

**Transcription ICANN Los Angeles
NCSG Meeting
Tuesday 14 October 2014**

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Rafik Dammak: Okay, I guess we should start, it's already 10 minutes and we cannot waste that much time. So the recording is on or not yet? Okay thanks. Thank you - so thanks everybody. So we - today we have the NCSG meeting as usual during the Tuesday Constituency Day.

So we have this agenda. We will get some guests, we already have some here already. And after that we will have the meeting with the Board and we need some preparation for that. Should be quick but, yes, we need some anyway.

Since we don't have that much time maybe we can start with our guest and then get back to the usual agenda. Matt, so maybe.

Colin Jackson: Good afternoon, everybody. I'm Colin Jackson from Westlake Governance. We're the external reviewer for the GNSO. I've come to see some of you. (Unintelligible) furiously while Matt is making sure our slide goes up, we've got a slide as well (unintelligible) and I want you all to see the latest (unintelligible).

Rafik Dammak: Just to, I mean, do you expect to make long presentation or I thought maybe we need kind of more...

((Crosstalk))

Colin Jackson: It will take me 5 minutes.

Rafik Dammak: Oh okay.

Colin Jackson: But I would like to see at least one of my slides, can that be done? Thank you. We don't really need - most of this is stuff but there was a link that I want people to see.

We are here in Los Angeles as part of the GNSO review. And there are several things we're doing as part of the review to gather information for the review. One of those is seeing people. And we've tried to see as many people as we can here and we will probably follow up with those of you we haven't managed to see (unintelligible) request by email for Skype calls and things over the next week or so.

The other thing we're doing to gather information is what's called a 360. It is a online survey that we are asking anybody - as many people as possible in ICANN and especially everybody connected with the GNSO to fill in. The survey takes - it can take as little as 10 minutes or it can take as long as 3/4 of hour depending on how much work you want to put into it.

It is valuable to us. We really urge you to do it. The - as that - a couple of moments ago we had 132 completed answers out of about 215 who had started. But obviously the remaining 80 are the not completed.

The survey has two or three pages near the front which asks you a set of quantitative questions about what you think about various aspects of the GNSO. Then it has various optional pages about each constituency and

stakeholder group (unintelligible) answer those if you are a member of those things.

And there is a final page which has a big open text field on it where you're invited to give us all your thoughts. If you want to write us an essay put it there, if you want to complain or tell us what's right that's where it should go on the final page of the survey.

Now the survey has been - is available in 6 UN languages. We - I think we'll just keep moving if you don't mind, Matt. Next slide please. That's how much had been done and that's slightly less the numbers I gave you a few minutes ago because these statistics were compiled yesterday. Let's keep going.

This is the timeline for the review. As you can see I won't bother talking through it, you can read it yourself. Do the next slide. There again is the link. And I just want to leave that link up actually if you take it to the final page, wonderful thank you. We were nearly there.

That - not that I particularly insist that you all see a picture of my face but you see a picture of my colleague's face, Richard Westlake, who obviously isn't in this room right now. Either of us are available to be stopped and told things or to be emailed although - or you can text us or, again, please fill in the survey which is accessible through that link on the bottom page.

I just suggest we leave that sitting there for a moment or two to allow everybody time to copy that link down or put into their browser. He said hinting very strongly.

Rafik Dammak: Okay.

Colin Jackson: Happy to take any questions that people might have.

Rafik Dammak: Okay thanks. That was quick. So I have first question. I think you have (unintelligible) take the survey their affiliation so can we get how many from NCSG completed the survey?

Colin Jackson: From NCSG? I'm sorry I don't - I can probably tell but I would have to do some work of matching.

Rafik Dammak: I mean, I think it can be good because just being part of GNSO is not enough, I mean, if you want really to do something. And in particular because in the survey you are. When it come to the constituency, stakeholder group you ask people to, I mean, to tell you if they have experience or not, yes?

Colin Jackson: Actually - I can actually tell who has entered the NCSG section which I will just take me a couple of moments...

((Crosstalk))

Colin Jackson: So happy to take...

Larisa Gurnick: This is Larisa Gurnick for the record. While Colin is looking up that information I just wanted to clarify that the way the Westlake team knows it is an approximation of which stakeholder groups were represented. And it really has to do with how many people opted to answer the section of the survey that pertains to that particular stakeholder group or constituency.

So there may be others that - from the group that responded to the survey but if they didn't opt to answer that particular section we would have no way to identify them without doing the match.

Colin Jackson: Thank you. I now have some numbers. Thank you for that, Larisa, covering whilst I - whilst I got the information. These are people who specifically elected to answer questions about the sub components. So for NCSG as a

group I have 34 who have answered. For the NCUC I have 23. And for the NPOC I have 13.

Rafik Dammak: Okay. Thanks. So it's basically an approximation. So for example if I - I filled the survey but if I want to fill about CSG I can do it.

Colin Jackson: I'm sorry, I didn't quite get that last bit?

Rafik Dammak: I mean, I filled the survey myself.

Colin Jackson: Yes.

Rafik Dammak: But I just read about NCSG only but if I want to respond about the CSG I can do it.

Colin Jackson: Yes you can.

Rafik Dammak: Okay so - so I understand why it's - maybe it's just an approximation. Okay.

Colin Jackson: That's - when I say it's approximation if you are a member of this group but you don't choose to fill in that part of the survey then I won't notice if you see what I mean. I would only notice that sometime later when I audited all the names against long lists.

Rafik Dammak: Okay. That's okay. Any question? You are coming quite early, I mean, give people - taking their lunch - but, yes.

Colin Jackson: So maybe I should reiterate that you really need to do the survey, please, which is linked here for all those who have just arrived.

Rafik Dammak: Yes, I mean, it's quite important process.

Colin Jackson: Hopefully you're getting my main message here.

Rafik Dammak: Yes. Yes we do.

Man: Maybe a quite small question. Did you get any comments or remarks about the questionnaire itself, people saying, well it's too complex or it's - have you had any reactions on the questionnaire itself?

Colin Jackson: Yes I have. But before I get there I'll discuss briefly how the questionnaire was put together. There is a review working party which has a number of people from GNSO on it - from the volunteers I mean, which is chaired by Jen Wolfe.

And we had repeated tests of that survey with working party members and we incorporated their feedback most if not all of their feedback. So the survey was not constructed in isolation.

Since then we have had a small amount of feedback. I wouldn't say we've had a lot about this survey itself. And some of it has been contradictory which probably means that we got it about right down the middle.

Also I might say that we've had to work within the limits of whatever (unintelligible).

Rafik Dammak: Thanks. So I think now - you (unintelligible) the survey until - by the end of this week?

Colin Jackson: Yes, the survey closes at midnight on Friday at the end of Friday, that's 5:00 pm Pacific time I think. I'm getting nods, that's good. So the survey will close off then. We really, really want you to fill in the survey before then please. Today would be really good. And for all those who've just walked in by the way, please look at the survey link on the overhead there on the projector and copy it down.

Rafik Dammak: Okay. And so you started - you start also the interview process and...

Colin Jackson: Yes. We've interviewed approximately 20 people so far. We've been in Los Angeles for about 5 days. And we will be leaving - let me see, today's Tuesday, we'll be leaving tomorrow night so we'll try and capture as many as we can. It's important to us to get a good range of views.

We're trying to see everybody - somebody from every constituency and we strongly hope to do that although some of those interviews may end up being conducted later by Skype or whatever means because not everybody is available obviously when you try to get a hold of people.

As I say, there are two of us. We've mostly been interviewing people as a pair but sometimes as for now we've split our part and doing different things to maximize the use of our time.

Rafik Dammak: Okay. Maybe making a lot of questions just to keep the discussion. But for the interview just going to do them here in - during the ICANN meeting? So there is any plan to how like maybe form interviews something like that - maybe, I interview I think it's one of the way to get much more details, input and different than survey.

Colin Jackson: Yes, I agree with you. Thanks. And that's exactly what we will do. I might say that we've done a number of reviews in the past for ICANN so this is the process we'll adopt. The only new part we're doing this year is the 360, the survey assessment tool.

But we're used to doing interviews and that's exactly what we're doing this time. We've done, as I say, 20 face to face, but we will definitely be following up with people whom we have missed on this - at this meeting in Los Angeles, we'll be following up by phone or Skype or some other suitable technology. We definitely - there's a definitely a few people who we know we have not got to and probably won't get to this time that we still want to talk to.

Rafik Dammak: We try to get them into appropriate technology and I think there is question - from remote participation.

David Cake: Yes, Amr Elsadr says - asks, "How is the general feeling of the value of qualitative versus quantitative analysis of the workings of the GNSO and the outcome of the study? And what do you perceive to be good and what would be helpful to have more of?"

Colin Jackson: Was that question directed at us do you think?

((Crosstalk))

David Cake: That was directed...

Colin Jackson: Okay. The - I think both have their value. I find - personally find the qualitative extremely useful because it's a great way of flagging issues which we would not necessarily have found nor we wouldn't have guessed by reading documents. So I find qualitative extremely useful.

That said, I'm going to have a bob both ways and say that we would definitely be looking at the quantitative and we will be compiling that information up and we will be using that as part of the overall picture. I hope that answers the question.

Rafik Dammak: Yes, Larisa.

Larisa Gurnick: Larisa Gurnick. Thank you very much. I also wanted to let everybody know that after the survey closes on Friday we will give everybody a bit of a break to recover from the ICANN meeting but within a week's time or so there will be a supplemental survey that's more specifically focused to the workings of the GNSO review - excuse me, the GNSO working groups.

So if you see announcements or communications in regards to that I just wanted to make sure that everybody understood how that survey relates to this. It would likely be targeted to a more narrow audience that has more specific information and interests in the functionings of the working groups in particular.

And my second point is just to remind everybody that the surveys are available in all the UN languages and those PDFs are available on the various links and pages that we've shared with you. And the way one would take advantage of that is by responding - if they would like to read the survey in their language and feel comfortable enough to respond in English they can do that through the interactive link that's available in English.

Otherwise they can provide a Word document, responding in one of the five UN languages. And then we would have those responses translated and incorporated by the Westlake team. And to date, we haven't had anybody take advantage of this option by it is available.

Woman: (Unintelligible).

Colin Jackson: I'll answer that if I may. Can we put the link back up please? The answer is that you should put your name on according to ICANN rules. And we strongly encourage you to do that. However, Westlake, which is the company I work for, maintain this - maintain your confidentiality. We will not be passing the identity of those who make feedback to ICANN or anybody else unless you give us permission to do so.

And there is a box at the beginning of the survey where you can determine whether or not you wish to give us that permission. So otherwise we will treat the feedback as not so much anonymous but anonymized if you see what I mean. We will know who you are and where you come from and that is important to us because it helps us determine what your point of view is.

So we would ask you to please put your full name on. And if you do not wish to be identified that's fine, just tick the appropriate box to make it actually - or rather it's a question of not ticking a box. It's clear when you get to the survey.

Now there is - and for those who've just arrived I would like to draw your attention again to the link to the survey which I would very much please ask you to complete before Friday. This afternoon would be really good.

Rafik Dammak: Okay thanks. Any other questions? Comments? Anything from remote participation? No?

Man: (Unintelligible).

David Cake: A follow up question from Amr. Do you feel that you got the necessary amount of data and information to perform both quantitative and qualitative analysis of the GNSO as appropriately needed?

Colin Jackson: Yes that's an interesting question. I would need to go back and look at populations sizes in order to determine the level of statistical significance on some things. So the answer to that question I guess the feel is too woolly a word. I'd need to actually know that and I don't know that yet because it depends on the numbers. The more feedback the better.

David Cake: Thank you.

Rafik Dammak: Okay. Not seeing any question coming so thanks for coming today and sharing about the GNSO review and asking many times people to fill the survey.

Colin Jackson: Yes, do fill in the survey.

Rafik Dammak: Okay. So who did fill in the survey.

Woman: Wow, that's bad.

Rafik Dammak: Yes.

((Crosstalk))

Colin Jackson: I'm sorry to have missed it, Chairman, the numbers have been a little disappointing, I would hope that everybody here would do that. It really doesn't seem that much so I really hope you will do that please.

Rafik Dammak: Okay. Yes, Avri, you will have the last word.

Avri Doria: Oh thank you. I love having the last word. As I said in the GNSO, the empty boxes that they have there, especially the empty box at the end really is a wonderful opportunity to give them the rant that you always needed to give them. So I recommend that you go through it and really take the opportunity to say what needs to be said.

Colin Jackson: Yes, you should, you should do the questions. Absolutely. And as Avri has just pointed out, and as I said near the beginning of this very brief presentation, there is a big text box at the end of the survey so do go through to the end of the survey and give us your detailed comments on anything you think we haven't asked and we should have. We want to hear that.

Rafik Dammak: Okay, you got the last word anyway. So thanks for sharing this and hopefully we have more people filling the survey before they this (unintelligible). Thanks. Now we have our next guest here. So for this - the next agenda item is meeting with Council of European representative. It's not - I don't think it's really (unintelligible) not going to talk a lot about the (unintelligible) but maybe how to move forward.

And also since we have a data protection expert with us maybe we get this opportunity to talk also about, I mean, the privacy issue that we rise many times in our walks within ICANN.

Okay so, (Lee), maybe you can have a few words to - what you wanted to say for today - to share with us.

(Lee): Thank you, Rafik. And thank you very much for the invitation to the NCSG. This is - I've just been counting the number of different meetings being held this week on the question of human rights in ICANN.

There's been a brief discussion at ALAC; there's been a brief discussion earlier today in the NCUC; there's been a discussion in the GAC, which is going to continue on Wednesday afternoon; there's going to - there's just been a discussion briefly in the Commonwealth discussion just not far away; and there's going to be, as Rafik said, an open discussion towards the cross community approach to questions of human rights in ICANN.

You mentioned about there's a couple of your reports which has been updated and maybe we'll get (unintelligible) even further after this meeting which basically brings together all the sort of - some of the key human rights issues that a couple of experts found when they looked at ICANN's procedures and policies, things like expression, sensitive strings, data protection issues, Whois, all the things that, you know, that you've all heard about, things about communities as well and applications.

And so I think what it does it brings together all of those things and actually says hey, look, there's a lot of issues regarding human rights. Irrespective of whether you talk about ICANN as a duty bearer or whether it's the role of governments or whether it's other actors, which as we mentioned this morning, but it's not just governments anymore that, you know, protect human rights.

You can think about the UN resolution on business and human rights, and how others - businesses and others, perhaps ICANN, have roles to play in the protection and promoting human rights and their processes, due diligence, and they talked about public interest and transparency and accountability also lends towards human rights and, you know, human rights as a criteria, as an indicator you know, towards better accountability and transparency.

So I can say that what I've heard this morning, and is it the GAC, it's likely to be on the GAC communiqué and there is an appetite in the GAC to take that further. So it's an ongoing discussion. I understand that this - there's a movement now towards cross community approach which could materialize maybe in Marrakesh. I'd - yet to see. But and maybe that's too soon.

But still there's an impetus, there's momentum towards a cross community discussing these issues. There was concerns this morning mentioned about whether to just to talk about the same things, is it really that important or should we, you know, look at policy lines and actually go into the details and try to change policies in ICANN so they respect human rights issues.

The thing is we're talking about many issues at the same time. It's not a single issue, it's multiple issues and it's brought together in the report. The report is just one input so it's very well worth reading. But this is where we are. The appetite is there. It's moving forward. And it would be great if the NCSG can also embrace that in their reflections. Thank you.

Rafik Dammak: Thanks, (Lee). (Unintelligible).

(Alesandra): Thank you very much. Maybe I can just add a few words as you were suggesting before regarding the main data protection issues which are at stake which are actually, let's say, highlighted in the report.

As the - you probably know there are two main data protection concerns which have been raised by the data protection community in respect of ICANN. So the first one is the data retention issue; the second one is the public availability of the personal information of Whois.

In respect to all the first one, you know, that the RAA, the Registration Accreditation Agreement, basically provides that registers make available a number of information which - personal information which are then retained for a certain period of time which can be up to two years after the termination of the contract for the domain name of course.

Of course the processing of personal data is not questioned because there is a legal basis for that which is in the contract. At the same time having a legal basis does not necessarily mean that all the data protection requirements are complied with. So scrutiny must be carried out in respect of certain fundamental principles for data protection namely the necessity of the data retention and the proportionality. And this is quite an important point.

In respect of - of course when we consider proportionality and the necessity that it should be kept in mind that the proportionality should be measured in respect of the legitimate purpose carried out in the processing of personal data which is very important because it means that the first step is to identify the legitimate purpose of the collection of the processing of personal data.

And when I say to clarify the legitimate purpose means also in terms of transparency so that individuals are well informed about what's going on on their personal data.

And the second element, I mentioned before, is the problem of the public availability of personal information on the Whois. Again, the collection and the processing can have a legitimate basis but at the same time we have to measure whether a complete availability online, which is, you know, carried

out through the availability on the Whois webpage, is proportioned considering that it exposes individuals quite considerably.

So again, it's not just the question of, say, okay this cannot be done according to data protection principle is the question of reconciling different legitimate interests. And this is of course the perspective which is very strongly perceived in the Council of Europe and the - in the jurisprudence of the European court and human rights but not only as it is correctly highlighted in the report and was mentioned before this morning also.

There's, by now, a number of international instruments also at UN level which have underlined the importance of the rights to privacy. I think I will stop here for the moment. I'm of course available for any questions you may have.

Rafik Dammak: Thanks, (Alesandra). Okay, any questions?

Man: Being from Europe, especially from Belgium, I know that there has been a lot of discussions going on about the data retention implementation of the regulation (unintelligible) member states. And we have seen that based on the decision that was taken by the Court of Justice that the impact of data retention has been at such a level that it was a breach for the privacy.

Although what I'm wondering is, and I'm looking to what happens in Belgium, and I'm asking the ministers what they think about changing the law because actually the implementation of the data retention regulation in Belgian law has been even higher than what was required.

What is going to be done by the EU to push the countries, the member states, to adopt requests from the Court of Justice? Is there any action? Is there any structure that is going to put in place to get this done?

(Alesandra): Yes, of course it just very first clarification when we speak about the European Union it's context and the Council of Europe is another thing since,

as you know, the Council of Europe is an international organization for human rights and it has the 47 member states which are of course more than the European Union.

In respect of the European Union, well the discussion is open. I come from (unintelligible) protection authority and the European DPAs have been starting discussing about the SSAC of this very important sentence.

I mean, was a very strong - sorry not a sentence, judgment. It was a very strong judgment which basically invalidated the data retention directive with all the consequences even for the stakeholders which had put in place the measures requested by the European legislature. I think this is another important argument to say that it is very important to undergo that scrutiny I was talking about before in terms of proportionality and necessity.

At a very early stage because otherwise what could happen is what happened at the European Union level that then there's a judgment which basically destroyed piece of legislation with all the consequences also for the stakeholders which spent money in implementing the regulation. So, yes, the question is it still open I must say.

Rafik Dammak: Okay thanks. Yes, Kathy, please go ahead.

Kathy Kleinman: Hi, Kathy Kleinman. And first just so I correct any misimpressions from this morning, this is the report and if you haven't read it you really should. It's an amazing and outstanding report.

That said, I don't know what's happening at the meeting tomorrow but you probably know that people have a million things that they're trying to read. If there's a way to give a quick synopsis and quick bullet point so that people know because you may be getting a new audience in and, you know, not a lot of work, they don't have to be fancy, they don't have to be polished but an

overview so that people can join you in the discussion even if they're coming to it for the first time.

So here's my question and it has to do with not data retention, which I think has been handled brilliantly and the waivers of the European registrars so that they can comply with their national laws on data retention of the Whois data and not necessarily whatever rules the ICANN community and staff have created.

I'm going back farther to the Whois data itself and the availability of that Whois data. And there's a procedure in place now for changing the - there's a consensus procedure that basically says if a registrar is under fire, if there's a pending lawsuit, if there's a pending regulatory action they can come to ICANN and ask for a waiver. This goes back to 2005. I promise you, it was the most we could do at the time and it's not enough.

Any good lawyer would never, ever recommend that their client go as far as breaking the law. But yet that's the requirement. And so you can help me with what part of the EUC submitted absolutely brilliant comments on this and yet when it came before the GAC there was no one there to represent it so what came out was well there were equal comments on both sides.

Yes, but there were these amazing comments from the European Commission from a branch of the European Commission that really - the GAC really should have evaluated and weighed and heard about because I think it would have swayed. Because, you know, some comments - all comments are equal and some comments are really, really special.

So again my question is always going to be implementation when it comes to policy, comments are awesome and then the follow up to those comments. That's how the game is played so just wanted to share that it's going to come down to the line item in each issue that we look at.

(Alesandra): Thank you very much for your comments. Just a very short remark on what you were saying about the waiver procedure in respect of data retention that I understand can be perceived as a good compromise but it has, let's say, some negative aspects because somehow it's - it gives the idea that you somehow ICANN, which permits, gives the (unintelligible) permission to the party to be able to comply with certain piece of legislation at national level.

So that's why I was wondering, that's possibly the retention issues should be solved at an earlier stage, not sure that the waiver compromise is the best solution. Thank you.

Rafik Dammak: Okay thanks. So we have question from remote participation then Stephanie.

David Cake: Thank you. This question comes from Amr Elsadr. Both data retention and open display of registrant information were mentioned, how about cross border transfer of (unintelligible) registrant data such that would happen under the implementation of thick Whois to the existing thin registries? The policies in the implementation review process and the adopted policy on this explicitly states that registrants will not be informed of this transfer of contacts data unless an issue is discovered to raise concerns with legal jurisdictions whose data privacy laws conflict with policy.

(Alesandra): (Unintelligible) cross border transfer of data is another let's say crucial and problematic aspect. We have constantly have to solve at international level. You know, all the discussion probably at the European Union level, the European Union directive basically provides for them of transfers of data to those countries which do not have an adequate level of protection so there of course are other mechanisms which allow the transfer. But, yes, it is very, very problematic issue.

I think that in terms of possible tools for solving the problem, critical aspects of the transfer of data international standard very much the answer. And once we have a common platform of common principles we can be at least a little

bit more sure that the transfer is not highly problematic because it doesn't go to countries which do not have at all a level of protection.

Stephanie Perrin: Stephanie Perrin for the record. And Rafik just told me to be concise. I'm crushed. I understand we have an agenda for tomorrow but in terms of carving out next steps I do think, and we had a vigorous discussion before lunch about what we mean by human rights. And I have been ruminating about that over lunch. I think we need to tease these issues apart sooner rather than later.

I will tell you that one of my main concerns with ICANN getting into this area is a risk of definitions that go in what I would consider to be a direction that impacts human rights negatively could take place.

And specifically I mean, the lobbying that has been going on internationally. You talk about a lack of an international standard. There is a lot of lobbying going on to stop the concept of limitation of collection in the context of, quote, big data. And obviously big data and the Internet of things is something that ICANN at least touches tangentially and therefore would be the target of such lobbying.

Therefore I think it's really important to figure out exactly what we mean by the protection of human rights in the context of the data that ICANN collects, uses and discloses and that we avoid getting into unnecessary fights because there will be fights; there will be fights over compliance with law and all the rest of it.

How to do that I haven't figured it out yet and I was hoping maybe you have ideas on that.

(Alesandra): Starting from definition of personal data and definition which should be, let's say, in line with the traditional instrument of data protection. I think this is very important. It's a crucial starting point. And I'm - would refer to the instrument I

know better which is the convention (unintelligible) which you probably know is currently undergoing a modernization process within the council of Europe. Basically the idea was to - was that the main principles of the convention (unintelligible) have to remain valid if they are still valid.

But there was the need to readopt the principles to the new technological scenario we have to deal with. And it's important to say that the personal data definition has not been changed at all.

And possibly it has been changed a little bit but in a more extensive way and now I'm referring to a particular work of the council of Europe but in general it's a discussion in the reflection community about refining, which is another main issue.

You know, that refining as such can be even built on data, which of the original could be anonymous and then transformed and then the profile is created and attributed to the individual with all the consequences of his kind of processing.

And for example when the council of Europe had to define the concept of refining, it spoke about that processing technique, which consists in the attribution of a (unintelligible).

It didn't say a personal processing technique simply because it was a work that the concept of that processing has been changed a little bit but it can even be based on the (unintelligible) states of that, how can I say interconnected with other produced personal data with those consequences of this process.

So I think it's very important to start from a clear definition of a personal data that without let's say, how can I say, resigned to the temptation to say okay now we have big data, we have phenomenal profiling, while everything is

personal information and we don't need that strong protection anymore and I think it's very important to keep the point.

Man: I have some questions in participation but if you really make really short comments.

Stephanie Perrin: Talking about profiling, this is Stephanie Perrin again, yes and I think I'd just like to point to a couple of recent publications if anybody is interested in this.

One of them is an article 29 opinion on big data and the other is the telecom working group of the data protection commissioners that have a paper on big data.

On the issue of defining meta data as part of a definition of personal information is crucially important because it affects freedom of assembly and groups and those who only care about that and don't care about personal information protections. You want to care about profiling and metadata, thanks.

Man: All right sorry, in remote participation (Ama) had a followup comment I guess that, so does that - to the previous question does that mean that we have problems with the implementation of (unintelligible) Whois from a council of Europe perspective.

Woman: I don't think that I can give a precise answer...

Man: That's fine and a comment from Joy Liddicoat, she says I think that framing any human rights discussion only in relation to information gathering is a mistake.

(Unintelligible) ICANN policy relates to information gathering, but if those interested in information gathering want to work on just that, that would be good.

Man: Thanks, I think we want to (unintelligible).

(Steve): Thank you (unintelligible) one couldn't answer all the comments and you've gone to a level of detail, which requires some analysis and, which points to the fact that this is a multiple issue discussion, which involves multiple (unintelligible) and it's hard to get down to all the questions.

And so there is that danger that (unintelligible) was talking in the general sense, it doesn't go into the details. And so I think as a first I might interest you to come tomorrow to this open discussion and to get things moving, you know, in different tracks even.

And to try to work at what other key issues, which need to be followed up to make it very concreted. I've been asked if I would moderate, I will moderate but I will be really relying on your inputs and it's really to know what is the NCSG's position, what concerns you guys and what needs to be done.

So I mean, you know, I'm very willing to facilitate and followup and do things and to go back and apprise the experts in different fields and bring that expertise back here to you so we can communicate this to the GAC, you know, resources permitting et cetera and to do a lot to help you.

So I mean it may be precise from a European perspective, we try a lot to go to the global level with this reference to the UN documents of course it's not always possible because UN hasn't done all the work in all the areas.

So we may need to initiate new work and so I mean that's where we need your help and your expertise in the different procedures and processes of

ICANN to find out what we need to priority and what really means matters in this needs to be done.

On my behalf in terms of the (unintelligible) I would take that back and try to mobilize things. That could (unintelligible) others in other communities to do things too. That (unintelligible) I think I can try to help with.

But really if you can there tomorrow and if you can speak up and say exactly what you want and, you know, I'm really - we're starting, it's starting, it's firing up and, you know, it goes to what's transparent accountability and public interest in these sorts of things.

I mean it's all complaint in some respects and I think it's very important that we understand that. Public responsibilities is referred to now like it was public interest last time, you know, like (unintelligible). You know, there are lots of things to be said so I would really appreciate you taking an active role.

And you have a voice out, I mean I would like to hear that voice and I would like to be very concrete and great clarity in going from 51 to 52, thank you.

Man: Thanks (Steve), we're sure we have a voice in there, we would expect that tomorrow and hopefully about expert, I mean hopefully, I mean the council of Europe mitigation should be much (unintelligible) much more experts to come here and we can (unintelligible) about the different issues that we have.

Man: (Steve) I think you've just - please tell us I mean I (unintelligible), you know, ICANN or just come to Strasbourg and, we even talk, you know, with the typical groups of experts and I mean I'm not saying that, you know, we'd have to talk about that but everything is possible, like there is a real clarity on things to be addressed because one thing is informing you, but there is also you informing us.

Man: So any other questions, comments?

Woman: With apologies you are putting a meeting into a busy day and some of us have conflicts, I'll try to get there at the end. But the implementation, the ability - so my request and if it's possible to carry it over to tomorrow is the ability to contact people who are dealing with something at the very grass roots level because that's how we make policy.

So when something comes up and we think it has a human rights dimension, that ability to reach out and ask. Ask the general question, if appropriate ask expertise, I would like to make that request because of something missing from the last 15 years and something we could dearly, dearly use. And often I promise you it's too fast, it's too short, there's not enough information, the deadlines are too quick but nonetheless whatever input can be provided would be a God send.

(Steve): I'm coordinator so ask me and I will get you the answer.

((Crosstalk))

Woman: Thank you, but implementing that kind of process that it might be able to reach those of us at the working group level to kind of reach out to you and you're welcome to (unintelligible) interested in, but if it is something you can refer to information on for expertise especially those of us who are coming from other countries and other areas, thank you.

Man: Okay, thanks. So the - hopefully we send you a lot of requests and to followup with after this meeting I mean more concrete (unintelligible) what need to be done and so on.

Sorry I don't get the British humor, sorry for that. Okay thank you. Okay I think we are on time and we get our next guest. Okay we are moving quickly to our next agenda item.

So first thanks to (Ayesha) because he sent the request to come to us and talk to us. I personally appreciate this, I think a sure feeling among NCAC, so I don't think we are going to again to do the presentation like yesterday, but hopefully it's more interaction and more Q&A and more I think concrete stuff, so please.

(Teresa): Thank you, I had sent a note to respective SIC's and (unintelligible) just to see if they wanted a dialogue or anything of that sort. And some were interested and some weren't just on the clarity around the accountability process.

So I think most have seen the presentation that I had done earlier and yesterday. So I think we can maybe use this time more as just a is there anything else, any dialogue of any sort or no - things to talk about or any ideas to raise or where staff might be helpful in the process moving forward or not helpful. So either way is great.

One thing I might point people to is in compilation of the comments during the first comment phase, there was quite a few comments that had been received around issues that were identified in relation to accountability and possible proposed solutions.

And staff had done excerpts of both of those categories and just placed them in documents. That might be a useful tool or it might be a useful compilation to take a look at in the context of the two work streams and what might fall into some of the more immediate items that could be addressed in light of the change in the relationship with the U.S.

And some - what items and areas and issues that were identified might be more relevant for this second phase or the second track, so I just point people to those documents. Those are available on the Web site and more than happy to circulate those to everybody so you have the pointers to it.

Again just to note that quite a few substantive issues were identified along with proposed solutions and so there's a lot of substantive information out there already that might be useful as a cross country working group (unintelligible) considering what might fall into the two work streams. And again we're happy to be helpful in any way with preparations of background materials or anything of that sort. So I'll just leave it with that and then I'm more than happy to be more responsive to any questions if there are any.

Man: Hopefully we get some questions, so don't be shy guys, otherwise I would volunteer people to ask questions. Yes (Matt).

(Matt Schuz): Yes (Matthew Schuz) CDT. (Teresa) in the accountability session yesterday afternoon, there was a suggestion to go back and look at the - a document from Internet and said about the various models and there was also a suggestion to look at other kind of models.

Is that from your perspective is that a useful place for the discussion to start in terms of - in addition to the documents you just referred to, which are incredibly useful?

But is it a useful place to start in terms of trying to pass out which parts of the function are related to what accountability issues? So do we need more models, do we need more explorations of options I guess is my question, thank you.

(Teresa): Yes I think that was in relation to, what you're referring to as the first track in the context of the IANA itself. I think all things are useful to be looking at as one is looking at, you know, how to find solutions and address specific concerns and I think that had also come up in the context of in the first track it's really looking at specificity of the entities that have the operational relationship with the IANA function.

And how they might want to address the accountability very specifically with that, so for example the ITF has a contract with IANA in the context of protocol parameters and SLA's and, you know, whether there should be - whether they would put into place an escalation mechanism or strengthen the SLA's in any way whatsoever.

And then similarly for the RIR's they have an NOU and there is arrangements whether they would want to strengthen anything in those contexts as well. So at least from my personal experience looking at all sorts of information can often provide the most informed decision and also ensure that one has looked at various things, so.

Man: (Amani) do you want to ask something?

(Amani): Sure, thank you for calling on me. You know I can always come up with a question. One of the ones that I've really been struggling with and I think it was in - yes (unintelligible).

One of the things that I've been struggling with and had problems with and I think I even addressed it in one of my comments is the relationship between this accountability exercise and the ATRT 29.2 accountability work that was supposed to be done by the board bringing together.

Interesting enough the ATRT had indeed asked the board to bring together a collection of us, I mean bring together the community to discuss these various oversights and redress and other accountability issues very specific.

Now when I had seen your first proposal, indeed it looked to me like the kind of thing I expected to come out of the ATRT to request and had presumed that it would be but never and that we were combining the two efforts and it presumed that it would be, but had never really gotten a definitive answer on that - these two efforts were that one and the one that was necessary for transition and everything else together.

Now I'm even less sure, I think it should be, I can't see us doing the same exercise twice in a sense and coming up with different answers. So I'm just wondering how you all view this, how are we indeed supposed to be answering the questions that 92 poses in ATRT too, or any answers we make to that are purely coincidental and not to be taken as, you know, intentional.

I really - I get confused when I think about it because to me it looks like it's one and the same but it's not or is it?

(Teresa): I think you raised a really good point in the context that there's already a lot of review mechanisms looking at different aspects of accountability. I mean the organization is a living organization, the bylaws have reviews and reviews of different aspects and the AOC reviews and the ATRT process.

And so from that standpoint there's already a lot of work underway that is looking at accountability that was being addressed and looked at well prior to the announcement of the NTI transition.

So I think those are topics very much that would be falling into areas that would be in the second work stream so to speak, they're already under way, they're being worked on and there's no reason why they can't already be starting if they haven't already and otherwise would fall into the range of items that would probably fall under the work stream too.

We had noted that in the document that was posted that those are examples of things that might fall into that space, but again a lot of them don't need to wait until work stream 2 starts its work, they can already start now because the mechanism is already in place.

(Amani): If I can followup, but we haven't necessarily decided that work stream 2 is - I mean how much of some of those things for example the appeals mechanisms, which was one of the things that ATRT called out in 92 is

indeed something that we would expect or at least I would personally expect to fall in to the stream 1 work, the things that needed to be complete before IANA.

So and in fact that community together thing that we called for in ATRT 2, I don't believe actually has in any sense work been done yet, I think that part is still awaiting if I understand correctly.

Yes, because that was, you know, that was a bring the community together to discuss about appeals mechanisms and to discuss about so while that sort of prescribes solutions that the accountability team hasn't been looking at yet, it does, you know, there's just incredible overlap there as I look at those.

So I - and I'll probably be talking about this again when I show up to talk about this again.

(Teresa): No, I think first of all it's very useful, I think second what you're raising is already starting to look at some of the themes and some of the topics, you know, for example what's come out in 9.2 there may be elements that should be looked at first.

And could fall within the first work stream while they're still couched under 9.2 that they get thrown, not thrown but they get moved to that priority versus some other areas that might seem as very, very relevant that could fall within the work stream too.

And I think those kinds of things and starting to think about that in that context and think about, you know, what would be - what needs to be addressed in one doesn't have the U.S. in the role. I think you're starting to think that way (unintelligible).

Woman: Thank you this (unintelligible) speaking for the record. Maybe this is a very basic question (Teresa), but when I hear your commenting about the tracks 1

and 2 I wonder how will we be able to tell the difference when a topic needs to be included in 1 and 2?

Who will negotiate that and how do we make sure that we do not lose so much time negotiating which group will have the competency because different people have understandings of what is priority, what needs to be arranged and set straight before the transition.

And how do we negotiate that and how do we make sure that the NCIA working group has not become like held hostage of the first track and this definition about competencies. How do you see these pieces of the puzzle coming together?

(Teresa): I think one way and this is actually something that's going to be very important for the community discussion in the formulation of the charter and the work flows.

One way I could conceptualize, you know, starting to think about it or thinking about it is, what has the U.S. relied on in the context of the contractual relations, the IANA relationship right, what's relied on.

Is it back stop mechanism, is it a go to mechanism, is it, you know, what is it relied on for. And then what would be - what if anything would be seen as missing if it wasn't there. Does that mean an appeals mechanism of some sort, does it mean a kind of checks and balances mechanism.

And I think thinking about it in that context sort of an assessment of okay, if that relationship doesn't exist what would be seen from a community standpoint as missing in the context of accountability and then looking at it from that standpoint.

And, you know, prioritizing those issue areas and then taking other buckets of issues that may arise that may be just a revision of a review mechanism or a revision of a other aspect.

But I think it's going to require some dialogue among the community and the change in the historical relationship and what the immediate issues are. I think, you know, Larry Strickling yesterday had, you know, made some references to some examples of things that, you know, he thought might be relevant.

I think those are things, you know, that we should be thinking of, you know, we should all be thinking about. But I don't have the immediate answer I think it's really going to be important for a community discussion.

Obviously the NTIA announcement triggered a question of what happens when the U.S. steps out of its historical role. Obviously there were some reasons that triggered that question and that dialogue with the community.

And so I think examples of why it triggered that question and where the U.S. has seen it having a role and then figuring out if and if so how anything needs to be strengthened to help deal with that.

Man: Any questions, further comments? No questions (unintelligible). If you want to add something...

(Teresa): No, no I don't I just wanted to offer to everybody in case there was any additional dialogue. So I know you have a tight agenda so I don't want to abuse any of your time.

Man: ...no you are welcome but so just as a reminder we have accountability and IANA (unintelligible)?

(Teresa): Correct yes.

Man: So just maybe what was the format, do we expect that it will be much more (unintelligible)?

(Teresa): Yes there will be, I don't have the work flow in front of me but let me just - so I'll be doing just a brief introduction where things are, where we were this week, what's occurred.

We've actually asked (Matthew) to be the moderator for that session. Do you happen to have the flow in front of you by chance, I don't want to...

Woman: Yes actually I have it.

(Teresa): Thank you. Sorry I wasn't prepared for that but I will be from now on. And so the thinking - sorry the thinking for the Thursday session unlike yesterday's session, which was really looking at how one might launch the process, was looking at a dialogue that starts looking into the substantive issue area.

So (Meridia) to your point, you know, how does one know what falls where so to speak. And so it will be - we're going to have myself I'm speaking with an introduction, again we asked (Matthew) whether he would be willing to be the moderator for it.

I think many know that the IGF in Istanbul he moderated a session and so we thought we'd try to see whether he would be willing to do the same for us. And then what we've done is I'll give an overview of the two work streams just this division so to speak.

We've asked Avri whether she would talk also to the 9.2 question and what might be relevant to this. We've also asked whether (Bruce) from the board would be willing to just have - say a few words about also the board thinking in the context of the recommendations and how the board sees its role in relationship to this.

And then invite some participants from the community who have been talking for example Steve DelBianco has been referring to stress testing and maybe he could say a few words about that.

So just pulling out some dialogues on the substantive aspects in the discussions. I think as many know Brazil for example had also raised both in (Istanbul) at the IGF and in their comments references to the (unintelligible) principles, then broader references to not having self reviews and having openness, so asking participants to speak to that and then really just opening it up for discussion.

In the context of the linkage to the ICG the chair of the ICG was invited also to address how they see that linkage and potentially looking at that and how they see the accountability being addressed in their (unintelligible) itself.

This is really an opportunity to focus in on the substantive direction of it and to start highlighting some of the substantive (unintelligible) work streams. Again it's supposed to be very limited on introductions and people who are presenting on different substantive areas in order to have a very, very lively community discussion around that.

There's going to be remote hubs, I think the total is 12 right now or (15) to that effect, again utilizing the opportunity of (unintelligible). And just a flag for everybody, the ICG is also going to be doing a session, which - is that right Milton the members of the ICG are actually going to be running that entire session.

So there's an opportunity also to raise some of the questions that might come up here. I hope that's helpful, what would be very useful is discussions that are happening for example at your meeting around different substantive issues that you might see relevant for the two work streams to really bring those two Thursday sessions because those are going to be important contributions to the discussion.

I think there's going to be an interest to call on the different stakeholder communities and ask whether they have had any dialogues on what they might see as being a different part to the substantive tracks. Appreciating of course that, you know, we just posted Friday so, you know, this is - there's not an expectation of an output it's just an opportunity for a discussion that then can be helpful as (unintelligible).

Man: Nobody always enjoy late reading for our committee.

(Teresa): What?

Man: We enjoy late readings for the ICANN meetings no problem.

(Teresa): I know, I know and I'm terribly sorry, we debated whether to post it on Friday or wait until after the meeting and really felt that it was with all apologies very sincere that it was more important to post (unintelligible) for the community to (unintelligible) as opposed to after.

Man: To be honest I think it was a good surprise for many that that new proposal that get input from the community, I think it was really warmly welcome. So thanks for accounting and interacting with us, thank you.

(Teresa): Thank you very much.

Man: Okay, so I'm sorry no more guests now, so we are moving - no stay there. We have now to move more to prepare for - I mean just to make some change to prepare for the meeting with the board.

And we got a few days ago four topics. Three, the first three is mostly what it was proposed for the high - was kind of proposal for the higher interest decision but we couldn't make it that time and there was also thought proposal.

So there was agreement within the entities at least about this topic and we shared them already. We are trying here now to get who is the lead kind of discussion, who is the lead in just this - for each topic and try to explain to the board that we can start a discussion with them.

So, the first topic is (unintelligible) right consideration at ICANN, I mean who want to leave here or if you want I can volunteer people, I would be happy to do this all but I'd prefer that someone willing to do it. Okay, Avri wants to speak.

Avri Doria: Am I being volunteered?

Man: Yes we volunteer you.

Avri Doria: Sure, I'm willing.

Man: Okay, so then what (unintelligible) really in a few words what - how you will introduce the topic to the board.

Avri Doria: I think that I will, you know, I guess mention that of course I've seen the COE paper that, you know, that we've had discussions since then that there is a meeting tomorrow, an open meeting tomorrow to try and go further in this discussion.

And I was, you know, since this will be me bringing in an NCSG position that we have had discussions on the need for, you know, further human rights advice and such within the context of ICANN's positions.

If I'm doing the introductions since I know that NCSG is not firmly behind the notion of, you know, there being some, you know, real advice to people on the board yet, I'll be sort of careful with it and basically talk that, you know, there's just a real concern.

And then hopefully others can, you know, and that's the problem with me being the one that's volunteered to be the neutral and why I wouldn't have volunteered myself because once I put myself in the position of neutrally explaining NCSG's non-position on it I, you know, I end up being more careful about what I say than what I would say naturally if I was just speaking for myself.

Man: I don't think you need to worry about that in ICANN, you know, people can change hats so many times, so you can speak in your own behalf and (unintelligible).

Avri Doria: I probably will on other subjects but on this one no, because it gets confusing. Once you speak with a representative hat on a subject you got to pretty much stay there, otherwise it gets confusing.

Man: Good point, okay, any comments on this? Now just before, I mean to check before moving to the next topic. Okay, so the next topic is discussion and outcome to date from the ATRT 2 report.

Man: I've got a question from the chat from (Ama) again, his question is if, only if there's time tomorrow could the board be asked what plans they have in followup with public comment period on Whois requirements on national (lower) conflict, NCSJ's have been (unintelligible).

Man: Thanks, I think we can link this to the fourth topic, which is about the expert working group and also about Whois in general, so. Okay, so for topic number two, who wants to volunteer for ATRT reports, specific concerns about outcomes and non-outcomes?

You know, we have four topics, but if we don't need to cover all of them. I think three topics can be much more (unintelligible) to - for time management and then we can really have the discussion.

So if you think it's not really, I mean you do have no idea or you don't see an interest to keep this topic we can drop it. Yes, Milton.

Milton Mueller: Milton Mueller, whoever put that on the docket, did they have any particular outcomes that they were interested in?

Man: Okay yes, that's the question to Avri.

Avri Doria: Yes this is Avri speaking, yes I did because what's happened is we've had great announcements of, you know, the board agrees with all the recommendations and then and what have we seen yet.

You know, and where is it and what's happening and, you know, even with (Teresa), she was here and it wasn't time to do that question on her but it was - yes things are happening all over.

Things, you know, what exactly are the things that are being done to address all those issues and so it was really a status taking. So that was my point in putting the question in.

Man: Thanks Avri, but do you think you can also lead this one or?

Avri Doria: No, but I can do this one instead.

Man: Yes (Lori).

(Lori): And that is deeply involved in that report to talk about it but I could certainly pose the question in the form of are there specific work programs that you would like to talk about today that you're enacting as part of ATRT 2 that we've heard that there's a lot happening, but we're not clear about specifics. I can ask it - that generally, but that's as far as I'm willing to go. How do you feel about that Avri?

Avri Doria: I'm fine with that.

Man: Okay, so we - it's just a question I guess, Avri so it's just a question maybe you can just change maybe the order, but we can ask and see what the reaction of the board anyway and (Lori) can - you want to volunteer for this?

Okay, so just maybe we change the order just because it's a question and not a topic? Okay good, yes Maria.

Maria Farrell: Sorry, it's Maria, Avri could you also maybe ask, I mean are there I think any kind of scheduled updates or reports on here where we got to on, you know, recommendation A, B, C and D.

That might be a way because probably what they're going to do is get into the stuff so let's have an actual (unintelligible). And also I think there is, there are mutterings already of ATRT 3 and, yes.

Avri Doria: It's a year away, so and in fact one of our recommendations was that if it was going to start on time then it had to really get started, because what happens now is we basically never ended up starting until April.

And so now what we've said is of the year before, so is it actually - no it's not. Last year was - this is just first year. Then there's second year. And then it'll be - you know. So, anyhow, it's not immediate. But of course, it's already being planned.

Man: Okay. Good. If no further comment on this topic, we can move to the third one. What does (unintelligible) process mean at ICANN? Good question. I see Milton - probably he want to ask clarification for this effort.

Milton Mueller: I don't like that question very much. I think it's too open-ended and we'll just get a bunch of rhetoric from the Board and either absent being very pointed and meaningful or just skip that.

Man: Okay. So ((Bill)) and then ((Rudy)).

((Bill)) I would differ from my good friend Milton. The CEO gave a number of presentations in recent months questioning whether bottom-up is a useful term in any way and pointing out that it is not in the bylaws and raising related questions. And I think under that - in that context, it is worth pressing the point to him in particular to say, "In light of what you said in Istanbul about our need to rebuild Charleston, turn the corner and have a new page and all these other things, we'd like to hear what bottom-up really means to you and how it - you see it being properly embodied in ICANN's operations and so on." So I think it's an entirely worthwhile question to press.

Man: Thanks. I see that you are (unintelligible). Did you want to take the lead on this? No (unintelligible). Okay. (Unintelligible). Robin and (unintelligible). ((Rudy))?

((Rudy)): Thank you again. ((Rudy)) speaking for the transcript. I think it's a topic where there could be several questions put to the table, and personally I think for what our group, our constituency concerns, I would really like to know (unintelligible) what kind of stakeholders groups they actually think that are missing in the discussion that is going on so that there is an identification also of do they see any gaps in having voices to be heard. We have seen that from the NGO world there is not that much space yet to get voices on the table and discuss about what is the issue of - what are the issues that - and (unintelligible) when we talk about the remaining space in the internet governance.

We had a very good session this morning, and we discovered that there is a need for more space to talk about the issues that they have and in the multi-stakeholder

concept and muddle, I would rather think that it's good to have all of them. And maybe it's good to have the question about what group of stakeholders do they see that are missing, and do they see that every group is present in a balanced way in order to know if there are extra efforts to do, yes or no.

Man: Okay. Robin?

Robin Gross: Hi, this is Robin Gross for the record. Yes. I have also heard what ((Bill)) has talked about with (unintelligible) switch recently - moving away from support for bottom-up policy development. And I just think that, you know, when we hear him say things like, "Oh, it's not in the Bylaws." Actually that's not right.

The Bylaws -- NXA in particular -- deals with the way the GNSO operates and the policy recommendations that are made in the bottom-up process of the GNSO get approved by the Board, or if the Board isn't going to approve them, we have to work it out with the GNSO about what kinds of changes it wants the GNSO to make, so while the exact word bottom-up may not be in that annex, that's exactly what that process is.

So he is simply wrong when he says that bottom-up is not in the Bylaws.

Man: Okay. (Audrey)?

(Audrey): Two things on it. One - I mean I really liked the way ((Bill)) presented it, but I wanted to clarify one thing in that we're asking the question of the Board, so it's almost - we're not really - it sounded like you were asking (Faddy) in your presentation of it. What do you mean?

But really it seems like we want to be asking the Board, "Do you have the same understanding?" in one sense. And another thing that I just wanted to bring up is, you know, I've had conversations with (Faddy) about this and sometimes I get rather academic on things. And even though - not really academic. I don't like to quote people. But the bottom-up notion. In trying to

explain it, once you start digging into it, some people's notion of bottom - and this could just come up there because I've had these conversations with (Faddy) -- some people's notion of bottom-up means all ideas must originate at the bottom.

When I look at bottom-up, I tend to think of it more as all ideas need to cycle through the bottom even if they originate somewhere else. And sometimes when talking to (Faddy) and others, that distinction gets blurred, so you get an immediate retort. You mean if you guys didn't think of it then we can't talk about it? And no - my answer is always no. If we didn't think about it, then you'd better talk to us about it. And so on.

So I just wanted to have mentioned that distinction just in case that kind of comment does come up.

Man: Well, okay. My initial reaction was based on comments that we've heard from one source, but it is true that we are meeting with a larger group and perhaps it's not appropriate to direct a question to just one person, and it would be probably awkward to ask the others whether they agree with him. So - particularly - well, but we really didn't say it on record.

And so maybe if we are going to do this, it needs to be made more precise or we will have the resulting (unintelligible) concerned about. So would we want to ask whether - how the Board would feel about specifically adding mention of bottom-up process of decision making and processes the to the Bylaws, or would we want to pose some other formulation?

I mean, it's probably - I'm not trying to start an argument with them. I'm only asking - because it does go to a lot of issues that he -- I think -- genuinely is trying to address now in terms of trust and buy-ins and things like that. And it is a sort of pervasive issue. Is it - is there a way to ask this of the Board collectively then that is productive, or if not, then it may just seem like we're starting an argument, and I don't particularly want to be arguing.

So I ask you all -- if you're asking me to do this -- what would we want to be asking them? Is - are they are in the Bylaws (unintelligible)?

Man: I have no idea.

Man: No. For everyone to explain their reasons.

(Audrey): First of all, I think you can actually almost go back to your first formulation and just take that generic sort of, you know, round about thing. There have been discussions about, you know, bottom-up and, you know, the fact that, you know, some people have questioned whether that really is what we are supposed to be doing at ICANN and I'd like to - I think making a proposal for putting two particular words in there without coming in with a specific Bylaws amendment is much messier than just taking what you said and, you know, doing the Chatham House presentation of it and sort of taking a, you know, among the leadership this has been discussed in various forms and in various conversations and I'd like to get your take on on these ideas, type of thing.

Man: But to the extent that not everybody may be fully aware of those comments, then the question is who's - oh I shot my mouth off too quick because I was working on something else. Sorry. I'm not sure whether this makes sense unless we can make it more crisp.

Man: Okay. So I think (unintelligible).

Man: (Audrey) said pretty much what I was going to say. That your original formulation made sense to me if indeed there is a challenge to the bottom-up, then it makes sense. You can reference specific things that (Faddy) said, and it makes sense to say, "What do you mean? Are we abandoning bottom-up? Do we need to alter the Bylaws to either define it better and get it in or get rid of it entirely?"

Okay, so well, then presumably he will not play games and deny that he said that. He might make some vague statement like, "We have several indications that make it look to us as if ICANN is abandoning its commitment to -- maybe use a weaker word than abandoning -- a sort of questioning or moderating a commitment to bottom-up policy making.

Man: Yes. Okay, guys, if you want to speak please do it in the mic. Okay. (Kathy), do you want to comment? (Mark)?

Man: So if you want something specific -- and I'm looking at this for the first time -- why not promote multi-stakeholders and then bottom-up as one of the core values of ICANN? Opportunity for Core Value Number 12. It's not explicit, you know? I'm just talking about a quick, cursory read through them.

Man: (Unintelligible) question that for us is very much, although I like your wording better. You know, the blood and essence - the blood and essence of ICANN is the bottom-up process. And, you know, we are about to go into the EWG in the next line which is where, you know, experts are kind of reporting from on high.

So I would like to see, you know, that commitment. And I like linking it to -- what was that -- the core values of ICANN (unintelligible)? Yes, where are those?

((Crosstalk))

Man: Would there be any objection to strengthening and codifying and clarifying?

Rafik Dammak: Okay. Hey guys. Let's avoid this kind of cross-discussion and go (unintelligible).

Man: I come back to what I said earlier, and I would really appreciate if we can have input from the Board, but what they see being missing in the concept of

the movie stakeholder group, what are the gaps that they see so that from our side being constituency that has to look into (unintelligible) commercial stakeholders groups, we need to know what the Board thinks about presence or absence of certain groups.

And I am pointing to the fact that we - personally I know that the NGOs are missing in discussions. I would like to know how they see it in the concept of the bottom-up process how to get them involved. And I am willing to be the second one to bring that question to the Board if it's accepted.

Man: Well, just leave it to the presentation, but then anybody can ask questions, so no problem there. Okay. So is this clear? I mean, is this clear for you for this topic? I mean, what you want to present? Or is just...

Man: I'm going to ask about Bylaws.

Rafik Dammak: Okay. So we (unintelligible). Okay. Yes, Kathy.

((Crosstalk))

Rafik Dammak: (Kathy), we cannot hear you. You want to make comment?

(Kathy): I asked ((Bill)) whether he will be sharing the concerns about the erosion of the bottom-up process, which I think we can get some things other than private conversations.

Man: Everybody in the room will be very acutely aware of the discussion so I won't have to explain that too much. I will cite it and then ask them what it means to them and how they would feel about perhaps making it explicit in the Bylaws.

Man: Yes, so just again to clarify. So ((Bill)) will present that to anybody. Everybody can ask, comment. The challenge is going to be to do the time management for four topics. I think for the second (unintelligible) will have questions, not

for topic by itself. And so I will do some reordering here. Okay. I think we can move to the Topic #4. I think it was (unintelligible) by (Kathy). So keep concern about the expert (unintelligible) and the process by which the form is translated into policy. So first question.

Woman: Is (Audrey) still in the room?

Rafik Dammak: If you want really to want her here, I don't think it's a good idea, but...

Woman: I think we might want to wait until she comes back because it's really about - we're looking at the expert working group materials from different perspectives. She is now our representative to the group from the GNSO Council and the Board.

Man: Okay, but are you willing to lead for us, because (Hugh) proposed this topic. Just, I mean, to take the lead.

Woman: Well, I wanted to ask a question about the phrasing of this because instead of expressing our deep concern, we could take the Board at the value of the comments that (Bruce) made to the GAC commenters in yesterday's "Everything you Need to Know about Who Is" session when he explained in great detail the - this is the expert working group is an input to a policy development process that will be started in the GNSO and we are waiting to see what happens from that.

Woman: I was really concerned about those comments. I am not sure the extra words in this report should be going into a policy development process or other policy development processes taking place implementing the Who Is review team recommendations. Part of the question is, "What is the expert working group report?" and of course we have the expert here, (Stephanie).

But what is it? It morphed. It changed dramatically between the interim draft and the final draft. And a lot of the underlying assumptions of the expert working group report

are very - things that were optional became mandatory. Very, very dangerous from a speech perspective. Pre-validation is now mandatory, guys. You get to show your identification before you register for a domain name.

Very strange things. Yes. So much for dissenting opinions. I'm sarcastic since I work with human (unintelligible) group. There is a lot of things. And so I still haven't seen the basic - (Stephanie) had a brilliant dissent which is not being shown very often. It's not being published regularly to (unintelligible). It is with the views (unintelligible) working group. So how this goes straight into PDP, and that's why I'm sorry Aubrey's not here.

But I would like to know how the expert working group report is - I mean, my personal question would be how the expert working group report is going up for human rights review, for security review, for privacy review and for freedom of expression review.

Wendy Seltzer: Wendy Seltzer here. I am just - is that giving the expert working group a sort of exceptionalism that we don't want to give it? And couldn't we instead say, "It is just yet another input to the "Who Is" discussion. And despite having been convened as a group of experts and being given all sorts of ICANN resources, at the end of the day it's just something that comes back into our community policy development, and as long as the Board is willing to treat it that way that we have a way of giving those reviews to it.

Woman: Is that a question? Is that something we would be asking the Board or - we have how we'd like it seem, but I'm not sure what the Board thinks or...

Rafik Dammak: (Unintelligible) Have their own discussion. If anybody has a comment and also (unintelligible) participation.

Man: Yes, one comment from (Tim Mackey) in remote participation who asks, "Could the Board be asked why public health stakeholders have been ignored in the GTLD process of health related domains. Organizations like WHO and

the World Medical Association as well as Global Health Academics and the media raise concerns about dot health and other health related GTLDs, but both the ICANN Board and GAC have not taken these into consideration. This to me is a clear example of a key stakeholder group not being involved or engaged.”

He adds a comment that this is a direct link to human rights issues and that this issue has a direct link to human rights issues as well as health and even access to health information in view to the fundamental human rights.

Rafik Dammak: I'm the Moderator please, so I think I can respond to that. We already shared the topics with the board so I'm not sure what can be done. We have some then, oh and the queue, yes please go ahead.

Man: Two very short comments with the global health community I've been working with them for the past several decades. They are aware of the fact that GACK is not of one mind around (unintelligible) healthcare and that quite a bit of discussion taking place inside.

Second, is with respect to the de-concern about the EWG report, (unintelligible) various time. I've very sensitive to the fact that expert advice should go into a policy process, not into policies. And one word I would've like to have seen different on that number four is concern about the process by which the information is entered into the trans policy process, not translated into policy back out into the front door and into the policy process.

Man: Robin? Yes I just wanted to raise one point that, you know, we were talking about this afternoon like we're going to go in there with one view and one person is going to speak on each issue. And I know I say this at many of our meetings, but I think it's really important for the board to hear from several of us on each issue.

And even like I think, you know, what Wendy was saying over here and what Kathy was saying over here, I think these are both perspectives, both pieces of information that the board should hear on this issue. And so again I just want to encourage people who may not be the designated, and again it's not a representative. It's just somebody to get the discussion started, to jump in and bring their views so we've got a lot of different voices and a lot of different speakers from NCSG. Thanks.

Man: Yes Robin. Nobody say that, I mean first I don't want to make the presentation for the topics. And that's why having someone to, I mean to give the start and people can jump in and ask. So that's the diversity of our group and Lori you want to comment, yes?

(Laurie): Yes. I wanted to confer with the question I'm asking on ATRT2. I've only seen the macro presentations. I'm not well versed to the report, so if people have specifics help me because as I said I'm just using this as a trigger. I can't dive into it. If somebody came back and said well which one do you mean? You know, the only thing that I'm going to say is we've just heard we're doing it, we're doing it, but I haven't seen any reports. That's how I'll answer the question. But, you know, I'm being very honest about this.

Man: Don't worry (Laurie). Don't worry. Okay. Okay, so (Kathy) do you have? I mean about the (unintelligible) is it working for you how you will introduce it to the board or okay? Okay. I think any further comments about this fourth question? Okay. I guess we are done for this. That's good.

This time we are really doing the agenda quite backwards than usual because I think that we will back to the (unintelligible) policy update on Sunday, and we have Maria here. So if you want five minutes just to kind of report that was done. It was the Sunday meeting.

(Maria Sarro): Thanks everyone. It's (Maria Sarro) speaking. For the record I am the Chair of the NCSG policy committee. We met here in Los Angeles on Sunday

afternoon and mostly when we meet in an ICANN meeting it's to do preparations for the meetings in days ahead, and that's basically what we did this week.

The first preparations we did were for the high interest topic SONAC meeting yesterday. That was the one that I think represents just on the panel, and it was two topics. One was (unintelligible) the increasing role of the GACK in the multi-cycle model was broadened out to a general discussion about the role of advisor committees and policy-making.

And we basically agreed some concerns, which we wanted Rafik to raise, which he easily did as well as he could from the constraints. And the second topic, this is what we really spent the bulk of our meeting discussing, was about the projected next round of new (unintelligible), and what the NCSG issues, topics and concerns would be around that.

That one actually came as a surprise to me because generally in the years leading up to the introduction of new details we've kind of more or less I would say kind of 50/50 certainly in the NCUC, as well as about between people who were very enthusiastic about new details on people who weren't that bothered, didn't think of the point, or thought it was dangerous.

Now, I would summarize our discussion by saying probably at least 80 percent of the people who spoke anyway were very much of the view that we needed to do a proper review of the current round. And before we went down the road of having any more new details. And people brought up topics or points like the concerns we had around developing country participations and in terms of outreach and financial support, really weren't met in this round.

And so I just realized a little bit and said that we were in a very good position to say I told you so to the rest of the archive community, which Rafik in a nice diplomatic way I think did. And a little people worried, but there was general concern that I suppose to sum it up the broad concern people had with how

the current trend of new details was designed is that it was really very much designed with competition criteria in mind.

That is to say maximizing competition and economic choice, consumer choice and lowering prices. And then there was really overly concerned with preventing gaming of the systems. It was very much designed to try and prevent various incoming registries and registrars from using it simply as a license to print money.

I think we can probably all agree that that's not been a success, and the one thing I think that came across loud and clear in our discussion was that people really felt that the review, as to when it happened shouldn't simply be about competition and choice. But it should be about the broader, wider than economic implications of the new details around, and also that we as the NCSG had, you know, a lot to input. We have a lot to share on that.

So, and Stephanie Perrin I think made a point, which I'll describe the discussion and that was that we really should have a proper logic model, or a way, you know, model of looking at what were the objectives of this round and let's measure it against them. And let's not have them all be due to price and competition. So that was our discussion on the high-interest topic session.

Then the second and big item that we dealt with was what we usually always do at these things is prepare for the GNSO Council meeting, which is happening tomorrow. And so we talked and largely about the two boating resolutions, which are happening tomorrow. One of them is on approving the charter of the cross community-working group.

And it was generally felt by a few like (Bill) Avery and David who had worked on it that counselors should think of voting in favor of the charter because it is generally a good thing, got off to a rocky start but it's generally a good thing. The second motion that the GNSOs going to vote on tomorrow has to do with

IRTPD working group. That is a working group largely led, well not for us to say, but to some extent a population by registrars to do registrars transfers. I agree with on that group as well.

And she gave it a good report and said it is basically a descent piece of work. It's descent for users. It's got the support of the working group, and that counselors should ideally be minded to vote in favor of it. Probably a good moment to remind people that unlike all of the other secular groups in the GNSO, the non-commercial stakeholder group does not bind its counselors to vote. We vote on our conscience, and we vote based on the information that is available to us and that it's our job to go out and find.

But I think, you know, I don't expect that we'll have any dissenting vote tomorrow when those two motions come up. And that was, you know, I mean we spoke about a couple of other issues, INGO is a perennial that's coming up as a discussion item on tomorrow's agenda, but it's not going to be for voting.

And that basically wrapped up the discussion really. And the only other thing worth noting for tomorrow's GNSO council meeting is that we have a couple of outgoing counselors and a couple of incoming counselors. And the outgoing counselors are Natalie Peregrine and myself and who's the third, oh Klaus, Klaus sitting right beside me. And coming in we have, we've got, well first of all staying put we've got David Cake and Avri Doria, which is terrific.

And we've got a lot of continuity, but we've also got some people coming in with plenty of brainpower and fire in their belly. We've got (Varellia Marsal) coming in. We have Stephanie Perrin, and we have (Edward Morris), who I don't think is physically at this meeting but has been a member for quite some time, so we've got a pretty strong team.

I was pointing out to somebody on Twitter yesterday that the NCSG tends to bring pretty much all of the gender diversity to every meeting it has, and this is no exception. We went from having 60 percent of our GNSO counselors being women, to having 60 percent of our GNSO counselors being women. It's not the only criteria by any means for diversity, but at least we're reasonably well on that one, so all in all a good NCSGC meeting.

The incoming counselors I believe are going to be, we're still working out the details, but because I'm going out as a counselor, I'm going to be stepping down as Chair. And so they, I believe will be having an election for a new Chair. That'll be happening I guess over the next week or so, once we figure out the details. And really I always get your title wrong. I don't know why I've got a mental block. You are the, not the Vice Chair, the...

Man: I'm a member of it.

(Maria Sarro): You are a member and you are the Alternate Chair. So, anyway, so that's the NCSGC report. Thanks.

Man: Thanks (Maria) for a sweet report. Any comments? Any questions? That is good.

Woman: I think we owe a round of applause for outgoing council members for all of their time.

Man: Thanks. Okay. Keeping moving backward on the agenda, still this time is trying because we can get quickly reports from constituencies as you have the meeting in the morning. So maybe you can start with (Rudy).

((Rudy)): I will be very brief. Our agenda is all in line so it can be looked at and the transcript can be in afterwards too. We had a few issues we wanted to handle that concerns ICANN itself. We are extending our (unintelligible) as we were

missing some people. We're going to fill the vacant positions in the next month at the latest.

We are going through the process of elimination and approval by the ICANN and the membership itself. We have been talking about the membership problems that we need to solve in the near future. We have been talking about essentially and most of the time what is expected from ICANN? What does ICANN have to do with regards to the NGOs of not for profit organizations that are under our umbrella?

We have seen that from the many participants that, in fact there is one global concern, it's their presence in the Internet ecosystem, and in the Internet governance and the domain space. It's a focus that we have on putting up an event in Marrakesh in order to enable the NGOs to speak up, to speak to us rather than we speak to them.

Man: Yes so you do the report, but do you have questions?

((Bill)): Yes I did. Congratulations. I'd like to hear more. The event you do in Marrakesh to enable NGOs to speak up, so how will that work? What will be the agenda? When will you hold it and so on?

((Rudy)): We are working on that. It's in the plans for the monthly goal that we have in ICANN to work out the agenda. There are a lot of ideas, but it has to work out in the next few weeks, and then you will see it will be posted and published.

((Bill)): I mean would it be, are you talking about like a one-day policy conference?

((Rudy)): We will see what way we can do it. It's taking NGOS to an ICANN meeting is a difficult thing in itself. That's something that it's known for not only weeks or months, it's known for years. So we are going first to try to figure out how to get the NGOs into the ICANN meetings physically, not only remote but physically.

And that's quite impressive work that is required, so we are planning to work together with the ICANN staff first of all to see how we can get them in. It doesn't make sense to ask NGOs to talk to us if they are not there. So we have a physical and a structural problem that we need to solve before we can put up an agenda.

((Bill)): Okay.

((Rudy)): It is probably a one-day session.

((Bill)): A one-day conference focusing on (unintelligible) society participation in...

((Crosstalk))

((Bill)): ...in the ecosystem generally? Okay. And you did a budgetary allocation for that, a budget request?

(Klaus): Let me try to answer this question. We are not only relying on, first of all we're not relying only on ICANN resources for this event. And secondly (Bill) we are trying to do it slightly different. What (Rudy) tried to say is we are starting literally on Monday and consulting with NGOs in the region about what they need, what they want to do and how they want to do it.

And built on that feedback, and built on the needs and the necessities that we will design the program and this is how it will be created. And again we, the (unintelligible), there are several resources which we will draw on and also again it's depending actually what the NGOs want to do and what's needed. I think we need to change slightly our approach to NGOs, and instead of saying coming to Jesus, I think that Jesus from time to time has to ask some questions too.

Man: Yes. Thanks Klaus but they don't want you to talk about Jesus in that...

((Crosstalk))

Man: I mean I know that region well. I don't think it's a good idea. ICANN crusader.

((Rudy)): Just a bit of history, the last crusade was in Tunis in the 13th century, so yes it's not really good idea. Yes (Unintelligible), please go ahead.

Man: This is the reporting on this morning? I thought that I missed it by being late.

Man: Could I just jump in because we have a question from the chat specifically for (Unintelligible)? They actually asked it much earlier in the chat. I didn't need an appropriate point, but this is an appropriate point to ask us, which is (Shakur Ahmed) from the chat asks, I couldn't get the list of current initiatives at (m Pac.org). Could you please share the link if any? And can an individual become a member of (m Pac) or it only for a not for profit organization?

Woman: Yes. According to our charter it's only for non-profit organizations. That was the concession at the time that (M Pac) was formed. If there was a surge of individual interests, at some point it would require a charter change. And what I've said to people, individuals that are interested, is you certainly can observe. You certainly can participate on calls and observe what we're doing. But you don't have any sort of voting or influence in decision-making.

Man: A physical membership?

(Klaus): There was a link to the membership. We moved that list of the memberships. We are going to update the list of the members as I explained in my report that we have some membership issues to solve. When they are solved, then we will publish the real list of members.

((Bill)): Okay. I'm glad to hear that actually because I look for your list of members when we did the civil society outreach thing the other day, because I wanted

to put up information about you so that you guys could introduce yourselves to the group, and there was no list. I didn't know what to do so I just guessed.

Man: So for the list I remember I sent them to (unintelligible), who are (unintelligible) member (unintelligible) so I think that will be the best for you to check about your membership.

(Klaus): We want to do the full re-do of the contact details to the membership because we have seen that during the election process also, and I'm talking about the NSIG election process, that some people didn't get the ballots, or there is an issue on the contact details and we are going to first solve that problem before we are going to put names on lists, where people are saying hey, oh I didn't know I'm a member of it. So I want first to clean this up and based on the two lists then we will validate what is for us a recognized and agreed on, even accredited member of (M Pac).

Man: Just to clarify, only those who did check in can receive ballots, or they need them to check in and they couldn't, or at least it was public and they could check anyway. So, but yes, I mean (unintelligible) membership is not an easy task that's for sure. Okay. Let's go to the NCUC report now.

Man: UC report brought to you by; good evening I'm (Chet Huntley) with the NCUC report. Today in NCUC news we held a meeting this morning. We discussed for about an hour, what did we say that I can tell you, that I can talk about. We had a visit from (Theresa) (Swine hart) and (David) (Unintelligible) to discuss matters of accountability, (I Anna) transition, trust and bottom up ness.

We had a visit from some friends from the council of Europe and talked for an hour about human rights, and ICANN how to take forward and build on the momentum from the meeting we had with them in London. And that included by helping to categorize this meeting that will be held tomorrow about which we have spoken. And that was a lively discussion as well.

And we had a visit from the NomCom for the standard presentation of NomCom, you know, rah, rah get out there and help us. And we covered some other smaller operational matters. For instance you see most audibly the friend inter sessional meeting in Washington, D.C., the pending NCUC elections, and so on. So it was a lively and full meeting in this room and it seems like forever ago.

Man: Okay. Yes. Deadly silence...

((Crosstalk))

Man: Yes. There is a question from (Unintelligible).

((Bill)): Brought to you by Pepsodent.

Woman: Hey (Bill) I missed a bit in the (unintelligible) presentation where they said which beats and which regions (unintelligible). At the moment we can do more recruiting and (unintelligible) by any chance?

((Bill)): It just so happens that we have with us an illustrious member of the NomCom, our representative, written into the bylaws, the one, the only Dr. ((Brandon Curtis)). (Brandon).

((Brandon Curtis)): Thank you ((Bill)). You wanted a briefing on the position around that and the regions?

Woman: So I just wanted a reminder of which seats are open this year that you guys have to fill, so that we can look at...

((Brandon Curtis)): Okay. Yes. So it's a big year for NomCom actually. There are three board seats that will be selected. There are two voting NomCom appointed to the GNSO that would be selected. Right there that's the bulk of (unintelligible).

Those are the importance of the other (unintelligible) regional seats. I can't remember who's in D.C. I can actually give you the exact details alone in an email. You can look it up. The first ones that I mentioned, the board seats and the voting positions can be (unintelligible).

Woman: ...talking about the count of the NCSG, I think you said the nine. Is that the six council plus three generally of course not assuming that all council makes it? Or is it nine in general?

Man: Oh, sorry. So there is the council plus the (unintelligible) committee and then each constituency would have six other slots. Questions? You just want to be free from this meeting. Okay. Thanks for attending today and again thanks for our departing council. So and this session is adjourned. Thank you. See you in 30 minutes and it's Los Angeles for sure. Yes, Los Angeles, the meeting with the boss. Yes. It's in Los Angeles. Yes, in Los Angeles in June. It's in 30 minutes.

END