

## Transcription ICANN Buenos Aires NCSG Session Tuesday 23 June 2015

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Rafik Dammak: So thank you for attending in time for this meeting. So we will have almost two hour and a half to go through the agenda. That will be - it will be short. And we will have several guests coming to ask so we can discuss about several topics.

Okay, so I'm not going to do any kind of introduction because we don't have that much time. Sorry for this. But and we are supposed to start first with a kind of report from constituency.

I'm not sure who will do the (scans) report because it should be really quickly. And then we will have ten - then ten minutes a guest from law enforcement agency as the first agenda item.

Okay let's start quickly with a report from constituency. Who will start from NPOC?

(Klaus): Normally (Rudy) should do this as (Rudy)'s not here and I know he's in other meetings so let me try to make a very quick summary.

We talked in the NPOC constituency basically about the consolidation of NPOC as a constituency and our programming with the events we had here.

And feeding back on it I, the general feeling is that the general feeling is that the general constituency is beginning early to consolidate more and more and that the activities we are doing are getting more and more appreciated.

We had a discussion also about our, the allocation of the five financial year '16 request which has been granted to NPOC.

But basically the problem is that all - everything we are - we have been asked has been granted as an in-kind contribution from ICANN which means basically if we want to do the five as an example, if we want to do the five videos we have to basically find the money for the videos ourselves and ICANN will contribute nothing. So basically it looks like this is something we have to sort out. In general I want to - well just want to address that.

So the other thing is that we had the evaluation and the continuation of the event from Saturday. Basically we are looking now how to implement more.

And one of the topics was for example how we can distinct for - distinct with the different constituencies between NCUC and NPOC for example because there just seems to be always the same question, what's the difference and what's going on?

And to be absolutely honest I my contribution to it was as I said I think that NCUC is doing an absolutely brilliant job and that what NCUC does is exactly right. But it's completely different from what NPOC does that we have to work on that.

And hopefully because that is - these are things which are going on and we already preparing several events for Dublin roundtables and so on so we are moving, we are getting better. We are getting more consolidated. We are

learning also more of about that beast called ICANN. And any question please let me know.

Rafik Dammak: Thanks (Klaus) for this report. Any question?

Okay it's always hard to compete with lunchtime but I'll have to live with that. Thanks (Klaus), yes.

Okay so who will do the reporting for NCUC? Robin? Okay please go ahead.

Robin Gross: Hi. This is Robin Gross from IT Justice. And I'm a former chair of the NCUC. And I don't see our current chair in here now so I'll do the report from this morning on his behalf but without his knowledge.

So first we had some organizational matters. We talked about do we want to do something in Dublin, may be a civil society outreach event or a policy conference.

We've got a Membership Affairs Team survey that we went over. We had ICANN Academy Working Group come talk to us about their pulling together.

Then we had the authors of the Westlake report hatchet job. I mean they - I'm talking about the GNSO review and constituency structural issues come talk with us.

Then we had a - some policy discussions, one on the .sucks brouhaha and its wired implications. And we had two speakers on that, John Berard, who's the CEO of the registry and Greg Shatan who is the President of Intellectual Property Constituency came. And we debated that the merits of the .sucks proposal TLD. So that's what we did in the NCUC meeting this morning.

Rafik Dammak: Okay. Thanks Robin. Any question? Yes (Klaus)?

(Klaus): Yes Robin could you please tell us a little bit more about your conversations with the Westlake people and especially what were - what are the tendencies at the moment with GNSO reviews and constituencies? Thank you.

Robin Gross: Sure this is Robin again. So we talked about some of the concerns that we had with the report particularly with respect to the methodology that was used and the way that certain views were taken into account over other views.

They said they were going to look into some of these issues. And right now is the public comment period so for four weeks now people can file public comments on the report of then they'll go back and rework that, revise that hopefully in response to some of the comments and some of the concerns that the members have raised.

And then they'll have a final report that will go to the GNSO council for their possible approval.

And I'm actually not sure the timing on that but maybe some of our councilors can help us with the timing and when that vote would be.

(Klaus): Thank you.

Rafik Dammak: Okay thanks. And our guests are here so I think it's time to move. Okay. Yes it's on.

(Dick): It's (unintelligible) articulating from the European Cybercrime Center for Europe help from the Netherlands.

Welcome to this presentation of the Public Safety Working Group.

But as you probably know I've only got three days live before I retire because I'm an old man and I'm leaving law enforcement.

So I want to hand over to (Lorraine) who is going to be here in for the foreseeable future. So it's probably better that she does the presentation because I'm going to be historic in three days.

And it's very nice to see very nice friends here that I've worked with before.

Rafik Dammak: Yes (Dick) you entered history for sure. Okay so maybe just to present quickly yourself, I mean quickly.

So we have law enforcement agency coming to us today so just to say hi and to present, introduce yourself so we can know you.

Bobby Flame: Hi. I'm Bobby Flame with the FBI in the United States.

Chris Dillon: Chris Dillon from University College London also the GNSO Translation and Transliteration Working Group.

(Shaki Limon): (Shaki Limon) from Pakistan.

(Paul Messers): (Paul Messers), UK National Policing Data Communications Group.

(Rod Schaffer): (Rod Schaffer) the Heritage Foundation.

(Mark Detler): (Mark Detler) from the BK from Germany law enforcement.

Ed Morris: Oh, sorry, Ed Morris, NCSG, NCUC and GNSO Council.

Rafik Dammak: Guys it was really for our guests but so just we to identify them, so that's right, to identify the law and just law enforcement in (unintelligible).

So okay we will start the presentation quickly. So basically you are going to present a new initiative that - I mean by you and the GAC which as the law enforcement agency?

(Dick): No, it's not just law enforcement. Basically it's we been involved in this environment for a number of years now and it's been a sort of a ad hoc basis.

And what we have done recently in the last year or so is try to formalize public safety organizations into one place as an advisory group to the GAC.

So it's not law enforcement working group. It's a public safety working group for which law enforcement are part of.

There's many other agencies, governmental agencies that are has responsibility for the public safety, law enforcement being one.

So I just want to make it clear at this stage it's not law enforcement working group. Law enforcement are part of the Public Safety Working Group as many other agencies and organizations are as an advisory group to the GAC.

And it's - I mean a two-way process. I - we advise the GAC on issues our current within the ICANN agenda. And the same time the community -- and we've been to all the community this morning, yesterday and we've got some more this afternoon -- to come to us and say we are dealing with this issue, this challenge, could we have your advice on focused points?

Because we do not have the expertise to comment on every single thing that's going on in ICANN but we will do it on the public safety issue whatever that may be.

So it's not just law enforcement issue. It's anything to do with public safety. And I will keep talking till this presentation gets on the screen.

Man: While we are - keep talking then. Can I just say present what other sort of - could you tell us more about the other public safety organizations that are involved besides law enforcement?

(Dick): Well yes we can. We have in the UK for example - and we're only talking the UK because that's where I'm from. Sorry.

From the UK perspective we have a number of agencies that are looking after the counterfeiting world, intellectual property the domain name industry on the ccTLD side.

Anything that is online that could affect the health or the consumer trust of the Internet of the public we have those types of agencies involved.

We have the data retention commissioners involved. We have - we haven't got civil society as such involved in the UK but there is some we're reaching out to. And that's why we're reaching out to you today as well because you'll be able to help us.

Man: Yes, I mean as part of the GAC it shouldn't really have so imminent - humans mostly government agency.

(Dick): Yes, yes, yes, yes.

Man: (Unintelligible).

(Dick): We can just (unintelligible) to that.

Man: And stakeholder question, okay?

(Dick): All right.

(Lorraine): Okay so as my colleague said we're here just to introduce ourselves and let us know that you know little bit about what our goals are and what we're going to be focused on.

Next slide, so and keep scrolling through that. Yes.

So there's a lot of issues going on at the GAC. There are lots of debates about a variety of things, everything from country codes and the IANA transition, accountability and public safety issues that are just one of the whirlwind of things that are going on.

But in today's environment where the Internet is sometimes not such a safe place to be for the public conducting business or communications it's really important that there's a dedicated channel to address these public safety concerns.

And that's why we have seen a need for some time for a working group that is dedicated to public safety issues that can have a channel of communication at the Government Advisory Committee.

So we see this group as providing a forum for public safety officials from governments around the world to analyze issues, to share information and to communicate their concerns to the GAC and also serve as a resource that the GAC can consult if they have questions or concerns about public safety issues and they need some guidance and expertise.

Next slide, so who, and we just went over the what. The who is government representatives from a variety of perspectives, so consumer protection. There's also civil and criminal law enforcement.

I'm actually from the Federal Trade Commission, the United States Federal Trade Commission. And we're in the United States. We're the leading civil consumer protection law enforcement agency.

And there's other agencies responsible for protecting their citizens. For example I know the UK Working Group as (Dick) had probably mentioned includes the Information Commissioner's Office in the United States.



We also have colleagues from the Food & Drug Administration. We have colleagues from the Drug Enforcement Agency. So we have a lot of from the United States Treasury. We have a lot of folks who share their voices with us in interagency meetings.

And there are a variety of agencies in around the world that are responsible for protecting their citizens. And those also could conceivably be members of this Public Safety Working Group under the auspices of the GAC.

Next slide, so what we will be focusing on its in our name which is deliberately intended to have a wide umbrella of issues.

But basically for folks who are communicating and doing business on the Internet we want to make sure that they're safe.

And in as ICANN policies and actions intersect with that safety on the Internet we want to make sure that the working group is aware of those issues and can weigh in.

Next slide, so how are we going to do that? We can participate in ICANN working groups to provide timely input on public safety concerns.

We have a lot of potential areas of interest. And these are just a snapshot. They're not intended to be an exclusive or unchanging list.

But Whois issues are currently very active. In fact there's 15 separate streams of actions that ICANN is grappling with regarding Whois issues.

Contract compliance, the way that ICANN enforces its contracts is always an issue of concern.

Implementation of the new gTLDs of course the law enforcement and civil and consumer protection groups have been involved in weighing in on GAC advice. That involves consumer protection safeguards which you've probably seen addressed in several of the last communiqués.

We also want to make sure that the contracts that provide the rules of the road for registries and registrars actually have provisions that are going to be protecting the public.

And then we want to address basically the issues that come in the door that we think can really have an impact on the safety of the public as they are doing business on the Internet.

Next slide, so these are more detailed I think more granular slides that I'm actually going to discuss in this short time. And we can scroll through them because I really want to get to - you can continue scrolling through.

What I really want to get to is to address whatever concerns or questions you may have about the work of this group.

And now would be a good time if you have questions or concerns to let us know.

But I also want to let you know that you don't have to just communicate with us right now. You can always approach any member of our group off-line or online to reach out to us and let us know your thoughts.

Rafik Dammak: Okay thanks (Lorraine) for this presentation. And I think we do have a lot of questions.

(Lorraine): Sure.

Rafik Dammak: Okay. We will start with Milton, James, (Klaus) and (Georgette). Milton?

Milton Mueller: Actually James was in the queue before me. I saw his. He can go before me.

Rafik Dammak: Yes whoever is next.

James Galvin: Yes okay, James Galvin. So first of all I want to say that I think it's a great thing to see public safety and law enforcement reaching out and looking to get involved in the process. And I think that's a great thing.

And I've seen with (Dick) myself on our privacy proxy, you know, that it's been a valuable part of the process.

But I think we have to possibly take a step back and think about there is a possible tension here between the choice that is obviously made that the public safety is going to come up through the GAC essentially.

And with I believe that it needs to be more examined on whether public safety should be coming up through the GAC or whether it should be coming into the GNSO itself because the GAC has its own way of working and then has its own means of it being an advisory role.

But what I see Public Safety Group wanting to do is get more involved directly in the policy development process which is a GNSO policy development method.

And so I think as long as there's a possibility that while this is a great intention that there is - it may end up with more tension and not actually get the end results that is wanted so wanted to comment.

I also think it's a question to you guys on was there a specific thought process between you guys coming in through the GAC and not possibly looking to come into a direct advisory situation with the GNSO given that you want to get directly involved in the policy development process itself?

(Lorraine): Well I think that others have raised issues that I think your remark echoes. And even just at the last session we were basically encouraged to get involved early and realize that there are policy processes going on and that sometimes the GAC acts at the end of the process rather than at the start.

So we definitely hear that. And I would say these are not mutually exclusive endeavors.

We are a working group under the auspices of the GAC primarily because we are all government representatives. And this was the logical place for us to be.

But I would say that these issues are not mutually exclusive. And just because we are a working group under the GAC does not mean that we wouldn't be open to weighing in as needed on various policy processes that are going on.

But again we are government officials. We do work through the GAC. And that's the structure that we have right now.

Rafik Dammak: Okay thanks (Lorraine). I just want to remind people to state their name and to identify themselves on this when speaking. So Milton please?

Milton Mueller: Milton Mueller, Georgia Institute Technology, USA.

Yes I wanted to follow-up on a couple of issues regarding the policymaking process in ICANN.

So ICANN has a problem. And the GAC is a big part of it. The GAC is really an anomalous situation where they originally designed to give advice nonbinding advice to the board about the policies that were developed.

And what's happened over the last basically ten years I think since (Wissis) is the GAC has turned into a parallel policy development process in which you guys go in your room and develop the policy that you like and the rest of the community goes into a room and develops a policy that they like.

And then you say to the board we don't like the policy they developed to their advice. And the board says but the GNSO likes the policy. And effectively that turns the board into a broker rather than somebody who's ratifying what is or what is not a consensus policy.

This is - what I'm saying is completely independent of the merits of the policies. It's just about you can't have a competing policy development process.

And basically everybody in the GNSO has been begging for I won't even say governments, just for people who do what you do which is law enforcement for investigation for public safety. We're begging for those people to be involved in the process directly interacting with the other stakeholders so that what comes out of the policy process is actually a consensus rather than the first shot in a war that will then be brokered by the ICANN board.

So if there's any way you can refocus your mission on participation in the actual multi-stakeholder process of policy development that would be really good.

Rafik Dammak: Okay we have the queue. Just do you want to respond (unintelligible)?

(Lorraine): I definitely hear what you're saying. And I think that we've all been thinking about ways which we can participate that also reflect the reality of our jobs which are this is something we do in addition to all the other things that we do.

And many of the - as I'm sure all of you in this room are in the same position. But many of the working groups become very, very time intensive and consuming as you all know.

Milton Mueller: Especially when you have to do them twice.

(Lorraine): I can hear that.

So what we're considering is how can we be efficient and how can we help others who have concerns that really fall within this end but to brief us so that we can make what I'll call surgical interventions on issues as needed? That would be something that we can try and figure out as we move along.

But I do hear you as to your concerns about competing processes and efficiencies and what makes the most sense.

Rafik Dammak: Thanks. So in the queue we have (Klaus), (Georgette) and then Stephanie and (Maria). (Klaus)?

(Klaus): Thank you very, very much for the outreach. To be absolutely honest I'm concerned that you hear us. Because the point is I don't think that's good enough.

As Milton pointed out there is a certain way how we do things. And I would - your initiative has lots and lots of merit.

And by not basically adapting your working methods to the way we are doing it here you are really weakening your cause.

And there's somebody whose day job is not nothing to do with what you're doing, at least you're getting paid and we are participating in working groups 20, 30 hours a week sometimes.

I think you have to live to our realities and get up at 4 o'clock in the morning and participate in the policymaking process as it is and not trying to adapt it in the way that suits government or somebody else.

I know it's very blunt. My advice is this is how we do it and please note damage yourself by not following that.

Rafik Dammak: Okay. (Georgette)?

(Georgette Sevanow): Thank you chair, (Georgette Sevanow) currently working with ICG and with the NetMundial Coordination Council but speaking here purely in a private capacity.

I have a couple of remarks which are also questions to you.

First I see that your working group is within the GAC or reports to the GAC. So my first remark is that I cannot really think of this activity but yours as being separate from another very important aspect which is also taken care of by a working group in the GAC.

And we had an excellent presentation yesterday by (Neilsten Uver) about the human rights dimension.

I can't even imagine especially as a former ambassador that you would take care or that the GAC would take care of one aspect which is law enforcement or now what it's called safety without taking care of the human element and the guaranteeing element, the safety element of data protection, et cetera.

So I think that's a fundamental thing which leads to my first question. You know who all of us are. But I would like to know more precisely to which part of your departments or agencies you report? That's my first question.

My second question is in relation to two or three other remarks which were made just before I took the floor which is would the NCUC in its various elements be prepared to make a recommendation to the board that this kind of activity should one, be linked to the human rights dimension? You cannot separate the two properly and two that it should not remain only the GAC? Thank you.

Rafik Dammak: Okay and (Georgette), (Lorraine) do you want to or you want...

(Lorraine): Sure. Well I'm going to respond to the questions that I can respond to. And I will let you all know that you may ask us questions that we're not going to be able to respond to at this point time.

But I certainly can tell you who I am and where I work in the government.

So I work for the United States Federal Trade Commission which is the leading consumer protection agency in the United States. And we're also the leading privacy enforcer in the United States.

We are a civil law enforcement agency. And I'll let my colleagues let you know where they're from.

Bobby Flame: I'm Bobby Flame, Federal Bureau of Investigation, the American National Police for lack of a better word. And I work in the Operational Technology Division.

Man: For the next three days I work for the UK National Crime Agency which is a UK governmental national police agency in the Cybercrime Department.

(Paul Messers): I'm - so (Paul Messers). I work for the UK National Policing Data Communications Group which looks at policy around how we investigators can use the Internet and so the data in their investigations.



(Mark Detler): My name is (Mark Detler). I am working for the BKA. This is the German National Police. And we are responsible for the cybercrime defense.

Rafik Dammak: Thanks. But I think another parts of the question maybe, you know, as it's I mean...

(Georgette): For that part yes, thanks very much. My other question was actually now that it is started within the GAC should not this group perhaps join forces with the other working group which is about human rights, point one?

And point two, maybe not serve only as an advisor to the GAC but more widely to the ICANN community.

And I was even proposing that perhaps you take it to your own executive committee Rafik as an action point.

Rafik Dammak: Thanks (Georgette), getting more work to do but so sorry.

(Lorraine): I can respond very briefly. There is a separate group of individuals who are spearheading what is the called the human rights. And I am probably not giving the rest of the name right. In fact I think the name is under debate. That is a separate group.

We're certainly willing to talk to each other. In fact I think that would be productive. But at this point we are pursuing our role. I'm sure they are pursuing their role. And I'm sure there will be intersections at times as appropriate. But that's all - that's where we are at now.

Rafik Dammak: Okay thanks (Lorraine). I think we can help you for that to liaise with the working party on human rights. Stephanie please?

Stephanie Perrin: Thanks very much, Stephanie Perrin for the record. I think we appreciate that there's a lot of crime on the Internet.

One of the issues that we struggle with in the policy development process and the PDPs is drawing that bright line between carrot and content and what is within the bailiwick of ICANN and what is not.

Now it strikes me that a lot of the law enforcement issues that you are all no doubt pursuing are the other side of the bright line as far as we're concerned.

We certainly would be concerned if ICANN started to worry about what was on domains. We worry about how - and there's a whole lot of criminal activity in the management of domains. We understand that and that's great. So I've be interested to hear your views on how you draw that bright line.

And then the perennial question - and Fadi spoke to it at the last meeting from the opening remarks about who he'd been more or less asked to cooperate on a child pornography investigation which we all hate child pornography.

But if ICANN started having to cooperate on takedowns on child photography it wouldn't be a good thing for the mission point of view.

So your thoughts on that and how you draw the bright line is where the question is here?

(Lorraine): Well I guess as a starting point I'd say sometimes the line isn't as bright as we all would like.

But I can say certain things we know our within the line. And those other things actually we are identifying as priorities today.

So for example with the consumer protection safeguards that have been the subjects of a lot of recent GAC advice one other thing that's been on the table

is the verification and validation of highly regulated domains like banks and pharmacies.

There's a line that's a bright line that we're very concerned about. We want the public to know if there is a bank or a pharmacy or an accountant or a charity that yes there's actually a real bank and a real pharmacy behind that.

And when I'm giving my sensitive financial account information or my sensitive health information that's to a bona fide entity so that's something that the public safety and consumer protection folks within our group aren't very concerned about.

I think the Whois information I know that there is debate about that on both sides.

From a consumer protection of public safety perspective when there has been law violations for example phishing or farming or the cybercrimes that you were just referencing, one of the tools law enforcement needs to investigate is information about who is behind certain Web sites. And, you know, were domains engaged in illicit behavior?

So we see that as part of the line. When I hear you talking about content well that seems to me to be in a very different bucket.

Just speaking on my own personal capacity, you know, as a consumer protection attorney at the FTC we don't get into content unless people are lying about their products. And then we are - then we mobilize and investigate and decide whether it's appropriate to take action.

So these are just some examples. And my short answer is a lot of the time there is going to be a bright line but not always. And we hope we'll make the right choices. We'll certainly try.

Rafik Dammak: Okay thanks. I think in the queue we have Amr remotely and (Maria) and (Neilson). So let's...

Man: This is like three times you just deleted me from the queue mentally.

Rafik Dammak: I didn't see any hands so I did do it sometimes (unintelligible) okay.

So let's go with Amr and then (David). Amr care to speak up please?

No we cannot hear you. Okay let's go with (David) until Amr fix his issue on his side. Yes (David)?

(David): Well first thank you for coming to talk to us. I think this is a really quite an important development. And I think while actually in the program for it to be very helpful.

I mean generally echo the things that have been said about being very aware, you know, that please try to aid policy development in the GNSO rather than sort of trying to do it sideways through the GAC.

But, I mean the GAC of course has its role particularly if the GAC advises a good way to initiate policy development when you think we should have one and we don't.

Speaking particularly as - I'm the vice chair, one of the vice chairs of the GNSO and I've been heavily involved in the GAC GNSO Coordination Group which is trying to change the - trying to work on improving the workflow between the two and in particular, you know, trying to get GAC involvement early in the process. And please we've got a bunch of mechanisms and look at that.

And you may even want to consider as you're a new development within the GAC's sort of role you may want to consider possibly seeing if you can have

some way to get it input into that GAC GNSO Working Group so that you can help, you know, talk to about how those mechanisms will be useful to you and what we can do to help make sure we do get your input early.

Very much the GNSO wants your input and we want it as early as possible and as often. So we're - and but we understand that direct participation in GNSO working groups is often not the right way to do that for government people but I mean it when it's possible it's great.

So yes I just want to say please be very aware of it. But we really are keen to, you know, develop a mechanism so that we don't end up in this cycle of, you know, the GAC sort of develops policy on its own and then they clash at the board level which is terrible for everybody.

So yes that's pretty much the main thing I wanted to say. Though also well I have the mic, thanks for being around (Dick). We'll miss you. You've been great so...

Rafik Dammak: Okay thanks (David). Any reaction? No, okay. (Neils) please.

(Neilston Uver): Hi. (Neilston Uver) for the record. This is a small clarification around the GAC Working Group on human rights and international law and the GAC Working Group on Public Safety is that they were intentionally created separately by the GAC in the communiqué in Singapore.

So merging these two that would be a decision of the GAC and would be I think a difficult thing because also the discussion on what at least I know more about human rights and international law which might not be called human rights and international law working group what they will be doing is still under discussion.

And next to that there is a cross community working party on ICANN's corporate and social responsibility to respect human rights.

And so we need to be careful to see what we all are doing but definitely will say that the working party will follow this work very closely.

And then comes to my question then when you were talking about regulating and validating possibly .bank or .doctor then I would be very interested to hear what your ideas would be on who would decide on what a bank or a doctor is and if this would be per jurisdiction.

And if it would be per jurisdiction they why do it through ICANN? And if we would be doing it through ICANN than it would be ICANN some kind of definition setting body for what banks or doctors are which might be slightly out of the scope of what ICANN set out to do.

(Lorraine): Yes I mean these are concerns that have been raised. But the fact is that jurisdictions around the world have definition, well, you know, even different states have definitions of these are regulated industries.

So entities around the world know what pharmacies are. And there are certain things that these entities have to do to call themselves a pharmacy in certain jurisdictions.

So we don't think that this is something - we don't - and I didn't use the word regulate. I actually used the word verification and validation.

You used the word regulate. So we don't see this as asking ICANN to regulate. This is something to protect the public that when a name that communicates a certain amount of trust there's actually something that's behind that name.

And because these entities are already highly regulated within different jurisdictions around the world we see this as a doable activity.

And indeed .bank and .pharmacy are already doing this. They have made their own commitments to do this so we know that it can be done.

Rafik Dammak: Okay. See grumpy people looking for to speak. Okay (Maria) then Milton.

Man: Just a very brief response. The - I think one of the general concerns we have about this whole thing is the - I mean some people - I know that we have a range of views and some people I mean aren't into the sort of whole idea. But certainly I think a lot of people the differentiation between regulated industries and regulated strings is crucial.

And in a particular I mean for example one of the reasons there is a lot of people who do not agree with .doctor because health is a regulated industry but doctor is not a regulated string.

And so and if it's not regulated string that means that even pushing GAC advice to create ICANN policy the GAC is developing policy that is not based on national law which is what we would like the GAC to not do.

We're happy to help participate in the ICANN policy development but that is a different - you don't do that by GAC advice. You do that by the GNSO or other policymaking processes.

Rafik Dammak: Okay. So let's try to get more question because I think we have still six minutes. Yes Stephanie I saw your hand. (Maria) yes I mean okay it's really hard to be everywhere so please bear with me.

Okay we have (Maria). Stephanie and Amr you can speak too so please.

(Maria Marsalis): Thank you so much Rafik. This is (Maria Marsalis) speaking. Just a few questions to understand better the scope of the work the first of them is the what is a definition that you are using when you talk about public safety?

Because when I first heard about it I thought that maybe it would be something as well to protect the doctor that is made available in the WHOIS system. And sometimes it's made very vulnerable. And this is something that we are discussing in the GNSO with a new Whois.

So I thought that it would be kind of a view that is more encompassing about public safety. But then I get the feeling that it's really narrow in terms of law enforcement.

And my question is does the group plan to involve other branches of the government? You talk about consumer protection but we do involve for instance data protection authorities, agencies and how this would work?

The other point is that it seems to me that it's a closed group of governmental representatives.

One of the things that I have learned here participating in groups that have different stakeholders talking is that in the process of seeing the different arguments you usually find the flaws on your own. So it's really a learning process.

So even though I understand what you said and what (David) said that sometimes it's really consuming to be inside a working group in the policy development process.

But at least to stay there as observers and see how the debate is evolving because sometimes you really tailor your approach to whether - I mean you hear things that you did not consider before. So I think it is really important that you at least be present in a - in the working group.

And lastly just to understand when you provide a position will you be speaking for your agencies, for your governments as a whole, for the GAC?



And how do you consider that you can act upon something that you say?  
What would be the expected outcome for you for something that you sent to  
the GNSO for instance? Thank you.

Man: May I? Okay I can answer - I'll try to answer your last couple of questions  
with the data protection are we considering other groups?

(Lorraine) actually with FTC is actually the US government agency that's  
responsible for privacy. (Lorraine) if I'm saying anything wrong correct me.

And I also know the U.K. Government has the information commission which  
also is data protection group within the U.K. So there has been outreach. I  
mean we have told the GAC to reach out back to their governments and tell  
them about the public safety working group.

And let them know that this is what the expectation is and to invite those  
other agencies to participate, as well. We are starting out very small. But that  
doesn't mean we won't expand. As long as the mission is for public safety  
that's what we're focused on.

And so far as, you know, our membership or who will encompass this group it  
will be government. And like I said we are starting out small. But we will be  
consulting with other experts, private society. That's why we're here.

That's why we reached out to you. We are working with the operational  
security, you know, organizations such as the anti-phishing working group  
and the messaging anti - messaging abuse working group and a few others.

So we are definitely reaching out to the community not just within  
governance. But it will be with private sector as well.

And I think you had a couple of other questions. But I'm sorry. I didn't. What  
were your first two? Can you repeat that?

Woman: The first was the definition of public safety that you are operating.

(Bobby): Okay, yes.

Woman: Yes and just a follow up. Is there developing country governance involved as well? Because - at least in my government - it's kind of separating - - law enforcement and privacy. That's why I asked since I'm just not the same (unintelligible).

(Bobby): Yes as a matter of fact, we are reached out to our Latin American colleagues. And they are actually meeting in a (unintelligible) room, up in the 21st floor. We actually have a two day session that the Argentinean Government has sponsored along with the organization of American states and (unintelligible).

So you have about 15 Latin American countries that are here and are participating. So that is another reason for the creation of an institution, if you will, with the GAC because there is a lot of under representation of other countries.

And that's what we're trying to do. Kind of, if you build it they will come because we do need certainly a lot more African, Latin American, Asian participation in general on ICANN but especially within the governments.

So that is one thing that we are really trying to focus in on to get that participation. Now granted this is a very hard portfolio for governments because it's expensive to travel obviously.

And that's why you see very limited number of people here. So what we are trying to do is if we build it, we're trying to focus in on regional areas such as when we come here to Buenos Aires.

You know, where you have a lot of the Latin American representations - since they're not able to travel to Singapore or Dublin or Marrakesh. And then when we go to Dublin we're hoping for the European participation then we go to Morocco.

We've already started talking to the Moroccan GAC and the African unions. So we can have their participation as well. So does that answer all of your - enough, okay.

Man: Thanks (Bobby). Okay, so just for - in the queue we have (Stephane) (unintelligible) and Omar. So let's try with Omar first since he tried before. Omar, can you speak up?

Omar Kaminski: Yes this is Omar. Can you hear me?

Man: Yes we hear you.

Man: Yes please go ahead.

Omar Kaminski: All right, thanks. Actually I raised my hand quite a while ago. And I think we've moved on from that discussion. But I think (David) pretty much touched upon what I wanted to say.

And I really wanted to differentiate a couple of things in regards to process to develop all of the - in principal, I think it's great that the GAC hold and host working groups to help them consensus amongst its members on what GAC positions may be.

However, I would very much caution against using that process to attempt to develop GTLD policy. Because I think others have said that GTLD policy development happens in the GNSO.

And GNSO working groups are open to participation by anyone. And when I say, "Participation" I actually mean membership. So anyone can participate in GNSO working groups as a fully-fledged member and be part of the consensus used to develop GTLD policy that is not relative to members of GNSO stakeholder groups.

In fact, the people who are not members of NES or AC or any way affiliated with them from ICANN can also be members of GNSO working groups. And as (David) has said, "That there is this ongoing effort to encourage GAC early participation in the GNSO process.

I think some - - (David), myself and some other GNSO counsels - - have been working very closely with some members of the GAC on this for quite a while - - for over a year now.

And I think this group - - this consultative group between the GAC and the GNSO counsel - - is making some great progress. And it would be wonderful to see the GAC support this and help us all move forward.

And we might have some upcoming PDP's - especially regarding the post expert working group PDP - where we can start to see some value that this new process service pilot project adds. So I guess that's all I wanted to say right now, thanks.

Man: Yes, thanks Omar. And I guess we're having another meeting soon. So let's try to be - to make quick concise comments here. Yes, (Stephane) and (unintelligible).

(Stephane Penn): Thank you, for the record - - (Stephane Penn). We have, of course, the "who is" giant process starting this fall. And I'd be interested in your views. As law enforcement agencies, it's a fairly easy matter for law enforcement agents to go to the registrars and get the data themselves.

So I'm always puzzled at why there's a push to have it fully available in the "who is." When, in fact, that puts people at risk globally because it's spread around the world.

Now I do understand - having worked on the side of crime PD when I was in government - of that it doesn't really work. And you need an instrument to go cross boarder to get data.

Is there - what do you need as an instrument to get data from countries that are not cooperating? And would you like to join the PDP process in the fall? It would be fun. We can promise you a lively time.

(Brook Shaffer): Can I piggy back on that real quick? It's (Brook Shaffer) for the record. Could you please explain what your expectations are of ICANN? In terms, if you - let's say that you do have a bank that is not a bank.

What do you - how do you approach ICANN? How does that process work? What do you expect ICANN to do with that Web site and that domain? And what is the procedure that ICANN must go through to handle that process?

Woman: Can I grab that one Rafik because - sorry. Oh okay.

Rafik Dammak: I'll respond to the "who is" part. "Who is" is there. I know it's evolved over - when it started from a technical to sort of a mix match of that. "Who is" is meant to be accurate of who owns domain.

So why isn't it? That's all we're saying. We didn't invent the process which is participating in the process that's already in place before we got ourselves involved in ICANN.

So it's the "Who is" is portraying itself to be something that is accurate then let's make it accurate. If it's not accurate then let's have a rethink of what is - so we just want to be party of that process.

Regarding the cross jurisdictional issues, well if anyone can tell me how we can resolve that that would be great. We have. That's a major issue for all cybercrime investigations. All investigations - is that cross jurisdictional issue from (unintelligible) in that process which is a 14 - very laborious to something that.

If we could find something that streamlined, that still had the safeguards that everyone would be happy with then excellent. I know there're loads of discussions regarding that debate.

But we're nowhere near their up and running. So I hope that answers you questions. Regarding the "not bank" I'm going to look at (Lorena)'s answer to that one - if you can.

(Lorena): I actually need a rephrasing of the question.

Rafik Dammak: Yes I was actually seeking. I don't know how it works. So I'm trying to figure out how. What is - if law enforcement has a complaint or has suspected a list of activity or corrupt activity or just miss of representation.

And they're asking ICANN to do something about it. How does that process work? How do they report to ICANN about their complaint? And how does ICANN evaluate that complaint?

And how do they comply with it? You know, what are the standards and processes necessary for that compliance within ICANN. For instance, like does Hauula qualify as a bank under dot bank?

I mean that's the kind of question I'm asking about. Would it be? And in some countries would consider that to be a parental network. Some would not. So how does that work? Thank you.

Man: We don't do that with ICANN. If we're in a (unintelligible) investigation and someone's using adult bank of domain, we investigate the crime that is involved in its entirety.

The dot bank issue is nothing for us in that criminal investigation. It's just a mechanism that criminals use to commit their activity. So our only involvement in ICANN is in the process that's in front of us.

That's our only involvement. We don't do anything else apart from what you see - everyone else's involvement with the ICANN mechanism.

Rafik Dammak: Well why did you raise "Dot doctor and dot bank" up earlier?

Man: Because that's the public safety issue within some parts of public safety working group. That's an issue because that's a trust issue then. Because what we're trying to do by engaging with ICANN and other agencies and organizations are involved in this space and not just the domain names but IP addresses and et cetera.

We do not have the resources to investigate every single crime that happens on Internet. Say it's all about prevention and disruption. So if we can have a dot bank, dot doctor or dot something that gives the trust to the public.

That when they go to that Web site they're going to be treated in the way they would if they went to a - they would in the street. And that's great because then we won't have to investigate anything regarding that type of criminal activity because it doesn't happen in the first place. It's about prevention and disruption.

Man: Okay, sorry they have to go. And we took so much of your time. Thanks for coming. And hopefully we went through a lot. I think there is a lot of things to do and to continue this dialogue and share opinions. So, thanks for coming.

Woman: No thank you. I'm sure we have things that we'll agree on and things that we'll continue to discuss further. But we appreciate hearing from you even if we haven't answered everything and even if we haven't agreed with everything. At least we can still have a forum to have an exchange. Thank you.

Man: Okay, we took much more time than planned. And sorry for those who couldn't ask a question. Okay, guys let's come back.

Okay so we are supposed to have the CFO coming. But they are not here. So we should...

Woman: I would suggest that we make a round of discussion about what we just heard among us.

Man: Yes sure. So we can get to a point of view, yes. So any comments - yes Salieu.

Salieu Taal: I mean I'm not going to deal with this topic. I'm opening up another. Is that okay? Because I mean the thing is that we've been talking about engagement on - okay.

So very quickly, I mean we've been talking about in reach at first. And now we have actually a number of new fellows here. And they've been asking me the very same question. "How can I get engaged? And what is it that makes it easier for me to get involved in activities within the NCFC community and become more active?"

And I inform them about working groups. But often times working groups require immediately jump into action. I mean is there a more soft landing way in which they can get slow and steady incrementally involved?



Man: I hope if I have an easy answer. But talking with (unintelligible) what I can suggest that maybe - even a joining working group just as an observer to see how things goes on and to get user through the process there.

I mean they should not put the pressure on themselves or a lot of expectation to jump quickly. Observing in the beginning can be a way. I think, you know, we should provide more support when those folks are there.

And we have other members participating. They can help them. So but to be honest myself I don't have easy answer. But it's something we should work on is how we can support since we want people to get into working groups to participate.

Man: Okay, ICANN thanks for coming, yes sir.

Man: So I think asking the people who are leading the working groups or working parties and telling them how much time and interest you would have available.

So for instance, for the cross community working part, you know ICANN's corporate and social responsibility to respect human rights. We have a lot of little tasks that can help you do little research, see what you would interested in - which would already be tremendously useful.

So just approach people and ask what do you think would be useful? And if you think it's useful and if interesting for yourself we can go add. So if you'd like to talk more about this just catch me after this meeting.

Man: Yes, (Carroll).

(Carroll Cornell): Well hello and thank you every body. My name is (Carroll Cornell). And I'm the Senior Director of Program Management and Business Intelligence for ICANN.

Xavier got detained downstairs with the board. And he'll be up in a few minutes. I just - I'm sending my apologies until he gets here. We're going to go through a couple of sections.

And I'm going to go through the key parts. And then we'll leave that for him. So if you have questions on the finance partition or the budget portion we can leave that until the end. That would be great.

We'll go on from here. You can skip to the next one. Okay this is the management system. This is the ICANN management system that we've been putting in place.

And there're three things I'd like to share about this. The first is this connects all of the processes and systems together. So what this is this is the chairs that the strategic plan along with the five year operating plan, the one year operating plan, the budgets, the project portfolio management system.

All of those are all structured together in the same format which has the objectives, the goals, the projects - sorry the portfolios and the projects. So this shares that all of our information is structurally connected and linked together.

The second thing that's important about this is it shows that they're all linked and how we progress through them. And so at the very end it shows that the reporting and the dashboard - where we will show the results - is based on the fed up and the agreed upon - sorry, the agreed upon objectives and key success factors that we're established in the five year strategic plan and the operating plan.

The third item there that's interesting and tied together with this is that operational excellence is a key factor all through all of these parts where continuance improvement is planned.

And it's one of the elements that we are culturally expanding and enhancing as we go forward. But it is something we've been doing throughout our process.

I'm going to now stop because Xavier came in. And I'm going to go to the next section please which will be the operating plan and budget.

Xavier Calvez: Sorry I was late, thank you Rafik and thank you for the group to let us come in to - sorry - to provide an update. How much time do we have in total Rafik?

Okay, I mean because there are parts that we can cut off from this presentation if we would like. So quick summary on the budget process - the board will be submitting the budget to be approved for I5-16 - which starts from a few days from now.

So we're at the very end. Quick feedback on the public comment period, there was a public comment period on the draft budget document that started end of March, finished early May.

And we produced responses to those comments, addressing the comments one by one. And we had the help of the board in doing so in providing those comments.

And we published the responses to the comments on June 5. So if you would like to see what comments have been produced and what responses have been provided to those comments. They are published on our Web site since June 5.

The comments led to changes to the budget. One of the comments that was submitted by a few organizations is the fact that a number of (unintelligible) felt we didn't have enough support to the policy department.

So the staff that helps each organization through their work and policy development support as well as secretarial support was not sufficient to support the work that his going out.

A few organizations said that. We changed the budget as a result to increase the resources in that area by two staff members and also a certain amount of dollars relative to policy research.

So that's about half a million of dollars of resources that had been added as a result. Second language services, the department is facing an increased amount of translation to be done.

Not because of the number of languages being translated but because of the volume of documents being translated. And we've also increased as a result the resources of that area.

In order to keep the total amount of expenses of the organization stable we have reduces - to offset those increases. We have reduced the contingency of the budget.

The contingency is simply an unallocated portion of the budget. It expenses unallocated to specific areas of the organization. So instead of 4 million of contingency we're going to have 3 million of contingency in the budget which will mean we simply have a little bit less flexibility. And we'll need to manage it more strictly.

There's also been a number of comments and additions to comments and clarifications in the budget that have been introduced as a result of public comments received in which there were a number of questions, notably on KPI's.

Next, so is there any question on the budget process or on the public comment process?

Man: No.

Man: Yes.

Man: I think Omar wants to ask something - Omar.

Omar Kaminski: Yes thanks, this is Omar. Can you all hear me?

Man: Yes.

Omar Kaminski: Okay Xavier thank you very much for that presentation. My question is specifically regarding the half million dollars that translates into two full time employees joining the policy process.

I was just wondering when this part of the budget would become available to ICANN. And I ask this because I'm concerned that this may happen later then when the - both to work on the "Who is" PDP that is upcoming may start.

I think that's when we really need to see more support towards the policy team be added. Especially that I personally believe this process would probably start before the - for example the accountability (unintelligible) working group finishes its work.

So my question is "When does this budget actually - when does it become available to ICANN," thank you?

Xavier Calvez: Thank you for the question. This budget will be available to ICANN as soon as it will be approved by the board which we are hoping that it will be on Thursday during the public forum or the board meeting that follows the public forum.

And which means then that the funds would be available on July 1 to be implementing this increase in head count and support to the policy team.

So from that point on it will be in (David Olives) hands to be able to onboard as soon as possible those resources so that their support can be received quickly to support the "Who is" process that you mentioned as well as others where the increased amount of policy work in the upcoming months has been identified.

And triggered the comments from many organizations on the fact that the policy support was not sufficient - so what you've took as an example was actually the rational for that type of comment and therefor the allocation of additional resources.

Man: Thank you for that.

Man: Thank you.

Man: Thank you.

Man: Thank you.

Man: If there's no other question I'll move to the next subject. There're a lot of figures here. This is simply to try to give you a review for where we are today at the end of our fiscal year '15. So we talk about budget.

But this is the fiscal '15 that we're finishing (unintelligible) in a few days. These are the financials on our fiscal year '15. It's not yet fully done. We have a few more days in it.

And we close our books on a monthly basis. So this is actually a forecast that we produced with - after ten months of actual results. And we've added two months of the forecast estimated information in it to have a full year view.

So we're expecting that when the real - the actual figures will come in they will be not too far from about 103 million of revenues verses budgeted 104 so very close - in about 100 million of expenses where we budgeted 101.

So basically within budget from my perspective for all intents and purposes, the revenue is a little bit lower - expenses a little bit lower as well. And therefore, we should be within the budget at the end of the year with no more excess or deficient.

You may see on this document spent on the USJ transition, as well, which is expected to be about 8 million where we - for FY15 - \$8 million - for which we had originally budgeted 7 million.

So the process of the CWG and the CCWG has triggered more cost than we originally had planned for. And to remember that when we planned for that - spend was about a year ago or even a bit more than a year ago - when nobody really had any idea as to what the activities would - what the volume of activities would be.

So it was very much an envelope, a place holder at the time. Spend, there is largely driven by the independent legal advice that both groups have been receiving and using.

And that's driven these figures. Approximately half of the spend about three million is due to the legal firms that provided advice to both groups. It's a large amount of money. Is there any question on that - no?

So next we would like to provide you another review of the enterprise risk management area of the operations which (Jack Quadra) is going to provide.

(Jack Quadra): Thank you my name is (Jack Quadra). I'm the Enterprise Risk Director. I walk around like Xavier. I'm afraid I'm going to kill myself in the center area with all these wires.

Thank you for having us. And also thank you for responding to the request from the board risk committee co-chairs, both (Mike Silver) and (Ron Mohan) truly appreciated it.

Essentially, the reason that I'm here is to basically introduce the department. It's been after the fact because I know that we already received risk from you based on their request.

But essentially if you could please - yes and so essentially the role of risk management within ICANN is to insure that we are properly identifying risk that could potentially harm our ability and the community and the stakeholders' ability to deliver to our mission.

And so our role within ICANN is to identify those risks, to measure them and to access them and put controls in place to remediate those risks. The model that we've used - I know that this is an inquiry that was asked of the NCSG.

We actually used the COSO - - the Committee of Sponsoring Organizations model - - for internal controls and (unintelligible) framework. It's the COSO ISIF model.

It's commonly used in the U.S. And the reason we chose that framework is because it's flexible. And we can integrate with other models that are used based on the type of risk assessments that we conduct.

So for instance, last year when we did a DNS risk assessment we used ISO 31,000. We integrated those results into the COSO framework. So now we have a comprehensive view of our risk and we're managing them in the same fashion. That's just one example.



So my job is to make sure that we identify those risks. And one of the ways we do that is through inquiry. And which we reached out to NCSG and other SO's and AC's and SG's to collect risk that we may be missing in the grand scheme of things.

If we can go to the next slide please - yes, that's really hard to read. So I'm just going to briefly summarize what it says. Risk management as was shown on the management system slide is fully integrated with how we approach our strategic initiatives, our objectives, our projects and so on.

Many of those items actually have risk I found within them. So if you were to go to the five year strap plan or the ops plan or the fiscal year '16 operating plan, you'll see risks identified there.

So we're fully integrated into that model in order to mitigate our risk so that we can achieve our strategic initiatives. That's the first line up there.

The second is the framework and methodology. We've been working on it for a year and a half trying to get it right. And now that we're at a point where we can start collecting risks and modifying and mitigating and those types of things, we also reanalyze that process to make sure we're not missing anything.

The third line there is the board and the stakeholder insights. We welcome any of your feedback, anything that you want to share with us that we think we should, you know, addressing or you think we should be addressing. We want to hear from you.

And then finally we're going to be publishing the first for ICANN an enterprise risk management report sometime in September to October timeframe which will give a lot more detail to what we do in risk management activities for the ICANN community.

And so with that I'll ask if there are any questions before I turn it over to (Carroll).

Man: Thanks (Jack). Okay I think we covered all the...

Woman: Yes but we have one more topic if you don't mind. And it's a very - I'll just make it one minute if that's okay.

Man: Okay.

(Carroll Cornell): Thank you. If you would go down two more slides - three more slides, one more. All I really wanted to come and share a little bit with you is a little bit about the beta version of the KPI-4 that's being released on August 20.

We've done these. This shows that we've completed the initial alignment. The second is that we're actually combining different portfolios aggregated up to the full and objective level which we will call the KPI-4's.

And you'll have available to see those in 20 August which corresponds with the quarterly stakeholder call - is when we're going to release it. During this session we've actually put the information in details of that dashboard up on the information booth - - the ICANN information booth.

And we are showing some of the dashboards. And we would love your feedback. And dashboards and KPI's for the stakeholders it's important that we make sure that we meet your needs.

So we want to know if there's any impute or direction you have. We'd be well to take it as we're building this beta diversion.

If you'll go to the next slide, this is what (Saudi) showed to you at the opening. And it's that dashboard. So we're just here to share that we'd really like your feedback.

We'd love to know what you think of it and how that is developing. And that's all I'm going to say in the spirit of time. The other is that the last part of the puzzle that I mentioned in the management system slide that I showed is organizational excellence.

And we have completed our first internal full assessment. And we'll be sharing some of the strengths and areas of improvement shortly behind that in the next couple of months.

But I just wanted to share that that's the progress. And in spirit of staying within your timeline, thank you very much for letting me come and talk. And I hope I'll be able to share more at Dublin in more detail of that dashboard. So, thank you.

Man: Thanks (Carroll), thanks Xavier, thanks (Jack). I mean we will try to work with this. It's hard to about the budget. I mean at least for the risk enterprise risk - whatever.

We could make a contribution. And we hope to understand how we can participate in the process and how we will make it open to the community. Thanks.

(Carroll Cornell): Thank you very much.

Man: Thank you, okay. And we go to our next guest which we had some problem with them, I guess. (Ron) from the DC (unintelligible) is coming here to talk about the public interest commitment.

And he wants to give a background and to share some point of view with us and see what kind of question or discussion we can have (unintelligible) go ahead.

(Ron): Good afternoon everyone. And thank you for making a little bit of time to talk about the public interest commitment specifications which specifically speaking about the highly regulated strings.

There's approximately 40 of them plus/minus - depending on who's counting. But effectively these are all the strings that are regulated in the non-digital world.

And they're regulated for a reason because governments do not have the faith - - the full faith - - that when they hand over a very important - let's call it asset - to an operator that that operator will just go off and do it in the public interest.

So they regulate them to make sure that happens. In this case, what we're speaking of here is the fact that ICANN - in our processes of the AGB - one of things that we missed was insuring that the impacted parties of those highly regulated strings would have a voice in the policy.

So let me put it in another way. We're phrasing the question to the NGPC now. And the question goes like this, "Is it reasonable that ICANN would give a highly regulated string to an operator that has zero nexus to the community and allow that operator to draft policies without any impute from that community?"

Obviously, that's wholly unreasonable. It does not make any sense that the community that's going to be impacted by that operator's activities has no voice in determining what the policies are. Or at least have an opportunity to respond to them.

So we are pushing and have been pushing since Beijing to see this GAC advice implemented. Whereby, there would be at least a review of the policies that have been established.

And that once that review takes place and in that review process that in fact those impacted parties would have an opportunity to say, "Yes we like them. No we don't. Or how about adding this one in?"

So this kind of a dialogue hasn't happened. And that's really what we're trying to achieve here. We just simply would like to see a review before this goes out.

As we all know, ICANN is under extraordinary scrutiny right now. And so for us as the ICANN community to not ask and expect that NGPC - effectively the board - would not provide a mechanism just to review these strings seems really something that we find hard to comprehend.

Not only in the BC but also with across the board with other constituency. There are many members that feel the same way. One of things that I wanted to share with you was that.

But I think at the same time it's important to know that we feel that this is an accountability issue. And the GAC are going to be putting out a communicator that speaks to this again.

It started in Beijing. Beijing was a long time ago. We number the meetings so we know how far we are down the road. That's, you know, two or three years we're talking about this.

So the time is really right. I know that there are members within the NCUC that don't feel this way about this. They feel its fine. But I would hope that you would consider the fact that an effective party could be you that may be affected by these strings.

And wouldn't it be better for you to have a voice. Many people speak about DOD Bank. And they say, "DOD Bank is excellent." And indeed it is excellent. Why, because the banking community had a voice in developing the policies.

DOT Lotto, lotteries all around the world make extraordinary amounts of money for governments. They're highly regulated. But there's no lottery regulatory body that's had one opportunity to voice its opinion about what those DOT Lotto policies are. Who gets one under what conditions?

So you can see that opportunity for fraud is enormous. So this is a very good distinction. DOD Bank is excellent because the bankers were involved. Lottery, no one's involved.

So we're asking the NCUC to give consideration to this. And perhaps throw your support behind what we're trying to achieve - talk to your GAC members that you know whichever way you want to approach this - - individually or as a group.

But we feel that the time has come for the NGP to finally act. We've had two meetings on this topic. One came very surprisingly in Singapore. Friday and Saturday there was a lot of discussion.

On a Monday night late there was a - meeting was called. And it was a very high level meeting including the GAC representatives, the chair of the GAC, the chair of the NGPC, the president of the company and so forth.

So everyone was there to have this conversation. That moved on to a second call which took place in April because there all informal discussions. But at that second call we presented two or three opportunities.

One was the straw man, how we might review these things in six months - just to have that review done. So that we could all take pride in the fact that at least someone looked at these.

And effectively the contracted parties said, "No we don't really care for this thank you very much." And that killed it. There were no further meetings scheduled. There's no meeting scheduled here.

And apart from the GAC communique - which I'm aware of from talking to my GAC colleagues - which unfortunately as we well know is often watered down by one voice or another. Still have some teeth in it about picks and where we'd go from there - from here to get the appropriate end result.

So that's a little overview. I'm happy to answer any questions or respond to any thoughts you have. Thank you.

Man: Yes thanks (Ron). So we have (Clause). Yes, (Clause) go ahead - (Clause).

(Clause): Yes, (Ron) did you just refer to the MGSG as (unintelligible).

(Ron): I was referring to the new GTLD process committee that's what I was meaning. I'm sorry at this stage of the game all of my acronyms just spun out. So thank you for that correction (Clause).

Man: Yes, (Sam) please go ahead.

(Sam Land Franker): (Sam Land Franker) for the record. I endorse the idea that constituencies need to be participating in the verification validation process. But just to take doctor for a moment.

In my own jurisdiction we are grandfathering in homeopathic doctors into colleges of homeopaths. And others are required to do certain test and exams and so forth.

These are much more heterogeneous areas than banking. And I don't even see how. And they vary so widely from country to country. And frequently, the license can - sort of, what validates them can be removed in very short order.

It's not like a bank where in the US the Federal Reserve simply hands the bank to another bank. So how are these complications going to get addressed?

(Ron): Thank you (Sam). And if I - I think I understand what you say. But if I go off please stop me. My response would be - the way I understand it is who would be the representative body for under the DOT doctor.

All right, so that's one of the issues. I mean there will be many of these issues that'll have to be thought through. But maybe we as a - if we can establish a working party or review committee then that committee would then come up with the definition as to what would make sense.

The whole idea is what is reasonable? And if in fact homeopathic medicine is deemed by the committee to make sense as well as your licensed doctor, your general doctor.

Then we would have representation from both of those groups just to hear the effected - or hear the registry in questions policies. And they can respond and say, "We like this. We don't like that."

But my point is just to establish that dialogue. So I think once the committee is established then we can work through how will the committee work and who would be representative because clearly we have different laws and different situations all over the world.



But we all know in every country what a doctor is. And the question of defining the width/the breadth of that will come from the community. And I would hope that at least we would find some method to do that.

Rafik Dammak: Thanks (Ron). Omar has been in the queue for a while if you want to speak - Omar.

Omar Kaminski: Yes, thanks Rafik. And thank you (Ron) for joining the NCSG meeting. And thank you very much for continuing to engage with us on this topic. I know you've been really trying to get us more engaged on this for many, many months now.

I just, I have a few comments on this. And this is really regardless of whether from substances perspective. Members of the NCSG agree with your perspective on this or not.

I think from a process perspective, we have a serious problem here - the fact that this is happening and sort of informal discussions that we have no access to.

The fact that the whole approach is trying to approach GAC members who have taken an interest in this, I think this is not very helpful. I think what would be more helpful is that we tackle this within the GNSO.

After all this does involve registry agreements. And maybe it may be on the more constructive approach to sort of get our GNSO counselors from the business constituency from the noncommercial stakeholders with some other constituencies and stakeholder groups for GNSO to sort of put this on the council's agenda.

And maybe see if we can ask for an issues' report on this and then really try to rein this in within the GNSO sort of picket fence, so to speak. I wonder if

you have any thoughts on that and why we might not have done this yet,  
thanks.

(Ron): Thank you very much Omar. And two very important points, these two meetings that have taken place were informal gatherings to try to figure out if we could figure a way forward, informally on this topic.

During the first call - or the first meeting - we kind of established some - a list of activities. And one of those activities was given to (Allen Gorgon) to go and look at this.

In terms of the advice that was given by the GAC and whether or not this could actually go to a PDP. And it was determined absolutely crystal clear that this is not a PDP issue. Because in fact what it is, is GAC implementation.

The GAC requested something of ICANN. And now they need to see that implemented. So it's an implementation issue. It's open to some form. So I'm recommending. And we put forward a straw man that would say, "Either."

And in fact I reiterated today with members of the board and others. Either we could select people from those initial groups that started or any interested party could join those review teams that review committee and bring forward their thoughts.

This is not closed at all. In fact I would welcome seeing representatives from every part of the ICANN community around that table to make these determinations.

The process that I envision in my mind's eye - just to try to get the ball rolling - the straw man, if you will. Is that we would have two representatives just to lighten the load so one doesn't have to make sure they're there for every call or every meetings.

Those two representatives would join. The larger would make up the body itself - - two from every part of ICANN. The registry in question would come. And they would present their rationale for the picks that they have.

In many cases almost 50% have no picks, no public interest - - zero. So we'd like them to explain why they have zero public interest commitments in their highly regulated string. Or if they have them they can explain which ones they have and why.

On the other side of that coin we would then expect that representatives from that industry sector would come and hear what the rationale was and provide their comments, their responses, their views on what it could be, how they see it.

Both of those parties would go away. And the committee then would take a short period of time in a rough consensus manner - so not full consensus but rough consensus.

And I'll explain why in a second - why I would propose that. And then a recommendation would be handed up to the NGPC for example and passed into the GAC, "How do you like this?"

So I'm not so sure about that end part, in terms of who's reporting to whom. But that again the committee itself would sort that out. Now coming back to rough consensus, the rationale would be that obviously we're trying to review all of these in an expeditious manner.

But give them a good look rather than getting stuck and bogged down, getting to full consensus where everyone agrees on it. The second level - and ICANN of course has five levels of consensus.

The second level is rough consensus which basically means that the majority of the committee is in agreement on this recommendation. And those that oppose have the full authority and right to write an opposing view which would very much inform that discussion.

Best part is you would actually see that the majority felt this way, but those that didn't could then frame their argument. And all of that information would be passed on to the GAC/NGPC, whatever that is that makes that final determination.

Then once that determination has been made, those goes back to the Registry in question, and we ask voluntarily, "Will you please adopt these?" If they choose not to, there is a mechanism in the contract which is a long drawn out process that would force that Registry to take those on because of the nature of that particular string.

That's a whole other story but my point is really about rough consensus over full consensus because we feel that would be a way for all voices to be heard and for, you know, appropriate decisions to be made. I hope that answers your question Amr.

Rafik Dammak: Okay thanks Ron. I think David want to make a comment and then Amr want to follow-up. Yes David.

Woman: (Unintelligible).

David Cake: Yes, I mean thanks for being so business again to talk about it and thanks for being very patient with us.

First I'd like to take this opportunity to apologize to both you and the entirety of the NCSG because I did say that I would have written a white paper or something by this point to discuss that issue; our position on the pics and

public interest generally. So I'm sorry that didn't happen. We're still hoping it will happen.

But we know we are not unified on this position; we have a fairly range of views. I think one of the things we probably most of us that we have a fairly common view in NCSG though is when you say, "It's not a policy, it's an issue -- a development issue; it's an implementation of GAC Advice issue." We sort of mentally translate into, you know, a half (unintelligible) from not real policy process that's resulted in bad policy.

So, but that's not really the issue you're getting at. The fact that pics, the entire pic process is a bit of a mess is something I think we have a fair bit of agreement. But I know that your specific issue about, you know, you're focused in particular on wanting to reform individual pics.

And I think there would be quite a lot of sympathy in the NCSG for the idea that the individual pics that we have now are not good and a lot of them contain policy provisions that we not even feel are not great but that are actually rejected by the GNSO process. So I think we generally welcome a process to fix the pics we have in the absence of policy.

But we also need to consider fixing the entire sort of policy mess, so however - even if it may be for the next round. It may be one of those things.

But certainly, community, some form of process to look at individual pics somewhere there worthwhile, it would be something - I mean I know I certainly would support.

And some of those, as I said, like we would probably have more sort of enthusiasm. In particular, I've been trying to make the point about the difference between regulated industries and regulated strings, and the example being Dot Bank. You know, Bank is many jurisdictions are regulated string within a regulated industry.

Doctor is obviously related to a regulated industry is usually not a regulated string. And so we should not be trying to regulate the string doctor at this point.

Ron Andruff: Thank you David. So a couple of quick responses.

We really have to be very careful about defining policy and policy. Policy is what we all do here in the GNSO, we develop policy for the Internet At large.

The policies I'm talking about here are those that the Registry is imposing upon the end user. That's not what we touch in the GNSO; we don't touch that at all. Once an op register operator is given their contract, then policies are developed by that operator for their constituents for their community that they're going to approach.

So this is all we're talking about is review those policies that have been written or in most cases that are not there to say we need public interest protection. So please registry operator, bring those - forward your public interest protections because that's what we're talking about.

So there's a different definition for the two policies. I just wanted to point that out, number one.

Two; the next round. This is one of the most important things because if we don't address this issue right now, how do we have the authority or the right to go back and address any other highly regulated strings that come in future rounds? Because what we've done is we've given one whole group of highly regulated strings free reign.

And then the next group we now say, "Well we understand it better so we're going to make sure you don't have free reign. In fact, we're going to be more monitoring your activities on the policies you put forward for your community."

And it's really unfair. We really need to be very clear about this. It's about making sure the public interest commitments are there by all strings right from the get-go, and even if we have to do this a little retroactively on these 40 strings, we're not talking 400, we're not talking 4000. We're talking about 40 strings of about half of which are controlled by the largest portfolio company, domain company, and I would say another 25 or 30% controlled by another.

So there are only a couple of registries that are managing this. Thank you.

Rafik Dammak: So we have Milton and let's start with a new (Unintelligible).

Woman: Thank you. From - could you clarify one thing that? What is the policy GNSO or NCSG can make? So it is different from other SO policies?

Ron Andruff: Yes, I'm certainly happy to clarify if I misspoke.

So what I'm saying is that when we talk about the GNSO Council which are representatives from all the bodies of ICANN, that's where, you know, through this organization, yours, the BC and others, we push up our ideas to our counselors, and policy is kind of considered and discussed there. And then working groups are made to really drill down into creating that policy on a particular topic.

So it's not just about one group, NCSG or another; it's really all GNSO making policy which I'll call Internet Policy; policy on how the Internet works, who can do what under what circumstances.

That's different from when a registry now says, "I am now responsible for Dot Lotto. And because I'm responsible for it, in my sole right - and that's how the contracts are basically written - I get to determine how I'm going to use - who can have a Dot Lotto, when I can take a Dot Lotto away from that user, those

kind of policies. So it's a really different distinction; one is Internet policy and the other is policy at the domain name level.

Does that answer your question? Thank you.

David Cake: And I just want to just clarify. I was very aware of that.

((Crosstalk))

Milton Mueller: Was I in the queue?

Rafik Dammak: Milton and then I think that is okay.

Milton Mueller: So Ron, I think the bad news for you is that there's not a lot of sympathy with the general philosophy that you're promulgating here regarding the role of ICANN.

I think a lot of us view, first of all, the whole pics thing as a kind of manipulation or retroactive mistake in TLD policy although not all of us do. In that sense that we don't like it when ICANN says, "Here's the rules for applications." And then we see what applications we get, and somebody in this case the GAC says, "Oh, we don't like what we're getting. Let's change the rules."

And we also tend to think that the safeguards promulgated by GAC are very dangerous examples of mission creep in the sense that you're saying, "Because this string refers to health that we're going to try to be a healthcare regulator by telling the Dot Health owner what they can do."

Whereas perhaps the more appropriate thing would be for the national jurisdiction, you know, if anybody is using this Dot Health in a way that's fraudulent or dangerous, then, you know, entities such as the US Federal Trade Commission have plenty of authority to go after them. That you



shouldn't try to do this through ICANN particularly when it has spillover effects that apply to a lot of people that, you know, maybe want to use a domain in a different but completely legitimate way.

So I'm trying to figure out in terms of us being advocates of kind of Internet freedom, distributed power, what's in this for us? What's the pitch that you can make as to why we should care whether, you know, the GAC gets to retroactively regulate domain name content? That's my perspective.

Ron Andruff: I appreciate that. Two minutes?

Rafik Dammak: Okay, you have two minutes to respond. Then you can (unintelligible).

Ron Andruff: Okay, so thank you for that question.

I think we're maybe conflating a couple of things. Yes, we too in the BC and I think in the CSG, we feel very strongly about don't change the rules after the game has started. It's about certainty; business wants certainty. You know, this is how it is and this is how we do it.

If we go back in history, we had so many competing forces when we did the AGP. If we had done the Applicant Guide Book in a way where we had no applicants, we just took the time to do an Applicant Guide Book without people coming to the microphone saying, "Well, it's a year now since we started. Oh, it's two years now since we started." To the force of trying to get this thing out the door, unfortunately as an organization, we sent out some Swiss cheese; lots of holes in it.

And we are in a situation now where we can either allow those errors as gaping as some of those holes are to go forward and say, "Well we tried but we really can't think of any mechanism to clean that up." Or we can go back and look at let's say the four or five most egregious things and try to sort them out.

One of the things I use by way of an example is no one could have foreseen that Dot Sucks was going to come along and starts to extort money from brands. Basically you could get a domain name -- a Dot Sucks domain name -- of a brand name for like \$10 if you were not a brand.

But I'll tell you I have a trademark on Life and there's - because we have a Life social media that we were building. And the only other trademark in the Trademark Clearing House is Life Magazine, so there were two of us.

My trademark has been taken and put into a premium brand, and I was told yesterday I can have it. I can have my own trademark; it's a million dollars. So now we didn't foresee that when we wrote the guidebook and so we're wrestling with that one now.

So I'm not sure where that goes, but at least we realize that new TLDs aren't about extorting. The idea of new TLDs was to give more selection, more opportunity. But now they're coming out at \$10,000/\$20,000, a million; that's not the way it should be.

So in the end, that's my argument is that we have an opportunity to correct some of the big flaws, but we shouldn't be going in and tampering with everything; we absolutely should not. But where we can and certainly protect the public interest because that is first and foremost what we should be doing as ICANN; making sure that those who are affected have an opportunity.

Thank you.

Rafik Dammak: Thanks Ron. (Unintelligible) how we can do and going - still ongoing discussion.

Ron Andruff: Again I thank you all very much for taking the time and for considering this. We're going to continue to push on it, and any individually or as a group, if

you can add any force to that we're very helpful or very grateful. Thank you all.

Rafik Dammak: So let's welcome our next guest from the Cross-Community Working Group in ICANN Accountability. Thomas and (Unintelligible)?

Thomas Rickert: Thanks Rafik for the warm welcome. And for all those who have heard enough about Accountability this week, this is your opportunity to leave the room.

And in fact, we have not come with a slide deck. We know that you're - I didn't know it was so easy to get your support. But in fact, we do know that this group looks very closely at what we're doing; you've paid attention. You have several individuals in our group which really add a lot of value to our deliberations and I thank you for that.

We've published our report as you know. The report, again, does not contain consensus recommendations. But we wanted to get it out to the community to chime in, to let us know whether we're walking in the right direction, whether we're completely wrong, or whether we need to adjust.

And the good news is that in all the big questions, the community powers, review and redress, the community said, "Yes, that's good. The overwhelming part of the reports was, "Yes, we do think that the proposal that you've come up with provide substantial enhancements to ICANN's accountability."

Yet there are three big areas where we need to get better. And more tiny issues but they will all be taken care of. We will come up with a comprehensive report responding to every single comment that has been issued, so we will take everything into consideration.

But there are three main themes that many commenters have brought forward and that also many during this last week have mentioned.

That's number one, the issue of diversity. So while we have thought of diversity in some areas because you'll remember that we have the magic number five -- five votes for SOs and ACs apart from ALAC - apart from SSAC and RSAC. And the number five came from the idea of allowing for five geographic regions to have their representations.

So we had thoughts on diversity, right, but the community seems to fear that we need to be better on that and maybe not only have diversity as an aspiration but as a requirement for our work. So we take that to heart; we're working on that.

Then openness, flexibility; the community has said, "Well what are you going to do if this community changes?" Let's say we have a constituency dealing with Internet of things.

Is our system flexible enough to adjust to future needs? Also are we inclusive enough? Do we get enough outreach geographically? And that's also something that we're working on.

But I get the point that is most important is the mechanism under which we empower the community.

You will remember that we have a reference model in our proposal, which again is not a consensus position. But that is what we thought got most traction in our group.

And the idea was to have SOs and ACs and create this register additional unincorporated associations that would act as avatars or alter egos for the SOs and ACs for the purpose of exercising community powers and the community sentinel.

That's too complex. That has so many additional questions. Who controls those? How is the process of registering those? What are the Articles of Incorporation? How do we make sure that these organizations don't go rogue? And, you know, it was felt being complex, so we took that off the table.

And in our meeting on Friday, every member of our group had the opportunity to present their vision of an ideal future ICANN. So we had seven or eight people taking the floor and doing their best to present their ideal model.

And Robin, for example, took the floor and presented what she was - her ideal model. And then we looked at those proposals that were made and tried to find common requirements. And actually there were quite a few.

Also we could find out from the feedback that there was some things that we didn't want to further pursue. So we struck the reference model off the list with the additional layer of unincorporated -- registered unincorporated associations -- and we tried to take the best out of our worlds.

And our current thinking, and again this is not cast and concrete, is to leave the SOs and ACs as they are; nothing needs to be done. We do not change their legal status.

Some think they already have legal personality; so be it. Some say they don't have one, it's not for us to determine whether they do; we don't touch that.

But what we will do is we will have bylaw language that gives all groups that choose to participate in the voting scheme voting powers, and then let's see how that works.

They will take decision on certain items if need be, and only if we find out at some future point in time that will hopefully never happen, but let's say the

Board chooses to ignore a decision made by the community, or if the Board chooses to ignore a decision made by the independent review panel. Then one or multiple groups could say, "We're now taking a little step to formalize our relationship with ICANN."

So they would pass, at the minimum, but sufficiently, a resolution saying, "We came together or we come together as a group to exercise the community powers that our laid down in the bylaws." And according to legal advice, that would give them sufficient legal personality to have authority to make ICANN honor their wishes.

I think I should pause here. I think it's actually a hybrid model, very light wide, but still it would give us sufficient authority to make sure that the community that we want to empower actually has the powers at its fingertips.

Rafik Dammak: Thanks Thomas. (Unintelligible) looks a kind of interesting (sic) statement, but whatever. So we will get question from the group here and (unintelligible).

Oh yes Becky, please go ahead.

Becky Burr: I just want to make one clarification. We have confirmed, although we're talking about this in a kind of membership model, we have confirmed from legal counsel that a designator model could have the same characteristics. However it would not have the authority with respect to the budget and start plan that the community has expressed strong support for. And that for at least in terms of the budget is now a contingency from the CWG.

So I don't - we have not taken anything off the table, and we have confirmed that a designator model could be used in this structure.

Rafik Dammak: Yes (Will).

(Will Daw Secor): (Will Daw Secor) for the record.

What would be - I mean imagine a hypothetical scenario where you would actually override the Board, okay, if it ever happens; hopefully not.

What would happen in the legal status of the corporation as a whole given that it abides by California law? I mean who are the entities responsible for the corporation at the time?

Thomas Rickert: I'm not sure I do understand the question.

(Will Daw Secor): In the case that the Board does not agree and then you arrive to a standstill -- a conflict -- what would happen then? And if it results on the Board - because I understand it's a corporation that abides by California law, isn't the Board responsible for being the entity that's officially representative of ICANN?

Thomas Rickert: Okay, I should clarify that we're starting to talk about the involvement of courts. We will make sure that the system has mandatory alternative (unintelligible) resolutions in it. So people can't just walk to courts, they need to use the IRP or the reconsideration process first.

And if the Board, let's say, chooses to ignore the wishes of the community, then we have the opportunity to get rid of the Board and install a new Board that is willing to honor their community's wishes.

With whom the liability rests I think is a matter to be decided on an individual case. I think there's no one-size-fits-all response to that. But we've been advised that groups that participate in the voting scheme would not be exposed to any additional liability versus the status quo today.

Rafik Dammak: So we have (Brad) and then (Aaron). Okay, (Aaron) first and then (Brad).

(Aaron): Thanks, this is (Aaron). Thanks Thomas.

With respect to the model that assume the CWG finally agrees on the (unintelligible), the bylaws I guess is going to be a fairly important process, what is the timeline like for beginning the process of drafting bylaws, especially the fundamental bylaws?

And (unintelligible) to add to that, we show diversity - is that something - is that issue going to be decided at least through bylaws that are sensitive to the concern of diversity? Is that one way of looking at it?

(Metrovey): Thank you (Aaron), this is (Metrovey) speaking.

You're raising the question of how the bylaws are going to be written and when that process is going to take place. And I think the short answer is it's going to start very soon. It has to start very soon because the timeline for that is quite short and it's apparently expected as part of the certification of the proposals by NTIA.

And as a consequence, we are currently starting to consider how this process is going to place; that is certainly going to be item of discussion for the cross-community working group this week in the working sessions. And we are going to discuss how we can have some technical assistance from ICANN who is I mean drafting its own bylaws, and yet keep our group in control of ensuring that the requirements we've divided our really taken into account in the bylaws.

(Aaron): Because Fadi mentioned in the meeting with the Board that ICANN is going to provide technical resources for the (unintelligible).

What does that mean? I mean ICANN is going to give you the lawyers for the drafting purpose. Is that what it means?

(Metrovey): The regular process for drafting bylaws is that ICANN Legal I guess (unintelligible) help of outside legal expertise to draft bylaws, to admit them



for public comments, and then after public comments it's submitted to the Board.

So we need to find a common ground here to be, number one, a little bit more agile rather than wait for everything to be ready and start discussing about bylaws and working in cooperative fashion with them. That's very much an open question of how it's going to be taking place, and so that's what we need to address very soon.

There will be a contribution by ICANN Staff in drafting bylaws. That, at the very least, they need to ensure this consistency across all the bylaws between our proposals, ccWG Accountability, potential proposals coming from other groups. ICG may have some bylaw changes to add to ours, so that's what we're talking about.

Rafik Dammak: I was told from the remote channel that you need to identify yourself when speaking, so please do so.

And then we move to (Brad).

(Brad Schaefer): Thank you; (Brad Schaefer) for the record.

I have two quick questions. One is the ccWG proposal for comment included a timeline that identified next summer as the point of implementation. Could you clarify that timeline - excuse me, I have a cough - with Fadi Chehadé's statement that we're going to have a proposal by Dublin to vote on?

And second question has to do with the presentation that was earlier about the ability of the SOs and ACs to incorporate afterwards. Does that raise any legal complications in terms of retroactivity if an action is taken and then they incorporate after the fact? Can they still apply those powers?

Thank you.

León Sanchez: Thank you very much. This is León Sanchez.

With regard to the timeline, our aim is to have a second draft proposal by the end of July. We will be coming out of our Paris meeting incorporating the different feedback and the comments that we have received in the first public comment, so we will be having a second proposal by the end of July and opening a second public comment period which last for 40 days.

And that of course will leave us room to build what we would hope to be the final proposal by September so we can forward this to the chartering organizations so they would be able to review and hopefully vote it at the Dublin meeting. So that is with regards to the timeline.

Now with regards to - I don't know if that is clear.

(Brad Schaefer): Just to clarify, does that just assume that there's not going to be any major changes?

León Sanchez: I'm sorry?

(Brad Schaefer): Does that assume that there's not going to be any major changes in respect to comments or is there going to be...

León Sanchez: We'll see how it goes. I mean...

(Brad Schaefer): If there are major changes, would it have to be open for comment again?

León Sanchez: That's a possibility; yes. That's a possibility. We need to wait and see. So you want to go to this question?

Thomas Rickert: Just to say that the term implementation is different for the CWG versus the ccWG. So the CWG requirements all have to be implemented by the time of the transition.

For the ccWG for Work Stream 1, what we're doing needs to be implemented or committed too. The milestone that we're seeing in Dublin is to have bylaws that can be adopted by the ICANN Board because that would be a prerequisite by the US Government.

These bylaws, for example, would state certain aspects of the IRP. The implementation of the IRP or the policy or the rules of procedure, they can be fleshed out after the fact. And this is why you have the Dublin meeting and then let's say six months to get further work done on these items until (unintelligible).

(Brad Schaefer): Because as I understand it, the bylaws themselves have to be open for comments. Is that correct?

Thomas Rickert: Yes, it is well possible that in case we have a set of bylaws ready that the public comment period is for our process and for the Board process can be combined. But that needs to be further discussed with ICANN Legal to make sure.

Rafik Dammak: Thanks Thomas. So we have in queue now...

(Brad Schaefer): I'm sorry, the legal question.

León Sanchez: The legal question. There would be the possibility not to incorporate because remember we're not talking about incorporating anything. But to gain (unintelligible), the door would remain open for any SO or AC to go acquire this legal person could at any time.

And I don't believe it would be possible to make it retroactive to any kind of situations that would have happened before the actual act of getting this legal person.

(Brad Schaefer): Do you have that on legal advice or is that your opinion?

Rafik Dammak: Sorry (Brad). Can you answer this quickly and then we can move to other speakers.

León Sanchez: Yes, this is León Sanchez and this is my personal opinion. We of course would need to ratify this with Legal advice.

Rafik Dammak: Thanks León. So we have Milton, then (Forsana), and then I think Amr and (Remochana). Milton? Milton, you wanted to speak.

Milton Mueller: All right, so I'm speaking as somebody who has been very much following the IANA Stewardship process but only indirectly following the Accountability process. So some of my questions may be not as - well they could be ignorant questions but I'm going to have to ask them anyway.

So I've been talking with people from the Numbers community who have apparently filed - they've done their own independent legal analysis and frankly don't have entirely good things to say about the legal analysis that you've been getting in the ccWG.

And they're telling me that the existing Supporting Organizations and indeed the existing Stakeholder Groups, because they meet together for a common purpose are already unincorporated associations and therefore could have some of the powers of members.

And therefore was the original membership model such a problem? Was it that complicated to create these unincorporated associations? I don't know whether the answer to that is yes or no; I'm curious.

I'm still having trouble understanding the aspect of the new model in which people elect to do this at any time. This sounds a little bit destabilizing in the sense that if certain people choose to do this and others don't, there could be all kinds of unpredictable forms of strategic behavior in which certain stakeholder groups might achieve disproportionate power over the situation. So I'd love to hear more about this.

Becky Burr: So I think that it is fair to say that there is a high likelihood that some of the SOs and ACs, if not all of them, are in fact have acquired the legal personhood necessary to exercise rights as members.

The step that we're talking about, the declaration, is a confirmatory step. And we haven't gone back and looked at all of the documentation that the SOs and ACs have put together and, you know, to confirm that under the circumstances somebody would conclude that this personhood status has been achieved.

But I think what we're talking about is, you know, for those who are uncomfortable with any kind of filing or any kind of confirmation or assertion, we leave the status quo just as it is. There may be nothing that needs to be done for those groups to have the enforcement powers that members would have. If they want to be sure, they can take this declaratory step. But I think that that's consistent with our understanding of the situation.

And in all fairness, I think the original proposal got hoisted on the petard of legal terminology that was confusing and unfamiliar and sounded very formal. And so - and also, you know, there are strong concerns about whether, you know, participants can be part of something that has legal status.

So what we're trying to do is accommodate the kind of range of comfort and discomfort with that, but still preserve the powers and authorities.

Milton Mueller: Just one follow-up here. I want to make sure this point gets across.

When we talk, it really matters to us as to the scope of the collective unit that is considered the unit of membership. So if you're saying it's the entire GNSO, we know that we can be routinely outvoted by a dominant coalition within the GNSO, and that might not empower us at all.

If you're talking about the stakeholder group level in which obviously we're not saying that we should control everything, but at least we know that we're one of the members and have a voice and a seat at the table. So that looks a lot more attractive to us.

And particularly when you're talking about sort of artificial diversity quotas, that actually in my opinion - I'm not sure everybody here agrees with me - that can work against a lot too because you could get, you know, if you insist on regional diversity as opposed to stakeholder diversity, you could end up with five, you know, registries from different regions of the world and not have any non-commercial voice in there.

Thomas Rickert: Thanks Milton. Before I respond to this question, let me get to the last question or set of questions that you asked. And that was about the situation that could potential lead to gaming when some organizations choose to go formal while others don't.

But to put that in plain language, if let's say the GNSO chose to pass that resolution, would the GNSO be the only organization having a formal relationship with ICANN, then have 1% of the voting rights, right. So that is a scenario that some, not only you, have asked us about.

And we will have to make sure that none of that happens, but that the voting scheme that we decide will hold regardless of how many organizations go formal; not to use a legal term. So the powers are distributed regardless of whether the groups take a more legal form or not.

With respect to your last question, the number five for votes was brought up to provide for or to allow for geographical diversity. But our group has not yet specified whether this would be block votes or whether these would be allocated to stakeholder groups at the constituency level that is yet to be discussed.

So that was not part of our first report, but we do certainly have these questions on our radar because it is imperative for us not to destabilize ICANN's decision-making.

And maybe a last word. Ideally the groups would never have to exercise these voting powers to have an impact on budget operating plan or other items because before this process starts, we would have a consultation mechanism with the community anyway. And hopefully the Board would honor the community's wishes so that these powers will never have to be revoked.

Rafik Dammak: Okay, thanks Thomas. So we have (Forann) and then Ed.

Recording: You've been placed on hold; please wait.

(Forann Abagee): Okay. I'm (Forann Abagee).

So the community ruins my dreams on Friday by kind of moving towards this soft approach. And I was - well I'm very new to this so I'm reflecting why we're so disconnected when we came up with the proposal from the community that they said such sharp no to the unincorporated association and all that.

And then also I have another question. So I have some (unintelligible) a new model like briefly, but there's much more detail to come; I know that.

And do we have a backup plan if the community again says no?

Mathieu Weill: Thanks for the direct question. So I think it's an unfair summary of the situation that the community said a very sharp no to the reference model. Technically there seemed to be a majority of commenters in favor.

However, our goal is to produce a consensus position. And so a significant minority of no's is sufficient for us to adjust and make sure we find consensus. And that's what we did and that's why we shifted a little bit to sort of a middle ground approach. And I would certainly not clarify it as soft.

And is there a backup plan? No, there's no Plan B, all right. If we miss Dublin, we're going to be - I mean the transition will be jeopardized; there's no question about this. So we're doing all our best to find this consensus point, get everyone on board and do it by Dublin.

Rafik Dammak: Thanks Mathieu. Ed?

Edward Morris: Thanks Rafik. There have been times in the last six months when I think Accountability has become my life. But I look at these guys, I look at Mathieu, I look at León who for a while was my brother; I saw more of him on the phone than my girlfriend in my apartment; Thomas and Becky.

If we could just give them some applause. If you agree with what we're doing or not, the work they put in is incredible. I'd just like to let us as a group show our appreciation for the time they've invested in this project.

Rafik Dammak: (Unintelligible).

Edward Morris: Briefly, I was in favor of membership before ICANN new there was something called accountability. When I ran for GNSO Council, I called for membership.



But I like Becky's model for this reason; it's truly bottom-up. Each SO/AC can choose its level of participation, can choose the form it participates; it's not being imposed. León is not telling us, "You must be a UA." No, we can choose what we want to do.

And it has - and to (Forann's) question, at root it has all the powers, all the statutory powers of membership, but with a lot of legal googol-gook that our (Unintelligible) charges \$2 million for.

It's simple, it's concise, it's powerful. It fits into our current structure and it can attain all we want. And I want to thank Becky for coming up with it because it's a stroke of legal brilliance. Thank you so much.

Becky Burr: Can I just intervene and say it was a collective effort; it is not Becky's proposal. It's the empowered SO and AC model. And I would be completely disingenuous if I did not acknowledge the important contributions from a huge number of people include all the members of the NCSG.

Rafik Dammak: Okay, thanks Becky. We will try to get maybe final question from Amr and then just to wrap up here.

Amr, can you speak?

Amr Elsadr: Yes, thanks Rafik. This is Amr.

I had to step away for a few minutes, but I have a question which is really an old question and something I want to follow-up on what (Aaron) was asking a little earlier regarding how the new bylaws would be drafted.

And Thomas is familiar with my question on this because I did ask him at a GNSO Council meeting a couple of meetings ago. And I think Mathieu to some extent addressed it because Mathieu said that when the drafting begins

that there would be some sort of collaborative effort between the community and Staff.

My question is really about whether there would be and how there could be community oversight of implementation of the Work Stream 1 recommendations. I'm specifically addressing the Work Stream 1 recommendations because I think once those are implemented and we have those bylaws in place that empower the community, I'm guessing the Work Stream 2 recommendations, the issue of oversight, will be less important.

But I do have this question regarding the Work Stream 1. I was wondering what your thoughts were on those.

Thomas Rickert: Thanks Amr. I guess the easy answer is that our group will not dissolve after decisions have been made in Dublin. So implementation of oversight is an integral part of our work.

We do know that we have a far way to go. Work Stream 2 is yet to come. So we need to ensure that all the implementation is done in line with the community's thinking. And the authors of the report need to be at the table when the mechanisms are being implemented.

As far as the bylaw drafting goes, we will have to discuss with our group, so that's not yet set in stone. But it is our plan to slice our work into sections; we have some areas where the community has broadly supported what we are doing. And those parts, with a little bit of tweaking from our group, can then go to ICANN for them to take a first look at drafting the language. They would then go back to our group and we will likely set up review teams to ensure that exactly what they've written mirrors what we have intended with our report.

So it's going to be an iterative process, and we're going to do it agile. That means that we have portions, we have little sprints where work will be

conducted. Maybe two feet back cycles with the ICANN experts. And then certainly we need to look at the whole package once everything is assembled.

And I will propose to our group that we need to install the DAG, the Devil's Advocate Group, which is only tasked with looking at how the system can be gained and whether it's consistent; whether it causes additional risks or we have unintended side effects.

Amr Elsadr: Thanks Thomas, that sounds great.

Rafik Dammak: Thanks Amr. Yes, any system can begin with anyway.

So it's now four thirty when we have the meeting with the Board in 15 minutes, and I think you will also have to run other meetings. So thanks for coming and hopefully we can continue to contribute in the working group.

Thomas Rickert: Thanks for having us.

Rafik Dammak: Okay guys, so our next meeting with the Board in (Liberty AB Room). See you there.

END