this question, but they asked and we're going to answer it. So, David.

DAVID

Mason, I don't know how, if, I'll start by saying if, or how we touch on this other issue, parallel issue, which is when they say, no, that kind of abuse is outside of our mandate, that's outside of our whatever, and they build a fence. And is it not reasonable to say, well, if you just said that that's outside, how can you complain that governments are regulating or legislating that area? You just 30 seconds ago said that's outside your mandate. And I don't know how we say that in a nice way without throwing tomatoes, but we need to say it.

MASON COLE

Yeah. Thank you, David. You're right. And there's not always a purely diplomatic way to put it. Sometimes you have to speak frankly and sometimes we're going to have to speak frankly. And the board deserves frank, frankness and candor and without being mean spirited, and that's what, that's what we intend to do. To your point, ICANN has a history of falling back on, oh, we're only a

technical coordinating body when they don't want to do something, and that's not a satisfactory answer. And that is a frank piece of information that we'll deliver on behalf of the CSG. Margie, I think you're next.

MARGIE MILAM

Margie Milam in my individual capacity. One of the things that I think would be helpful along those lines is to give them an example, and the example would be NIS2, because they may not remember that when the EPDP phase one was going forward, that Göran asked the European Commission to basically solve, Europe to solve the problem, because ICANN couldn't. And so in that sense, you know, there was a situation, because I think that's sort of implied in the question that they might be talking about NIS2, and we just want to remind them that what happened during that time was that ICANN actually asked for legislation in order to help solve the WHOIS problem.

MASON COLE

Excellent point. Thank you, Margie. Yeah. Getting the thumbs up. Marie, please.

MARIE PATTULLO

I had forgotten that, Margie. Thank you. And there was a comment made last week by one of our friends from the NCSG to the effect that NIS2 only happened because certain people lobbied for it, and

I think perhaps that was this side of the house. I had completely forgotten that Göran actually asked for it himself. Thank you.

MARGIE MILAM

If I may comment, there's actually a letter. I found it when I was looking at something for the IPC, where Joran actually asked for clarification with regards to that. So we can circulate the link if that's helpful, because I think that'll help remind everyone how we got here.

MASON COLE

Please do, Margie. Jan.

JAN

Yes, and I also think I don't want to throw tomatoes either, but something that ICANN should do is look at the legal landscape, and they have a team to do so. But what is not going to help is ignore legislation. What is not going to help is ignore legislation. They have done so in the past, because before GDPR there was already a privacy directive that didn't have much teeth. But ICANN has continuously ignored the privacy legislation that was existing before GDPR. Then GDPR came and at the 11th hour they issued a temporary specification, which was a radical shift from what happened before. I don't need to recall history here to this group. But then NIS2 came, which clarified that the interpretation that was given by the community to GDPR was flat out wrong. And so that the solution that is being developed by the community is a solution that will not help in NIS2 compliance. And there is a hand

that is reached out by the legislator on top of that in NIS2, because it refers to the multi-stakeholder model to come up with a global policy. It's an invitation to ICANN. So if you don't want a legislator to meddle around with what is part of your sphere, of your mission, then what you need to do is accept the invite and act upon it.

MASON COLE

Thank you, Jan. Okay, Dean, and then we're going to cut the queue to go to ALB, because we're almost out of time. Dean, please.

DEAN MARKS

Just to be really quick, I agree completely with what Jan said. And in some ways, that's also a response to the Thick WHOIS question that I asked. Okay, maybe the council decided to override that consensus policy. Clearly, legislatures under Thick WHOIS, which says all DNS service providers have to maintain their own independent database, complete database of registrant information, is clearly showing that under the law you need Thick WHOIS. And ICANN really just going to keep going down the road. Sorry, our community has decided no.

MASON COLE

I'm not going to answer that for ICANN, Dean, but yeah, your point is well taken. Okay, any last interventions before we go to AOB, please? Okay, all right. Any other business for the CSG? Yeah, well, we kind of covered DNS abuse. I don't think we have time to get into RDRS as much as we'd like to. So, okay, in that case, I'm going to donate five minutes back to your day. Thanks, everybody.

Appreciate the constructive discussion. See you in the interaction with the board later this week. And best of luck for a good week. Don't forget to set your clocks ahead. CSG is adjourned. You may stop the recording. Thank you.

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