

**ICANN Transcription – Abu Dhabi  
GNSO – Non Commercial Stakeholder Group (NCSG) Open Meeting  
Tuesday, 31 October 2017 15:15 GST**

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On page: <https://gnso.icann.org/en/group-activities/calendar>

Tapani Tarvainen: Anyway, let's get started. Maryam? Are you ready? Start the recording?

Okay, everybody, welcome. This is the open session of NCSG, the Non-Commercial Stakeholder Group of GNSO and ICANN.

And I'm Tapani Tarvainen, still the chair of NCSG for a few more days in theory, about to hand over to Farzaneh Badii, sitting next to me. And even though I'm, as noted, still technical the chair until Thursday, I think, for practical purposes I'll be handing over about right now.

This (unintelligible) next to me is the official (unintelligible), which I shall hereby formally hand over to Farzaneh. And I'll add one more note, that in this situation, Farzaneh has the perfect advantage that she will be running the show in practice, while I shall be responsible when everything goes wrong.

((Crosstalk))

Tapani Tarvainen: So, Farzaneh, over to you.

Farzaneh Badii: Well hi, everyone. Farzaneh speaking. I did not know that I'm going to chair this session until now.

So okay, we have the DNS and content regulation. You might think that oh, but we discussed content regulation in the morning. There is a - this is a different session which Kathy Kleiman suggested that we have. This is actually about the registries getting engaged with content regulation. And then we want to see if you want to ask ICANN to oblige the registries to be neutral.

So if Kathy - is Kathy in the Adobe?

Kathy Kleiman: I am, and I'm on the phone, too.

Farzaneh Badii: Okay. Go ahead, Kathy.

Kathy Kleiman: Good morning or good afternoon. It's good morning here. Farzaneh, let me ask you first. The people on the panel, are they in the room? We're looking for Martin, Milton, Jeremy, Tatiana and Claudio.

Farzaneh Badii: They're all here. I made them come.

Kathy Kleiman: Okay. Terrific. Thank you. Let me turn off the echo that I'm getting. Okay. So...

Tapani Tarvainen: And Farzaneh said she made them come, and that's true. And she said she wasn't planning to chair. Don't believe that.

Kathy Kleiman: I'm glad you're both there -- our current and future chairs. Perfect.

So hello, everybody. I'm Kathy Kleiman, and I'm dialing in from Washington, DC. And I'm sorry I can't be with you in person. I haven't missed an ICANN meeting in a long time.

So this morning we talked - anybody who was in the NCUC meeting, we talked about the issue of ICANN entering content regulation, which is now fortunately in the bylaws barring ICANN from entering content regulation.

And we talked about the registrars and the new study of Milton and the Internet Governance Project, that the registrars, some registrars, are entering into the process of taking down content. They're taking down domain names based on content, on a case-by-case basis.

So this afternoon we're going to talk about something different, and this is registries. And we're going to try to explore a growing trend, and try to figure out if it's a problem, try to figure it out together.

So what the trend is, is that registries, particularly new gTLD registries -- not all of them, but some of them -- are making their own private global law across entire top level domains, or in some cases across dozens or hundreds of top level domains.

They're treating gTLDs as their own private platforms, and taking down any content that doesn't fit the rules, and in some cases saying they can take down any content they don't like.

There's a growing bit of scholarship on the issue. Annemarie Bridy, a law professor at the University of Idaho School of Law, wrote a paper last spring, "Notice and Takedown in the Domain Name System: ICANN's Ambivalent Drift to Online Content Regulation." It's a great paper. I'll send out the link after this call.

Then over the summer, EFF and Public Knowledge -- so Jeremy, Mitch Stoltz, and Gus Rossi -- published - did the research and published an important report called "Which Internet Registries Offer the Best Protection for Domain Name Owners?" So I'll circulate both links.

So today I'd like to hold a discussion -- and I appreciate you being here -- to track down this problem with what's happening, and then what we can do about it.

So I've asked Jeremy, Martin, Milton, Tatiana and Claudio to briefly introduce different trends that we're seeing. So one's going to talk about the Trusted Notifier Program. Another, the protected marks list. Another, the public interest commitment. And then a variety of abuse - quote/unquote, "abuse," because we're not clear it is abuse -- abuse that's being identified in gTLDs.

I've asked them to take no more than five minutes to introduce and frame the issue, and maybe less, and then move into a discussion about your observations, concerns, and what are our alternatives together.

So the title of this session is not ICANN and Content Regulation. The title's actually DNS and Content Regulation, because now we're going beyond ICANN, into the DNS, and into whether a top level domain is really a private platform that you can create any global rules for that you want.

So again, the order -- Jeremy, Martin, Milton, Tatiana, Claudio. Jeremy, take it away. Thank you.

Jeremy Malcolm: Thanks, Kathy. I have some slides. Are they able to be put up? And maybe I should move over to the computer where they are, so I can advance them.

Okay. So Kathy asked me to talk about the Trusted Notifier Program. For those of you who were at the NCUC meeting this morning, you will have known that I announced that EFF has a new campaign called Don't Pick Up

the Censor's Pen, which is - this morning I spoke about how it's directed to registrars.

And it's also directed to registries. And this is very relevant to what Kathy asked me to talk about, because we have registries that are adopting new censorship powers into their terms of service, to allow them to censor domains on the Internet.

And a couple of the registries involved in this practice include the following, if I can get - oh, there we go. No, fine. Thanks. Donuts and Radix. They have their Trusted Notifier Program with the Motion Picture Association of America, that allows the MPAA to report what it says are large-scale copyright infringing Web sites, with the expectation that these registries will then disable or suspend access to those Web sites' domain names.

And so this raises the possibility of the Web site losing its domain name or having it transferred, without a court judgment or any legal process on the say-so of the MPAA. Now the MPAA, of course, is not exactly a neutral authority here, because they are responsible for a lot of content being taken off the Web mistakenly through various mechanisms.

This is just illustrating a DMCA takedown notice where the movie studios that are members of the MPAA will often request the removal of videos and other material for copyright infringement, when actually they may not be. They use automated tools, bots, to take down content.

There have been cases where birdsong was identified as music wrongly, and taken down. There have been cases where the government of various countries, such as the government of Ecuador, has misused the DMCA for political censorship. And then there are cases like the dancing baby case that EFF is involved with, where, you know, clear, fair use was taken down on the basis of alleged copyright infringement.

So this is the kind of industry that Donuts and Radix are handing over control of the decision of whether a Web site is infringing copyright.

So as if that wasn't bad enough, not long ago the Domain Name Association and the Public Interest Registry were both promoting an idea to make this sort of copyright removal system a standard for the industry.

And so we brought this to light, and stopped it. The reason why this would have been especially dangerous is because it wasn't just, you know, two registrars. It would have been all of the registrars who are - sorry, registries. I apologize. The registries that were members of the Domain Name Association.

And when multiple parties band together like that we call it shadow regulation, to indicate that it's even more dangerous, where a shadowy private agreement or code or set of principles, whatever they want to call it, causes an entire industry to act in concert.

So we were able to defeat this because luckily the Public Interest Registry is associated, as you probably all know, with the Internet Society. So we actually activated the Internet Society members through one of the ISOC mailing lists saying, hey, do you know that the registry that you're indirectly supporting as a member of ISOC is actually planning on copyright censorship?

So that very quickly put that plan to an end, which - and DNA, Domain Name Association, backed off almost as quickly as well. So that's great.

However, the DNA still has got a similar takedown set of principles for taking down pharmaceutical Web sites. So although we won on copyright, we didn't completely win the battle against registries doing this sort of thing.

I probably used up most of my time, but just before I end, we do think that if groups of registries want to make some kind of code of practice of how they should deal with conduct, then there may be a way of doing that if it is inclusive, balanced and accountable.

Really, ICANN is meant to embody this sort of process of inclusion, balance and accountability, though. So why do they need to make these private arrangements that are less inclusive and less transparent? If they want to make arrangements that apprise the entire industry, do it through ICANN, which is governing the entire ecosystem and doesn't just include industry players, but includes other stakeholders as well.

And this again is the paper that Kathy referred to that we put together earlier this year, "Which Internet Registries Offer the Best Protection for Domain Name Owners," where we're calling out some of those, like Donuts and Radix, which have deals like the Trusted Notifier Program; and also some others which you may not be aware of. So do check that out if you haven't already seen it. Thank you very much.

Kathy Kleiman: Thank you, Jeremy. This is Kathy again. Thanks, Jeremy. Appreciate your laying that out. And I know when I started to see what was happening, I was very surprised and very concerned.

Let's pass the baton over to Martin to talk about some of the things happening on the trademark side. Martin?

Martin Silva: Good day. Martin Silva for the record. Thank you, Kathy, for inviting me.

I think there's a lot of things to talk about when it comes to the right protection mechanisms and the possibilities of abuse or unbalance. So I'm going to just try to talk about very specific issues, because I don't want to overlap with other speakers, that there are many things to talk about in here.

So specifically what I'm going to talk about is about the Trademark Clearinghouse. For those who don't know, or just as a quick introduction, ICANN has put mechanisms to protect trademarks.

At the beginning there was just a (unintelligible) dispute resolution system. And nowadays we, the (unintelligible), we have a new set of protection mechanisms, and one of those is the Trademark Clearinghouse, which basically guarantees or tries to protect, in two different ways, trademarks from the new (unintelligible) space we have to create names.

The first one - basically what it means is that you have to register your trademark in the trademark clearinghouse. You come up with your trademark, and present it to the trademark operator, which is Deloitte if I'm not mistaken. And that basically triggers two things.

First of all, there's a (unintelligible) period, which means that during that period of 90 days, if I'm correct, you have like a first right to register, in a second level of any new gTLD, that trademark that you have registered.

So if you have a registered - for instance, I don't have the trademark (unintelligible). Let's assume I have the trademark of Silva's Law Firm. And then I have 90 days' priority to register Silva's Law Firm dot book, because that gives me a priority to protect my trademark.

And the other protection you have is that - is (unintelligible) protection. If anyone wants to apply for a new gTLD that is Silva's Law Firm, then the Trademark Clearinghouse is going to tell me, someone is trying to register your trademark. What do you want to do? You want to allow it? You want to stop it?

So one of the things we're discussing right now in the (unintelligible), and that's why I want to talk about this -- not only because it's important, but especially because the discussion is being done right now. So it's

(imperiously) that we actually take action now. This is not a theoretical discussion for later.

One of the things is that the Trademark Clearinghouse list, which is a database of trademarks that people have been putting on, is secret. We do not know what is inside the Trademark Clearinghouse. We cannot out it, that.

And the (unintelligible) that the (unintelligible) and especially operator have taken some sort of not freedom, but this is really (unintelligible) on how it actually handles the trademarks that are being submitted.

For once, these are (unintelligible) by design. The fact that we cannot meet trademarks from all countries, which seems reasonable, can be problematic in the sense of different trademarks from different (unintelligible) have these different (unintelligible) experiences, they could have lower necessities of protection.

So maybe there's a country where having a trademark is very easy, and it's very unbalanced with other rights. And that can lead to an over - a (unintelligible) over-reaching.

Or this is something that I found out during my RPM work, is that the operator is accepting trademarks that are graphical things. We call these, in (unintelligible), figurative trademarks, which means that the trademark does not have text on it. It's an image.

The operator says that if you can read in that image a text, then it can be protected by Trademark Clearinghouse, which opens a whole new broad - of things that basically when you have a trademark that is text, the diminutive trademark, you have a right to a text. But when you have a figurative or graphical trademark, you have a right to an image, not to text.

So that conversion is something that is definitely rolled in the scope, and broad in the scope. And that's, of course, problematic.

And the other part is that those trademarks are - or some trademarks can be grammatic. They can be words, dictionary words, that we don't necessarily want to be as hard as the others. For instance, the Trademark Clearinghouse, it has been protecting the trademark the, T-H-E, or love.

So the person that first got the registry of love in the Trademark Clearinghouse has a priority to register love as a second-tier - as a second-level new gTLD, or as a gTLD itself.

And one would say that love is - maybe some would say it's a word that's just too broad to have this sort of protection. Love book. Love music. Love everything. This owner that reserved the Trademark Clearinghouse has a very broad right. An this is one of the things (unintelligible) out in the RPM.

And another thing that is becoming a very big issue, and probably all the other speakers are going to talk about this, is the fact that outside of these sort of Trademark Clearinghouse protections, registries and registrars -- like Donuts, like Jeremy mentioned -- are having alternative mechanisms of protections.

For instance, Trademark Clearinghouse is about identical strings that Donuts is allowing for similar strings or associated strings, like typos or misspellings, or just words that are close enough to each other.

So we are having our second discussion that even if we regulate in a balanced manner the Trademark Clearinghouse, big registrars could (unintelligible) have a bigger symmetry power in the market, are having a second layer of protection that this balance, the balance that we were trying to create with the Trademark Clearinghouse, giving a much broader

protection for trademarks, and that could allow for an overrun of non-commercial interest.

So I could go with this for a long time, so I want to stop and let someone else talk about - but there's something similar going on, like Jeremy talked, with the copyrights. And it starts having alternative mechanisms over the copyrights.

Or registrars that apply to (unintelligible) that they have to compel with local law, therefore they censor content, because in the agreement it says that they are able to take measures not to violate law.

So there's a whole level of registrars acting technically on what they call the start of their agreement, doing censorship or overrunning balance that we have very carefully tried to establish inside the ICANN policy process.

Thanks.

Kathy Kleiman: Hi, everyone. This is Kathy again. Martin, thank you. Thanks for laying out the Trademark Clearinghouse, and that not only are the rules of the consensus policy being extended - so we created rules for balance of trademark rights, but also balance of non-commercial rights, balance of registered rights.

And those are being practiced in the breach, and the Trademark Clearinghouse has gone far beyond by protecting design marks and other things we expressly told them that they couldn't do.

But beyond that, we rejected a concept, as Martin outlined, called the Protective Marks list, where you could take a trademark outside of its category of goods and services, and protect it across all gTLDs.

And we rejected that. We rejected that as consensus policy. So what are some of these big new gTLD registries doing? They've adopted it privately.

So Donuts has a private protected marks list, as did Radix before Donuts bought them, so they still have it. Minds + Machines. And very disturbing that something rejected as consensus policy can now be adopted privately.

But let me send it - send you over to Milton, who does not have good news either, which is that - and he'll talk to you a little bit about how if you can't get it any other way, just put it in your contract with ICANN under public interest commitments. Go ahead, Milton.

Milton Mueller: Hello. This is Milton Mueller from the Internet Governance Project, Georgia Tech.

So I'm going to talk about a few other things, because one of the things I think we have to do very carefully is distinguish between regulations that occur because ICANN pressures or forces registries to put them in, and regulations that occur because the registries on their own initiative put them into their contracts.

I think it's a very important distinction. I think that's why the EFF, when they presented before the ICANN meeting, got into trouble, because they weren't making that distinction or were not understanding the significance completely.

So for an example, the Trademark Clearinghouse was a requirement of ICANN, that ICANN created it as part of the new TLD program, and all these registries had to conform to whatever processes were required as part of the Trademark Clearinghouse.

Similarly, universal - what is it? The URS - what does that stand for, Kathy? Universal Rapid Suspension?

Kathy Kleiman: Yes, Uniform Rapid...

Milton Mueller: Uniform. Uniform Rapid Suspension. Hopefully not universal suspension. That would be kind of self-defeating, right? That's what the trademark owners really want sometimes, you think. But yes, Uniform Rapid Suspension was a requirement of ICANN.

Now in some cases, like PICs, public interest commitments - well let's set aside PICs for a minute.

In some cases like the Donuts trusted tattletale program that Kathy was referring to, that was a private initiative of Donuts. And you can escape that in the sense that if you don't like what Donuts is doing with their rules and their snitching and their requirements, you can look for another registry.

Whereas if ICANN requires it, then all registries have to conform. And that's an important difference.

Now what's in a vague and fuzzy middle ground here are these public interest commitments. And public interest commitments is one of the hugest losses frankly, one of our defeats in the whole accountability reform process.

Because essentially, public interest commitments came about as these new top level domain applicants who were desperate to get into the market, literally desperate - they'd been held up for years. Their investors had given them money in 2009 or 2010, and in 2014 ICANN still hadn't actually given them a chance to finalize their applications, and the GAC kept raising objections about certain kinds of things.

And so in effect, the original public interest commitments were a way of sort of buying off GAC objections by saying, okay, we will do all of these things in the so-called public interest, which in this case meant the GAC interest or the interest of the GAC-ALAC alliance.

So you got these public interest commitments, and they were worked into the contract. And they might obligate or promise that the registry will do things that the consensus policy process explicitly rejected.

So, Kathy, what's an example of a policy that was explicitly rejected in the policy process, but was adopted in a PIC? Can you think of a concrete - I'm drawing a blank right here.

Kathy Kleiman: Oh, I've got a long list, Milton. One of them was private protected marks list. Donuts put that into its PIC. And Minds + Machines put in that they were going to protect all the geographic names, a whole wish list of the GAC, versus just the narrow country...

((Crosstalk))

Milton Mueller: Okay, those are good...

Kathy Kleiman: ...that had been agreed on.

Milton Mueller: Yeah, those are huge example. So in effect, the - going back to the early days of ICANN, the trademark owners were asking for a protected marks list, which meant kind of a blanket exclusion of generic - what might be generic words across the board, because they were trademarked somewhere by someone, and were considered to be famous.

And that was rejected as a policy. It was never adopted. But here is a private registry ten years later saying, well we'll just put that into our contractual base.

So you have a strange middle ground here in which the registries - you know, they're not really doing this entirely on their own initiative. They know that they're in this controversial period in which ICANN is agreeing to introduce new TLDs, and there's a lot of pressure from the trademark interests and

others to not allow them to enter the markets, or they might object to their entry. And it's all very discretionary and very political.

So these registries put in these PICs designed to essentially buy off or preempt objections to their success in entering the market.

And now you have this very strange situation as a result, in which ICANN could be called upon to enforce, as part of a PIC, a contract requiring a registry to do something that the consensus policy process has agreed they should not be compelled to do. All right, so we have real problems with PICs.

Now just to make you even more depressed, in the course of negotiating the accountability reforms, there was the free speech advocates and the - so the civil rights agreed and got into the new constitution, if you will, a very limited mission for ICANN.

But just like with Article 19, what's that article further down that sort of undermines everything that Article 19 does? What's the number there? I can't remember. It's - there's one that says, well regardless of Article 19, there's all these exceptions and exclusions that - you may not have to pay attention to what we said in that wonderful, beautiful endorsement of freedom of expression.

So the same thing happened with ICANN's mission statement. We had this great ringing endorsement of, here's their narrow, limited mission. We shall not have ICANN ever regulating content or services based on the domain name system.

And then you read after that, and it says, but all this crap we did up to now is exempted from this, including PICs. And you can thank our friends in ALAC for pushing for that, because they really thought that PICs were a good thing.

All right, so where does this lead us? Well I think, first of all, if indeed - in my opinion, a registry is, you know - to a large extent they have some obligations based on their registry agreement. But if they want to maintain a reputation for their domain, and be somewhat discriminatory in terms of what goes into their domain for good reasons, that is actually fine with me.

So for example, we have the example of dot cat, the Catalan special top level domain. And Farzi thinks it's a horrible thing that she can't register nyan.cat, but because it has nothing to do with Catalan culture. So in the dot cat, they discriminate on registrations based on whether you are promoting or - you know, Catalan culture.

To me, that's fine. I don't have to register in dot cat. Even I may be a cat lover. I may - what? You're interrupting me

Farzaneh Bardii: Yes, I am. Also you are like going over time. We have to move on to the next speaker.

Kathy Kleiman: Farzi, can I...

((Crosstalk))

Farzaneh Bardii: Okay, Kathy.

Kathy Kleiman: Okay...

((Crosstalk))

Farzaneh Bardii: I just wanted to say there was no competition or anything for dot cat when it was assigned to Catalan. It was - no one - it was not an open application that various people could actually apply for. So no, it was exclusively given by ICANN to this registry.

Milton Mueller: Okay, so Kathy wants to argue with me now, too. Go ahead.

Kathy Kleiman: No, no, no. What I wanted to say is that we have two more quick speakers, and that also it's critical that we open this up to discussion. So and also that I think there's a real limitation. Milton, I don't think you have to go into dot attorney. I'm not sure that limitations on a gTLD's kind of mission statement for bank or attorney - I'm not sure everything has to be an open TLD.

But what we're talking about here is kind of this idea of inserting global rules on content for IP or abuse. And that's why Tatiana and Claudio were kind of in the queue to start the discussion. They're going to talk a little bit about what general abuse is, and kind of this growing definition of abuse as anything I see, or actually anything they tell you it is.

And then, is there a concern here? I have a big concern over these global rules being created privately across entire top level domains. But if you don't, then we will have a discussion. But after Tatiana and Claudio speak, and also anyone else who wants to speak. Thank you.

Farzaneh Bardii: Tatiana, please go ahead, but just be brief.

Tatiana Tropina: Thank you very much. Tatiana Tropina for the record. I'm going to be very brief, because I believe that Milton covered quite a lot about PICs. So I will just briefly talk what Kathy asked me to talk about, about registries establishing their own rules, and considering like new gTLDs -- and I'm not talking about legacy gTLDs here -- as their private space.

Well what I can say - I mean, from legal point of view, we can be whatever uncomfortable with this situation. But correct me if I'm wrong. I think that these - the absence of any kind of figuration here creates the situation when if we rephrase the famous Polish saying, any registry can say my circus, my monkeys. It's my rules here, and I'm free to establish whatever rule I want to.

How do I see ICANN here? If we want ICANN to stay neutral, ICANN cannot do anything here. Because if ICANN is engaged in stating the rules in the field of regulation of abuse, and taking down the Web site, ICANN is going to be a regulator.

But in my opinion -- I'm speaking (unintelligible) -- the vice versa applies here as well. If ICANN would establish the rule for whatever transparency, not take down this content but take down that one, it is regulation as well. So ICANN is going to get engaged.

So the question here for NCUC and CSG is, do we - and (unintelligible), I'm sorry, guys. Do we want ICANN to stay neutral, or do we want the registries to have fair processes, and ICANN get involved with these?

And I think that ICANN should stay neutral. And I'm finishing here.

So what NCSG could do here? Well concerning PICs, we could have infiltrated ALAC and do something with these. But it's way too late now.

So what can we do now? If we want ICANN to stay neutral, we really have to try other platforms to mobilize the registries to set the rules among themselves, like transparency, for due process, and what else we can imagine. Like, for example, EFF project on the shadow regulations, something like this, you know?

But do I believe that this is doable? I believe that as the mission of NCSG alone, I don't really see how alone. But maybe like mobilizing (unintelligible) and different institutional organizations as well, can be done something. But this is just an honest musing here.

It really depends on what we want. If we want ICANN to stay neutral, we just have to live with the fact that registries consider it their private territory.

Farzaneh Bardii: Thank you. Claudio, go ahead.

Claudio Lucena: Thank you. Thanks, Farzi. It's really just an insight that we were having, but we had the assumption - well when I was back in DC together with Kathy. But in this last day, I made this comment in the list and she thought it would be nice for me if I brought it to you for - as an exercise also.

And the idea is that if we take communities that talk about or try to avoid talking about content regulation; if we take, for example, content providers in another scenario, that usually also have the discourse of avoiding content regulation, the thing is, that was a historical discourse.

But along time, the nature of the service that they offer has changed a lot. The scale has changed a lot. So they are right at a point where they are giving in at - in some point; and in very specific situations, giving in to the possibility of intervening and regulating content. Because it's a different game if you take ten years, for example.

On the other hand, if we take the DNS coordination and the attribution and the managing of Internet unique item suppliers from a legal standpoint, this hasn't changed at all. This would be another very strong ground on which we should keep the stance of neutrality of ICANN.

And also because as a possibility, as a negative - possibility of a negative development from that, it's the fact that enforcement's going to be spent and streamlined across a number of instances. That doesn't help - it's not only not mandated, it doesn't help efficiency.

Farzaneh Bardii: Okay, great. Now we open it to discussion. I see Michael's hand is up in the Adobe room. Michael, go ahead. Oh, I'm sorry. (Unintelligible). Okay, go ahead, Wendy, and then Michael.

Wendy Seltzer: No worries, Michael. I did the queue plus - Wendy Seltzer, W3C. And hence I put the queue plus in the Adobe room, thinking of W3C queuing mechanisms.

But I wanted - I think this is a good discussion. And I think what we ultimately want is for the Internet to be a platform where non-commercial registrants can continue to express themselves freely.

And so it's not whether we want neutrality from registrars or registries or ICANN, so much as what combination of forces do we need to make sure that somebody can find a name to register, and then use that name without fearing that it might be taken away for something that they didn't expect at the time they registered, or blocked for something that they didn't expect.

And that's, you know, some combination of setting the right expectations for users who might go register in a restricted versus unrestricted registry, or with a registrar who has weird terms, and making sure that ICANN is not straying into regulating content or unduly restricting what users - or restricting at all what users can do with domains.

So I think we need to keep ICANN remit narrow, and also be restricting the contractual provisions that it will enforce, because each of those calls to enforce call ICANN resources into the business of enforcing things that might be discriminatory or unfair.

Farzaneh Bardii: Thank you. Michael, please go ahead.

Michael Karanicolas: Sure. I'll just start by noting that there's - I think that we're conflating debates that are kind of related, but speak to, I think, substantively different questions, which is one of them being around the TMCH and trademarks, and how domains are being allocated; and another around agreements between registries to police content, and the shadow regulations, as was mentioned.

And so focusing on that second aspect for a second, I would frame the issue a little bit differently from the way Tatiana did. And that is - sorry? Okay.

Tatiana Tropina: I just (unintelligible) without me.

Michael Karanicolas: That's what I'm referring to. I don't see it as being - this is Michael Karanicolas, for the record.

You mention it being binary with this question of ICANN creating agreements, or ICANN staying neutral. I think there is a third path, if I'm understanding the topic correctly, which is ICANN enforcing neutrality or pushing for neutrality. So okay...

Tatiana Tropina: That was...

Michael Karanicolas: So okay, well then I apologize for...

Farzaneh Bardii: Sorry, but I - we don't know what you are talking about together at that end of the table.

Michael Karanicolas: Tatiana was objecting strenuously to how her position was characterized. So forget that I mentioned Tatiana at the outset.

Let me just say that in terms of these registry agreements, ICANN's pushing for neutrality as we discussed earlier today at the NCUC, which seemed to be the better avenue forward.

And from that perspective, I did want to ask Jeremy something about the second last slide that you presented, which was that in terms of agreements between registries, or how registries are going to take action on content, that it wasn't necessarily a bad thing if this was done with accountability and inclusiveness and et cetera on particular values.

And I was wondering, do you see any positives to registries being in this game at all? Or do you see the assessments of these policies as sort of the lesser of two evils, to bring them into light in order to ensure that at least the broader community gets to have a say?

Because I don't see any positives to it. To me it's just an additional and unnecessary layer of content restriction above the DMCA system. So I would be curious to hear your position on that.

Jeremy Malcolm: Yeah. I don't think that there - if there was an inclusive multi-stakeholder process to address this question, I think it would come down on the side of let's not do it, because it's a bad idea.

So there are - in terms of anti-abuse actions by registries, there's more case to be made for that. But I don't think - certainly for popular enforcement, it's completely the wrong player in the ecosystem to be dealing with that.

Farzaneh Bardii: Bruna wants to make a comment, and then we'll go to Tatiana.

Bruna Santos: All right, just a quick follow-up. Bruna Santos for the record. And then on the two previous comments, I was thinking about the Brazilian like reality. We also have (unintelligible) considering (unintelligible) principles for content removal. But it's at a local level.

So I'd let you know that this is our thinking. How could we apply this? Or is there applicable for like content removal with regards to ICANN and DNS system? Makes sense? I mean, did it...

Farzaneh Bardii: Sorry. Who are you asking this question from?

Bruna Santos: I guess Jeremy can weigh in. And I don't know, maybe someone else has another view.

Farzaneh Bardii: Maybe you should repeat that question.

Bruna Santos: No, just - I mean, when you consider like laws, at a local level you - the (unintelligible) for the Internet's like Brazilian civil rights framework considers the Manila Principles for content removal. And we not only like make it an obligation to have the content being removed by a court order, but also like have this displayed.

And I would like to know the application, and if you think there should be an application at the DNS case in ICANN, because they're not dealing with like local laws, not a level anymore. So how can we comply to that?

Jeremy Malcolm: So the Manila Principles are applicable as much to registrars and registries as to hosts. But not everything that a host can do, a registry can do. For example, like displaying that notice about content that was removed isn't something that registries can do.

So again, I think that I'd just point to registry level censorship being the wrong level at which to deal with content. But maybe someone else has some more thoughts in response to that question.

Tatiana Tropina: Tatiana Tropina for the record. I want to clarify quickly, and then to comment on what Michael said.

I said that as opposing to ICANN being neutral, we have two options like. And they're, I mean, equally bad -- like (unintelligible). Like not really equally bad. They equally mean that ICANN would be doing something, and in effect, regulation or at least intervening. Not being neutral. Either to push for neutrality, or to do whatever to create any agreements on abuse that ICANN will be enforcing.

I do believe that if we want ICANN to push for neutrality, then we have to be clear with ourselves. So we call for neutrality of the registries, you know,

actions and agreements and whatever, so not treating new gTLDs as their private territory.

We have to face this truth. In this case, we want ICANN to push to regulate, to intervene. If we want, yes, we can go over these. But it wouldn't be equally bad as ICANN as a regulator, because the situation can be turned against us in any other case, because you wanted ICANN to do something here. Why don't you want ICANN to do something in other areas?

And this is why I'm for some private push for some civil society (unintelligible) just, you know, outside of ICANN. Can be too powerful. Thank you.

Farzaneh Bardii: Thank you, Tatiana. So is there any other comments? Okay, I don't see - Bruna, your hand is up in Adobe. Is that - okay. Okay, Kathy, do you want to make a comment?

Kathy Kleiman: Yes. How's the audio? I got some messages that the audio wasn't good before.

Farzaneh Bardii: It's great.

Kathy Kleiman: Okay. I just wanted to thank everybody for the discussion. Clearly there are different - there's a common concern about this global regulation through top level domains. And but different views on what's less dangerous. How we should approach it. What ICANN's role should be. Whether ICANN should be involved in blocking it. Whether ICANN should be involved in setting up requiring neutrality.

But I can tell you ICANN right now is involved in encouraging it. Kind of the raised eyebrow. They're actively involved in encouraging it, even though they're not doing it by specific rules necessarily.

So I think there's a lot of work to be done, but I really appreciate the discussion, and I thank all the presenters who prepared for it. To be continued. Thank you.

Farzaneh Bardii: Okay, thank you very much. So our next agenda item, we are going to have a meeting with SSR2 review team. And this is going to be a very, very interesting session, because there's some drama.

Now what is this SSR review team? It's the Second Security, Stability, and Resiliency of the domain name system review. And we are meeting with them today to talk about their work.

But recently the board sent a letter, which I'm just going to pull up. And it's a shame that James Gannon is not here, to tell us more about this review team. But so the board sent a letter and criticized the process of how this review team was functioning. And so let me just find this letter and I - okay.

So the board sent a letter and said, the board has received and carefully considered advice from SSAC, and feedback from a couple of leaders that SSR2 review is a critical input for ICANN service of its mission, and that - and but there has been some problems with the process of how they were convened, and how they function.

So we are not really clear on what exactly happened. But they sent an email to Chris Disspain; sent an email to the (SOSAC), (unintelligible) this. So I don't know if I can read this, but I will read it.

Yes, (Gary)? Yeah, I'm - we finished this segment of the meeting a little bit earlier, so I didn't prepare, as you can see. But it's my first time as the NCSG chair, so please do have mercy on me. And I'm not the chair anymore. I'm not the chair, so...

((Crosstalk))

Farzaneh Bardii: Okay, I found it. Yes. So in June the ICANN board wrote to the SSR2 team to express concern about the adequacy of SSR2 work plan, terms of reference, and proposed scope. We heard some of these same concerns from members of the Security and Stability Advisory Committee in late September. And the SSAC formally advised the board about its concerns in October.

The board's organizational effectiveness forwarded this letter to the SOAC chairs on the same day, and (unintelligible) would be providing recommendations to the board and discussing the concerns with the chairs.

On October 3, the board wrote once again. And then throughout October, the board considered the SSAC advice and received communication from the organizational effectiveness.

And then - okay, so the board is asking the SOs and the ACs to consider the concerns we have heard, and determine whether or not adjustments are needed to this review team. We believe that a temporary pause in the SSR2 work while this consideration is underway is a sensible approach designed to ensure stakeholders can reach a common understanding on the appropriate scope and work plan, which will ensure the efficient use of ICANN's resources.

So the board didn't like the SSR2 team composition, adequacy, and has found some problems with it. And then SSAC also pitched in and they voiced concern. And so they paused the group.

Rafik, do you have a comment?

Rafik Dammak: Okay, thanks, Farzaneh. This is Rafik speaking. I think the issue raised many problems and (unintelligible). So I think maybe we can clarify with the board first, what does it mean the suspend.

It means you - we fix the problem, that group, or issue. It means that there is like a likelihood that at the end we will kind of stop that working group - review team, and try to reconvene with a different composition. So I think we need to ask the board what are the kind of options we are thinking.

But on the other hand, I think the concern that was shared in the (unintelligible) like the GNSO board meeting or the - yesterday, operating standards meeting, is the intervention of the board in the process. Even if they think it's important and they wanted to help, we are talking here about (unintelligible) teams post-transition, and it was supposed that we - the process is managed by the community.

So it's concerning that, okay, it's happening for us, too. Maybe there are valid reasons. But we are worried that it will be a precedent for the future, because what it seems, the case, they're talking about the scope. So it can happen for other review teams, and we have some that they will start soon, like the Whois and so on.

So we need to be careful clarifying what are the options, and how the community will decide at the end. Because I think there was a confusion at the beginning. They were asking the SO and AC leaders if they are agreeing with that suspension, and it's not the case.

At the policing committee level we send email to (unintelligible) to appease the representative to the SSR2 about his opinion. And what he shared with us is that there was no consultation from the board with the SSR2 members. So it seemed that there are - I know that the board sent a letter expressing concern, but there was no consultation or discussion that maybe they will try to work on the scope or (unintelligible).

And I'll be - last comment. I'm kind of worried about the wording, resources, what we mean by resources here.

Specifically I worry that we'll like spend a few thousand of dollars just because, you know, the team - (unintelligible) we don't let them to continue work, I mean, even for a few weeks. I mean, I don't see why we need to suspend. Feels like kind of we suspend before, but we (unintelligible) somehow. So just need to clarify all this hopefully with the board, yeah.

Farzaneh Bardii: Thank you. Well it seems like SSAC is also not happy. And...

Rafik Dammak: Yeah, the SSAC is not happy, but I mean, I'm not sure if it's kind of - it seems it's kind of jurisdiction. The SSAC maybe is worried that what the review team put in (unintelligible) scope and term of reference, that area, maybe the SSAC thought that they should not go there.

And so it's kind of maybe we're here and kind of (unintelligible) between the two groups about this. So we got caught in this issue. But from our side, I think we need to think about not setting the precedent, and about keeping the review process managed by the community.

I mean the (OAC) and the board can help, of course, but we should not - we should avoid the situation that the board thinks what is better for the community and help us intervene. So...

Farzaneh Bardii: Okay. Thank you , Rafik. So hand up? Arsene and (Ulf). Again you sneak up...

((Crosstalk))

Wendy Seltzer: Every time I put my hand up in...

Farzaneh Bardii: I'm sorry. I didn't see.

Wendy Seltzer: ...in the chat.

Farzaneh Bardii: Okay. So go ahead, and then Arsene .

Wendy Seltzer: Wendy Seltzer. As I said in the chat, I think we should simply not comment on this issue. I think it is not an issue that is significant enough for us to be spending our time on. And I think we don't have a consensus viewpoint here at the moment.

If we are going into the issue, I disagree. From conversations with people on SSAC about some of the concerns that were raised about the review team, it does sound as though it was going beyond scope, and needed a break.

Arsene Tungali: Thank you, Farzaneh, Arsene Tungali on the mic. I've been trying to understand (unintelligible) this issue. And the thing that there is - the board's or the SSAC express their feelings or the problems they noted within the review team. And so one of them was probably the scope of the review team, which wasn't clarified, I believe, since the beginning.

And the second point, I have the impression like the board's or SSAC members don't have like - they don't trust the members with regard to their abilities or their capabilities to run the review process. Those are the two things that I have the impression that's happened.

And so on that note of capabilities of the members of that review team, the question of being (unintelligible) myself is how these members were selected if now we think they are not capable of carrying the work they're supposed to do.

And probably there is shared issues at that level because we select members to that review team, that means probably we may question ourselves with regard of the people we send there who are not capable of doing the job put them to do. So now, the review is (unintelligible) and I believe what the

(unintelligible) is looking into now is speaking with ASO and AT dealers to try to clarify what they need to do with regard to that review team.

And for me, I think there are two scenarios. Probably, the Board or the AC or ASO charity will come up with saying, well, let's review the members of this review team and change its composition probably I don't know. And probably second scenario would be something like the board will say, well, let's restart or let's redesign the scope, and the mission, and blah, blah, blah of this review team before they can resume their work. And so I would say let's wait and see what will come out of this.

Farzaneh Badii: Rafik wants to respond and then (unintelligible).

Rafik Dammak: I just wanted to remind when we all talk about this call and so on, this is the SSR2 key didn't have any chance to give an update. They were planning to give updates in this meeting and they just was told that they are (unintelligible). So we don't know their (unintelligible) difference or the scope or anything, but we are hearing it's just from one side. And so I think the point is that when they are coming, we can ask them about the scope and as to client (unintelligible). Because what you have heard only from the SSAC and the Board. We didn't hear from the SSR2.

And about the appointment, I'm kind of concerned here because I am with Poncelet and Renata and the standing selection committee. We have an issue about getting more candidates so trying to reopen is not going to fix the problem.

I think we thought who we appointed because we are just appointing three. We are not even using the possibility to appoint up to seven from the GNSO. So we appointed three that we thought that they are fit to the role and they have the skillset. So it's just questioning them. I think it's unfair for the team members.

Farzaneh Badii: Okay, so they are supposed to arrive at 4:25, that precise, but I don't know if they are here yet. Stephanie, go ahead.

Stephanie Perrin: Thanks. Stephanie Perrin for the record. I just wanted to support what Wendy had to say. I do think we probably don't know all the details here and it may be inappropriate for us to know all the details. I think that we might question procedurally how this went. I share everybody's concern about the board reaching out and shaking whatever it doesn't like. So but at some point, we have to trust the board to perform its oversight function and to refer the matter to whatever committee needs to look at it.

And in that regard, I would have thought that would be the OEC. So I think maybe we need to query what the proper route is because this won't be the first or the last review team, no doubt, in which there are going to be questions. So maybe that would be the route to take. Thank you.

Farzaneh Badii: Very quick comment and then the team is here and they can update us.

Stefania Milan: Thank you, Stefania Milan speaking. I think this is just a quick comment, also in view of listening to these nice people here, is there anything we can do or want to do about this specific case and what else is relevant looking forward to avoid other similar situations. I think these are the two things to keep in mind.

Farzaneh Badii: So Wendy thinks we should not do anything about it. Did I get that right, Wendy? And we can discuss this later after the -- hi. Would you like to start?

Denise Michel: Hi, I'm Denise Michel, one of the co-chairs of the security and stability review team, the second security and stability review team. I'll let Eric and Emily introduce themselves.

Eric Osterweil: Hello, I'm Eric Osterweil, one of the co-chairs of the SSR2.

Emily Taylor: Hello, I'm Emily Taylor. I'm actually not a member of the SSR2 any longer, but I was until June or July one of the co-chairs and just here to show solidarity with the team and thank you.

Denise Michel: So as many of you know, the overarching guiding principle of many of ICANN's activities is the security, stability, and resiliency of the internet systems of unique identifiers that ICANN coordinates. So how are we doing? Every five years, there is an SSR security, stability, and resiliency review mandated by the bylaws that requires ICANN activities and looks at the effectiveness in addressing concerns over security and stability. SSR is one of four independent community reviews that are mandated by ICANN's bylaws. These reviews started years ago and in agreement with the U.S. government, the MOU, when ICANN went from a year-to-year contract to a longer one with the U.S. government, they required independent community reviews and oversight in four areas -- SSR, WHOIS, accountability and transparency, and CCT, which competition and consumer trust related to the new GTLDs.

Those four reoccurring community reviews were taken and dropped essentially into the new bylaws as part of the community's accountability mechanisms in relation to the IANA transition. And please stop me at any time if you have any questions or would like to delve into any of these issues more deeply. I'm going to run through these slides relatively quickly to give you an overview. You have a copy of them to reference and we wanted to spend most of the time we have here listening and answering questions.

So as I noted, the bylaws indicate what the SSR2's mandate is. There's one shall and several may's. The shall is that we must review the 28 recommendations in the first security, stability, and resiliency review and accept whether they were implemented and whether they were effective or had any impact.

The first SSR review was completed and the board adopted and directed staff to implement those 28 recommendations in 2012. And then there's a range of security, and stability, and resiliency efforts that are noted in the bylaws that we may look into. So that leaves us with a rather large scope of work given that SSR applies to almost everything that we do. We've had to review a large, large set of material to establish the current context of SSR at ICANN and we've had to call upon quite a diverse set of skills and experience from our team to do so.

So the team of 15 volunteers appointed by the SOs and ACs and one appointed by the board. Most of them want to be thorough and thoughtful and we want our report to be helpful to the community and the Board. And this review is not a quick exercise. Here's the composition of the team and unfortunately, for professional reasons, Emily had to step down. Previously, she was one of our co-chairs, and then recently, Cathy Handley retired.

There's some more SSR team members behind me. Can you raise your hand? I see Boban, Zarko, and Ram, one of your members, and Norm. So we've organized our work into five key areas. One of course is assessing the implementation of the first SSR review and its 28 recommendations. A second is ICANN's key security, stability, and resiliency activities, activities that ICANN has the sole or driving responsibility for. The third is activities that impact more broadly the SSR of the domain name system, activities that ICANN contributes to or facilitates.

The fourth area is challenges to the secure and resilient operation of the unique identifier system and the fifth is the impact of the IANA stewardship transition on SSR and there's several topics within each -- organized within each of these key areas.

So we had our first meeting as a team in March of 2017, delivered the teams of reference at the beginning of May, and this is a real front loaded review in that we have a large breadth of information and research to go through. So

there's a significant amount of information gathering, research, and due diligence that's occurring now and that was started in May. So sort of May-October timeframe. So we're just getting into the beginnings of formulating some findings, and suggesting, and doing due diligence on recommendations.

The plan before this week was do a draft report early next year, incorporate community comments, and do a final report after that. Since the Board has suspended the review team, we'll see. So key milestones include picking co-chairs, creating the terms of reference. The terms of reference model very closely the bylaws, the bylaw requirements and outlines for SSR. And as I said, we've been doing a substantial amount of due diligence and information gathering.

Unfortunately, the first 2012 security, and stability, and resiliency review recommendations that the Board directed the staff to implement in 2012 were not done when the second review team started and so we did not have a complete report of that until a few months into our review. And it took over five months to get the subject matter experts and executives on the ICANN staff to brief us and give us a more fulsome accounting of the recommendations. So that quite a time consuming part of our work.

And as I said, we organized into sub-topic groups to do a deeper dive, an RFP for gap analysis was issued. It took a long time to get that issued in the ICANN process so it wasn't issued until September. Given the time that's gone by and the other issues the team has gotten into, the team may want to come back and reconsider whether we've got time and the ability to still do a gap analysis. It was intended to be another point of input into the team's work as we've already done a lot of information gathering and analysis on SSR1 recommendations.

We're doing a whole range of public consultations, of course, at outreach meetings, at this meeting as well as we have a drafting session planned for

January. So we have another day of meeting here on Friday. Was to be a working session. We'll certainly be using that to process the input we've received from all of the stakeholder groups, constituencies, and advisory committees that we've -- NSOs that we've met with and we're keen to continue the conversation. And as we progress our report, we have quarterly reports for the community that you've been receiving since March and we have open email lists, and you can contact us by email, listen to our calls, sign up as an observer. Everything we do is transparent. I think we have about six staff following us around with a microphone. So if we've done it, there's a recording of it or an email about it.

So we told you that the SSR review is a periodic activity. It examines the activities and looks at the effectiveness in addressing concerns over security, stability, and reliability. And now, it's our turn to listen to you to help start the conversation if you had just one topic relating to SSR of this identified space that you think the review team should look at, what would it be? You're welcome to give us of course more than one but we thought that would be a good place to start.

And then after that or before that if you'd like to talk about the board's suspension, we're well -- we can tell you what we know. So I'll stop there and welcome any additions from my colleagues, or questions, or thoughts from the NCSG.

Farzaneh Badii: Thank you, Denise. So if there are comments. Niels?

Niels ten Oever: Thanks so much for this great overview and the work you have been doing, and also please tell us what you know about a suspension.

Denise Michel: Well, we don't know a lot. The Board hasn't actually talked to us so we're left with the letter that's in the public domain. We did finally have the SSAC talk to us today. Their letter to the Board was quite a surprise because SSAC hadn't talked to us or provided any input to us for before this either. And I

mean, personally I would say that we still don't have very much insight into what substantive concerns the SSAC has about the review team's work. They indicate that they thought that security, stability, and reliability, those terms should be revisited or redefined either before or as part of our work and that they do not like the process that's used to appoint people to these review teams.

But aside from that, we're still scratching our head and wondering what other issues led to such a strongly worded SSAC letter that went to the Board and why they didn't talk to us. They indicate that the process they used was not ideal. So we're left with a lot of questions and again, we're meeting with the Board or a subset of the Board on Thursday. We're hoping that we'll get more enlightenment there but aside from that, and just speaking personally, there's for me a much larger and overarching issue that goes quite beyond the security and stability review team, and that is if the independent community reviews are a lynchpin of accountability and they're intended to be an independent oversight mechanism, what does it say about any of the four independent community reviews or perhaps other ICANN activities such as the cross-community working group on accountability and transparency or I don't know, pick your favorite ICANN group that's working underway, if the Board can unilaterally say you're suspended. We have general -- and I'm not really sure where their authority to do that comes from.

But in any event, this really isn't my issue. It's not the team's issue (unintelligible) community's issue of what your expectations are and how you want these independent community reviews to be carried out.

Farzaneh Badii: Yes, go ahead.

Renata Aquino Ribeiro: Renata. You used the word unilateral. I'm curious how fast was this unilateral move? At least, as you said, there was the correspondence so I'm trying to picture the speed of these communications because sometimes you can add things to pause and be re-thought but how does that work?

Denise Michel: This is Denise again. I'd have to pull up the email list but in early October, SSAC -- so SSAC had not contacted the team before. So in early October, SSAC -- we started our work in March. SSAC sent a letter to the Board in early October. The Board in June sent us a letter with some input on the terms of reference -- of course, we operate just like you do, on consensus. We considered the input about the terms of reference and decided to continue -- to keep them as they are. That was June.

And then in October, the Board sent us an email through the Board Member who is appointed to the SSR objecting to a fact finding meeting we had set up with staff in LA, looking at several items that were related to the SSR1 recommendations. I think they misunderstood what the term audit was being loosely used as a reference for review and discuss these issues. So we thought we had cleared that up several times on the list and on phone calls, and they then indicated before we met that it was fine since they understood what we were doing.

And then that was it until the Board sent this letter to the SOAC chairs a couple days ago that we were suspended. So that's really the sum total of the notice that we received from the Board.

Milton Mueller: I'm not getting a very good sense of what the real issues are here. I heard complaints from within the SSR2 team that it was not going well, that work teams are not properly populated, that things were not moving forward. I've heard these references to these concerns that are being expressed by the SO chairs and by the SSAC. Can you give us just some very concrete examples of what were the concerns of the SSAC in particular?

Emily Taylor: I can try and Geoff might help.

Geoff Huston: Geoff Huston here, Milton. I'm one of the individuals appointed by the (unintelligible) distributing. Your characterization of the lack of progress, the

relatively sparse participation in some of these working groups, the outlook that was looking towards a successful and timely conclusion was getting increasingly dimmer and dimmer. Certainly, was weighing on my mind, the other person from SSAC, and indeed, seemed to be sort of overhanging the entire work of the review team.

It's always hard when you're sitting inside these teams to try and say, well, hang on a second. We're not all pulling in our weight here. The 15 folks or so who are on the team, the participation rate was much lower than that and it seemed that this was going nowhere. There was also a lot of confusion about precisely what the role was, the issue of whether this is an orders or review of the security and stability considerations of the broader community -- what level of detail was expected and what was the overall sort of project management of the plan.

Our phones calls were increasingly dysfunctional. It just wasn't working and in some ways, appeals and polls of the membership didn't really elicit any productive outcome. It didn't change anything and there was an increasing sense of frustration and dissatisfaction that ultimately got voices back into the constituency and the SOs and AC chairs. So that's the other side of the coin here that I didn't feel like we were being set up for success in all this. This was not going to end up in a good place and that's just a gigantic waste of time and resources.

So it was time to reconsider and I can understand why the SO and AC chairs talked to the board and the organizational effectiveness committee and kind of thought, well, what do we do now? Thank you.

Milton Mueller: Can I follow up with that? So by the same token, I got the feedback from members of the team that said that their remit was being actively debated and sometimes suppressed by external parties. So what was that about?

Stefania Milan: So there was a letter from (unintelligible) to the team that kind of points out the scope problems that the Board had that he said -- so specifically, we are concerned with performing assessment of ICANN's information security management system, on the right track. So these are the concerns of the Board. They are concerned with these items that I assume SSR actually distinguished to work on.

So perform a comprehensive assessment of ICANN's risk management methodology and framework and perform a comprehensive assessment of internal security, stability, and resiliency of ICANN's operation, processes, and services, and perform an assessment of how affectively ICANN has implemented its processes to ensure compliance regarding registrar agreements and the consensus policy.

Denise Michel: This is Denise. So Boban and Zarko were helped leading that subgroup that was looking into those issues. There was some misunderstanding laid out in that email. I don't know if you've got the reply to that email. There was a reply from Boban that then (Cavet) replied to and agreed that it should go forward, those issues were resolved, and the co-chairs also sent a letter. I'm happy to share those with the group if you'd like and those issue areas, again, it was more of a review and discussion of those areas and we were doing that by -- because we needed to follow our mandate of assessing all 28 of the SSR1 recommendations and those areas were covered in there.

And do you want to note some (unintelligible)?

Eric Osterweil: This is Eric Osterweil. I'll just note that I'm certain that people in the room have had experience with a large group of people that move at different paces and resource management whereby at certain times, certain groups are using a lot of the available horsepower, bandwidth, and they move forward while other sub-efforts are just simply swapped out temporarily. So the fact that not everything was always going ahead at full steam doesn't mean that we weren't making the best use of our team.

So I think in particular, the LA trip we spent a lot of time clarifying the misunderstanding both on email and verbally on the calls. And I guess I think the work product from that meeting alone shows a different view from what we may have just heard.

Denise Michel: And of course, there's 15 members. Right now, 14 members of the review team and as you know, we work by consensus. Not everyone gets their way all the time and many different members have different perspectives of the work, the pace, and all of that. Geoff of course has his opinion and there are many others on the team I think and we always work by majority consensus. And so despite what you heard from Geoff, all of our activities, our work plan, everything that we do is done by consensus and is within scope.

So this would be a little bit like Stephanie, someone talking to, say, (Tercio Vira) and then taking his interpretation of what's happening on the RDS PDP working group as gospel and fact rather than asking you, or asking you and individuals have different perspectives, different knowledge bases, and that's how it works. I think Emily had something then Stephanie has.

Emily Taylor: Yes, if I may, just from my personal perspective and I had the privilege of serving with Denise and Eric as co-chairs until July this year. And have been observing progress since. I was really interested to hear Geoff's perspective and to me that's very much what I would put down to the early stages of any group, the kind of forming and storming stage, which I'm sure the SSR2 had certainly for the first few months of its life, as is inevitable when you bring a group of people together who don't know each other, come from different backgrounds, and are sizing each other up.

And you also have quite a widely worded and confusing set of instructions from the bylaws about what you're supposed to be doing. It's absolutely natural that people will have different views about what should be done and what the priorities should be. My sense is that this team has started to get

into its stride since about the summer and that it started to make substantive progress. Geoff may not share that view but that's just my sense that -- and that in that, this team is going through a very natural cycle, which is replicated throughout the ICANN environment and probably any team environment where you're bringing together a diverse set of individuals with strong minds.

Stephanie Perrin: Stephanie Perrin for the record and thank you, Denise, for bringing up the RDS because the RDS makes my point. It is the epitome of a lack of conceptual clarity and it would not be for me to comment on your review team, but I'm sitting on the WHOIS 2 review team and I note that we have already had very similar what I would call conceptual problems in the government lexicon -- are we doing an audit, are we doing a program review, or are we doing performance measurement. And it's very hard to do performance measurement when we don't have KPIs for the original procedures.

I see this as a natural part of ICANN's maturational process. I would say ICANN is at the low end of what I would call a COSO maturational frame and I think we're going to run into this. And so I was asking before you got here, do we have procedures when things appear to some members to be going off the rails, or when there's a lack of procedural -- a lack of conceptual clarity of what we're about. And there may be disagreements in the group because I could see having the same problem with the WHOIS group down the road. Don't tell Alan. He'll throw me off the group right now so that I don't spill it.

But we had similar problems with respect a couple of years ago to when Chuck Gomes and I can't remember who else was the co-chair on the issue of whether something is a policy development process or an IRT. And people should read that final report.

Emily Taylor: Thank you. I think you raise a really important question about the lack of mechanisms and I think we were just listening to the session between I think CFG and the Board where similar concepts came up and that's clearly a gap

because there's absolutely nothing in the bylaws. I can't see any power in the bylaws for the board to do what they've done. I'm curious about the legal standing for that but there is clearly a piece to be done by the community on checks and balances, reversing out of things, how do you provide -- beyond providing input in this sort of environment -- is there mechanisms to either call a halt or require some sort of major surgery if it's perceived that one of these reviews is going off track.

And these reviews are there at the service of the community. They're for the community and they're there to provide a mechanism of accountability for the board and organization. For me, I really struggle with the sense that the board has the right to intervene. Certainly, I would see the community as having the right to call a halt and intervene if -- although there is a complete silence on this in the bylaws. So there's stuff to be done. So just to recognize that point.

Farzaneh Badii: In the Adobe Connect, we have Carrie-Ann's hand is up. No? Okay. Arsen?

Arsen Tungali: Yes, thank you very much. Arsen Tungali for the record. Thanks again for coming and thanks (Tyler) for coming with the team. I think we feel your pain at some point and so sorry for what's happened to you. Really sorry for that because I know and I can understand how frustrating that can be coming up to a meeting where you were -- you had your plan of working and suddenly you are asked to pause your work that can be frustrating.

But also thinking probably can (unintelligible) and say, well, maybe they are right. Maybe the review team has some issues that they may need to look into and fix it because I believe the board knowing they have power and there are limits, I don't think out of nothing they may come and make such a huge - - I consider it a very huge decision and they know that the community might be (unintelligible) of them but they still did it. So my first question to you would be what are some of the weaknesses that you've seen heard and on which you are willing to work on if it happens that the board or the

community, or whoever decides for you whether to resume. What are some of those weakness that you're willing to work on? That would be number one.

The second one would be what would have been the ideal process for the board to deal with this specific issue and my last point would be, I know the board says, yes, the Board says they wrote to you I think in the list in October with regards of the (unintelligible) that you were planning to do and they wrote in the letter that you responded to that letter. Can you (unintelligible) this more what you responded in that? Thank you.

Denise Michel: This is Denise and I invite my colleagues to jump in on this at well. I guess working backwards on your points, in the October letter, we clarified the misunderstanding about how the term audit was being used because it wasn't being used in the classic sense but was being used as a shorthand to indicate a general review and discussion of several areas and the areas that were read out were mandated to look at because of the 28 recommendations in the review.

So we pointed out the specific recommendations from SSR1 that these activities were connected to and that we asked to have a discussion with the Board here at ICANN 60 to have an understanding of further what their concerns. So then the Board acknowledged that the explanation for what we were going to do and told us to go forward. So that was the October meeting.

Weaknesses, I think I'll just, again, this is something the team really hasn't talked about. I'll give you some personal thoughts and invite my team members to jump in. I think weaknesses, I think the bylaws could be more specific in terms of what SSR means and what the intention is or what the expectation is for this review. Aside from assessing 28 recommendations from SSR1, there's a potential ocean of issues, well, I guess one could get into. So it takes quite a while to go through the literature and the information gathering and get a group of 15 people to consensus on the scope.

The bylaws were mandated that staff should have an operating procedure in place for all of these community reviews. That still has not been done and so we found a mismatch between an expectation of what a terms of reference template looked like from the Board's perspective and the terms of reference template that the staff gave us and told us to use.

So that was a challenge. This is a particularly challenging set of issues for this review, a very substantive technical staff support I think really is needed for this. I think something else I mentioned would be -- I'm tired. It was right there on the tip of my tongue.

Farzaneh Badii: Maybe that's why (unintelligible) here to make a comment.

Eric Osterweil: Okay, this is (unintelligible) in response to that real quick and I don't to jump on (Caves) but in regards to -- we sort of met with a lot of folks this week and we look forward to meeting with more. And I think whatever else we're saying, sort of this last slide here is really underscoring where we're at, which is that we're here to listen. We're here to take input and I think one of the problems that we may have run across is that there has been a set of miscommunications, whether they're systemic, they've come from our inability to use the proper templates on wikis or whether they just -- we talk a lot and we email less. I'm not really sure.

But I think one of the things we can walk away from this with is understanding a better way to communicate our progress and our work. I think a lot of what we've done has really, as Emily said, come together recently and I think the team has made great progress and I think we have a lot of really smart people that are really committed. So I think is there a better way for us to let you all know, as Denise said at the beginning, we're recorded and we have all this stuff. But that may not be the right medium, so let's I think among other things, what could we do better? That.

(Carl Hansburg): So (Carl Hansburg), board delegate to SSR (unintelligible). I cannot agree more. Let me explain a bit about the timeline and how things happen. So first of all, I take issue with the way that this whole intervention let's say has been painted. It's not board exercising its power (unintelligible) power. It's not we failed and with the board kind of circling, certainly not to make -- that this (unintelligible) is not going to succeed. And reasons for that, the two letters I'll reference and the two letters we sent, actually there are four letters we sent from the very beginning. 30th of March, the Board appointed me and asked for work plan and term of reference to be published, to be submitted to the Board.

We received term of reference one month after the deadline, which is fine. Board was fine with that. We have never received the work plan and I stand by that. The team was working on a work plan but it has never been submitted. The only thing was a draft work plan, which was circulated and it was draft open for comments with team members. It was never submitted to the Board. So that's the first thing, which we never got a board plan.

Based on that, we were not clear how the work was going forward, but still we saw some partial work plans from the sub-groups. As you saw, there were five sub-groups. One of them had very strange scoping issues, which we at the board thought is far, far from the scope of SSR2. So we wrote another letter on 4th of October, which is on correspondence page, explained those, why we thought these are out of the scope.

At the same time, we received a notice from SSAC that SSAC also mentioned that they don't think this work is going to be successful for the reasons they have mentioned in the letter. So based on all of that, Board issued a pause. So we are not stopping this indefinitely. We are not intervening on how the team is working. We just issued a pause early this week in consultation with SOAC chairs. So on Friday, we meet with all the SOAC chairs, leadership, we ask them -- we explain to them that we are

going to propose a pause for this work and if there's any objection to that, please let us know. Nobody objected.

So this is what happened. A few hours after that or maybe a day after that, we actually sent a letter, issued the pause, and the idea is to just raise concerns and raise those issues with the committee. It's back to the hand of the committee. If they want to start today, SO and ACs can let the Board know and we will un-pause and ask the team to continue the work. Also, we have asked in the letter for the team to continue their engagements during the week. So it's not like you mentioned that they came here and they told you that you have to stop. We actually asked them to continue their engagement during the week but do not do additional work until SO and ACs basically committees decide how to move forward.

And if they're happy with the current composition and how the work is being done or not. Thank you.

Man 3: I just want to say that we are not in a position to sit here as judges of who is right in this dispute and we probably don't have time to go into any more detail. I would just say that from our point of view, we would be concerned both about a not functioning review team, that something would need to be done about that. And we would also be concerned about an arbitrary action by the Board to pull the rug out from under a review team because they wanted to cover something up.

So we are not going to solve that issue here. We just want to make known our concerns. It's good to hear what's going on and I look forward to this getting resolved.

Farzaneh Badii: Yes, thank you. Another short intervention by Denise and then we have to go to the other agenda item.

Eric Osterweil: This is Eric real quick. Yes, I appreciate those comments and I just want to remind everyone that the review team is here in masse to sort of all speak as one unified voice in the rows behind me. So maybe that's helpful for one of those questions.

Denise Michel: And I'll send you links to our terms of reference to the agreed upon work plan that's been given to all the team members and put on the wiki since August. Clearly, not all team members have time to keep on top of everything that's happening in the review team. We'll continue to coach staff to keep the wiki clear and easier to find things on. I think communication is probably something that certainly can be improved and I'll send an email with some additional information and really welcome any additional input that you have.

Farzaneh Badii: Stephanie, if you must.

Stephanie Perrin: Yes, I must. I just wanted to find out - Stephanie Perrin for the record -- that I think a central problem is a misunderstanding of the scope document. It is carrying way too much freight at the moment. It is purpose, it is direction, it is direction, it is methodology, and it is scope. And so there are endless discussions on that scope document and I think procedurally that needs to be straightened out. Thanks.

Farzaneh Badii: Thank you very much for coming here and good luck. So we kind of ate up our break so we cannot take a break. I'm sorry, we have back to back meetings so you are going to be here until 6:30. It is what it is and if you feel like you are really tired and need to get coffee, please feel free to get up. We have Brian.

Man 4: Can we get Tapani back?

Farzaneh Badii: We have -- it was a very engaging conversation though. So we have Brian. Brian is actually in the room. Brian please come in and sit here and let us talk to you. He is not here? Really? I saw Brian there. Okay, yes, of course,

please. I'm sorry, it's the last minute. I'm not going to stop you or anything.  
Nice to meet you too.

So just to give you a background on -- so ICANN came up with this idea that they want to help registrants and they took on Brian Gutterman to work with domain name registrants. Brian, do you want to tell us about your role a little bit? I'm a little bit confused because I thought Brian was the manager. Go ahead. Yes, sure.

Trang Nguyen: Thank you, Farzaneh and thank you for inviting us here today. Let me sort of set the stage and explain who's doing what as it relates to registrant services so that we can provide you with an update on that. So my name is Trang Nguyen and for those who don't me, I am the Vice President of Strategic Programs for GDD. Under that role, I have overall responsibility for a number of programs for GDD, the registry and programs being one of them. And Brian Gutterman here is the manager for the registrant program and he had day-to-day responsibilities for the execution of activities in support of the objectives of the registrant program for us.

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