LONDON – Board with Registrars Stakeholder Group
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STEVE CROCKER: You're in charge, aren't you. All right, everybody. Let's get started. Could we close the doors there? Michele, it's your show.

MICHELE NEYLON: Thank you, Steve. Michele Neylon for the transcript.

This is our traditional interaction between the registrar stakeholder group and the lovely people from the ICANN board.

Good afternoon, everybody. Hopefully you're all still awake.

We sent you through a few topics that we'd like to discuss with you.

STEVE CROCKER: You did indeed, and they're on the screen there.

Accountability, underserved regions, LEA success metrics, and IANA transition. Which is really a shorthand for IANA stewardship transition, right?

MICHELE NEYLON: Of course.

STEVE CROCKER: Of course. Why don't we just jump in in whatever order that you like.

MICHELE NEYLON: Well, I thought we'd be really boring and do it in the order they appear on the screen, so we'll go with accountability first, if you don't mind.

STEVE CROCKER: I can go back to sleep? No.

MICHELE NEYLON: No, Steve, please, let's not do that.

STEVE CROCKER: Boring.

Go for it.

MICHELE NEYLON: Okay. I'm sure -- I'm sure no other group has raised this topic with you this afternoon. Nobody. Nobody at all.

Well, I mean, I think this is one which is kind of predictable enough.

There is -- there has been quite a bit of discussion around the topic over the last few weeks and months and possibly even years, and we are -- just wanted to hear your thoughts on this from the board's side.

I mean, from the registrars' side, we have our concerns and we want to make sure that ICANN is accountable, obviously. There's been several reviews. There's been -- there's more reviews planned. And of course

with the IANA stewardship transition, ICANN's accountability is under the microscope.

STEVE CROCKER: I'll speak briefly but I think we really want to hear from you what your concerns are with respect to accountability.

We certainly subscribe to the notion that accountability is paramount. We think we're already highly accountable. We're certainly open to improvements, both improvements in what we currently do and in structural or substantive changes to add to that.

The -- sometimes --

There are two areas that I find myself less -- I'm speaking mostly personally -- less responsive to.

The one is, sometimes when people complain about lack of accountability, it means they didn't get what they wanted, and so there's a sort of sorting out between whether we actually are transparent and accountable and following rules and so forth versus the outcomes just weren't what the individual complaining had in mind.

And the other is nightmare scenarios that -- so what happens if, you know, we all go crazy or whatever. And it's hard to protect against, you know, scenarios like that because there's sort of no limit to how far off you can imagine everything is.

And at the end of the day, you know, we all have finite terms, the board gets replaced, and there's laws, you know, that can be appealed to and so forth.

So there are some -- some broad limits in place anyway.

So what -- what are the -- what are the accountability issues that you all feel strongly about?

And it would be helpful to know whether you're talking about existing mechanisms that you don't think are working well enough or strongly enough versus new mechanisms that might be needed.

MICHELE NEYLON: I'm going to hand this over to James. Go ahead.

JAMES BLADEL: Thanks, Michele, and thanks, Steve. James Bladel for the record.

So now I'm going back in time to the first ATRT1 --

STEVE CROCKER: Sure.

JAMES BLADEL: -- and my experience on that group, and I think that one of my take-aways from that experience was that there were two -- aside from the office of the ombudsman, there were two primary mechanisms for accountability. The request for reconsideration and the independent review.

And while one was accessible and open and relatively transparent and expedient, the independent review was -- had the benefit of being

completely outside of the ICANN process but was, in some cases, prohibitively time-consuming and expensive.

So, you know, my understanding is that that hasn't changed much since ATRT1 and that we're still seeking that Goldilocks mechanism that is both accessible and independent, and I think that that is one of the outcomes that I'm going to be hoping to contribute to this review of the accountability process is to find that sweet spot in the middle of a review process that's reasonably easy to invoke and reasonably independent from the existing structure.

STEVE CROCKER: Are there any worked examples anywhere in the world, anywhere in life, of something that has those capabilities?

And I ask it in a -- as a serious question because the idea of an independent review, just from a systems point of view, means you're bringing in people who have not been part of the process, they have to come up to speed on what the facts are, they have to get involved, and then they have to sort of sort through that from a first principles point of view, and that strikes me as an inherently heavyweight process.

So I'm not pushing back on whether or not each of those qualities that you want are good things, but it seems unlikely to me, just on first principles, that you're going to be able to get a lightweight and independent process.

JAMES BLADEL: Yeah. I think that it's a -- there's a balance that needs to be struck, and certainly just doing that correctly is going to be -- you know, it's going to involve time and money.

I think that there were a couple of ideas floated. The one was the standing review panel that I think was part of the recommendations coming out of -- was it ATRT2? I think that might be a good jumping-off point for that, so it would be something that's standing and involved in the community and is able to get up to speed on these issues perhaps a little more quickly. Maybe not as quickly as the -- you know, the current mechanism.

I think as far as examples or models, a lot of folks have pointed out that ICANN, the community, acts as a legislative body and ICANN staff is an executive body and what we're missing in many respects is that judicial element, some third structure that can exist alongside the other two and stay current on the -- you know, and basically act as a backstop against either one, really, you know, going -- going too far outside the boundaries.

So -- but that's just the thoughts off the cuff. I know this is going to be a long process and I think that, you know, we're looking forward to engaging in it.

MICHELE NEYLON: Ray and then Rob.

RAY PLZAK: Thanks, Michele.

I think we should take cognizance of the fact that we're only talking about -- here about appellate -- an appellate process, and that is only one accountability process.

There are many mechanisms, I should say.

So while the matter of appellate processes is very, very important, we need to make sure that we instill accountability through a number of other ways.

And there are a number of different things that could be put into place.

Since you went into the U.S. model, then there's always the matter of recall, which is an accountability mechanism. It's not an appellate process. It's like the community firing somebody is what it boils down to.

You have checks and balances in processes the way they are.

You have accountability built into the descriptions of voting majorities.

You have accountability built into audits and reviews.

So there's a number of different mechanisms.

So while the matter of appellate processes is very, very important, it is not the only part of accountability.

And accountability has got to be for the organization as a whole and it has to be to the parts of the organization.

So one should look at this stakeholders group and say, "What are your accountability mechanisms to make sure that you're accountable in the

way you do business?" And if you don't have them or you have them kind of like in your mind about how we're going to take care of stuff, maybe that's something else that has to be done.

And I don't mean to say that by pointing a finger, but what I'm saying is that if all of the organizations inside ICANN have those types of accountability structures, what do we have?   We have a very accountable ICANN through all different ways and means of looking at it. Thanks.

MICHELE NEYLON: Rob and then Bruce.

ROBERT HALL: Steve, I want to try and answer your question in perhaps a little different way.

You've got these two bodies right now, the independent review and the reconsideration requests, and I think the problem may be the gap between them. And, yes, Ray, I take the point that we are talking about the appeal process here.

But the independent reviews we've gone through -- the one I can think of is xxx -- really did get into the substantive matter. And I agree with you it would take a long time for anyone to get up to that and it's going to be expensive.   From my point of view, what happens in the reconsideration request is the exact opposite.   The vast majority of reconsideration requests are thrown out not on the substance of the matter at all but on the form of how they asked, and I think you've got

to look at that body and say perhaps, you know, the format of the reconsideration request and whether they got the words right to ask within the bylaws what they really wanted -- because most reconsideration requests get into the substance and you never get to that test or even looking at that.

And I would add perhaps expanding that committee to have non-board on it as well, for the community, the visibility of the community, might be a good thing.

I know right now it's, by law, limited to only board members, but if that was serving a faster, more transparent process to get to the substance of the matter, you might solve a lot of the issues very quickly, a lot of the accountability complaints very quickly.

STEVE CROCKER: Let me just tease apart a couple of things you said there.

ROBERT HALL: Sure.

STEVE CROCKER: The current reconsideration process is rigorously limited to looking at the process and not to the substance, so that accounts directly for why they get handled the way they do fairly quickly and why they're limited to the process, which is what they're required to be.

That leaves the people who want to sort of re-litigate the substance very unhappy and dissatisfied because the process doesn't -- didn't do what they wanted and it's clear that it wouldn't.

So part of what I hear you saying, not as directly but strongly implied, is that we need something different from our current reconsideration process that allows re-examining the substance of the matter.

And then as a comment within that, and maybe it should involve people other than the same people who are on the board or a subset of the people on the board.

That -- all of that is clear. It raises a challenge.

What's the distinction that you're making in the caliber of the decision process or the basis for making decisions? You get one group that says X and you get another group that reconsiders all that -- I'm sorry, I shouldn't use that word but looks at the same set of issues and comes to a different conclusion.

What is the -- the basis for liking one answer better than the other from a community perspective?

ROBERT HALL: No. I think we've got to -- and this won't be popular in this room but I think we've got to assume that the board used their best efforts to come to the right decision and it isn't a matter of I just want to you take the same information and come to a different one. And I know that's what you get screamed at loudly a lot about.

But the reconsideration requests, the ones I tend to read, never get to the decision even of did the board follow the process. It's thrown out of did you follow the process to apply for the damn reconsideration request.

Like it never seems to even get to the -- never mind the substantiveness of it. You know, is there new information is one of the things that the reconsideration request is supposed to -- to look at and say "Did the board have this before them?" And very few even get to that. They tend to get thrown out in the process, Steve.

So I think -- yes, I think the easiest thing you could do is to take a look at that reconsideration committee and either expand it slightly in scope or membership, but I do understand the point of people are going to run to it when they're unhappy about a decision. That I view as "Hey, did the board miss something or rush to judgment or is there new information the board should be considering?" And that, I think, rarely gets debated --

STEVE CROCKER: Yeah.

ROBERT HALL: -- at that level and I think if you used that as that mechanism, which I believe it was probably intended for, then --

STEVE CROCKER: Definitely worth considering, but you understand the first trap that we can see clearly --

ROBERT HALL: Yes, I understand.

STEVE CROCKER: -- is that everybody who loses will automatically take -- go for "So, well, think about it again," and the worst they can happen is they get the same negative answer but they've had two shots at it instead of one.

ROBERT HALL: Right.

STEVE CROCKER: That is not a lightweight or inexpensive process in the aggregate, so -- yeah. Thank you.

MICHELE NEYLON: Bruce?

BRUCE TONKIN: Yeah. Thanks, Michele.

Let me just -- briefly just respond to what you said, Rob, but then go back to the wider issue.

I can assure you we go beyond, in the reconsideration requests, just looking at whether the request was valid. In fact, in many cases we say, you know, it wasn't timely and it breached a number of rules, but then we go into the depth anyway.

So I think in nearly all cases, we've very thoroughly reviewed the process, and they're pretty long decisions, if you read a few of them.

But coming back to the bigger issue that you're raising -- and I think, you know, James and a couple of you have pointed out -- is sort of maintaining independence.

I think we've got a couple of mechanisms that we've developed, particularly around new gTLDs, that were intended to be quite arm's length from the board, so one, with new gTLDs, is we deliberately set up separate dispute panels to look at, you know, the four types of disputes and that was deliberately set up, too, so that the staff weren't directly involved in adjudicating nor the board.

The ombudsman is also set up as a function that's meant to be independent of the staff and board in its process.

So those are the intentions of those.

What we're seeing, though, with reconsideration, I think -- and I think Steve captured this as well -- is that the way the reconsideration is structured is it's really looking at, you know, was the process that the dispute panel used correct and did they follow all the things that they were supposed to do.

What -- the board does not have the expertise to actually make a decision on the merits of whether somebody won a legal rights case or look at the merits of whether someone had a community objection or not. I mean, the board is not consisting of experts. It's basically just looking at, you know, was the process followed.

But having said that, I think what's different, if you look at UDRP, which is also an independent mechanism that's been successful, there is an ability to get it reviewed on its merits, and that is through actually taking it to court.

As you would know, Rob, if you disagree with the decision of a panelist, you can say, "I'm taking this to court," and it puts the decision effectively in stasis while you actually go and argue it out on the merits in the court.

We don't have that for those dispute mechanisms for new gTLDs, so if you disagreed with a dispute on, say, community objection, there is no court, really, that you can take it to.

And I think one of the things that we recognized, in looking at that process, was legal rights, while I think it was pretty straightforward, I think the outcomes are pretty predictable for most people, but the other ones which are string confusion, community objection, and morality and public order, they're really making decisions just on typically a sentence or a paragraph in the applicant guidebook and you're looking at a panelist that's making that decision for the first time and they don't have the experience because they've never made that decision before. And we designed it to be lightweight so it's a single person's view. Obviously, they've looked at the case very carefully. And it seems to me that in those situations you really do want an ability to -- to appeal it to maybe a larger group of people that are also independent from the board that look at it on its merits.

So I think what we're saying is we'd like to work with you on that, because I think there are cases where it makes sense to have some

further mechanism that looks at the merits rather than the process. And I think, you know, we should look at that both for the new gTLD program coming forward, but also think about where else that sort of mechanism needs to apply.

ROBERT HALL: Sorry, Bruce. I think you are on the right track. Let me just respond briefly. I think what's happening right now is the board is getting a bit of egg on its face for not doing something about some of these decisions that come out of these individual panelists that are clearly not similar.

On the face of it, they look like this should be a slam dunk. They all should be the same. The pluralization case, for example. What I think the board does have -- while I agree with you it does not have the mandate nor the expertise to determine this, you certainly have the expertise to order, "Let's go back and get five panelists now" because we clearly have a problem in this one area where we've got different panelists doing different things.

That's not what we intended. Perhaps we should send it back to a group of five or ten of them and let's get an answer one and for all because, otherwise, I think the worse thing you can allow to stand is opposing decisions on similar facts.

MICHELE NEYLON: Fadi, go ahead.

FADI CHEHADE: Can I ask both of you to join the working group that's going to do that? I mean, this is precisely -- this is fantastic. This is the kind of debate and discussion we really need to have. I really appreciate the points you bring, Rob, with great experience as well as to how we can make these things work for the community.

So the accountability track is precisely designed so that thoughtful people like all of you here, I know, who care about enhancing our accountability need to be engaged and this is the time to tell us how we want that working group, do we want the working group in the first place? If we do, how do we structure it? How do we get the right people on it? And let's get to work.

Because as you know, Rob, I mean, accountability, how long is a string, right? I mean, how accountable are we today? How much more can we be accountable is something we need to discuss vigorously, fix with real good ideas like this.

So please let's -- I'm using the moment of your good debate to say, "Let's engage." It is the time to do it, and we don't want to take too much time. But at the same time, we need to address this issue well.

MICHELE NEYLON: Okay. I think we need to move along being cautious of the time.

Okay. Steve's asked that we just move on to the LEA success metrics topic, which I know we're skipping one topic and we'll come back to it.

I believe Elliot was going to lead that one from our side.

ELLIOT NOSS: Yeah, sure, unless, Steve, you had any opening -- Steve, unless you had any opening surprises for us in terms of follow-up from Singapore.

STEVE CROCKER: No, I'm afraid I don't have any surprises which you would hope would be in the direction of positive.

Take it away, and I can't imagine that you're not going to cover all the things that need to be said. But I will be happy to chime in with anything that's on my mind.

ELLIOT NOSS: Oh, no. I was being very particular. Sorry. You know -- you know, the original discussion and then the -- you know, over many, many meetings and then we all had the specific discussion in Singapore where, you know, Fadi and yourself undertook that, you know, you had asked for metrics from LEA. And I'm going to say your hope, because you are reliant on a third party there, and I want to manage our expectations, was that you would have some results for us in London.

I think there's probably two, maybe three important points I would make then. The first is, you know, I want to remind you of the undertaking no additional requests on us of this nature until and unless there are some metrics that can demonstrate what great harms we're all being saved from.

So, again, I want you to hear both that we would like you guys to keep pressing law enforcement, not just around this topic but around, you know, any additional topics they bring to you that you need metrics.

And I think that that also should apply when the GAC comes making requests at the behest of LEA. I think you have the same completely reasonable request to make.

I think the second thing I want to share here -- and I note that, you know, we've made a very conscious choice to share the data that I'm going to talk a little bit about now in this room, in this dialogue. So, in other words, despite some requests not in any of the previous sessions, not in another public area here and probably most importantly not in the various and sundry industry blogs or the press. We want to sort of direct it in this dialogue.

But we've compiled across a significant section of registrars some data, and it's, I guess, troubling and saddening. So, you know, we can share with you that at this point, you know, it is a very short time since the launch of the program.   There have been over 800,000 domains suspended. So these are now businesses and individuals who -- you know, I'm going to say, you know, at least -- none of us have any exceptions. We're just inadvertently unaware, as many of us are when we receive notices around passwords or renewals, et cetera, and their Web sites went down. We have stories of healthcare providers whose sites have gone down. We have stories of community groups whose sites have gone down.

Then what you have is Jeff Neuman's dog lying down, which may now become a meme and I will be looking for a picture for that.

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ELLIOT NOSS: We want to share that with you. This was an effort -- trying to get registrars to share operational data like this, you know, in a very competitive environment, is not an easy task. So I want to make sure, you know, that that's noted and, again, in contrast to what law enforcement where there is a deep incentive to be sharing data amongst groups.

So, you know, in a difficult environment, we're trying to come forward and show, look, demonstrably this policy is causing harm to hundreds -- by now, it's going to be -- remember, that's a subsection of registrars. I think we can safely say to millions of Internet users.

Those are real people just trying to use the Internet. They are -- you know, they are our great unrepresented core constituency.

So, you know, please keep that. Please use that, you know, as this and other threads trying to -- from what my perspective -- I will speak personally. I don't think it's sanctioned by the constituency for me to say this. What was a lovely political win that we said time and time again in discussion after discussion was impractical and would provide no benefit now demonstrably has created harm. Thanks.

[Applause]

JENNIFER STANDIFORD: This is Jennifer Standiford for the record. I would like to also point out the number that Elliot raised, the 800,000, that was provided by a subset of registrars. So if you were to poll and receive the total amount

from all ICANN accredited registrars, obviously it would be well over that number.

FADI CHEHADE: Do we have any sense of what these registrars represent so we can extrapolate a little bit?

ELLIOT NOSS: I think you're probably going to be -- It is a little higher than that, Jen. Back of the napkin would be about 75% of registrations. But I would point out that the unrepresented 25% tend to be in the portions of the world that are least connected to ICANN where I'm going to guess given the nature of validation probably would have a higher proportion of fails.

STEVE CROCKER: I'm not at all comfortable with where we are. So let me sketch out what I think would be -- what I have had in mind is the right way -- right position to be in.

You're saying, look, we're required to implement additional rules and part of that is a large number of take-downs have come as part of that.

You didn't say it exactly, but the implication was some good fraction of those caused harm to people that shouldn't have been taken down.

So in classic, you build a system that tries to approximate what you're trying to get at, and it inherently makes two types of errors. It does things that it shouldn't do, and it doesn't do some things that it should

do. Or in the lingo, type 1 and type 2 errors or false positives and false negatives.

It is very well understood in the theory of these things that you have an option that you can tune these systems and trade off one for another without improving their smarts or you can try to improve their smarts which is much harder and win in both dimensions.

The data that you have is important. It is -- even if it is 100% accurate, it's not complete in the sense of, "So how many of those were the ones that should have been taken down, how many ones shouldn't have been, and how many that should have been taken down" -- much harder -- "weren't."

Another part of this puzzle that has been on my mind from the beginning of the discussion that I've been involved in is, how can we tell whether or not this is making a difference with respect to criminal behavior and other sorts of abuse across the net, however you want to measure that? Either illicit goods being sold or fraud of another sort or different kinds of --

ELLIOT NOSS: Steve, I want to jump in because I think you have fallen into a trap that I feel has been -- Is it okay? Did you want to?

STEVE CROCKER: I want to finish my thought. But I want to hear -- so finish what you are saying, and then I want to try to address it.

ELLIOT NOSS: Yeah. So I think you have fallen into a trap that this dialogue has always been guilty of. You know, right now when we're talking about tuning a system, you have, you know, false positives and, you know, actual positives.

We're dividing by zero right now. And that makes the system untuneable. And by that I mean, never was it laid out what wrongs this would stop, never.

The way that dialogue went on the other side of this was it's -- how could it be unreasonable to ask for this?

STEVE CROCKER: No, no. Okay, so fine. So I was going to get to -- I think I was going to get to exactly that, which is -- I think it is addressing your zero.

What is the value of this? How do we -- how do we know whether or not this is doing any of the good that it was supposed to do? And, thus, we characterize what that is.

We've trumped it a few times to have a conversation with the law enforcement community, explain to us, demonstrate to us, document, measure for us the improvements in the quality of, you know, reduction in crime or the quality of life or something. Having gotten anything.

Pressed on it a few times. Haven't gotten anything.

Had some informed discussions -- I don't want to put some people in an awkward position. And one of the things that emerged from a private discussion with somebody who's deeply involved with this, you know, they don't actually keep track in ways that are directly related to what

we're doing. So you can't find out how many crimes were domain-related -- domain name-related or whatever. So it is a deep problem.

And if we're really going to tackle it in the form that we're talking about, where you have a measurable system and you know what your statistics are, it is going take layers of work. And you're reporting that you're in sort of the exposed end of this where requirements have been imposed on you and it is causing harm and cost and all of that and the rest of the matrix of measurements and identification of issues just isn't there. So that's kind of unfair at least and probably ineffective as well.

So I'm strongly empathetic. And I think that we need to bust open this process and really come at it much more strongly than we have.

The only really positive thing that I can say is that we were subjected, all of us, to heavy-duty pressure from the law enforcement community over a long period of time. We finally said, Okay. We hear you and we'll help you get this stuff implemented.

That creates a do bill. That creates an obligation as far as I'm concerned on their part to then come forth with the things that we need to know whether or not this is being -- so we're in a -- at least from a moral position, in a strong position to say, "You must help us understand this. Otherwise, you're not doing your part of the job."

Now, the cops on the beat aren't the ones that are going to do this. It is going to require engaging sort of the higher level structures and the academic structures around the law enforcement community, in my view.

ELLIOT NOSS:
So I think there's two places I want to sort of pull on that string a little bit. The first is that the frame was never even put out as to what specific harms this would stop.

Remember, Steve, that so much of the dialogue was our -- the asks being put out, our side pointing out how bad guys will get around this. They're not the ones who are going to be tripped up by this stuff time and time and time again.

And it was -- LEA, yes, in fora. But it was GAC meeting after GAC meeting after GAC meeting where representatives stood up and said, "How could it be we are still not even validating email addresses?"

So I want to call out right now that we have a parallel process ongoing right now where we're having the exact same tenor of debate, and that's around WHOIS. It is the exact same thrust, which is we're going to centralize significantly. We're going to exert much more control because to not -- you know, to do so will get rid of some unnamed harms, undemonstrated harms, undocumented harms. And to not do so, you know, will lead to calamitous results.

And, again, I think here again, it's very similar where people who are standing up and saying, you know, "centralization of this data" is a real harm for various reasons.

STEVE CROCKER:
Let me speak strongly to all of that. I was going to include that in my thing. You're referring for the benefit of everyone else who isn't following closely, we now have not only the recommendations that came out of the WHOIS review team which were being implemented

and the previous changes that were put into the RAA which is the core - - but now we have the Expert Working Group report looking at strategic structural changes in the registration data and accessing. You made reference to centralization of that data.

My personal view is that, although the centralization of that data is a -- or not to centralize it is a very important question, it is actually secondary and almost tangential to the --

ELLIOT NOSS: I want to make sure you didn't hear me sort of argue against thick versus thin. I was not talking -- when I'm talking about centralization --

STEVE CROCKER: You mentioned it, so I just wanted to set it aside.

The big question is: So what information is being collected? Who gets access to it? Who is restricted from getting access to it? What is the criteria for being in the group that does get access to it? And the administration of all of that.

And I agree with you completely, that we have a framework that has been proposed out of that working group. And I was part of that working group. Most of the work I didn't do, but I certainly sat in it. And I was -- maybe I will take credit for being the strongest proponent of causing that work to be done along with many other colleagues on the board and so forth. And I think it was an extremely important thing to do.

So I am 100% behind it. But I also completely understand and agree with the dynamic that you're talking about, like how do you know where you set those parameters and how would you measure it and what case you make.

So I think we have some serious work in front of us. Michele, who's here as both your leader for the registrars but also a member of that working group --

ELLIOT NOSS: Let me use really sort of -- let me be really pithy about where I see the parallel problem. And the way I'm going to put it, you should be able to go "here's your crisp answer" with either of these problems but let's now talk about WHOIS.

What problem are we trying to solve?

STEVE CROCKER: Others probably frame it a little better, but the belief is that there are domain names that -- and the machinery around Web sites and so forth that are used for behavior which is antisocial in a number of different ways, whether it's selling false goods or copyright infringement or fraud of one sort or another, and that this is a nexus of control and the ability to track down who it is and hold them accountable for their behavior is an important instrument in suppressing that class of behavior.

ELLIOT NOSS: Right. But that -- You said two things, right? "The belief is," right? That's an assertion.   There is no data supporting that assertion whatsoever.

We have done study after study after study. There is no central hypothesis for even testing with this stuff.

STEVE CROCKER: So let's -- in the interest of not hijacking this entire session, I did ask to take this out of order so that we can get into this. Now I want to find a way to get out.

[Laughter]

MICHELE NEYLON: Steve, I think that's a very good idea.

James has been waiting patiently in the queue for the last while.

JAMES BLADEL: I tell you what, I will just put a capstone on this very quickly. I will also move into IANA transition. I think you will like our feedback on that one a little bit better.

MICHELE NEYLON: James, we are going back to underserved regions first.

JAMES BLADEL:	We will? Then I will be quick. It is hard to follow Elliot, to be honest, because I think he covered this very comprehensively.

I am thinking rather than turn this into -- because this is a debate where we felt like, you know, we have been cast in a corner, I think, from day one and fighting against this invisible, unseen, unmeasurable problem that we're trying to address.

But we're asking, I think, for two specific things from ICANN staff and the institution.

One is that going forward -- and we're already hearing them, that the RAA was such a success that we need to increase this. We need to add more verifications, more frequent verifications, greater depth of verifications.

We need to push back on that. Registrars, I think, clearly need to take the lead on that. But we need the support of the board and the community because this is causing harms with real -- no real demonstrable benefit.

And then the second thing is we need ICANN and all of its constituent bodies to raise awareness of this requirement that it is not something that GoDaddy decided to do one day and that because someone's Web site is suspended, they are going to go to Elliot. This is a global requirement that affects --

ELLIOT NOSS:	We tell everyone it is something GoDaddy decided, too.

[Laughter]

JAMES BLADEL: The example being that this needs to be understood that this is now part of the -- for good or for ill, part of the landscape of being a registered name holder and it is part of their responsibility. And it is not something -- they don't know who ICANN is. They don't know who the registry is. They are angry at us, that we're hearing about it.

So those are the two specific asks that we need, I think, from this organization, this community, is support for us when we push back on these expanded requirements and greater awareness it. Thanks.

MICHELE NEYLON: I think Fadi would like to add something, and then I think we should move onto the underserved regions, which is something we would also view as being linked to this.

FADI CHEHADE: Absolutely, Michele.

And I want to support the message you're sending us. But before you can ask us to be effective at supporting you, we need you to do two things. You asked for two things, but I will have to have two prerequisites to these two.

First, you guys are all business people. Put this in a case. So you just threw a number at us today. I think let's take that. That's a fantastic first step. Let's build a case around it because if we're going to wait till they tell us the case alone -- which actually you're right, Elliot, we should push them hard to give us the case for this. But we should also

have our case ready to show this is what it's causing. This is the harm it's potentially causing. This is why this is bad.

And I'd like this case packaged in a powerful business way that only you can do as business people, and let's take it to the LEA. Let's take it to the GAC. And I will take it for you if you guys don't want to do it.

Although my second point was that you should engage. The LEA is here at this meeting. They have their own meetings.

Are some of you engaging with them? Let's go put them on the spot and show them our case for what is happening with what they cause by these things. And similarly with the GAC, they're here. They just stand up and they will make more demands on you and on us. Why aren't we ahead of them by showing them that this is what you asked us to do. We have no data from you. All we have is these effects. They should know.

MICHELE NEYLON: Question?

CHRISTIAN MUELLER: Christian Mueller from Cronan. The first thing you mentioned, don't get me wrong, you know, I would support that. But, on the other hand, that means that we are always in a defensive position. You know, it sounds a bit like we get restrictions, and we always are in the position to explain why these restrictions are, you know, bad for us. Why put that burden on us? Shouldn't this burden be on the other side, that they explain first why restrictions are applied in the first place?

FADI CHEHADE: I agree with you. But I think that's the best offense for us. They put restrictions on us that are causing harm according to these numbers. Let's take this back at them and say, "Hey, you ask for all these things, this is what happened. If you can't tell me what good this has done, be aware not to come back and ask for me."

I'm with you on this 100%. I'm just saying let's use the great findings you seem to have a found and package them in a well-put-together case, and I will be our advocate. If you don't want to do it yourselves, I will be our advocate because frankly I don't want to impose more difficulties on you than necessary.

MICHELE NEYLON: Fadi, we can follow up on that definitely.

Mike Silber.

MIKE SILBER: Seeing as this is carrying on, the issue here and -- I really understand the issue you guys are having because I have the same know your customer requirements in my day job and I couldn't worry about it. The issue here is one of proportionality. Not of fairness but of proportionality, responsibility, cost, and who picks it up. I think that Fadi's point is exactly it. LEAs, governments, you've blown your credibility for the following reason. So, terribly sorry, and we need to take this across the board. You need to give us a little bit more dataset and detail around this before I'm willing to take such a firm view. But my view is, if what

you are saying is correct, the LEA's have blown their credibility. They're going to have to do a lot of work to restore it before we agree to impose similar potentially disproportional requirements on actors who are not proven to be bad actors. So I hope that helps, and I'm with Fadi. Give us the ammunition that gives us a good basis to push back on the further ongoing requests as you're indicating. But now let's move on to underserved areas. Seeing as I come from one, I'm interested to hear what advice and questions you have.

MICHELE NEYLON: Okay. Thank you. Gonzalo.

GONZALO NAVARRO: I'm going to be quick. Please don't think we don't understand the issue that we are raising. Some of us or some members of the board and even the staff have been involved in international negotiations and on free trade agreements and things like that when this -- the same or similar discussions arise. Many, many years ago ISP liability, notice and takedown, those are similar cases as the -- the case that you're presenting here. So I think that what we are asking is rational and what Fadi is saying is right is -- is wise enough in order to give us enough information to better understand your case and to present it to the rest of the community. I'm pretty sure, too, that if you go to some countries that experience negotiation processes, in the past you will realize that you will be more under -- you will receive more understanding that you -- what you believe. Thank you.

MICHELE NEYLON: Thank you. I think we need to move on to the next topic, which is the underserved regions, as we are a bit short of time.

STEVE CROCKER: Lest they continue to be underserved.

MICHELE NEYLON: Exactly. Thank you, Steve. Jennifer.

JENNIFER STANDIFORD: Hello. Thank you for allowing me to speak on this topic. As it pertains to the underserved regions, as the registrar stakeholder group, we believe it's worthwhile for the domain industry to support the underserved regions. However, we do have some concerns regarding the methodology to reach this goal. Subsequent to all the changes that we have had to adhere to as far as the 2013 RAA, we're very sensitive to modifying or reducing the contractual requirements that may result in an equitable environment amongst registrars. We would just like to emphasize that any changes to the standards or registrar responsibilities should require an input from the stakeholder community. In addition to prior to taking such actions, the community should clearly define success as well as identify how the success would be measured, so we don't find ourselves here years later trying to figure out how the LEA is going to determine success.

STEVE CROCKER: Isn't this what we were just discussing except that now said in the underserved regions?

MICHELE NEYLON: Not quite.

JENNIFER STANDIFORD: We're discussing --

MICHELE NEYLON: No, these are our two -- they're two interlinked topics, but they're two separate topics as well. They're not the same topic. I see Cyrus waving at me frantically.

STEVE CROCKER: Yeah, please. I wasn't being facetious. I was trying to understand the distinction.

CYRUS NAMAZI: So thank you. Cyrus Namazi, ICANN staff. So the exercise here is something that we have been actually discussing with the stakeholder group for some time and the objective is for us to see if there's a way for us to proliferate and promote the increase in the existence of the ecosystem of distribution of domain names. I think there's probably better ways to describe that, but I need more coffee for that. Anyway, what we did was we posted a proposal -- not even a proposal, some thoughts and ideas to solicit community's input. And in fact, I've been reading with quite a bit of interest all the great feedback that people have posted, including the stakeholder group that's here today. Nothing has been decided. I think the goal is noble. But the mechanics

of how we go about doing it is something that we're going to decide together. And you have a lot more to teach us than actually we have to decide on our own. So rest assured, it will be completely transparent and mutually decided.

MICHELE NEYLON: Thanks, Cyrus. Rob.

ROB HALL: So I come at this a couple different ways? Firstly, I think the one thing ICANN was built on is the registrars are the competitive layer and what you did brilliantly was you set us all up to be treated the same. And this is the first time really I've seen you say perhaps we need to do something different and have a second class of registrars or different criteria for them. And as someone who has perhaps always minded the gaps in contracts, I think that's a dangerous precedent. Because if your measurement is, we don't have enough registrars who are incorporated in the -- I'll take the Arabic region for example. We need more incorporated there. If you lower the criteria there, I can tell you a lot of us will incorporate there quickly to get access to the drop pools. So it's not always what you want. And I think you're measuring it the wrong way. Because the only measurements I've seen are, we don't have enough registrars in these underserved regions. That's not what you should be looking at. Our registrar offers service, customer service, Web sites in Arabic. It's not is the registrar incorporated there. We are not. It's do -- are they being serviced in that region and by who. Who's advertising in that region? Who do people think to go to? What is the penetration of the Internet, you know, on a whole in that region? Is a

domain name useful to them or not? Those are answers that aren't being asked.

I would also, as a second point, say, just take a breath before you do anything here. For the first time in history we have top-level domains aimed at these regions. Shebak is out, for example, in Arabic. I'll take Arabic again. You've got five or six coming this fall. You know, you're rushing, it seems to me, to do something that your introduction of new TLDs in the various languages of these regions may solve for you. Don't -- you know, you're trying to solve a problem because you perceive that oh, we don't have enough physical numbers or registrars incorporated in that region, they must be underserved, and I'm not sure that's the case.

MICHELE NEYLON: Olga.

OLGA MADRUGA-FORTI: Yeah, thanks. I think you raise a topic which is near and dear to my heart. It is also very complicated because any change has to take into account a couple of factors. And I'd love to hear back from you what your impressions might be.

First of all, in terms of equality of opportunity across registrars, I certainly appreciate the importance of that, especially if you're talking primarily along monetary lines, that monetary obligations, et cetera, should be equal. But once you're reaching out to incorporate new kinds of registrars, I'm sure that yourselves, in your efforts to grow your own constituency, would want to look at ways to grow your constituency in

ways that are not necessarily homogeneous but bring into the fold different kinds and new kinds of organizations. So I'll share that with you.

Now, in terms of what it means to grow, the issue of incorporation raises a different kind of equality. A kind of quid pro quo. So to the extent that you look for new organizations in underserved regions, I think it's of equal importance whether there are market access barriers that are causing you to not be able to operate in certain regions. Each has equal weight and interrelated they can get very complicated very quickly.

In terms of those market access barriers, I'll share that a lot of them have to do with cultural affinity. So when certain governments or certain regions have barriers to operating there, you can bet that underlying them is that search for local cultural affinity and a little perhaps of profit sharing.

So I'd love to hear your ideas on how you grow your own constituency, maybe taking into account some of these factors.

MICHELE NEYLON: Thank you. Ray, then Gonzalo, and then we have to close the queue.

RAY PLZAK: Thank you, Michele. Let me just echo what Olga has been saying. Over the last several years I have been honored to have been involved in the development of a strategy for Africa, Latin America, and to a certain extent the Middle East. And the strongest sentiments that I really heard

with regards to what Olga has been talking about was in the extensive work that was taking place in Africa. And it's not -- and in Africa, a lot of people speak English. It's the official language of many countries. So it's not a language matter. It is what Olga is talking about. It's we want this to be a local business. If we want the Internet to grow and develop in these underserved regions, then we have to develop the capacity for these regions to serve themselves. And so we have to balance the need to keep what -- a registry accreditation equitable, but at the same time we have to find the mechanisms we can to grow these local businesses. And so instead of spending our efforts and trying to figure out ways to keep some of the status quo running, I think that we would be better served if we find ways to make sure that we can get successful businesses to grow there. And as Olga says, by doing that, if nothing else, it will certainly strengthen the stakeholder group. Thank you.

MICHELE NEYLON: Thanks. Gonzalo.

GONZALO NAVARRO: Thank you, Michele. I would like to support what Olga and Ray are saying here. As you may note from my accent, obviously I'm coming from Latin America. And our perspective there is that under the same thing, it's a similar discussion that we have about why we don't have enough new gTLDs in the region, why we don't have enough participation from the region. I think that it's not just a matter of resources but also a lack of understanding about the rules that apply to this specific business or this specific constituency because there is the perception that it's too Anglo Saxon in the way that common law rules

or economic mechanics, you know, apply to this. So in the region not many people or not many companies are in the position to understand this kind of regulations. So beyond the monetary issue that I'm saying here, I think that that effort should be joined by better explanation of the rules and perhaps modification of the rules of terms to apply to the common way that we can find business in Latin America, for example.

I am aware that some, for example, insurance policies require to -- registrars are really difficult to be covered in Latin America just because of the case that insurance companies there, you know, they don't have the kind of risk, you know, included in the policies. So they have to go to other regions to get those insurance policies and so on. So as Olga said, while this is a joint effort and it will be great to hear your ideas as a constituency in order to -- how to deal with this issue and how we can work together to solve it. Thank you.

MICHELE NEYLON: Thank you. Fadi is about to kick us out, so I'll wrap this up very quickly. Just to address a couple of the points that you raised, we submitted comments on this where we actually raised the issues around the insurance specifically and some of the other things. Just also so that you are aware, I've had meetings with Fadi, Akram, and various other members of the executive team in order to have a look at some of these issues around the actual criteria. I mean, we are very conscious of this kind of balance thing, but also we're also very conscious of whether or not the criteria such as be that insurance or other things, whether that needs to be looked at again. So, I mean, if you have a chance, please do take -- have a look at the stuff that we submitted on this. We're not --

we are -- while we are questioning it, we are not kind of attacking it directly.

FADI CHEHADE: I actually want to second that. I mean, frankly the registrars have been -- the existing registrars have been very, very helpful to us in this process. They are partnering with us, as opposed to attacking us on this, so thank you for that.

GONZALO NAVARRO: Sorry if I was not clear enough but the intention was not to attack but to be more pro, positive in this.

MICHELE NEYLON: Sorry, maybe I mis -- okay. He -- okay.

STEVE CROCKER: Good.

MICHELE NEYLON: I'll let James just speak very briefly on the IANA transition, then I know that we're being kicked out of here. I'm really sorry we ran out.

JAMES BLADEL: So this is the part we were going to compliment you and thank you and everything but I'm sorry, we're just out of time.

[Laughter]

>>   We said thank you.

FADI CHEHADE: We're delaying the next meeting.

JAMES BLADEL: Now I better think of something. No, we just wanted to note that many
                            of the views and comments that we expressed in our position as a
                            stakeholder group were taken on board as part of the refinement, let's
                            call it, or enhancements to the IANA transition proposal -- proposed
                            process, and we certainly -- that was not unnoticed, that we -- that we
                            had a -- at least we feel we can draw a very straight line between some
                            of our inputs and some of the changes that we saw, some of the
                            improvements that we saw in the next revision, so we wanted to say
                            thank you for that. We look forward to participating in that process.
                            We believe that it's -- it's critical and we believe that it will benefit our
                            customers and our businesses.

MICHELE NEYLON: Okay. Thank you. Thank you, Fadi. Thank you, Steve. And thanks to
                            the board, and we look forward to interacting with you again in Los
                            Angeles.

STEVE CROCKER: We look forward to it as well. Thank you all.

[END OF TRANSCRIPTION]