ICANN Singapore Meeting
NCUC
TRANSCRIPTION
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Konstantinos Komaitis:　　　...day meeting and with the 20 minute delay I think we should start. I'm not sure whether anyone's listening in or participating remotely, the recording however, the session is being recorded and we will later have a transcript that we can put up on the Web site.

Before we start I would like all of - well I would like us to take a few moments and introduce yourselves so that everybody knows who everybody is.

I mean we have one new member, so Carlos do you want to say who you are and your affiliation before we start? Thanks.

Carlos Afonso:　　Hi, good morning everyone, I'm Carlos Afonso from the Getulio Vargas Foundation in Brasil.

Brendan Kuebis:　Hi, I'm Brendan Kuebis from Syracuse University and internet governance project.

Wendy Seltzer:　Wendy Seltzer of the Chilling Effect Clearinghouse project, I'm from the Princeton Center for Information Technology Policy.

(Wendell):　　Name's (Wendell) (unintelligible).

Don Blumenthal:　Don Blumenthal with public interest registry just visiting for a few minutes.

Rafik Dammak:　Rafik Dammak from University of Tokyo and NTAG councilor.

Milton Mueller: Milton Mueller, Syracuse University.

Glen Reichart: Glen Reichart, I'm just finishing the last of my possible terms, they can't possibly reelect me to the board of the public interest registry. I think that they're glad to get rid of me perhaps.

But I've been involved with non-profits for a very long time and as many people know I've been here on many occasions, whether or not I've been on the board.

Amrita Choudhury: Hi everyone, my name is Amrita, I am from India contributor tellership. I work for a not for profit body called CCAUI, we work for the eco-system of internet working with ISBs, the content providers, the public internet bodies who are the actual phase of internet to the end users in emerging nations like ours.

Now 60% of access happens from them, their point and the end user looking at now training them on internet literacy which is an important task at this point of time. Thank you.

Konstantinos Komaitis: Thank you everybody, thank you all. This is - you can see the agenda up on the screen and I've circulated for any comments, I haven't received any comments.

However I'm sure that if anyone wants to add anything we can make adjustments. I can start first of all with an announcement. There is a meeting between NCUC and ALAC on Thursday at 6:00 pm at the VIP lounge.

So I would advise all of you to please try to join and there's going to be a dinner afterwards, for the dinner please confirm it with Bill because he needs numbers in order to be able to then book table.

We are meant to be providing an agenda so I think that we can take some minutes at the end and discuss possible issues of discussions.

I know that one of the things that I would like to discuss with them certainly and they also seem very keen is the JAS report and I think that Rafik will be able to say more on that front.

So let's on the announcements and the first issue that I would like to take a few minutes to talk about is to give you a membership update, what's been happening in the membership front.

Ever since I took office which was in January of 2011, 31 members have joined NCUC, of course we have had more applications but many were summoned, many others did not meet the criteria.

So - which I think is a pretty good number. We had mainly the people that have joined, individuals but we had a couple of small organizations as well. So NCUC is growing and I think that the number in the space of literally six months is not bad at all, 31, I don't know what the previous membership numbers have been within the space of a year.

But my impression has been that we've been doing well and people have shown interest in NCUC, I have personally tried at least to make - to convince people to join and to tell them what we're doing and why it is important for them to join.

So right now I hope that also those people who are joining will be also participating in - for all the other working groups or in interest groups or within the NCUC.

Anyone who would like to make any comments? Milton.

Milton Mueller: Yes...

Konstantinos Komaitis: Let's see, out of the 31, 29 were individuals and two were small organizations. Anyone else? Oh, mainly - well the small organizations were for Europe and the individuals are actually from everywhere.

We have people from Africa, we have people from Asia, we have also people from Europe joining so there is quite a diversity in the individual members that are joining NCUC.

The organizations are as I said both of them are based in Europe, one of them in the UK and the other one in Germany. Anyone else on the membership update?

Hi, would you like to tell us who you are, introduce yourself, thank you very much.

Poomjit Sirawongprasert: Good morning everybody, I'm Poomjit Sirawongprasert but you can call me Moui from Bangkok Thailand, there is only one from Bangkok.

First like - this is my first (unintelligible) coming here before joining the ICANN meeting, so I'm still brand new here. But for myself I'm the president of the Thai proposing (cub) in Thailand.

Again also the subcommittee for the MICT, MICT is (unintelligible) Improvising Commission of Technology and what our - we (unintelligible) extremely strong, set before and (unintelligible) from UC to ICT to all our scientists.

And so I will tell the public how it's impacted (unintelligible) Thailand again and also I've been (unintelligible) are president of the Thai (unintelligible) association. And a lot about internet in Thailand again and at the moment I also help to - cannot say it right but try to let the internet (unintelligible) in Thailand just like (unintelligible).

It's after the classes two years ago and (unintelligible) Thailand is kind of crazy and we brought like the IT (unintelligible) because they wanted the training, peer to peer training but broadcasting from the opposite side to the government.

And therefore using like (unintelligible) to cache people, direct people, (unintelligible). So it's kind of late I think (unintelligible) last month one American, (Tyrone Regan) is our director because he post a link on his blog to the prohibit (unintelligible) and that book is like into the Royal family, to the king, okay.

So he got arrested and now he's in jail, this kind of stuff.

Konstantinos Komaitis: Thank you very much and welcome, Milton.

Milton Mueller: Just wondered if you could spell your name so I could keep a record of it.

Poomjit Sirawongprasert: P-O-O-M-J-I-T and the last name is pretty long, S-I-R-A-W-O-N-G-P-R-A-S-E-R-T. Yes, but call me Moui, M-O-U-I. It's easier. My middle name is Moui. Thank you.

Actually I'm in the government model list because considering I am the (unintelligible) just like (unintelligible).

Konstantinos Komaitis: Okay, welcome and thank you for joining. Okay, the next item on the agenda is the UDRP domain name dispute resolution policy. I will give you a very brief update of what's been happening and when DB notes the council and Rafik actually can help fill in some gaps.

So basically what happened is that at some point the council as part of RIA considered - put forward if you want reports out to review the UDRP. The council created a small team that at some point recommended that the first

step would be - well a very good beginning would be a webinar on the UDRP which actually took place last month.

And the webinar attracted a huge crowd, there was something like more than 100 people actually listening in. There were some panelists, I was also invited and after the webinar and based on the webinar the ICANN staff produced a preliminary issues report on the current state of the UDRP.

The conclusion of the report as derived by the webinar was that the council should - sorry, ICANN staff suggested the UDRP not to be reformed at this stage and tomorrow there is a panel session at 8:30 in the morning on the current state of the UDRP.

My position and that is my personal position, the NCUC has not actually taken as of yet an official position is that we need - this is a very, very good opportunity to review the UDRP or at least start discussions, the discussions on a potential review of the UDRP.

For many reasons, I mean I have preliminary issues report here, but before we even start discussing all those issues I would like to get a feeling from you whether you feel that actually the NCUC's position should be that a review of the UDRP is necessary. Wendy.

Wendy Seltzer: I wonder Konstantinos if you want to share with the group a little bit of your research into the UDRP because this is a 12 year old policy and unlike just about anything else in ICANN the UDRP has not been reviewed.

So we have some academic research on the subject.

Konstantinos Komaitis: Yes, well as Wendy said the UDRP is more than 10 years old, it was created as part of a white paper mandate that when ICANN was created the United States government also said that we need to have a dispute

resolution mechanism to resolve the disputes between trademarks and domain names.

So WIPO was actually given the task to devise such a policy, the policy was devised, it was officially launched in 1999 and since then it has adjudicated more than 30,000 domain name disputes.

In 2002 and 2003 various academics started producing some empirical research on the state of the UDRP at the time, one of those academics was Milton and the other significant study was by Michael Geist and both of them in 2002 and 2003 identified various issues with the UDRP, issues of bias, issues of photoshopping, lack of due process that the UDRP is mainly operating for - to the advantage of trademark owners that it really eliminates the rights of domain name registrants, etcetera.

The GNSO and Wendy can correct me I think that in 2003 sort of opened again the issue of a potential review of the UDRP but it never moved forward.

So here we are now in 2011 and we are still - we have again in front of us a potential review of the UDRP. As Wendy said I did my doctoral research on - well part of my doctoral research actually was on the UDRP and my view is that there are significant problems with the policy.

On the substandard front the UDRP lacks clear and explicit fair use provisions. There is no clear in - w\ell the UDRP sort of the - lived up to the discretion of the panelists whether they will accept that a domain name supports free speech or not.

And actually this is manifested also by the fact that WIPO recently released the WIPO overview of the UDRP decisions and when it comes to criticism sides, WIPO said okay we have two categories.

The minority - two views, the minority and majority view. The minority view is that criticism sites should be allowed because they are under fair use. The majority view is that criticism sites should not be allowed and panelists actually say that a dot sex for example domain name is confusingly similar thus it needs to be transferred which automatically demonstrates if you want that there is a huge problem with free speech in the context of the UDPR procedurally now, UDPR has very short deadlines for domain name registrants.

It is lacking an appeals process which is very problematic, what else? Well yes, exactly, I mean complainants are able to choose the center that will adjudicate the dispute which of course makes photoshopping become a serious problem.

Then you have the panels that I'm not sure how independent they are and generally speaking there is a huge - there are huge issues concerning the lack of due process.

So as far as I'm concerned and my view is that this is a great opportunity for us to start reviewing the UDRP and I will come back and tell you what seems to be the main argument against it.

But before I do that if you have any views you would like to say at this point. Carlos?

Carlos Afonso: Konstantinos just to help everyone to understand and to engage in the conversation could you just summarize the reasons why the state of art in the discussion here in ICANN is that the UDRP does not need to be reviewed right now, what are the arguments?

We know you were explaining your position on the issue but the official position explaining why UDRP doesn't need to be reviewed, what are the reasons for that?

Konstantinos Komaitis: The main argument seems to be that one of timing, that the timing is really bad because we just - ICANN just launched the new gTLDs and as you all know within those new that are new light protection mechanisms, one of them being the uniform rapid suspension system.

So the argument that seems to be making the rounds and actually I've been hearing it from different - from various people is that because we don't really know how the URS is going to work and because we really do not know how the UDRP and the - what the nexus will be between the UDRP and the URS, the time in photo viewing the UDRP is not a good one.

And this is the main argument that is being put forward by WIPO and by ICANN actually according to the preliminary issues report. My argument is actually I'm using this very argument to say that the UDRP needs to be reviewed because the URS, the uniform rapid suspension system is actually using exactly the same language of the UDRP which most probably means that it will follow the same rationale of the UDRP.

Which means that issues of bias, issues of photoshopping and all those problems that we have identified in the context of the UDRP will be repeated also in the URS. So I think that the argument that you know the new systems that we're putting in place might be unstable and it's a house of cards, that's just can collapse is not a very strong argument for me.

Milton?

Milton Mueller: Yes, just to summarize what I heard at the GNSO meetings, so I think we need to be very aware of the arguments against the review so one of them is timing as you said.

But an element of that that you didn't explain is the fatigue that the staff feels like we're going into the implementation of new TLDs and a lot will be

happening and seems like the staff doesn't want to deal with what was sure to be a contentious procedure.

The URS thing you covered, the other thing that a lot of people are saying is that the UDRP is fine, that it's fair and it works well and then the other one is coming from people who made the agreement with us on policy substance, that people are afraid to change it because they think it will get worse.

It can only get worse so John Berryhill for example who's pretty good on URDP issues is one of those, Kathy Kleinman used to be one of those but apparently is not any more.

So the key issue is really what can we gain in terms of the timing issue I think the staff could be overwritten if we got support from registrars and registries that they did want to review it.

The URS issue is an IP concern and again that could be overcome if we had support from other constituencies. The idea that it's fair and works well we have a different view of that, so we would believe that it needs to be reviewed if we thought we could make it better.

But if we don't think we can make it better then we should save ourselves the trouble and concentrate on that. You know there's one other thing that came up in GNSO and that is there are much more support for procedural review, that they say don't touch the substance, just do the procedure.

And the concept of procedure could include not only an appeals process but this idea of complainant selection I guess could all be considered as procedural issues.

So you might be able to do a lot with procedural issues but there are some substantive issues that we would like to make it better.

Konstantinos Komaitis: Wendy and then (unintelligible).

Wendy Seltzer: Yes, so I've been among those advocating that we do review the UDRP. I think that many of the concerns that Konstantinos raised especially the problems of forum shopping, that is the complainant can go pick the place where his complaint is most likely to be given a favorable ruling.

And there are some panelists who routinely rule in favor of a complainant even if the case is not very good, so for example the complainant has a trademark but the registrant of the domain name is not using that trademark in a way to confuse people.

But is either in a way that has no trademark meaning which is fair under trademark law or is using it to criticize the trademark holder which is also generally recognized as fair use.

And so the forum shopping is a procedural issue that contributes to substantive problems with the UDRP, and that I think that now a useful time to review UDRP because it's being held up as this excellent process that should be used as a model for other things in new gTLD adjudication.

And before we go using this as a model for all sorts of other dispute resolution I think we need a more substantial review of how well is this working, where can it be improved rather than simply adopting it.

I think adding in where can it be improved, I would like to see a built in appeals process so that erroneous decisions get at the moment there's a sort of system of precedent but not really.

So any panelist can make a decision because it's not reviewed by any other panelist and not reviewed unless somebody brings it to court and that decision generally just stands there.

And then another panelist can go searching for precedents that meet what he or she wants to review, finds some of these aberrant decisions and can cause the policy to drift.

So I think we - I would support review before these sorts of problems become locked in. I think the dangers of a substantive review we heard previewed in the council meeting, the intellectual property constituency telling us that they would be there in force arguing for things like changing in particular changing the and to an or.

And for those who haven't been poring over the policy, currently the policy says that to be found liable for cybersquatting, to have your domain name taken away you must have registered the domain name and be using it.

Registered and be using the domain in bad faith, so you registered it intending to squat on somebody's trademark and you are using it to squat on somebody's trademark.

And if one of those is not true, if for example you registered it thinking you were going to squat but then found you had a genuine criticism of the trademark holder, currently you should not be - have your name taken away or vice versa.

And many people want to change that to or, making it much easier to steal somebody's domain name.

Glen Reichart: Glen Reichart, we had that discussion in the PIR board meeting earlier this week on the UDRP. I think that I agree with the discussion that we had. It's probably not the most serious issue in ICANN but it is broken in several respects.

So I think that there's a priority issue of is this the most important thing to be done or do we need to resolve some of the things like vertical integration on new gTLDs might be more important for example.

I think that from the PIR board discussion the most broken part of the UDRP from our point of view is the inability to have rapid action on egregious cases, not the close calls that need lots of consideration and appeals, but ones that are fairly blatant take so long that in many cases it's worth to - even though you know you're doing it in bad faith, even though you know you're going to lose the UDRP, you get to continue to use the name long enough that it's worth the hassle.

And that creates a number of bad actors on purpose in this space and we'd like to see something happening on that account.

Konstantinos Komaitis: Thanks Glen. Avri?

Avri Doria: Thanks, Avri Doria. I guess looking at some of the issues that have been coming up, I think that the staff workload is probably not something that should be given too high a degree of worry if the GNSO you know gets to the point of deciding that this is a priority then that the notion that staff is sort of finding a backdoor way to control policy by saying we're too busy to do something, we're too tired, we're too whatever is problematic in itself.

I wonder about the utility of the URS issue in that just doing a review of the UDRP does not change the language in the URS and just because - the fact that it may have been copied from there notwithstanding, you'd just be committing yourself to yet another process.

So I'm not sure that that's a highly useful argument in terms of well somebody therefore you know we should change the language. I do think that there's probably strong value in the procedural review.

It sounds like a lot of what people would want to get done could be dealt with and you may get agreement and that may be a way to sort of push aside some of the we will change the language from ands to ors, etcetera.

But still get a lot done in terms of the things that are being problems, so I - those are sort of the thoughts I've had on it. Thanks.

Konstantinos Komaitis: Yes, just a few comments and then I'll give the floor to Milton. Yes, I guess the elephant in the room is should we review the URDP which direction it will go.

And this is actually a huge problem. And I was in the (S tie) and I can tell you that it's very hard, I mean the negotiations are just - it's unbelievable and we've had - as Wendy said we've had the IPC actually at the GNSO it was sort of threatening that should we review the UDRP just be prepared that we will come and we will be pushing for the change from and to or.

We will want to see a very clear loser pays all model, not the one that exists right now in the URS and we don't really like it. We would want basically to make it more robust for intellectual property rights, etcetera.

So this is a danger and I guess that this danger is more possible to take place should we proceed with more substantive review of the UDRP. The unfortunate issue if we don't go with a substantive review is that we potentially won't be able to include fair use provisions within the UDRP.

And one of the arguments that I have been making is that the UDRP needs to be reviewed because in the past ten years it hasn't evolved organically.

I mean there are various dispute resolution systems out there that came out of the UDRP but those dispute resolution systems were able to evolve and change and address issues as they were coming along.

And I'm referring to the (nominat) dispute resolution system that in 2003 decided to amend its processes and actually make explicit use about criticism sites.

I'm talking about again the (nominat) system that used an entire appeals system built in internal appeals process within its mechanism in order to be able and sort of review also, not only the decisions that are coming out of the UDRP but very indirectly also review the panels that actually make those decisions.

And I'm also talking about other systems like the Chinese dispute resolution system which has a very interesting substantive provision and statute of limitations.

And it says that if for that one year you own the domain name and no one has hassled you, you cannot possibly come five years later and tell us okay by the way you're infringing a trademark and suddenly demand that this domain name is transferred which is a very interesting provision.

So these are sort of substantive issues that in an ideal world the UDRP could include. But again it is a huge political gain and it will be a political gain and I'm not sure which way it's going to go.

On the procedural aspect yes, things if you want can go more smoothly because we're not changing the language, we're just addressing some issues that I believe that we can convince various stakeholders that constitute various issues and actually I'm sorry Glen, I really think that - it's really depends on which way you look at it.

But the UDRP constitutes a serious problem. I mean we are talking about people losing domain names and many of them yes, are cybersquatters and don't get - belong and they should lose them.

But many of them are not cybersquatters and we are meant - ICANN is meant to create this inclusive internet and the UDRP is not inclusive. It is not an inclusive item, it is actually per the host file environment when it comes to legitimate registrants.

And we need to make sure that since this policy exists and let me remind you that this policy was created under the same justifications right now we're creating the URS only for the egregious cases, nothing else.

Since however this policy exists and since this policy has evolved the way it has evolved, we need to make sure that we build in - within it procedural tools that will at least ensure to the minimum and most fundamental level that it's fair.

Because right now it is not fair. Milton and then Robin.

Milton Mueller: I like some of the things that you said Konstantinos and I think one thing that we could do that's a very concrete step is to create a reference document that says here's exactly the set of changes that we would like to see implemented and we all totally are locked in and agree on them, we have no internal disputes about these changes.

They would have to be absolute minimal changes required, in other words let's not just rewrite it from scratch in the blue sky way that we think is great and we know has no political mileage.

But let's go through the document and change like six words here, two words there, add an appeals process, whatever so that we know exactly what we're advocating.

And for example when you said the statute of limitations, right, that's an issue that I hadn't even thought of. That's a very persuasive case. We know that it would be resisted by the trademark interest in ICANN.

But it might have some staying power with the registries and the registrars because they might understand the stability implications of having a statute of limitations.

So I think if we had a reference document that said here is an improved UDRP that we all support that would be a good first step we could take.

And then even if we didn't get the review that we wanted we would be able to continue maybe pushing for that and be like a shadow UDRP system that we could maybe build support for.

Man: Or even the outline for that.

Konstantinos Komaitis: Before I go to Robin, Milton are you suggesting that we need to submit this report within the public comment period or the preliminary issues report which is until the 15 of July or as a separate document that we might submit to ICANN?

Milton Mueller: I'm not suggesting either of those things. I'm saying that this would be something we work on as NCUC so that if - let's suppose we decide that we do support a full fledged substantive review, then we'll be ready if it's successful.

If it's not successful we'll keep plugging away. We'll bring it up next year and we'll know where we want to go.

Konstantinos Komaitis: Thanks. Robin?

Robin Gross: Hi, this is Robin Gross. Yes, I just wanted to lay out where I sort of am on this issue because I've been one of the people in the past that have been very hesitant to open up the UDRP again because for the exact reason that we heard in the GNSO meeting the other day from the intellectual property

constituency when they said they will - they threatened us that they will throw more energy, time and resources into this than anything they've ever done at ICANN.

And I believe that because that is what they're here for almost exclusively. It's what they care about so I think we have to take that threat very seriously. However I think that there is enough momentum, dissatisfaction if you will among the community - the larger community in general with the way the UDRP has gone that it may be not such a bad idea.

In fact now I've kind of switched and I think we should go forward and we should try to reform the UDRP. Again because we heard the other day in a GNSO meeting, we heard from registries and we heard from registrars and a few others that seem to indicate that they were supportive of going forward with this.

So I think that there will be a lot of allies, that it won't just be non-commercial users versus the whole ICANN community.

So I think there's an opportunity here to work with other stakeholder groups and try to get this UDRP reform undertaken. And I also wanted to say I really like Milton's suggestion about the reference document.

I mean that's a great idea that you know we can really use to try to help even bring in some of these other stakeholder groups and try to steer the direction that the reform could take.

And if we can't get substantive reform per se, frankly I think procedural issues are such a big part of it. As Wendy pointed out the procedures are what leads to in many cases the bad outcomes, the forum shopping and that sort of thing.

So if - I think we could (unintelligible) with just procedural review and if we can't get the full substantive review.

Konstantinos Komaitis: Thanks Robin. Avri?

Avri Doria: Yes, this isn't so much about whether it's worth my comment is not so much about whether it's worth doing something. It's just sort of a cautionary note, we've often had great ardor to get something fixed and had really good reasons.

But when the two to three year campaign through the mud starts we tend to have maybe one or two people who have the energy to fight it and given the risk and the knowledge that the IPC and both the commercial version and the non-commercial version will put everything they've got into making it worse, better from their perspective of course.

We really should be careful to believe that we've got the energy and the endurance and the persistence to stick with it. You know going back to some of the recent examples with the RAA when we made a great campaign to get something opened as a PDP, and then we couldn't get any of us to participate in it in an active continuing manner.

And issues like that I really - you know we really better make sure that this is something that - and it's really hard to make sure, you know you get people to sign on the line and say I don't care what's happening in my life, I don't care what's happening with nobody paying me to do this and this means that it's a second job.

I will be there, because otherwise it's just another opportunity for us to further lose. Thanks. Sorry about the pessimistic note.

Konstantinos Komaitis: No, actually it's a very good one and it's a very valid one and thank you for making that point Avri and I would actually like to reiterate and make it even stronger.

I was there in the STI and when it comes to intellectual property I think that I haven't participated in many working groups and I am guilty of that.

But the ones that I have participated that had an intellectual property angle I can tell you that the IPC and the intellectual property owners have the resources and have the bandwidth and have the staff and have the people to send and contain and send emails and it's a constant.

It just doesn't stop. So Avri's right when she's saying if NCUC decides that a review of the UDRP is appropriate, be it substantive or procedural we need to make sure that we have parties that are able to contribute.

And they're able to contribute in the phone calls, they're able to contribute via email, they're able to contribute even of the point of lobbying because it's all about that.

It's all about explaining to people what your position is and trying to make them understand and trying to you know take them on your side.

I mean I can say because this topic is very close to me and it's part of my research that I would be willing to do it and I would be willing to participate as much as I can.

But again as you can understand just me, is not enough, we will need more people so on that note that's something for all of us to think about. Tomorrow as I said there is a UDRP panel at 8:30 in the morning.

Whoever can make it, it will be great. I mean my position we had already exploratory meeting with the various panelists. On the panel, well Mary and -

Mary Wong and Jonathan Cohen will be moderating the discussion and on the panel there will be me, there will be WIPO, the NES, Facebook, Michael Palage who is a UDRP panelist.

So the position and John Berryhill who is a lawyer representing respondents in UDRP cases as well as complainants but mainly he's identified as a respondent friendly lawyer.

The main position of all these people is that we should not review the UDRP and then it's me that suggests if you want from an academic point of view and due to my reasons that the UDRP has to be reviewed at least when it comes to its procedures.

And most probably I will be focusing on the procedures because as I think we have all agreed during the past half an hour is that if we open - if we were to open the substance then we're sort of opening a Pandora's box. Any other comments on the UDRP? Milton? Of course you can.

Yes, I mean that wouldn't be very difficult, hold on, that wouldn't be very difficult, I can take some of the recommendations. I put them in the book, so that would not be very difficult. Avri?

Avri Doria: Yes, I just want to amend - offer an amendment to that motion that says and you get it done by July 15 so you can submit it as a comment.

Man: I second the motion.

Man: If it were well before July 15 we would be able to say - let's suppose that we discover that all of the serious changes we're proposing actually could be spun as procedural.

Then we could go along with the flow and say okay, we agree with all of these people who are afraid of substantive changes, let's make it a procedural change.

On the other hand if we determine that many of them were not procedural and could not be characterized then we would have to argue strongly for a substantive review in the July 15 comments, right?

Konstantinos Komaitis: I mean I think that as soon as they go back I would be able to have something very possibly within a week that I can circulate to Wendy and Robin for comments and amendments. Anything else on the UDRP front?

Before we proceed to the next one which will actually would like to change, with policy and operation issues because many of our councilors are no here yet. I would like - we have some new people that came during our discussion for the UDRP so if they could please introduce themselves that would be brilliant.

(Tobia Efmala): (Tobia Efmala), Norwegian Research Centers for Computers in University of Oslo.

(Kim Fonargs): (Kim Fonargs) with (Cocomation) LP.

Konstantinos Komaitis: I think that's it. Oh Yes, sorry.

Avri Doria: Avri Doria, I'm an independent research consultant.

Konstantinos Komaitis: Okay. Let's go to the next agenda item which is number five actually, (unintelligible) basically I don't even know how I came about with this type to be honest with you. But it is more of the operation of the NCUC as a constituency and end to end policy issues that we are - that you think we might need to focus on and we might need to raise.

What I can say here for example is the policy front especially is that if you remember in San Francisco when Amir was here we were discussing about policy initiative concerning the domain name seizures and domain name take downs.

And Amir and myself were supposed to work together. We have exchanged some emails, that's the update that I can give you and Amir was meant to contact the Egyptian domain name registrant who's domain name has been seized by the IC.

And chronicle if you want what has happened, whether he has been notified and that's unfortunately where it stopped. He hasn't after that sent me an update so I will follow up.

But this is something that I think that the NCUC should to the possible extent - to the extent possible deal with because we see it happening more and more.

And you know lately there is the protect IP act from the United States that's literally if you want makes this domain name take downs and seizures even much easier.

And we have had papers coming out about technical issues and the problems and there are huge legal policy issues.

So I think that whoever can send, myself included because it's again part of what I'm interested in research wise.

NCUC could potentially focus on that very issue. Any comments? Actually I would like to hear what registries have to think, what PAR thinks about this whole domain name seizures thing and the obligations? Yes? On registries.

Glen Reichart: The domain name procedures for seizures, yes. That was a much larger topic. So it's - the big problem of course is that we want to be lawful which means responding to appropriate court orders.

But the question is which appropriate court orders and in a global system you can have conflicting court orders from different jurisdictions depending on what's going on.

The public interest registry has taken a - what we believe is a unique position among the registries that we will only respond to the court for the eastern district of Virginia which is the federal court that covers the headquarters for public interest registry.

And by only responding to orders from that court it means that we won't get conflicting information even from other courts in the United States let alone those from Italy or other locations that have sent us requests.

We are currently in litigation with a New York State court which has asked us to take down the name. We provided them with the information so they could file directly with the Eastern District Federal Court for Virginia so that they could easily give us a court order with which we would comply.

They've not done that and are suing us for not responding to the New York court but we feel that if we begin responding to other courts that would sell into the situation where we have this having to respond to multiple courts which could disagree with one another.

And we're not sure how to resolve that other than to say we'll respond to the court that is responsible for the area in which the registry operates. We've also had discussions about whether the corporate location for the public interest registry should be moved.

Is there a jurisdiction which would be better for these actions than the one that we're in and we continue to evaluate that. Our initial take is that everybody has some jurisdictional issues and some peculiarities about how their law works.

If we could find the perfect international law location we would consider doing something about making that our home but in the meantime we are doing only take downs from the Eastern District Court of Virginia.

Other registries have chosen to obey either all of the United States if they're based in the United States orders they receive which again we see as potentially problematic because of the differences that different courts could have.

And some are responding to courts from overseas. We've decided not to respond to anything other than the Eastern District Court again for uniformity and for making sure there is sufficient due process in some of these take down orders.

In particular some of the overseas jurisdictions, the take down order can be as simple as a policeman saying that it needs to be taken down and doesn't have even the due process that we would see from in our case the US Federal District Court.

Konstantinos Komaitis: Thanks Glen, anyone else on this issue? Wendy?

Wendy Seltzer: Thanks for that update because I think the question of what a registry will do in response to take down demands is an important sort of security and stability issue from the registrant perspective.

When you register a domain name you are intending that to be a secure and stable location for your online speech or a pointer to resources that you want online.

And knowing what jurisdiction your registry will respond to and limiting that as narrowly as possible helps to give the registrant greater certainty and greater certainty that his legitimate rights will be preserved so I think that that's important.

An issue I think for NCUC to be thinking about as new gTLDs come onto the horizon these, you know, location of registries will become more varied. For those of us in the United States we might also be interested in helping out if you need (Amica)'s support there for the position that this is a realistic and - a good reading of the law and a sort of public interest focused interpretation.

Glen Reichart: David Maher will appreciate that. I am not a lawyer; he is. I was repeating in many cases what I understand he has told me. And apparently the precedence for this in the United States differ among circuit courts. And it could even be that this failure of public interest registry to respond directly to the New York court could end up in the US Supreme Court.

Konstantinos Komaitis: And that would be very interesting turn of events. And I understand to certain extent why the public interest registry took the position that it took exactly because otherwise you expose yourselves to every possible jurisdiction and when you have conflicting decisions. And then, you know, there is litigation that can drag on and on and on and on.

But as Wendy said, and I totally agree, this is - the impositions that are being placed upon registries to literally take down domain names and seize them in general contributes negatively to the DNS as a whole and the way it operates and might actually be detrimental as I said.

We led the various reports that came up. Anything else on that issue and I would - yes, Glen?

Glen Reichart: It's ineffective. I mean, you take a look at (roja)direct.org which was one of the names taken down. They're now operating legally under (roja)direct.es. So this whole idea of going after this to do take downs is nuts in the long run because you can easily bypass it, get around it, use some other name, use some other country codes.

And you would be chasing forever every time you moved your domain name you then issued a new takedown order to the new registry. So in some sense it might resolve itself but I really do appreciate the offer, Wendy, for the (Amica)'s support; that might very well be important.

Konstantinos Komaitis: Yes. And before I would - just to make (unintelligible) (roja)direct dot - well the (roja)direct only the Web site is actually (ICE) for the takedown. Avri.

Avri Doria: Yes, this brings up a question for me. And it came up in two contexts; one was, you know, the notion that PIR would look for a jurisdiction to move to; that was reasonable, you know, places like Iceland always come to my mind.

And then also this one where a - a domain name can move to and not be persecuted. And I'm wondering if anyone has started sort of collecting the data not on where takedowns are happening although I guess it's the obverse of that but what are the safe, the reasonable jurisdictions for a registrant or for a registry?

As I say I've been watching places like Iceland and I think they get better all the time and think it should be a big boom for registries and such in Iceland. But, you know, I'm just curious has anyone done the work to basically start figuring that out; to start tracking it so that you could almost give a takedown rating or a safety from takedown rating to various jurisdictions that would achieve, A, a comfort to people to know that if you want to register something, you know, get a registrar who's in that jurisdiction.

I've moved all of mine to Canada which is already better than the US. You know, perhaps looking to move them somewhere else. And, B, perhaps also to create sort of a pressure on sort of jurisdictions to say ah-has there's a business, you know, reason for us to liberalize these roles because someone else is getting, you know, the registrar is moving there, the registry is moving there, the whatever.

So it's just a thought of something that's not policy oriented but is fact collection and chain publishing.

Konstantinos Komaitis: That is actually a very, very interesting question. I don't have the answer; the only thing I can tell you so far is that at least Spain, for example, has said that one of the domain names that was taken down for the Spanish law it wasn't really, you know, illegal so it should be kept up so you have Spain.

I have Brendan and then I have Wendy. Thank you.

Brenden Kuerbis: Thanks. Just following up on Avri and then what Glen brought up I thought was very important to which courts will registries and registrars respond to. That's a specific piece of knowledge that might be incorporated into a registrant's agreement - a rights - registrant rights. You have the right to know which courts a registry and a registrar will respond to.

Konstantinos Komaitis: This is - yes, I mean, the reason that PIR chose Virginia is because of the (unintelligible) provision in there which basically says where the (city) of the domain name is than the courts located in that jurisdiction will have - will be able to adjudicate the dispute; in the cities where the registry is that (unintelligible) Virginia.

And actually the interim provision is, you know, in almost any domain name statute that at least I'm aware of, you know, you have the ACPA and then you have (unintelligible), then you have protect IP act interim always appears

there because this is a way to justify jurisdiction which unfortunately is within the United States.

And, you know, then we have all those issues that we have been discussing. Wendy.

Wendy Seltzer: I like Avri's idea of a chart - best places to - or places where speech is protected and domain registration and people are interested in working on that. It sounds like a project that the Chilling Effects Clearinghouse would be interested in cooperating with.

Traditionally of course we've thought that the United States is a pretty good jurisdiction for speech because the first amendment protects freedom of speech to a greater extent than many other national laws.

But in the conflict between intellectual property claims and free speech claims the United States has been increasingly moving toward copyright above all else; trademark above all else ignoring the fact that the right to criticize a trademark holder and criticize a copyrighted work are critical free speech elements.

Konstantinos Komaitis: Thanks Wendy. Well count me in on that project and as for the, you know, criticizing and everything I was told by WIPO that if you include everything in the UDRP (unintelligible) clear fair use provisions you're micromanaging so - and we don't really want to do that so that was what I was told. Yes. Please tell your name; I'm really bad with names.

Woman: (Unintelligible). My question is about (unintelligible) for the domains that if you follow the news last week I think that a Malaysian government (for) the US government (unintelligible) domains, okay. And the problem was that they are anonymous and the (unintelligible) group - I think (unintelligible) they said they call themselves (unintelligible) to Malaysia government (unintelligible) because they want to protect the domain name.

They said the government shouldn't follow the US order to block both domains. And I think about the IP (unintelligible) properties (unintelligible) to our countries, I mean, to our nations like Thailand, Malaysia, China, Vietnam, okay, I have to accept that we have a lot of illegal stuff (unintelligible) product selling in our region.

And this kind of (unintelligible) domain or blocking domains will cause them (unintelligible) attack and my concern, okay. And our nation maybe lack of (unintelligible) to protect our self and that the (unintelligible) bit problems for us - for the (unintelligible) the Internet user. So I just would like to raise this problem to the room and maybe you can recommend some solution of that for us also.

Konstantinos Komaitis: Anyone would like to make any comments on that? No? Wendy.

Wendy Seltzer: I'll follow up (unintelligible) public offline.

Konstantinos Komaitis: Thank you very much for sharing that. And if you could possibly actually, you know, send us an email and tell us exactly about (unintelligible) by the Malaysian government and which domain names were all about - any information on that front would be very much appreciated and thank you very much for informing us about this. Anything else on that front?

Great, operational issues, I think that Milton wanted to do - raise something which I think will fit here under operational issues concerning the travel. And then I would actually like us as NCUC after what Milton raises to discuss something that occurred and I didn't really like personally so Milton.

Milton Mueller: Okay so I'm talking now in my capacity as Treasurer of the NCUC which is kind of a role that I've inherited because you have to start a bank account to have money. And it's not easy whenever you have a new officer to just change the ownership of the bank account.

Now this was a pretty minor activity when we started having it two years ago. Typically we got 10,000 donations here and there, often from PIR. And we sent one or two people to meetings. Then we had this big success with the San Francisco event and our - a couple of other donations have come in so that we have - I think at its peak maybe somewhere like $60,000 in there. And at that point you really have to become much more careful in how you're allocating this money.

So I'm trying to think of ways to systematize this. And I'm also being a little bit concerned about being more budget conscious and frugal now that we have more money we may be losing sight of the fact that we're still not rich by any means.

So for example I have always argued - and this is a practice we've deviated from recently but I've always argued that when we support people to meetings we should have - try to come up with a fixed amount that we say this is the maximum amount you're going to get from us. And you find a way to stay in that budget, right?

So that that way we don't give anybody bad incentives so that if they, you know, if they could take a $15 shuttle bus to an airport instead of a $40 taxi, you know, they could do that. On the other hand if they can do that comfortably within the budget then they can do that.

So the problem is that different meetings have different expenses, right? So the hotels in this case are just now incredibly expensive. And so, you know, I don't know, I just think we need to discuss ideas about that like having a limit on the number, you know, the - some kind of a fixed limit on reimbursement or else a limit on the - hotel amount that we pay per night; something like that.

There's drawbacks to all of this - all of these kinds of rules but I do think we need to just keep people in the mindset of not being on an expense account,

you know, where NCUC pays for anything you do and having more of a budget concept in which you're given a budget and you find the most efficient way to do that.

The other thing that has to happen is we have to have a more internationalized bank account and credit.

Avri Doria: ...concerned about a liability that it sooner or later if someone is giving money to a constituency of ICANN because it is a constituency of ICANN than in some sense ICANN starts to incur some possible liabilities. And we know that liabilities drive the world's concern.

So there is going to be - and I think that that in some sense may actually end up being helpful in terms of giving a standardized way to deal with it. In terms of the signatories on a bank I actually have been a treasurer of something once before and, Yes, I just had to basically - there was a form signing and a form giving.

So I guess any bank that when they give you that account it isn't one where you can add signatories by some procedure would be problematic. But that should be fairly normal with most banks.

And finally I had the same problem when I registered with my Citibank at this hotel. And when Citibank called me they actually said there were two points: one was I hadn't called them and Singapore is just one of those places I should call them before I try to use my credit card. Although I had another credit card that's used to me traveling all over the place that they ended up taking.

But two, they said this hotel was filling the charge incorrectly. And so it raised a fraudulent flag that made them look at it and say, ah, they didn't call. So it was the - Citibank because I had a long talk with Citibank saying why did you

do this to me? You know, I didn't just say fix it; I said explain yourselves. And they did. And they also gave me a bunch of free miles.

But - so there's a compound on a promise. But yes we always should call. And, I mean, I try to do that when I travel to call on my credit cards but. So there's things but - so I'm agreeing but saying that there are also precautions that we can take before we actually go places.

Konstantinos Komaitis: Thank you Avri. Carlos, senior.

Carlos Afonso: I don't know how this works in the United States but the ideal situation would be that we had an institution with tax number and such which would be very complicated for (Earl) I think. So I don't know if there are ways to do - in Panama it's easy to register.

Konstantinos Komaitis: Panama.

Carlos Afonso: In the Bahamas I imagine that is also very easy. But well Milton has experiences with the Ford Foundation, right, they are a bit - they require many of these foundations require accounting (unintelligible) etcetera. And I don't know - I don't know how to circumvent that or do it in a way that you can show your accounts and there are no problems with it.

We had a grant from cgi.vr which no problem at all. But very few organizations would give money in that circumstance - at least the ones I know - in which it looks like you are sending money to a personal account, you know, this is complicated. So we really have to sell to the Board...

Milton Mueller: When you have an account that is a nonprofit organization account...

Carlos Afonso: Yes, this is - can be done in (unintelligible) it cannot. It's a good - good way of - okay.

Konstantinos Komaitis: Robin.

Robin Gross: Yes, thank you. Yes I think these are all really great ideas, Milton. And what I would suggest we do is set up a - because we are growing and we are going to be bringing in more money and having more expenses. I think we may want to sort of formalize this a little bit more and set up a - like a nonprofit corporation like, you know, I do all the time; I set these up so I'd be happy to help.

I'd be happy to set one up for NCUC. So we would set ourselves up as an official noncommercial or nonprofit corporate entity. And then we would have officers and one would be the treasurer and then there could be other officers as well. And it's actually really, really easy and really, really cheap to do and I'd be happy to do it if you guys decide that's the right path.

Konstantinos Komaitis: Thanks Robin. Kim.

Kim Pham: Actually just in that regard I'm just wondering what are we actually and what is our legal status overall?

((Crosstalk))

Milton Mueller: We're not registered as a nonprofit. We are...

((Crosstalk))

Milton Mueller: ...bank accounts with this bank we have a number that says something...

Kim Pham: But, I mean, my question is as what did we sign? I mean, did we sign as the noncommercial user constituency or, I mean, okay but then what is our legal status? If we sign as such then we have to have some legal status to actually enter into a contract otherwise it's just...

Robin Gross: That actually isn't clear to me. In which case - I have no idea how it was set up, you know, how NCUC was originally set up or how - I have no idea. But I've often wondered that myself; what is our legal entity? What is our legal status? We're not a corporation. We're not a partnership; we're individuals. I mean, it's...

Milton Mueller: I think we're a simple association.

Wendy Seltzer: Yes, I was going to say unincorporated association is very - the standard what you are if you haven't done anything else.

Konstantinos Komaitis: Yes, which (unintelligible) presumably it's legitimate through ICANN because it's part of ICANN. I mean, NCUC would not exist if - no?

Wendy Seltzer: No - we are an association of people. And if we thought that we had interesting liability issues or interesting financial issues we should consider the incorporation rote to protect ourselves from these complications.

Konstantinos Komaitis: Robin and then Kim.

Robin Gross: I think it's also worth noting that if we set ourselves up as an official noncommercial corporation or not even necessarily a corporation but an official legal entity we can apply for and certainly would be granted federal tax exempt status which means we would be eligible for a lot more donations. I think we'd be able to get more money coming in because the donations at least from the US would be tax deductible and there's a lot more incentives, a lot of foundations and such won't give you money unless you are a - setup as a charitable organization and recognized as such.

So I think it really is the next sort of step for NCUC to grow is to set up an official legal entity.

Konstantinos Komaitis: Rafik. Oh Kim and then Rafik, sorry.

Kim Pham: Well I just wanted to propose to move actually Robin's suggestion of having NCUC actually become a official not for profit corporation under whatever jurisdiction. And then also actually move to follow Milton's suggestion of actually creating some kind of financial procedures and actually for that matter creating an audit committee to actually create those and have Glen volunteer as the chair of that committee.

Konstantinos Komaitis: Rafik.

Rafik Dammak: (Unintelligible) it's Rafik. When I heard Robin talking about non - how do you - nonprofit corporation should be under the California law or not?

Robin Gross: It's what I would suggest; it's what I know best but that's a very good question. And it's worth, you know, talking about what would be the right place, the right jurisdiction in which to incorporate.

Rafik Dammak: I think when you are - I was trying to make joke about that it's closed to the ICANN status. But when you talk about (unintelligible) I think many people talk about this but just thinking if we (unintelligible) profit foundation. I don't know what's the difference between all this - or kind of organization. It should be based in United States or outside of United States?

And if it's based in the United States it can, you know, in the NCUC we have officers that can be from all of the world so it can rise some problems if we have nonprofit in the United States and officer outside United States. And maybe we can have other (unintelligible) in Switzerland - Switzerland (unintelligible).

Konstantinos Komaitis: Thanks Rafik. So considering those discussions and given the discussions that we've been having on that issue may I suggest that we form some sort of an audit committee that could preliminarily address those issues

and try to put in place slowly some processes that will allow actually to take the burden of Milton right now

Milton Mueller: What kind of committee, an audit committee?

Robin Gross: Yes, I don't think it's an audit committee because that would be.

Konstantinos Komaitis: No.

Robin Gross: You would do an audit later.

Milton Mueller: An incorporation committee or an audit committee?

Konstantinos Komaitis: (Unintelligible).

Konstantinos Komaitis: The governance committee, yes. That would be able exactly to come up with those processes. And so may I ask for volunteers?

Milton Mueller: As long as it doesn't have a new mailing list associated with it...

((Crosstalk))

Konstantinos Komaitis: No I don't think so. There needs to be a new mailing list so would I ask for volunteers. Robin, Tim, Milton. Yes I think that, you know, I mean, to begin with (unintelligible) especially those, I mean, I would volunteer but my relationship with mine is not very good so I don't think you want me part of this group. So...

Rafik Dammak: I had a question but forget to ask it.

Konstantinos Komaitis: Yes, trust me. It's better - you will be discussing those issues Yes.

((Crosstalk))

Konstantinos Komaitis: Rafik.

Rafik Dammak: ...how other constituency are (unintelligible) I think?

Konstantinos Komaitis: I wouldn't have...

((Crosstalk))

Rafik Dammak: ...more money problem than us.

Konstantinos Komaitis: I personally wouldn't know. Anyone has any input on that, how other constituencies might be dealing with that very issue? No.

Glen Reichart: It may be worth approaching ICANN just to ask them if they have any templates or other constituencies that have done this that we could copy as opposed to starting from zero.

Konstantinos Komaitis: Sure. Actually that's a good idea Glen.

Woman: I have a crazy - we have a not for profit body though it's in India. This will answer your (unintelligible) the first part when you're saying that, you know, if it is registered in the US with the other laws, you know, if you are coming from a different country would there be a problem.

I really don't think so because, you know, you are (unintelligible) to US so it would be governed by the US laws. The second part as in when you are forming the constituency how the money would flow or, you know, if you're getting too much of money how you would manage I think it would be governed by the US laws based upon what - how you are constituting your association or not for profit. And - I have answered your question correct?

Rafik Dammak: No, I don't know because, you know, each country has its own laws about the (unintelligible). Maybe some (unintelligible) that they ask that officer have to have - that like US citizenship for example to run so (unintelligible).

Konstantinos Komaitis: Okay thank you very much. Just to make a brief statement about the people that NCUC is funding to come here and the selection process and that - it's just that - it's something that I would like to put on the record.

It is me as a chair and I inherited this system which I will say it's a very good system. We are NCUC seeks to bring people that actually actively participate in the mailing list, in working groups, in - within ICANN and - who represent of course noncommercial interests.

So - and all this process goes through the NCUC's executive committee which decides whether the people that the chair suggests should go there so that is a very transparent process as to the people that NCUC is bringing to the various meetings. And I would just like to put that on the record. Rafik.

Rafik Dammak: Konstantin so I think we are supposed to have financial committee maybe. Avri can confirm that - financial committee for...

Konstantinos Komaitis: I think that's for NCSG not NCUC.

Rafik Dammak: Oh.

Konstantinos Komaitis: Anything else on that issue? Nope? So I - to be clear the information of the governance committee that includes key notes and, Robin, that can take all these issues forward and of course I am here to help with whatever you need.

Now another issue that I would - very briefly at least for me that I would like to bring forward and I'm not sure whether actually it's even the appropriate

space. But I think that NCUC should actually possibly discuss that was the recent board seat for (temp) elections.

And unfortunate turn of events where NCUC/NCSG actually but NCUC as well suggested and put forward Avri as a potential nominee. And Avri in the second round did not manage to secure all six NCSG councilors. So I am not even sure who didn't vote for Avri.

But Avri - well apart from the issue that Avri has contributed so much to this community for oh so many years and has been with us and representing us for oh so many years this rate is a very bigger issue as to how the unity if you want that exists within the noncommercial stakeholder group.

So if anyone would like to make any sort of statement on that front or if you consider at least it's potentially more of, you know, possibly more appropriate to be raised in the NCSG meeting that would be okay. But I would just like to just state that for the record. Wendy.

Wendy Seltzer: I supported Avri in both rounds. I think we may - but apart from that I think we may want to consider the fact that NCUC and NCSG has always not directed the vote of its councilors in binding ways as some other constituencies apparently do.

We've left our councilors free to vote on their own. It's not clear that we have the power to compel the Board-appointed NCSG councilors but we will in our next round of elections be electing all of the councilors from NCSG and then that's I think a matter to consider of internal governance procedures.

Konstantinos Komaitis: Milton, Robin and then Rafik and then Avri.

Milton Mueller: Well Wendy raises a really important issue. We were just talking about that because we noticed, you know, on the Council that this Brasilian ISP, Jaime, was frequently, you know, expressing opinions that would indicate that he

would vote with us. And I said this could be very promising and then they all said no, no; the Business Constituency - or the Commercial Stakeholder Groups require their people all to vote the same.

And I think this is really crappy. I mean, I hate this whole idea that the councilor can't think for themselves and that the diversity among the council members - because you're supposed to have geographic diversity as opposed to have, you know, possibly even ideological diversity but these people - what's the point of having? Why not just have like cardboard cutouts of Marilyn Cade sitting at the table.

So I don't like the idea that we would imitate that but on the other hand it's like unilateral disarmament, right, so that if they can play that game and we can't then we're at a disadvantage.

Konstantinos Komaitis: Thank you. Robin. Okay then we go to Rafik then Avri, Bill and - Robin, you can jump in.

Rafik Dammak: Okay just to clarify something I voted in both rounds for Avri even because Wendy said that we are not sure about Board-appointed councilors because before being a Board-appointed councilor I am also NCUC member.

And I voted for Avri in both rounds. It's clear who didn't vote and the reason also. I don't know how the NCUC can deal with that or its solution at the next election is to have each councilor (unintelligible) from the NCUC.

Konstantinos Komaitis: Oh Robin.

Robin Gross: You know, I was just going to - I just remembered that of our six noncommercial representatives on the Council four have confirmed to me that they voted for Avri both times. And the two that did not respond and did not (unintelligible) other are Debbie Hughes and Rosemary Sinclair.

So, you know, do the math; Debbie and Rosemary are the two that did not vote for the noncommercial candidate but instead voted for the commercial representative for the Board. So I, you know, unless they come forward and say that's not true or unless one of our other councilors are not straightforward then, you know, that's who it must be.

Konstantinos Komaitis: Thank you. Avri. No Avri was first it looks like.

((Crosstalk))

Konstantinos Komaitis: Okay if you defer to Bill. Bill.

William Drake: It doesn't matter but I thought you called - I misunderstood the roll before. This is a pretty annoying event that got a lot of us kind of worked up. And I think not just on the ground - I mean, personally - I'm sorry I'm not coherent today, I didn't sleep.

I would not want to do what you suggested Konstantin - this is trying to enforce the same kind of approach that CSG has where all councilors have to vote the same or something like that.

Konstantinos Komaitis: Sorry, I never suggested that.

William Drake: Well...

((Crosstalk))

William Drake: Oh Wendy, okay. That's not the solution. And anyway that's not consistent with the charter that's going to be approved. The key is to win the next election and to ensure that we have a slate of people elected who are all reasonably on the same page.

But I think more generally the thing that really bothered me aside - well there are two things that bothered me. One was the complete lack of transparency or dialogue. The fact that the colleagues that were planning on shifting their vote in the second round to the CSG candidate were never willing to engage in any discussion or dialogue about this or reveal their preferences or anything like that I thought was really kind of inappropriate.

The other thing that really bothers me about it too - I mean, and she's a perfectly lovely person, you know, I like Rosemary quite a lot - but let's be honest: Rosemary doesn't represent anybody. She was appointed by the Board.

I mean, Debbie can at least claim to have her (NPOC) people behind her and if there's a group there of people that prefer the business candidate than okay. But Rosemary has no real constituency behind her and voted that way basically because she likes Bill.

And there are people who on the basis of a personal friendship, you know, is to me kind of inappropriate when the rest of the stakeholder group that you're a member of is all clearly articulating a different presence; that's kind of - blew me away. So it's - and I don't mind saying that on the record; I think that Rosemary was wrong to do that.

So - but yes the answer is simply that next time - first of all we should never trust CSG because some of the - some of the initial soundings that we got from them were maybe going to be a little bit more congenial towards cooperation, etcetera. I mean, the fact that they put forward a candidate that they said well we picked him because we figured he'd be acceptable to you but they never talked to us to ask whether he'd be acceptable is kind of strange.

Okay but the solution is simply we have to mobilize. When we have the next election under the charter we have to ensure that we get strong candidates and really get the vote out in order to avoid this kind of thing going forward.

Konstantinos Komaitis: Thanks. We have Avri.

Avri Doria: Thanks. It may be slightly indelicate of me to speak on this topic but - and don't take any - me indelicate? What surprise would that be? But I just wanted to preface with, you know, realization that indeed it may.

Don't get me wrong in anything I say; I would have preferred to have prevailed in the election. However I would strongly argue against ever trying to constrain the votes of NCSG members.

I think that is one of the important attributes of the NCSG pretty much almost unique among the stakeholder groups and constituencies that, you know, people are expected to be able to think for themselves, make decisions for themselves for whatever reason they have. I don't particularly hold anything against those that voted otherwise.

I would also caution us in future elections to perhaps think about the candidate that we nominate and not nominate someone like me who has managed over the years to piss off a number of people so that you have hard core antipathies on the other side.

In other words I was truly honored to be nominated. I really hoped that I would win. I did try my best to convince, you know, I reached out to every member of the CSG saying hey, you know, please think about; I know you may be constrained but think about it anyway.

But one of the things to consider in coming up with a candidate is to come up with a candidate that perhaps shares our viewpoints in many cases but perhaps doesn't have the combative history that I bring into this. So yes

people knew that I could be neutral but people also knew that when I wasn't wearing my neutral that I can be fairly combative, persistent and certainly almost never on the side of business.

And so for anybody on the business side to look at me and say oh maybe she'll vote in favor of business at some point would be fantasy on their part. Maybe she'll vote in favor of an IPC would be fantasy. Okay ISPs perhaps Yes; I have a lot of respect for ISPs and possibly would vote in favor of an ISP issue in fact probably would.

But I think that that's something that we have to consider when coming up with a candidate is finding that balance between someone that agrees with our positions but someone who hasn't got a history or perhaps just a recent raw history of antagonizing. And I have to acknowledge that I have on occasion been a persistent antagonist of those in the CSG. Thanks.

Konstantinos Komaitis: Thanks Avri. Rafik and then - oh, yes.

Wendy Seltzer: I just wanted to jump in. This is Wendy. To clarify that I wasn't advocating that we adopt block voting but merely that we have this discussion about this is one of the downsides of not.

Konstantinos Komaitis: Thanks Wendy. Rafik and then Robin.

Rafik Dammak: (Unintelligible) the first time that happened in the GNSO Council. Okay louder. It's not that the first time that we have such (unintelligible) in the GNSO Council; that happened before with (unintelligible) motion. We failed because Debbie voted with the contracted parties.

I don't know how until the next election we can deal with that. I don't think it's real problem of communication (unintelligible) thinking that she is representing the American Red Cross here. (Unintelligible) that Board appoint

a Red Cross representative in the GNSO Council but she vote on things that -
following that.

For the next maybe - I think one of the best election process we have is that
one that I voted - I said no Chuck. I think if we have a real public elections it's
more transparent. I don't like this electronic voting. The public any kind of
election like for share should be public that's all.

I mean, we could wait for - if we could make - during ICANN meeting and we
vote in public sessions it would be better and more transparent than just
electronic vote.

Konstantinos Komaitis: Yes just a little bit comment. I'm not sure about the public voting
(unintelligible) behind it. But in case this is a discussion...

((Crosstalk))

Konstantinos Komaitis: ...that we can have.

Rafik Dammak: ...because I know that like people - and I remember in Seoul how CSG
people were real freaked out about a public vote. They speak independent
and the freedom of the expression (unintelligible). So they don't want a public
vote.

Konstantinos Komaitis: Okay and Robin.

Robin Gross: Thanks. I just really wanted to support what Bill said about not wanting to
jump on - forcing our councilors to vote in a certain way because that does
seem like the nuclear option, if you will. And maybe we, you know, that - we
don't need to go that route at least not at first.

I think what we should do is really need to engage the membership and the -
with the Council. So much of what's going on in the Council the membership

has absolutely no idea what is happening. There are, you know, constantly motions and votes and how the noncommercial representatives are voting on these issues never gets back to the membership.

So, you know, they don't really know what they'd be voting for or how a particular candidate has voted. So I think if we could figure out a way to have more engagement and transparency in our how our councilors vote. For example it would be very easy just to create like a table of the motions that are before the Council and then we could just keep track of how do our councilors vote on these issues?

And then when it comes time for the election we've got a voting record we can look at. And, you know, that's what most, you know, it's not exactly a revolutionary idea. So I think that that kind of keeping more - keeping better track and keeping the membership in the Council more directly engaged together I think will help us to be on the same page on this.

Although one possibility it would be would be we could sort of change the rules such that we (unintelligible) councilors to vote a certain way only on this kind of a serious issue and like who do we put on the Board and everything else, all the other motions that come before Council or something go ahead vote your conscience but when it comes time to something as important to the stakeholder group as a whole it might be possible to say on that particular vote and that particular vote only you have to follow the directions from the stakeholder group.

However again, you know, this is more of going in the direction of this nuclear option which I don't necessarily think - I don't think we should go and I think we'd be better off to try to start with getting the engagement between the Council and the membership and just having more transparency and - in terms of what are our councilors doing and how do they in fact vote. I think that would go a long way. Thanks.

Konstantinos Komaitis: Before I give the floor to Avri I would like to make a brief comment on what just - Robin just said, I think the first option. And as a chair I am very much in favor. And the reason that I'm saying that I truly believe that out of the 200 and something members that we have not all of them - actually most of them - do not have an idea of exactly what's happening in the Council.

And when the email was sent that Avri unfortunately was not elected there was an outcry as to why. I think people were questioning why wasn't Avri elected? Why didn't she get the six votes that she needed?

So members are actually interested. And they would like to know how they're being represented in the Council on very important points of decision, on very important points of issues that affect them that they participate even if they just sent one email they might have expressed their opinion. And they would really like to see how they are represented.

So I would be very much in favor of actually trying to put something in place that I could possibly circulate to the NCUC and ask councilors to just tell us how this motions that appear before the Council are being voted by them without imposing any sort of vote, you know, this nuclear option that Robin is saying.

And I agree, it's not revolutionary; it's just more transparent. Avri.

Avri Doria: Yes, I think in terms of - I was just rereading once again the charter that we expect to be approved to see if there was even a way within the charter without changing the charter.

And actually there would be a way. And basically it sort of says that the policy committee with the approval of the executive committee can indeed constrain a vote.

I think the only way in which I personally would be comfortable supporting that is even indeed we did on an election of something like this an internal NCSG election that was used to make the determination of how a vote would be.

So that - so in other words if NCSG as a whole - because it's an NCSG issue not specifically an NCUC issue but if NCSG wanted to say listen, on things like voting for Board seats we want to constrain the vote of our representatives since we don't have a notion of, you know, the constituency voting or the stakeholder group voting or the house actually voting.

And a lot of people have argued for why do we have, you know, the representatives vote; why don't we have a full vote? But there's problems with that.

So should the NCSG want it taken that it wants to constrain votes it is possible, as I would say, I would argue that it should only be done in the case where an election has been held within the NCSG; a vote has been taken within the NCSG where there is a clear - whether it's a majority or 2/3, however the executive committee of the future wants to define such a mechanism doing it.

So, you know, it is possible. I hope that if we do do something like that it isn't something where the executive committee itself makes a decision or the policy committee in itself makes a decision. But it's done in a way that would have legitimacy, for example, (unintelligible) to represent the voting mandate of the membership.

Konstantinos Komaitis: Thank you, Avri. Any other comments on this? Nope. Okay may I just ask we can have a...

Avri Doria: (Unintelligible).

Konstantinos Komaitis: Of course.

Avri Doria: I would really be much more comfortable given the time constraints of the NCSG meeting today that we don't replay this. Because you had mentioned in one of your things is this something that we want to bring up in the NCSG meeting.

And from a personal perspective and from the chair of that meeting's perspective about the schedule I'd sort of be much more comfortable if we didn't. Of course it's this group's choice but I just wanted to bring that point up.

Konstantinos Komaitis: Sure. If you ask me however what you talked about I would mention it. Okay.

Avri Doria: I will ask you what we talked about.

Konstantinos Komaitis: Okay. Can we have a five minute break and then - 5-10 minute break and then please come back because at 12 o'clock we need to cover a couple of more issues before 12 o'clock when the Whois review team is coming to give us an update. Thanks. Can you please stop the recording for 10 minutes? Thank you. Until we recess. Thanks.

((Crosstalk))

Konstantinos Komaitis: Hello, can we start again? Operator, can we please start the recording? At 12 o'clock we're expecting the Whois Review Team to give us an update. And we still have to go a couple of items in the agenda and also Bill told me that he would like five minutes to just make a couple of statements.

So the issues that we have is the update from the councilors and as well as interest groups and NCUC preparing for ICANN 42 which will be in Senegal.

And because during the NCSG meeting the Board is (unintelligible) with the NCSG meeting and we put forward three questions I suggest that I open the floor at this stage to anyone who would like to, you know, to say anything on these particular questions whether NCUC would like to raise any particular (unintelligible) questions.

The questions are up on the screen. The first one is new constituency process and the NCSG charter. The second one is ICANN's engagement with developing and transitional countries. And finally the third one is how does the (unintelligible) role of the GAC affect the multi stakeholders. These are the three questions that NCSG will be discussing with the Board.

Personally in the second one I think that we might want to raise the issue - and I know that many of you, you know, if you had tomatoes you might have thrown them at me right now. But we might want to raise the issue of how developing intellectual property (unintelligible) intellectual property might actually exclude developing countries from entering this whole - this space - the DNS space.

But I think - well I'm sure that Avri and Wendy have - let's go to Avri and then Wendy and please let me know whoever else wants to be in the queue. Thank you. Avri.

Avri Doria: My first comment is just to note that on Question Number 1 there's a good chance that they just remind us that it is on the consent agenda, that there are no issues that are blocking it and it becomes a null topic.

I don't know but that would be my expectation at the moment since we've been informed that the constituency process, the NCSG charter and the NPOC charter are all currently on the consent agenda. Things on the consent agenda could fall off but almost never do. So I don't know how much of a topic there will be on that one.

Konstantinos Komaitis: And on that basis do we want to actually make a statement about the elephant in the room that by imposing to ask NPOC basically we have intellectual property interests within Noncommercial Stakeholder Group?

Avri Doria: If you're asking me there are noncommercial intellectual property interests so people could answer so?

Konstantinos Komaitis: Okay. Wendy and then Bill and then Brenden.

Wendy Seltzer: So we might choose to modify the questions that we're asking to drop this first one as being obsoleted and bump up the next one in the queue around trademark interests and consideration of trademark interests.

Konstantinos Komaitis: That was Number 2. What was the first one (unintelligible)?

Wendy Seltzer: The first one was where are the constituencies in the - and the stakeholder group charter. And as we said the Board has that on its consent agenda and we expect it to be approved.

Konstantinos Komaitis: (Unintelligible). Bill, Brenden then Milton.

William Drake: In retrospect on the first one I guess Avri disagrees with me. I don't think it would be inappropriate for us to raise the concern about, you know, I wouldn't frame it just in terms of intellectual property people because, I mean, Rosemary is not an intellectual property person per se for example.

Avri Doria: (Unintelligible).

William Drake: Yes. I think it's reasonable to point out though to the Board that the configuration that they selected in imposing - pointing people has met the frustration of the collective will of the membership of 99% of those people who are involved in ICANN on the noncommercial side with regard to not just the Board election but other issues.

And they should simply be aware that, you know, because like when I've talked to Board members about that they don't realize that at all, number one. Number two I think it is completely legitimate to raise the concern about the secrecy around NPOC, the fact that we don't know who the members are; we've never been able to find out, can't get in the, you know, most of us can't get on the ListServ. It has just been a very strange way this has been inserted with into our mix.

And we know that we can't change anything right now; the Board is not going to reconsider its decision. But particularly to the extent that there's a - the NPOC charter approval I think it's fair to at least let them know what that has meant for the noncommercial participants in ICANN. You're not listening to me. But anyway okay.

Konstantinos Komaitis: Thanks Bill. Brenden.

Brenden Kuerbis: Could you scroll down to Question 3?

Wendy Seltzer: I just want to note for the record we also have Mary typing lots of things into the Skype chat and perhaps we want to include those in the discussion.

Brenden Kuerbis: I can relay those in, Yes. It's just - just a minor nit but maybe we could improve the title - the bullet point. Because, you know, it's not necessarily the increased role of GAC it's the role of GAC and how it affects the policymaking process. I think that's kind of a better summary of the gist of the sub questions but...

Konstantinos Komaitis: I'm not sure whether we can amend the bullet points because they have already been sent to the Board. Avri?

Brenden Kuerbis: That's fine.

Konstantinos Komaitis: Can we amend any of the bullet points now at this stage?

Avri Doria: I...

Brenden Kuerbis: Or if it's not...

Avri Doria: I think the amendment would just sort of be in the way you take the conversation. You know, at this point certainly I don't think I want to send another message to (Diane) saying (Diane), by the way, I'd like to change the wording in this one to this. But I think if you immediately speak up and say well, you know, we don't really, etcetera, would be preferable. As I say I certainly don't want to amend questions.

Konstantinos Komaitis: (Unintelligible). Sorry, yes, Milton and then Wendy.

Milton Mueller: Okay so I want to strongly agree with Bill about the necessity for pursuing this issue very strongly. I think it's probably the most important thing we have to talk to the Board about is the - at least make them understand the implications of what they're doing.

So - and we may, I mean, even ask them - even if you don't believe it's going to happen I think we need to ask them to change their consent agenda. So let's - here's how I would approach it: Number 1 I would say we understand the issue here; the NPOC applied under the old constituency procedure but they promised to follow our new constituency formation process in order to reconcile the contradiction between the two.

So now we can legitimately say - and correct me I think - anybody can correct me if I'm wrong - that they are not keeping that part of the promise; they are not following the process and don't know who their members are; they haven't put their members on a (sheet). Mary summarized this - I had copied it in some file somewhere and put it somewhere.

But Mary came up with a very concise formulation of what was going awry here. And I won't try to look it up right now but we have that summary and I can find it somewhere.

So the point is because they are not keeping their end of the bargain is it possible for us to ask that the approval of NPOC be removed from the consent agenda so that they have an incentive to conform to what they promised to do; otherwise they don't, right? What's wrong with doing that?

I simply, you know, they support transparency, the Board does, I know. And they wanted the NPOC to follow these new procedures and become integrated with the noncommercials as a whole but that's not happening; that's not happening at all. So we have to make that point.

And if they refuse and they tell us they can't do it and so on then we have to make it clear to them that essentially what they're doing is they are giving (unintelligible) stakeholder group one maybe two seats in our stakeholder group. I mean, that's pretty obvious.

Konstantinos Komaitis: Okay thanks. Wendy and then Robin.

Wendy Seltzer: Just wanted to convey some of Mary's suggestions. She offered the - if the Board is planning to approve constituency under the new process rules then the implementation will require all of the new constituencies to follow the new NCSG charter including all constituency members being members of an SG and transparency rules about disclosure and mailing lists. I think it would be preferable - so that's Mary's comment.

Wendy - my personal thought is that it would be preferable to have that commitment up front before the approval of the constituency because we know these things can take along time once they've gotten their approval to change the back end. And the promise of future approval is a stronger

incentive than the threat of we might take some enforcement action sometime but we're not real fast if you don't change something later.

Konstantinos Komaitis: Thanks Wendy and Mary. Robin.

Robin Gross: Thanks, Yes. I also want to support the notion that we need to continue to process this issue of NPOC being a business constituency within the Noncommercial Stakeholder Group. I think the Board really doesn't understand what they've done; the Board members that I've talked to. I've asked Board members do you know who their members are; they say no.

Have you looked at their mailing list? They say no. So they don't really know. So somebody needs to tell them - somebody besides staff, frankly. And so it's going to have to be us. So I think we really need to continue to push them to be more transparent and to truly be noncommercial.

I noticed that they've opened up their membership to groups that are not only nonprofit organizations but not - but that could be a non-governmental organization. So for example the International Olympic Committee is part of their group. Well this is not by any stretch of anyone's imagination anything but a business interest.

And I think we need to really hold their feet to the fire and make sure that this new (constituency) is in fact noncommercial in its goals and objectives and its membership. And they need to live up to the ICANN values of transparency and accountability. And so I think we need to continue to express to the Board our concerns because they're not going to get it from anywhere else. Thanks.

Konstantinos Komaitis: Thank you Robin. And just well - it's a very sensitive topic. To me they the whole Olympic thing (unintelligible) International Olympic Committee and what they're trying to impose on ICANN and I actually didn't - I hadn't realized that they were a member of NPOC. So, you know, actually this

reinforces if you want the argument that, you know, noncommercial users are being infiltrated by business interests and this is quite problematic.

Any other comments on the three questions before the Board that you would like - Rafik.

Rafik Dammak: For the Point 2 it's not just - it's just one of the topic in the Point 2 but you are going more about that ICANN to be more included for people from - an organization from developing countries.

Konstantinos Komaitis: Okay. So I think the whole idea of Number 2 is mainly that but I would personally like to see it expand a little bit as to how super protection mechanisms that we're creating might be excluding registrants from the developing world especially right now that they're experiencing such a huge Internet boost.

Rafik Dammak: It's like is NPOC including some members from developing countries or no?

Konstantinos Komaitis: I have no idea who their members are.

Rafik Dammak: Great.

Avri Doria: Yes on the issue of the Number 2 I think it's good. I think bringing in your issue is a perfect opportunity to talk about trademark in the context of development.

I also think given George's impassioned plea for let's do development correctly as part of the gTLD vote it is not only JAS it goes beyond JAS into okay what do we mean by ICANN doing development properly and get George to sort of...

((Crosstalk))

Avri Doria: Well, I mean, it is an issue now. George is going to be coming to the JAS meeting to try and help us find the correct path to developmental assistance. And so, you know, it is part of the issue I think. As I say I'm not probably going to bring up anything because I'm going to be sitting up there with Peter being sort of mute. But, you know...

Konstantinos Komaitis: Well same here because I will be sitting up there in a sort of (unintelligible). But at the same time it's very interesting you raise that about the developing because last night I had a chat with a Board member who actually wants to see more, you know, help in the developing world.

And the way ICANN actually will engage with the developing world to bring awareness, to help people participate more not necessarily within ICANN but on the Internet as a whole. So I think it will be a very interesting discussion. Bill wants to make something. Bill.

William Drake: Yes I want to be a very difficult person here. I really hope we don't spend a bunch of time talking about trademarks. I know there are some people here who are keenly interested in that issue but that's just one of the many, many kinds of issues that pertain to developing countries.

There is a dialogue that's been going on amongst some of us for a while now. In Nairobi in particular we had a big meeting about this about a broader range of issues pertaining to the relationship between ICANN and the developing world.

The fact that, I mean, people like in say even in the GNSO Council are completely unaware it seems that developing country governments and other stakeholders in the developing countries has a perception which are not completely unfounded of ICANN as being essentially a North American organization that doesn't represent their interests and so on.

There's a - because of that there's a debate about how do we promote greater engagement by developing country participants, how do we think about ways to re-jig the institutional mechanisms to facilitate participation and how do we start to look at the range of policy outputs that ICANN generates and built into that assessment of potential impacts on developing countries.

I can certainly tell you that in my 2 1/2 years, whatever it is on the Council I have never heard any discussion of that. Rafik can certainly I'm sure back me up on this point. And it's been a source of some frustration that even on points where one can imagine there are helpful impacts on developing countries that it's not even a dialogue one can have.

So the point about this is (Katim) is holding this meeting on Wednesday which he has launched on his own information without really talking to any of the people who have expressed interest in this area for some time. And, you know, but nevertheless it's going forward. There is a desire to have some sort of meeting in Dakar.

I think it's important for the noncommercial stakeholders the most clearly who are I believe most internationally oriented and internationally based in terms of membership people in ICANN to show real commitment to an interest in the range of issues.

And so if we end up having the trademark discussion over and over for 20 minutes I'm going to be really pissed because that's totally squeezing out a lot of other kinds of issues and I would hate for that to happen. Trademarks have been talked to death. We know that trademarks are an issue. They are an issue for developing countries as well.

There are other kinds of policy outputs that are also an issue for developing countries as well. So I hope we don't just single in on that and lose track of the larger issue or we're going to end up losing an opportunity to try to engage the fundamental question of do they see themselves as having

responsibility to move this organization away from being just a corporation that is trying to foster new markets for guys to make money to being a global public (unintelligible) with broader responsibilities.

Konstantinos Komaitis: Thanks Bill. And I agree, I mean their main intention is not to dominate the discussion with trademarks at any stage very I think it would be just an example of how, you know, this protection mechanism might exclude developing countries.

And of course it's all would depend on the answer that we would get in Number 1 question. I mean, if we had a lot of time then we need to be able and adjust. Wendy, would you like to say something? I think you wanted to be in the queue? No? Okay.

Anything on Number 3? How does the increased role of the GAC effect the multi-stakeholder balance? Would anyone like to make on that front where we just (unintelligible) right when we meet the Board? Avri.

Avri Doria: Very interesting comment that someone made. And I forget who exactly yesterday or in one of the conversations. But the notion that once the board was working on the advice from the GAC was just a bilateral discussion at that point between the two of them without any consultation as they were with the rest of the community.

And that seems - and I hadn't actually thought of that before. I was sort of trusting the board to be the representative of the consensus up to that point. And for some reason my mind blanked out and I actually trusted the Board perhaps more than I do that that's a role they can fill.

But I'm actually wondering when the Board is considering the advice especially when it's considering advice that may run counter to the prior consensus that they were dealing with. To the rest of us have a role? I think

it's a question that's worth - I forget who brought it up in a conversation yesterday but it cannot somewhere and so...

Konstantinos Komaitis: Here, here. Exactly. And, I mean, the latest interaction between the Board and the GAC (unintelligible) many things that we can potentially bring to the attention of the Board at least has to, you know, everybody, all the community work and it was a multi-stakeholder model and apparently we saw the GAC putting that model in jeopardy so this is possibly something that's discussed.

Anything else on those issues? Yes, please Don. Can you please introduce yourself because I don't think you are on the record. Thank you.

Don Blumenthal: Yes. Here we go. Yes, I introduced myself earlier. I'm Don Bloomenthal with the Public Interest Registry. And I just wanted to speak to something that Avri just said. I can't speak to other stakeholder groups or constituency is but the registry stakeholder group was heavily involved in comments and back and forth with the Board after the GAC - after the GAC scorecard was issued so that Board was listening to other parties; it wasn't should be a bilateral situation.

Konstantinos Komaitis: Thank you very much Don. Anyone else would like to make a comment on these issues? Please Milton.

Milton Mueller: Well just responding to Don. It's, you know, in some ways it's reassuring that they talked to the registries but in other ways it's quite evident to us that they didn't talk to us. And they probably never do.

That sort of reinforces the need to ask that question and in a sense of who are they representing and who are they listening to when they enter into these negotiations with the GAC and how do they know, you know, for example I heard during (Kurt) that they had these weird sort of halfway house they reach with the GAC on paying for objections, right.

They were very tough on this. And they said no everybody has to pay to make an objection and now they've reached something where I don't know, objections are traded like currency and you have a certain number for free. And once you use those up you give them to other countries. I don't know what it...

((Crosstalk))

Milton Mueller: I'm making this up but they did do something like this. I don't know the exact details of it. And we weren't told about that; we would never have supported that. I don't know of anybody in the registrar constituency who would - or I don't know it's just - I think it's a legitimate question to ask them.

But there's a structural problem here. If you have a (unintelligible) policy process and then at the end you're negotiating with two parties who are making deals values and interests that are not represented in the negotiation it's an interesting question.

Konstantinos Komaitis: Thank you Milton. I have Wendy and then Avri.

Wendy Seltzer: So in talking about the role of the GAC and - I wonder if we can raise our (unintelligible) positive way of saying we support - we, the noncommercial support positions that ICANN has taken against some of the push backs that they're getting from GAC.

And we also represent public interested non-commercial members from civil society and we can help them in their justification of - and explanation of these positions and so that we would like to be involved in those consultations and perhaps that gives us some more obligations to document some of those discussions in public comments more effectively so that we can participate in that discussion.

But I think in many cases we are (unintelligible) ICANN is doing and we should be offering that as support and sort of criticizing them when they don't take the support we offer.

Konstantinos Komaitis: I second that. And Avri please.

Avri Doria: One thing to be aware of is one of the things that I've noticed is the - especially that registries constituencies always puts in these long detailed careful statements about every time there is a chance to put in a statement they've got one and it's quite detailed.

So I don't know to what extent we have comparative statements so we'd get an answer back as when you hand the statements like they hand us statements we might actually consult with you. I don't know I just - we haven't given that much statement over the course of the...

((Crosstalk))

Milton Mueller: ...staff to do that for us.

Avri Doria: That may be as it is, you know, that is something if we don't go to them saying we've got this problem. So I think it needs to be an issue but I just want to be prepared having heard that they got that and all of a sudden realizing yes every time there was a comment period there was a long detailed discussion by, you know, the registry stakeholder groups.

So perhaps that is a clue to part of the reason why we've had less contact. Thanks.

Konstantinos Komaitis: Thank you. I have Robin then Don and then...

Robin Gross: Thank you. This is Robin speaking. I want to support strongly what Wendy said about when we talk to the Board about this make it very clear to the Board that we support a lot of the pushback that they've given to the GAC.

Because, you know, frankly the GAC wanted so much more and I think that that Board, you know, was able to stand firm on not everything; certainly not a lot of the things that we cared about that a lot of things. And so I think it's important that we support the Board on that and we make sure that Board knows that we supported them on that.

And I think another point that we maybe want to continue to talk about with them is the fact that ICANN is supposed to be private sector-led. That, you know, the whole point is to get away from a world or a governance model that is dominated by the nation state governments.

And so what we're seeing here is sort of a move backward in time to a model that gives governments even more power over the control or management of the Internet DNS. So I think that, you know, just always reminding the Board that being private sector-led is a feature and not a bug of ICANN I think is an important piece.

And another point that I think we constantly need to hit home with them is that they can't very much say that they're representing the public interest or rather they're constantly saying they represent the public interest but if they aren't consulting with civil society, with noncommercial organizations and individuals on these issues when they go back and do their last minute negotiations between the Board and the GAC that it really, you know, it kind of makes this whole we're public interest goal oriented sound very hollow because what we've really got is just a negotiation between the most powerful and what is - what is the public interest is kind of left behind. Thanks.

Konstantinos Komaitis: Thanks Robin. Don.

Don Blumenthal: Not looking to hog the mic here as I'm not part of the constituency. But there is a lot of I think overlapping interest with PIR. As Avri suggested, and I appreciate it, the registry group has taken the initiative to do this. The Board has not come to us and asked for our comments.

And when this group has done these comments it's not delegated to staff. The people who prepare these comments are the people who participate in the registry stakeholder group phone calls, you know, I work on them, David Maher, Jeff Neuman; it's not - like I say it's not delegated to anybody else it's up to the folks with the interest in governance to get it done.

You know, just as an example and I'll stop there in San Francisco we devoted a half day of the stakeholder group to do (unintelligible) our response to the scorecard. And it was just people (unintelligible).

Konstantinos Komaitis: Thanks Don. Please, kindly state your name for the record.

Woman: Yes, (unintelligible). Okay. I do not have any comment but I just would like to share my (unintelligible) from the developing country, okay, regarding the GAC. Last year when the ccTLD .thai IDN, okay, the (unintelligible) for the .thai, okay and, I mean, their (unintelligible) take care of the .thai but the government tried to intercept and (unintelligible) the reasons they want to do their (unintelligible), they want to know who registered the domain, they want to have the right to take down the domain if it's conflict to their interest (unintelligible).

So for the developing countries is this kind of countries where we (unintelligible) if any person in the country want to apply for the new TLD the government will try to be (unintelligible). So I just would like you as a representative to talk (unintelligible) developing country like us I don't know how the (unintelligible) can - could get - could manage for the .thai, the IDN

.thai, okay because they have to fight with the government to get the rights to take care of that.

But I know that their government want to get back all the ccTLD in Thailand to be under control by them, you know, if the ICANN understand about the human rights or getting funds from the developing countries to create a strong Internet user (unintelligible) in developing countries it's maybe better. Okay (unintelligible) in Thailand.

Konstantinos Komaitis: Thank you. Wendy.

Wendy Seltzer: Yes just in follow up on that I think another - this is - it's great to have members from the regions and developing countries coming into the meetings here and it would be very good if we could work as NCUC to support some of this discussion on our list.

Just as an administrative matter I wanted to suggest put a - check the public comments deadlines onto every one of our monthly policy calls.

Woman: Now since we're about six months into our work we have published a scope and roadmap also an action and outreach plan and some working definitions which was very much our focus back in March.

Now our scope is to look at the extent to which ICANN's Whois policy and its implementation is effective and meets the legitimate needs of law enforcement and promotes consumer trust. So in that sentence a whole bundle of quite complex concepts. But our focus is to look at not only the policy but also how it's translated into action and whether it's really working in brief.
Next slide. Now that we're, you know, some way through our work of course the issues start to bubble up to the surface that are really naughty or causing problems or ones in which people disagree - well as it's Whois disagree more than they disagree about everything else.

And so what we've tried to highlights at this stage is in a brief discussion paper to just frame what those issues are to see whether we can get a spark from the ICANN community and I hope a little wider on the various issues that we have perceived and also of course if we've missed any.

So what I'm going to do now is just run through the issues that we've identified. I didn't get very far in the last meeting so we'll just see how we go. So the first thing - if you're asked to look at - to evaluate the extent to which a policy is effective the first thing you try to do is to identify the policy.

And this has been quite an interesting course for us because while the affirmation of commitments and the GAC principles indeed confidently enunciate what the Whois policy is we have been unable to find the source of that.

We found various community developed policies relating to kind of aspect satellite issues of Whois but the actual concepts itself, the key central policy we have been unable to locate so if any of you know where it is please tell us.

William Drake: There are a few requirements in the registry agreements.

Woman: Oh yes, yes, yes indeed, yes. And we've got to those, thank you. But they're - our review of those was that the registry agreements are in fact translating the consensus policy into - that's in one way...

William Drake: But it's the only codification I know I've.

Woman: Thank you. Okay guys, Yes, I think we're going to have a similar thing. Shall we go...

((Crosstalk))

Konstantinos Komaitis: Yes, oh.

Wendy Seltzer: Wendy. I was just - I was noting that I think that's probably a rhetorical question as I'm not aware of any formal Whois policy only attempts to change or make that policy.

Woman: Okay we'll go to Milton and then I think they'll want (unintelligible).

Milton Mueller: Oh we wrote an academic paper in 2008 I think it was that tried to trace the history of Whois all the way through, you know, RFC, what is it, 890 or something to the formation of ICANN and the Whois debates of - up to 2006. I'll send it to you if you give me an e-mail address right now.

Konstantinos Komaitis: Thanks Milton. I think that someone wants to make a comment. State your name just for the transcript purposes.

Bill Smith: Yes, this is Bill Smith; I'm on the Whois team. I guess I would shrink this down to, you know, what is Whois and where is it is really what we're looking for.

Woman: Shall we go on to the next issue just in the interest of just keeping moving? We're asking really what measures should I can take to clarify the existing policy and also, you know, what linkages if any are there to those high-level principles sent out in the GAC principles and in the AOC which appear to be a Whois policy.

And the next slide is - the next sort of bundle of issues that arise relate to the increasing use of proxy privacy which is well described in that recent data accuracy study. And the fact that as far as we can tell at this stage of our investigation privacy and proxy is another if you like policy lacuna; it's a practice that has emerged through the market out of a perception of media; people are using it.

The estimate is about 15% to 25% of records are using proxy privacy to a greater or lesser extent to a more formal or less formal extent and also how you achieve the balance of the apparent requirements of the policy for Whois data to be full, accurate and available against applicable laws relating to privacy. So if there are any comments, any sparks on this I'm happy to hear.

Konstantinos Komaitis: Wendy.

Wendy Seltzer: Thank you. Yes as a veteran of many Whois taskforces and discussions I'm sure you know the policy on Whois and applicable law conflict that specifically was put together to deal with some of the potential conflicts between you must reveal information and you may - must not disclose information.

And I think in the one up to that the Article 19 working group put in significant submissions around the needs and requirements for privacy. And I think that into that gap that policy left privacy and proxy services serve an important purpose of permitting individuals to satisfy the requirements of their contract and other sort of technical requirements that they have stuff to fill the space of a Whois record with their registrar and simultaneously to preserve important rights of free expression and personal autonomy, safety and other concerns that they not have contact information or even identity information in Whois.

Woman: Thank you very much for that. And then you have any sense of how the consensus policy relating to Whois and applicable laws is going in practice? You know, because part of what we were looking at is implementation as well.

Wendy Seltzer: Yes and I believe there are problems in practice that policy can't be invoked until there is a lawsuit and nobody wants to provoke a lawsuit in order to vindicate rights so it would be better to have a stronger statement to protect the - particularly registrars and registries who want to be operating within the terms of their contracts and within the terms of the laws of their jurisdiction

and would like a stronger statement than if you - if you are sued you might be able to invoke this policy that no one has invoked yet.

Woman: So how would you see that - because I think policy is always an iterative process isn't it because you do your wonderful policy and then it goes into practice and it's a bit like doing a questionnaire or a survey or something you realize when you get the answers back what questions you ought to have asked in the first place.

Answer reflecting on that what would you think of as the right way to respond to this?

Wendy Seltzer: (Unintelligible) want something like a declaratory judgment or a request for administrative hearing within ICANN that an operator could put forward a proposal that we are planning to do this; does this comply?

But even in that policy we got the response from the lawmakers and data protection authorities that they couldn't issue advisory rulings and so you can't sort of learned whether your policy is going to comply with the law until you've gotten into an actual dispute.

Perhaps ICANN could help in framing this as an actual question that would rise to the level of a real case or controversy to be heard by various national authorities without pinning the challenge on just one registry or registrar but as an issue that really for the community. It would be helpful to learn more about the state of the law.

Woman: Are there any other comments on that? I think that one of the things - one of the reasons why it we framed the question in a way that we did was that we're aware of that outside of the G-space the ccTLDs, particularly the European ones or in Canada where you actually have national laws that protect individual's privacy have had to grapple with similar issues and have -

so that perhaps another - assertive softer way of approaching this might be to have a repository of best practices or something like that.

Or if I'm saying best practices I mean just a description of the way - different ways that ccTLDs have tried to navigate around these issues might be a useful source of information if they're trying to do that. Milton.

Milton Mueller: I think one of the old Whois working groups actually compiled all of that. Yes, it's probably forgotten now; it's buried in some morass of an ICANN URL or something. But it's something - I think we did that. Of course it might be obsolete now; it was in 2003 or something - way back then. But I can even try to dig that up. Ask Kathy Kleinman...

Woman: (Unintelligible).

Milton Mueller: Oh is she still? Okay great.

Konstantinos Komaitis: Yes, can I also add something? I think that the issue of what we can learn from domestic laws is quite important in the context especially of privacy issues. I mean, coming from jurisdiction which is the European Union where we have very strong privacy law protections and we always deliberate on that kind of boundaries of privacy.

And you will know having been based in the UK that we always have this case law that is coming out all the time and pushing those boundaries. So I think there is a lot of things that we can learn. And the idea of a repository or the idea of actually even what prompts those national laws and those domestic laws to reach the conclusions that they do reach can actually be quite beneficial for the work that you're doing. Milton.

Milton Mueller: Another thing to keep in mind here is that these are not independent domains. And that during the early 2000s the US government was going around the world as part of its trade agreements trying to require country

code TLDs to conform to global policy with respect to Whois so that there's interactions between a national policy and the global policy.

Although some of the stronger country codes like (unintelligible) for example have pretty much chartered their own course. If you look at some Peru or Columbia you'll see pressure on them to be more like the ICANN Whois.

Woman: So we'll move on to see if we can get past my record and go on to Question 4. I think in a way we've talked around this which is about this is that the balance at the heart of the Whois issue about how you respect the competing legitimate interests; privacy on the one hand but the commitment to complete and accurate data which, you know, publicly accessible without restriction. These are words taken from I think that AOC. So if...

Konstantinos Komaitis: Can I make a brief comment on that?

Woman: Yes.

Konstantinos Komaitis: Yes, and this is another very important thing. And, you know, I do understand to a certain extent always that the existence of the Whois is very important to identify bad actors especially the bad actors. But at the same time Whois has been misused in the context of the UDRP to make assumptions.

And one of those assumptions that we make is that if you don't have provided your information or if you haven't updated your information in the Whois then you are automatically in bad faith - a registrant is automatically in bad faith.

And then based on that assumption we transfer domain names whilst the reason for not updating the Whois might be that - well I am a registrant and I recently moved and I didn't change my contact details because I never thought about it. And it was only afterwards that I said okay, you know, this is something that I also need to do.

Semi can serve in is of how exactly we use the information in different ICANN policies that we find listed on the Whois. Thank you.

Woman: Thank you very much. And really there's a spectrum of reasons why you wouldn't keep your data accurate. And in fact there is a - the Whois accuracy study highlights exactly that example that you've given about people just moving and forgetting to update their details.

Now that's a very different quality of that data to somebody who is deliberately obscuring because they're a - what we would call a bad actor. So we'll canter on.

This one is more directed at privacy and proxy services and looking at the specific thing that's arisen there. Wendy please.

Wendy Seltzer: Sure, so - on this one I would say I don't think there's a concern or contradiction or rather the availability of privacy and proxy services can increase the accuracy of underlying data someplace because by getting people a way to give accurate information say to a registrar or to the maintainer of their privacy and proxy service while being assured that that won't appear in a publicly facing database without any intermediary offering a privacy or proxy service the only way of getting privacy is to give false information.

And then started everybody loses out because the registrant has no way of being contacted if there's a problem with the domain and nobody who's trying to find information can find out who the registrant is. So I think in fact privacy and proxy services improve and increase accuracy rather than the opposite.

Woman: I think that it is a sort of an example perhaps of nature abhorring a vacuum that this has emerged. And we have to ask ourselves why. I'm aware of one study that actually in the .uk where they did look at the accuracy of the

underlying data of - well in their case they have a registrant opt out and they found that the registrant details of opted out records tended to be, you know, measurably more accurate than those appearing.

I think that that's sort of an example of the concept that you were talking about. Bill wants to make a comment.

Bill Smith: Bill Smith. Yes that's certainly a possibility and there may be data to support it but then we need to look at the time to get access to the information. It's great if the information is accurate and if it can never be obtained it's pointless.

From a company that, you know, has to do a bunch of investigations using Whois data because law enforcement can't step up, there just aren't enough resources; we do in fact require access to some pieces of information. And these services actually hinder rest in some cases. There are some who are intentionally bad actors.

Wendy Seltzer: In the absence of others contributing I'll throw in the recommendation that I've made from time to time that, you know, we need more alternatives for what the registrant is doing. The registrant could say I opt for privacy anonymity above all else including the continued resolution of my domain name.

So if I can't be contacted take the domain down before giving my information over to somebody who's seeking it. And that might take off some of the pressure. Do you need to find out who is or if it's a site that - if the site disappears. And some of those might be political actors who are engaged in dissidents communications who fear what would happen if their identities are revealed.

But rather than coming to defend themselves in court or UDRP they might still rather lose the domain then have their identities disclosed.

Woman: I'm going to make a bid to move onto the next slide. So now we're moving into the area of compliance. I don't know whether this is an area where the NCUC has views. Most people do seem to have to have views about compliance.

So, I mean, these go from the general to the more specific. These are very general questions: how effective do you see the compliance efforts as being? And are there any commitments that you see as unenforceable at the moment? Does anybody?

And so these are running through the compliance type of issues what should be done, are additional powers or resources needed?

And so on. These are areas where we tend to see the - on the one side, registries and registrars and on the other side, IPC and business users having some fairly trenchant views on all of these questions.

I'm guessing that the - our areas of interest here are more in line with the policy and on the protection of non-commercial users. So I'm not going to dwell in details over these unless you'd like me to. Do you want to just repeat...

Man: Yes, I just want to say that, yes, we have been more on the side of the registrars, in particular, on this issue simply because - actually this is an issue that's now going beyond DNS Whois. It's going into IP address Whois and then the enforcement of copyright.

How do you map from a detection of a problem to a specific user? Do you rely on traditional due process or do you try to short circuit that in some way? That issue comes up in copyright peer-to-peer file sharing, it comes up with these graduated response systems around that. It comes up with DNS Whois- so that's a huge issue.

And I don't know what new can be said about this in this context, you know. We tend to support privacy rights. We don't think that the fact that you, you know, can find somebody who's doing bad acts by exposing everybody justifies violating everybody's privacy. That's just a moral and value-laden decision.

Milton Mueller: As an example is the American Red Cross, International Red Cross part of this constituency?

Man: Yes, it's part of the stakeholder group, yes.

Milton Mueller: Okay. So they experienced a significant attack after the tsunami in Japan and required a fair amount of assistance in order to combat some phishing, right?

Man: Yes, we're familiar with that.

Milton Mueller: Okay.

((Crosstalk))

Man: We heard that story, yes, many times, yes.

Milton Mueller: If I can continue?

Man: It's...

Milton Mueller: If I can continue? Thank you. So in order to combat that it is necessary to have some of this information. I'm not saying all of the information that is there. I'm just suggesting to this group that you have some of the same concerns that commercial users do, not - with respect to phishing, malware, etc cetera. Your operations can be significantly negatively impacted by bad actors. And that's who we're talking about, okay?

Man: That's what we're talking about, too. We understand that when people commit crimes you want to track them down. And that doesn't short circuit the typical commitment to due process protections and privacy protections to many of the people in this constituent. I know...

Emily Taylor: So would you - you know, the - I think that the issues here are fairly well worn and well understood. The real difficulty is how to get the right balance. I think that, Milton, you put it as, you know, everybody wants to track down the bad actors. But what's the price of that in terms of compromising individuals' privacy or their details? If you need to find the information about one person, do you need to find - do you need to have published the information of everybody? And there are legitimate difference viewpoints on these issues.

And this is something that has - I know that you guys have lived this for many, many years. I think that probably in our last couple of minutes can I let you know that we have a public forum tomorrow? I think it's in the afternoon. And I encourage you to come and participate.

Also please, if you can, it's actually quite timely, the moment that we popped in on was talking about trying to - the business of the almost full-time job of trying to track the deadlines of public comments. This we would very much appreciate your views. You don't have to respond to every question. Please just respond to the questions where you have a particular interest. I think that we've highlighted that the issues around policy towards the front end of the questions are of more interest to you, it would be great.

And also, if you did, in this conversation if you can highlight documents amongst the absolute plethora of background documents relating to Whois which you think still retain, you know, relevance today that we should be looking at, please let us know or...

Konstantinos Komaitis: Wendy, would you like to make a comment?

Wendy Seltzer: Just one other source of information that I'm sure you've found or considered. A lot of debate that - around the operational point of contact proposal where there really was a concerted effort to make some commitments to accurate Whois data and privacy at the same time. Too much of the debate has privileged one over the other and that has perpetuated inaccuracies and perpetuated the privacy problems.

And if we could really commit to addressing them both at the same time and put privacy even into the commitment to registrant further than it appears here, I think that would do a tremendous service to the community.

Emily Taylor: Thank you very much, Wendy. And you've sort of left us on a cliffhanger there because we now have to finish our session. But...

Kathy Kleinman: Emily, can I come in very briefly?

Emily Taylor: Yes, I wondered whether you would, Kathy. Do please go ahead.

Kathy Kleinman: Hello, everybody. This is Kathy Kleinman joining you from the Washington D.C. area and it's quite late here. But I was on and then I got knocked off the call. So I came in a few minutes late and didn't want to interrupt.

But Wendy, regarding the operational point of contact, there is a real question on the Whois Review Team -- as we look at the huge amount of material that's been created historically through ICANN in the last ten years on Whois -- what's relevant and what's not to the current debate.

So to you, to Milton, to Konstantinos, to everyone there who's been involved historically on this issue, the question Emily raised of, 'What's important from what's been done including OPoC and what it means to us today,' would be extremely valuable for the public comment period. And thanks ahead of time for providing that kind of input.

Konstantinos Komaitis: Thank you very much, Kathy. And it's nice to hear your voice.

Emily Taylor: I...

Kathy Kleinman: It's nice to be with you, however remotely.

Emily Taylor: Yes, it - thank you, Kathy, and good to hear from you. Thanks for staying with it because I know it's very late. This has been a really excellent exchange of views. Thank you very much for your involvement in the Whois Review Team's process. Please do keep in touch. I hope that we will maintain our dialogue and we're very interested to hear your views and particularly your guidance on what's important.

Konstantinos Komaitis: Thank you very much, Emily, first of all for coming here to update us. And, yes, I would really like to basically continue the discussions with you. Kim, of course, is our representative within the Whois team. And he's been great, but whatever you need.

And if there is any particular issue that you would like to discuss with us, either via email or in such forums like the opportunity that we have here. We would be more than happy to do so. So thank you very, very much for dropping by and providing us with such a great update.

Woman: Bye Kathy, and thanks.

Konstantinos Komaitis: Bye Kathy and thanks, yes. And let me go back to (Lexandra) very quickly.

Kathy Kleinman: Goodbye all.

Konstantinos Komaitis: Okay, we have left a couple of issues unaddressed. Very quickly, do the councilors want to give us - is there anything that we need to be updated that is happening in the council? Bill?

Bill Smith: Nothing happens in the council anymore.

Konstantinos Komaitis: Okay, then basically the other topic was ICANN 42, which will be
                   in Senegal. I can say that most probably I won't be able to go to Senegal for
                   the ICANN 42. But the message that I would like to communicate at this
                   stage is that now that new gTLDs were over and done with in (HTLD)s,
                   meaning that they're launched, I think that it would be a very good idea to
                   start focusing on implementation issues.

And I know that in Nairobi -- and I'm pretty sure that also in Senegal, (Dylan) correct me if I'm
                   wrong -- there's going to be a session dedicated to developing countries, and
                   to (unintelligible).

So I would really like us to start thinking of ways, for example, that, you know, we will implement
                   all these issues that we have been discussing for over five years now, in the
                   context of new gTLDS be - say it must be to whatever else you might think
                   and how NCUC can contribute to those discussions and actually help out the
                   council and registrants and bring awareness and all those issues. I - yes, Bill?

Bill Smith: About a year-and-a-half ago, I think, maybe, a few of us kind of half started
                   an interest group on the meaning around developing country issues. And just
                   by virtue of everybody being maxed out and nobody else at ICANN talking
                   about it, I think interest in the matter kind of drifted off and we didn't really
                   pursue it enough.

But, now, with this new initiative that K-team is pushing to do something in Senegal, it seems
                   like there -- and with the jazz and everything else, and the politics around the
                   - everything that we heard in the GAC board meeting -- it seems like the
                   moment is actually right to try and engage these issues more seriously.

And it would be problematic I think if the approach taken to these questions was one that did not
                   fully take onboard our (transic) considerations. So what I would suggest is --

maybe the moment is right for those who are interested -- for us to revisit the question of making the interest group that exists on paper on the meaning of life and trying to build up a core group that will perhaps input into the process that K-team is starting.

And I would remind you again that tomorrow at 12:30 to 2:00 -- I think in the VIP Lounge -- is the meeting on this notion that K-team has of having a developing country summit. And that, unfortunately he decided, and I pointed out the problem with it to him, that the way it should work is that each SONAC would have two speaking representatives, which makes no sense because, of course you can - there's no two people that can represent the GNSO on this issue.

But I think we should all just go there and say, "K-team we want to talk." And then more generally those who - I mean, are interested in this, we should try to work together. And I would certainly be willing to work with anybody as a focal point who is interested in that.

Konstantinos Komaitis: Okay, thanks Bill. Do we have any comments before I, again, give the floor to Bill? Because he has a couple of things that he would like to say before I - we close this meeting. Anyone? No. Bill, please.

Bill Smith: Two quick things, one, NCUC ALAC dinner on Thursday, our first meeting where you announced the timing of the meeting, I assume, right? Okay. Secondly, so there's a dinner. Mary's making a reservation. I want to make sure I have everybody here who's intending to attend from our side. There's me, Milton, Avri, Robin, Rafik, (Raquel), Carlos, Brenden, Wendy, and Konstantinos, did you say you could come for part of the time? Konstantinos? You never listen when I'm speaking.

Konstantinos Komaitis: I...

Bill Smith: I - did you intend to try to come for part of the time?

Konstantinos Komaitis: Yes, I will definitely be at the meeting. You know, I might be able to come at the dinner. So I just mailed you.

Bill Smith: You might be able to come to - okay. So there are ten then from our side and ten from the ALAC side. So Mary can make a booking for 20. Is there anybody else from NCUC who wants to have dinner with us with the ALAC on Thursday night? Yes, yes, I read your office (unintelligible) list. Okay, fine. So, Mary, it's 20 to call it to the restaurant. And - okay. This and then I have something else.

And then the other point I wanted to raise was a point that Mary and I talked about last night. If you look at the schedule - and it does seem to some of us that we meet a lot. And on Constituency Day we are kind of booked 9:00 to 6:00 pretty much with a lunch break, etc cetera whereas some of the other stakeholder groups meet only for a couple hours and then go off and do other things and take advantage of being here to network and go to other kinds of meetings, etc cetera.

Looking to the future I'm really wondering if we need, for example, like, today we've got a four hour block for NCSG. Okay, we've got a board meeting, that's in there. But I would suggest consideration of the possibility that maybe in the future we will not need so much time for NCSG, and that perhaps we can do, like, an hour-and-a-half NCSG in the morning, then it's the full afternoon for NCUC. I think it would be a better use of peoples' time, especially since we're all maxed out in lots of meetings. Unless people feel that there's a great deal to talk about with (NPOCK).

But, I mean, my feeling is, you know, once we get clarity -- on what are the rules of the stakeholder group and how does everybody technically participate -- it's really kind of just a matter of touching base and we don't need to have a really full agenda. That's my thoughts. I would - others disagree maybe, here?

Konstantinos Komaitis: Thanks, Bill. I just want to pass on to everyone one thing actually that became clear from today's meeting is that we're rushing to cover some things. So I would really - I really think that you have a point there.

And in San Francisco actually, you know, we were actually struggling, sort of, to fill up the time that was allocated for NCSG. So I think that going back to updating CSG on what the constituencies are doing is more beneficial then sitting and trying to figure out what we're going to discuss in the context of NCSG. Avri wants to make a comment.

Avri Doria: Of course, I really don't care how long the NCSG meeting is. I think that will be a fine problem for the next NCSG Chair to worry about. I do want to say that they'll always be a couple things; remembering that -- and especially since we've had - will have had another election -- there will be NCSG elected council members. They will be NCSG elected council members, Not NCUC or (NPOCK). So if you want to have a chance for a discussion with all of your NCSG councilors, the NCSG meeting will be.

So I think that, yes, there are basically standard NCSG items. There's discussing the council votes that are ahead for the meeting. That seems to be an NCSG issue, though, of course, you know - because if you want to talk to all your NCSG councilors that's your only chance to actually talk with them.

And there is the report and comparative report from the constituencies. There probably should also be -- as this gets more formed -- a quick report from the Executive Financial Committees just to do that sort of stuff. And the board meeting will always be an hour of that. So this time we basically have an hour board meeting, and then two-and-a-half hours for the other (croft).

You know, that may be too much time. And, as I say, it really is a scheduling problem for the future Chair. But it doesn't look like two hours, two-and-a-half hours, plus the meeting time with the board, is necessarily going to be too much. So, you know, take that as you will.

But if you take those things, you know, when we just talk about the policy for the next GNSO meeting on the evenings, it usually takes us at least an hour to an hour-and-a-half to get through all the themes adequately. And if each of the constituencies is coming to that meeting with certain things they want to say in the discussion about the decision that's going to be made at the council meeting, that seems to use a little time.

But, as I say, good luck to the next chair.

Konstantinos Komaitis: Thank you, Avri. Bill do you want to make a comment?

Bill Smith: The only point I guess I would make is it's a question, I guess, of where we want to have the substitute council discussion, whether - I mean, if it turns out that, for example, most of the NCSG-elected councilors are indeed NCUC that's...

Avri Doria: That's a problem.

Bill Smith: Well, okay, but, you know, that could happen. And to the extent that it doesn't happen, quite frankly, I - the experience has shown that the level of coordination and consultation across constituencies within the SG is not necessarily going to have much impact on what the other councilors do. So I think we could just be flexible about this, you know.

I mean, ,y point would be we seem to always squeeze the NCUC meeting - I would just say allow a bigger block for the NCUC meeting in the afternoon and do the NCSG in the morning. And if there's a need to make it fuller, we do. If there's less to cover we can make it shorter. That's all.

Konstantinos Komaitis: Any other comments? Mary, do you want to make a comment, please?

Mary Wong: Okay, and then I have a new topic. It's very quick.

Konstantinos Komaitis: Okay.

Mary Wong: It's one question. Just to support what Bill said, I guess the whole point would
be for the future leadership of all the constituencies and the overall SG to just
take a look at the schedule. And every now and then we'll need more time for
the 'C ' and less for the SG and the other way around. But not - we don't feel
a compulsion that because we've got a block of time, we've got to fill it up.
And that's the lesson from (SSN) here.

The quick question I had, really, was about dinner tonight, the NCUC dinner?

((Crosstalk))

Konstantinos Komaitis: Is there...

Bill Smith: There's two things. There's an NCUC dinner and there's Thursday's (NC)
meeting.

Konstantinos Komaitis: No, Mary's referring to what's circulating the (unintelligible), her
initiative to do something after Constituency Day...

Mary Wong: Yes.

Konstantinos Komaitis: ...as it's called within ICANN, we have drinks with the board of
NCSG at - between - from 7:00 until 8:00. And that is only with NCSG. So -
and we had said to Mary to actually go and find or propose ideas for the
restaurant. So I think that's what you're referring to, isn't it?

Mary Wong: That is. And, I mean, it's not meant to be a formal NCUC dinner. But we
seem to have quite a few members here in Singapore. And I apologize if the
email didn't get to everybody because I had no idea who's going to be in

Singapore. And it didn't seem that people who couldn't come would be interested in the sort of logistics of what time to meet on the overall archive list.

So I'm taking this opportunity to ask if anyone - how many people would be interested and available to do dinner tonight at 8:30 at a Singapore seafood restaurant.

Milton Mueller: (Unintelligible) or something like that?

Mary Wong: And I just want to get a headcount so that - I know that some of you responded to me already. So I just want to get a headcount so I can call the restaurant and let them know how many to expect. All right, thank you.

Konstantinos Komaitis: Okay, thank you very much, Mary. Anything else? Okay, thank you all very, very much for participating. I now call this meeting closed, adjourned. Thank you very much and remember at 2:00 we have the - we're meeting with NCSG. Avri, where are we meeting? The VIP Lounge? Okay, can I please also have the recording stopped? Thank you.

                                    END