Transcription ICANN Buenos Aires NCSG-CC Working Party on Human Rights

Wednesday 24 June 2015

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Man: Hello everyone. Thank you very much for coming. We'll start in a few

                minutes, but I'd like to ask you let's come around the table so we can have a

                conversation. It's a working group. Let's come closer.

Man: Hi everyone. We will start soon, so please take your seats.

((Crosstalk))

Man: Well great to have a great turn up again. I think we're - we can - we're about

                to start. If everyone could come and take their seats. And you're all very

                much invited to have a seat at the table. No pun intended. Can - could you

                start recording please so we can start the session?

                So thank you all very much for the working session - to join the working

                session of the cross community working party on ICANN's corporate and

                social responsibility to respect human rights.

We had some very interesting sessions earlier this week. We have the meeting with the GAC working group. We had our public session this morning. And there were quite some suggestions of work and things that we can be doing in preparation for ICANN Dublin and also more in general and more structural work.

So I would like to ask from you what would be concrete things we would do. I've made a small list of some things that are there up on the screen. Maybe they could be a bit bigger because it's a bit hard to read like this.

And then I'd like to gather a few more suggestions from you. Some things that we could be doing. And then see how we can distribute the work. Would that be okay?

So then I would first like to ask if - I'll first make a short review of the list of tasks that we could be doing. Yes, let me say. Who was here in the morning during the public session at 11? Raise your hands. So not everyone was there. Excellent. So that's great.

So these were points that came up in the discussions that were there that would help us to come towards a framework in a human rights impact assessment of ICANN's policies and operations on human rights.

So if we want to continue, we'll have to show and see how that works and develop standards on that work. To do that will need some intercessional work. Is there something that I have missed in the representation there?

Woman: No. Maybe if we do want to make a quick overview of how the session went maybe to be a little bit repetitive for those that work here in the morning. But just to align information about what happened this morning.

It was an open meeting of the cross community working party on ICANN's corporate responsibility to respect human rights. We had been organizing this

session since ICANN London. It has been happened since then, then we are happy to notice that there is a growing interest in terms of different parts of the community that this work move forward.

There was quite a positive assessment in terms of working as a working party. And that it is important for us to map what are specific issues and policies in ICANN and how they relate to human rights.

And that we develop impact assessment tools like (Neils) mentioned. And we also exchanged some information regarding corporate social responsibility initiatives that could inspire our work and how we could translate these principles to ICANN's remit and environment such as the global network initiative, GNI.

And there was some information about other work on human rights that is being carried out in different parts of ICANN, such as the working group that the GAC is discussing to create on human rights and international law. So GAC is also working into this issues.

And we should think of ways in order to cooperate with them once they have their chart in place. They are discussing the scope of their work. And probably we will be able to work together more closely in Dublin.

Man: Thank you very much. What an excellent overview (Madilia). Does anyone have any questions about that? No. That's great. So to operationalize that there are a few - I made a short list of tasks that need to be done. I'll shortly go through them and to see if there are any clarification and questions about that.

So the first thing that would really help is if we could create a visually attractive chart, which correlates rights with policies and operations that makes it really clear which policies and operations in ICANN impact which rights.

So we could think of (OAs) and privacy, the expert working group on (OAs) and privacy. And of course the gTLDs, the new gTLDs and economic and social rights. So that people would have in a clear overview what would the impact be so that they understand the work better. And it would fall under the mandate of awareness raising of the cross community working party.

So that's one thing to do. A further thing would be mapping a relevance CSR policies and/or standards. And to see how they could be reshaped for ICANN. So we mapped in the Article 19 report for the cross community working party. There were an analysis of a few different policies were standards. And we could see are there more. And what standards are they used? And how can they be used for ICANN?

Then another one is the mapping of examples of standards for human right impact assessment. So how can we do human rights impact assessments for ICANN? What would be standards there so we do not need to reinvent the wheel?

And then analyze the possibilities of the policy development process of rights assessments and see if there are relevant upcoming issues reports for which we could do this. Because apparently, in the current policy development process, if an issue report is released there is already the opportunity to do a rights impact assessment.

That has up until now never been done. So it would be relevant for us to see how could we operationalize and do that. And perhaps see what are upcoming issue reports in which we could do that.

Then there are more tasks of a practical nature. So organize three conference calls before ICANN 54 in Dublin. Organize a preparation call with the GAC working group co-chairs.

Set meeting with all constituencies for ICANN Dublin. And conference calls for these constituencies. Organize the meetings in Dublin and organize a joint meeting perhaps with the GAC working group and the cross community working party.

Then I'd like to add one more point for the list and also for discussion. And that is whether we can see whether the issue reports that Article 19 drafted for the cross community working party. What could be a process for perhaps adapting that - adopting that in completeness or in part so that it would become a product of the cross community working party.

So that's quite a list of things to do. Is there anyone who has questions or a burning passion to do one of these tasks?

Marilia Maciel: Actually this is Marilia Maciel speaking. It's just an observation. I think that the chart, it's actually the product of work that needs to be done. And that was mentioned in that public meeting today, which (sets off) the different parts of the community and try to understand the concrete issues that they are facing.

So just the registries for instance, they speak about the difficulty to follow the national rules of data protection and to collect information that the ICANN contract makes them collect. So this is a very specific case that they always mention in the public meetings, but they never have the time to explore exactly what are the sticky issues.

So I think that the chart is actually the product of this mapping and talking to different parts of the community. And maybe this will require some fieldwork. And we need to commission someone that is helped by a community member that, you know, represents the different parts of the community.

And we are able to build this case studies repository of where the problems are. So I think it would make it much easier to understand what we are talking about. And then the result of this is the chart.

Man: That sounds like an excellent description of that task. Would anyone be
                interested in collaborating on that on working on?

Man: Yes, (APC) would be interested in working on. I'm not sure, the scope seems
                quite large perhaps, so we might need to work with someone depending. But
                we would be interested in being a part of the first one.

Man: Well that's really great work. So perhaps we can say that (APC) can be the
                lead on the process. And then we'll try to get on the mailing list, see where
                we need input. See where we can link you up with the relevant community
                members to map those issues.

                See where we can get the resources and the information. And that would be
                great. And for the record, (APC) is the Association for Progressive
                Communications. Am I right?

Joy Liddicoat: Joy Liddicoat from New Zealand please. I would like to volunteer to support
                working on the chart and also on one or two of the initial analysis.

Man: That's really great. So that seems like a really strong team for this first output.
                So that's really great. Then perhaps we go on to the next point. Or did you
                have point Lee. Go ahead.

Lee Hibbard: Thank you (Neils). Lee Hibbard from the Council of Europe. I think, you know,
                when it comes to (represent) international governmental organization (for the)
                member states. And we've been very much helping and facilitating work both
                in the GAC working group and also here.

                So I think in general of course that what we'll continue. You know, there's
                quite a lot of expertise on human rights in the Council of Europe. So, you
                know, I think I'm trying to find out whether, you know, we can find expertise

that can come in and contribute to this work. Which specific expertise we will need to discuss.

But I just wanted a place marker for the - to assist in the future work of the CCWP. And I think just as you said (Neils) I think it's important to identify roles and responsibilities so that we all are clear going to Dublin.

And that also means regarding the, you know, leading this work. And I don't know whether we need any lead or co-lead. I don't know whether the word is a chair or not. But, you know, is it clear who is doing what and who is leading this CCWP, et cetera. Thank you.

Man: Go ahead.

Man: I'm trying to understand what is deep inside. What's to do? And trying to understand where the theme, like how to operate with this. I mean operational mechanism of human rights inside ICANN. It can be (unintelligible). It can be someone near on (unintelligible). But I suppose we are to think about operational mechanism as one of the point, not only to analyze but to propose - to make some proposals how to fulfill some amount of job afterwards.

Man: Yes indeed. So I was thinking under which part that could be going. So some suggestions for that were mentioned in the Article 19 reports for the issue reports.

So perhaps we could do that under the process of the adoption of parts of the report and perhaps in addition of that report.

Man: You see, it is absolutely right. It is necessary to do. But it's kind of actions inside the project once. I am speaking about operational mechanism, something like maintenance or I don't know, operations. You see? It's

something different. How to operate with human rights things, with human rights activities.

Who will, every day, who will fill this? We would like - I suppose we are to think about it and to make some proposals about it.

Man: With that fall under the CSR policy I think on the corporate and social responsibility policy?

Man: Policy is the paper. I mean persons.

((Crosstalk))

Man: The business procedures.

Man: Go ahead.

Marilia Maciel: Maybe I agree with you. Maybe to answer this question I think that first of all people have this group that has been formed, which isn't formal. That is why it's called a working party not exactly a working group. We are not chartered and so on.

But I think that moving the work forward, maybe we need a little bit more structure like Lee had said, a facilitation or clear content points and so on. But I think that this group is kind of the seat of the work.

But in terms of how we include into the process, then I think that this mapping that we are talking about, this is what is going to tell us.

Man: It is possible Marilia, absolutely. But it's necessary to think deeper.

Marilia Maciel: I was looking at the list that you put in. And I think that maybe there are three main areas that we could carry out that require different expertise. So maybe it's a good way for us to divide ourselves.

I think that maybe the correlation between rights and policies and the interviews and so on is something that someone that's knowledgeable in the community and note the different parts could help to facilitate that, together with the matters of the possibility of how to include this in a PDP process because this requires quite a lot of understanding on how ICANN operates.

So I would kind of organize this cluster as in internal thing that someone in the community could not do all the work but facilitate. The other it seems to me that require more kind of a law background because we would be mapping relevant CSR mechanisms and human rights impact assessments. So maybe kind of a legal team. A team with more legal expertise in this.

And the third one is very operational. It's related to how do we organize ourselves from here and to Dublin and it during the meeting in Dublin. So maybe if we separate in clusters it's more clear in our minds the expertise that we are looking for.

So I would say it's a legal, it's a networking community team and it's an operational team maybe.

Man: Excellent suggestion Marilia. So in that case it would be relevant to see if there is - if we combine, so the charts correlating rights with policies operations. We have to analyze the possibilities of the PDP right assessments and see if there are relevant processes there. With someone who has a lot of experience and understanding of how the community works.

Man: I guess basically I'll talk about GNSO policies. So that's which task exactly, Number...

Man: Zero and three. And there you would be working together with the people from (APC). So you'd be having some support.

Man: Yes okay. Thanks. I mean I guess for the...

Woman: Rafik, please identify yourself for the caller.

Rafik Dammak: My name is Rafik Dammak. So I guess in terms of the (SS) (maturity), it should be starting with an issue report. That's the first thing. But yes. I will be happy to - we can start this work.

                 First will need to go through the PDP to see the different step (unintelligible). And see where it can fit.

David Cake: I'd say we've done some of that sort of (close) analysis of the PDP process for the GAC GNSO work. So I'd be happy to help pull out some documents and read them. I'd be happy to help pull out some of the documents we've already done for that and.

Man: And who are you sir for the record?

David Cake: I am David Cake.

Man: That's in the recording.

David Cake: I've been shown here. I don't know whether, anyway. So our Number 3 actually, the Council just passed a resolution to start a niche - preliminary issues report on the next round of new gTLDs. I'm sure this, you know, this might be something that, you know, should have some, well it would be some potential impact on human rights. And that's something that we can maybe try to latch on.

Man: (Edmond), could we then perhaps charter you to do a bit of a search on that, on this issue report?

(Edmond):   Yes, but we need to - what he means that probably that need to go through the council, even though they passed the motion. But I guess do we need to do some more to add that element in the initial report so - initial report. So it's more that we need to go through the council.

Man: Excellent. With that it seems like we have - and Marilia, wow we have a super team for task zero and three. So now we'll go for the more legal work, mapping the relevant corporate social responsibility policies and standards. And see where they could be reshaped to work for ICANN.

                     And then mapping of examples and standards for human rights impact assessment. There will be someone with either a CSR background, a legal background, a lot of Googling. Would people be interested in that?

Lee Hibbard: Okay, you know, as I said, thank you Lee Hibbard, Council of Europe. I think that, you know, I should try to find the expertise that you are looking for. We could have someone with a human rights background who can really come - from an external point of view, who can come in and help somebody from the community.

                     And maybe link to the work on speaking - having interviews and speaking to people can actually look at these issues and give some, you know, some expertise. So I would endeavor to try to find expertise and bring it in for you, as well as my own time. Thank you.

Man: Thank you very much Lee. And I think I can also offer some support from Article 19 on that as well. And perhaps let's see if Joy is still on the - I think perhaps we can also see if Joy would be interested to help with that. That would be great. Stephanie has her hand up in the chat. Sorry I didn't see that. Stephanie go ahead.

Stephanie Perrin: Thanks very much. For the record this is Stephanie Perrin, NCSG. I'm going to sound very, very bureaucratic and nerdy here when it was this, so bear with me.

But, I think we need, because of the amorphous nature of this topic, particularly where starting from kind of zero at ICANN in my view. I think we need a logic model and we need clear goals to orient our tasks.

And we need to know what we're trying to achieve from an overall model. This is what a logic model gives you, you know. And the deliverables and the outcomes and all the rest of this because I think there's a risk we're going to go helter-skelter. And it would be very good to go step wise.

Man: Would the charter perhaps form a - feed into such a thing Stephanie?

Stephanie Perrin: The charter would solve some of the questions about how we achieve our goals. But the logic model helps us actually come up with it the goals and the short-term deliverables and the long-term deliverables.

And I fear that absent that we will be pulled in various directions as we move forward. So I can see pressure coming. You know, the moment we meet with the GAC, the GAC committee, their goals and deliverables and outcomes are different than ours I would suggest.

And so there's a risk we're going to be pulled off there. And then as we get more stakeholders joining us, the same thing will happen. So it would be a tandem development with it the charter possibly.

Yes, but it's not necessarily been accepted by everybody and all the rest of it, right.

Marilia Maciel: Okay Marilia from the APC. Actually I'm glad that Stephanie brought those issues up because I was just going to propose that the group help the facilitation group that is going to be in charge of (unintelligible) to come up with a clear guidance on the scope, on the goal and the outcome.

And also my question for you is if you expect the facilitation group that is going to be in charge of this task to come up with a timeline? Or if there's something that we need to take into account in order to organize the work of this group?

Man: I think I would volunteer to work with you to come up with a draft logic model and a draft timeline to see because then we have - and then also who does what simply. And then we have cleared deliverables for our time up to Dublin. I would be happy to do that as an outcome of this meeting.

And operational work Points 4, 5, 6, 7 and 8, I would be happy to do that as well. But I think I can only do that in collaboration with the NCSG chair and with the support from the NCSG. Do you think such a thing would be possible? Organizing of conference calls, setting up the meetings were Dublin, liaising with the GAC working group.

Man: Yes so 4, 5, 6, 7. Sure. We will continue.

Man: Yes, I think in term of getting the meeting room and the conference call and all these (pressure stakes) we can help in (unintelligible) support. And also as we did to contact the different chairs. So and having the kind of report like what we did for this meeting. Yes sure.

Lee Hibbard: Thank you (unintelligible). Lee Hibbard from the Council of Europe. Just to say that I think that from my experience in working in other - with other groups, and I'm thinking particularly of the European Dialogue and Internet Governance, it's very important to make it very clear now who is really onboard as part of a core team going to Dublin.

I mean there's lots of supporters here. And some will be in Dublin and some will not. Some are remote and some are not. But it would be quite important to try to identify who is going to be really at the core of this CCWP. Who is going to lead it? Who are going to be the anchors for support?

And simply, you know, is going to be around to really contribute. It would be nice to have some clarity of how that support structure is rather than just a group of people who meet and discuss when they can.

So people will come on the call. Some people contribute. So I don't know, but the time is now. It would be very important from my experience to see, you know, who really is going to support the process and endeavor to commit. Thank you.

Man: Lee can you clarify what you mean by support? It's just, it's not clear.

Lee Hibbard: It would just be nice to know, you know, we have our people in the room. There's people on the list, the meeting list. It would be nice to know simply who is involved. And maybe at some point that we see the list of people who are following and supporting.

Who, you know, who want to take a leading role. We're just starting talking about this now. So it would just be nice to know for transparency who is involved in the drive and the next steps, you know, just so we can identify that because it there are an increasing number of people who are involved. It's just for reasons of transparency I think it's very important for us to know.

Man: So for matters of transparency, I would be happy to volunteer to help facilitate and coordinate this process. And if other people are there also willing to help in that, that would be really great.

And (then) I would also like to open the opportunity for newcomers of which I see there are quite a lot of fellows and people who are relatively new to see the opportunity if they would like to contribute something to also take the floor, but also ask a member of the board with (lucky) here to see if these inputs would also help them in their further thinking about ICANN's obligation to respect human rights.

Wolfgang Kleinwachter: Yes this is Wolfgang Kleinwachter for the record. Thank you (Neils). I'm speaking here as a member of the community and as a member of the board. So we had several discussions, bilateral discussions with various board members, but we have not yet discussed in detail, you know, what the common board decision is.

But one thing you can take for sure that an organization which is so in favor of the free Internet is certainly in favor of human rights. So I think there should be no disagreement from a very early moment that some doubts or people would say oh, human rights is not relevant for ICANN. It is relevant.

However, ICANN has a limited mandate. ICANN is a technical organization dealing with names and numbers. So ICANN will not - is not and will not be, a human rights organization.

With all the support we have and feeling of board members and parts of the community, including your community, I think this is for sure that we will not be listed in the (UN channel) as a human rights organization.

So ICANN is and will remain a technical organization. But as we know from the previous discussion and the wonderful reports, we have outlined that a number of policies ICANN has developed and has to implement raises human rights aspects.

And so far the last paper is very helpful because it identifies more clearly, you know, where the intersection is between (internal), global human rights debate and the practical and technical policies ICANN has to implement.

So however indeed in your paper you have a number of recommendations. And let me make one comment here, or two comments. The first thing is you are right in order to demonstrate its commitment to human rights and brings this principles into the mainstream, ICANN should.

And then in order to comply with it due diligence, ICANN should. Let me just clarify. ICANN, you mean the ICANN community or the ICANN board. I think you mean the ICANN community because ICANN is a multi-stakeholder mechanism. And that he task for everybody.

It's not only just for a single body. So that means it's for the community. And they have to do something. But if you go into the details, what ICANN should, that you propose a policy development process for human rights.

And here I have my doubts whether this is not the right place to develop a policy, an ICANN policy for human rights. So what ICANN has to do is it has to understand the legal framework for human rights.

It has to study the report which come out from the work of the US special repertoire for freedom of expression and privacy in the digital age. They have to study and then to think about it.

You know, has this any consequences for the work of ICANN? If ICANN, if the board or the Council decides upon a resolution, it has to check whether the material paragraphs of the resolution are in line with international human rights commitments.

As we check about the security implications, the financial implications, the trademark implications. So we have to check with every resolution of the human rights implications.

And if there are some doubts, if we have not the expertise than probably ICANN could hire one or two in a form of advisory, you know, or expert group, two or three international legal experts for human rights that is an equipped in a case where we are not 100% clear whether this concrete resolution, you know, goes too far or is too short, you know, to meet the requirements which come from the international legal framework.

So then we can ask for expert advice. I would not propose a standing committee. Some people have discussed ICANN needs a human rights advisory committee. I think not for this moment. Let's wait and see, probably in five years (unintelligible).

But to have at our disposal one or two experts, which can be asked if needed, this could be part of a program which you discuss here for the years ahead. So this needs really more multi-stakeholder discussion.

I'm very happy that the governments are very active in this because governments are the main stakeholder group which has all of the power to implement human rights, or they have to guarantee human rights because it's their responsibility.

The rest can do something but, you know, it's the legal obligation is with the governments. And then so from I think this is very helpful that the governments are here engaged. This will also further enhance our multi-stakeholder model.

We are all stakeholders and their specific roles work hand in hand. And this is a very good place. But once again, I think this has to be true and clear from

the very early moment that ICANN, I would not recommend in support PBP process on an ICANN policy on human rights.

So, but I support a mechanism which where ICANN and that the decision-making parties, which includes the board, the various consoles, you know, get pushed more into a direction that they are aware what the human rights commitments and (rights to these are).

And a very final comment is normally in the last years when we discussed human rights, we discussed privacy and freedom of expression related to it and new gTLD programs and things like that.

What I have seen in the last one or two years in particular related to the new gTLD program is consumer protection. Consumer protection is not a tradition, but it has, you know, very close relationship or has a human rights dimension.

And so far, you know, we should really, you know, look into all this various dimension. And to take this on board. There are a lot of concerns now and with the introduction of the new gTLD program.

Then suddenly consumer are confused or feel mistreated or, you know, something like that. And I think this is an important field which has to be studied. So that means we need more facts.

And I would also encourage this community with all, and particular members from the at-large community, they have people in all the countries that they collect facts so that you can then base certain practical steps on concrete facts.

So it's always better to have some fact-finding mission so as that you can speak very concretely if there are violations of human rights in regards to this. So these are my remarks.

And again, you know, my remarks are not the board position, even if I'm a member of the board. I made this statement on my own behalf as a member of the community. Thank you.

Man: Thank you very much Wolfgang. And that's a great remark. And it really builds on the discussion that we've had this morning. I see that there is - did you raise your hand? Stephanie Perrin, please go ahead.

Stephanie Perrin: Thanks very much. Stephanie Perrin for the record. I think Wolfgang raises some very interesting issues. And for those who are not accustomed to ICANN, and I suspect there are some here. It has taken me at least two years to figure out some of the distinctions that ICANN makes between the public interest, which is in the affirmation of commitments.

The pics, which is in the new top level domains. The concept of public interest which we're now talking about. The concept of consumer protection, which there's a whole group working on within ICANN staff in anticipation of moving forward.

Now I'm one of those who is trying to draw a bright line to keep ICANN in its sandbox having to do with domains, and only domains. And not content of websites and activity on the Internet.

There are others who don't agree with that. But I'm being very transparent here. And as I try to draw that bright line, consumer protection gets very problematic.

So investigating what's going on in terms of consumer protection I think is really important, even if you're on the other side and you want to expand ICANN's mandate into more consumer protection.

It's good to know what we're talking. Because consumer protection is now explicitly part of the public safety advisory committee to the GAC, I am

concerned that it will be lumped in with law enforcement concern and public safety, which in my business, which is privacy my own career mostly, has always been difficult to fence off.

You know, that was always the trump card that defeated privacy. So I guess all I'm saying is the more we map out and get some clarity on what we're talking about in each of the difference processes in ICANN, I think that will improve our chances for success. Thanks.

Man: Thank you very much Stephanie for that comment. Then I, if that there are no other questions, then I would like to ask a question to Wolfgang about the comments he just made because you think there should be this support mechanism to see if we are in doubt about whether this policy can or not have an impact on human rights.

And we had this discussion this morning. And then we thought it would make sense if we would do such a human rights impact assessment. That we would have a standard for that.

And it that we use standards like the global compact or similar to understand both how ICANN as an organization has an impact on human rights, but also if we would do a human rights impact assessment, how that could and should be conducted so that we would have a standard for that to ensure that it's really done proper and in accordance to existing standards. So and that's what this work would feed into. How does that sound to you?

Wolfgang Kleinwachter: I think ICANN is creating procedures. So I'm always in favor, you know, to - sometimes you cannot reach any one agreement with regard to substance. But if you have a good procedure in place and Step 1, Step 2, Step 3, so probably suddenly you end up that you without - form a consensus and substance. You reach a consensus and substance because you followed a certain procedure.

And so far procedure, to have a certain procedure in place, you know, if you have the check boxes here to when you can say that's okay, that's fine. So this could be based - there's no need, you know, to have document with 20 paragraphs.

So, but Step 1, Step 2, Step 3 would make sense. And as I said, you know, we have in the general legal framework on human rights, which is, you know, a legal obligation to respect in the articles of incorporation.

In your study you have quoted quite extensively Article 4 of our articles of incorporation. So we have to understand there are now several layers in what our international conventions and international legal framework. This does not only include the conventions from 1966 and others.

That's why I referred to the two special repertoires in the Human Rights Council. They could use reports which are not legally binding. I should say, you know, this constitutes a certain political framework which ICANN cannot ignore.

And so I'm very curious to get the first report from the new point and special repertoire on privacy in the digital age. This will help us to find the right balance if we move forward with the next generation - the EWG and the next generation of Whois services.

So because this is really a new territory. And we have to move forward step-by-step. And ICANN is not under pressure to reinvent the wheel for how to protect privacy in the digital age. Other bodies will do much better, but we have to study this to learn and to conclude what does it mean for us.

So but I would not recommend, you know, to start what I said already several times. To start their own PDP for human rights in ICANN. So we need PDPs from (names) and numbers.

And this brings me also to additional comment to what Stephanie has just said. Fadi has here in Buenos Aries has repeated again and again and again, ICANN is not the cyber police. And we do not deal with content.

So this is not our business so that means. But there are some complex issues which pull us again and again into this slippery territory and where we have to find the right line, you know, or right maneuver, you know, to - not to be put in a role of cyber police.

Some governments want to have ICANN as the cyber police. This is a bad move. But on the other hand, you know, to see that something is under the responsibility of ICANN if it comes to consumer protection.

And so from my recommendation is really to collect cases. If you have a concrete case that you can better work with the case. You know, is this responsibility for ICANN or not?

Is there a breach of a contract because people say ICANN is a regulator? Then we are regulating by contract. But it means we have to look into the contract. This is important. So what has to be included in the contract?

This morning the German GAC representative argued in the GAC that GAC advice should go into the contracts for the new gTLD. And this would then enable ICANN to, you know, go to the contractor if they ignore this.

So, so far GAC gives advice. But the contract is a little bit separated from the GAC advice. So this is an interesting element. Let's study this in detail. You know how this can be managed.

So on the other hand, the ICANN board is not obliged to take every GAC advice. We need consensus advice and then we have a procedure, you know how.

So again, case-by-case. So this is much better than to have just general rules which opens the door for different interpretations, which is always difficult. Then you need another five years to agree on the framework of interpretation. Okay thank you.

Man: Thank you very much Wolfgang. It looks like there was a reaction or a question from Alan from APC.

Alan Greenberg: Yes. My response, this is framed as a newcomer to the ICANN space. It seems to me that whether or not ICANN needs to adopt policies or operations on what form or what shape does the idea of human rights takes in ICANN would be informed by this process as opposed to something that should be decided beforehand.

I mean for instant I think there might be a situation where ICANN does need to drop policies that are human rights orientated because the other - the alternative is that it's in constant deliberation around issues of human rights. And that's also something it can't necessarily do, I would imagine.

Man: ICANN have to police it's contracts. That's what they have to do. And because COS service is part of the contract with the registrar (unintelligible) agreement, so we have here a privacy issue.

And we have to deal then with different jurisdictions that why we have the waiver for the European registrars, a very bureaucratic monster, but anyhow this is what was the outcome of a long discussion.

And now with the new European directive remains to be seen, you know, how we can manage this. But what ICANN has to police is really contracts. The contract compliance, this is what ICANN has to do.

Other things, you know, bad content on bad websites, even in the (dosecks) case, you know, this is the market, so this is why. We have asked the Federal

Trade Commission and the Canadian Trade Commission. And, you know, if somebody produces - uses a resource and offers a product overpriced, you know, what the provider of the resource would say then. You know, the market will regulate it. And probably the whole business model collapses in six months and then it's gone.

Man: In terms of - you're saying that...

Man: Consumer.

Man: You're saying that consumer protection is an interesting or relevant point, but maybe we could also have a look at the lake freedom of registration, which are also an increasing topic in the gTLDs thinking about the .kay case and issues around that.

Man: Yes, and if you go through - you mentioned the social and economic contractual rights convention. If you go through all the 50 paragraphs of the do conventions, you will find probably even more aspects which are relevant in a world which is based on numbers.

So far to study this more in detail. This is very helpful. And I'm very pleased to see that, you know, a lot of groups in the government of groups, civil society groups (are taking a team), has discovered this as a field for deeper research and for more clearer investigation.

We are still in the early stage. We do not yet fully understand the relationship of all this various aspects.

Man: I would like to comment a little bit. I fully agree with (unintelligible) that it is not necessary to invent new rules. It's not the right way. The right way to learn how to look at the existing documents and view the comments for the (presume) of human rights to understand the (implements) better.

Maybe more carefully analyze this. And this is the main point for today I suppose, for today. Maybe tomorrow something different, maybe will remain. But today from my opinion, it is the main point. To analyze, to learn how to look through the prism of human rights.

Lee Hibbard: Thank you. Lee Hibbard, Council of Europe. So I just want to build on what Wolfgang has just said. To point out what I pointed out this morning for those who were not there is that the Council of Europe has just on the 3rd of June adopted a new declaration of politically binding declaration of its 47 member states on ICANN human rights and the root of law.

And so this is the governments which have come together and discussed. And it's a very short document. There are copies here which simply, you know, black and white states that, you know, there are issues in human rights and root of law in what ICANN does.

And there's an (18) form that the GAC (and) governments which as you said working rightly, they are the protector of human rights, however narrowly or widely you want to talk about these rights, et cetera.

And there's a need to do work in that respect. And that this is why we're here and that this is why the GAC is a working group. This is why you're here on this cross community working party.

And so I just want you to know that, you know, there is a concerted attempt here to say that there is a responsibility which needs to be explored. And we can't do that together. That's something we can do together here through ICANN, through the governments, et cetera.

So the last part - the last paragraph of this declaration talks about three groups -- governments, the community and ICANN itself. So I think it's important to understand that ICANN perhaps has a role too in pronouncing or at least thinking about what this means for ICANN itself.

Now I don't know whether that's the board or that's staff. I don't know if that's the CEO, but at some point there will be a need to respond at least to this formal binding declaration about next steps.

I don't know, there's no one here from ICANN staff in the room to respond. But, you know, I see there being a (trinity) here as I've mentioned, governments, the community and ICANN too.

So I wonder what ICANN will have to say in the future about this. I mean will they wait for the deliberations of this party and this group? Will they be thinking about this text? Will they be discussing it? What does that mean for ICANN itself? I invite comments. See if there are comments. Thank you.

Man: Yes, you raise a good point. This is part of the problems we have since years when we talk about ICANN. ICANN (it's weak) the community. So, and then they have various bodies, and the bodies are populated by the community.

So we had the discussion on the (tracks) between the community and the board, but the board I was chairing the nomination committee in ICANN. The nomination committee is composed by members from the various communities.

So the community members select their members of the board. So and so far, you know, we have to be very specific, you know, what we mean when we talk about ICANN. Do we mean ICANN board, ICANN staff? The ICANN advisory councils?

In this regard to human rights, the key point is seeing if a body of ICANN takes position. And this is the board and there's other councils. So their decisions has to respect or has to be understand the human rights implications.

So I think this is the very concrete material point. And then so far the Council of Europe resolution is very welcome because, you know, it opens the eyes so that we have a higher level of sensitivity, at least in the board and I think also in the councils.

And - but the whole process is a multi-stakeholder process. And so that means if we will move forward, how to enhance the understanding we have to work hand-in-hand. That's why the concepts used from the government are welcome.

And I can only encourage the GAC to talk on the human rights issues, you know, with the private sector, with the technical community. So we had a session just two hours ago from the IATF about enhancing privacy in the DNS, so which is an important human rights dimension.

I think this is - this goes to a various effort. The member community as all the, you know, privacy dimensions. So it's not only the board or the domain names system.

And so far, you know, to benefit from this unique multi-stakeholder mechanism which has been developed here over the last 17 years, this is the way forward.

Man: I'd like to give Lee the opportunity to respond, but I'd first like to ask we have a comment from the (unintelligible) and then Lee and then Stephanie.

Joy Liddicoat: Okay, Joy Liddicoat from New Zeeland participating remotely. She says that this is a very good discussion. And she supports the next steps and is available to help in whatever way she can.

But she adds that while the suggestion of a case-by-case approach is good, this must still be by reference to apply principles which are applied in each case.

Man: Yes thank you very much. Lee Hibbard, Council of Europe.

Lee Hibbard: Just to say that Wolfgang, just to respond, I expected that this declaration will be communicated formally to ICANN, as we always do when things are done. So I expect that would be formally addressed to the CEO (unintelligible).

                        And I guess he may wish to respond with a letter and actually, you know, talk about perhaps next steps. I don't know yet but point to happen, but I expect it to be formally communicated.

                        You know, an intergovernmental organization like the Council of Europe has member states, but it has a secretary general. And so the Secretary-General Stewards the organization, but it's not he's not member states.

                        So there is a role to play. And even if it's maybe unsure about which - what ICANN is, like you said. There's a need to respond in some way and to move forward with how, even if that means stumbling forward.

                        So I really hope that ICANN also comes forward itself, as well as the governments and the community. Thank you.

Stephanie Perrin: Stephanie Perrin for the record. That was really my question. If it hasn't been sent formally, and if it's going to take a while, then we should go ahead and have somebody send it to the board because otherwise nothing will happen I would predict.

                        I wouldn't count on anyone noticing it in deciding the ICANN board needs to respond. Tell me if I'm crazy Wolfgang, but.

Wolfgang Kleinwachter: For Dublin, I think that's - it's a bottom up organization. That means you have to start on the bottom and then, you know, that's it. And that's fine. By the way, I have till 6 o'clock.

Man: On that note I would like to thank you all very much for this very lively and productive working session. I will distribute the commitments that have been made and the work.

We'll be further working on this on the mailing lists. I would like to ask people who have not done so already in the session this morning to write their names and email addresses here.

So I'll send you an overview of this session, as well as the link to subscribe to the mailing list so we can jointly work on all this together. And I am really looking forward to doing that together with you.

Thank you all very much.

END