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Non Commercial Users Constituency (NCUC)

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Rafik Dammak: It's in usual format. We don't have really kind of usual constituency day. We have hopefully several newcomer with us, so our agenda to try to achieve two goals is first to - that if we will just try to discuss several policy and non-policy topics but also to give more, I mean, introduction about what we are doing at NCUC and so on, so trying to do both.

And also we'll have a guest coming later. It's important for us to talk with a new board member. And at the end we will try to more kind of administrative matter and try to keep that as short as possible as I know that many people are usually excited about those topics.

So first I didn't introduce myself. My name is Rafik Dammak. I'm the chair of the Non-Commercial User Constituency. In my right Milton Mueller who is

also a member of the Executive Committee from North America. So as you can see, that's our agenda.

In the beginning we'll try to give more kind of short overview about NCUC and the activity, maybe some historical background. And this - for that I will give let's say the floor to Milton.

Milton Mueller: For…

Rafik Dammak: Yes, the first agenda item.

Milton Mueller: Hello? Are there any newcomers here? Okay, two, all right. Any more? Three, great, okay. So the Non-Commercial Users Constituency is part of what's called the Non-Commercial Stakeholders Group. And basically when we were setting up ICANN we had an issue of representation.

We had to know if we're going to be making policies for the domain name system, who's going to be represented in making this policy. And that means you ended up dividing people into categories of stakeholder.

And so they came up at first with a very crude and unbalanced categorization and later they reformed it so that now we have a four-part structure in which you have the contracted parties and the non-contracted parties. And within the non-contracted parties you have registries and registrars. And in the non-contracted parties you have the commercial and non-commercial stakeholders.

And each of these stakeholder groups has a balanced representation on the GNSO Council, which is the body which manages the policy-making process.

So what we do is fundamentally two things. We elect people - well we participate in the policy process by generating statements and positions and participating in working groups. And then we elect people to positions within

the GNSO such as the GNSO Council and the - we participate in the election of two board members from the domain name community onto the ICANN board.

So we are directly involved in policy. It's not like the at-large advisory committee, which doesn't have a formal policy-making process but advises on policies. We are making policy within the GNSO.

In terms of our history we - you know, I think we have grown and strengthened recently, in the last let's say five or six years. And we are now at the point where we can try to compete on a par with the other commercial stakeholder groups which typically have a greater financial stake in domain names and therefore are able to support more permanent and professional kinds of participation in the process.

We include people like activist groups, universities, and public interest groups. And a few years ago we decided to allow individuals to join. And the individuals are basically people who either are not part of an organization, they're just acting on behalf of their own interests as an individual Internet domain name registrant.

Or they might be part of an organization, a very large organization, let's say a big public university, and they cannot get that large organization to go to the trouble of joining NCUC and getting all the permissions and going up the hierarchy so they simply join as an individual.

And there's also - there's people who are part of an organization, a non-commercial organization, that is formally registered as an organization and is eligible to be in this constituency.

The eligibility means that you're really - fundamentally it just means that you're not a commercial actor in the domain name space and you're not part

of some other constituency. We're trying to maintain a clear separation and absence of conflict of interest among the different stakeholder groups.

So for example if you are a registry and you're a member of the registry stakeholder group, then you probably shouldn't be here because you're being represented over there. And if you're here, you're either confused or you're trying to infiltrate us or you're selling out your registry constituency because we might not have the same interest.

So how's that for an introduction? Is that - any questions? Does people have any questions about, you know, who we are, what we're doing?

Rafik Dammak: Thanks Milton. Any question? Don't be shy, guys.

(Kangara Pande): Do we have an option to introduce the new members?

Rafik Dammak: I'm sorry, can you just please state your name and your affiliation.

(Kangara Pande): I'm one of them. My name is (Kangara Pande). I am the founder of a non-profit organization, (Bobbleton) Society. We spread awareness about environmental issues using Internet. And we're based out of Hyderabad. The other members, new members, three people are there, we also introduce a little bit later.

Milton Mueller: Introductions from the new people.

Rafik Dammak: Yes Niels.

(Alshit): This is (Alshit). I'm currently pursuing my undergraduate degree here at Hyderabad.

Woman: I'm (Unintelligible). I'm also currently pursuing my undergraduate here in Hyderabad.

(Horan):   Hello everyone. This is (Horan) from China, a post-graduate student majoring in (IT) issue. And I have already apply for joining NCUC. Thank you.

Rafik Dammak: Okay, yes Niels.

Niels ten Oever: Thank you very much Rafik. This is Niels ten Oever from Article 19. I had a question for Mr. Mueller, and that is something I only found out recently is that quite a lot of people within NCUC are also member of at-large. So it is possible to be member of different constituencies, even though some are mutually exclusive. Some are not. Could you elaborate a bit more on that to create a bit more understanding and remove some confusion on that?

Milton Mueller: Yes, always a source of confusion. So the at-large is not actually a constituency. It's a advisory committee, which is elected by at-large organizations at the regional level. And each of these at-large – regional at-large organizations – is composed of individual organizations called at-large structures, which is kind of a weird terminology.

But the point, the main point is that the at-large is a separate - is not the GNSO. So the GNSO is in charge of domain name policy. At-large can join working groups. They can offer advice about the domain name policies, but they don't actually elect people onto the council.

They don't participate directly in the domain name policy making process the same way we do. So there's no necessary conflict of interest between being an at-large member. You really just - you're adding to your interest and responsibilities by, you know, being part of a - a bigger part of the ICANN system.

Of course the conflict is if you're in another GNSO constituency where we are trying to balance the representation across the stakeholder groups. Now at-large is not entirely non-commercial. Its rationale or its raison d'être is the

quote "individual Internet user," which could be a commercial Internet user. It could be a non-commercial. It doesn't matter to at-large, and of course it does matter to us.

So I hope that's clear. So there's - yeah, there's nothing stopping anybody who has too much time on their hands from going and joining both at-large and the NCUC.

Rafik Dammak: Okay thanks Milton. (Time is a scarce resource anyway). So I hope that it's becoming more clear – I guess for many newcomer – that there are so many acronyms and how ICANN is structured can be really confusing. But the basic things that we are as NCUC a constituency representing civil society not-for-profit, academia and so on, those individuals, non-commercial individuals within the ICANN ecosystem.

And so we focus a lot on the policy-making processes. So that's why in the next agenda item we are trying to go through similar topics. And the idea here is really to get to briefing to explain what's going on and after that to see what as NCUC we can do there, what is expected from us.

So it's a good opportunity to catch up about (in-going) policy and so feel free to ask questions. So we will have several briefing, and I see that Avri is here already. So we can start with the New gTLD Subsequent Procedure Working Group.

Avri you are one of the co-chair of the working group and so we are happy that you are here, that you can give us an update what's going on, what kind of issues that rises there, kind of to give a briefing and then maybe to clarify with us we can do.

Avri Doria: Sure thing, thanks. So I didn't introduce myself became I came late, but I'm Avri Doria. I am member of NCSG. I'm a member of NCUC.

Milton Mueller: Can you speak into the microphone?

Avri Doria: Oh, okay. I thought I was. Okay, so the new gTLD Subsequent Procedures. Basically we've had the – and we're still going on – with the current new gTLD process. But what was stipulated in that process was that before going on with subsequent procedures, future rounds, what have you, we would do a complete review of the policies and the implementation that had been done.

So the policy had been done in 2007, approved, and then the implementation began in 2012. So we are going through everything that was part of that policy and was part of the implementation.

Any of you that know about the implementation have heard the application guidebook or AGB reference, which is where a very long, complicated document that defined everything to do with the new gTLDs.

Well not everything, because anybody that paid attention also knows that it wasn't quite as predictable as it should be. And so there were bunches of changes made to the implementation as it goes on.

So now the basis that we start from is there is a policy. There is an implementation. We can change any of it, but anything we don't come up with a consensus to change remains as it was. So that's the basis.

We're not starting out with a blank sheet of paper to define a process for new gTLDs. We're fixing the one that we've got. So we are going through just about everything. We had a call – a Community Comments Call 1 – acronymed CC1.

We had this Community Comments 1 that was sent out to all of the stakeholder groups, all of the advisory committees, all of the supporting organizations, all of the constituencies. And we got some answers. Unfortunately, none of the non-commercial entities – whether NCSG, NCUC

or NPOC – submitted an answer, though NCUC or maybe it was the NCSG did work on one, but it never quite answered the questions that were in the CC1.

So we are still going through that. There's the first opportunity for people to get involved. We have a group. We meet periodically, every two weeks. And now we're going through all of the responses in this CC1 review. So that means that any of the non-commercials that want to participate – and there we asked – it was a set of questions like do we need more gTLDs? Do we need subsequent rounds at all?

If we do have more gTLDs, do we do them in rounds or do we want to get into a first-come, first-serve, and what are the complexities of doing that if we do it? Is there any limit to the number of TLDs either in a round or that any individual can apply for?

And basically very over-arching questions that we were asking. Flexibility - you know, the number one principle of the previous round had been this needs to be a predictable process. Well we have found that the need to adjust things had made certain changes. So it didn't end up being very predictable for a lot of people.

So now we're trying to weigh what's the balance between predictability and flexibility because things are learnt along the way and you need the change. So is there a balance there and how does that preference get made? Okay so that's part of it.

Now there are at least I think 68 different issues that we're going through -- and I won't try to enumerate them, partly because I'm not staring at a cheat sheet to remember all of them but also because of the time – that we have divided into four subteams.

We have a subteam that's looking at the application procedure, things like applicant support for developing economies – basically looking at all the details of the application process. We have one that's looking at the legal and regulatory issues. That came up.

We have one that is looking at all the contention issues and the objection processes that were formed. And then we have one that's looking at issues like IDNs, issues like name collision and such. So these are four fairly intense groups. They've just started their work.

So anybody that wants to get into one of these won't have a lot of catch-up to do, won't have missed a lot. In January, we will be putting out Community Comment 2 – CC2, where we will be again coming to NCSG, NCUC, NPOC and all the other SOs and ACs asking a set of specific questions.

These questions basically come up in the discussions we're having now. Some things hit consensus quite quickly, you know, and we may not have a question to ask. But if in the process of conversations we see that there's a divergence of views, those are the things we'll create questions around and send them to all of the organizational entities within ICANN to get opinions.

So therefore if you have an issue, now is one of the times to start participating so that you can make sure that the issue you've got gets generated into one of those questions.

Basically we'll get these things optimistically so we come out with this in January. Optimistically we come out with our first, our draft recommendations in October of '17, at which point there will be another review that will be requesting specific answers from, you know, the constituencies, the stakeholder groups, the supporting organizations and the advisory committees.

And then from there we'll be trying to finalize a report. Now what we're – the way we're tending – just to give you some idea, and I've probably already gone too long, so I'll stop soon – is we - you know, for example we're coming up with a hybrid notion on the question of is this another round? Are we doing first-come, first-serve?

We think there are possibly scalability problems. We've heard claims that there are tens of thousands of new names that people want to apply for next. I have trouble understanding that, but those that seem to know more about demand tell me that, you know, there's a demand for 10,000 new names. Many of them may be brands.

Oh yeah, another one of the questions we asked is are there different kinds of categories – you know, brands, communities, regulated industries, etcetera? And do these get special sort of application procedures? Do these have special sorts of contracts, etcetera?

So there's a great number of questions that we go into, and I could go further into some of the questions. So in terms of what we need from NCUC, what we need from you all, is contribution, is people participating in these groups and asking questions, contributing viewpoints, getting into discussions.

We also - when it comes time for the next community comment, we need people that write down comments, that write down things, and that review them and edit. We only need one or two editors for every document, but then again we need lots of people to read them the comment, to agree and disagree.

So there's more than enough opportunity and because of the number of different issues – whether it's, you know, the way they're charged for, the way applicants are supported from developing economies, the so-called rights protection mechanisms, etcetera – all of those need specialists, need people that care about those as topics.

And if anybody specifically wants to know is my topic of interest included, the answer is probably yes, but if you talk to me I'll give you specific pointers as to where you could find that being discussed. Hopefully that was a brief enough overview – too brief/too long/what have you. I'll be quiet.

Rafik Dammak: Thanks Avri. It's complicated. I mean, it's hard to be brief about complicated or complex issue. But maybe just to check how many here are aware or familiar with the new gTLD program? Okay, looks - okay so (we are assuming the case), Avri.

So because you give already many details, but that's the point. It's a review process about what happened I think four years ago and all the issues that rise in that time. So - yeah.

Avri Doria: Just to jump on that one, there are others that are doing review processes – the CCT, the RPM reviews. The only things that we're reviewing are their outputs and anything they don't review. So we're not specifically a review. We're a revise. But of course you don't revise without doing review first. But our primary purpose is to revise as needed.

Rafik Dammak: Okay so maybe - so first question from me. So you mean that one of the outcome of the working group is maybe to revise the Applicant Guidebook?

Avri Doria: Absolutely. And as I was asked the other night, can I tell people whether the application guidebook criteria will be the same, and at this point it is impossible to tell what we will change and what we won't change. But for sure there will - everything will be looked at. Everything can be changed.

Rafik Dammak: So we can assume there is opportunity really to get involved and to contribute, in particular for those who just joined. Yes, Stephanie.

Stephanie Perrin: Stephanie Perrin for the record. And I appreciate we're trying to stick to agenda here, Rafik, so I trust you will tell me this is way too broad a question and discussion to open up if that is the case.

But I'm thinking how our various initiatives come together in some of these working groups. So for instance, on the matter of the revision of the Applicant Guidebook, I'm presuming that we would like to have a human rights impact assessment put into that process.

I'm concerned about policy development getting fragmented across the entire organization. I don't have a view on this. I'm just thinking it through. I can see where we could easily have a human rights impact assessment as part of the Applicant Guidebook to make sure that nothing that is going to the - into the proposals for these domain names has an impact that we're unhappy about.

I'm just wondering how we would review that from a policy perspective because we just had a presentation in our meeting with the board about this sort of gray regulation or shadow regulation that's creeping in. And we don't want voluntary practices or PICs to do something that should be - should have some kind of review. And I think we need to reinforce the GNSO as the policy central. So any thoughts on that?

Avri Doria: You - sure go ahead. It's not for me. It's for the master of (unintelligible).

Man: I think it's an excellent suggestion from Stephanie. And I would really like to hear also from Avri because – from Avri and I have to give credit where credit's due – I learned that there is already the possibility to get a rights impact assessment during the preliminary issue reports that can be triggered.

But as far as I know, that has never been triggered so would this potentially be a moment where we could do that and…?

Avri Doria: Okay, let me start with yeses and no's and maybes. First of all, we're way past the issue report. The issue report occurred sometime earlier in the year before this new gTLD PDP was initiated. So we did have an opportunity then. A fair amount of noise was made about the fact that we should do one, but we didn't. But that's beside the point.

I see absolutely no reason why, you know, especially if ground work is laid for it, why when the initial report comes out would be an appropriate time, just because that never got formalized. The initial report is basically it's this is what we think the recommendation is. That would be an excellent time for one to occur.

Now how we would get that to happen formally - you know, certainly we could generate one informally on our own. But how we would get the GNSO for example to impose one on it would probably require a fair amount of work since the only time - and hey, you know, we've got counsellors and that can become a counsellor mission in terms of saying when something this large comes out, that that's not only at issue report time that we should do it.

Issue report gives you - it's kind of almost the wrong time. It's all we could get up to now because it's here's things you might want to think about, whereas at initial report you've got - now, we've got until October '17 before we come out with our initial recommendations.

So therefore there is about a year to somehow get that staged so it could happen. Now in terms of the other issues that you brought up, a lot of them will occur in places. Now I want to differentiate between things that registries do voluntarily and PICs.

PICs will definitely be an issue of discussion, even though they're one of the things that were not in the application guidebook, were not in the policy, but were added subsequently. So we will definitely be reviewing PICs and what it means to have PICs, etcetera.

Now the other issue that's become interesting in the last couple weeks and months that has to do with registries, private agreements and private concerns of how they will run their registry is a different issue. And I don't know that we'll be getting into that one because that would be sort of going one level down in terms of what may a registry do as an individual business. So that one isn't on the table at the moment.

PICs are on the table but not an individual action by a registry that is in an area that ICANN does not control. So if ICANN does not make rules about content, then we are in a strange position of saying and therefore registries may not make their own agreements about content because that would be us making a rule about content.

So that is a different issue. That one isn't necessarily on the table yet. Doesn't mean that it can't be put on the table, but it isn't part of the program.

Rafik Dammak: Okay thanks Avri. Maybe just those who don't know, the PICs stand for Public Interest Commitments.

Avri Doria: I apologize. I tried to be good. I apologize.

Rafik Dammak: You were good. You were good, don't worry. Just because also I really encourage the newcomers here to feel free to ask question and clarification. The main point here is really to give briefing and to encourage people to get involved. So it's way to catch up what's happening. I have Milton in the queue and then Niels. Yes Milton.

Milton Mueller: So I think Avri touched on one of the issues I have, which is okay we're revising the Applicant Guidebook. We're trying to decide what the policy is, what we're going to change, and what we're going to keep the same as we go forward.

But there's all these things that were added that were not part of the Applicant Guidebook in the last minute of the past process. And essentially I think most of that came from the GAC. Would you agree Avri that most of these things came from either the trademark owners trying to add additional protections or the GAC introducing so-called public policy objectives in…?

Avri Doria: I would - I haven't done an accounting, but I would say as much came from trademark, GAC and perhaps some from ALAC as well, but yeah.

Milton Mueller: ALAC, GAC, okay. So I think that is one of the biggest problems. I mean I would like to take like a vacuum cleaner to the Applicant Guidebook and just suck out all of the junk, the cobwebs, the clutter and if you recall, when we were actually making new TLD policy in the GNSO we came up with some basic principles, like six or seven of them, one of which was, you know, it should be predictable, right.

You should know when you have to spend $200,000 to apply that this application is meeting the guidelines or not. It should be pretty clear. And then they kept changing the rules, moving the goal posts.

Do you think – those of you who are more plugged into the process – that this is going to happen again? And does it make sense to invest a lot of time and effort into revising this Applicant Guidebook when once people start applying all bets are off?

Avri Doria: Should I reply? That's part of – this is Avri speaking again – that's part of the discussion of predictability versus flexibility. Indeed so we're trying to sort of set that. There's very strong push from those that are past applicants and future applicants that this not happen again.

Those things that happened before I unfortunately do not think we get to do a vacuum cleaner and remove them, but we do get to discuss each of them in

relation to the policy and decide whether we wish to apply policy that makes them viable, and if so what that policy is.

So those things are the existing base. They can be changed if there's discussion and if there's policy consensus to change them. But we'd have to go through the discussions.

Now will it happen again? I think that while I'd like to say absolutely no way, I think for sure it will. But that doesn't mean that we can't require that any of those changes go through a consensus policy.

So, you know, we can look at the fact that changes may be required. Some flexibility may be required but when can it occur? How can it occur? What are the constraints on it occurring? Does it require a community review? Does it require a GNSO, you know, emergency PDP or one of the other constructs that we have within the GNSO for making changes to policy.

I think that we can hopefully - and another thing that's different now than was on the last one is we now have the possibility of creating a implementation review team that as the future application guidebook is being edited and revised that we can have an implementation review team, commonly acronymed IRP, but to basically comment on that and to have something to say about it. I don't know if that answers satisfactorily but yeah.

Milton Mueller: Just if I could jump in with a similar question, it's just how long do you see this playing out? Is this something where we need to be ready with specific positions in the next six months? Or is this going to drag out?

Avri Doria: Yeah. In other words, we need to start getting our positions ready to start putting them into the mix early. The later you put a position in, the more you're combatting existing consensus, not that people don't do it. And yes, it is going to drag out for a long time.

Rafik Dammak: Okay thanks Avri. We have queue, have lady here and then Niels and then Stephanie. Yes please.

(Lizrambo):   Morning everyone. My name is (Lizrambo) from Kenya, an (unintelligible) ambassador, and I'm fairly new into these processes but not for long, I hope so. My question is we have two parallel reviews going on, the RPM and then now the division that you're wondering.

     And I'm wondering how these processes go because why should they be parallel? Because that's like double up because it forces you to observe into this other working group and then to work on this other one. And there's no much time. So can one feed into the other so that one waits for - one process wait and then maybe different feeds into the RPM or RPM vice versa, something like that?

Avri Doria: Thanks. Welcome. Really good question. Yeah, you won't be new for long. We are coordinating between the various PDP working groups. We have meetings. We have schedules that indicate that this feeds into their - so anything that's being worked on in one of those other areas, the CCT or the RPM and such, we are not really touching.

     We basically have a blank that says their report. So when we get their draft report, we'll start fitting in the draft report into the work we're doing. We'll look at the draft report. We'll see what they've done. We'll see how it matches. We'll see if there's stuff that's missing that we now need to work on because they didn't do it.

     So the thing that was a concern is if we waited for them to finish, which is another year, year and a half, and only then did we start, it wouldn't be 2018 or '20 when we saw the new programs. It would be much further down the line.

And you'll find within this community there are people that say, "I'm happy with the application guidebook the way it is now. And I think we should just start new rounds now. Don't worry about it; just keep going."

And we have people at the other end of the scale that says, "There's more than enough gTLDs. If another one was never created, that would be just fine. We don't need any more programs."

So we're really trying to balance but we've got a very complicated schedule where, you know, like a big engineering project very much where you do have a lot of parallel work going on and you try to schedule various integration points for those various things so that you can work in parallel but not repeat yourself a lot. So hopefully that helps.

Rafik Dammak: Thanks Avri.

Stephanie Perrin: Can I just jump in? Stephanie Perrin. You might find it useful to check the GNSO Council project list because that has all the different projects. And we get regular updates at meetings like this on what's happening in these so that we can keep informed and cross-fertilize.

Rafik Dammak: Thanks. Niels?

Niels ten Oever: Thanks for the excellent suggestion you made Avri on the human rights impact assessment, how we could do that. I would therefore to try to operationalize this.

I like to go to see how we can make this happen with our counselors to make the next steps on this to ensure that this is not a beautiful idea that gets lost in the grass. So maybe our counselors or Avri could give some hints on how we could do that?

Avri Doria: For me at the moment it's lost in the grass. But I don't actually know. I'd have to think about whether there was a place where we fit it in. But I really think it is much more an initiative that would need to come from the counselors.

Now maybe you have your own human rights group that does recommendations of things, your human rights working party whatever thingie. And that may be a place where the idea could start to have an origin, could become a proposal that then got sent into the council that - for not just what we're talking about but, you know, if I'm stepping back now from being the person talking about subsequent procedures and just a person participating, I don't see why you wouldn't want that on every initial report, not just this one.

And that would make it much easier as a generic process point is it's nice that we do them at that, but given the new bylaws and given the new, you know, mandates, and given the new board concern with human rights and the fact that when we send them – because this is one of the things that came out in that meeting if I can digress just one minute – is one of the things that came out in that meeting is the board said, "It's not for us to do this human rights impact assessment. It's for the GNSO to do it."

So they've already given the go-ahead to GNSO to say - now I think it's for the board to then look at the recommendation that comes from the GNSO and say wait a second, where is the human rights impact assessment?"

So I think that it's in that space that the opportunity's already been opened up for us to start putting a proposal into the GNSO. And if it originated in your working party, you know, with some structure, with some flesh, that might be a way to go about it. And that was totally off the top of my head trying to answer the question.

Stephanie Perrin: Can I jump in? Stephanie Perrin. I think - we had this discussion a while ago. I thought you guys actually were developing some kind of a template human

rights impact assessment. Once you get in your cross-community working party something that has reasonable consensus then we can take that draft to council because as I said earlier I want to hang onto policy making at the council level.

And then we can take that and figure out where it applies across the community. But once council endorses it and then we need to figure out exactly where we want it in each of the processes and procedures, I would argue that just as we need it in the Applicant Guidebook so then when they're assessing the applications, there's already a human rights impact assessment included in that application.

We also need it in the GNSO structure in terms of the chartering for the groups. We need to figure out - because otherwise we wind up in the actual PDPs with human rights being out of scope for that particular activity. So if we don't get it in early so that it's included in the charter, we will be running a PDP that is considered to be purely - you know, purely technical.

Avri Doria: I want to ask a clarifying question. This is Avri again. So you did not want a human rights assessment just of the subsequent procedures. You actually want a human rights assessment of every application?

Stephanie Perrin: I do.

Avri Doria: Oh yah.

Stephanie Perrin: May I just clarify that last clarification? Apologies to non-English speakers.

Rafik Dammak: Stephanie, Stephanie, sorry, please let's try to be in the queue so to have everyone involved. But please be brief and then we - I think Milton and Niels want to respond.

Stephanie Perrin: Clearly one of the hardest things to craft when you're coming up with a human rights impact assessment and a procedure that holds it is the scope. Most of those applications I hope will not have to have a human rights impact assessment. It's only if it applies, and that's like a prescreening.

Milton Mueller: I just wanted to call out there's a document in which the - I guess is it the Global Domains Division? Somebody has put together like the principles that we adopted for the new TLD program a long time ago. And then they have a spreadsheet that says policy satisfactory – yes/no, implementation satisfactory, policy adjustments/clarifications, implementation guidance and other considerations.

Avri do you know the status of this document? It's actually a very good starting point for looking at where we might want to intervene in this process.

Avri Doria: No I don't know. I'd have to check.

Milton Mueller: Okay I'll send it as an attachment to the NCUC list if people want me to.

Rafik Dammak: Niels?

Niels ten Oever: I might be jumping ahead two points to (2b), and happy for people to refer it there. But my question would be process-wise, would it be the best way to address this issue in Work Stream 2 in the Human Rights Subgroup or bring it up through Council? Because we probably not only want it for the GNSO or probably also for the ASO and the ccNSO or not. Or…

Avri Doria: If I can answer quickly, how does it fit into a framework of interpretation? It would be your answer for WS2. If it's part of a framework interpretation, you probably can. Otherwise I have no idea how.

Niels ten Oever: Well as part of the - now it gets a bit detailed. So for the - as part of the transition there was the Cross-Community Working Group on ICANN

Accountability. That proposal had several annexes. Annex 6 was about human rights. And that annex also gives us a certain work for Work Stream 2.

And one of those questions that's being asked there is what are policy and procedure changes that living up to the human rights commitment would look like. So the question would be we do not want duplication, right? So why is it - what would be the right place to do it? Would it be to go through Council? Would it be through there or would it be two process that we could do in parallel?

Rafik Dammak: Okay so thank you Niels. Okay just maybe kind of administrative point here. We will have kind of not really break at noon 15 for lunch. And we are asking people to come back here, so we give details about that later on. And so I am thinking that we should move to another topic. So - but please let's make last comments and let's move on to the registration directory services. So yes, Stephanie.

Stephanie Perrin: Stephanie Perrin for the record. I originally raised my hand to raise the point that we brought up yesterday in I forget which meeting. These issues of shadow regulation are extremely important and complicated.

And if we are going to opine on shadow regulation as we did in the previous meeting with the board -- and I totally agree we do not want to get into content, however we want to get into human rights assessment – that's perilously close to content.

We have a window over the next year to make sure we all understand exactly the knife edge that we're walking and make sure that we have our arguments and our critical theory and analysis all lined up. And I don't think it's a trivial matter.

So I would suggest that we come up with a little working group that is going to have some sustained action on this. Otherwise we'll be contradicting each other in different PDPs and working groups.

My second point is – and I'm often told that my government analogies have nothing to do with ICANN, and I beg to differ and will continue to beg to differ. What we need here is the equivalent of a regulatory impact assessment at the beginning as a kind of a screening mechanism to determine whether the human rights impact assessment is required. And where that fits in in the ICANN ecosystem is a non-trivial question.

But I would encourage everybody to think about this because the parallels to drafting legislation and putting material into a cabinet is a very strong one, and there are procedures that have been developed that we can analogize here in ICANN because we are doing public policy.

And particularly as we start applying human rights, it's non-theoretical. It has to be right down to the nuts and bolts of what we're agreeing to when we pass these things. Thank you.

Rafik Dammak: Thanks. I assume there is no further comment on those topic. No, okay so let's move on to the next item. Kathy is not here so we cannot really talk about rights protection mechanism, so let's move to the registration directory services.

And we would ask Stephanie here. Stephanie? So we are going to talk about RDS. So please just give a short briefing what's going on and what NCUC should do there. Short briefing – I insist about that.

Stephanie Perrin: Well I would encourage people to come to the RDS meetings and join the working group. We are in a five-year project. We're basically revising everything that has to do with registration data and there are many very difficult issues arising. That's short.

Rafik Dammak: Okay. Yes, David.

David Cake: Yes so Stephanie, I'm part of the leadership team of that effort. So I'm one of the vice chairs of the working group, which does tend to mean I take - you know, worry more about the procedural aspects and while Stephanie leads the charge on the policy.

This is a very long working group, but we absolutely do anticipate that people will jump in and out at different stages as it's, you know, a complicated process that will involve a lot of different things. So don't feel that you can get involved now and it does not mean that we expect you to sign up for, you know, a multi-year process.

Where we are right now, we've spent nine months on this working group essentially ensuring that we have at least hopefully all but at least most of the major documents that we are going to need as input where we're basically – this working group is to replace or – well, technically to assess – we're in Phase 1 where we're assessing if we need to replace WHOIS as the major source of registrant data.

Either within Phase 2 will be what we should replace it with or how we should change it to ensure it's up to date. We have spent nine months ensuring that we are collecting data, ensuring that we understand what the purpose of the effort is, putting our work plan into place and things like that.

This week we have already started deliberation on the requirements for a new WHOIS or a new registration data services. This is - if you want to jump into it, the interesting policy debates, this is a good time. You skipped a lot of procedural work. It's really starting to be an interesting debate.

You'll learn a lot about privacy and privacy considerations at ICANN and how the WHOIS works and all the different things people use the DNS and WHOIS data for.

I'd encourage if you have any interest in privacy at ICANN this is a really good working group to get involved with and join and, you know, even just following the debate now will certainly give you a lot of useful perspectives for when we get into the many, many detailed issues about this over the next few years.

So I'd really encourage everyone to join and also say that this a vital one for privacy rights at ICANN. There are a lot of really strong interests both from law enforcement and intellectual property constituents who have very different views on privacy and a lot of non-commercial organizations. And they really are outnumbering us here.

So if you're interested in privacy and you want to work towards privacy in the domain name system, we could really use you in this one. Thanks.

Rafik Dammak: Okay thanks David. (Unintelligible).

Man: Thanks Rafik. I just wanted to add - expand upon that just slightly. So as was just mentioned, as of our most recent meeting here in Hyderabad, we started to deliberate on these possible requirements. I wasn't in that session. I had a conflict.

But just to give some background, to aid in the deliberation of these possible requirements, the working group also agreed upon and NCUC members were instrumental in crafting a concise problem statement.

And we also reviewed a number of example use cases and explored real world scenarios to understand how the (audias) is used today, along with what we would think the new system should look like, taking into account how

it is already used, should it be determined that a new - a replacement system is required. So I just wanted to provide that (feedback).

Rafik Dammak: Thanks. Any question here, any comment? Okay, so we have 15 minutes left. Okay so we may start another topic for discussion but then we will maybe be cut by - for the lunch. I heard that getting food is human right, so we cannot prevent people from going to do that. So what I'm thinking is really that maybe Rob you can give some details about the lunch.

Rob Hoggarth: Yes. Good afternoon. This is Rob Hogarth. The details are very simple. There's lunch outside, just out this door to the left, then out the glass doors to the right about 10 meters. You've got the closest meeting room to lunch of anyone at the meeting, and it's going to be available from 12:15 until 13:45, so for an hour and a half.

Woman: (Unintelligible)

Rob Hoggarth: I guess so, yes.

Rafik Dammak: Wait, it's - what you are doing. So thanks Rob. So what we are trying to do is we'll ask you can - from (unintelligible) that you can get lunch and hopefully try to come back. So maybe try to have the working lunch if it's possible, or at least to get 30 minutes to get food and come back, since we have still to go through other topics for discussion and we have guests, so…

In meantime, still the lunch is not going to start. We have ten minutes. Maybe we can start discussion about maybe starting with human rights? Niels?

Niels ten Oever: Yes. So luckily there are several other people here who are active within this subgroup, so if I forget something, please feel free to add on. So let me put on my rapporteur's hat for the cross-community working group Work Stream 2 subgroup on human rights.

We have – we can I think be quite happy about that – a really big group of interested people, and a good discussion on the list. I think there was quite a lot of fear that Work Stream 2 would kind of be the graveyard of issues of the transition, but thus far we've indeed seen a bit less activity on the list overall than during Work Stream 1.

But it definitely has not grinded to a halt, and we're making progress. So what we've been doing in the human rights subgroup is we first started off to create a level playing field to ensure that people who wanted to join did not feel alienated because this group of people had already discussed so much before and did not - and felt left out.

You can often feel left out in ICANN because there is this thing that anthropologists called (argo). It's a boundary language, right? But because people use all the acronyms, it's clearly to show who is in and who is out.

So we wanted to ensure that that was not there, so we created a document today. It's completely documented the discussions and the decisions that were made during Work Stream 1 on human rights. We've got consensus, we got approved on that, so we have that. So that was a good first step. Then we started looking at what could we do to develop this framework of interpretation for the ICANN bylaws on human rights, which is needed to actually operationalize it. That's what the bylaws says.

So we looked at different models that are there. And as you all know, there are a number of international human rights treaties but they are only applicable to states. So there has been ways to get companies in the corporate accountability movement. There have been different ways to also have non-state actors be accountable for human rights. The first work on that was the UN global compact, which introduced the concept of corporate social responsibility, but that was still very vague.

And with the UN guiding principles on business and human rights, which were authored by John Ruggie, we got a much more stringent framework, which is now adopted by over 200 companies. There's an implementation guide for the ICT sector, there are extra guidelines from the IOCD. So it really provides much more framework.

But ICANN is not your average company, right? So we have been looking together with the whole subgroup through the Ruggie principles to see what could and what could not be relevant for ICANN and learn from that and see what could work.

So based on that, we developed - we agreed on a drafting team, which were a bit the pioneers of the group who are piecing things together and who have been producing different documents that we are now discussing on weekly calls. So we really boarded off that framework of interpretation that we're developing is not a framework of implementation. What we should do is stay very close to our mandate and explain the bylaw. That's it.

So - and that's what we're doing. We're progressing and it is by all means expected that we will achieve the milestones that are set. That means by January, February we expect to have a consensus document in our subgroup and then we will hand it off to the cross-community working group itself for consensus. And after that, it will go for public comment, which will then open it up for the whole community to comment on it, and eventually ending the process in June. And then we will happily carry on with the next steps.

Did I forget anything? I first want to look to the active members of the subgroup. Did I forget anything? If there are any questions, comments, suggestions, it would be extremely welcome.

Rafik Dammak: Okay, it's not easy to moderate silence, but okay. Okay let's maybe stop here I guess if there is no question and come back in 30 minutes, 30, 45? I'm trying to make - to bargain here with you guys. Yes, yes?

Niels ten Oever: It's great there are no questions but if there - but if we have a bit of time. Oh, Kathy is coming in. I think it would be - I understood that there were people who had questions or concerns about the UN guiding principles and their relevance or application. I think it would be could use face-to-face time to discuss them. This could be a moment to do it.

Rafik Dammak: Okay what I can suggest, we have the room till 3 pm and we will convene later, so if people want just to go bring your lunch here and maybe having this kind of ad hoc meeting as a working lunch. Just a suggestion, Robin. What do you think? Yes for others though. Milton. Okay. Niels was suggesting that the discussion about the Ruggie principles if you want to have kind of face-to-face meeting and to take the opportunity to do so.

Milton Mueller: Okay. Well we have had a discussion about the Ruggie principles. I think we're in a - one of these slippery areas similar to what Avri was talking about with the picks in the new TLD program, which is the relationship between public and private action and what it is we're trying to do with these human rights guidelines. To me, as I said in the session with the board, it's all about the policies. We want ICANN to be subjected to constraints about the policies they pass that would subject them to a human rights test.

So it would be kind of like a constitutional limit on what ICANN could do with its policies. If they pass a policy that somehow violated a right to privacy or freedom of expression, then we would say no you can't do that, you have to change the policy.

Other people see it as focusing more on the operations, either of ICANN the organization or its contracting parties and business partners. To me this threatens diverting our attention from the where the real action should be, the area where we can do something. However I do recognize that within ICANN there are some issues such as the one Niels raised with me last night about

like whistle-blowing or due process for employees to - who do whistle-
blowing, which we might apply the sort of Ruggie principles.

So we - to me I don't want to have a debate about the Ruggie principles, I
want to have a debate about the best way to subject ICANN policies to
human rights constraints. If the Ruggie principles helps that, great. If it
detracts from it, then I'm against it. That's where I'm concerned.

Rafik Dammak: Okay. Niels, you want to respond? And I think also Monika wants to
intervene. Niels?

Niels ten Oever: I'm happy to say that I can almost wholeheartedly agree with Dr. Mueller that
I think the Ruggie principles are something we should look at. No, I don't
think - I'm not sure where the conception comes from that we should only
look at operations or only the policies. I think it's not necessarily useful to
make that distinction at this point because part of the operations are
consequences of the policy. There are parts of the operations in which they
have no policies being made, as for instance the possibility for due process.

Because as you all know, the UN guiding principles for business and human
rights have three pillars, the obligation for states to protect human rights, the
obligation for non-state actors to respect human rights, and the third is the
mitigation and remedy pillar. So as you look at remedy, then indeed the
ombudsmen whistle-blowing practices, et cetera, are all part of that.

So for us, we understand that the Internet is mediating more and more of our
lives. So which means that the Internet has an increasing impact on our rights
and we should understand which parts of the infrastructure does impact our
rights. Is it our right to privacy, freedom of expression, but also political
participation, freedom of registration, right to nondiscrimination. And we
should understand how ICANN impacts these rights. And for these human
rights impact assessments, is what we need, and that's currently what we're
discussing.

And why we are looking at the Ruggie principles is that it's the only model we have to look at non-state actors. So it is a site for learning, it's a - it's not we need to subscribe, we need to become a Ruggie fans or Ruggie disciples, no, it's just a model where it's very well document in which there's a lot of consensus, which could form a ground of inspiration for our work.

Rafik Dammak: Thanks, Niels. Monika?

Monika Zalnieriute: Monika Zalnieriute for the record. So I think that generally we are all in agreement, aren't we? It's just the problem that for the non-state actors, which is ICANN which is enacting global policies, there are no international law treaties as such to directly be applied to it. And then we look for other instruments that could articulate these human rights obligations in the context of private actors that might be useful for us. So I think there are these two levels which should not be mixed up.

And like Kathy pointed out in our chat, indeed we should look to international obligation of states, but how does it in fact help us when we sit here and we try to find constraints on the policies adopted by ICANN? I think we need to focus on both, and that's why we need to address both the states as they participate within ICANN with the international obligations as they bear them because their governments and their states, but as well we need to focus on the obligations, direct obligations, of ICANN as such as a private policymaker.

So there are two ways we need to work. One is perhaps to modify the international law as such, which is a long, long project, to cover private actors and businesses and policymakers and associations that are actually enacting global norms. But at the same time, we need to try to modify the private sphere itself, which is ICANN. And because they are complementary, none of them would be fully addressing these gaps that we are trying to cover. So that's my opinion. I think that they are complementary and they should be seen as such. Thank you.

Kathy Kleiman: Okay, Kathy Kleiman. Apologies for being late. I was listening to the registrars and registries talk to the board, and I'll fill you in, there's some interesting stuff from our perspective. I think we're in a moment. I mean we're post-transition. We are in a moment where after yelling for 18 years about freedom of expression, about freedom of association, about privacy, data protection, we might be able to codify something, guys. We might be able to bring it in.

And so I don't want to give up the moment. There's somewhat of a clash of cultures coming in here of course. The human rights people - Milton and I come from the public interest area. We - in the United - we're both telecom people in the United States, and the United States Federal Communications Commission governs the spectrum of the United States, domestic spectrum, according to law that was passed in 1936, Milton, is that right, the Telecommunications Act in the public interest convenience and necessity. And we've got over 70 years of case law on what public interest is and about applying public interest principles to telecommunications are now being extended to the Internet.

So one of the things we're asking is what principles from the human rights apply here. And we have this problem because we have a model. This is not your ordinary corporation. This is an organization enacting global norms. This is acting like a state actor and we've given it that.

So I think it would be fair. I mean there's no other - I mean we're not getting our powers from any other treaties, so why not ask this organization to operate according to the human rights standards that protect human rights, what you said was a state obligation, not just respect human rights, which is a corporate obligation, we're somewhere in the shade in between, but I'd like us to enact global norms that protect human rights. And I'd like to find out what we can do now in this magic moment of transition that hold - that helps us

identify what human rights we consider or what public interest principles we consider the highest.

And I think your paper did it marvelously, Monika. Again, you highlighted the paper with freedom of expression, freedom of association, nondiscrimination, data protection and privacy, how do we codify those, how do we use materials to codify those and make - bring them to the forefront of ICANN's attention. The operational stuff, I mean I have to argue policy. That's what I do every day in this organization. What can I bring to bear that says this is some guidance for ICANN as it enacts these global norms. I don't know if that makes sense. I haven't been sleeping much. But does that make some sense?

Monika Zalnieriute: Monika for the record. I'm not entirely sure that I follow you completely because ICANN perhaps would not be enacting any global human rights norms as such, as you were sort of saying. So you're saying that it establishes de factor standards on a global level, that's you were trying to say. Like…

Kathy Kleiman: No, we do policy through contract and every gTLD registrant in the world…

Monika Zalnieriute: Yes that I understand.

Kathy Kleiman: And we establish these global norms and if we do it protecting our highest core values.

Monika Zalnieriute: I do follow now but I wouldn't say that this is enacting global human rights norms as such. This is maybe what you were trying to say. Because these norms are already codified. We don't need to invent the wheel again, yes? We just need to make them applicable to ICANN. But I think that that's precisely what has been, you know, tried here with all this human rights working party.

And by trying to map inside, there are way more relevant human right norms that not just the several few that we most often cite such as freedom of expression, there's also due process, as you know very well, and there are many other relevant issues that are there. And I think a lot of work has been done by the cross-community working party trying to map and make it look visual and accessible. So I'm not sure that we disagree on something. I think that we sort of agree generally that we need constraints on ICANN's actions and especially policymaking.

But the problem is that we cannot or in fact we just encountered a great resistance from ICANN as such by saying that you should protect human rights because this is the duty of the states. So they would say no. Then we'd need to try to find some alternative. Then we'd tried to propose okay. Then you have to respect human rights as a private actor before the international law would be extended and modified to actually make private bodies directly, you know, liable for human rights violations, which is not the case now.

So Ruggie principles in fact is just like a failure of a binding international treaty which did not pass through because of apparently the resistance that it encountered. So it's not binding, it's very soft. But that's all we have at the moment to say that ICANN is also directly liable, not just the governments that participate in this setting.

Because that's the gap that we have especially for international organizations that are like ICANN, a global organization that enact policy, and there is no way. You know, you mentioned USA law, okay, we can mentioned European law. We can mention any kind of laws, but then we encounter this resistance again on a different level. But we are a global organization or we are, you know, registered in America. We are not bound by European laws and things like that.

So we're trying to find the consensus, which is perhaps stemming from a universal declaration of human rights and things that are very, very basic in

fact. So this has been articulated in the Ruggie principles, and I don't say that Ruggie principles is great, actually it's not but that's the very limited thing we can start with. And I wouldn't say it's been designed just to address industry and business as a, you know, coal mining because Ruggie himself now wrote this report about FIFA, which is nonprofit association setting global norms just like ICANN in football. Yes?

So it's very similar in many ways except - and many private corporations are setting global standards and norms in their own areas and fields. For example, (Shumano) bike brakes bicycle braking gear. It's the global norms that they establish and everybody follows. So this is private making and this normal sort of situation in the neo-liberal sort of era where we have private bodies establishing global norms. And we are trying to get certain constraints on them. So I think we're in agreement and I don't think that we need to push from any sort of Ruggie principles. We don't need to say that this is inapplicable because they're both just complementary.

Rafik Dammak: Thanks, Monika. Stephanie?

Stephanie Perrin: Thank you. Stephanie Perrin for the record. I wanted to raise the issue of jurisdiction. Many of the problems with respect to data protection can be solved by the simple inclusion of the words, "Subject to applicable law." The reality is that ICANN is not observing applicable law and we have a very long history of ICANN figuring out ways to avoid applying privacy law.

It gets more complicated when you include constitutional law that protects speech and due process and these other issues. But I would argue that it does apply. And while ICANN may be in California, the companies that have to conform to ICANN policy are usually not. So they are subject to applicable law. And while they are not states, some of this still applies under their jurisdiction.

So I think a useful way of approaching this problem that I -- and I apologize I haven't got time to follow the human rights discussions in the cross-community working party because I'm more at the grassroots level on some of the privacy issue PDPs, of which there are many -- but I think a useful way of approaching it is to sell a global practice based on the very real need to harmonize around applicable law.

Because what happens namely is you raise the issue of applicable law and your adversaries throw up their hands and say, "Which law?" Okay you don't like that then let's adopt a norm. And we want a firm norm. We want something that is actionable. If we do come up with an HR - with a human rights impact assessment, we are still stuck with a lack of specificity in terms of interpretation, and that is why I want to start a working group on this because once we get - once we asked for the HR- for the human rights impact assessment, we've got to know what we want at the next phase because it will be high level, it has to be high level. It's not like we're (Shumano) making bike gears. We've got to get down to some grassroots on what that means. Thanks.

Monika Zalnieriute: I just wanted to highlight in one sentence the data protection information privacy law, at least in Europe but I guess also in the U.S., is the primary and the only example of horizontal application of human rights. So it is directly applicable to private actors. And so - but so maybe it's a good way to start because that's the only horizontal application we have so far.

All others are only applied vertically, as we discussed. So I think that's sort of a good way to start doing this. But once again, you encounter resistance by saying this is purely European invention and this is only applicable in Europe. And we could excuse the registrars by exempting them. So we need something that addresses the issue from the global perspective rather than just national law. So thank you.

Rafik Dammak: Okay thanks, Monika. I guess it's maybe time to maybe stop here and then we can resume the discussion in 45 minutes so to continue to more about it then, because we have a guest coming at 1:30. So I'm suggesting like let's convene at 1:15. We can continue the discussion if there anything else. So is it clear? Okay.

Man: We're reconvening at what time?

Rafik Dammak: 1:15. Okay. So let's stop the recording here and just (unintelligible). Thanks.

Hi everyone. We will resume the meeting in one or two minutes. So please take your seat and be ready.

Okay thanks everyone. So we will start now and I think the record start. First let me welcome Khaled Koubaa, who is the new ICANN board director appointed by the Noncom for the coming three years. And I want to thank him for accepting to join us. This is a good opportunity for the NCUC to discuss with him. I think we want to have with him a kind of discussion and to maybe to know more what he wants to do in the board. I think he's looking forward to listen from us.

Maybe just to highlight that he's also from Tunisia, and don't worry guys, we are not taking over the ICANN. But yes, I know him for many years. We - yes we are few people from Tunisia involved but I was really happy to see that he is joining the ICANN board. So Khaled, do you want to say something first?

Khaled Koubaa: So thank you, Rafik. Thank you everyone to have me here with you. It's a privilege for me to be nominated on the ICANN board of directors. My name is Khaled Koubaa. I'm from Tunisia, as my Rafik said. For those who don't know me, I have a background from the civil society. I was the founder of the Tunisia society chapter back in 2006. I participated in the (unintelligible) process in Tunis.

I had many people from this table, like Milton, like (Matthew), a lot of other great friends. So I bring in fact to the board of directors a background of a young person. Obviously I'm the youngest one on the board, which is a privilege for me. I think this is an important issue to bring youth and include them in our process, but I also bring diversity of someone who is from Africa and I believe in Africa. I'm also Arab and I believe in the Arab culture. I'm also a proud Muslim and I believe it's a religion of peace.

I bring also a background of someone who lived under the one of the most dangerous censorship regime, the previous regime in my country. It was a tough period for us but we survived it, and obviously we are looking for a better situation for our county.

I think all this will allow me to tackle my responsibility as a board member to look at things differently and obviously will help to include new spirit of respecting different principles of human rights and freedom of expression in a different way as possible in fact. So what I want to say that I will be always available at any time. For those who don't have my contact, I would be pleased to share it with you.

I'm available online through different way of a communication on Facebook, Twitter, LinkedIn, whatever you feel better for you to communicate with me. I'm always available. Don't hesitate to reach out to me at any time, and I will be happy engage with you. Thank you.

Rafik Dammak: Okay thanks, Khaled. Okay let's see if there are some question or comment. We're just back from the lunch. So. Okay, so maybe first question - not question, I'm mean since now you join the board I think and you had several meetings, what do you kind of see maybe from your perspective as kind of the dynamic within the board and how you see that you can help there and maybe how you think it is you can voice - to be the voice of some concerns maybe from civil society?

Khaled Koubaa: Thank you. In fact I said to my colleague that I'm lucky to join the board at this moment because everything is somehow new everyone. It was a transition. Obviously there is a new bylaw that is in the implementation process that needs to kick off to make sure that all the transparency and accountability measures are implemented well.

This is a big and important phase. We recently gained our freedom for sure but when we say freedom, we have also some sort of responsibility to be at the level of what the end user is expecting from us to be. This is one sort of principle in my mind to keep. I think - I don't have any precise point to discuss with you but I would be happy to answer any precise point. I saw that during the discussion that we had this morning about the issues like on the freedom - on the human rights principle. The board is open for sure. We had discussed internally and we are looking to how we can tackle it in a good way for us.

Rafik Dammak: Okay.

Robin Gross: Thank you. This is Robin Gross for the record. And thanks very much for coming to our session. It's not very often we get board members to come speak with us so thank you. Thank you. So I'm just wondering what your own sort of personal priorities on the board, you know, what are sort of the changes or the areas that you want to focus in on the kind of issues that you would like to see prioritized in the organization? Thanks.

Khaled Koubaa: Obviously as I said, I mean I bring a diversified background. I would like first internally inside the group of board of directors to make sure that this diversified background is impacted on them as well, so there is a lot of education and work together as a team on the board internally to make them aware about my sensitivities. This is one point.

The second point, at the community level, one of my big concern and one of my goal to achieve is to include more people, fresh blood, more participation,

especially from young people because I believe in giving more opportunity for youth, as I see them much more active today, much more responsible, much more aware about what's happening in the digital world. I think this is one of the issue obviously the board will not be I mean responsible for executing it but we will be able to give direction to the execution part of the organization to do that.

Support of the community is also an important issue to raise and to make sure that there is enough support for everyone to be involved within the discussion and in the policy development. Those are priority things for me.

Rafik Dammak: Yes, Niels.

Niels ten Oever: Niels ten Oever for the record. Thanks again for joining us and I think we'll definitely all very much appreciate a more diverse team on the board. And so the point that you just said around your priorities seem to focus, A, around diversity, and secondly, around outreach. So when we talk about diversity, that it still quite a large field ranging from IDNs to how do we engage more gender diversity, geographical diversity, age distribution, experience distribution.

So I would be very interested to hear exactly how - at what level you'd like to do that and how you think we can best address that. I personally also would be very interested in how we get IDNs working with e-mail. I think that's still a big hurdle we need to work on.

And then when it comes to outreach and young people, I completely agree. I have - I find it a very hard sell though for people who are young to spend their time on conference calls, on mailing lists, and in conference centers. I think it's not specifically a very attractive selling mechanism. So I think we should always try; trying is always good, but obviously what can we offer and how should we do the work?

Because I've been active for one and half year and I only starting feeling comfortable now in the GNSO, you know? Like, whew, I'm not like understanding every second word. But that's such an investment to ask for people, right? And the younger you are, a day can already be an eternity and one a half year, I don't even want to think about that. So what are your thoughts and strategies, tactics, and what would you like to give us for lessons and how can we work with you on that?

Khaled Koubaa: So I completely see that because I was I mean experiencing it and living it for years now, and my two friends on this table from Tunisia, Rafik and (Ines), may be the result somehow of how much we were capable in Tunisia to at least have a few of us. We are a small country with a limited number of citizens but obviously we became active on the ICANN level, which is great for me to see a person like (Ines), a young person became engaged.

It's not easy. It's a learning process. It's long, long, long and hard process to explain to people that it's a multi-stakeholder model, it's a merit base, it's you need to show your work and to share your knowledge so people can trust you and believe that you are capable to do work. It's not easy to, especially for us in countries in Africa and the Middle East and Asia, to explain that because some sort of - we are not used to it.

The process is education maybe, outreach is making effort, make yourself available. I myself in my personal capacity I did that for different years. I don't see any specific project but we can talk later on if you want on how we can do it. I personally am involved within my region in my capacity as the founder of the Arab World Internet Institute, which is mainly now working on that.

One of the projects of ours is to educate one million Arab Internet users by 2020. It's huge and we are trying to do it because we believe that out of 140 million Internet users in the Arab region there is for sure people that will be active in a different way or at least engaged and informed user, which would probably be much better than we have today.

To your point on the IDN, I can tell you that I just joined the board and one of my obvious working groups in the board was to join directly two of my most interested theme, which is the IDN working group and the Internet governance working group. So I found myself naturally directed to those two working groups.

On the IDN point, I can tell you that I was part of the Arabic script working group since 2009, 2010. I did the - we did a lot of work on that. There is a huge work to be done. I even before joining the board I was for four years as a head of public policy on government organization at Google and I was working with people from my region to make sure that we have the contact and the right person to work with Google team, and she made team to ensure that there is a universal acceptance between the emails.

I personally have my own domain name in the Arabic language. I'm trying as well to create my e-mail in Arabic language. I'm getting some difficulty because my hosting provider is not really providing that so I'm working on it at least on personal level so I can do outreach to other people. And this leads to the discussion on how ICANN should tackle that.

I think the IDN working group is doing a great job. We have a great team in ICANN. (Sam) is doing a great job on that, and I know he's having a good plan for that. So obviously I just joined. I'm not yet in fact on the board but I'm having as well priority for those two issues.

Niels ten Oever: Thanks so much for that answer and I do not want to monopolize the time but I would be very curious to ask a follow-up question, and that is because of your interest and experience also with the Internet governance working group. How do you see the sensitization and acceptance of the multi-stakeholder model in the Arab region?

And - because we've seen in the WTCA again that the African group and the Arab group have been really strongly focusing on an expanding of the mission of the ITUT specific to ITU at large. What could we do or how - what is the developments there, like an increasing interest, decreasing interest, there's not much knowledge? And secondly, what could we do to improve the situation?

Khaled Koubaa: So my personal answer to that without the hat of ICANN board member, I honestly think that things will go worse and I think that the danger and the harmful proposals in a different way do some sort of harm or destroy the multi-stakeholder model and the open Internet will go for a different reason.

From a perspective of security, using the channel of the growth of terrorism and (unintelligible) and hate speech and all this and use it as a channel to tackle the freedom of expression and the open Internet, this is extremely going up, and also the fact that the - even the geopolitical situation I mean in my vision is changing hugely.

And the fact that we are seeing distance growing between Saudi Arabia and the U.S. is impacting that because Saudi Arabia as a country, and again this is my personal position, it's not a board position, Saudi Arabia is the leader of the Arabic working group in the ITU space. So they are leading everything, along with other countries as well. And we have been seeing them since the (unintelligible) in South Korea and different other area in ITU.

I think there is room to have it done differently than we are doing it now and you guys I think you need to work - I see on the table a huge diversity of people from different countries. The only way for me to tackle that is to take time and effort to do things on the local level, because the Internet governance it's not a global issue, it's a local issue. It needs to be resolved at the local level.

It needs to be done through growing and empowering people on the local level so they can talk to their government or they can identify who is in the government doing what with ITU or with other UN agencies and be capable to at least identify any urgency or any issue or any upcoming threat and get things done through his contact or his network or whatever initiatives he's with. This is capital for the work.

Again I say that the telecom sector has a home, which is the ITU. The Internet does not have a home in fact somehow because it's a mixture of different organizations that do a lot of different part of the work which is make it an open and multi-stakeholder effort. And this is the weak part of us. Somehow we need to find a way to not create a home but at least a global effort, a common effort between those who are defending the open Internet and keep it up. I think it's a very important issue for me.

Kathy Kleiman: Hi I'm Kathy Kleiman, and thank you. Thank you for being with us and thank you for joining the board. What can we do to help you? There's a lot of background in this room on issues inside and outside of ICANN on freedom of expression, on privacy, on fair use and fair dealing, on due process, a lot of diversity, as you pointed out, but what can we do to help you as you come on to the board, and then also it's an ongoing invitation as you start working on issues. Any thoughts or…?

Khaled Koubaa: When you say you, you mean me as a board member, as a person? But I mean honestly I'm open to discussion, I'm open to have your feedback at any time. This is - would be for sure a good way to help me, at least to raise my awareness about any issue that I'm not aware of, which is one of the most important elements that we can work on. This is obviously would be helping me to at least do my work, being informed rather than not being informed. I don't see any other…

Kathy Kleiman: So I don't know how familiar - you probably are very familiar with the ICANN policies, but if you ever get to a point where you said why did they do that, we

can probably help. How did they make that error, we probably know how we stumbled into it in the policy development process. Thank you.

(Hao Long): Thank you to be here with us. I'm (Hao Long) from China. Actually I'm a newcomer of ICANN meeting, also a newcomer in the (unintelligible) applied to joined this NCUC. So I'm really glad to be here and ask you about this question. Actually I have two questions. First is about the new gTLD and the next about it's about the (unintelligible) of the young people.

So and firstly if my question is naivety, please assume my sincere apology. First a question about the new gTLD. As we know, ICANN is a nonprofit organization and when a new gTLD comes, some of this out there are commercial users domain and some of these are noncommercial user domains. As we know, maybe commercial users will make some guidance to the registrars/registries, and also they may be able will come from the benefit to ICANN.

And also the noncommercial users domain maybe they also have some very important issue such as the privacy or some narrow issues. So how are ICANN board will keep this balanced and what could be the priority? This is the first question.

And the second question is as I have participated in some of the (unintelligible) program, I have only known some of the (unintelligible) fundamental knowledge of how ICANN operate, how ICANN is - what is ICANN structure, what is ICANN organization. But when I try to involve myself into ICANN, I do not know where to go. But luckily some of the members of NCUC gave me really good encouragement, such as Milton, such as Kathy, so I'm really lucky to be here. But I think what ICANN should try to attract more young people's interest to join ICANN, not to be their professor but to be - notably they're professionals but to be their interest to be here to try to involve (unintelligible). So these are my questions. Thank you so much.

Khaled Koubaa: Thank you. I'm - welcome and thank you for making your time to be here and to be involved with this. It's not obvious for anyone to understand how much it's important the work in the ICANN community because somehow we are impacting more than three billion Internet users and probably they will be five million by a few years now. It's a huge - I mean it's a huge responsibility.

I personally, since 2005, I spent almost two to three hours per day at least, if not more, to just reading all the mailing list I'm in and try to be involved in that. I try to keep myself informed and I try to keep myself at least aware about what's going on here and there and either at the ICANN space or outside. It's a huge demanding work. So without interest, without you being in love with this and you have this personal capacity to provide yourself, your time, and educate yourself, you cannot do it. So this is the hard part of it because educating people is easier but make them dedicated to do the volunteer work is not easy to do.

I think every one of us is capable to bring new people. For sure the more responsibility the more capacity you have, the more you are responsible to do, someone on the board needs to do more than someone in other position or just a fellow or just a young participant, but somehow who have been here for years I think he's more responsible to do more.

For your question about the domain names, so I think it's important for us to always keep in our mind that the way things happen in ICANN is that the policy related to everything is at the hand of the community. The board is here just to make sure that this policy is accepted and to form a resolution then execute it by the ICANN staff and organization. This is very important for us to keep because we cannot, as board, play the role of the community and understand the need of the community and develop policies or intervene or whenever - in any way.

The only for a board to intervene is that when you see a resolution or when you see a policy and you have sensitivities and you have background and you have will and you have interest in things that you say no, here I see problems. Return back and provide us with different other options because obviously for us we cannot accept it as a policy.

I hope I answered your question. But again, thank you for coming, thank you for taking the time. It's very important for everyone. It's not easy. In fact even for the outside work to understand that we are almost more than 2,000 person, I mean in the Internet in the ICANN community doing the job for free almost. I mean it's huge. It's a huge asset for the Internet. So thank you again.

Michael Karanicolas: Hi. So thanks so much for coming. I'm one of the two co-(rapators)s for the Work Steam 2 subgroup that's looking at transparency and one of the issues that we've heard brought up a lot is about expanding transparency among the board. And specifically it's been proposed that the board should have similar transparency policies as the GNSO.

So I wanted to ask first of all do you think there is a need to expand transparency on the board and do you have any ideas about areas that they should be done? And specifically what do you think about the policy - about the policy proposal of having similar transparency provisions as you would find for the GNSO?

Khaled Koubaa: So I can say that being not aware exactly about the Work Stream 2 as of today, I cannot answer that part related to specific work of your subgroup, but I can assure you that within the day that I have in passing now here and the previous meeting with the board, I can assure you that the transparency is an important issue that we are taking into consideration for us, transparency I mean on the level of the board.

And the reaction I have been seeing from the other board members is very positive. It's very positive into more transparency, more transparency. Because honestly we need to consider ours self as part of - I mean we are part of the community. I mean you need - anyone need to be aware about anything about you, me, Milton, Rafik, everything. We are obviously a transparent organization and we need to keep that on every single level of our work. So I will not be able to go in this but the principle is here.

Rafik Dammak: Okay. So I think this will be the last question. (Ines), go ahead.

Ines Hfaiedh: Thank you very much. Ines Hfaiedh from Tunisia for the record. Thank you very much for coming. I really have like not a question but I'm always wondering why ICANN doesn't do anything on the ground to reach the young people. This is my feeling. It's not really reaching young people. The conferences and events are usually elitist.

Me as a teacher, I really try to reach the Tunisian government and some of my friends in Internet governance, (Tajarni) for example, and many were welcoming and they were ready to come to my school and to give - because it's really important and Tunisian and Arabs young people, they really don't feel the importance of Internet governance. But still from a personal incentive and a personal readiness to help, what can ICANN do on the ground to reach those young people? Thank you very much.

Khaled Koubaa: So first of all I think you have benefited of one of the program that was sponsored by the ICANN, which is great.

Ines Hfaiedh: Yes but to act as a multiplier, I need some support, not financial but strategy. Thank you.

Khaled Koubaa: I completely agree. And this was my second part of the answer. So I cannot say more than you just said. We need multipliers effect for sure. But bearing in mind that when we ask ourselves a question do we need to educate the

three billion Internet users about us? I don't think so. Probably we need to make sure that we are transparent and available and open enough so anyone, even if not an educated person about us can go in and educate himself by himself. This is first. We keep ourself (sic) open at the maximum.

In terms of outreach, we can do targeted actions to different segment of the users based on the fact that we have - that we need more diversity to include women, more diversity to include views, more diversity to include people from Africa. This is where need exactly to focus on for sure. A way to get people from Africa involved with us or from Tunisia or from any other developing country, need to take more resources, more attention from us, which is in fact at the executive level I think we are doing a good job, but we will make sure that at the board level there is enough attention to that. And this is part of the community support discussion that we have as well.

Rafik Dammak: Okay thanks, Khaled, for participating with us and trying to respond to so many questions. And we are looking forward that we keep - I mean this communication and trying to give it back and so on. So thanks again.

Okay so we will try now to move - to resume the discussion about a similar topic we had. I think, Niels left so maybe probably we can't continue the discussion about human rights but let's go to other one of those subgroups in Work Stream 2, which is about transparency, surprisingly. And Michael, who is here, will try to give us a brief about what's going on in that subgroup. I think you already delivered some initial report or something like that. Go ahead.

Michael Karanicolas: Thanks for that. Oh, loud. (Mike) (unintelligible) for the record, one of two co-(rapators) for the transparency subgroup. So we have engaged in a consultation through the cross-community working group for anybody that had any ideas about how to improve transparency. The focus of the subgroup was on four major themes.

The first was improving the DIDP, the second was transparency of ICANN's interactions with governments, the third is transparency of board deliberations or board more generally, as you just heard, and then the fourth one was ICANN's whistle-blower protection policy.

So we basically started the process with an open consultation, inviting feedback from the members, and we got some great ideas as a result of that. And we've processed that into a draft paper, which has been circulated around I'm not - I guess the NCUC has - I think it's been circulated around to the NCUC. But anyway, I think it's available if people want to see it. And that's going to be - we're currently in the process of reworking that into a paper for distribution to the plenary for feedback, which hopefully will be done later this week.

So in the meantime just for those of you who haven't been exposed to the paper or haven't been at any of the previous versions of it. We're basically proceeding from the perspective that transparency is extremely important for ICANN and that a lot more needs to be done and there needs to be significant improvements to ICANN transparency policies in order for it - to enable it to fulfill its function.

The whole point of like a multi-stake holder body is about consultation. And it's about ensuring that everybody has input into decision-making that happens at ICANN. And in order for that work the community needs to have accurate information about what's going on. They need to be able to get a clear picture. So, you know, transparency is fundamental in making this decision-making process work in order to ensure that people are making these decisions and feeding in their input from perspective of understanding and from perspective of having an accurate picture of what's going on.

So from that perspective we got a lot of very useful feedback from people in the community -- a lot of whom have had their own frustrations in using the DIDP specifically and not been able to obtain clear information or timely

information about what's going on. There was a lot of complaints about overbroad application with exceptions. And so that led us to raise - to publish a list of suggested revisions to the DIDP including narrowing the exceptions, tightening the timeline, and better procedures for access -- which I'm very happy to go into detail on.

So, basically, what I was hoping to do here as part of this conversation was -- first of all -- to make another sort of plea for any feedback or ideas that people have because we're just in the final stages of processing this into a report that's going to be circulated or revising the report that we have.

So if anybody has specific areas of improvement or specific inputs we're very welcome to get them. But beyond that I was hoping to just sort of open a chat about what - whether people are supportive of this process and what people think are vest avenues towards impacting change should once the recommendations have been finalized.

So I'm not sure if that's enough of an introduction or if people want me to sort of go into more detail about the recommendations that we have thus far. I'm happy to do so. But for now I'd like to just sort of open it up and see if people want to contribute.

Rafik Dammak: Thanks, (Michael). And I think - Stephanie.

Stephanie Perrin: Stephanie Perrin for the record. And I apologize for not having examined any documents that you've circulated so far. It's slipped under the radar for me. My question is how did you deal with the issue of who actually makes the decisions in terms of the refusal to release or the exemptions applied?

Michael Karanicolas: So that's an area that is currently vague according to the DIDP and needs to be verified. One of the major problems with the DIDP that we isolated is a total lack of enumerated process around how - what happens when the request comes in. There was a previous complaint -- I think it was by (Ed

Morris) to the Board Review process where he complained about a lack of clarity in the system and they responded by releasing this PDF that says how we do it. And it was again super vague. All it really says is, well, the request comes in and then we think about it, and then we put out an answer -- without really mentioning who is making the decision, what kind of factors are being considered, how are consultations done, et cetera.

So we are recommending this - the recommendations that we have right now push towards clarifying that quite a bit more. First and foremost we would want a single contact point to be the person who responds to DIDP requests. Again this is a hallmark of strong access informational systems both at the governmental level and among intra-governmental bodies. You have to have somebody who's responsibility is as the contact point of where the requests come in so that people -- first of all -- know who to send them. Right now it's just a broad e-mail address. It's just DIDP@ICANN, I think, is the e-mail address.

You need to have a single person so that you can get information from them and get a clear idea of who's responsible for the processing. Now this person's going to need to consult with other people within ICANN. So -- for example -- if you're requesting information that is related to root servers and there's concern about whether the disclosure of it would be harmful to security at ICANN, to the stability of the Internet, then you need to talk to people within ICANN that have the expertise on that. So you're going to need consultation. That's not going to be a one-stop shop. There should be one person with a targeted responsibility there.

In terms of the factors as well -- like yes -- there's a lot of vagueness around that. And so more broadly we're looking at a clearer statement of what exceptions are there and a clearer statement of how the public interest test is meant to be applied and what factors should be considered.

Stephanie Perrin: If I could respond to that? Stephanie Perrin. That's great and in the process of this can we figure an oversight model that works? One of the concerns I have about ICANN when it comes up with these officers and systems is that they use the US system. And as you know the US access to information system in order to appeal the decision you have to go to court. Other jurisdictions have the information commissioner model -- which has an independent (unintelligible) person, sometimes the (binding) powers that can intervene on the decision.

I think it would be really good if we made sure that, A, the information officer -- who I will call (unintelligible) coordinator -- for lack of a better word, reports somewhere else. Under the librarian would be good. Make it the librarian. I don't know how busy the librarian is but somewhere so that it's not under that Complaints Officer unless we're really happy with how that Complaints Office gets set up and I think the jury's still out on that one.

And they could also appeal perhaps to the outside council for review of the decision because right now the review of the decision is done by the board I believe. And that doesn't usually work out well for us. Thanks.

Michael Karanicolas: Yes, the current model for review is completely substandard and needs to be overhauled. You know, you mentioned that the US model is problematic. And I completely agree with that. Obviously, the US model access to information is generally not one that we stress that either organizations or countries should follow.

We had a good discussion about this on November 2nd in the cross community working group meeting before ICANN - before this event started. And it was really interesting from that perspective we were hearing a lot from Indian representatives and I was almost thinking like this is so great. We almost have home field advantage because the Indian system is particularly robust in terms of oversight and in terms of generally providing for a proper right to information.

So it was great to be having that discussion here and to be getting so many inputs from that perspective that emphasized the need for a strong transparency model. In terms of the specific way in which it's reviewed, yes, obviously, reviewing it to the Board is a broken system. We've been stepping a little bit lightly at the moment around suggesting changes to the review model because currently that's another process that's being done. And I think that the review of the DIDP request is currently going to be part of the IRP model that's being advanced -- that's my understanding of it.

And so from that perspective I've been a little bit wary of sort of our subgroup charging into that when there's an ongoing discussion that another subgroup is taking forward. And also, you know, it - so because that seems to be being handled by a different process I've been a little bit - we've been a little bit wary of sort of asserting - obviously even though that's critical to the effectiveness of the transparency systems, the fact that somebody else is dealing with this so directly -- I think -- leads to a little bit of reticence to charge this as part of our mandate. But I certainly think that some broad values can be included such as insuring that the process is independent -- which the IRP (unintelligible) in the name seems to be.

And also that it should be managed by somebody that has a broader understanding of transparency or some relevant expertise in transparency and rights to information -- which I'm not sure is necessarily in the IRP right now. But that - without providing concrete recommendations I think that's something that we could explore a little bit just as broader values.

Rafik Dammak: Okay, thanks (Michael). (Matt)?

Matthew Shears: Apologies. I haven't read the reports either. But how are you proposing to - how's the working group proposing to bring greater transparency to ICANN's interactions with governance?

Michael Karanicolas: So that's something that's still be developed a little bit. The section on DIDP is quite a bit more developed at the moment. But the main focus thus far has been on lobbying transparency and that was also handled I should say by my (unintelligible), (Chris Wilson) as opposed to me. But I can tell you what the recommendations are. We're at the moment - sorry, let me just bring it up.

At the moment he's suggesting that ICANN should begin disclosing publicly on at least a yearly but no more than a quarterly basis all expenditures on an itemized basis by ICANN for outside contractors and internal personnel devoted to political activities. And all identities of those engaged in such activities -- both internal and external -- on behalf of ICANN as well as the type of engagement used for such activities, to whom the engagement and supporting materials are targeted, and the topics discussed with relative specificity.

Those are the recommendations that we have at the moment. The changes to the DIDP will also impact this because this is a question of proactive disclosure and the information that goes out automatically, the DIDP is a request based system but it's fundamentally a structure of what stays classified and what is released. So generally speaking we are currently thinking about retaining an exception for information who's disclosure would harm ICANN's relationship with foreign governments or harm the deliberative process.

I mean, you know, if you have ideas about narrowing that down further I'd be very open to it. It would be great to hear it. But generally speaking that's where we are at the moment and we're open to inputs.

Rafik Dammak: Please see if there is any further comment or question here. Okay, so thanks Mike. Let me (unintelligible) require from our side or from NCUC and NCSG?

Michael Karanicolas: No, I suggest to review on the next steps. So we've gotten a lot of great feedback both at the session that we had last week and in the meantime people have sort of approached us and sent us more info -- which is great. And, you know, it's a different process so we always want to hear more.

And we're currently in the process of redrafting the current report in order to factor in this additional feedback that we've gotten and we're hoping to circulate to the (unintelligible) later this week. So that's where we stand. So in terms of future interaction like send us more ideas and, hopefully, yes, just participate in the process.

Rafik Dammak: Thanks, (Michael). Yes, (unintelligible).

Niels ten Oever: Not so much a question but more a comment. I would really like to commend (Michael) and (CLD) for coming in to ICANN like guns blazing and making this happen. It took for me such a long time to get acquainted. You came in and used your expertise and been doing it for the right fight. So I think that's worth an applause.

Rafik Dammak: Thanks, Niels. Okay, so if we don't have any further comment on this - so let me see. So how much you still have? We have like about 40 minutes in this session. Niels, just to be sure we don't have - we don't need to elaborate more than about the human rights issue?

Niels ten Oever: We can always elaborate but I think there is a - we have enough supply. The question is there more demand? I think we have - we have discussed at length with people who had issues - if people have more issue we can discuss more but I'm not going to flood the market.

Rafik Dammak: Okay. Thanks. So checking the Agenda I think we did most of the topics. Okay. So I would like to add an item to the Agenda for the future, but I'm not sure if we really know it to go through it again. Myself, I didn't attend the session on Wednesday but my understanding is that we are not comfortable

with what was proposed at that time and if there is no interest we can move just to the administrative matters. Oh, did (unintelligible) want to say something?

Tapani Tarvainen: Yes, (unintelligible) really was basically buried at that point and so I don't think there's need to talk about that much unless - until it rises from its grave again.

Rafik Dammak: Okay, when it will working there (unintelligible) . Okay. So we can then move to the administrative matters. So we put several items - I would prefer to start first with election updates so as probably as most of you are aware we started the nomination process. We've got several candidates. We encouraged more to come and to be nominated. So the nomination period lasts until I think, yes, until this Sunday.

So if you know a perspective candidate you can encourage him or her to run either for the Chair position - I mean one of the five seats for the (unintelligible) representative and Executive Committee and maybe just for those (unintelligible) just to clarify at NCUC so we elect the Chair and also elect an Executive Committee to have one representative by region -- which ensure some - the diversity at some level on the Executive Committee. So this is quick update on the election. Milton do you want to add something or...

Milton Mueller: Yes. About the election?

Rafik Dammak: Yes.

Milton Mueller: No I'm not really...

Rafik Dammak: Okay. Thanks. We will move quickly to the - yes, Tapani?

Tapani Tarvainen: Yes, Tapani again, I just want to add to what Rafik said. Do nominate as many people as possible. We want a real election not just a few candidates

and consider self-nominating. Losing is not a shame here. Come on. Think of a regular parliamentary election. You can lose like ten times before you get elected so keep running, keep showing yourself, self-nominate.

Rafik Dammak: Okay. Thanks. Yes, I mean, we need to encourage people to run. I think some of you went through that and lost election. It doesn't hurt that much, trust me. So you can only count it. The process is ongoing and also in term of the check-in process just, basically, we are doing the check-in for the new members and also for the those who didn't check in and the NCA election. So it's quite important for us because for this time we are also voting for the Bylaws change and we see this is an item to be presented by Milton. So we need really a good turn out to get the Bylaw change approved.

So let's move to that item. Milton?

Milton Mueller: Okay. So the NCUC Bylaws were written basically at the inception of the NCUC and then they were - when it was named something else then it was updated a little bit when we created the stakeholder group structure but there was all kinds of problems with it. For example, when we created the noncommercial stakeholders group sometimes there were contradictions between elements of the NCUC Bylaws and the NCSG Bylaws. So what we've known for several years that we need to revise and reform these Bylaws and we simply never got around to doing it until the current Star EC group lead Rafik dynamic decided to actually get down and get this done.

So we have a draft and it has been circulated and some of you have commented on it. And basically what we're doing now is we think we have reconciled most of the issues. We are going to be asking - is this correct, Rafik? We'll be asking for another round of comments or just to - for people to express their general support at this stage? Because it will have to go on the ballot and it will have to be voted on by a substantial number of the members in order to be successful at amending these Bylaws.

Rafik Dammak: Thanks Milton. We had the first consultation and then we tried to resolve all the questions and issues that happened. And then we started another round of consultation. And we do have a meeting about the Bylaws discussed today at 13:45 in which - let me see. So we will have a dedicated meeting to discuss about the Bylaws and to go through some open issue. After that, we will have a kind of new version and we see if there is any objection and after that the Executive Committee will approve it and put it for the voting.

So in terms of the process. We are to extend the consultation period by one week because to align it with election timeline so that gives us more time to discuss any open issues.

Milton Mueller: So, okay, yes. Maryam, this is where we invoke Maryam, can you put the slide for the Bylaw changes up on the screen? (Unintelligible) said he's not a god.

Man: I'm sorry. I have a question. I'm not sure I can recall what Bylaws say about the nomination and the process- but I was to ask (unintelligible), is somebody from one region can nominate someone in another region where he does not come from?

Milton Mueller: Yes , the regional representatives can be nominated from anywhere and people from all regions vote for them, which we - that was a deliberate decision that we made a long time ago in order to have a more cohesive Executive Committee. One that represents, you know, you want the person to be from the region but you want them to represent in some ways all of the constituency. So again the slides should be up.

(Umatka):   (Unintelligible).

Milton Mueller: Yes .

(Umatka):   (Unintelligible).

Milton Mueller: You'll have to use a microphone if you expect me to hear you.

(Umatka):   Hi, (Umatka). His question is can someone can represent a region not be from there?

Milton Mueller: No. As I said you have to be from the region -- you have to be from that region -- but people - you basically have to seek support from the entire constituency. Well, let's not get stuck on a particular issue now. Let me go through the - well, she has the entire Bylaws up there. We have some slides here about the changes that were made. Where we had the issues that were raised and how they were resolved.

Man: (Unintelligible).

Milton Mueller: Doesn't have them.

Man: (Unintelligible).

Milton Mueller: Yes, okay. All right. So let's start with that -- Slide number 4 -- which is going through the issues listed in Resolution. Yes. So one of them was dealing with - one of the changes we made deals with membership eligibility. Some of you remember we had a controversy about that. We had an Executive Committee member who was an employee of a registry and was working on behalf of the registries in some of the working groups and we have gone through this issue and we wanted to - there was an ambiguity in the policy.

And so we tried to reconcile this by making it clearer. So Article 3, Section A5, requires membership based organizations to not only be noncommercial itself but have primarily a noncommercial focus and the membership should also be primarily composed of noncommercial members. And what we mean by that is we don't want Chambers of Commerce or Industry Trade Associations to be eligible for membership in this constituency. They would

be properly within the commercial stakeholders group because they are advancing commercial interests.

One person commented they don't understand the extent of this restriction and raised some issues about that. For example, what about IEEE -- which is a professional organization and not explicitly profit or nonprofit in focus. I would say that it depends on the purpose of the organization and we think we have adequately resolved that in the current language. It should have primarily noncommercial focus. For example, one can say that IEEE is primarily concerned about education and even though many of its members are companies or employees of commercial companies they are probably eligible for NCUC.

Man: (Unintelligible).

Milton Mueller: Yes, question? Niels?

Niels ten Oever: Thank you very much Dr. Mueller. I do not necessarily see how this change would have prevented the incident that you described earlier because I think the person you mentioned was not a organizational member of the NCUC but an individual member. So I do not see how this would prevent that.

Milton Mueller: Yes, there was another change we made that supposedly addressed that. And I think it is not in this list of slides because - I'll see if it is. It is not in this list of slides because nobody commented about it or challenged it.

Man: (Unintelligible).

Niels ten Oever: To clarify here it's an open question. And this doesn't concern that issue. So this is more to clarify about the case of organization and how define - (unintelligible) they are noncommercial. Yes, hold on. (Horan)?

(Horan):   I'm just wondering if you could clarify what change would be made with respect to the individual memberships to try to address this problem?

Milton Mueller: What we did with individual memberships was we tried to clarify people who are employees of a company. I think the main issue is whether they are - well let me see if I can bring up the Bylaw itself. Is that possible?

Man: (Unintelligible).

Rafik Dammak: So the link is also in the (unintelligible) if you would like to see it.

Milton Mueller: I'm looking still. Membership eligible organizations.

Man: (Unintelligible).

(Minu):   Just actually reading the eligible individuals in the proposal and this is rather a bit surprising text. Natural persons who are active individual members of the NCSG as defined by the NCSG. Does that mean that every NC member who fails to check in at the NCSG election process will be automatically instantly kicked out of NCUC? Because that seems to imply.

Milton Mueller: (Minu), tell us what Article and Section you are reading from? That will help everybody get on the same page.

(Minu):   I am reading this proposal membership - I lost it already. C -- no, it's not well numbered here. Eligible individuals...

Milton Mueller: Membership is Article 3.

(Minu):   Yes, then...

Milton Mueller: Section I.

(Minu): Eligible Individuals...

Milton Mueller: Eligible persons who are active individual members of the NCSG as defined by NCSG and who meet the following criteria are eligible for individual memberships. So you're saying that when we send out - when we are holding elections we send out this registration and people who don't respond are deemed inactive?

(Minu): They will be classified as passive according to NCSG Charter. They are no longer active members in that definition.

Milton Mueller: Okay.

(Minu): So I think this is rather radical change if you read it that way.

Milton Mueller: It's probably an oversight.

Tapani Tarvainen: No, it's because the question was - I see the comment and it was trying to resolve it. You answered the question before in the document. But I think here is when they tried to join that they should be active already in the NCSG. This is when - how they are eligible to join NCUC.

Milton Mueller: Right, but I think I agree with Tapani that we don't need the word active.

(Minu): Okay.

Man: (Unintelligible).

Rafik Dammak: I think the word active was because there was a risk of becoming a zombie. Like having many zombie people and because they was the minimum amount of people who are members to change the Bylaws -- for example -- we can't have that, right?

Tapani Tarvainen: The NGSG definition does not really work well. At least not saying that it's requirement for eligibility. For me that implies that they may be fired instantly when they are no longer active.

Rafik Dammak: Again, because that was a response and trying to read what (unintelligible) added as a comment as defined by NCSG but also had defined in NCUC Bylaws as active member who has responded to check-in. So we can ask her maybe for more details while this - while she resolves it . Here I cannot understand this is when they - those who need to join, they need to be active first. But maybe it's - you can't enforce that but we can clarify.

(Minu): There is another implication that the current process of joining would not work because we usually approve NCSG members and them you immediately approve NCUC. So would you want to expect that will become active in NCSG before approving them in NCUC?

Milton Mueller: Once you accept them as members they are active until proven inactive, right? So anyway, the way we got into this, and I'll get to you Stephanie was that we were talking about the eligibility dispute that we had over the Executive Committee and I was just going to tell you how we modified the language. What you want to say should come before that Stephanie or would it be appropriate to say it afterwards?

Stephanie Perrin: I wanted to put in a little discussion on this whole zombie thing.

Milton Mueller: Okay, then let that wait. Okay. So we are in Article 3, Section I, Number 1 where we're talking about the criteria for eligible individuals. So, we added a reference to an employer as well as through membership in another supporting organization or GNSO stakeholder group. We added language representatives of GAC or those working for a state supported TLD registry. Operator cannot join NCUC as individual members. Those employed in government departments and intergovernmental organizations not involved directly in ICANN related work may be eligible to join it NCUC discretion.

So we have a few people from government who - some of them I think are double dipping. They are GAC members or associated with GAC representation and then they want to join NCUC. Others are just people who are interested in domain issues and they happen to work for the government so we try to distinguish between those two things. Yes.

Matthew Shears: (Matthew Shales). Milton, sorry, just a clarification. You say those employed in government departments and intergovernmental organizations not involved directly in ICANN related work may be eligible to join at NCUC's discretion. What kind of individuals are you thinking about there? I mean are we talking about...

Milton Mueller: Suppose there is somebody in the - who works for the Environmental Protection Agency. And they just are a domain name (unintelligible) or they have their own domain name and they get interested in ICANN.

Matthew Shears: You don't think they could be conflicted at some point in time or if they are then they have to declare that they would be or something like that.

Milton Mueller: Yes, I mean if they start talking about - EPA is demanding special name protections, yes, we would have to think about something like that.

Niels ten Oever: Still thinking of an example of someone who works at government organization as a host (unintelligible) for their little domain and over time becomes interested in DNS. Would that disqualify them from NCUC even if their organization has no direct connection there?

Man: Okay but this is a borderline case and I think we can leave it them. Actually discuss it...

Rafik Dammak: This is the same. We are trying here to clarify - to not exclude but also to create some criteria. I'm not sure how much deep we can go into details at this level in the Charter. These stakes were added really so that we cannot

accept, for example, someone who's a representative of (unintelligible) GAC, I don't think he should be active in NCUC. But another way - there are many individuals working for government agencies and so on but they don't deal with ICANN directly. So we may (unintelligible) them. We are trying here to create some bounds. But I'm not sure how much we can add more and more because it can be sometimes really conflicting. So we need to be balanced here. Okay, yes.

Milton Mueller: I think the thing to emphasize here is that in the last year a lot of people have gone over these bylaws and at this stage of the game we've gone through a round of comment and modifications based on your comments. And fundamentally unless you catch something that is a serious problem and this sort of active/inactive might be that kind of thing but this is not the time for rethinking entire sections of the Bylaws. It's a time to, you know, make the amendments. And if something about these Bylaws you think is so horrible that you can't vote to amend it then by all means you can vote against it but otherwise we really need to update this. We have problems and ambiguities in our Bylaws that need to be fixed. And so we have voting thresholds that have to be reached. So I hope that we will, you know, get this finished and get it in place and then move on with other more interesting business.

Niels ten Oever: You were going through the slides with the most important changes, right Milton?

Milton Mueller: Do you want me to keep doing that don't you?

Niels ten Oever: Well, do it thoroughly, right? These are the Bylaws. Let them be done with it for the coming two decades, right?.

Milton Mueller: You can clearly read this clear large text can't you?

Niels ten Oever: This is all?

Milton Mueller: No, no, that's only number...

Man: (Unintelligible).

Niels ten Oever: Yes. So let's do them.

Man: (Unintelligible).

Rafik Dammak: Okay, maybe to just clarify - also the whole session about the Bylaws but, yes, we have...

Man: (Unintelligible).

Milton Mueller: So you Bylaw mavens can sharpen your teeth and your tools and start going through the text in that special session, right?

Man: Yes.

Milton Mueller: So in the meantime just trust me. We did everything right. Nothing to worry about here. Nothing could possibility go wrong. And what's next on the Agenda, Chairman Rafik?

Stephanie Perrin: Is now the time I get to talk about the zombie thing?

Milton Mueller: You are always talking about zombies.

Stephanie Perrin: No, I'm not.

Milton Mueller: Halloween was five days ago.

Stephanie Perrin: Okay. So I really think -- Stephanie Perrin -- for the record, I really think we should have a bit of a discussion. Because we have how many members now -- 500? More?

Rafik Dammak: I think more than 500.

Stephanie Perrin: More than 500 members but - and this is not just me whining about how I need help on the PDPs that I'm on -- although I do. But I think that those have been following the discussions today will appreciate the complexity of the work that we're involved in and the number of horizontal links and the need to be constantly checking backwards and forwards and sideways to try to keep up with what's going on here.

I'm a bit concerned that when it comes to voting in officers we - a vote's a vote and -- don't get me wrong, I don't believe in democracy but we don't even - I mean I don't believe in democracy -- although after the US election I may change my views -- but - go back to (Olagarty). But I'm concerned...

((Crosstalk))

Man: (Unintelligible) Stephanie so.

Stephanie Perrin: For those not in the room Avri has just put on her very fetching hat that says make ICANN great again.

Avri Doria: Red had.

Stephanie Perrin: Yes, it's a red hat, yes. Anyway is there not some way that we could have some kind of tiered membership. There's a lot of people who want to follow what we're doing here and keep an eye on what's going on in Internet governance of ICANN but who really never will have time to participate.

And that is absolutely fine but when it comes to say a crucial election where we're about to go into a knockdown drag out war on Rights Protection Measures or Who Is -- I would be concerned if suddenly out of the ranks of our membership who have never come to ICANN or participated in a working

group -- suddenly a candidate came from nowhere and there's no parallel here with the US elections even though we stumbled into that.

Suddenly a candidate came from nowhere who had no grasp on the issues who replaced -- or three candidates or five or, you know, whatever -- replaced the people that had been working on the issues. That would be a worry. And I realize it is a remote possibility but it is a possibility.

Milton Mueller: Yes, we're - but that's precisely what the active membership prevents. If all these people are sitting there...

Stephanie Perrin: All they have to do is check-in Milton. That's not a high threshold. That's certainly not like spending hours a week on PDPs.

Milton Mueller: Stephanie it is a high threshold if -- in fact -- their zombies. Zombies do not...

Stephanie Perrin: But I'm not worried about zombies -- it's an unfortunate term perhaps. I am worried about our capacity to be overruled after years of work and making progress.

Milton Mueller: First of all we don't have elections about policies. We have elections about people mostly. We don't have votes on what position we're taking in PDP11. We have votes about who's going to be the Chair and who's going to be on the Executive Committee. So that's actually not -- I think -- of substantive concern.

If you're worried about somebody's trying to stack the deck we have a Bylaw provision about people from the same organization. We have all of these eligibility requirements that are trying to filter out people who are stalking horses for other stakeholder groups. And I think our biggest problem is getting people to even vote and remain active -- not with stopping them from voting. So I think you're - you don't have to worry about that. You've got enough to worry about.

Stephanie Perrin: My intervention on this is not about today's problem. It's about risk assessment about future problems. And I still think it stands. And I still think - I think we should actually make our candidates be much more clear about their positions on things so that people can have real choices.

Milton Mueller: Then the issue is do we have candidates more than it is, you know, some zombie candidate rising from the grave and taking over your PDP working group?

Stephanie Perrin: Not on - I'm more concerned about them stacking the Council and voting it down. Thanks.

Milton Mueller: (Unintelligible) a certain (order) here.

Rafik Dammak: Yes, starting with you Milton. I don't see this as a real risk. For us, I mean if you want to talk more about policy and voting I think you are talking about the (NCSG11) it is not (NCSG). And at the end for NCUC and for the Executive Committee part of our role is to engage the member and we have to do maybe much more and to get more people involved.

But there is some reality that we cannot I think (unintelligible). We are not going to get all the handles of members to be active. If we have most of them following the discussion that's enough. So to be honest I don't see the risk and I don't really believe to create this tiered membership or something. It will really be exclusive. This will be more risk for me than anything else so I kind of disagree with this vision that you may have but it's not at NCUC level for now. We don't elect people for policy discussion. Robin, you want to add something?

Robin Gross: (Unintelligible).

Rafik Dammak: Okay. Do we want to - I guess we will have the whole session about the Bylaws and I think it will be really helpful. (Unintelligible) can you share please the link of the Charter. It will be really helpful if you go through the document and you put comment. And please when you put comment put (unintelligible) because what would happen that we have like question and we spend that time to figure out what the best answer. If you see some issues it is better to provide like phrasing or wording that helps as to resolve the issue.

And so the meeting it will be on Tuesday night. It will be Bylaws discussion. I know that excites everyone here. But we need to get this done and move on. The Bylaws need to be changed for a long time. It is a good opportunity to fix this and move on. With regard to other updates since you have only eight minutes and we will have a really short time before starting the NCSG session 5:50 - 15 and I know people have to get their caffeine and so on.

I want that maybe just to give a quick update about the intersession meeting. Those who were in the morning meeting between NCSG and GAC we're still kind of trying to figure out should we have -- should we not have the session and also to work more about the Agenda.

For me personally it won't be any problem anymore. After the 5th of December somebody else will have to care about this issue since I'm not going to be Chair anymore. But what I can say that - let's have intercession for next year. I still believe that it's really better to get it with the meeting in Johannesburg (unintelligible) it's a really good idea that people traveling and so on but depends what maybe the next Executive Committee will decide on that matter depending on the discussion with the membership.

Other than that we will have - we have a high interest topic session at 5:00 pm. It is the DNS and content (configuration). It will be in Hall 3 and it's overlapping with NCSG. That is a disclaimer. Don't blame Tapani or me. We had to spend so much time regarding the scheduling. This meeting was kind

of saying it was a nightmare that's a huge understatement. The way it was - the schedule was designed makes it really difficult. Hopefully, for the next meeting we can improve things.

So please don't blame anyone that's - we have to leave with what we get so I know we have these overlap but if we can produce interest by the topic please come. We are trying to do this kind of cross community session. Unfortunately, other high interest topic session are not that inclusive.

Why, for example, NCSG session we invite (unintelligible) and law enforcement agency. My attempt to get NCUC involved with two sessions were kind of rejected. So this is maybe an issue for future to discuss and how we handle those high interest topics that some are not kind of inclusive.

That's what I want to say. Yes, Stephane. Yes, please.

Stephane Van Gelder: Just a few words pointing at our first intersession - if we have time and people are still around at the end of the NCSG session I will talk about that in the AOB. I have some ideas about that. And second that the Bylaws session overlaps the NCSG. I am at the Committee meeting so I may not be there I'm afraid but has Rafik said this schedule has been a serious problem (unintelligible).

Man: We are on the AOB?

Man: Yes.

James Gitau: With your permission can I be allowed to talk while standing here in front of you people? Please.

Man: (Unintelligible).

James Gitau: I wanted to talk without microphone but I think it is too far to hear me enough. The reason I stand in front of you people is because most people don't know each other though we are in the same business. And like myself (unintelligible) I have been with this business for quite some time now. I have been with you - most of you in market - with you here now and we have been with you - almost everybody online. And I think you have done a commendable job. (Unintelligible) outgoing committee on NCUC and we have also the NCSG (unintelligible). On my side I voted twice to commend both committees for the good work they have done and they continue doing.

And with this (unintelligible). Okay, thank you. I request to be allowed to have handover some token of appreciation to the leadership of both the NCUC and NCSG and several other friends with me here including - I have not met (unintelligible). I don't know where (unintelligible) and this conference and some other friends. I want the Chair - Chairman Tapani and Rafik to (unintelligible) announce the names as I handover whatever I have today -- leadership -- please if accepted.

(Unintelligible) when I discuss with my Chairman here. (Unintelligible) so that we can discuss on how we can have physical offices wherever we have the official elected officials. But that is a matter of discussion. I think we can work on that and see what can be done in that regard. On that matter I will - I had carried some items to be kept in our office wherever physical office is but since we don't have that physical office let us start with handing over the physical items to the current Chair so that he can know what to do with that item later on.

Man: (Unintelligible).

Man: Oh, this was meant for the NCUC. You remember.

((Crosstalk))

Man: And then we have this for the NCSG.

((Crosstalk))

James Gitau: No, the names, the names. (Unintelligible).

Rafik Dammak: Thanks (James) but I think in just a minute. We need to close the meeting and then we can - okay. Thanks everyone for joining and really thank (James) for - you really didn't need to do that but really I appreciate it. And just for your information I think in the beginning and when (unintelligible) was the Chair we got before the -- let's say -- the (unintelligible) the elephant for NCSG. Yes, so...

Woman: (Unintelligible).

Rafik Dammak: Yes, so it's really - it's very nice to bring this. So thanks everyone for joining. As you can see we are quite a diverse group and we welcome everyone to joint us and to get involved. Thanks again. And so...

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