
ICANN70 | Virtual Community Forum - GNSO - NCUC Open Meeting
Tuesday, March 23, 2021 - 10:30 to 12:00 EST

MARYAM BAKOSHI:

Thank you very much. Hello, everyone, and welcome to the Non-Commercial Users Constituency (NCUC) meeting.

My name is Maryam Bakoshi and I am the remote participation manager for this session. Please note that this session has been recorded and follows the ICANN Expected Standards of Behavior.

During this session, questions or comments submitted in chat will only be read aloud if put in the proper form, as noted in the chat. I'll read questions or comments aloud during the time allocated by the chair. If you'd like your question or make your comment verbally, please raise your hand. When called upon, kindly unmute your microphone and take the floor. Please state your name for the record and speak clearly at a reasonable pace. Mute your microphone when you're done speaking.

The session includes automated real-time transcription. Please note this transcript is not official or authoritative. To view the real-time transcription, click on the Closed Caption button in the Zoom toolbar. With that, I'll hand the floor over to the chair of NCUC, Raphael Beauregard-Lacroix.

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RAPHAEL BEAUREGARD-LACROIX:

Thank you, Maryam. Welcome, everyone, to the NCUC Open Meeting for ICANN70. My name is a Raphael Beauregard-Lacroix. I'm the current NCUC chair.

Before beginning, I'll just want to make a quick overview of the agenda for today. So we'll first have the roundtable by the Executive Committee who took office, so to say, just after our last meeting in the fall. Then I'll make a short presentation on an upcoming NCUC webinar on civil society participation, which will take place a bit later in the spring. Then we'll have regional updates from each of our EC members for the five geographic regions that we have at NCUC, and then we'll have a discussion on Technical Internet Governance, and then finally AOB. So that's for the agenda for today. Except if there's anything very specific about the agenda, I suggest we go straight ahead with the roundtable by the EC.

I will start myself, I guess. My name again is Raphael Beauregard-Lacroix, currently based in Germany. I've been active with ICANN since 2017 and NCUC after a few months after that. I'm currently writing my doctoral thesis on the history of data protection law and I'm also a legal researcher on site working at the Max Planck Institute. They have a new name now, I think Criminology, Security and the Law or something like that. So that's for me. Now I just suggest that we go for each EC member in the alphabetical order of region. So, Benjamin, Mili, Olga, Lia, and Ken. So, Benjamin, you're next.

BENJAMIN AKINMOYEJE: Good afternoon, everyone. My name is Benjamin Akinmoyeje. I'm the EC rep for Africa. I'm currently a PhD candidate at Namibia University of Science and Technology. My research is basically around managing stress using passive technology with mobile health apps for stress management. So, I'm currently based in Windhoek, Namibia, and from there I coordinate activities of NCUC members and then in the region. Thank you.

RAPHAEL BEAUREGARD-LACROIX: Thank you, Ben. Mili?

OLGA KYRYLIUK: I think Mili is not with us and she sent e-mail that she have some an accident so she will be—

RAPHAEL BEAUREGARD-LACROIX: Okay, okay. No problem. Then, Olga, you're next.

OLGA KYRYLIUK: Okay. Hi, everyone. My name is Olga Kyryliuk. I'm based in Kiev, Ukraine. I'm engaged with ICANN since ICANN58 in Copenhagen. That was back in 2017, I think. I have a PhD degree in international law, and currently my main job is as a program manager with American Bar Association Rule of Law Initiative, where I'm managing a regional Internet freedom program. I'm also a member of the Executive Committee for South Eastern European Dialogue on Internet Governance.

RAPHAEL BEAUREGARD-LACROIX: Thank you, Olga. Lia?

LIA HERNANDEZ: Hi. Good morning. My name is Lia Hernandez. I am the executive directress of IPANDETEC. We are data organization based in Panama City. I worked in ICANN since, I don't know, maybe 2014. But my first ICANN meeting was in San Juan, Puerto Rico in 2018. So, nice to be here, nice to meet you all guys.

RAPHAEL BEAUREGARD-LACROIX: Thank you, Lia. Ken?

KEN HERMAN: Hi. Good morning, afternoon, everyone. My name is Ken Herman. I'm the brand new rep who's rarely off, representative for North America. I'm based in the New York metropolitan area between New York City and Princeton, New Jersey. I have many years of ICT management and software development experience.

I've been involved with ICANN for, I guess, since about 2012. At that time, I was a senior advisor for inter-agency ICT coordination at United Nations. I'm based in New York but when the new gTLDs came up, all the ICT has wanted to know what was going on. The Legal Affairs people became involved and I recall many, many discussions between ICANN and the UN, where I was the liaison with the technical side. There were, of course, the lawyers involved and trying to explain to

ICANN at the time the whole issue of privileges and immunities. Since I retired from the UN—and while I was there I participated many IGF WSIS forum and I've been coming to ICANN meetings as I can since around 2017. I'm happy to be here with you.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Ken. So that completes our EC roundtable. I guess the problem is so many questions at this point, but in any case, if there's anything, please feel free to raise your hand. I'm monitoring the queue. But, otherwise, we can go to the next point of the agenda, which is the NCUC webinar and civil society participation at ICANN.

So this is the webinar that results directly from the Financial Year 2021 ABR that NCUC requested at the end of 2019, if I'm not mistaken. And it will take place late April, early May. We don't have a final date yet, but it's going to be in those waters for about 60-90 minutes. It's designed by the EC but it's going to be open for all civil society members, let's say, who are part of the ICANN community, so not only NCUC but any NCSG member and also our civil society members of ALAC.

What you have now shared is the draft agenda. In terms of main content, let's say, we would have a short keynote at the beginning on how to develop a policy position for civil society at ICANN. And then we'll have a Q&A on the history of civil society with several of our veterans and old timers. I don't have confirmed names yet. I do have a few but you will receive an announcement on this about that very shortly. We then will also have a roundtable with the chairs, the chairs

here being the two constituency chairs of NCSG, NCSG chair as well. Also, we'll have either Maureen Hilyard from ALAC or someone in the ALAC leadership with us, too.

And then finally, more general Q&A and closing remarks. This webinar will also be, let's say, based in a way on an ICANN Learn course that will focus more on the history of civil society in general at ICANN, which is also in the design development phase. So the purpose will be to take the ICANN Learn course before attending the webinar itself.

As more general points, if some of you have followed the NCUC and NCSG ABRs for Financial Year 2021, the hope was to do something a bit bigger than that, and this hasn't been abandoned completely. It's just that for, let's say, the sake of expediency and making sure that we arrived with the various deadlines, which was to cut a little bit on what was planned originally, and so we still have with NCSG at least, we still had the hope of following up on those webinars with a bit more of a deep-dive and a bit more of focus on the GNSO and the non-commercial community at the GNSO as well, but that would be in a second time. So for this first round, that will be something a little bit more general and open to all parts of ICANN as well.

So yeah, that's basically that for the NCUC webinars. You will receive the invitation in the coming days or the coming week with the dates and, obviously, we'll all be invited to attend. We'll be very happy to have you there. I guess that's actually all for this. I don't know if there's any questions about that.

I see none. All right, so if there are no questions, then we will go to our regional updates. And we will start again in the same order as previously as we did for the presentation. This will just be short updates by each of our EC members on what's going on. Yes, I see Stephanie. You have your hand raised. Before we move, go ahead.

STEPHANIE PERRIN:

I'm sorry to be so slow, Raphael. I have a problem with this interface now that you have to click reactions as opposed ... Anyway, my question was you mentioned that civil society members of ALAC would be welcome.

RAPHAEL BEAUREGARD-LACROIX:

Yes.

STEPHANIE PERRIN:

How are you going to determine who's a civil society member in ALAC? Because, as you know, there are government reps, there were plenty of industry reps, folks working for companies. That's going to be a tough one.

RAPHAEL BEAUREGARD-LACROIX:

Yeah, it will be. I think certainly it would be difficult for us to do, let's say, a very active filtering. The understanding with ALAC is that this is for civil society and that this is open to their members who came from civil society. I think we will just rely on their decision in that sense. We didn't have any plans to do more active filtering. Now, the thing is, of

course, this is not strictly non-commercial so there is this discussion as well as whether you can have commercial interest and be part of civil society, we could probably spend the whole meeting today discussing about that, and there's a little different views on that and which go back to the very foundation of ICANN, I think. But the point is that this should be open to members who would identify with civil society. So, obviously, someone who is part of ALAC but has a commercial interest in that sense would not fit our understanding. But yeah, that I think that's where we would send that.

I see Bruna. Or, Stephanie, maybe you want to jump in? Yes?

BRUNA MARTINS DOS SANTOS:

Can I?

RAPHAEL BEAUREGARD-LACROIX:

Yes, Bruna. Go ahead. I don't know if Stephanie still has her hand up or not but go ahead.

BRUNA MARTINS DOS SANTOS:

Thank you very much, Raphael. Hello, everyone. Bruna Santos here, NCSG chair. Just to add some information on that, Stephanie, the reason why both ABRs, because I think NCSG is being framed in the same way like this greater extension to At-Large members and any other civil society members at the ICANN community was, also because they were given to us under this condition. So just to clarify this, there was a condition on the Org's decision about both ABRs—

NCUC's and NCSG's—and it was this one for us to open on the opportunities for more civil society members at the community. So just adding that. Thanks, Raph.

RAPHAEL BEAUREGARD-LACROIX:

Yes. Thank you, Bruna. That's entirely accurate. It was part of the requirements for both ABRs for that matter, for both NCUC and NCSG. Good. So do we have any other questions or reactions or comments?

I see none. So I guess this time we will go to our next agenda item which would be regional updates. Yes, Ben, you will be first.

BENJAMIN AKINMOYEJE:

Thank you. Raphael, we need to look far to always turn this around. Okay, regional updates. Just as we all know, the pandemic has affected almost everything, and the way it has affected the regional participation and activities has been devastating. On the typical channels, we used to engage and have conversations that lead to activities on the mailing list has been very, very slow. However, there have been some activities in the general ICANN space in the region.

Earlier this year, there was a meeting called by some of the ICANN reps, Pierre Dandjinou, in particular, that'll be GC Global Stakeholder Engagement Team, to look for a way to get the regional to participate more in ICANN activities, knowing fully well how things have gone very quiet. So the arrangement, which I think is still in the pipeline was tagged Coalition for Africa Digital Empowerment Initiative. It's some kind of way to bring different stakeholders, infrastructure players, and

different persons together so that they can boost Internet activities in the region, thereby also bring in more participation in the policy development domain. So that's something that has happened.

Another thing that I've noticed in the region is some of the activities that used to bring engagement, many hasn't happened. Maybe it's because earlier in the year, AIS (Africa Internet Summit) and all of those other activities, they used to draw members together and get us to talk, and then sort of this participation dovetail into ICANN activities as well haven't happened yet. So I also want to think maybe that's some of the reasons.

But more importantly, online participation hasn't been very favorable to our activities and our engagement. Even elections have happened, there were some shutdowns. These activities in some ways always stimulate engagements. I haven't seen the same kind of engagement we used to see where we could move freely. However, I'm hoping that as the year progress, even ICANN70 will bring some engagement because of that.

As of yesterday, we had a lot of chatting on the WhatsApp group. I just hope that we could have more engagement on the mailing list that could get us in the regional to participate more or come up with more interesting initiatives. But I'm hoping that once we go on the ICANN Learn webinar, many other members will participate, and then it will stimulate the engagement moving forward.

So far, this is some of the update I see from the region. Maybe during the interactions, we could see more views or more comments of

anything I've left behind for many of our members present at the moment. Thank you.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Ben. I presume that Mili is probably not there yet, so then we go straight to you, Olga.

OLGA KYRYLIUK:

Thank you, Raphael. I must agree with what Ben already said that the European region has not been an exception, given the conditions of last year and the COVID-19 pandemic that all the meetings have been shifted online. Whatever was happening in the region was happening online, and of course this caused a lot of what we call now some fatigue. But this is the reality we have to deal with. In the upcoming year, many meetings will still be happening online. Some of them have not still decided, while others are trying to move to the hybrid format. For example, I would encourage our members to check digital policy and IG forums such as EuroDIG, which is currently inviting applications to join their organizing teams. The draft agenda is already available on their website. So those who are interested to shape the sessions and to become members of their org teams, they are invited to join. This is exactly the right time to do.

Also, I'm also representing the SEEDIG which is the sub-regional IG initiative. Most likely, this year we will be also holding an online meeting and we're still open. We finished the call for issues, the official one, but there would be still the possibility to shape their specific

topics within those issues which have been collected. There will be also their freedom online conference in December, which is so far planned as an onsite meeting in Helsinki. Let's see how it goes.

I would also encourage the members to participate in such meetings as Stockholm Internet Forum on Internet Freedom for Global Development which will be happening online in May. Also, there will be another quite interesting in meeting, the Re:publica 2021, again happening online in May.

Unfortunately, the Domain Pulse Conference, which is very much related to DNS policies and what we are discussing here at ICANN, has been postponed until the next year because we still have to do that online and it seems they decided not to do that online this year. So there are the opportunities but it is totally understandable that people are getting more and more tired of online format of participation, but let's see how the hybrid format will work this year or whether it will be in any way different from the standard remote participation that we had so far.

Apart from the opportunities for engagement, I also wanted to highlight a few policy initiatives which are ongoing in the European region and specifically in the European Union because it seems that the EU has quite big ambitions regarding its digital agenda and its role in the Internet governance ecosystem, not only this year or the few upcoming years but for many years to come. It seems this can be seen from the series of the proposals which have been recently released by the European Commission and which are aimed to transform the way

that major tech companies do business not only in Europe but also globally. Among the most discussed proposals, as most of you know, are the Digital Services Act that sets a detailed regulatory framework for protection of user rights online and the accompanying digital market sector which is supposed to regulate their fair competition rules and to make digital markets in Europe more competitive. The proposal for the Digital Services Act includes also, if you point to [charter revamp] to Internet infrastructure actors and namely, it's important to know that domain name registries and registrars are considered as providers of intermediary services, there are some conditions under which they can enjoy liability exemption. But still, the fact that they are included in this document, which is supposed to be very much focused on regulating the work of digital platforms is a bit concerning and raising some red flags. But let's see whether anything changes in the future.

Also, there are some specifications with regard to [inaudible] obligations applicable to all the intermediaries including registries and registrars, and such obligations would be an obligation to provide a single point of contact for the authorities also to clarify and what would be the content moderation in the terms and conditions, and also to engage in regulating [inaudible]. And what is interesting is that they're similar in that it was done with the GDPR. All online intermediaries that are offering their services and the central market would be obliged to comply with this act, irrespective of whether they are actually established within the EU or not. Obviously, it will be also the case for the DNS service providers.

The two are the initiatives which are what's being taken into account. EU cybersecurity strategy for digital decay because exactly in this document the European Commission is talking about creating the DNS for European Union and to create a separate, let's say, DNS for Europe, which again might be a sign of the fragmentation of Domain Name System and which might not be so good example to follow. But this is what is happening.

Also another directive which is worth pointing to is the directive on security of Networks and Information Systems, which is also known as NIS2. It also contains some provisions which are related to TLD registries. I would encourage those who are interested to pay specific attention and to go through this document to get it in more details.

Maybe the last point I would like to make about the developments which are happening in the EU and what took place just a few days ago was the Digital Day 2021, when members of the EU but also Iceland, Norway, they have committed to reinforce Internet connectivity with other regions and they signed declaration on European data gateways. So they are committed to work more closely, not only with the industry, but also with the civil society development institutions and academia to promote stronger partnerships and to strengthen international connectivity within Europe and the other regions. I will conclude here.

RAPHAEL BEAUREGARD-LACROIX:

It's very comprehensive. Now we can go to Lia.

LIA HERNANDEZ:

Well, my explanation is not so long like Olga. But here in Latin America, how do you know? I'm based in Panama City. We are part of Central America and we also used to work here from Central America and some countries in the Caribbean, for example, Dominican Republic. We have participated in a lot of events online and forums, specifically to improve the online capacity of the population in our region. Because with the pandemic, everybody has to work to educate and to do everything through the Internet and it was very difficult to the government to complete or satisfy this necessity for the population.

So as organization, as a member, I have worked. I have been involved a lot in our Internet governance forums on its space here in Latin America. I participate in the last and LAC IGF, the Internet Governance Forum for Latin America and the Caribbean. And also we presented our conclusions, our resource of some space of Internet governance from Central America in the IGF Global. Also, we are part of network of Latin American and Caribbean NGOs of digital rights named [inaudible] and we are storing and analyzing the start of the [state] or the tracking and content apps about COVID. And we are storing the apps at about 10 countries in Latin America to see how the governments are respecting the privacy of our countries, and that was a very interesting work and job. We continue to work to work in these topics during the 2021. I think that this is my main challenge for this community. I hope that more organizations or more stakeholders from Latin America join to NCUC and to participate in our committees

and working groups, because I think that we are only three or four people from Latin America in this call, in this session. So that's mainly the result or the main areas of work of my organization and also my colleagues in my region that is Latin America and the Caribbean.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Lia. Thanks a lot. Now we have Ken.

KEN HERMAN:

Hi, everybody. As I said, I was pretty new so it's hard for me to really see a lot of what's happening in the North America region. Either I don't know or nothing since it's fairly quiet. The national IGFs are operating and I know that Canadians had theirs late last year. The United States IGF took place generally in the summer.

I do want to highlight that the US IGF has done a survey of topics. And the importance of topics, it's hard for me to tell if they're statistically significant, I don't think they received more than 100 or so responses. But I did find it interesting that the results, which are recently posted on the IGF USA website, put at the top cybersecurity but also privacy issues which I think would be an important topic for everybody. Trust in the Internet was also sort of midway down. And when it came to the details of some of the results, it seemed that they were quite important.

So I'm still doing consultations with some of my colleagues who can help me understand what the situation is here in North America. So

I'm just going to leave it there for now. Hopefully, I'll have more at the next EC open meeting. Thanks.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Ken. There's no problem with that. We can see it's pretty quiet everywhere. And, of course, without the ability to be there in person, it does reduce the intensity a little bit. Of course, we can have more things online, but it also diminishes the value of those kind of meetings, because they look a bit all the same at the end of the day. But thanks a lot and thank you for all of you at EC for providing us with this update.

We do have a little bit of time so if there's anyone in the membership as well who would have specific regional things they would like to share, we'd be glad to take that. So feel free to just raise your hand. Otherwise, we can go to the next—oh yes, Stephanie, go ahead.

STEPHANIE PERRIN:

For those of us who are on working groups, unfortunately, the work has become so intense that we don't have time to check anything else. I haven't actually checked the various lists but I'm signed up to like the Africa list and the North America list, you name it, and I'm not seeing any traffic. This had been falling off before COVID so I think we can't entirely blame it on COVID. But I am concerned that when we do a call for interest on something, if people haven't been tuning in, then how do they even know what the topics are? We may get their pet projects.

I have a pet project of my own that I think is coming out of the work we're doing at the EPDP, and it's a long-term issue. When I joined ICANN in 2013 to work on the Experts Working Group on WHOIS, I was struck by something that the representative from Facebook said, namely, nobody has a right to a domain name. Well, of course, it's part of our credo. I wasn't a member of NCSG at the time but it's part of our credo that everybody should be able to have their own space on the Internet and goes along with the take my crypto keys out of my cold dead hands. So this concerned me.

And I see a very worrying trend over the past few years. Cybercrime and abuse is becoming such a topic. Domestically, governments are not necessarily doing what they need to do to protect people from phishing attacks and all the rest of it. It's basically in the hands of the private sector in most jurisdictions. Our NGOs and the folks that we represent are increasingly turning to platforms because they can't manage running websites and security and all the rest of it, and if they have a Facebook platform, they don't have to worry about anything. Of course, they're turning all their members over to Facebook. Same thing happens on Twitter and Google and you name it. So I don't know whether anybody else feels this as strongly as I do, but I think it's something that we need to focus on. I'm just throwing that out there as a concern.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Stephanie. Actually, we have the agenda point on TIG (Technical Internet Governance) coming up after that. We might be

able to get into that a little bit more because I feel it's a lot of this DNS abuse and cybersecurity things tend to get wrapped into this new governance space, at least from what I can see so far. But thanks, yes.

I see we have Yik Chan Chin as well. I'm sorry for the pronunciation. Please go ahead.

YIK CHAN CHIN:

I come from the ICANN China community. As I said, probably most people already know that there are many things happened inside Chinese Internet communities, for example, like we discussed about the anti-trust. So in [inaudible] and actually in the [inaudible], the government start to initiate anti-trust regulation in China to regulate the bigger platforms and also about encryption issues and the domain name, the encryption of IP address, all these issues. So my question actually is about the composition of the NCUC, the Non-Commercial Users Constituency because just [inaudible] from not the American state. There's few voice in this community. Whether I'm the only one from China participate in this community, I just want to know, why is that? I'm very curious about the reason. Because historically, I was not a participant. This is the first time I'm participating in this community because I was in ALAC, the At-Large community, the regional work. So I just want to know, what is the dynamics or obstacle for people from China or East Asia to participate in this community?

RAPHAEL BEAUREGARD-LACROIX:

Thank you. I think it's a very good question. So maybe the first thing I would say is that we do have an Asia-Pacific EC member but she's had a traffic accident. No one is hurt, thankfully, but she was not able to come. She would normally have had her little part on what's going on in general in the region.

More specifically about China, I haven't been with ICANN for very long, so I can only speak from my perspective. And that's true for a lot of regions as well, so language is unfortunately a big barrier to participation, and it's one that we try to improve on a lot with different capacity building programs and courses at least at NCUC. This has been something that's going on for a while. Language improvements or things like that will not really solve the issue as a whole in the community—and this is true for civil society—but for ICANN in general, people come from very different places with very different set of skills, and it's a very steep learning curve.

So if you add language, in addition to everything else you have to learn, let's say to participate fully in ICANN, there's really a lot. And we work as hard as we can to make this learning curve as or less steep, I would say, but yeah, it's difficult work. I don't really have a very definitive answer, but it is true that I think at NCUC we haven't had a lot of members from mainland China. I don't think so at least. Bruna, you had your hand up as well.

BRUNA MARTINS DOS SANTOS:

Thank you very much, Raph. I was going to say something very similar to your answer, actually, about the steep learning curve and how

difficult the ICANN subjects can be to a broader public. So that will be one initial point.

And this observation in your question was indeed really good because I think that this community in general for obvious reasons has been focusing far less in outreaching to the broader community, into the broader IG community, and regionally, and this is something that we definitely need to improve. So first of all, thank you for the observation.

Also, I guess Mili would be a great contact point for you to work with and maybe think about specific outreach activities to either China or the Asia-Pacific public or anything like that. And also tomorrow at the NCSG meeting, NCUC and NPOC are both constituencies of one stakeholder group, that's the Non-Commercial Stakeholder Group, we plan to host a little discussion on participation and also continue this talk here about the pain points and also what else can be improved. So if any of you wants to join this conversation tomorrow, you're very much welcome. So that's it, Raph. Thank you very much.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Bruna. I hope this answers your questions. Maybe just bouncing off what Bruna was saying, we only need, for example, one member who would be willing to translate certain materials in certain languages and so on for us to be able to reach out more into certain communities, at the same time, it's highly dependent on people who decide to get involved on their own and who have sufficient drive to really push through and go up the learning curve and get to a point

where they can themselves do outreach. So we're kind of dependent a little bit on who has historically been active also at the constituency in the stakeholder group level.

YIK CHAN CHIN: I have a follow-up question.

RAPHAEL BEAUREGARD-LACROIX: Of course, yes, yes.

YIK CHAN CHIN: Why not that ICANN can provide some financial subsidies to promote the diversity, even language diversity, so they can recruit more members. Because, actually, the ICANN China has 400 members, so it's a huge community. Many, many are high talented experts in DNS IP address or the national cybersecurity, but many of them cannot speak, of course, English well. I think that's the one reason. But they were available in our resources. So I think probably we can ask the financial support from the ICANN Board in order to promote the diversity. Just a thought.

RAPHAEL BEAUREGARD-LACROIX: Yes. Financial support is always something we can ask for more. The thing is it comes in different forms. The main one and one that has been the vehicle for increasing participation from certain regions was travel support and we do have a program that allows us, for example, when an ICANN meeting is taking place in a certain region to get

members from that region to attend the meeting or to get a partial subsidy to attend the meeting, depending on the meetings planned. And there is not that many applicants for certain meetings. We were a little bit in between two chairs and I get your point with, in general, financial support, but besides travel support itself, we can request more targeted specific money through the Additional Budgetary Request process. But again, we need to have like a concrete project. It can be an outreach project, it can be an outreach project targeted to a certain region. But to develop it requires certain amount of work and we will need to have active members from that region. So it's really it's a catch-22 chicken-and-egg kind of situation. If we don't have anyone who is active from that region, then it's very difficult for us to get more people from that region, and so we stay stuck in a trap where we basically have no one from certain areas. Thank you, Bruna, for your additional comments.

YIK CHAN CHIN:

I will feedback your comment to my country and I hope they will [inaudible].

RAPHAEL BEAUREGARD-LACROIX:

Yes, yes. Thank you for the intervention. It was very nice. Do we have anything else before we move to the next, the TIG agenda item? I'll take that as a no.

So we can now go to this more discussion section of our call today, which is about this new or not-so-new anymore, a few months old at

least, area of Technical Internet Governance, as the CEO of ICANN has called it. The point of this discussion now for us, together, would be to try to see how we can or how we should engage ICANN Org on that.

So just as a primer, let's say, for those of you who might have followed the discussion, starting in the fall of last year, ICANN, for example, at the IGF of 2020 had an open forum about Technical Internet Governance, where he basically explained that ICANN is being more and more aware, so the organization itself being more and more aware of the various unintended consequences of either legislation at the national level or supranational level—you can think of the EU, for example—or also standardization may be public to the ITU or private through private standardization bodies. Let's say the unintended consequences of those kinds of rules on the technical operation of the Internet, and specifically in the case of ICANN [inaudible] DNS. He gave examples of the new IP that comes from Huawei in China and the 5G as well in general.

Part of this as well is an effort by ICANN Org to reach out to the non-specialist stakeholders and to basically increase the understanding of the various technical consequences of legislations, standardization. This is, at least from my perspective and from what I could gather on that, that's what he means with Technical Internet Governance. Not something that is meant to replace the more traditional but more something that comes along the traditional internet governance.

The thing is, for at least up to now, the community has not been very involved in that. From what I could get from a discussion that they had

with him during the call that he has with all the constituency and stakeholder group chairs is that there was some form of contact group of some sort before but that has never really picked up. I kind of got from him it was by lack of interest from the community members. But I think that in any case, it would be good for us to think about how we want to engage Org on that. Because right now, the thing is, this is not only technicalities and matters for engineers to discuss, but I think the discussion about what these unintended consequences of laws, regulations, and standards have on the DNS, determining what is unintended consequence or what is an undesirable consequence, for example, is also a matter of politics to put in broadly. Waiting for Org to engage with us is not the best way to proceed. Rather, it should be the other way around.

Of course, as the community, our role—and if we take the NCUC perspective within the GNSO—is to make the policy on GTLDs. That's the narrower remit of what we do at ICANN, but at the same time, we can ask ourselves whether it's legitimate for Org to go on their own and engage in a whole host of new fora like the ITU, for example, where I kind of sought membership without any form of input in general from the community.

I'm kind of just throwing that out there in a way. I'm more looking forward to your reactions and your comments, your thoughts on that. I don't want to make this a lecture or expose on what the idea is according to Göran Marby. Anyone has anything to say about that? Any thoughts, any feelings? Feel free to raise your hands. Yes, Stephanie?

STEPHANIE PERRIN:

I should probably give everybody else an opportunity to speak first because, as you know, I've got a view on everything. I find this whole "Oh, my goodness, there are regulations that could impact the Internet" to be a total nonsense. Göran has been a senior bureaucrat in the telecom department in Sweden for quite some time. He participates at the ITU. ICANN was established to avoid the ITU running the Internet, because everybody thought they were doing a bad job of running the telecom system after the long distance wars. I come to this having worked at the Department of Communications in Canada, where my boss had been sent in to try to clean up the ITU in some respects. So pardon me for being cynical.

Furthermore, I preached to them about the GDPR and about existing law for years before the GDPR passed, and it was ignored. So this is not a question of needing an observatory. It's a question of paying attention. I don't think that American thought leaders thought that the GDPR would pass with the kind of financial liability that it did pass. But, lo and behold, it did pass, and that's when everybody started paying attention. So to what extent this is a smokescreen, I don't know. We now have a situation where we are watching intently a draft directive that is going through in Europe. And it'll take five years and there will be changes there at the comment period now. It is Stage 1. As Volker Greimann puts it, the train hasn't left the station yet on this and the EU legal trajectory is as complicated as anywhere else including Congress. I mean, my God, if we watched every piece of

legislation that was submitted to Congress, we wouldn't get any work done because we'd be busy watching all these phantom bills.

So I'm deeply, deeply cynical about what's going on here and it's distracting us from our work. I haven't got a remedy yet. I mean we literally asked our legal advisors on the EPDP what we could expect from this draft directive. And if I were that legal firm—I'm not a lawyer, hand up. I'm not a lawyer—I would be saying, "Why don't you ask me in three years' time when it gets somewhere?" Thank you. That's not really a question or comment. It's just a snort of derision about this new initiative.

RAPHAEL BEAUREGARD-LACROIX:

Thanks a lot. In that sense, if it's a distraction then we should not pay attention to it too much. That's what I get from—

STEPHANIE PERRIN:

Always risky not to pay attention.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Farzaneh, for your comments in the chat as well. It is true that the EU directive has been around since the early '90s even in a draft form, so data protection itself is not quite new. It defines new with the GDPR definitely. But in any case, Bruna, you are next.

BRUNA MARTINS DOS SANTOS:

Thanks, Raphael. Pretty similar points to Stephanie's as well. I am also very skeptical about us fast forwarding all of the discussions surrounding the directives and let it be non-draft directives. Also being from the Global South, I think it's a little sad that all of the focus and attention from the ICANN community towards legislations, it's solely focused on the US and EU. This is one point that I have also been wondering.

Something that Farzi has put in the chat about GDPR, yeah, I do think that this is kind of a course correction movement because ICANN Org did indeed pay very little attention to GDPR, if they paid any attention whatsoever. It feels to me as if all of the engagement on NIS2 and also DSA and DMA is a clear attempt of trying to cut some of the effects that these legislations could have on the DNS. And it's also fine but I do think that this is something that should include the community further or at least be stated in more clear terms that this is the Org trying to avoid the very clear effects on DNS that legislations could have. Just going to point that.

And also, we were supposed to have a plenary session about both the NIS and DSA but also the US legislative scenario at this meeting but this plenary was postponed, also due to the fact that some community members agreed that it will be too soon to discuss them. But also we were not able to secure a member from the US government. Just put this on the record as well.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Bruna. I guess in a way, that's the danger with Technical Internet Governance as well is that this idea of a threat to the DNS becomes somewhat inflated, and then we start folding in typically IP violations into that as well which kind of becomes much more questionable. That's why I was kind of also thinking about at least a mechanism for community involvement so that we're always aware. Although we don't necessarily have the mandate or the power to change course, we can keep an eye on what's going on and how these kinds of threats are fashioned from Org side.

I don't know, Stephanie, if that's a new hand or if that's an old one which is in there. I guess it's an old one. Did we have any other intervention on Technical Internet Governance then? Any other reactions? Yes, Stephanie, you can go again. Farzaneh, actually, since you haven't spoken yet. Please go, Farzaneh.

FARZANEH BADIEI:

Hi. I just wanted to support what Stephanie and Bruna said. I think that a lot of the attempts of ICANN—and this started a couple of years ago when ICANN Org became very sensitive about laws that were being enacted. They even asked the community members to go to their government representatives and talk to them about these laws that are being enacted in various countries.

Now, I think Stephanie makes a very good point because we now have an ICANN Org that has a very bureaucratic background and thinks regulation is something that is going to hamper even when it has not passed. One problem that I see is they also focus on specific

legislation, specific laws that historically ICANN doesn't like. For example, they don't like GDPR because it meddles with public WHOIS. I think that their focus is more out of being able to protect the status quo of what the governance systems they have in place and not change at all. Otherwise, why do they not pay attention to some of these US lobbyists that go to the Congress and say that, "The US should come up with a law instantly that keeps WHOIS open? Why do they not pay attention to these things?" Well, I think there is certain kind of bias there as well.

But just to the point that Bruna made about, like not paying attention to other countries, I think that at some point, they started paying attention and then they started coming up with all these list of legislation and laws on data protection around the world. But they were not clear. In this case, they were not clear what sort of effect they can have on the DNS and ICANN mission. So, the whole thing is quite disorganized, it's not structured, and we don't know why they're focusing on this. The thing is that they say that it might affect the DNS. Yes, a lot of legislation might affect the DNS. But we need to understand exactly why we are looking at it and what sort of effect it's going to have and whether we want to actually prevent that effect. Thank you.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Farzaneh. I think that's a very good point, because a lot of things have a lot of effects on the DNS. The point is to know which ones are we talking about, actually, and it does seem to me as well

that either it's very broad in terms of what the effects are or kind of fall into the category of those that want or should be monitored or mitigated. There's probably some form of very precise idea about the ones which are undesirable. Then most likely, anything that touches the WHOIS is a problem, at least historically it has been.

Okay, Stephanie, you just removed your hand. All right.

STEPHANIE PERRIN:

I thought it was my turn. Just to say I agree to what Farzaneh said. But also, I would just like to point out that on the EPDP, I think we have been saying for the past three years, at least, that there's 120 data protection laws in the world and, of course, there's always a silence after this. They don't respond to that fact. We pushed very, very hard in Phase 1 to say that this was a harmonized policy, that it did not matter what jurisdiction you or your customer's in, we were going to meet the GDPR so that would cover all the other 120 data protection laws. Lo and behold, this is one of the issues we keep re-litigating, that we have to fight all the time because those who don't want to are still looking for geo location data so that they can say, "Well, these people aren't subject to the GDPR so they should be forced to consent to the release of their data." I'm not making this up. It's very, very frustrating. But that's just an addendum.

I just like to point out that while we're looking at all these laws around the world, the real issue in terms of ICANN is what is happening in the co-controller agreements that are being negotiated as we speak between the Registrars and Registries and ICANN. And we do not have

a window in that and it has a deep, deep bearing on WHOIS policy. I'm just using WHOIS as a short hand. The only policy at all about data elements that we had prior to this GDPR shemozzle—I apologize to non-English speakers for my using expressions like “shemozzle”. Mess might be an easier word—the only thing we had was the requirements in the contracts and the RAAs that obligated the contracted parties to basically violate all those 120 data protection laws. So we are now back where we don't have a window into what's going on and I just want to draw that to everybody's attention.

Becky Burr was the architect of the so-called picket fence, which drew the line between what contracted parties were allowed to negotiate separately with ICANN and what was nobody's business from a policy perspective and what would be subject to the GNSO's oversight as a PDP process. We don't have a window as to what's going on with the picket fence and every time I raise it, again, there's the radio silence and we move on to another point. So I point this out as an area where we ought to be deeply concerned.

Thomas Rickert was haranguing those guys the whole first couple of years, “Where does ICANN stand? Is it a controller? Is it a co-controller? What is it? Then when are you going to start talking about agreements with us?” Because many of these implementation details on the EPDP should be in the contract and in those co-controller arrangements.

Sorry for the prolonged focus on my pet issue but it's kind of important at this point in time. Thank you.

RAPHAEL BEAUREGARD-LACROIX:

Thanks, Stephanie. It has been in the pipes for a very long time, data protection, and nothing much was done with it. So it's another reason to be at least skeptical about TIG.

Anything else on that? Thank you for mentioning, Manju, in the chat about the mailing list that went silent all of a sudden. I wasn't sure why this happened. But Göran admitted during the call that they had written that this was the only attempt that was made to involve the community into that. Will there be further? I don't know. I don't think it's actually close to it but whether there's going to be efforts to really involve the community, I think that's not something we should expect. Whatever involvement we want we should make it happen.

All right. Franzaneh in the chat, "How do they come up with the positions on these legislations?" I believe is the legal department and the lawyers from Jones Day who write those. But again, this is clearly formulated in Org's own interest, and this has nothing to do with what the community would want or think. Lots of lawyers involved on this.

BRUNA MARTINS DOS SANTOS:

Just one short observation. We did submit a plenary topic about TIG and IG, and whether or not we should adopt this term that Göran suggested. This is definitely some discussions we should try to suggest again in future ICANN meetings or in future NCSG, NCUC, and BOC meetings. These are the great discussion, actually.

RAPHAEL BEAUREGARD-LACROIX:

Yes. Thank you for bringing this up. I forgot that it was a plenary topic that was submitted but didn't get traction, unfortunately. But good point and something to note for future meetings.

All right. Anything else? Otherwise, we can go AOB. I have a short one which is more an announcements style AOB, but just making sure that the discussion on TIG is where we want it to be. In any case, we can now go to the AOB section. So if you have an AOB, feel free to raise your hand. I'll just go ahead with mine.

As you may have heard or seen depending which mailing lists you're on, but the GNSO has gotten a new slot on the community representative groups which will select the seven members for the IRP, the Independent Review Process Standing Panel and they are open for Expressions of Interest. Any member from any Constituency, Stakeholder Group from the GNSO can apply.

What does that do or what do you do if you do apply for that? You are part of a group that works with ICANN Org and a consultant, which I believe is most likely a lawyer, and to select the seven panelists that will be in the Standing Panel. And when there is a dispute, for example, that involves ICANN and the Bylaws, a dispute that goes through the IRP process which is an Alternative Dispute Resolution process, they select, if I'm not mistaken, three panelists to form the panel from the group of seven. So if you are a member of the CRG, you would be selecting the seven that would ultimately be selected again in groups of three to decide on a given Independent Review Process.

There's already one person who is the GNSO rep there. It's Heather Forrest from IPC, Intellectual Property Constituency. The GNSO got another spot because it was requested by certain parts of the community. Obviously, if this request kind of goes unanswered—so far, just a few days before the meeting, they had not received any Expressions of Interest. If that's something that interests you, you should—if not have a legal background, at least be interested in these kinds of things because it's going to be a lot of lawyerly stuff and legalese. But at the same time, I don't think having a legal background is a requirement to express your interest. So please go ahead. And if you want more information, feel free to contact any of the constituency chairs or the SG chair, Bruna. That's all for my AOB. Is there anything else for AOBs?

BRUNA MARTINS DOS SANTOS:

Yes. Just to remind everybody about the rest of the agenda for this meeting, tomorrow we'll have the NCSG meeting, the open meeting, so please join if you're interested in listening to more non-commercial discussions such as participation at ICANN. Also the EPDP, we're going to have a slightly bigger discussion on the EPDP and recent developments that we were not able to fully conduct on the Policy Committee meeting this Monday. Also on Thursday, we'll have the plenary session on Voluntary Commitments and also the beginning and the continuation of the GNSO Council agenda. So we still have a lot to go this week.

I have been sending e-mails to the NCSG list but if anyone wants also to check or needs any information on the agenda, please ask me or Raph or anyone that's on this call. Thanks.

RAPHAEL BEAUREGARD-LACROIX:

Thank you, Bruna, for this reminder. And of course, you all are invited to attend the NCSG meeting tomorrow. Anything else as far as AOB is concerned? I guess I will take that as a no. All right. If that's all for us, I will give you back 18 minutes of your time which you can use to just stare at the screen.

So thank you all for coming to this NCUC open meeting. Have a very nice rest of ICANN70. We'll see each other on the inter-webs. Thank you. You can stop the recording.

MARYAM BAKOSHI:

Thank you very much, everyone, for attending the NCUC—

[END OF TRANSCRIPTION]