

Transcription ICANN Beijing Meeting

Registries meeting

Tuesday 9 April 2013 at 09:00 local time

Keith Drazek: Good morning everyone, this is Keith Drazek, Chair of the Registries Stakeholder Group. Welcome to our meeting here in Beijing. Let's go ahead and get started.

And Cherie, are we going to take roll and do introductions or any of that?

Cherie Stubbs: I think it would be nice if we could very quickly go around and have those registry stakeholder group members and our observer participants and NTAG members in the room introduce themselves please.

Keith Drazek: In the interest of time, why don't we go around and have the registry reps introduce themselves and the NTAG NTAG Excom. We're really short on time this morning and we've got some changes to the agenda, so bear with us.

We had a session this morning talking about the proposed changes to the Registry Agreement. So maybe at the table – let's go around the table. Start, thanks.

Statton Hammock: Thanks Keith. Statton Hammock, United TLD.

(Wedge Levey): (RegLevey), (Minds and Machines).

(Sheri Falco): (Sheri), ICM Registry.

Chuck Gomes: Chuck Gomes, VeriSign.

Brian Henderson: Brian Henderson, Dot Travel.

Ray Fassett: Ray Fassett, DotJobs.

Carolyn Hoover: Carolyn Hoover, DotCoop.

Francisco Arias: Francisco Arias, ICANN.

Wendy Profit: Wendy Profit, ICANN.

(Will Stow): (Will Stow), ICANN.

(Karla Valenta): (Karla Valente), ICANN.

Cherie Stubbs: Cherie Stubbs, Secretariat.

Keith Drazek: Keith Drazek, VeriSign and Chair.

Paul Diaz: Paul Diaz, Public Interest Registry and Vice-Chair.

Jeff Neumann: Jeff Neumann, Neustar, Council Rep.

Jonathan Robinson: Jonathan Robinson, Afiliias, also Council Rep.

Ken Stubbs: Ken Stubbs, Afiliias, Assistant Treasurer.

Ching Chiao: Ching Chiao, DotAsia Council Rep.

Michael Palage: Mike Palage, DotCoop, Treasurer.

David Maher: David Maher, PIR.org.

Jon Nevett: Jon Nevett, Chair of NTAG .

Krista Papac: Krista Papac, Registry Group, Secretary for the NTAG.

Tim Switzer: Tim Switzer, DotGreen, NTAG Treasurer.

Brett Fausett: Brett Fausett, Uniregistry.

Amanda Fessenden: Uniregistry.

(Sarah Falvey): Sarah Falvey and I'm with Jordyn Buchanan. We're both with Google Charleston Registries – something like that.

Becky Burr: Becky Burr, Neustar.

Amadeo Abril: Amadeo Abril.

Keith Drazek: All right, thanks everyone. So just a quick housekeeping note, when you're finished speaking at a microphone, please turn it off. And it might help to touch something before you touch the mike. We've got a lot of static electricity in the room.

Also there is a microphone in the center of the room available to anyone who wants to get up. All participants, all NTAG members are welcome to engage during our conversations today – certainly welcome. And I think there's a roving mike around here at the end of the table too, so thanks.

Thanks everyone for joining. As I mentioned, we have a very busy agenda today and some late breaking developments around proposed changes from ICANN on the draft, the new gTLD Registry Agreements. We can give an update, and I think we probably need to move that up in the order of discussion.

And there may be some items that we need to remove from the agenda based on timing. It may be that depending on timing, we may have to ask Maguy from Compliance and maybe the NomCom folks to reschedule for a teleconference in the near future. We've just got a lot to do today, so let's get to it.

So we've got our agenda review and approval. I'll just ask right now if there's anything anyone has to raise that's not on the agenda, please speak up now. We need to focus directly on the proposed agenda for our meeting with the ICANN Board which takes place at one o'clock today.

We submitted a list of four items to the Board for consideration. If there's anything we need to add or amend, that's something that we ought to talk about.

And then at four o'clock we have a joint meeting with the Registrar Stakeholder Group, and we need to talk a little bit about what we'd like to raise with them if anything in particular.

I know there's going to be a presentation from ICANN in the joint session on registrar onboarding. And so if there's anything in particular that we'd like to raise with the Registrars we ought to talk about that.

Okay. Any questions or comments at this time? Chuck, go ahead.

Chuck Gomes: You want suggestions on those agenda items right now, or are we going to take those individually?

Keith Drazek: I'm fine to do it either way. What do you think?

Chuck Gomes: Oh, I was going to say with regard to the registrar meeting, if we have time we might want to talk about the IGO/INGO issue. Hopefully by then we will kind of know where we stand based on our agenda today.

Keith Drazek: Thanks Chuck, I appreciate that recommendation. I agree that makes a lot of sense. Anything else? Okay, Jonathan.

Jonathan Robinson: Keith, once we get into the issue of – it's Jonathan Robinson. Once we get into the issue on the discussion with the Board, I mean the Council had a meeting with the Board and we had a pretty – and I don't want to use overly diplomatic language, but there was sort of this frank exchange with them. And I've received a lot of comments since that they really appreciate the direct style of the conversation and actually talk about things that mattered to us as a council and that they were able to get their hands around. So that's a note on style.

Keith Drazek: Thanks Jonathan; I appreciate that. Anything else?

Okay, let's go ahead and get into sort of the meat of our agenda. I think the first thing that we need to address right now is we need to ratify or finalize our position as it relates to Bruce Tonkin and his interest and candidacy for Board Seat Number 13. So this has been going on around the lists for quite a while, I've seen significant support and no dissension.

So I think at this point just in the interest of time, just call for an expression of support or no support. So all in favor of Bruce Tonkin continuing say Aye.

Group: Aye.

Keith Drazek: Anyone opposed, say nay.

Very good. I spoke to Bruce last night, he'll be glad this is wrapped up. Okay, thank you for that everyone.

So let's go ahead and move directly to really the most pressing issue for today, particularly following some recent developments around the registrars

negotiations with ICANN on the RAA and timelines looking forward, and then sort of the implications or impacts and opportunities I guess, depending on how you want to look at it, around the registry agreement and negotiations.

And I'll ask some others to jump in here. But the registrars appear to have made significant progress – the registrars' negotiating team and the registrars have made significant progress working with ICANN in terms of coming to terms around a proposed new RAA – the 2013 RAA.

ICANN is very interested in seeing very similar or identical language around certain aspects in the new gTLD Registry Agreement -- specifically around an amendment process. I think as everybody knows that has been following this, on February 5th that was introduced as Section 7.6C around the unilateral right-to-amend process which obviously was extremely problematic and troubling for us.

Over the course of the last several months, ICANN has engaged in a process of coming up with variations on the theme to include – I guess in the last version it was being called, "The Public Interest Amendment Process." And the latest version as sort of agreed to or tentatively agreed to with the registrars, is now being called the Extraordinary Amendment Process – if I have that correct.

So – and just in terms of timing, there is currently on the schedule planned a meeting, a special meeting of the ICANN Board, on April 20th with the explicit purpose of considering and potentially likely voting on the 2013 RAA and very likely the new version or the updated version of the Registry Agreement, the new gTLD Registry Agreement.

Obviously that puts a tremendous amount of pressure on us as registries and new TLD applicants to consider changes that are being literally being sent to us by ICANN as we speak. We received the latest version of some marked up language I think last night, and we had in session this morning – and this

was a group of about 12 people I think that responded as volunteers to the list, to the request that I sent out yesterday.

We had a session this morning from seven to nine just before this meeting to engage with ICANN to try to identify opportunities to move forward, or more specifically, areas where there were significant concerns that we needed to address. And I think we came up with a list of about nine or ten items that we wanted to talk further about.

The most concerning and critical issue is still 7.6, the Unilateral Right to Amend/Public Interest Amendment/Extraordinary Amendment Process.

So I think I'll stop there and maybe ask Jeff and Becky and others who were at that meeting. And Jon Nevett, you are certainly welcome to, you know, jump in on this. But I think we need to have an open and frank dialogue around the specific issues this morning.

Jeff Neumann: Keith, do you want me to go through the list of the issues just to list them and inform the group?

Keith Drazek: Sure.

Jeff Neumann: I'm just opening up my email. It's taking me a little bit longer.

So yes, we went around the room – as I'm opening this up – to talk about the issues that each one of us had. Again, it's not the sum total of issues. And we know that, for example, there were a number of comments that were submitted by some of the brand registries.

I know Brian Winterfeldt submitted a bunch of issues. I know even within the NTAG, Liz Williams and the Rep from ARI which I'm sorry I'm forgetting his name right now. (Brock Davis), yes, brought up a bunch of issues.

So it's not all those. We tried to come up with the issues that we all as a group has in common. The ones we had were – there is a section 6.4 which talks about the path through – this was just out in the April 1st version – path through of fees for the rights protection mechanisms.

And we can go into each of these, but I'll just list them out now. Seven point five which is a provision dealing with subcontracting and change of control; there's a lot of new language added to the April 1st version. The amendment process as Keith was referring to and we're going to talk – there's actually two sorts of newer amendment processes and we'll talk about those – that have been introduced in the registrar version that they now want in the registry version.

We talked about Specification 11 which is the PIC Spec, the Public Interest Commitment Spec. But we really focused just on the new dispute resolution policy. And some of you that are on the list of seeing the comments that have been circulated about that, we had a brief discussion.

There is Specification 9 which is the Code of Conduct. That is a topic we wanted to put on the table, and we're going to send around at some point some issues that some of us have identified in the current Code of Conduct.

There's the new Confidentiality Section 7.14 which I think is getting a long way there, but it's something that we had mentioned on the list.

Conflicts with local law is another subject, and potentially that was to deal with local legal issues or local issues with the law, I should say, and how to handle those if there's anything in the agreement or anything required of our registry that may conflict with a local law.

There's Specification 11 which involves the use of only using 2013 accredited registrars. ICANN had a very definitive position on that one we'll go through.

Two more issues – Specification 5 which deals with reserved names. I think there's a lot of confusion there as to how you actually apply that specification and the rules around reserved names.

And Edmon Chung brought up an issue of IDN's that there may still be some outstanding issues, but we're waiting for Edmon to – we didn't really talk about it because Edmon was just kind of compiling those. So there may be an issue around that.

So that's the list that we put together. We'll send around that list. I actually took a picture of the list, so we can send that around to everyone here although I apologize because it's actually sideways.

There is another issue listed on there for the ownership rights 7.11 dealing with brand registries. But it turned out, as we discussed that, we crossed it off the list because it seemed like it was dealt with in a way that changes that was (unintelligible) April 1st.

So Keith, I mean that's just kind of a general overview. I don't know if you want to start a deep dive as to discussion or what you want to do.

Keith Drazek: Thanks Jeff; appreciate you running through that. And folks, feel free to jump in here with any thoughts or comments.

I guess at the end of the day, what we're faced with here is a potentially very quick turn. You know, looking ahead I think it's very likely – and understandably there's a lot of pressure on ICANN. I think ICANN is interested in moving this forward very, very quickly. There's pressure from new TLD applicants understandably.

Fadi has announced the date of April 23rd for a PR ceremony in New York City where he hopes to have both registrar CEOs on hand signing the new RAA, and registries, new TLD applicants' CEOs or representatives on hand in

New York signing the agreements. So there's a tremendous amount of pressure and strong likelihood that the ICANN Board will vote on the 20th on whatever is put in front of them by the ICANN Staff.

At this stage, based on conversations with various ICANN Board Members, it appears that there is a fairly strong level of support or at least deference to the ICANN Staff – strong level of support for Fadi on this issue. And the ICANN Board at the end of the day, likely to approve what is put in front of them.

So there is a tremendous amount of pressure on all us right now to focus on these issues and to try to work, I guess, collaboratively with ICANN Staff to ensure the terms are something that we can agree to. So this is a really important issue and I want to make sure that everybody, you know, has the opportunity to sort of have their voice heard.

So Brett and then Amadeo and Ken and Jeff.

Brett Fausett: Thanks Keith, this is Bret from the Uniregistry. I was in the negotiating meeting this morning and we went through all the issues that Jeff mentioned. We went around the table and people raised their issues.

I only heard Fadi – well, I thought that they were very receptive to all of our changes except one. The only place I heard Fadi say it was a deal breaker was on the use of the 2013 – the use of only registrars that have signed the 2013 version of the RAA. He said they would not budge on that one, that they were going to do their best to sign as many people up as possible.

They gave us an indication that most of the major registrars had all ready pledged that they would sign on which I think should give most people comfort. But they still understand that they have some work to do on that, especially with some of the IDN registrars.

But that was the only deal breaker. I think we can get the rest of everything we asked for.

Keith Drazek: Thanks Brett. Amadeo, then Ken, then Jeff.

Amadeo Abril: Okay, I have three different short issues.

The first one Keith is you also mentioned the registry agreements signing ceremony in New York. I also have this idea but I was told yesterday it was nothing like that. Let me tell you that our Chair is Bulgarian and needs a visa to go to the United States. So we asked if ICANN could help to (unintelligible) that (unintelligible) invitation.

And the official response I got is there is not anything like that; there is only registrant bill of rights signature in New York. And when I addressed that with (unintelligible) he said, "Have a never sent you an invitation? So what are you talking about? Who told you there is this signing party in New York?"

So perhaps you should ask that to your staff or just (unintelligible) because they were completely confused and lost on this one. Second...

Jeff Neumann: Okay Amadeo, can we address one at a time?

Amadeo Abril: Yes.

Jeff Neumann: Okay, just to respond to that question, I did not get the feeling that ICANN was (unintelligible) at all to having any signatures by any registries at that April 23rd meeting.

So this morning what I got out of it, and maybe different than Keith, but what I got out of it was that the only thing that ICANN is hoping for at best is to have registries stand up there to A, say, "We support the notion of this registrant's bill-of-rights that's in the Registrar Accreditation Agreement." So they would

like some registry CEOs to basically, you know, support that notion. And to essentially support the notion of moving forward with the 2013 Registrar Accreditation Agreement.

So like I said, I just want to repeat. The feeling I got was not that any registry agreements would be signed in New York or that's not their expectation, although that may happen I guess. But that's not their expectation according to what I got out of it. And if anyone disagrees that was at that meeting let me know.

Amadeo Abril: This is what they got yesterday in writing, but my interpretation was exactly the same as you. That somehow this was announced at last week, but nothing else in public has been said.

Okay, the second question is regarding the list of items that you addressed. And on behalf of community based registrars and registrars who would do (unintelligible) (unintelligible) like having Specification 7, and launch periods that are not (unintelligible) periods into (unintelligible).

And the third question...

Jeff Neumann: Sorry, you can just clarify that? So Specification 7 and launch periods – I'll write it down. I just want to know what it is – understand it.

Amadeo Abril: Yes, of the list. I don't think we need to discuss or (unintelligible), right. But it's something that will like be added to the discussions with the agreement.

And the third one is regarding the sizing these issue of (unintelligible) the contort agreement with ICANN. And as I said, in the list this morning I was – I volunteered for this group but then I withdrew when I saw there were more than 13 people in the mailing list having volunteered.

I don't think you can ever seek an agreement with 13 to 15 people. And I don't think that just volunteering like me is enough. I don't think we need to run elections, but I urge the registry constituency chair to guarantee there is some diversity – not for presentations of companies – but of interests that there is in companies that have different issues with different parts in the agreement that might be (Unintelligible) Africans, Africans from different parts of the world, community-based TLDs, public authorities having to sign the agreement, exclusive gTLDs, etcetera.

Keith Drazek: Okay, thank you very much Amadeo. And let me just note, I think it's important for everybody to understand that the session we had this morning was obviously on very short notice.

I sent out yesterday an invitation for volunteers to both the stakeholder group list and the NTAG list. I got some pretty immediate feedback in response which was fantastic. I think we did have a fairly representative group; I certainly would be welcome to other volunteers.

But at the end of the day, the group that met this morning I would not necessarily call a negotiating team. We were very clear with ICANN that we were there to work constructively with them to try to move things forward to terms that we could be comfortable with.

But as a group this morning, we were not in a position to take a stand or agree to anything in particular. That it was really more of a discussion where we were going through and identifying the issues. And we were very clear today that we were going to come back to the groups to engage in discussion and to make sure that we had, you know, the feedback of the group and really the guidance of the group.

Amadeo Abril: We need to do that.

Keith Drazek: Sorry?

Amadeo Abril: We need to do that, that's what...

((Crosstalk))

Keith Drazek: That's what we're doing right now. Thanks Amadeo.

So Fadi specifically asked us, "So at a business level, not a legal level, how do you feel about this? Is this something that we can move forward on and continue to push out to the community and have general support on?"

And as a group, we basically responded and said, "We need time to consider this. We cannot commit to anything right now, we don't want any statements that we might make now to be misconstrued or misinterpreted or misrepresented." And I guess I'm putting those words out right now. But in a sense we said, "We need time to take this back to the group and consider it."

So just so everybody understands where we are right now, what was discussed and what was said. And nothing was committed to other than to engage constructively and try to work over the course of the next few days to move this forward.

Okay, Ken, Jonathan?

Ken Stubbs: This is more of procedural on the point of real importance.

I've received numerous emails in the last twelve hours regarding this. It's absolutely essential that the MP3 of this session be expedited and made available to people who are not here. I know that they have a process to do this, but if the ICANN team or staff puts the pressure in the right place, that MP3 should be available.

Because you know as well as I do there are people representing hundreds or TLDs that are not here would love to listen to what we're talking about. So I'm strongly encouraging that be done. And you know as well do if Fadi or those people say, "I want that MP3 available," Sheri needs to get the email out to the list immediately."

I'd love to see that available to people so that they can – it will really, significantly help our timeframe.

Keith Drazek: Understood. Thanks Ken, I agree completely. Cherie, let's take that as an action item to follow-up with ICANN to try to expedite the MP3 and we'll get that out as soon as possible.

Jonathan, I see you next, Jeff.

Jonathan Robinson: I'll just make a brief comment. I mean we had a council meeting, council drinks with the Board last night and Fadi was there to give his credit, and it was just after our meeting – our public meeting on the registrar and registries agreement.

And I noticed that he had left early, so it made it clear that he kind of got it from a registries' perspective what went on subsequent to his departure including the comment that (Cyrus) I think had made saying that this group was representing the registries. And you know, I made it clear to them that they would have to cycle back.

So you know, he's got a firsthand from you this morning and from me last night.

Keith Drazek: Great, thanks Jonathan. Jeff?

Jeff Neumann: Yes, I just wanted to continue on the conversation that Amadeo stood up and – I don't see Amadeo, sorry. Oh, hi.

You know, I know you don't want to talk details of issues, but what I do want to do is go around the room and see if there is any other areas that people need – should be on the list – that we should add to the list to make sure we bring up with ICANN.

And so you brought up Spec 7 Geographic TLDs. You don't have to discuss and give your position, I just want to understand what the issue is.

Amadeo Abril: The issue here is simply the sec lines – I mean where's the place of trademarks' sound rights in respect to other let's say priority groups, for instance, individuals belonging to the community or the public administration names or geographic TLD?

And in some subsequent comment documents submitted this week by ICANN, they imply – not that they clearly say, that the top priority for each and every TLD for each and every single name has to be trademarks in the clearinghouse. It doesn't work for some TLDs like the experience of the (unintelligible) (unintelligible) that you know, this is not what's been done in the past. Right?

And this is a critical issue for a community at risk and for geographic based TLDs. They cannot (unintelligible) with anybody with a trademark in Australia where a list of failed (papyrus) instead of the sitting whole (papyrus) because somebody has a trademark in Australia, right.

Now the other question is for – this is not a general question. Is for most European TLDs, at (unintelligible) we need to know whether the WHOIS specification can be individually (unintelligible) or not. But it's something that has to be (unintelligible) as a group – the amendment for (unintelligible) locations. But the list whether this is possible or not, okay?

Keith Drazek: Okay, thank you Amadeo. On the first topic, would you please send to the list just a couple of sentences or a paragraph on that? That would be helpful.

Jeff Neumann: And on the second one, Amadeo, on the WHOIS, would that be covered under the general notion of the whole conflicts of law subject? Okay.

Keith Drazek: Okay, thank you. I have Chuck and then Edmon in the queue.

Chuck Gomes: Thanks Keith, Chuck Gomes. With regard to the PIC Spec, I didn't hear you say anything about the allowance of any third party in the world can get involved in that. I think that's a really critical issue and one that would be a drastic change from what has existed.

Jeff Neumann: Yes Chuck, I just overall touched the – PICDRP. But there are the issues of third parties, there's burden-of-proof, there's subcategories in there.

Keith Drazek: Thanks Chuck. I have Edmon in the queue, then Ray.

Edmon Chung: Yes, thank you Keith. And just building on what you said about Fadi asking us how we felt about it, I did raise one particular point in terms – I think it's relevant – which is – especially in the amendment process to give us an example to that we can wrap our head around on a business level whether it would work.

I think what I heard from Fadi is that they are okay to try to provide an example now that we have sort of a framework. But I think that will be useful for, you know, the general community to actually think about whether the – what is proposed as the amendment process would be workable for us.

Keith Drazek: Okay, thanks Edmon. Ray, go ahead.

Ray Fassett: Real quickly – Ray Fassett, DotJobs to follow up on Chuck's point which is a good one but I think Jeff also answered my concern. Not only is the standing

the issue here or any third party, but also the burden of having to cite a specific provision in the Registry Agreement that is causing whatever the harm or non-compliance.

It's very critical that that type of standing be placed into this PDRP. It can't just be very amorphous or very broad or spirit in intent or things of that nature, but in fact, very razor sharp, specific provisions in the agreement.

END