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GNSO Working Session Part 3
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Keith Drazek: All right, welcome everybody. Good afternoon. My name is Keith Drazek, GNSO chair. If I could ask everybody in the back of the room still getting food to please limit your conversation. We're going to get the meeting started. Please limit your conversation in the back of the room. Thank you.

So welcome to all. This - I assume our recording has started. Thank you very much. So I'm Keith Drazek, GNSO chair. I'd like to welcome everybody to this meeting of the joint session between the GNSO Council and the ICANN Board.

So welcome to Cherine, Göran, the board colleagues for joining us. We always look forward to these meetings to have open dialogue with the ICANN Board on matters of relevance to the GNSO Council, to the GNSO community. And we look forward to more of the same today.

So I think with that, we can probably go ahead and kick things off. We have shared some questions with the ICANN Board, and we can get to that in short

order. But with that, let me turn it to Cherine, if you'd like to make any opening remarks.

Cherine Chalaby: Yes. Thank you, Keith, and we're delighted to be here. I have to say congratulations to the GNSO and the broader community for really delivering consensus recommendation under very tight timescales. And we know that so many people worked very long hours and sacrificed a lot. They are here sometimes until 4:0 a.m. in the morning. Is that correct?

So well done and it's frankly a tribute to the multi-stakeholder model and it validates everything that we believe in. So thank you very much and we look forward to a good dialogue and an open dialogue here. Thank you, Keith.

Keith Drazek: Thank you very, Cherine. And again, what we'd like to do is to have this session really be a dialogue. So we posed some questions to trigger the conversation. And not surprisingly, as Cherine just noted, a couple of them, if not all three of these ones, relate to the ongoing work of the ePDP.

As everybody knows, the ePDP working group delivered its report, its final report to the GNSO Council on Phase 1 to replace the temporary specification. That was the segment that was being operated under an externally imposed deadline of the temporary specification of 12 months.

The GNSO Council on March 4th approved that and it is now out for public comment. So I think we're all up to speed on that. And now the GNSO Council and the ePDP working group are working to develop a work plan for Phase 2.

And so the questions that we have here are intended to be forward looking. While it talks about lessons learned, it is intended to be forward looking and how can we ensure that the ePDP Phase 2 is conducted in a manner that recognizes the urgency of the need for a standardized system for access and disclosure. And let's just get to the question.

So the first is, what are the ICANN Board's lessons learned from GDPR, the temporary specification and ePDP Phase 1 experience? And I think there's really three important components there, that lessons learned from GDPR, and the fact that we were in a bit of a scrambling mode as GDPR was coming into effect as it relates to the impact on our policies and on our contracts and the way that we operate in the ICANN community.

And so, what are the lessons learned about how we can avoid finding ourselves as an organization, as the community, in a situation where we're reacting rather than anticipating and planning appropriately for potential regulatory or legislative or legal impacts on the policies that we have in the global GTLD community?

And then lessons learned on the temporary specification. It was the first time that the board had used a temp spec and curious about the board's views on lessons learned there. And again, overall on the ePDP Phase 1 experience. So - but questions one and three are actually somewhat related as was noted in our prep session earlier.

And it talks about the ICANN Board's understanding and awareness of the future regulatory, legislative or jurisdictional challenges to ICANN's global policies related to GTLDs and what should we the council be anticipating around any additional work, and importantly, the engagements between the GNSO and the policy making structures at ICANN and the ability for the organization and community to predict what's coming, to anticipate what's coming and how can we better work together to understand how regulatory and legislative or jurisdictional challenges can be impacting existing policy, policy under development and policy yet to come.

So those were the questions, and we'd just like to open it up and have a conversation.

Cherine Chalaby: So I'll just say, I think these are very, very good questions and it will engage us in a good dialogue. The board had the whole day yesterday talking about the questions from all the constituency, and we went through these. So we believe that one and two will be addressed by board liaisons and three would be addressed by Göran. But they will talk about really the both thinking rather than the individual thinking on this. So with that …

Keith Drazek: León is first.

Cherine Chalaby: León is first.

Leon Felipe Sanchez: Thank you very much, Cherine. Thank you very much, Keith. Thank you everyone for having us here again. I think that we've learned many lessons through this ePDP. The first one is that the committee was flexible and patient as to navigating uncharted territories. We have to remember that this was a first time ever in ICANN's history.

So I would like to commend and to congratulate the community for this effort and for this flexibility and patience and bringing us all together along to the goal that we established or that you established as (unintelligible) for this Phase 1.

Another lesson is that if we have legitimate interpretation and regulatory legal advice beforehand, we progress better. So one of the challenges that we faced in this effort and through the work of the ePDP was to figure out how the law should be interpreted, why it should be interpreted in this or that way. And I think that legal advice was key to helping the ePDP group to landing and to bringing home the different recommendations in the final report.

So this is definitely something that would let us recommend the GNSO to review the scope of Phase 2 so that we focus the effort of working with ICANN org to get guidance on how Phase 2 should be carried on, and of course to define what Phase 2 would or should be looking for.

I think these are two of the main lessons that the board has learned so far with this progress. And I think also another lesson is that with these externally imposed deadlines on us, we have proven to work effectively. So we might want to think about establishing deadlines for our work going forward and to keep the pace, as difficult as that might be, or as that might seem in Phase 2 so that we can deliver the rest of the committee and those concerned and interested in concluding Phase 2 quickly with an optimal solution for non-public data access.

Keith Drazek: Thank you very much, León. Chris?

Chris Disspain: Thanks. So I'm going to sort of morph into question 2 as well, but just a couple of comments on the sort of first phase having endured and enjoyed it with León and everyone else who was involved. I mean I think anyone who was involved in that ePDP, either as a member or an alternative or, you know, just as an observer, will understand how extraordinarily intense it was.

And it's completely understandable that we're hearing right now people saying, we can't possibly keep the same pace in Phase 2. I think that's right and I think the danger is, that gets interpreted perhaps as meaning, when it was the committee. What I think it means rather is, the concept of, you know, twice or three times weekly calls at three hours a time is just not workable, and I accept that.

I do think there is some merit however as Leon said, in a deadline. I can't pass the end of Phase 1 without a personal comment on the extraordinary job that Kurt did to chair it. And I just want to say a personal thank you to Kurt, and I know the rest of the board feels the same way. Was - everyone on that ePDP team did a stunning job, but Kurt chaired the whole thing and fantastic job, Kurt. Thank you.

Moving forwards into Phase 2, I've got a couple of notes here, and I'm just

going to research them because I wanted to make sure I don't miss any points. So our understanding, the board's understanding is that the council is, the GNSO Council intends to move expeditiously into Phase 2. And we and ICANN org are ready and prepared to support that effort.

We welcome the statements issued by participants and such as the Registry Stakeholder Group and there have been others, reflecting a commitment to participating actively and in good faith in the Phase 2 work. And we hope that all of the participating SOs, ACs, and SGs, will bring the same energy and commitment to that work, acknowledging as I have already, that that doesn't mean 17 calls a week of three hour duration.

Once the board acts on the GNSO recommendations, even as Phase 2 work commences, then org is going to move forward with the implementation of Phase 1 obviously. And that includes for example, discussions with the contracted parties about ICANN's and their own respective data protection responsibilities.

It's also necessary to develop compliance standards, at least interim compliance standards for evaluating whether or not relevant parties are living up to their obligations to protect data and to respond to lawful third party requests for registration data consistent with Purpose 2.

In other words, in order to enforce the policy, there needs to be clarity about which third parties are entitled to certify data elements, what purposes - under what circumstances and subject to which safeguards, what we would call the who, what, why, when and how rules that are necessary just for Phase 1.

So I guess the short answer to Keith's question about the future and Phase 2 is, we think two things really. We think, concentrate on getting legal advice. We think that's critical and important and that should be the first - one of the first things that Phase 2 does.

And secondly, look at what decisions can be made in Phase 2 that aren't necessarily interdependent on anything other than legal advice, things that are not necessarily interdependent on inputs or guidance from the DPAs, et cetera. We'll have more to say on the topic later on during the week, but for now I think that kind of covers the overarching view of the board in respect to Phase 2.

Keith Drazek: So thank you very much, Chris. So just a couple of reactions to your comments, and that last bit of feedback I think is particularly important and timely this week as the ePDP Working Group continues its own internal deliberations about the work plan and the timing and, you know, how to design the work of Phase 2 to ensure it delivers sort of maximum impact in a timely manner. So thank you for that and we look forward to more detail and more thinking around that this week or even this meeting.

So I also want to just take the opportunity before I hand it back over to Göran, to note, you think the ePDP leadership team and the members, Kurt specifically and I think that's all absolutely warranted. So thank you for those comments as it relates to the community.

But I need to take this opportunity to acknowledge the incredible and extraordinary work of staff in supporting the group. So in front of the board, in front of Göran and everybody in the room, it was truly a Herculean effort over holiday seasons and all of that to deliver what was delivered, the final report in such a compressed timeframe. And it was done with incredible professionalism and just wanted to note that. So thank you. Göran, over to you.

Göran Marby: Thank you. So it's a very good question and fortunately I actually have answers. But I want to take a step back and just, if you look at GDPR's legislation, there was many people within the community for a long time talked about privacy legislation.

And unfortunately, and I cherish those people, but they sort of always just felt, you know, because you know what, there was no process to pick it up. So that is something that's important to think about is that we have to build a process to take in knowledge. And we start an attempt, which is just an attempt, and we can probably improve it, by seeing if there are legislative proposals around the world who lead things, can have an effect on your ability to make policies.

And that's just - that's what we see, and we published that I think for the third time now, and it comes up through a bottom up process. We get that information from our own contacts, but very much to help you. And it's not easy. How do you define what's going to be an effect on the policy making process like that?

So we - right now, we're looking very much into privacy legislations. We don't take sides in the actual policies of that. But then of course comes these discussions, where and how do we interact with that? So we did propose, and you asked me several times, what are you going to do now?

So we went back and produced the charter, which has helpful comments and it's really helpful comments. But the finding is - which is, you know, who - you who knows me like - that I like to be transparent. How do we set up transparent way of interactions with governments about legal professionals? Because one of the things we've seen is that, and we've talked about this before, is that many of those legislations are pretty well intended without taking sides. They're well intended in many ways, but sometimes they're written in such a way that they can actually affect the ability for people to connect to the internet.

I think I mentioned to you before that we've seen legislative proposals can actually break into that - in uses from the internet. And when we talk to the -

when we sort of talk to people, they said no, that's not the intention. So I think ICANN has a definite role in that.

What we're trying to figure out how we do that and in a transparent way, also includes with the ICANN community and staying very much in what we define as the technical mission of ICANN, because we are not and should not be, and for this particular organization, that is not easy and that's why I need your input on the next step of that.

I don't know if you saw it as well. We're also looking for, who do we work for? How do we - what are the channels we have? I mean we are lucky in ICANN in the sense that we have the GAC because we actually have representatives of 170 plus countries, which means that the difference between us and many others is that we can actually - we can talk to governments, yes we're crossing the corridor.

And I think I often say to all of you during the GDPR discussion for instance, cross the corridor and speak to your GAC representatives or someone else's GAC representative. It's not about ID. The last thing, I don't know if you've seen that, when we talked about different forums to engages, we last week went out and said, we are now applying for membership in ITOB.

And therefore joining together with our other friends (Wright) from the (Orioles) community, (ISOP) and other ones who are members. The difference is that we decided to go what was called ITOB, and that's because that's what they do with development, about bringing more people online, which we happen to think is an important thing.

But it also gives us an opportunity to under our own name, instead of - and I would like to thank ISOP and Wright very much for the help they've given us because we've often been sitting behind our flag and it's been very appreciative. But it gives us an opportunity to engage in some of those discussions as well.

So I think that we are - you know, we learned a lesson I think, and I'm not talking ICANN org. I think the broader communities have learned a lesson that we have to have a way to watch out. And my job is to try to provide the community with sort of factual based information that you can make your policy on. That is sort of what we're trying to achieve.

And because of your right for transparence, how do we do that so you feel confident about what I do? And that is what these short - small charter is all about and I'm looking forward to the comments. Thank you very much.

Keith Drazek: Thank you very much, Göran for that, and we did have some discussion about that. And specifically with regard to question number three in front of us is, I think there's a recognition that ICANN Board and org have recognized the challenges. We want to avoid a repeat of GDPR and to have that advance warning and to be able to plan and better understand where the intersection of regulatory developments, impact UTLD policy and the GNSO's policy making responsibilities.

And so we very much appreciate the work that has been done and that recognition and the reports that you've referenced. But the conversation we had here earlier today was, how do we take those reports, which are essentially an enumeration, you know, a capturing of the list, and ensure that there's an interaction and engagement between ICANN org with the government relations group, government engagement group, and the GNSO Council for example, or the GNSO, to figure out exactly that next level of detail or granularity, where those impacts might be?

So we see that as a really important sort of next step in the evolution of this effort. So I think we acknowledge and applaud the board and org for recognizing this is a necessary tool. But we do recognize I think that there's more work to be done on that to make sure that we are engaged

appropriately to help inform the discussions about where those policy interactions may be.

We certainly wouldn't expect somebody outside of the GNSO policy making process to know where those intersections might be. We need to be able to provide that input and that engagement to help sort of identify where the intersection is. Göran, please.

Göran Marby: First of all, Keith, we look at the charter and come up with proposals. I mean we are trying to give you the information you need to make policies, and everybody else who's involved in the policy making process. So we're actually trying to figure a way to serve you in a transparent way. So you tell us what you want and we will try hard to do it.

But just one more. To work with regulatory authorities and work with governments is a little bit different. We can't request things. For instance, we cannot go to the DPAs. I think - for instance, I think on the website of the Data Protection Board, it says we are - sort of we are not a consultancy firm. Go and do your own job.

To get advice, to get those things is an incredibly tedious and sometimes work you do anyway. So we also have to set the right expectations. I think that one mission I want to add to this, which I forgot, is that I think one of the things we try to avoid here - there's two things. One of them is that we have a fragmented internet because of legislation.

And the other thing I think is to find a way of actually protecting ICANN's multi stakeholder, because I happen to believe, silly if I didn't, but I'm actually a strong believer that we are sometimes much better at making some decisions than many governments are. And that is something - we shouldn't shy away from that responsibility either, but I'm open for any suggestions have for interaction.

Keith Drazek: Okay. Thank you, Göran. I think you have strong support for those views in this room. Certainly. Cherine?

Cherine Chalaby: I saw Erica put her before me. Okay. So I want to - and Göran, perhaps we engage on that. I want to bring this to the strategic plan. So the last year, we've all worked on a strategic plan together and we've identified five key objectives.

One of those objectives related to that question. And that objective reads as follows is, address geopolitical issues that impact ICANN's mission, right, to ensure we have a single global internet and so on. And then it says two specific goals underneath this.

One is, further develop early warning system such as ICANN org legislative and regulatory development report to identify the global needs and so on. And the other one, continue to build alliances in the internet ecosystem and beyond to raise awareness and equip stakeholders from around the world to become more active participant in ICANN policy making.

So that is a strategy level. What ICANN org is embarking on from now until the end of the year, is develop an operational plan to see how this is going to be implemented. And it's going to come back to the community asking for community to work together in developing that.

So I'd like to cast that this would be a good idea to bring back all the work under the strategic planning work, because it's an opportunity to work together, right, and not do it in isolation as such. That would be a suggestion. Thanks.

Keith Drazek: Thank you very much, Cherine. Great suggestions. So I want to open it up for questions and engagement and dialogue. So I have Erica in queue and then Elsa and then Leon. So Erica, Elsa, Leon.

Erica: I'm Erica. Thank you, Keith. I believe the topic is not really super complicated and super complex. It's something companies deal with all the time. It's daily business. Just maybe more complicated in our environment because we were not so much on the focus in the past from policy makers.

So policy makers typically approach and not just in Europe, across the globe typically approach in their legislation different companies and then we are in the second wave affected by this kind of legislation. So we may just have to turn it around and say we are impacted by it as well, at least to some degree, not always but to some degree.

And I wonder if we shouldn't have a much more simple approach than such a complicated policy approach. Maybe it's really some obligation of management and ICANN org just to - you know, because you have stuff distributed across the globe.

Now, you can always ask for input from community once you have files ready concerning certain legislation. But wouldn't it be the much more natural approach just to ask staff, and I'm pretty sure you do this already, to report back from different legislation which are pending across the globe. And if you can't do it internally, you can ask outside counsel just to get a first judgment.

And then once you have a file, one pager or two pager concerning, and with your judgment or the judgment of the outside counsel, then I think it makes sense to distribute it to the community and to the board, and then to have - see what kind of feedback you get back, because the feedback might differ. But just to have a right policy discussion on this topic, is maybe not the most efficient way.

Göran Marby: I mean first of all, you're actually describing the model we are coming into. Yes, some small additions to it. We want to make sure it's very transparent. And the other thing, I know that many people think that we have people all over the world. Actually we don't, and many of them are not lawyers capable

of understanding legal proposals. And the cost for having legal people looking at all these ones is a very big cost.

So in this charter, what we're talking about is to get help from the community because we do have a community around the world with many good people who can help us to highlight when something is important. But then as you've seen in the charter, the sort of process is to try to figure out if this is a problem, and then come up with a professional problem, check that with the community and to try to be as transparent as possible.

And the transparency is important to us, and I mean we have had reactions when we had a very, I don't know, I'm going to say this, even if JJ don't like it. We had an interaction which we blogged about afterwards with a couple of DPAs during the beginning of the year concerning the process. And they said, why do you publish things like this? It might hurt you.

And JJ said, well it's because we're ICANN. And it's sort of - our transparency is on a level that very few governments actually have. So I want to - this is one of those things that it's important for me as the CEO and I know it's important for the board, to find that balance because I don't want to go back and start to be seen as having secret negotiations about something that you don't agree with me about.

So I think that - so we did the charters. We did a start of a discussion, and I think we have very good and valid points and we're going to take them in, especially how do we provide that into the policy process? Because some of the policies you're looking into, can take a couple of years. And it can also be so that the law that is enacted in one or two years, can have an effect on the policy starting now.

I mean, you know, one of the new laws in Europe is the cybersecurity law, which we don't know how it's going to affect. And that's something we have

to look into. So I think we're in great agreement as always, Erica. Now, also the fact I know what you're talking about.

Keith Drazek: Thank you, Göran. Thank you, Erica. And yes, we discussed in our prep session earlier today, some different examples of this type of a situation. I think the e-evidence directive is one of the others that came up in conversation. So with that, Elsa and then Leon, and then I've got McAuley. If anybody else would like to get in queue, put up your flag.

Elsa Saad: Thanks, Keith. Also for the record, and I'd like to thank Göran and Cherine for having spoken about the legislative aspects about this. I just wanted to point out that in the legislative/regulatory report 3, there are 18 countries plus the European Union and the African Union.

In comparison to what we were talking about in terms of the presence of GAC members and governments in that sense, I think I believe you said 170 plus. I think there's a huge gap there. So if we could definitely for the next legislative/regulatory report, make that gap a bit smaller, it would be much appreciated.

And I just also wanted to point out that there's a regional division divide in ICANN that I've been seeing throughout reports that are different. Sometimes I see Africa and Middle East together. Sometimes I see Middle East and Asia Pacific, and I thought I'd also point that out for the next legislative/regulatory report. If there's some kind of logic behind that, it would also be good to put it out there. Thank you.

Keith Drazek: Okay. Thanks very much, Elsa. Leon?

Leon Felipe Sanchez: Thank you, Keith. This is Leon. I just want to emphasize the importance of the community's role in developing this strategic objective that Cherine was highlighting about geopolitics and legislative alarms and early warning. This is not something that ICANN org will need to do alone, nor the

board alone. This is something that we're all in this together. We need to work together and to raise the flags in time.

And I also make a call to the community to not only raise the flags in time, but to listen to those warnings in time, because I mean GDPR is just one example that we have been hearing for I don't know how many years. I'm looking at Stephanie and some others in this committee. They have warned us early enough, but we as community failed to listen to those warnings.

So I think we need to work all together and to listen to each other and to raise the flags and address the warnings in a timely fashion. So we will be holding a session on the strategic plan and we - your feedback will be key for us to continue to evolve and develop this plan. Thank you.

Keith Drazek: Okay. Thanks very much, León. Okay. McAuley, over to you.

David McAuley: Thanks, Keith. McAuley for the record. Just a couple of comments. First off, Cherine, I think your comments and opening were very much welcome bias. The ePDP final report was voted in favor of by the GNSO Council and it is something where there was consensus. So the message we're sending there I think is one that we all wanted to hear.

Secondly, with respect to Phase 2, just echoing the comments from others, I think the main concern that people have is that some people may expect the tempo to be similar to Phase 1, and that just isn't going to work. Maybe treating it more like some kind of project where it doesn't have an end date, that makes sense.

You know, having timelines with projects, also helps when it comes to controlling costs and everything else, and all the other aspects of it. But there's no way that many people are going to be able to commit to the number of hours that they have to put in Phase 1.

On the legislative piece, it's something we did discuss in our prep session earlier. I think part of the struggle for all of us is context. But, you know, giving us a list of bits of legislation isn't particularly helpful, and thus there's some complex of how they can actually interact with various different things. I mean some of the ICANN staff who I deal with on a regular basis, have been very, very good and very helpful in kind of flagging certain things with me.

But, you know, that needs to kind of scale up. So it's not simply a question of, you know, so and so pinged me personally this thing. So I think it's just context as well. But I mean that also is something that ICANN as an organization, struggles with.

When you look at say for example the public comments pages and you put a document that is put out for public comment, it's never or very rarely given any context in terms of how it impacts businesses that aren't engaged actively with ICANN. And so it's one of those things which, you know, context is lacking in a lot of what comes out from here. Thanks.

Keith Drazek: Okay. Thanks, McAuley. So just a quick administrative note. I've got three or four people in a queue at the moment. We do have some other questions that were posed to the GNSO Council by the board that we have on slides to follow. We did actually respond in writing.

I want to make sure that we save some time to answer any questions that may - the board may have about those responses. So - but let's get through the queue here real quickly, or as long as it takes. I have Chris, Tatiana, and then Rafik. Elsa, is not an old plug? Okay, thank you. So Chris, Tatiana, Rafik.

Chris Disspain: Thank you. I don't want to make a big thing of this, but I feel I must respond to McAuley. As someone - having been on the ePDP as a board liaison, I

completely understand what you're saying, McAuley, but I was very careful in the words that I used.

One of the things that was said on a number of occasions throughout the ePDP was how theories that we will push stuff up to Phase 2, and when we get to Phase 2, it will end up becoming this long thing with no sense of urgency, et cetera. Some people will interpret what you said as being exactly that.

And that's why I said, there needs to be acknowledgement that three hour calls a week isn't workable, but there still needs to be a sense of urgency to actually get the work done. It's not a criticism of you at all. I just want to make the point that we need to be very careful that we don't lose the commitment to solving the problem. Thanks.

Keith Drazek: Thanks, Chris, and this is Keith. Let me just respond to that directly, is that at a council level, there is a full commitment to apply urgency and resources and focus to the work of ePDP Phase 2. This group was chartered under Phase 1 and Phase 2. Phase 1 existed because of the temp spec deadline of 12 months, and we now have the foundation on which to move to Phase 2 and build the standardized system.

And so I think everybody agrees and has noted this week that there is - the pace and intensity of Phase 1 is unsustainable, but that doesn't lessen the fact that we need to treat this with the same level of urgency and to maintain the momentum. So I think from a council level, I will underscore that we are committed to ensuring that takes place. But thank you for that clarification. Tatiana and then Rafik. Thank you.

Tatiana Tropina: Thank you. Tatiana Tropina for the record. So just to follow up on these. As one of the councilors who really spoke loud and clear demanding the slower pace for the Phase 2, I think it's not about lack of commitment. It's about the

ability to stay committed, because no one can actually sustain these blood, tears and sweat.

But I was going to make a remark about this law and regulatory report. While I agree about the lack of context and lack all of geographic coverage, for me one of the main thing about it was also mission instruments. Like for example, in the GNSO Council, we flagged several times that e-evidence directive would be a big problem, maybe copyright directive and they're not there.

And I understand that they're going to a bit of a broader context than maybe what ICANN is doing, but they do have sometimes direct, sometimes indirect impact on ICANN mission or at least in some parts of the ICANN community like contracted parties for example.

And frankly speaking, it's not a criticism, but I would like to know if we can provide input to these somehow, because if we are flagging issues and then we don't see them in regulatory reports, so how to square this circle. So just to remark. Thanks.

Keith Drazek: Okay. Thanks, Tatiana. I'm not sure if anybody from board or staff would like to respond, but I want to - that was one of the things that we talked about in our earlier prep session. And as I noted in sort of my opening remarks related to at least question number 3 is that we need to make sure that there's that interaction and engagement and regular feedback loop to make sure that we're all on the same page as it relates to the risks. Göran, thank you.

Göran Marby: What I bring with me here is that we all agree. Yes, we all agree on the problem and what we're doing is to try to figure out a way of fixing the problem. And we invited you in the conversation, how to do this going on. I mean the important thing is that we actually do agree that ICANN as an institution, have a role to play in this.

And I - e-privacy for instance, I think right now is a little bit on the freezer.

Tatiana Tropina: Not any longer. It's reopened again. It worked under freezer. Not …

Göran Marby: Nothing will happen before the parliament elections anyway.

Tatiana Tropina: No, no, be careful.

Göran Marby: Oh, yes. That's the information I got from DC. But hang on. Let's not go directly into that forum. So we agree on the problem. We agree that there's something we do. We agree that the fact that ICANN as an institution, should engage in this one. And now we're engaged in discussion how to do that. I'm positive for that, coming with the renewed ones.

There's another thing as well. There seems to be a trend, because we looked at certain types of - this time I looked at certain types of legislation, not all of them certainly, because that's one of the things. It's sometimes hard to figure out that this kind of the legislation can actually have an effect. And that's often what we need the community to help us with, because you often see that in them.

And when it comes to GDPR led legislations, we see that they come in specific clusters right now in the world, as you can see. The funny thing or the interesting thing is, they come from all parts of the world. But not all countries are interested in that kind of legislation anyway.

So work together. We look at the charter and we're here to try to help. And we want to engage in a positive way. So I'm actually quite happy about the fact that we agree on the problem and that ICANN as an institution has now rolled out in a transparent way. So I'm happy.

Keith Drazek: Thank you, Göran. So in light of time, we have just a little bit more than 10 minutes left in this session. Rafik, you're next in queue. Then I want to go to the responses to the questions that we gave to the - that we received from the board.

But I also want to just give Göran, Cherine, another opportunity, either to expand a little or extrapolate a bit on the discussion we had right at the beginning about the distinction in the ePDP Phase 2 between what should be considered in sort of a legal track or a dependency on legal advice or feedback, and what else might be considered as we formulate the work plan for Phase 2. It's important understand your views on that and to make sure that those are at least considered by the ePDP working group and the council itself. So Rafik, you're next.

Rafik Dammak: Thanks, Keith. This is Rafik speaking. So I understand that the board is keen for the start of Phase 2 and we support that effort. So just giving a heads up. The ePDP team by direction from the GNSO Council, is working on the work plan for the Phase 2. And so we expect to reserve resources that's needed for that work and that will go through the council of course for consideration.

So we are looking for board - the board support for Phase 2 and to take in consideration what happened to Phase that has a lot and to make progress and to complete the work.

Keith Drazek: Okay. Thank you, Rafik. Farzaneh, do you have a comment?

Farzaneh Badiei: I do.

Keith Drazek: Go right ahead.

Farzaneh Badiei: My name is Farzaneh from NCSG. I heard that in order to - as one of the takeaways from GDPR, was that in order to moderate the geopolitical

tensions and also come up with solutions for other regulation, is to have a closer relation with the government, and also that we should - everyone has to go and talk to government representatives. I think that's a dangerous trait and I don't think that is the right takeaway really.

GDPR compliance, we knew about that law for two years. We did not do anything about it, perhaps because we didn't have the right mechanism or we did not want to comply with it, until the very last minute. And it worries me that ICANN Board especially has been - recently made speeches about cooperation with governments and government participation is important.

And I have seen that in a couple of - and I don't have the speeches here, but I think that we see increasingly that there is more and more emphasis on the important role of the governments, and I have to say it is - we have to put a stop to that and I am very concerned.

Keith Drazek: Okay. Thanks, Farzaneh. So let's move on to the next slides please. Okay. So the questions - yes, sure, Göran. Go ahead.

Göran Marby: We are - one of the reasons why we sort of have to tell you is that we also want to send a message to the - going into Phase 2 is that as you know, to have a unified access model, you have to have - you have to diminish the contracted parties league responsibilities. And so far we don't have any way of doing that.

There are three different versions of it. You have to have the DPAs to reinterpret the law, plus - or you have to find other suggestions to make that happen. One of them is the - one of the proposal, which we never ruled - we don't know if that's going to happen, is the technical group is going to give me a report this week.

But just to keep that in mind, we went into the Phase 1 with legal advice from

the DPAs about some of the essentials. Right now, I can't provide that kind of legal advice for (unintelligible) unified access model. Thank you.

Keith Drazek: Thank you, Göran. So moving with the last few minutes that we have, the board submitted some questions to the GNSO Council, and there's quite a bit here. So I just wanted to give the opportunity at this point to the board to follow up with any clarifying questions it may have about the written responses that we provided, if there are any.

If not, we can return to the previous conversation or any other business. But, you know, we did spend some time and provided some substantive and detailed feedback to the specific questions. So maybe I'll just pause there. Cherine, Göran, anybody else, any other board members, feel free to jump in.

Cherine Chalaby: Well, first of all, thank you for the answers. I think the answers are clear. So we ask you a question about, we're going to have by the end of this year plans in our hand, a strategic plan, an operation plan, other plans, all mandated by the bylaws, that we need to implement in June - July 2020, so 15 months from now.

And what we don't want to do is put these plans in a drawer and forget about them. We want them to be live document that we all believe in and that we all implement together. Also, particularly on the strategic plan, on the operational plan that supports that, we do not want to leave the responsibility of success in the hands and the foot of just our CEO. We need to share that responsibility and work together.

So the question is, would we be read other things we need to do so that we implement this plan successfully, right? And that was the question and you have an idea for - one idea will be sufficient for the board, one idea for org and one idea for the community.

And sort of, you've answered the first question. And particularly your focus is

on planning precision prioritization because for these plans to be implemented, you need that precision. You need that planning. You need that prioritization. You need the allocation of resources. So I think we got the message clearly and we thank you for that.

In terms of the second point which is okay, we can't implement everything on our end. We're not operating in a vacuum. We operate with alliances and partners, and what do we need to do? And you said, well, you're not really in a position to tell us some ideas, but you laid out a good principle about, you know, being open and transparent and cooperative in dealing with these so that you can get that cooperation. So you've given us very good feedback and we really appreciate that.

Keith Drazek: Thank you very much, Cherine. And, you know, much of our feedback was sort of inward looking as it relates to the GNSO Council's responsibilities. And as you have all heard us say before, the GNSO Council last year undertook its ePDP 3.0 discussions about reforms and recommendations to the council's engagement as the policy process manager.

And in 2019, we're now under way with the implementation of those recommendations that were approved last year by the council. And so we are very much - have very much taken to heart, the need for the council to take responsibility and to be more maybe aggressive or focused in terms of what can we do better to manage these processes better.

And so it's not a matter of changing operating procedures or that. It's more about how as the policy process manager, what can we do. And I think all of us can benefit from having that sort of review of our own performance and with an eye towards making it better.

And so we certainly look forward to engaging further with the board and staff and org to further that. Would anybody else like to get in at this point on any of these topics? Paul?

Paul McGrady: I would like to make a comment about the prior conversation. So we're not done here. Patch me up.

Keith Drazek: All right. So would anybody else like to weigh in on the feedback that we provided to the board? I'm not seeing any. So Paul, over do you.

Paul McGrady: Thanks. Paul McGrady here. I just wanted to react to one thing, which is, the governments are here to stay, right? The law is the law. We can't ignore it. But I do think we have to be more strategic about understanding what's coming down the pike.

And thank you, Göran, for saying, you know, tell us what you need and we'll try to help you get it, because we do hear about things coming out of the European Union. We hear about something coming out of Brazil today. Those things will affect the work of this council over the next three or five years, 10 years, right?

And so it's good to have as much information as possible upfront. GDPR, frankly if there hadn't been a fines provision that would have affected contracted parties, we wouldn't have spent five minutes on it most likely, right? It was just the fact that there was a big part of the community here who was going to face potential economic downside, and that's why we paid attention to it, because it became urgent.

But we have to move beyond that and not just deal with things on an ad hoc basis. So I just wanted to say thank you to you for allowing us to give you our ask, which I hope we do shortly after here in terms of what we need as a council to be aware of what's in the pipeline that could affect work here. Thanks.

Göran Marby: You're raising a point, and this is a personal comment. I'm not representing the board. ICANN as an institution, is well-known - actually one of the most

well-known and well respected institutions in the world. That means that if the ICANN community comes up and actually had a say, that can actually have an impact on potential legislations around the world.

And I would love to share - I mean we - I've talked about this many times that, if we would have had a policy for privacy, the right to privacy and the need for information as a policy that has an effect on all the databases we have, not only WHOIS, that would have been a really strong thing for me as your representative in interactions with governments, and maybe even preventing laws that could be not good for the total ecosystem.

And I think that that's something we should think about, how - that we - because I happen to think that we are better as a community and as an institution to do some of those things, because we understand how it works. Someone asked me a year ago, what was the - what would - before we started to consult on the process and everything else, they asked, what would you like to have?

And I said, the ICANN communities come together on a policy that's actually overriding, not WHOIS, not all of them, but they're actually overriding things. The same thing we're trying to do with public interest. That is something that this - think that this community very well can do. So we don't always have to be reactive. We can actually be active because I do respect the risks. Maybe that's something for the Phase 2. You can make that policy. That was a very personal comment.

Keith Drazek: Thank you, Göran. Thank you, Paul for the question. And I'll just note that if I recall correctly, this topic of discussion or exactly this engagement, this dialogue that we've been having about ICANN's place in the world related to policy development and global policies and the regulatory framework around the world, the variability of jurisdictional requirements, is captured in the strategic plan, ICANN strategic plan.

And that's something that I think we're going to have continuing discussions about, even this week. I think there's sessions on it this week, if I'm not mistaken. So this is an important discussion here in the GNSO. It's an important discussion more broadly for the entire ICANN community and organization. So Stephanie, last word on this topic and then I'll open it up for two minutes of any other business.

Stephanie Perrin: Thanks very much. Stephanie Perrin, head of the non-commercial stakeholders group at the moment. It's not normal for us to be promoting expansion of staff, although I would put in a bid from our resources for our very excellent policy team. I think they do a tremendous job and could use more staff.

But I don't see why ICANN can't have a little pod of people doing regulatory impact assessment. Don't just give us a list of new laws. That will be useless. We need regulatory impact assessment. I did that job, I don't want to tell you how many years ago. It's not that hard. You don't need high priced people to do it.

Well, you need a moderate range, but - and then put that out immediately and make it available for stakeholder comment because we have people in the different countries who might be able to indeed add to that. It would be very useful. We made it all the way through the ePDP, and we did not discuss the policing directive.

Now, the policing directive under the Europeans Union's framework is what the law enforcement community is going to be using to access data, right? So we should have been talking about that and we weren't. So this needs a really fulsome upgrade I think if we're going to be relevant in a global environment Thanks.

Keith Drazek: Okay. Thanks, Stephanie, and I think that's a really constructive comment, and it goes directly to what Göran said is that, you know - and I think as I acknowledged, the board has recognized, org has recognized the importance of this effort. And now it's up to all of us to work together to figure out how to make it most useful and most beneficial. So I think that was a really helpful comment. Thank you.

So with that, if there's - any board members have any other business that they'd like to raise with the GNSO Council. And if not, I'm going to hand it back to Cherine for last words. Okay, Martin?

Martin: Martin. One thing that's been mentioned a couple of times, the strategic plan session is tomorrow at 10:30 in the main room.

Keith Drazek: Thanks, Martin. Cherine, back to you.

Cherine Chalaby: Really not much more to say other than again, congratulations on the ePDP Phase 1. That was a tremendous effort, and I thank you for this open and interactive dialogue and look forward to more discussions. Thank you very much.

Keith Drazek: Thank you, Cherine. Thank you to the board members for joining us here in the GNSO Council room for lunch once again. We value these sessions tremendously, and this was I think a very good conversation and dialogue. So thank you and with that, we'll wrap up the session.

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