

**ICANN Singapore Meeting
NCSG Part 1
TRANSCRIPTION
Tuesday 21 June 2011 at 14:00 local**

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Coordinator: ...recorded. If anyone has objections you may disconnect at this time. Now you may begin.

Avri Doria: Okay. Thank you. This is the NCSG meeting. First of all I want to welcome everybody to it. I hope it ends up a good use of your time. So the way the schedule is set for today and then I'll go through with people that are here but see if a few more people show up in the time.

We basically have a split schedule. In the first hour going from now until 3:15 we are basically going for reports from the NCSG constituencies and candidate constituencies in so far as they are here to report. The status of the charter process - I said ordeal in the schedule and it has been that. I had been asked by the GNSO chair to have a time slot in the meeting.

And I told him I would give him one and I did but then I forgot to communicate to him when that was. So Rosemary has contacted him saying that he's got a time to show up in the next hour and if he does then we'll put him on.

And then basically any last minute prep for the NCSG board meeting and my assumption was that would include bringing together any of the comments that people had from the two constituency meetings and of course any of the independent NCSG members who weren't in a constituency meeting either

because they don't belong to a constituency or just because they didn't make it, remembering that NCSG does have a membership class that includes people that don't join any constituency but are just NCSG members.

So that's the first part. Then we go off and we have our meeting with the board in (Canning), which is really very close. So it shouldn't take us 15 minutes to get there but we can probably grab coffee along the way. And then we come back and basically go from 5:00 until I say 6:30 here but we're really only scheduled until 6:00.

But I'm sure we have the room until 6:30. Actually I don't know if somebody has the room after us. And we have a scheduled visit from PIR Brian Cute, the new CEO and that's at 5:15. Then any issues before the council for a vote that NCSG wants to talk to its council members about, I have here a report on actions from the last face to face meeting, which was the initiation of the financial committee function, which I'll spend about two minutes reporting on.

And then the projected document issues related to the DHSI seizures of domain names - don't know. Policy planning from June to October - are there any initiatives, any work that we want to engage in at the NCSG level? And then talk a little bit about election planning for the period going up and then any other issues that people may have.

So any issues or corrections on this agenda? No. Great. I'd like to just ask the people to go around the room and for attendance purposes say who you are, what constituencies, why you're here, where you'd prefer to be, whatever. Start with you, Robin.

Robin Gross: Hi there. I'm Robin Gross with IP Justice and also with the non-commercial users constituency here and I would rather be in Negril, Jamaica right now.

Avri Doria: Thank you.

Wendy Seltzer: Wendy Seltzer in non-commercial users constituency, NCSG councilor and (chilling events) clearinghouse.

Avri Doria: Thank you.

Konstantinos Komaitis: Konstantinos Komaitis, NCUC chair and I would rather be in (unintelligible).

Avri Doria: Thank you.

Glen Reichart: Glen Reichart. This is my last meeting on the public interest registry board after six years of service . They can't possibly reelect me so I'm safe. And I'll represent them a little bit today but Brian Cute, our great new CEO, is going to come at 5:15 so I'll let him have the official word on that.

And I've served on several nonprofit boards, NCUC and all other non-commercial interests.

Avri Doria: does this mean you'll still be able to keep coming to our meetings?

Glen Reichart: Well, I don't know. I might apply for a travel grant.

Avri Doria: Cool. I don't have any money to give. Yes.

Brenden Kuerbis: Brenden Kuerbis, Syracuse University Internet Governance Project, member of the NCUC, also serve on the executive committee.

Avri Doria: Thank you. Avri Doria, member of NCUC, an independent research consultant and there is absolutely no place in the world I'd prefer to be than here.

Rosemary Sinclair: Rosemary Sinclair. I'm a board appointed NCSG member on the GNSO council and I'm happy to be here now that Avri is happy to be here.

Rafik Dammak: Rafik Dammak from the University of Tokyo, NCUC - okay. Rafik Dammak from the University of Tokyo, NCUC member and NCSG councilor. The place that I would prefer to be is just (unintelligible).

Avri Doria: No one will wake you up. Sorry.

Milton Mueller: My name is Milton Mueller. I'm a member of NCUC and I'm on the executive committee as the treasurer I guess. And I would rather be in my own backyard looking at goldfish.

Avri Doria: You have goldfish in your backyard?

Mary Wong: I'm Mary Wong. I'm an intellectual property law professor in the United States and I'm serving out my last term as a councilor for the NCUC. If by here you mean this particular meeting room, I don't have a problem with that. If by here you mean Singapore, my hometown, then I have major issues.

Avri Doria: Thank you. I'd like to invite our observers sitting in the back to introduce themselves just to get on the record as attending. Please come up to one of these microphones. I don't think we have a portable. We do. Great. So then just pass - yes, please.

(Sylvia Serling): Hello everyone. I'm (Sylvia Serling). I'm a member from (Necralo). We are here to observe and to learn with you.

Woman: He's going to speak in Spanish.

Avri Doria: Okay.

(Anthony Porto): Hello. My name is (Anthony Porto). I'm ALAC member too.

Woman: He's an ALAC member from (Necralo) also.

(Anthony Porto): Yes.

Avri Doria: He speaks in English.

Woman: Okay. Sorry. Sorry.

((Crosstalk))

Avri Doria: Yes. We don't have translators but that's okay. Speak as you wish.

Woman: (Anthony), he is also here to learn from you so sorry.

Avri Doria: Thank you.

((Crosstalk))

Woman: (Unintelligible) - and a member of the NCUC.

(Nira): Hi everybody. My name is (Nira). I am from a unique Asia Pacific networking venture and I'm here, the first time I've been in this session just to learn what kind of discussion you will have. Thank you.

(Larry Krump): (Larry Krump) with DotLove. I attended this meeting in Cartagena. DotLove is a nonprofit organization that is very concerned about raising money through the Internet and giving it out to organizations that care for others.

Avri Doria: Thank you. And we have somebody on the line on the phone? Do we have somebody on the phone? I understood we had at least one participant. Okay. We're going around giving names.

Would those who just walked in since we haven't gotten to anything else yet, please introduce themselves, say why they're here and where else they'd prefer to be.

Carlos Souza: Hi. I'm Carlos Souza from Fudacao Getulio Vargas Foundation in Brazil. There is no other place I would rather be than this one together with my fellows from NCUC and DFG. And I think that's enough for our presentation.

Avri Doria: Thank you.

Bill Drake: I'm Bill Drake and I'm a councilor. I'm sorry Carlos. Would you like to - okay?

Avri Doria: No please Bill, you've started. Please go ahead.

Bill Drake: I am Bill Drake and I'm a councilor for NCUC/SG and I'm at the University of Zurich and like Carlos, there is nowhere else I'd rather be more.

Carlos Afonso: Very soft voice, Bill. I'm Carlos Afonso as well and I am a council member of the Internet Steering Committee of Brazil and a collaborator with the NUPEF Institute in Rio de Janeiro.

Man: I am (unintelligible) also from the Brazilian Internet Steering Committee. I am a university professor of computer science in Brazil.

Avri Doria: Okay. Thank you. So moving on as I said, at 3:15 we move on. I think I've covered everyone. I'd like to move the reports from the NCSG constituencies and candidate constituencies.

We have one whole status constituency that's the NCUC. We currently have two candidate constituencies, one of which is NPOC, the not for profit operational concerns constituency and one PCB consumer constituency though that is still in the process of reformation since basically it was the

uniting of two constituencies, the original consumer constituency that applied through the external process and the consumer interest group that we had.

And I don't see they're here. I'll give a little bit of status on them when we get there. So I see the chair of the NCUC and so I'll ask him to start please.

Konstantinos Komaitis: Thanks Avri. This is Konstantinos. Very briefly since most of you were also at the NCUC meeting, we had a very productive I think constituency meeting. We started off by giving an update on our membership.

And then we moved to discuss the uniform domain name dispute resolution, the UDRP and as you might know, it is an issue that is currently being debated and deliberated by the ICANN community and ICANN staff issued a preliminary issues report that will be I think it has already been presented to the council.

And tomorrow there is a panel on the current state of the UDRP and after my understanding is that after tomorrow's panel ICANN staff is meant to provide its final report to the GNSO and then the GNSO will make a vote as to whether the UDRP needs to be reviewed or not. We also discussed some policy and operations issues in relation to NCUC.

One of the policy issues that we really focused on was the current domain name seizures that are taking place through legislation that is in place or is about to be in place in the US. And for operational issues we discussed some issues concerning our funds as well as the seat for the board seat 14 and the way it has been handled.

We also discussed a little bit about the questions well, the meeting that we will have with the board at 3:30 and the questions which directions we would like to take and to focus on particular issues that we would like to raise in combination with the three questions that Avri sent to the board. And we also discussed a little bit about ICANN fortitude, the meeting in Senegal and also

the fact that on Thursday NCUC will be meeting with ALAC to discuss the various issues. Thank you very much.

Avri Doria: Thank you. And when we get to the prep for the NCSG board meeting if we've got any time perhaps you'll want to bring up some of the issues that came up there just in case the few people who weren't here or perhaps those.

Konstantinos Komaitis: Of course.

Avri Doria: I don't see - is there an NPOC representative here at this point? I don't see one. I'll go ahead with Rosemary and give something on the consumer constituency.

I bring up Rosemary even though she's looking at me with sort of curious eyes as to why I would do this to her and that's because as the board appointee for building a consumer constituency I figured I'd just give you a chance to speak on what your impression on where we're at. From my impression first of all, the consumer constituency has now a mailing list, has actually an open mailing list with an archive as is required by NCSG rules.

It's a relatively empty archive because there is almost nothing going on. Basically there was a meeting in San Francisco of the consumer constituency and it seemed to have a certain amount of heat, a certain amount of content. Following that it looked like there were some issues between the two chairs of the previous efforts who were involved in coming together.

I'm not quite sure that those are resolved yet. I basically got pulled into some of those issues and basically the resolution is we create a common list, they're both on it. They send through a charter and perhaps that's something that Rosemary can speak to a bit more. They sent through a charter, the executive committee sent back the charter with a couple comments and questions and asking them to think about that stuff.

That has been put on their list, has been put on their plate. There have been no responses yet and in terms of the issues between the two chairs that are coming together in the common group a request has basically been made, discuss this within your constituency, figure out what it is you want to do and get back to us.

At this point I'm still sort of waiting for them to get back to us as to what to do. Our chartered rules once they are approved requires the executive committee to review the status of any candidate constituencies every six months or so to see how they are coming along, whether they should be renewed as candidates, whether it's time to recommend that they become full fledged constituencies.

So I don't know what's next. I think the executive committee at some point over the next couple months will have to review the status of this candidate constituency and decide what if anything we need to do. Rosemary, can you add anything to that?

Rosemary Sinclair: Really very little. I made a few comments when the draft charter came to us and I think Milton and I got into a bit of a dialogue about consumers versus end users.

But then it went back to the people who were proposing the constituency and then there seemed to be quite a heated discussion between those two people. I thought Avri made a very useful contribution by saying that the rules of the constituency would be pretty clear about who could be a member and who couldn't be a member of the constituency.

And perhaps that's the way forward that we support the development of the constituency and I'm just hesitating because if the people who kind of put up the idea in the first place don't really want to or can't find a way perhaps is a better way of saying it, of working together to form the constituency then do

we work around through whatever to create the constituency and then let the rules work out who can be a member or not?

At the time that all that happened I just didn't have the energy to sort out another fight really.

Avri Doria: Okay. Thanks. Yes, just to clarify, one of the issues that was coming up was the NCSG charter, which both constituencies have to meet is fairly strict about needing to have a non-commercial basis, etcetera.

The issue was that whether somebody having in addition to their non-commercial status, they also had a job with something commercial, did that disqualify them? And our NCSG charter does not make that prohibition. Someone can work part time and make money in a professional outfit but as long as they had their private registration that was non-commercial we didn't look into whatever else they were doing.

Their conflict came and said no, to be in the consumer constituency you couldn't have any professional commercial relationships at all. The answer to them is that is actually their right as long as they meet the NCSG base they could add further requirements and require a purity of purpose and employment that we don't currently require in the NCSG.

So that's where their discussion is going. Yes Milton.

Milton Mueller: I actually think the problem is even deeper than what you have suggested that they - that some individuals have some commercial affiliation, that's (cozy) enough.

But it's even if I look at the list of people who have been involved in the formation, two or three, maybe even four or five are actually outright members of the commercial stakeholders group constituencies. I'm talking

people like (Jonathan Zucker) or Steve DelBianco, right? And they have an interest in the formation of a consumer constituency.

And if you think about that, you know, businesses are consumers too. I mean Rosemary was part of the NTUC group and it's a real naughty problem here as to whether the consumers - it doesn't make sense to put a consumers group in some respects in either one of the stakeholder groups. It could be in either one, it should be in both to some extent.

So I think that's a very profound question that has to be asked really before this goes any further because there is nothing wrong with being if you're like a small consultancy or a law firm and you are buying domain names, you're concerned about consumer rights as much as anybody else. So why would they be forming this constituency in the non-commercial stakeholder group?

Avri Doria: Thank you. Actually to clarify, that is an issue and in fact, I have sort of been very much a proponent that we do need two consumer constituencies, one non-commercial, one commercial.

In this case the issue was that somebody had a job where one of the functions they had did some registry service in a CCTLD and that that therefore disqualified them from being a member or co-chair of the consumer constituency. So that was the specific issue that was being discussed but you're very right. That is a concern with their charter.

Anybody else have something they want to add? At one point out of the corner of my hand I kept seeing hands go up in the Adobe but I don't see any hands up now. Anyone wish to comment further on the consumer constituency? Okay. I'll ask once again if there is anyone here from the NPOC constituency who could give us an update on their status.

I'm afraid that there is very little I can say about it. Do not have an open archived mailing list and while I have been granted the permission to see

what is on their mailing list, I have been told that I do not send mail on their mailing list. And so I don't know that there is much I can - there is not that much going on in their mailing list other than we're having a meeting and when it is.

And then every once in a while some issues so there is very little to report. But it wouldn't be for me to report since I'm not a member of NPOC. I have had one discussion with NPOC where I did request that they do make the list transparent and was told that they would do so after their charter and our charter were approved. I think Milton, you had your hand up and then.

Milton Mueller: Before we left the consumer constituency there was another issue that came up I wanted to ask Rosemary about. So I heard indirectly that there is a meeting tomorrow of the people interested in the consumers or is that misinformation?

Rosemary Sinclair: There is a workshop tomorrow following on the board resolution in Cartagena in December, which goes to a commitment and the affirmation of commitments document, which says that after one year after the new GTLDs are introduced we will determine progress against competition, consumer trust and consumer choice.

And the board resolution asked the GNSO, ALAC, CCNSO and GAC to advise them on the definitions of those terms, suitable measurements and to start a discussion about three-year targets. So the workshop that I'm moderating tomorrow Milton, is about that task. Yes. It's not a constituency meeting. But I should or maybe I'll...

Avri Doria: Well, while you're talking about it, you might as well talk about it.

Rosemary Sinclair: Yes. I think so. It's really quite interesting and of course everybody is welcome. I've got a few people who have already indicated that they would be happy to make a contribution about these matters.

But everybody is welcome and I really particularly welcome some NCSG folks. But the workshop to me is really quite a significant workshop and I have drawn the links between the affirmation of commitments, which talk about competition, consumer choice and consumer trust. And in Cartagena I took part in the review discussions on the strategic plan for 2011-2014 and made the point that the strat plan actually needs to read much more clearly than it did at the time with the affirmation of commitment documents.

So now in the strat plan one of the four focus areas is competition, consumer trust and consumer choice. So to me that was quite a significant recognition of the agenda that we're pursuing in various ways including one would hope with the consumer constituency as a voice within the ICANN community.

But putting that to one side, the next step on this journey of trying to embed institutionalized concern with consumer issues is the workshop, which is 12:30 tomorrow in the Padang room. Thank you.

Avri Doria: Thank you. I had Konstantinos and then Bill and then Mary.

Konstantinos Komaitis: Thanks Avri. I will just going back to the NPOC issue and disclosure of the list, was there any specific reason provided as to why we're waiting for the charter to be approved in order for the membership to be disclosed? What's the relation?

Avri Doria: Only that there was no charter at the moment that required it of them and therefore they would do it when there was a requirement.

Konstantinos Komaitis: What about good faith? Okay. Thank you.

Avri Doria: No. Sorry. Okay. Bill.

Bill Drake: Thank you. I wonder Rosemary if you could help me. Over the course of the past - well, since I've been involved at ICANN there has been talk about creating a consumer constituency in the past two-something years.

And in that time one of the things that I often have a hard time getting my mind around was what a distinctive agenda was going to be. And now this has been percolating for quite some time. People have been meeting so on and so forth.

And I'm wondering if maybe you could explain to me now if the thinking was advanced and gotten more specific, what the distinctive issues, the consumer constituency would be covering are that are not covered by either the existing non-commercial users constituency, which has many consumer type organizations in it or by the CSG, which I think sees itself as the voice of the corporate user?

It seems to me the consumer issues I mean we don't necessarily talk about pricing a lot or fraud aspects a lot I suppose. But the broader range of issues that both the NCSG and the CSG talk about seem to me heavily laden with consumer issues.

So the rationale for creating this constituency presumably is that there is a distinctive need that's not being met to talk about XY and Z. If you can specify now with the benefit of time that's passed more what the XY and Z are, that would really help me get my head around it.

Rosemary Sinclair: I can't actually do that Bill, because I haven't been immersed in the consumer constituency formation for some time. What I can do is pull out comments that I made when the draft charter came my way because I actually went specifically to the NCUC charter to ask that very question myself.

What is different about this thing than NCUC as expressed in their charters. The thing I didn't do was go to CSG but maybe that's an interesting question for me to do. So I can - I suppose the best thing is I can pull out the email that I sent back with my comments marked up on the consumer constituency proposed charter and shoot that through to everybody I guess.

Bill Drake: Do you know - I mean an old email that you did is - I mean I'm not sure that would help me. I'm wondering are you aware whether the people that are supposed to be involved in this have been talking about this and pushed towards clarifying it in any way?

Rosemary Sinclair: Well, I would say generally yes. And the manifestation of that is the proposed charter. Thanks.

Avri Doria: Mary and then now that Debbie is here I will ask for an NPOC if you're in the position to give one. But Mary.

Mary Wong: Okay. And it was really just a clarification and it pertains to something that has come up with the constituency information and the proposed constituency.

But also going to the wider community here that I think what is sometimes not well understood is that the constituency framework goes within an SG framework and whether it's a CSG or the NCSG. All members of constituencies within that stakeholder group have to also satisfy the criteria in the wider stakeholder group.

So with respect to the commercial consumer interest and so forth, one thing is that you might actually have a consumer constituency within NCSG and another one within CSG with different membership simply because the members have to satisfy either the C or the NC criteria and the same for any other candidate constituency within both groups.

So I just wanted to underline that point for the record because sometimes I think that especially if you talk to folks who are not in the GNSO and even folks within the GNSO who are in the contracted parties too because they don't have these issues yet. They might with the new program but these issues are very specific for now to both the CSG and the NCSG.

And I think we need to make that clear to the community. Can I say something about the cake?

Avri Doria: Yes you can say something about the cake other than it's very good. But yes.

Mary Wong: Going off topic so this cake is a typical local cake. It's got Indonesian influences as do some of you. It's called Kek Lapis, which means layer cake in Malay.

And it's something that locals love and I thought that would be a nice way for us to end our little lunch.

Man: Did you cook that for us, Mary?

Mary Wong: Carlos, I wish I did. If I did I wouldn't be at an ICANN meeting because every layer is made by hand.

Avri Doria: Wow.

Mary Wong: So please enjoy and if anybody would like to get one to take home with to give as a gift I would be very happy to tell you where to procure it. It's called Kek Lapis.

Avri Doria: Thank you very much. It's very delicious. Okay. Now do you want to say something on that or can I give the floor to give an NPOC update?

Milton Mueller: I'll finish off the consumer stuff but the more I think about this, the more I think that the consumer agenda that Rosemary is describing is actually undermined by having a separate constituency in either commercial or non-commercial stakeholder group.

That there are people - what we really want to do here is not have a separate constituency with separate membership lists and an isolated silo of people talking about that because everybody wants to talk about those in the stakeholder groups. What we want to do is have a group that maybe specializes in some of the consumer trust, consumer protection, consumer choice issues and focuses on issues and policies as they happen in the GNSO.

And the constituency formation process and the associated administrative apparatus actually gets in the way of that as far as I can see. It's a big distraction.

Avri Doria: It's possibly true. Unfortunately it does seem to be the structure that we have been given that if you want to focus, if you want the ability to file you know constituency issues reports for every working group and PDP, having the constituency basis is one of the things the board is looking for in terms of saying ah ha, we have a bunch of people here who are focused on consumer issues. I think that's one of the reasons.

Milton Mueller: That actually undermines the broadness of the support because then it's just the consumer constituency that is formulating and developing a position relative to consumer interests. That's not the whole stakeholder group.

Avri Doria: Not necessarily because that's one of the reasons why I think we've maintained an open, everybody can participate, NCSG list for discussion and what can happen.

And I think what has happened a couple times is that a constituency can put out a statement and then sell that statement to the rest of the stakeholder group and get more people behind it. So I think there are ways to work it however it is organized. This does seem to be the organizational style.

Milton Mueller: I don't think it's a fait accompli. That's what I'm arguing against here. I think like the workshop that Rosemary is doing tomorrow I see as a far more productive thing than forming a constituency.

It's actually talking about issues and it's pulling together people from different stakeholder groups and different constituencies to...

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