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ICANN75 | AGM – RSS GWG Meeting (2 of 6)
Saturday, September 17, 2022 – 16:30 to 17:30 KUL

OZAN SAHIN: Hello, and welcome to Root Server System Governance Working Group session 2. My name is Ozan Sahin, and I am the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior. Please note that the session is intended for a discussion among the Root Server System Governors Working Group members. Other participants will be silent observers.

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BRAD VERD: Thank you, Ozan. All right, let's try to pick up where we left off. We were trying to iterate through powers. And working through that, where we ended was on an interesting one that Wes had talked about with the IP address. But let's keep on going through

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this. Are there other powers that people can think about that we need to as we work through the taxonomy, just basically classifying all this lists of powers? Peter.

PETER KOCH: This is Peter for the record. Just because we started this short before the break and maybe it's not that type of power, but we were discussing before changing the content of the root zone, but there's obviously alternative methods to respond differently that has happened in practice 10 years ago or so when there were on-path modifications. But also a root name server operator could deliberately respond differently based on context, on source, or anything like that. And that could also be tied to, say, financial support.

So assume we have a government that has the bright idea to have root for you and would subsidize or offer financial incentive to root name serve operator and at the same time say, "Well, to receive that money and to be eligible for funding, you please help our consumers not to hit certain content and then the rest is history." There's probably not a power, but it's something that the root name server operator would probably have to consider when receiving that financial support and that is part of the independence and so on and so forth.

BRAD VERD: So just really quick if I could maybe help ask you to expand on that a bit, but is it along the same lines of when we were talking about modifying contents of the root zone and how we should explicitly say that the governance system doesn't cover this. Should the governance system explicitly say something to the fact that shouldn't allow this type of behavior or something? Is that the type of principle you're after that something like that?

PETER KOCH: Yeah. That would be probably my suggestion, but just to address the point that if we're too strict about content of the root zone, then obviously, well, content isn't changed, we're just responding differently. You get enhanced responses, which is, of course, playing words, but that's where things happen.

BRAD VERD: That's a good point. Geoff, you have your hand up?

GEOFF HUSTON: Yes, thank you. Yes. Sorry, yes. I have another kind of meta-principle, meta because it's slightly different to the others in that straw man list. And the principle is that the exercising of powers in this governance framework should be in an open and transparent manner.

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Now, again, the part of the issue is balance and separation is fine. If it's all behind closed doors, it's merely an assertion and doesn't contribute to trust. If you want trust in this governance structure, then it has to be seen to be operating in a way that instills trust. So the exercising of powers should be in an open and transparent manner as a generic principle. That's my suggestion. Thank you.

BRAD VERD: That's good, Geoff. Anybody got any feedback for Geoff or thoughts on that? Jeff Osborn.

JEFF OSBORN: In my defense, I didn't raise my hand. You read my mind.

BRAD VERD: I read your body language.

JEFF OSBORN: Thank you. Jeff Osborn, ISC. Responding a little to what Peter was saying, but also to sort of the elephant in the room of a lot of what is on the board now, those who've been in these circles for a few years realize I have a bit of a pet peeve, which is that much of this sounds like discussions about a contract, a contractual obligation, an SLA, which is a contract.

And every time we talk about one of those things, I'm taken back to the first or second thing you learn at law school, which is there's no contract without consideration. And so what drives me crazy is we keep talking about the contractual obligations of things where there is no consideration. Consideration is defined as money changing hand, or things of value.

So I think I've been misunderstood as being some kind of money grubbing person who in spite of having spent $10 million of a nonprofit's money to operate the F route without bringing in a penny, somehow just can't wait to feed at the trough. And so I try to make that really clear, but you have to have financial considerations in order for the term contract to not get laughed out of the room.

So that's what I'm trying to say in terms of money being an issue. It's not a matter of can a state come to a root server operator and say we'd like an enhanced something for a little more money, it's just that this is the sound of one law clapping. When you talk about contractual obligations without consideration, it's illogical, and I'm thrilled that everybody else is capable of doing that, but it makes my little brain hurt.

BRAD VERD: Liman.

LARS-JOHAN LIMAN: Liman here just seeking clarification. Can this be something that is particular to law in an environment close to you, or is there a different word for something, I suggest agreement, that can cover something where people come to an agreement without considerations?

JEFF OSBORN: It's my understanding that other than treaties and we are not a treaty organization, no, that's not the case, but I'll defer to anybody with more knowledge.

GEOFBRAD VERD: All right, Robert.

ROBERT CAROLINA: Yes. Thanks. If we're going to ask strictly legal question, which I know this isn't, but the strictly legal question, the way that I try to explain it to my students who by the way are overwhelmingly computer scientists and engineers, is that contracts have two different sets of elements. One is the communication, what does it say, and then there's the bit that makes it sticky, what causes it to be sticky. And what causes it to be sticky is answered slightly differently depending on which system of law you look at. So

consideration is the magic phrase that we use in common law systems, which has its own unique definition.

Civil law systems have a different term that they use, which the term escapes me from the Napoleonic code because I'm not that expert at it. And those functions work slightly differently. In fact, in some cases radically differently. But nonetheless, the principle there is that something like that is only enforceable to the extent that there are some obligations that the world and laws will enforce, and there are some obligations that laws will not enforce.

And it's the distinction between what is enforceable and why, what makes something enforceable as opposed to what is not enforceable that is kind of the interesting distinction. But if you're asking the question, is it always the term consideration and is it always some -- this is always formulated like that. It can be a bit different of anywhere you're looking.

While I've got the mic open though, I want to cheat and change direction. So since I'm cheating and changing direction, I thought I would tell you. And that is I wanted to pick up on something because I really liked Geoff Huston's comments a few minutes ago about building trust. And trust has come up a lot today and obviously needs to come up a lot. And one of the things I'm

wondering is have we really gotten to the bottom of in whom are we trying to instill trust?

I mean, it sounds like an obvious question of the world being the obvious answer. But I mean, I'd be curious to know how you define the different groups of peoples or stakeholders in the world who need to trust this governance structure in order for the whole thing to be a success. In other words, in whom must this group and the RSS generally, in whom must trust be instilled in order for this function to continue to work as we need it to in order to keep the internet together? So that's just a provocative question to which I don't have an easy answer.

BRAD VERD: I like the question. Thoughts? Liman, then Wes.

LARS-JOHAN LIMAN: Liman here. I also like the question, but I would like to augment it with and why because that will help us define who. Thanks.

WES HARDAKER: So we have the answer, and this is Wes. The answer is in 37, it's the stakeholders. The stakeholders need a trust of the system. And the stakeholders includes the entire ICANN community and through ALAC that includes the entire world. It also includes the

IETF and the IAB in conjunction and it includes, I don't remember who the third stakeholder is.

BRAD VERD: The RSO.

WES HARDAKER: Thank you. And the RSOs. And so it is a good question. Absolutely. And what I found more enlightening is there a set of people that don't trust it now because if everybody trusts us now, then why are we doing this exercise? But the trust now does not imply trust in the future.

And so when we started this whole process seven years ago, I've lost track of time, it was the expectation that trust can't just be temporary. We need to put together a system that instills a long-term trust because there is a mechanism for accountability, because there's a mechanism for governance, because there's a mechanism to make changes if changes are needed.

And to go through the list of powers, I guess one of my questions, Brad, is, if we're listing the list of powers, what's the end goal? And my guess would be that then we can ensure that each of those powers exists in only one place or one bubble. And I would argue we should actually go through 37. That would be the best

place to starting for a list of powers because each of the functions actually has a list or the text in the New York proposal too.

BRAD VERD: You're jumping the cart before the horse maybe, but maybe I'm happy to share the train of thought here was that creating the list of powers so that those powers need to be allocated, right? And if they need to be allocated into decision making processes or procedures, we need to make decisions around each of them, right? How the decision bodies will be made, who they'll be comprised of, I have a couple of notes that I've made here, what's the scope of the decision-making group powers?

And then we get into where we've talked about previously about, like how many seats will be each of those tables, who makes those, who determines the composition of who are at those tables. So in order to do all those things, it makes sense to start with the list of powers that you can then allocate. Liman, you are next.

LARS-JOHAN LIMAN: Thank you. Liman here. I do agree with that. I think when we look at the powers, my question why actually came from trying to understand what the risks are if we don't have the powers in place and we have a system which displays how things work in such a

way that it builds trust. And so the overarching question here is, what are the risks with not creating this trust from whoever is on our list where we need to put the trust in?

So this is a bit of a risk assessment exercise actually. What do we see? What do we think might happen, worst case, if people don't trust the system? And then we need to figure out, so which existing bodies today might actually be able to exercise power of the system? And that's where we need to build the trust. Thanks.

BRAD VERD: Robert, you had something?

ROBERT CAROLINA: Yeah, just following up from some of that. First of all, in response to comments that Wes made, which I think are all good, and I think 37 is a good starting point to see a number of these powers. However, I would urge you to consider the powers list, not just as something to be allocated, but also consider the potential need to decompose or just aggregate a power into more than one step.

So to consider whether or not for the purposes of good governance and for purposes of enhancing trust, does a particular decision, or does a particular process that you see, power that you see, need to be divided up into two steps, the two

different things happen, or three different things happen rather than collapsing it into a single outcome.

And to challenge you a bit on this point of who's doing the trust, I think I said this at the end of a meeting the very end of a meeting of a few meetings ago, for those of you who recall, I cited the work of John Rawls, the famous philosopher who talked about *A Theory of Justice*, that if you don't know what your role in a system is, if you can't know in advance what your role in a system is, would you think it's a good system? Would you trust the system?

That's not exactly what he said, but for our purposes, it's close enough. So my challenge to you is to consider this, if you weren't an RSL, if you were somebody else in the ecosystem, if you were the root zone maintainer, if you were a registry, if you were a registrar, if you were an access provider, if you were a government, if you were some other stakeholder that's either been identified or not identified, would you be reposing trust in the system that ultimately gets talked about? And in terms of answering that question, I would challenge you to think about that question as you start thinking about what are the powers that need to be segregated and enumerated.

BRAD VERD: Wes.

WES HARDAKER: So thank you, actually, I was thinking about that exact question earlier today. And it's important that we consider that perspective. But the only thing I actually wanted to add to your list of the powers and possibly breaking them apart, which I hadn't considered, the flip side of that is which powers need checks, which powers need balances. And that's a good reason for coming up a list of power.

BRAD VERD: All right. So back to listing then. We don't get out of this that easy because it's hard.

WES HARDAKER: You win Brad.

BRAD VERD: Can't allocate them until we list them. Mr. Huston.

GEOFF HUSTON: If there's one thing I've learned, it's my power to predict the future is remarkably poor. And this exercise in trying to understand not perfecting today, but trying to understand how to build the tomorrow, allocating from an enumerated list of powers gives

you a tunnel vision. I actually thought your original approach of trying to understand principles of structure of separation and the principles of the applications of powers, and then to consider governance structures that address those principles, implicitly, gives the entire framework a much better ability to accommodate what is not a big factor today that might well be a dominant factor tomorrow.

Part of this issue is we're not trying to make yesterday better. We really aren't. And if we're trying to think about how you face forward, then enumerating today is fine, but it's just not, to my mind set a satisfactory approach. And I would certainly not place all the group effort into listing these things we're aware of today and allocating them. I would tend to look at what sort of things are unnecessary in terms of the principles of separation, the principle that devising a power and exercising it should be separated out in different entities, transparency, the whole issue of mutability, and the ability of the system to adapt and change is all part of those principles.

And the governance structures should reflect the principles rather than the specifics. The specifics are easy to then allocate in, if you've actually got what you're trying to achieve those principles down straight in the first place. So I actually thought in the page, bring up the Google Doc, the straw man principles on the previous page, rather than the draft list, the straw man

principles should be, if the outcome of this part of around work this way, that if we can get general principles, very generic, about how this system should operate as a government system, I think the rest is then easy.

If we're trying to list today, and then figure out how we should check the system to accommodate today's issues, you've got a system that is frozen in time, or at least that's the big risk. And it's not clear to me or any outside observer whether it's sort of sufficiently mutable to accommodate tomorrow. Thank you.

BRAD VERD: Any comments for Geoff on that? All right, so Jeff, really quick, I'll just give you my two cents on a couple of your topics, one was creating the list of powers was a smaller portion of the bigger topic, which as stated in the document, and as you recall so well was about principles. This group likes to jump into the weeds quite a bit.

And so that's defining those powers or listing out what those powers are, not a wasted time or wasted effort. And certainly nobody is trying to define a system to meet today's system where you're trying to meet something that is going forward. And as I think as Liman said needs to evolve. So with that said, so let's jump back into principles, then. Geoff, from the powers that have

been shared, can you derive or come up with principles that are not covered in the straw man that we have?

GEOFF HUSTON: Geoff, again, and as to your direct question, I actually think that one of the principles should be the ability to accommodate and make changes. It should be mutable system not fixed and frozen.

BRAD VERD: Then clearly a process around how to do that.

GEOFF HUSTON: Oh, clearly.

BRAD VERD: Again, I don't want to get lost in the details as we go through this, but there are a bunch of kind of assumed approaches here.

GEOFF HUSTON: And that kind of is slightly more generic than the one two lines above that said, reviewed periodically and revised when necessary. I think it's not a case of review and revise, it's more generic. It's the ability to understand and accommodate the need for change when it is necessary.

BRAD VERD: Peer reviewed periodically and revised when necessary seems again more like architectural or technical.

GEOFF HUSTON: The biggest thing that I think is -- sorry, I didn't mean to interrupt.

BRAD VERD: Go ahead, Geoff.

GEOFF HUSTON: The biggest thing that I think is dangling here comes from the point a little bit further up about collective action. There is no desire to shut any individual out. Well, I mean individual or individual entity undertaking a role from any of these processes. And I think it was Robert Carolina that made the point that expertise, no matter how you have it should be, subject matter expertise should be welcomed in this process of exercising power. So it shouldn't necessarily be that power are exercised exclusively without the participation in others.

We have to understand and it's not well written here, this principle of collective involvement such that folk are not excluded, but necessarily there are venues or rooms, whatever, where powers are exercised, that is structurally separate from

where powers are devised, policy determination, policy deployment.

And so this whole issue of, in so saying that there should be some degree of separation, the principle is not intended to exclude individuals or entities from any particular process, unless it is structurally necessary. And I'm finding it hard pressed to think of an example, but I'm sure auditors aren't allowed to play in the same space that they need to be auditing. Seems a structural necessity, and there might well be similar structural necessities in this place.

BRAD VERD: Yeah, Geoff, I would agree with what you just said, just adding on to it. I think that statement of people who make policy are not the people who enforce them, I had a hard time. Like it goes right along with what you were saying, the idea that people wouldn't be part of the Congress or wouldn't be represented in the Congress that are making the laws that are governing them. So it goes to that whole thing is nobody is above the law type of thing.

But if you're being governed, you need to have a voice in those laws that are made that are governing you. That's kind of the way that I had viewed it. But I think it's good that it was called out here and you are correct that we need to get the language crisper.

All right, any other comments here?   I feel like this is a conversation amongst a few of us. Robert.

ROBERT CAROLINA: Yeah, actually, if no one else has a pressing one, I'd be grateful if, Geoff, if you could pursue what you just said a little bit further. And I'm asking that because I'm having a little difficulty trying to figure out how to report the principle that you're describing. There's no desire to exclude people or entities from something to do with the governance process, and I can't quite see it. And I for one would be really grateful if you could talk about it just a bit more.

GEOFF HUSTON: I'm sorry I'm being challenged here in terms of coming up with a response on the fly. And I suppose the best I can offer is hitting down a parallel analogy that I am very familiar with policymaking in the regional internet registries, where the staff of the Secretariat are often excluded from the policy development process and all aspects other than a formal report. And the problem is that the folks who are working there actually have the best day to day knowledge of how the system is running. And it would make some sense to a robust process to have that input considered.

And so when you're trying to separate out folk who are working according to the policy, and the folks who are exercising the power to make policy, you want to be able to have at least some degree of informed policymaking. And the best way that we have done this here in saying this is this point that collective action, and not exclude anything, is one of the better ways to actually make an informed policy development process.

What you're trying to do, however, is to stop undue influence being exercised, and that's why you're trying to separate it to some extent that it's a completely closed system. You don't want to complete the closed system where the folk doing it, other folk who are making the policy who are doing. That closed loop is unhealthy, and massively erodes trust.

And so that's the, I suppose, conundrum inside here, Robert, of trying to create mechanisms that allow participation, feedback, and the inform policymaking, but to counter and try and prevent structurally the undue exercise of influence in policy development. And it's a case of trying to strike that balance in my mind. I don't know if that helps or not. It wasn't a question I was expecting. I'll hand it back to Brad.

BRAD VERD: Robert has got a response.

ROBERT CAROLINA: Yes, thanks. Actually, thank you, Geoff. That's actually extremely helpful. Let me try to report back the impact of what I think I heard you say, but I completely accept that I might have this wrong. It sounds to me as though you're saying something along the lines of, in this situation, it's critical that the people who understand how the root server system actually runs are not excluded from the policy decision making process because they are the subject matter experts, they know how it works, and they have responsibility for making it work.

But balancing that, it sounds like you are also saying, but they can't be the only ones who are involved in the policy making process. Now, I accept that might not be an accurate reporting of what you said, but I'm just trying to grapple with the principle and trying to tease out the principle that you're highlighting.

GEOFF HUSTON: Yes. Yes. That's what I was saying. Thank you.

ROBERT CAROLINA: Okay. Wonderful. Thank you.

BRAD VERD: Sam, you have got your hand.

SAM EISNER: Thanks. This is Sam Eisner from ICANN. So this recalls to me for those of us who are taking part in the criteria, in the in the guidelines discussion that led to O58, there was a place where we identified without identifying what those policies might be, but that the root server operators themselves would have to have some level of a super majority consent to certain types of policies or to certain types of decisions that were made in the system.

And I think it sounds like we're kind of converging back on that same idea that there are some certain areas that are so fundamental to what the root server operators do that when you balance, because one of the things that I see is we're going through this governance working group, the system is that we're trying to say, we're trying to look at a multi stakeholder system and it sounds like there's still some effort to make sure that the right stakeholders are part of that multi stakeholder effort and balance the views of other stakeholders with the role of the RSOs. But I think that's been a consistent thing that we've had throughout the process, but I agree that it's something important to be reflected here.

BRAD VERD;   Thank you, Sam. Any other comments on that? I'm not hearing any. What about principles based upon the powers that we've

discussed here? Are there other underlying principles or even further based upon what we've come up here about RSOs must not be excluded. Are there some principles that we should specifically call out in the governance system? I feel like it's end of day, everybody is tired.

OZAN SAHIN: Geoff raised his hand.

BRAD VERD: Geoff, Houston.

GEOFF HUSTON: I'm sorry to dominate this, but I have thought of that in a fair deal and a very short order and then looking down this list, there is one other thing that strikes me as important. Traditional government systems like governments rely on representation, but the body in the August House are representatives of broader constituencies and those representatives then exercise power.

Now, it's been drilled into my head pretty comprehensively that the system that we are running in does not accommodate representation easily. And one of the principles of the balance of powers, there's actually a principle of some degree of direct participation in an open and transparent manner.

It is not the job of some folk to convey the message of some broader but not present constituency. And in the exercising of these powers as a principle, there needs to be an accommodation of direct participation of stakeholders that have an interest. And so when we talk about RSOs, that's not the excluded from the policy making process, it's basically stakeholders. It's quite generic. Must not be excluded from the process.

And more to the point, and this is a separate point, the governance instructions, the principle or the exercise of power should be through the ability to directly participate rather than rely on representation of those interests. And I hope that accommodates almost the most fundamental question that arose at the previous incarnation of the GWG, where that group fell into, oh, we can just get a representative body of our results, that the answer was, you can't do that. And I think that's quite a generic principle that actually goes beyond the RSOs. That was my comment. Thanks.

BRAD VERD: Thanks, Geoff. Thoughts? Questions? Robert.

ROBERT CAROLINA: Hey, Geoff. It's you and me, buddy. One of the things that you raise, you touch on a really interesting point, which is that is a bit

subtle and that is that right now there is no representative body of RSOs. There are representative bodies of many other stakeholders knocking around and god knows many of them are here in KL this week.

I'm wondering, is there a principle to be defined or to be debated about there should be some type of representative body of RSOs. Is that something that is a necessary feature of a functioning governance system? I mean, certainly, there is not now, but is that part of what needs to be built in to a governance structure? Is the acknowledgment that is the idea that, yes, well, starting from date X, actually there, is a body that does represent and can speak authoritatively on behalf of the community of RSOs?

BRAD VERD: Thank you, Robert. Liman, and then Wes?

LARS-JOHAN LIMAN: Liman here, I am not opposed to exploring that path, but we haven't had much success in the past, and I'm not sure it's going to fly that well. That said, it's a stone that we need to turn. And if so, if we can come up with such representation, and it's possible that it's useful in some context, but not in others. So I'm not opposed to diving into it, but I don't have my hopes very high. Thanks.

BRAD VERD: Wes, and then Susan, then I'll put myself in the queue.

WES HARDAKER: I mean, certainly a lot of the reason that that hasn't happened in the past comes to history. But more importantly, we can certainly go down that road and there's nothing wrong with going down that road. But the flip side of that is the instant you start going down that road, you lose some of the independence, which was a fundamental principle of 37. So there's a tradeoff to be had there, and that does not mean we need to be in an extreme point, right? But you have to recognize what you're giving up if you go down that road.

BRAD VERD: Susan.

SUZANNE WOOLF: Thanks, Brad. When we're talking about representation also, there's a couple of different, and this is I hope not diving into too deep a rattle. But there are distinctions to be made among representation for what purpose. There is, for instance, a representational function where one of us goes into a room and takes part in a discussion, and that implies an ability to gather

information, to share information, it does not apply any ability to make decisions on behalf of anybody not in the room.

And that sort of informational representation is something that happens in the ICANN community quite a lot. It's used to keep information flowing among otherwise disparate groups. And that's very distinctly different to the representational function of making decisions on behalf of people not in the room. And that distinction might be useful if we're going to explore the idea further.

BRAD VERD: Wes was open?

WES HARDAKER: I did. And I'm surrounded by people that know the subject better than me, but the other analogy within ICANN for where representation does not and probably should never happen is the GAC, right? They make a decision unanimously. I think it came a long way before they got to that point of, they actually don't even take partial decisions. They make a unanimous decision, and they don't have representation. There's not a subset of countries it would stand up and say we are representing everybody else.

SUZANNE WOOLF: Only to point out that I think it's still true, and you can tell me that the GAC chair sits with the board as a liaison.

WES HARDAKER: There is a liaison. I don't know that it's mandated to be the chair. I would have to look at the bylaws.

SUZANNE WOOLF: Right, but that's sort of what I was getting at. There is a liaison function that is sometimes useful to distinguish from a representational one. That might be a better way to put it.

BRAD VERD: All right. I had added myself into the queue. Just to try to remind everybody, I think, what we wrote, what the RSOs put in that letter that went to the GWG, which was the current state was that representation model wouldn't work in the development of the root server governance system.

And I'm not going to get these words right, I don't remember it exactly, we can pull up the letter somehow if we need to, but it basically said that the root server operators were open to having that discussion in the model. So with that stated, Geoff, does that make you rethink anything, or do you still stand by that principle?

GEOFF HUSTON: I was applying that principle on the narrow topic of the determination and exercising of powers inside the RSS. And I sent a strong reluctance from the RSOs to have one RSO, if you will, exercise a representation card that creates a policy of power that applies to all the RSOs. And that certainly runs counter to what I understood as the desire for autonomy between the RSOs. And I think that's a reasonable position to take. And I certainly don't think that needs rethinking.

I think the external view of the RSS as a governance structure, there is not everyone can come to every meeting or should they, etc., etc., to have this system scale in a bigger environment for the purposes of dissemination of information for, if you will, participation in other groups that does not directly involve the RSS's determination processes for policy and exercising of power. I think the RSS as a structure might well need to have what the IETF would call liaisons, to have folk to be the messages and convey positions as a carrier on that.

But I think now having that beaten into my head, and the feedback from the RSOs last year, I think there is so much to be said in the benefit of having that degree of autonomous operation and the desire to avoid representation in the determination and exercise of powers that I think it's an important principle inside the RSS governance structure. The external view how it liaises

with ICANN and other stakeholders, different question in my mind. Does that help, Brad?

BRAD VERD: Does that help to the group? I mean, everybody just looked at me like this is mine and Wes' or Geoff's.

GEOFF HUSTON: Yeah, sorry, was it questioned to the group. It's hard being remote. I'd normally stare around the table.

BRAD VERD: There's a bunch of people pretending to hit their mic button, but nobody wants to. I think the idea of representation is something that we need to explore more as a group and we need to turn that rock over, and we need to have the tough discussion.

SUZANNE WOOLF: Sam might be able to help you out. Her hand has been up.

BRAD VERD: So we'll definitely make note of that. Wes, you want to talk?

WES HARDAKER: So one of the things we could write down from this discussion is there is a power to not be represented. And we may strike it later. But that's an important takeaway of that.

BRAD VERD: Can you can you restate that again? I'm sorry.

WES HARDAKER: No.

BRAD VERD: It sounded like a string of negatives and it didn't make sense to me.

WES HARDAKER: Well, I was trying to think of a better way to phrase it, but what I said was a string of negatives, which is it's a power to not be represented. And I don't know, that's not the right way to say it and it's too late in the data for me to come up with the right phrasing. But the goal being is that how about somebody cannot speak for me? Thank you, Liman just said participate directly. That is a power that you could write down as having now that we can discard in the future, but it's a good summary for the past 15 minutes.

BRAD VERD: Okay. Sam, you have a hand up.

SAM EISNER: Thanks. This is Sam Eisner again. And I think kind of along the same lines about what Wes was saying, I look at this a bit from the converse, right? What do you give up by being represented? So if you have the power to not be represented, I think that there's also a need to state a converse power, which is that so long as there is the possibility for direct participation, that no single RSO has the ability to hold up the policy. So if you have the ability to come in and participate in a conversation, the fact that you might have chosen not to participate in the conversation is not sufficient reason for you to stop the policy from being from being implemented.

There's a concern in governance when you have a requirement of affirmative unanimity of everyone having to agree to something, and if one group decides not to give their agreement by just not participating, that's an issue. There's also a consideration of always requiring unanimity so that even when everyone's choosing to participate, if one RSO might say, for example, that they don't agree, but every other RSO does, there might come a point where there's a concern with how that can impact the

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legitimacy of the system and how that in itself could impact the trust in the system.

So I would suggest that a power to not have any single RSO holds up, that further advancement of policy might be something to explore. I'm not sure if that's the exact correct way to express it, but that's a converse of representation.

BRAD VERD: No. That's a really good perspective. Well, it certainly needs to be explored more because this topic is not going away. We need to make sure that we work through it. Wes.

WES HARDAKER: Well, I was going to ask a question to somebody that might know better of what happens in the GAC when one country is upholding something that's supposed to be going forward. And that is not my area of knowledge, and I'm staring at a few people that I think might actually have better knowledge in that area. Because that's a body that exists today where a policy could be upheld by one member.

BRAD VERD: Is there somebody that can speak to that?

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SAM EISNER: I can try, this as Sam. Unless someone else in the room wants to.

BRAD VERD: You're it, Sam.

SAM EISNER: So the GAC's requirement for unanimity goes to when the GAC issues consensus advice. So the GAC still has the ability to issue advice that's not consensus, and so that would be advice that doesn't hit certain triggers of a board action and board requirement to consider it. The GAC can still make statements and all, but the unanimity goes to a certain section of the GAC's work. And so it's not that the GAC is powerless to do something, but the GAC's ability to issue a certain heightened standard of advice goes to the unanimity. So it's probably not a direct fit here.

WES HARDAKER: Thank you. That helps. So there are essentially levels of what can be done depending on the level of unanimity.

SAM EISNER: That's right. That's right. And you see that reflected, for example, in their communique, they'll have different standards, different things that they set out sometimes based on the agreement or the import that they want to give to that.

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BRAD VERD: Thank you, Sam. Suzanne.

SUZANNE WOOLF: Yes. Thanks, Brad. I would add to what Sam said about the GAC that the things that they find worth commenting on even if they're not formal advice, there's still enormous impact. There's still enormous importance attached by the community to the GAC takes note of this or encourages that. But the decisions that are meant to be binding on somebody are the formal advice.

BRAD VERD: And the formal advice being unanimous is what you're getting at?

SUZANNE WOOLF: Yeah. Yeah. So it's a pretty straightforward distinction.

WES HARDAKER: Now, I'm dominating the table. So actually, an interesting thing would be a takeaway is another power would be able to be listed as descending towards something that was published, right? That you have the power to object publicly.

BRAD VERD: All right. Quick time check, we got nine minutes left. So those of you who are withholding, waiting until the last minute, now is your chance. I'm looking at you, Mr. Osborn.

JEFF OSBORN: I am enjoying the discourse completely. I've got nothing to add that hasn't been said. This has all been very thoughtful and I appreciate being part of it.

BRAD VERD: Thank you. Anybody else talking principles. I know it's late in the day. All right. Well, if nothing's there, we'll call it a day. I think it was really productive, really helpful. I think by putting all the stuff up on the board, we could start looking at it and dissecting it and moving stuff around and start putting pieces together. So this will be the same plan tomorrow, a different topic. So please look at the topic and do some thinking.

Same place, same room, same time. So please, same people, maybe some more. Yeah, so pretty soon I'm going to start calling on everybody. So please look at the topic, start thinking about it now that we've been through this one today. Hopefully, you got an idea of kind of what we're trying to accomplish and where we're going. And, anyways, thank you. If there's nothing else, I'll give everybody --

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OZAN SAHIN: Sorry. Tomorrow sessions will be in a different room, so that's it. Yeah. So room 304 and 305.

BRAD VERD: All right, same general area. We're just a couple doors down. Same time. Same time.

GEOFF HUSTON: Thanks, everyone. And thanks for sharing. Thanks.

BRAD VERD: Thanks, everybody. Thanks, guys. Bye.

[END OF TRANSCRIPTION]

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