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GNSO – NCSG Meeting Part 1
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Stephanie Perrin: Okay folks. I think we'd better get going again. Thank you for your kind attention. We have some new people here so we'll do another very quick tour (unintelligible). My name is Stephanie Perrin. I'm the chair of the Non-Commercial Stakeholder Group and perhaps we could start the recording. Yes? Very good. Thank you.

And if we could start again with Arsene to do the introductions. Thank you.

Arsene Tungali: Hi everyone. Yes. So this is Arsene Tungali. I'm from the DFC Central Africa. I'm an NCUC member part of the NCSG and representing the NCSG and the GNSO Council. Thank you.

Raoul Plommer: Raoul Plommer, vice chair of NPOC.

Elsa Saade: Elsa Saade, representative for NCSG on the GNSO Council.

Rafik Dammak: Rafik Dammak. I'm representative for NCSG to the Council and also the GNSO Council vice chair.

Tatiana Tropina: Hi. Tatiana Tropina. I'm an NCSG councilor on the GNSO.

Louise Marie Hurel: Hi. Louise Marie Hurel for the record. I'm the NCUC vice chair and representative for the European region. Thanks.

Woman: (Unintelligible) NCUC member.

Maryam Bakoshi: I'm Maryam Bakoshi. I don't need an introduction but yes, here I am. That was a joke.

Ayden Férdeline: Hi. Everyone. I'm Ayden Férdeline.

Joan Kerr: Hello everyone Joan Kerr, chair of NPOC.

Juan Manuel Rojas: Yes this is Juan Manuel Rojas, NPOC member, membership chair and NCSG/UC member.

Ines Hfaiedh: Hi everyone. I'm Ines Hfaiedh, Africa representative in NCUC.

Kathy Kleiman: Hi everyone. Kathy Kleiman and in addition to being in NCSG and NCUC, I don't think it was said in the last session I'm a co-chair, one of the three co-chairs of the review of all rights protection mechanisms, policy development process working group, and I dare anyone to say that five times fast.

Bruna Santos: Bruna Santos, NCSG member, NCUC chair and the person responsible for the delay in this session. So.

Anriette Esterhuysen: I thought that was me. Anriette (Unintelligible), NCUC and NCSG member.

Thato Mfikwe: Thato Mfikwe, member of NCUC sitting on the financial committee.

Robin Gross: And my name is Robin Gross. I'm the - one of the NCUC representatives to the NCSG executive committee.

Michael Karanicolas: Michael Karanicolas, North America rep for the NCUC.

(Joann Patton):   Hello everyone. (Joann Patton) is my name, a fellow a member of the NCUC. Great to be here.

Oreoluwa Lesi: Hi everyone. I'm Oreoluwa Lesi. I'm the secretary of NPOC.

(Diana):   Hi. This is (Diana), a fellow and newcomer.

(Anna Lee):   Hi. May name is (Anna Lee). I'm with the (Esos) Institute which is part of the secretariat of the global commission on the civility of cyberspace.

Ariel Liang: Ariel Liang, ICANN staff.

Julie Hedlund: Julie Hedlund, ICANN staff.

Stephanie Perrin: So, Stephanie Perrin again for the record. Just - I'm going to really - we're missing about half an hour on the schedule so we're going to have to cut some things. Very briefly under reviewing the agenda and last minute changes, I'm so glad I put that in there because I've made quite a few mistakes. So be prepared. You know, that's - I spelt Thato's name wrong. It's M-F-I-K…

Woman: I changed it.

Stephanie Perrin: Ah, good. Thank you, thank you. And I also put Kathy down to be speaking on rights protection measures, which obviously she knows a lot about but she's actually going to be speaking about sub pro, subsequent procedures. So my apologies for that and maybe Maryam can make the change magically. Thank you. And I think that is the list of core agenda.

Now we finished the NCUC meeting with a presentation from the global commissioners on the security of cyberspace and if we could - there are quite a few new members mostly of NPOC who have come now so you missed that presentation. Could we condense it a wee bit so that's it's not too long? Is Anriette here? Yes? What do you think? Because I think we have a lively interest in the questions and responses, if we could do that.

Abdul-Hakeem Ajijola: I can do my best as long as it doesn't come across as disjointed and disoriented.

Stephanie Perrin: Yes. Thank you. All you can do is your best.

Joan Kerr: I could suggest that everyone else other than NPOC has heard it that we could invite him to come in one of our sessions and present, if - yes, unless you want to hear it again. I'm just suggesting if you have time.

Stephanie Perrin: Do you have availability? Could you come to an NPOC session?

Abdul-Hakeem Ajijola: Today?

Stephanie Perrin: When would it be?

Abdul-Hakeem Ajijola: Tomorrow or Thursday. (Unintelligible)

Stephanie Perrin: No. No can do.

Joan Kerr: (Unintelligible)

Abdul-Hakeem Ajijola: I'm supposed to leave tomorrow.

Stephanie Perrin: Well - sorry? Okay.

Anriette Esterhuysen: Stephanie, how many people are new who were not here for the first presentation? Four people. Look, it's really up to you. I mean I think Abdul-Hakeem as you've already seen we bring different things to the table but if you need the time and I know we took extra time, I'm here for NomCom so I have some constraints but I could, I could come to an NPOC session to talk to you about the commission, if that is your decision and if Abdul-Hakeem if that's okay. Yes.

Stephanie Perrin: I think that would be - yes. If we could just go ahead with the questions to finish that round of questions off and then you folks can catch up with your own separate meeting with Anriette, if you don't mind. Yes. Yes, that's true.

Kathy Kleiman: So continuing questions then just for a few minutes if we could on the excellent presentation, which I hope you will have. It was really, really interesting. Content versus infrastructure and to what - I think Michael touched on it, but to what extent - we're always worried about that in ICANN and we have a bylaw that says we don't get involved in content. So to (Abdul), you know, to what extent are the norms entering into content versus kind of Internet infrastructure? Thanks.

Abdul-Hakeem Ajijola: I think we've tried generally to err in terms of the technical so that, as you know, even interpretations of the meaning of content such as the use of information warfare versus cyber warfare are looked at very differently by different nation states. So as much as possible I think, for example, Anriette spoke of the - I think the norm on election infrastructure. We had a lot of debate internally to these questions about the media.

And the bottom line was at the end of the day we decided it was better at this point to concentrate and focus on the technical as opposed to issues such as fake news and those while being very, very important. In fact at the point we were actually thinking of having a second or an additional norm that would focus on that aspect of content, but at this point I would say generally we've tried to focus on, you know, the technical.

Anriette Esterhuysen: Kathy, I think that's actually an issue to consider for regulation or norms in general and I think what we're seeing at the moment is governments responding to what they classify as fake news by wanting to regulate content, and I think we need to be really, really careful about that.

So it's - you know, I think that's any kind of - and this is why norms for cyber stability are so important because if you don't have norms, you have instability such as has been created by Facebook and others and then you have this response from governments saying, "Oh we have to regulate the Internet" when in fact they don't really know what is it they're talking about regulating.

They often are talking about regulating people and people's behavior and people's expression. So I think that distinction that you've homed in on is actually a really important one.

Kathy Kleiman: And I just want to alert you if I might -- Kathy for the record -- that there's movements even within ICANN to push ICANN into content regulation and to have the registries as, not all of them, but some of them, the ones that want to opt in as private regulators, they're calling it walled gardens, and this is really private content moderation and making them into private platforms. And so this is a movement that we're involved in fighting and we'll be talking about it later on. But just to alert you that the merger in going on. It's just infrastructure anymore or the public interest. Thanks.

Stephanie Perrin: Any further questions? Okay.

Abdul-Hakeem Ajijola: (Unintelligible)

Stephanie Perrin: Absolutely, please do.

Abdul-Hakeem Ajijola: Thank you. When we're trying to formulate norms we actually go through some kind of balancing process and really what we're trying to do is to ensure that first of all they've very simple to understand. They need to be broadly applicable and this is one of the areas of difficulties. They need to be strategic while really being focused and applicable. So it's very difficult to square those circles.

But one of our commissioners for example he comes from the perspective that, look, make this thing like the Ten Commandments, though shall not and then let everybody else interpret. But really in terms of this particular sub-organization of ICANN, the NCUC and the NCSG, I would want you to really look at how you can take first mover advantage.

One of the very interesting things that came in the earlier conversations was that the corporates tend to dictate and drive the agenda and, again, I think somebody else here has also mentioned our group of norms is like a buffet. It's not take all or, you know, it's not all or nothing. But the idea really is that I think this is an opportunity for the people in this room and the people they represent to really leverage some of these norms and be a little bit proactive.

And then one additional thing I wanted to add, when Anriette was talking about the norms to protect the public core, I think she talked about the physical infrastructure and the logical infrastructure. There is also what needs to be protected I think like the organizational infrastructure, so your Internet exchange points, but also your computer emergency response teams because from our perspective the computer emergency response teams are like your hospitals so, you know, in the traditional conventions you don't bomb schools, you don't bomb hospitals.

People do. But the idea I think behind the norms is first of all let's start somewhere to at least if you defined for example a no-no, at least then, A, you know that it's being contravened and then you can begin to develop

mechanisms to measure the degree, you know, to which they've been broken.

And then one of the other norms I really would want to place a little focus on is the cyber hygiene as a foundational defense and I don't think it was up there. No, it was. Okay so I won't read it. But one of the things I that would - I think would be of interest to this group is that arguably privacy is a key component of cyber hygiene.

And so to just buttress the analogy, once there's pollution upstream of any stream, whether it's an e-stream or a physical stream, will likely impact users further downstream. And so what we're trying to do is to keep our environment a bit safe. And then the other norm that I'd like to just draw some attention to is the norm on offensive cyber operations.

Again, I think we probably could successfully argue that offensive cyber operations often, if not always, involve encroaching on the rights of others, you see? So I think we need to look at this. Then on a relatively personal note, I mean we all appreciate that ICANN has several constituencies and this is good. However, there are some constituencies that we must continue, especially in a place like this, this kind of group, to advocate for.

And for me two of those constituencies are the people who are not yet connected, many of whom are in the developing world where I come from, many of whom are actually women. So I think this is very important. And then another key constituency actually are the unborn, you know, generations to come, and the simple reason is that we're setting precedent. You establish some of these things whether they like it or not it's possible or likely, let me say, that they're going to have to abide by them.

So we really have to find a way of advocating and thinking on their behalf. And so I think, just to summarize from the GCSC our general perspective is that we really see ourselves as -- bless you -- we really see ourselves as

complementing your work, complementing not just ICANN but the NCUC. So really we are your partners. We're all I believe working towards the enhancement of a stable, open, equitable and functional or functioning Internet.

But that's not the goal. The goal really is to enable all of us to put in place some kind of just modern society, and just I think is a word I would emphasize here. So really that's my summary in a nutshell. Thank you.

Kathy Kleiman: I think that's wonderful, I mean, what you're saying. And you're right that there's a natural affinity here. We've been advocating, the Non-Commercial Stakeholder Group, the Non-Commercial Users Constituency and people in NPOC actually who go way back, have been advocating for the rights of our grandchildren since before we had children so - and that we - it's not for us to give away rights for them that they'll never know they had if we give them away now. Thank you.

Stephanie Perrin: If I may ask just a couple more questions. Do you have a data commissioner on your commission?

Anriette Esterhuysen: No, I don't think we have a data protection or a data commissioner.

Stephanie Perrin: Well many of these norms are now breaches under most data protection laws so they're enforceable rights for individuals and I think you actually might get some pickup from the data commissioners. I would suggest you try to get on the conference agenda for the International Data Protection Commissioners Conference.

Anriette Esterhuysen: (Unintelligible)

Stephanie Perrin: No. No, no. Usually it's in the fall.

Anriette Esterhuysen: There's one right now (unintelligible).

Stephanie Perrin: Oh, there might - there's a regional South African one, a regional African one, but the international one, which is the big one, is September, October.

And the second thing is you really ought to try and get some interest from the Berlin group, which is the technical working party of the international conference. They look at Internet issues, ICANN issues, you know. So they might have some interest in it. You never know. Thank you.

Abdul-Hakeem Ajijola: Thank you very much.

Michael Karanicolas: Are we still doing any Q&A or are we going to move on? No, I have a question but I don't want to hold us up. So having had a chance to look a little more closely I would love to have an opportunity to dig a little more deeply into the recommendation on cyber hygiene, which it's not up there but states should enact appropriate measures, including laws and regulations to ensure basis cyber hygiene.

I think that when you talk about promoting safety online, promoting security, people generally won't disagree with that. In my mind where this starts to get tricky is the specific use of the phrase laws and regulations because to me it leads to a question of what kind of laws and regulations would be passed by states to promote the values that are here. And when you talk about things like - and that becomes challenging because the security argument cuts both ways.

You have a lot of folks, law enforcement folks specifically, that will argue that back doors to encryption, mandatory back doors to encryption, are necessary to promote security. And you have privacy and data protection folks and civil society folks, like a lot of people in this room, that will argue the exact opposite, that good digital hygiene and security means not backdooring stuff.

So, you know, that can be interpreted both ways but when the - when the norm says laws and regulations, states generally don't pass laws or regulations saying we will not have any back doors.

Man: (Unintelligible)

Michael Karanicolas: No, no, no. It's not about empowerment or disempowerment. If a state is going to pass a law - if a state is going to refrain from backdooring encryption, to take this one specific example, if a state is going to refrain from backdooring encryption, that's not something that's generally enshrined in law. The only way that gets enshrined in law is if the back door does get mandated.

And similarly, when you talk about legal or regulatory measures, I think that more broadly that tends to cut towards the security at the expense of privacy argument rather than the privacy to protect security. So I guess I should have just submitted this in writing rather than going on a little streak, and I will also do that, but I would love to hear your thoughts about how this was crafted specifically and how the legal and regulatory approach plays into promoting cyber hygiene.

Anriette Esterhuysen: This was, (Hakeem), this is the norm we disagreed with in the commission about the most I think. We really struggled to reach consensus on this norm and we actually we don't - you know, we have a healthy respect for diversity within the commission. So some of the norms are more consensual than others.

I think that's a really valuable comment. I think that it can be changed. I think we can still adapt it. We discussed that. I mean my particular concern about the norm is that I didn't want us to pass a norm that makes individual citizens or individual users responsible for their own safety and security. That, you know, that really greatly concerns me.

And maybe this could be adapted or could be modified. I think the message here, the context here, as I said in the earlier presentation, that public institutions, from the United Nations at the global level to governments, are holding the data of individuals and they're not sufficiently securing the systems that hold that data. So. And maybe one way of addressing or slightly modifying this norm would be to perhaps home in on that.

But you're actually raising a different concept which I don't think is one that we discussed adequately. So all I can say is put that comment down and we'll discuss it.

Oh by the way, one thing that this norm actually resonates, the European ENISA. What does the ENISA stand for? The European Network Information Security Agency? Is that correct? So this norm is actually very informed by work that they've done and they've also endorsed some of our norms, including the family core norm. So it is actually resonating with an intergovernmental process within Europe to look at having more firmer regulation around ensuring safety and security of online systems by government.

Stephanie Perrin: I think we can undertake to round up comments and send them to you so they're all in one package, not a problem. I had one more quick question. Are you - do you have anybody from the anti-phishing working group on your committee and are you familiar with the stop, think, connect - yes, convention? Thanks.

Abdul-Hakeem Ajijola: Well, two answers. On the first one, anti-phishing group, I'm not aware of anybody with any direct connection but definitely the stop, think, connect I think we're fully aware of that. Thank you.

Stephanie Perrin: Thank you very much. Thank you for your patience. Thank you for your flexibility and agreeing to repeat the presentation for our folks who weren't

here in the previous presentation and we'll definitely be in touch and send you comments.

Abdul-Hakeem Ajijola: Thank you.

Stephanie Perrin: Thank you. And now if I could turn the floor over to Thato Mfikwe to discuss the financial committee.

Thato Mfikwe: Hello once again. So taking into consideration that part of what I'm about to speak might sit well with some of the members and participants to be frank, as this will enhance the accountability and transparency processes within the stakeholder group.

So first the finance committee is not the same as (unintelligible) but is trying to slow things down but instead it must be seen as a vehicle that basically needs tires so that it can create that enabling environment that can catapult members and support community activities and promote participation. So furthermore, this is not more of a complaint report but an articulation of various of improvements that will enable the finance committee integration into NCSG and ICANN activities.

So I will try as much as possible to refrain from sounding like a broken record so I will try and cover some of the issues that have not necessarily been covered yet. So the first thing that I want to do is to look at some of the challenges that the finance committee has been experiencing in the past 12 months.

Number one, one of the challenges that we have been facing is that we've been having a lot of work that we need to do and there's been a limited number of participants within the finance committee. So what we want to do as finance committee is to provide alternative for members of the stakeholder group to participate within NCSG communities as the finance committee is

not that technical so I think a lot of people would find it easy to participate with the finance committee.

But now there are other issues that we need to also consider. We need to think about how we grow participation within the finance committee at, number one, looking at the terms of participation, voting responsibilities and open versus closes participation within the finance committee itself and how do we develop an on-boarding strategy for people who are intending to hopefully, like, join the finance committee.

And then the second issue that I also want to bring forward is complaints to the NCSG charter because the NCSG charter as I have seen it is a document that was adopted I believe in 2011 but there needs to be willingness to comply with the NCSG charter because it seems like there are issues whenever the finance committee tries to follow the directives of what is stipulated there, like auditing, accounting, financial reporting and exercising of due diligence.

So other issues is basically that the finance committee has been finding some difficulty in reaching consensus in the framing, especially if we have leaders within the community who do not necessarily agree with the recommendations or the decisions that have been made.

And then another issue that I want to bring forward it's the issue of the (unintelligible) again but now in a different sense because the (unintelligible) of the finance committee is very important in regards to the effective decision-making process that will be taking place within the finance committee because we cannot have the finance committee that actually agrees with any such thing or recommendation that is coming from any structure outside itself unless it is reasonable, I mean. But we must have freedom to challenge or to ask for security.

So talking about due diligence. Due diligence it involves evaluation of the organization from - it involves evaluation of the - oh, so I was saying that due diligence it involves evaluation of the organization from all aspects before making a purchase or a spending decision. So financial due diligence is in particular it will allow the finance committee to assess all financial aspects and potential acquisitions or spending to determine what are the associated benefits, risks and abilities and opportunities in financial transactions that is planned.

So involvement of the finance committee in our meetings is very important especially involvement of ICANN finance, ICANN finances and ICANN finance stuff in the meetings or the proceedings of the finance committee. It is important in order for the finance committee to kick start the fundraising process and to ensure that NCSG and its communities they receive a fair and equivalent financial support as stated in the charter of the NCSG.

But now the other thing that I also wanted to bring forward is some of the complaints that we actually had as the finance committee towards having more members, observers and voting shares. I mean there's different areas that the finance committee focuses on.

Number one, we're looking at the new gTLD auction proceeds which is something which is of high interest to the finance committee, looking at your ABRs, ICANN process complaints, comments on the reserve fund, operational fund, and then there's also that budgeting and accounting function, including the auditing function and including obviously correspondence, drafting and communication with the mailing list.

But now when we look at all these forecast areas of the finance committee, it was proposed by some of the members of the finance committee that they need to be broken down into three pillars. Number one would be accounting, number two would be auditing and number three would be fundraising activities.

But now coming to fundraising itself now, based on the communication or the engagement that we've been having with the executive committee of NCSG, it seems like NCSG will not be incorporated or be registered to become some kind of a legal entity but now we also need to understand the limitation that brings in terms of opportunity to fundraise as efficient funds because as some might be aware that ICANN the organization has some budget constraints so we need to actually see how best can we, like, make sure that the activities of the community are well supported.

So one of the things that we actually, like, were thinking in terms of, like, making sure that we are actually, like, facilitate this fundraising process, number one, it will be identifying institutions, entities, and individuals who can support the work that we do as a stakeholder group and also as it is stated also in the charter, we need to determine how voluntary contributions can be facilitated from the membership itself because I think it's very important that we also seek support on a national - do you want to comment? Oh okay. I'm not going to take the entire 30 minutes so I think I'm going to…

Kathy Kleiman: (Unintelligible)

Thato Mfikwe: Okay. You'll get an opportunity.

Kathy Kleiman: Incorporation is something we've talked about for years. It comes with a heavy overhead, as someone who's incorporated many, many organizations and companies. You have filing, you have rules, you have jurisdiction, you have taxes. We've also raised money for years without being incorporated because we do have kind of over, you know, groups that work with us, including at one point it was Syracuse University, now it's Georgia Tech. So I believe that money can be - still be donated and I pause in case anybody knows that for sure, but I know for years Milton was at Syracuse University and they were very receptive to working with us on donations.

And it's just so funny, I happened to tune into the Registrar Stakeholder Group as they were talking and they are actually arguing about this very thing right now, which is incorporation and would it make their lives easier or harder. And they've actually hired attorneys and they're doing analysis and they have no clear path forward, at least when I tuned in just for a minutes. They don't have a clear path forward, so I just wanted to say incorporation is really not as easy as we think it is.

Thato Mfikwe: Thanks very much. I think issue we had actually discussed with the NCSG executive committee in a meeting that we had on Sunday and the fear from the community it seems like they do not want to proceed in that direction of actually incorporating it.

But now I was just outlining some of the challenges that we might face because - if we want to support the activities of the community or the stakeholder group itself, then it might be necessary to, like, broaden the funding base of the stakeholder group itself because I hear what you're saying, the example that you've just given about the university being able to contribute to some of the activities and stuff like that but now we cannot necessarily have all the functions of the stakeholder group happen within the US to simplify access to those funds.

But we need to look outside those particular regions to still be able to access additional funding. So I think I'll just finish this and then maybe if you've got questions you can just note them down and then at the end we'll come back to them. Okay, carrying it on over.

Raoul Plommer: So, well I don't at least one - I've just done this project last year and, like, in my experience the, like, for example the Finnish Foreign Ministry couldn't have granted us money without us being a legal entity.

Thato Mfikwe: Okay. Thanks. And I think that was a comment. I'm not sure. That's why I was saying that this is not going to be a long presentation. I'd prefer that I finish

the presentation and then we can take questions. Just please note down your questions and then we can deal with them.

Kathy Kleiman: But it's easier if we can ask you questions as we go.

Thato Mfikwe: Because I'm almost done. This is not long, really. Yes. So another thing is that currently we don't have clear or agreed guidelines in terms of how the finance committee should work with constituencies. I'm not sure how the constituencies themselves align with the NCSG charter itself because if they don't harmonize with each other than we are running at a risk of experiencing additional problems for the finance committee moving forward.

And then there was an issue of travel slots because on the mailing list we've been seeing that maybe the finance committee, this committee that is seeing ICANN as a travel agency, which I believe it's not right interpretation of the position of the finance committee, because the finance committee intends to participate within ICANN meetings as it is also stated within the charter itself.

So if the finance committee cannot get that opportunity - I mean, like, me being here. It actually gave the finance committee to engage the executive committee itself. But outside this particular meeting, the finance committee has never engaged the executive committee itself. I mean these are some of the things that needs to be enabled, be it online or be it onsite, but there needs to be way of the finance committee engaging the executive committee but not necessarily on the chair because the chair might not necessarily represent the views of the entire committee itself.

And so lastly now, to close this off, I would like to poll some questions. As much as you want to ask me questions, I also have some questions for you. Number one, are there any other issues or topics that you feel that the committee needs to cover in the next meeting that we will be having on Sunday? That's the first question.

And then secondly, what do you think the finance committee needs to do to support constituencies and how do you propose that they are able to work together, because as I said that the charter is very - it not clear in terms of that. And then number three, do you think that the finance committee needs to work together with ICANN Finance as articulated in the NCSG charter?

And then number four, do you think there needs to be an amendment of the charter itself? If so, why? And then number five, can the NCSG charter be - can - no, I'll just skip number five because it's not clear. So number six, how do we facilitate or solicit monetary contributions from members of NCSG? And lastly, will the FC wait for another opportunity to attend an ICANN meeting in order to engage the NCSG executive committee?

So basically that's the end of the presentation, very short. So. I'm ready to take questions now. Thanks very much.

Stephanie Perrin: Thanks, Thato. Have you been monitoring the queue that's been forming?

Thato Mfikwe: No. Yes, it's okay.

Stephanie Perrin: Okay. I'm not quite sure.

Thato Mfikwe: Thato Mfikwe. It's okay. So I mean we can - you can - maybe if you can take two questions at a time and then we'll see how we divvy them and also as a finance committee member, Stephanie, maybe you might also assist in addressing some of these. Thanks.

Stephanie Perrin: Okay. I'm going to assist by operating the queue. I really think probably it's one at a time because these are complex issues. Rafik first, I think.

Rafik Dammak: Okay. Thanks, Stephanie, and thanks, Thato, for the report. So I think one element is missing when we discuss about the finance committee because I hear, like, about taking funding and so on. You don't do it for the sake of

getting funding, you need the project or something to support. I think this is always missing because I'm hearing people like we need to think about that. We need to start first to see what activity or things we need to support and after we can do the fund seeking. So I think the order is quite wrong here.

The other thing, just a clarification, because I can't state that I was following the whole discussion on the finance committee list. I think there is kind of a misunderstanding about the role of each committee. To simplify, the executive committee is to deal with all membership and the structure and so on. That's the executive committee. Policy committee is policy. And the finance committee it's about finance.

And there is something in the charter that we have the chair to be ex officio - the NCSG chair to be ex officio in all the committees for some reason. So the link, the coordination is happening through the chair because the NCSG chair has, I mean through the charter, has several roles to do while being overseen by the executive committee. So it was almost kind of confusing for me when I see some discussion in the finance committee why you are looking at how to deal with other committees.

You already have the NCSG chair to help you on that matter so you don't need really to have, like, creating more observer or more communication. At the end, most of our work is happening in the NCSG list and you have our calls. So that's happening already. Just I never really understand the issue there. I was always surprised the kind of - another thing, I'm not sure I heard correctly about reviewing the charter.

Guys, I mean you are really underestimating the work and effort to be done in the charter review. NCUC went through that during my term. It has - you finish it with the, how to say, it's not just the next chair after me but the chair after the next chair. It takes time. You cannot - you don't have really control of the timeline. It will take a lot of bandwidth. So we need to be careful here.

And about the charter. There was a lot of kind of discussion, maybe people are not following that. If they don't, maybe they will be confused. The charter I do believe is quite simple. It's just a matter of interpretation because it seems that somehow there is thinking that NCSG finance committee will oversee the finance of the constituency. There is no way. That's not what the charter says.

And also regarding, for example, interacting with the ICANN finance team, there is nothing in the charter. What the charter says if the board creates some requirement for the organization regarding the finance, the NCSG will follow that. So that part of the charter just created in the future, but historically ICANN and the board never tried to get, and they don't want to get, into the finance of the different groups because they don't want to be liable for anything.

So we created, like, kind of strange I mean situation and we can spend a lot of time discussing that but it's not really the priority. You can interact with the finance team about something, about additional budget request and also about ICANN budget and operating plan itself. So I hope that we move from this and just focus on what is more high priority for us.

Thato Mfikwe: Okay thanks. Thato Mfikwe. Thanks, Rafik. I think I will respond because you just raised several options. Now when you're saying why we need funding as NCSG, obviously we cannot say we need funding and you don't know what we do with that funding because in the meeting that is planned for Thursday, one of the exercises is to explore, hopefully with the help of the executive committee being present in that meeting, to understand what are the needs and the wants of the community and the executive committee in order to assist or support the activities.

Because NCSG needs funding support for outreach, number one, membership drive, capacity building, (unintelligible) development for financial transparency purposes and to promote the work that NCSG does in terms of

what it stands for and the individual work that is done because there's also responsibility that could possibility be carried at NCSG level or at constituency level that might need that level of financial support.

Because when we're talking about outreach, I mean currently when you're looking at how funds are being used, those are allocated within NCSG, maybe I might be mistaken here, but I know that the - there's a lot of participation with things like global IGF part now, what does it mean about the mission of IGF and the regional IGFs because I think NCSG also needs to be present within the regional space and also in different countries and so on. Yes?

Stephanie Perrin: Can we cut that discussion right there and take the next question, which is Ayden, who is the new chair of the finance committee.

Ayden Férdeline: Thanks a lot, Stephanie. And this is Ayden for the transcript. And firstly, thanks, Thato. Thanks for your presentation and for offering us a bit of a postmortem on what are some lessons that you have learnt and some questions that you had about the finance committee. I think it's very useful to hear that.

And thanks for all that you've done over the past year in the finance committee because under your leadership the finance committee has become very active and that was not the case previously. The finance committee has been meeting very regularly over the past year. The email exchanges are significant and this is a different change. So thank you for invigorating the finance committee.

I wanted to respond firstly to the five questions that you posed to us and then just a few other comments that I had based upon what I heard. And so you asked what issues the finance committee should be covering and I think the key issue that the finance committee should be covering is preparing a

comment on ICANN's budget and operating plan because I think that's pretty important and it didn't happen this year.

And if I was to read through the charter for the finance committee I think that is one of the key responsibilities. It's to understand what are the priorities for civil society, what projects are being funded, what projects are not being funded and helping us understand whether the consensus policies that we're contributing to are actually going to be implemented or whatever actions could impact registrants or other noncommercial users of the domain name system. So I would encourage the finance committee to get back to basics and to be commenting on the budget before going into some other areas.

Secondly you asked what the finance committee needs to do support the constituencies. I think that it is possible for the finance committee to help the constituencies identify in the budget what support they are not going to receive and perhaps to offer input on what additional budgetary requests they should be submitting.

It should not be unilaterally submitting additional budgetary requests. It could perhaps make recommendations to the various constituencies based upon an analysis of what has been approved in the past and what has not been approved in the past. So that could be a really useful change.

Does the finance committee need to work with ICANN finance? I don't really see the need for that. At the same time, I don't think that there is necessarily any harm in taking questions to the finance department if those questions have first been raised on the broader NCSG discuss list and we have, when we prepare our comments on the budget for instance, sometimes we do have clarifying questions that we need to take to Finance. But I don't think we need to have much more of a relationship than that.

In terms of your fourth question about how do we raise voluntary contributions from members? I think we shouldn't do that actually. I think that

one of the - what distinguishes us from other constituencies in the GNSO is the fact that we do not charge membership fees, and that enables us to engage in bottom-up multi-stakeholder policy development because anyone can participate and there is not that barrier to participation that can sometimes come by charging dues.

As to whether or not the charter needs to be amended, I agree with Rafik that there are a lot of challenges there and it's not an easy undertaking. But I think it's possible that, not in the immediate future, but we may want to adjust the charter because I was surprised when I read the charter and saw some of the things that were in there. It's quite extensive to the finance committee and I think that there's probably a little too much in there and that maybe we want to narrow that.

But to address some of the other concerns you raised, so you said the finance committee has difficulty reaching consensus but the finance committee has three members, and so if the finance committee is having difficulty reaching consensus with such a small membership then something is seriously amiss there. And so maybe it's that there are too many issues that are being tackled. I think that it's possible, I think that the finance committee has been looking very broadly at many different issues that I don't think it needs to be taking.

You mentioned three activities, accounting, auditing and fundraising, none of which I actually thought were the primary responsibility of the finance committee. The finance committee is not an auditor. It should not be scrutinizing the finances of the individual constituencies. Just as you say the finance committee wants autonomy, I think the constituencies want autonomy as well. They each have their own leadership teams, their own charters, their own bank accounts.

On the question of autonomy, I'm very sympathetic to this because I chair the GNSO Council standing committee on budget and operations and similarly it

has no autonomy and we were recently in a situation where one councilor vetoed the submission of our comment because he had been traveling for ten weeks and hadn't read it until the day the comment was due, and this was very de-motivating for the standing committee which had developed this comment over the space of a number of, you know, six calls over two months.

And so this was very distressing. So I do appreciate the desire for autonomy but at the same time, we - after we were upset about that and we sold the submission of a comment that we didn't like and we made very clear that it wasn't the standing committee's comment and that we had been, you know, forced to remove all of the juicy details, we did reflect on why we existed and the fact that we were chartered by the council meant that we were responsible of course to the council. And so maybe we had to put our emotions aside a bit and realize that we're not an independent actor here. We're responsible to someone.

You mentioned workload and the membership and also an on-boarding strategy. Workload is challenging, especially if you're trying to grow a committee and you're trying to take on a few new tasks. I think that it is very important that we develop operating procedures, and I know that you were trying to do that.

But I think one of the reasons why you are having trouble reaching consensus there was because you weren't actually opening it up to feedback from NCSG members so you were fighting amongst the three of yourselves and there was no desire to seek broader input. And when an observer on the mailing list commented on the Google Doc, it caused great distress.

And so I think that is also a problem because the operating procedures ultimately have to be adopted by the executive committee and so if the three members of the finance committee can't agree on them, it seems likely that

there are going to be difficulties when it's rolled up to the executive committee.

On membership though, Section 2.6.1 of the NCSG charter outlines membership composition, and I know we had a discussion on the mailing list a few days ago about this. The finance committee should not be appointing additional members and it should not be seeking to add observers. That is not its responsibility. It is the constituencies that appoint members. It is the constituencies that can appoint observers.

And so I think that was just a procedural - maybe a misunderstanding as to what authority the finance committee has. But I think maybe the membership is too limited and maybe it's not. Maybe that is a discussion we need to have, but it is a discussion it has to have with the constituencies.

You mentioned incorporation and whether or not the NCSG should be a legal entity. I think we just shouldn't go down that path at the moment. There are too many unanswered questions. Kathy gave a great intervention before that offered a perspective from another part of the community. You mentioned wanting to simplify access to funds. I don't really understand why the finance committee would need access to funds. I would think that we need more controls in place, if anything, to prevent funds from being easily accessed.

You mentioned that you want to engage with the executive committee more. I think that's a great idea but I think we can set up a bilateral between finance committee and the executive committee, and that can happen over a webinar. I don't understand why it is necessary for the finance committee to receive travel slots in order for that to happen.

And finally, in terms of the involvement with national IGFs, I really - and regional Internet governance forums, I really don't understand how that would help the finance committee in fundraising. When I go to many of these regional events, generally they do not attract donors, they attract activists or

people who are interested in discussing issues. So I think that might just be a misunderstanding but I wouldn't suggest that we pursue that anymore at the moment.

And I guess there is also the elephant in the room which is the situation to do with the additional budgetary requests. The fact that the finance committee, well, one member of the finance committee submitted additional budgetary requests to ICANN Org, that seemed a little self-serving and seemed to be looking to support only two people that did not even consult the three members of the finance committee before doing this.

And so that is something that I still struggle to understand how that happened or why that happened but I think that's something that we just have to say - put on the table and say when we're developing our internal operating procedures, before the finance - in order for a decision to be made, it needs to first be discussed on the finance committee list and there also needs to be a discussion about whether the finance committee even has the authority to make that decision or whether that needs to be going to the executive committee, which I think it should happen.

So I'll leave my comments there. But thanks. I hope this doesn't sound too critical, Thato. I know this a learning experience for everyone and I really do appreciate everything that you have done to bring the finance committee up to where it is today and getting it more active. Thanks.

Thato Mfikwe: Thanks very much, Ayden, but you had a very long list of comments but that's okay. So firstly you talked about ICANN budget and operational plans but the finance committee to actually lead that particular process and if you will recall that in 2018 the finance committee did actually participate in contributing and commenting but not necessarily leading the process of a commenting on budget and operational plans.

And just last year, if I'm not mistaken, last year when that call was made for comments on ICANN budget, the way it appeared on the mailing list, it seemed like the policy committee was leading that process so that made it difficult because once an announcement was made on the community mailing list for the finance committee to hijack, you know, such - is going to paint us in a different (unintelligible).

And then some of the things that you actually like talk about, like the accounting, the auditing, the fundraising that they are not within the remit of the finance committee, I mean this actually boils down to the charter itself. You see, as the finance committee, in order for the finance committee to actually start doing what it needs to do, it has to go to the guiding document, which is the charter, but the charter was not amended so we we're following whatever it is that was in there. So I hope you understand why we did what did. But I hope I'm hearing that, yes.

And then you talked about the operational procedures that it was not open for community comment and has not been submitted to the executive committee. What I can agree with is that it has not yet been submitted to the executive committee but we have engaged the mailing list to actually provide comments on the operational procedures themselves.

So the second draft that we have of the operating procedures it includes the community comments and also what the SC believes that needs to also be integrated because we discussed all the outcomes of the public comment process as the finance committee. So incorporation issues of NCSG I thought we had already dealt with that so I don't think it's necessary for me to revisit that because I mentioned that in the last meeting that we had with NCSG executive committee we actually saw that actually it's not viable for us to continue that direction.

Stephanie Perrin: Thanks. And sorry for cutting you off but we're already 37 minutes behind schedule and I'd like Bruna to have a chance to ask her question.

Bruna Santos: This is Bruna for the record. I don't think it's a question; it's more of a comment. I think both Rafik and Ayden have, like, summed up whatever I wanted say pretty well but I mean in this past experience with finance committee, obviously I just became chair by maybe September of last year so I kind of got things when they were in collection already and it was a bit confusing to both, like, liaise with the finance committee and also to understand what you guys were doing.

But then I have some problems when you invite people into your list and you invite us to participate on the finance committee processes, then whenever we do a comment or whenever we offer some sort of criticism, which is basically feedback, you accuse us of, like, of leadership trying to stop the finance committee from working or to, I don't know. I mean there has been a lot of accusations going on and I think that what's problematic here is it's the lack of maybe comprehension that we're all here to work together and we're all here based on the simple - very simple concept called consensus.

So whatever the finance committee does has to go to the brother committee and the brother committee has to bring some more input on this, and this is pretty much all I have asked from you guys ever since the beginning. Right before the ABR situation, I had a call with you, Thato, and I pretty much asked, like, what does the finance committee need from NCUC and how can we help you doing whatever you guys need to do?

And then you're answer was, like, we should start to have a conversation together but then we are caught by surprise that the ABS was submitted and then it's rather confusing to try to work in this, but I have to finish my comment before you say anything.

Other than that, I have seen -- just two more comments -- your affirmation about the ABR at the NCUC meeting was not accurate so that from nine ABRs submitted in the last FY, only three were approved. This is a rather not

accurate information, especially in which we are facing cuts in the budget. So I mean I just wanted to point out that because you kind of listed this as if it was our fault for ABRs not being approved or if the action was, like, flawed, like had any flaws in the process.

And last but not least, I have a problem with you meaning to engage with the FC, especially basing your previous experience of not accepting any sort of feedback from leadership, so I mean I guess my comments is pretty much all over the place and I apologize for not being pretty much clear but I really want to know how can we work together and I really want to know how can we start from scratch and stop this confusion and misconceptions about everyone and what you should be doing, what NCUC should be doing, what NPOC should be doing, because this is not helping us at all. I'm finished here.

Thato Mfikwe: Okay. Maybe let me just answer this and then (unintelligible). Thanks, Bruna. In regards to the ABR, I'm not sure if you are referring to the last presentation that I made because with the ABRs what I had stated because actually when I really assumed that role of representing NCUC on NCSG, what I did actually went through the approved and designed ABRs to actually finally understand it in terms of what has happened.

And (unintelligible) that is also posted on the ICANN committee wiki space where we upload action plans and stuff like that, there you will find an outline of all the submitted requests and those that were declined. So to be accurate, in 2017 there were four ABRs that was submitted and then they were all approved. And then last year we had nine and then it seemed like there were only two. I'm not saying it's your - anyone's fault but I was just outlining in terms of this what is happening currently.

Stephanie Perrin: I don't like to keep cutting you off, Thato, but we do have to keep an eye on the clock. We have guests coming at 5:30. We have a question from Raoul and a question from Joan and I would like to get my two bits in at some point.

Raoul Plommer: Well I don't (unintelligible) 2011 is quite extensive but I don't think it necessarily should be auditing the constituencies versus auditing the finance committee - sorry, the stakeholder group, had it actually had a bank account.

Stephanie Perrin: Can I jump in here? I was very confused by that charter -- this is Stephanie Perrin for the record -- because it doesn't map to accounting principles. There's too many things, too many hats discuss this already. So I went about trying to find out who drafted the charter and this section. It turns out it was Avri so I had a little discussion with Avri and I'm not pointing fingers but, you know, it had a vast scope and as far as Avri was concerned, she said you really need to write procedures. Right.

I am committed to procedures this year. We need procedures for several things. The charter needs to have been supplemented with the regulations as it were and I - you have my promises that I will put a priority on that. Point number two, there has been a great deal of criticism on the list about the chair opening a bank account without getting approval from the finance committee.

I was instructed by the previous chair to get that bank account open so we didn't miss the money coming from PIR. I could see that the procedures were not ready and that we were having a wild all-over-the-globe discussion about where the bank account should be, and I'm not knocking your suggestion. I had a long conversation with Tapani about the idea of incorporating and moving to Estonia and, you know, it's not crazy but we were in no shape to get that figured out before the end of March when the PIR check is landing.

So believe me, I just - and this is one of the beauties of electing a senior citizen, that's free for me. I'm going to try and get a free UF account because I'm not getting - there's no seniors clearance rates that I get to benefit from, no so far. I'm paying the bills right now. I haven't got anybody to focus on

that. Hello, ICANN will not cover our database so I'm paying it on my credit card and on the first two payments I've lost $315 so far.

Now Maryam, bless her heart, is going to try and get that money back for me but, you know, hello, folks, don't treat me with so much disrespect as if I was absconding with the money. I'm actually quite overdrawn with you - not overdrawn, but I mean I've got quite an investment in paying our bills. So. Yes, thank you. And Farzi was before me, except she was in the United States so she wasn't getting the terrible, you know, MasterCard takes it - anyway, you don't need the details.

So I don't have the same priorities. My priorities this year is I see cuts coming. I want to show value for every penny we get. I would like to emphasize that regardless of the breadth of the charter, we have no agency - - none, zero -- on what ICANN gives us. So the travel slots, that is ICANN's money. They control it. I have no oversight of that and we waste it, you know? We routinely are not making maximum use of our slots. People, you know, don't stay for the whole trip, you know? We're making last minute trip decisions because we don't plan for it far enough ahead.

So my commitment is to maximize that and show good stewardship of ICANN's money because we have no audit on ICANN's money. That's their money. Same with the ABRs. They manage them. We don't have any agency there. I mean we have a responsibility to provide value and that's why I'm focusing on the value, but not to check the - to do the audit on the finance, not to do what is normally the finance department's job in large organization or corporation or government.

Now I'm not an auditor or an accountant but I have had all the management training that you are required to have spending authority in government so I do know how these things work and I think we need procedures that maps to something that is well recognized accounting practice. So I think we can work together in the committee and get those things going but I don't think we

should try and boil the ocean on the finance committee because we are being exhausted and pressed on our core duty, which is policy.

We need to get our orient all of these public comments that we're trying to respond to and we don't have enough people. And I have a basic question. I don't share Thato's view that we should be fundraising for NCSG. I think, particularly in developing areas, I think that our organizations, our members should be fundraising for their own members, not us getting more money to spend at ICANN, if you know what I mean.

Woman: What's the difference?

Stephanie Perrin: Well, and that's something we have to discuss. If - so if we find a funder, let's say MasterCard decides that it's really important to, I don't know, look at our ABR thing for developing cyber security awareness in Africa, I think that's a really reasonable project. Let's say a funder comes along. Should they fund us or should they fund some of our members who a running cyber security awareness out of the YMCA in a village, you know? I think I'd rather see them on the ground get the money.

Woman: Who can then bring money in (unintelligible).

Stephanie Perrin: Yes. Sure.

Thato Mfikwe: Thanks very much for all the feedback. You know, what I am sensing in this particular meeting it's something similar to what has been happening in the mailing list because as Raoul has just rightfully stated that most of the things that I've been communicating they're outlined in the charter so I am not doing something that is in my head. And with the auditing itself, I've never said anything about auditing of constituencies. The charter it talks about auditing of the finances of the stakeholder group itself.

So we try as much as possible as much as we want to actually enhance or improve on the activities of the finance committee, let's just make sure that we are well conversant with the charter. If not then we need to move quicker to actually amend because there will always be challenges to the finance committee whenever it's trying to - unless if people will decide that this what I can do without necessarily be added by the charter itself.

So in closing, hopefully there's no more questions or I don't know if we still have time, Stephanie?

Stephanie Perrin: It is nearly 5 o'clock. We have someone coming at 5:30 and we have kept Kathy waiting for basically an hour so.

Kathy Kleiman: That's true. I would have been here anyway.

Stephanie Perrin: Okay. Arsene?

Arsene Tungali: Yes. So I think one of the takeaways probably would…

Stephanie Perrin: Oh I'm sorry. I forget you, Joan.

Joan Kerr: That's okay.

Stephanie Perrin: Sorry.

Joan Kerr: Just a quick one. How (unintelligible)

Arsene Tungali: Yes. Arsene Tungali. So.

Joan Kerr: So it's Joan Kerr for the record. I don't mean to cut you off but like you said there's time issue. I actually think that this whole thing was overspent and I was going to suggest that we move on and maybe agree to have a working group on the procedures and defining the roles and responsibility of the

finance committee because I mean I read what the financial committee should do and I can see how there was misinterpretation.

I mean I hear what you're saying. If we fundraise, it should be at the local level, and I agree but that's not what it's defined in here. So I think that what we need to do is just come together and sort of say, "Okay, this all happens here. What do we do to go forward?" And I think if we could just close it maybe and then discuss that, I think that would be more comprehensively and define it definitively, I think that would help.

Stephanie Perrin: Thanks very much, Joan. And this is Stephanie Perrin again. I really wanted us to have a full discussion because there wasn't a lot of trust in all of this and I thought, okay let's have the time to discuss it. And given the agenda, I'm not sure that all of us can make it to the finance committee meeting so, you know, it was important to have this discussion here and get basic principles on the table. Arsene, over to you. No? Okay.

Okay, very good. Sorry? Sure.

Arsene Tungali: Thank you. Arsene here. So I think basically that's what I meant to say that as a takeaway of this meeting we've been probably Thato and his group have been doing the job they are supposed to do based on the charter but then it appears that they are not doing the right thing that they are supposed to do. And so I agree that there is a need to work procedures or to clear or amend to - or need to amend, to create any other mechanism that will help them with clear things like the tasks that we can all agree on and say, "Well, this is the job you guys need to do" and so they can do their work.

Stephanie Perrin: Thank you very much everybody that participated. I think this was a good discussion. I hope you think it was a good discussion, well.

Thato Mfikwe: It was very eye-opening so I appreciate all the comments. Thanks very much.

Stephanie Perrin: Sorry. I think it's probably we're overdue to have Kathy talk about sub pros, not rights protection measures. We'll get you next time on that.

Kathy Kleiman: Okay. So well, no those aren't the right - that's Michael's slides. No, noncommercial. The first set I sent you this morning.

Woman: That's Michael's fault.

Kathy Kleiman: Okay. First everybody shake it out. We're changing subjects here. We are going into subsequent procedures and I want to acknowledge that we have a Subsequent Procedures Working Group no co-chair but sub-team chair, Robin Gross. But, you know, you're leading the geographical names. No. Okay. Working group five.

Woman: (Unintelligible)

Kathy Kleiman: Okay. We are not looking at that today. We are not looking at today because they're on a different timeline, a later timeline. We are looking subsequent procedures. And first, who's a member of Sub Pro? Who's participating? Good. Because I'm not doing this all by myself and you haven't seen the slides so just assume they're all perfect and then let me know where all the problems are.

Okay so now subsequent procedures this the rules for new top level domains. And this is - we're in a really hard and complicated process and we're in a really hard and complicated working group. And it's hard and complicated because of the terms, the history but we can't let that scare us out of it because otherwise it's going to get dominated by incumbents and that's where it's going right now.

So these are the rules for top level domains and we have a special voice because we thought that these new top level domains were going to serve the whole world in many languages, in many scripts, the internationalized

domain names. We had top level domains and, if you can see the slide, you would see that they were in Hebrew and Arabic and Cyrillic and Hindi, but you can't see that and that these were going to serve communities.

So .com, .org., .net, the old ones, the 35-year-old ones, old technology, we opened it up. There was scarcity because per what Michael said earlier, there wasn't room for Delta, you know, Delta.com didn't have enough room for Deltaairlines and Deltafraternity and Delta everything, and now we can have a Delta.airlines and a Delta.faucet and a Delta.fraternity and a Delta.educationalorganization -- if only we get the rules right. And that's what we're talking about here. Maybe the rules that will go on forever.

Now if you could see my slides you'd see we have four issues. We have process, substance, private content control and do you care. Okay. So process, so again we're writing the rules for the next round and I've got to tell you the subcommittee is so extensive. Okay, so there's the slide with all the cool - these were top level domains applied for in the first round. And I'm not a chair in this committee at all. I'm just a member and I've got some questions and I need your help.

Okay. So let's go to the next slide, Maryam. So four issues. We'll get to those. Next slide. Process. Okay. So I've got to tell you that these - no, above. Maryam, we've got to go up. I'll keep talking because I know we're on time. So we've got Neustar, Amazon, Donuts and their vendors and their consultants are really running the show and that's okay but they need our voices and they need our voices a lot.

Next slide, please. See, they're taking over the slides. I'm just kidding because I don't want us - okay. So - okay. So if we were to get to substance, you'd see there's a hint. It says difficult stuff. So the first question of substance, how many applications should an applicant be allowed to submit? So I want you to think about the next round, the next round. We're going to call it round two for just a second.

Right now it's on the table. The incumbents tell us they should be allowed to submit as many applications as they want but do you want Google, let me just pick on Google for a second because I like Google, but should they be allowed to submit 1000 applications or 10,000 applications or 100,000 applications in the next round and what does that do going to (Abdul)'s point - - I'm picking on you, (Abdul), sorry -- to (Abdul)'s point, you know, two conversations ago, what does that do to the future if we allow the groups, only the groups that are awake now to apply for all - to cherry pick all the best top level domains? What will that do for the future?

The other thing is that this isn't just about applications. This is about those of us who comment on the applications. So what does it do for us, the watchers, the community that's trying to review and check and see if these are fair and right and balanced and if they serve the communities they say they're serving if we have to deal with 20,000 applications or 200,000 applications. Where are those resources coming from? The finance committee's going to have to fund a lot more resources.

Okay. Next slide. Another thing that's bothering me -- next slide, 1A -- in addition to the applications and having an unlimited number of applications is this crazy thing called the implementation review team. We know what an implementation review team is. It means we passed the policies. We give then to the ICANN - GNSO Council approves hopefully. ICANN board approves hopefully and it goes to implementation. Who's the technologist here? Okay. Are you allowed to implement some - I mean as a technologist you implement what you're given, right? The implementation you program it. You put it into effect.

As a lawyer, that's also how I feel about it. If somebody passes legislation or regulations, to implement it means to put it into effect. That's not what's going on here. So this - Sub Pro is recommending that it start its implementation review team before the rules are passed by the GNSO Council and the

ICANN board, just the noncontroversial ones. I'm not sure there are any noncontroversial ones, by the way, and that they continue long after the normal implementation review teams end to handle the ongoing questions.

The reason why this is is because we raised, Non-Commercial Stakeholder Group and others, raised real questions after the applications came in last time and it would be much better for the incumbents if they got to make the answers rather than letting the board make the answers. But don't worry, it's called the predictability framework so it all sounds good.

I want to tell you what our comments -- next slide -- what our comments said about the predictability. This is our comments that went in through Rafik's process. We said the predictability framework was not fair, balanced or consistent with our policy development process and that it is concerning to us to give inordinate and unprecedented power to an implementation review team and that it creates a super IRT, not just to roll out the details of implementation but to judge and rule on all issues that arise. And I'm tell you they're ignoring us and they will say we are outvoted.

I don't care. I'm not sure we should we be outvoted on something so fundamental. Next slide. More substance, variable fees. Oh this sounds good. Let's charge less to the applicants whose applications are cheaper to process and more to the applicants who are more expensive. You know who's going to be more expensive? New communities, new countries - I'm sorry?

((Crosstalk))

Kathy Kleiman: Yes, of course. Sorry. And anyone serving new areas and new groups. We're the ones, you know, all the ones we want to come in - yep. Well, they're going to say they're subsidizing these guys. I'm like I think that's okay. Sorry, let's be real. Next. So I've added to 1C several things that Robin suggested. She left. But community priority evaluations and I'm going to pass this over to

Collin for just a second and I'm going to add two things that Robin mentioned in the NCUC meeting.

But community priority evaluations currently have insufficient accountability mechanisms and I'm - I think we're going to have some trouble getting some more in, but I'm getting to pass this to Collin for a quick comment.

Collin Kurre: This is great because I don't think -- this is Collin Kurre for the record -- and I was going to say that this is really great because I don't think that we'll have time to get to my update about the cross-community working party. But the meat of what I was going to have to say has to do with this - these and other issues that we identified as being salient during our trial human rights impact assessment of the subsequent procedures policy development process.

So the problem that we found with the community -- there were many -- with the community priority evaluation related to the composition of panel and the potential for conflict of interests because there's no obligation for the panelists to disclose and kind of institutional affiliations or background that they might have.

There is inconsistent recordkeeping in the evaluation of these priorities that if and when we establish some sort of appeals mechanism could make it difficult to appeal decisions because you won't have adequate record of the ground on which these decisions were made.

We also found that there were generally insufficient accountability measures. It's unclear when the evaluation or even when dispute mechanisms are outsourced to third parties. It makes for a lack of clarity around who is ultimately accountable, whether it is ICANN Org or the third party and within that gray zone it's - there's a lot of opportunities for things to slip through the cracks or for people to not have, you know, proper availability for due process, for recourse, for redress, things like that.

And yes, I think that covers the high points for the community priority evaluation. That was one of those salient issues and the other things that we looked at were applicant support, the application process, dispute resolution, predictability framework, a big chunk of public interest and the lack of appeals mechanism. Thank you.

Kathy Kleiman: And there's points five and six which you can't see but they're there because Robin told us they were there and Collin just touched on one. One is closure of the round. So this is when should we consider the round closed? And guys, I've got to tell you, 2012 is not closed yet. There are still top level domains that haven't been delegated. There are still domains in dispute. Communities were actually very, very in disputed through 2016. So.

But the incumbents say the round should be considered closed as soon as the applications are due. Maybe we could wait three or four months and then get another round. We're going to be fighting those for the next - not fighting, talking about them for the next four or five years. I don't - so I think the rounds should be closed when those - if the idea is to have community comment and to have responses to those comments and to have governments, yes, the governments are going to comment too, the intellectual property guys and the Commercial Stakeholder Group, also users.

They've got comments. We'll have comments. I think we have to allow the process to percolate until the watchers - the round should include the watchers and all those comment processes. They don't like that. That's going to delay the 14 round and the 15th round and the 16th round.

And Robin mentioned and Collin mentioned an appeals process. This is a new idea but yet no one wants another review process. They don't want another comment period. It might delay the next round. And yet we might create this appeals process. Already we're seeing appeals of every community objection and every community that one because the applicants

don't like that the community won. If we don't have a fair appeals process, we'll never have any community objections anymore.

Next one. But just - that was just the good stuff. I mean that's the easy stuff. I'm going to get to the - this is the hard stuff and this is called private content control wall - they call it walled gardens. I love the names they give this stuff. Okay. So this has to do with what the registries can do with content. We know ICANN doesn't do content. I'll show you the bylaws in second. But the registries, new gTLD - .com, .org, VeriSign didn't do content control. Little minor ones, yes. They take down child pornography.

PIR also .org when I was there, we didn't content control, except we took down child pornography. But increasingly the new gTLDs are doing it. I'm going to show you how they get it in through the back door. But EFS has been warning us about this and they talk about threats - they published a whole whitepaper on how threats against domain names are used to censor content.

And then they wrote to the registries a big blog post that said don't pick up the censor's pen. What they really meant was put it back down. And then (Anne Marie Britty) is wonderful and she's a law professor and she wrote about ICANN's ambivalent drift into online content regulation. This is really scary stuff.

Next slide, please. So in the first round we're talking about 2012, with no notice and review Donuts inserted into its I'm going to call it I can't even say voluntary public interest commitments because it's a terrible phrase, its voluntary not-so-public interest commitments or voluntary commitments and they inserted into part of the standard contract -- I'll show you. Next slide.

Sorry, it's hard to read. Next slide, Maryam. Okay. Number three, registry operator reserves the right at its sole discretion and at any time and without limitation to deny, suspend, cancel or transfer any registration --we're talking

about domain names -- or transaction or place any domain names on registry lock, hold or similar status as it determines necessary for any of the following reasons. And it's to comply with this anti-abuse policy and its intellectual property. Look, infringement of any copyright or trademark.

Wow. Oh my gosh. And by the way, this is - oh and, Michael, they're up to 270 domain names now because they bought another registry. So they're just, you know, we're closing on 300, and it wasn't just them. (Mison Machines) did something similar. And - oh, complying with law enforcement. They're not saying complying necessarily with due process. Okay. Next slide.

So this contradicts ICANN's limited mandate. This is a new - the new bylaws and we know that ICANN shall not regulate, C, below, last paragraph, shall not regulate services that use the Internet's unique identifiers or the content that the services carrier provides. That's not supposed to be what we do.

So, next slide. My questions to you, as we are in the subsequent procedures working group and we need to activate more if we want, you know, if you're concerned about these then we can activate more. If you're not, okay. Do we want private content regulation, this discretionary takedown of speech, unlimited cooperation with law enforcement, et cetera, takedowns at will.

So I would argue that for 20 years we've been fighting for domain names as part of the global infrastructure and something where content is not mandated or dictated by ICANN or the registries because there is no global law in content infrastructure. That's what we do and then we let the registrars, who have the contracts with the customers, kind of handle takedown requests pursuant to national law.

And that - we've taken other positions. We've gone to consensus policies that we - that Michael talked about earlier, like the uniform dispute resolution procedure and the uniform rapid suspension. There are ways to take down

domain names but it's policies we've agree to, not whatever the registries want.

Next slide. So if - last slide please. Last slide, Maryam. I may have a - so I pose the question to you. If every new gTLD is a private platform or a walled garden, do we have to have a multi-stakeholder process or is there any reason for us to be here or can we all go home and what would you like those of us in the Subsequent Procedures Working Group to do? Thanks.

Raoul Plommer: Well that was a great presentation I think. Myself I'm definitely more interested in RPMs now.

                              END