

**Transcription ICANN61 San Juan  
NCSG Policy Committee Meeting  
Sunday, 11 March 2018 at 17:00 AST**

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Rafik Dammak: Okay guys. I think it's a good time to start, we're already late by seven minutes and I know that everyone wants to leave early to go to somewhere tonight. Okay, so let's start the recording. So to be fair to also to - yes? Okay.

Welcome everyone. So this session is the policy committee session that we have for NCSG and every ICANN meeting. Usually we try to cover the public meeting GNSO Council, yes, GNSO Council meeting agenda but since really there - I'm not going to say (like) but it's mostly a topic for discussion. We don't have a motion to vote so it's been like kind of update and so on and I don't think we have anything really substantive at this level to discuss for now.

And by yesterday's meeting, the (unintelligible) meeting, I think the kind of agreement is to where we focus in the letter that was shared in the mailing list above GDPR (aimed to) a model. So, I think there was some discussion going on the list to make some changes so that the purpose is really to get this done and to get an agreement. So I think if we get an agreement you can send it today.

I don't see Stephanie here but I think we should start anyway. Okay, so maybe give the floor to – Farzaneh since you initiated the process, the first draft and then there was addition from Stephanie so maybe if you want to

highlight any - the main parts or any area of concerns but I think most of them were kind of resolved? Yes.

Farzaneh Badii: Thank you. Farzaneh Badii speaking. So, we went through this, Stephanie drafted it and added to it for the past two days. The - what we did merit and the premise off our comment has not changed and there's not much of addition, we're just pointing out our (position) and putting more analysis and background to it. So I don't think there's any change. But if we can scroll down. What I suggested to do is to put bullet points that are on the last page on the first page as an executive summary so that we have - so that when they are reading it they know what you're talking about, the position, the bullet points and then they can go through the rest of the comments and I think that would make them read our comments and if you agree we can do that. If not and we don't think that these bullet points are really all encompassing everything that has been said on the documents then it doesn't matter and then the other thing that I wanted to point out was I think the comments that I made were all accepted.

So, for the model, we have the Model 3 now, software for Model 3 in there.

Ayden Ferdeline: Ayden Ferdeline for the record. Not in as many words. So we do not say that we support Model 3 in interim, however, there is language that Stephanie has inserted saying that. It is not saying Model 3, just saying that this is the only interim solution that we could accept. I will just find it on my phone and then I can (show it).

If I can just make one other point. I actually - I think that the bullet points that is summing up the document at the bottom, not an executive summary, but we might want to add an executive summary. So the bullet points which I inserted do not 100% reflect the content of the lesser. They're more reinforcing some important principals that we support, this being a community-led process. It's really just trying to sort of make an maximum impact as we want to see happen. So it's not really an executive summary

but if we do want to add an executive summary to the top of the document, then I can work on that language.

Rafik Dammak: Okay, thanks Ayden. I mean it's just a letter, I don't think that we need to add more executive summaries. It should be short, sweet and since we - I think the context is we want to send it during the meeting since the whole discussion is going on. So, it's just to - I think that we are stressing the main points.

Okay, so as you can see, it's shared in Adobe Connect so hope that everyone can maybe go quickly through it. Okay, so in terms of process...

Ayden Ferdeline: I stand corrected. I'm sorry Rafik, actually Model 3 is mentioned by name in there and that is under the heading of tier access models and the language is, while we wait for a proper multi-stakeholder process to emerge and start work on (tier) access, we need to go back to Model 3 in your previous proposals and it expands upon that. So Stephanie did add that, sorry.

Rafik Dammak: Okay, contrast (unintelligible) by forcing them to provide in the (unintelligible) to personal data. Okay, so just want to say in terms of process, it's (meaning) the policy committee to endorse that. I think we have - okay, still missing maybe one Councilor and for the other members, because I think because (unintelligible)...

Ayden Ferdeline: And Martin is in the RPM working group at...

Rafik Dammak: Okay. Just we need kind of the consensus, I think we can get it here. Yes, (unintelligible), what do you want to say?

Farzaneh Badii: So, there was also a discussion about whether we want to mention that a GAC should cooperate with the community to come up with this shared model or not. So on one hand if we say that now we have given into GAC being in charge of coming up with a shared model, on the other hand, if the

ICANN (really) insist on this, that GAC comes up with a model, with the (tiers) access, then we want to emphasize that community should be included. So we have - so there - the kind of the dilemma was that GAC should work with the community or just remove it and just support Model 3 for the moment.

Ayden Ferdeline: Ayden Ferdeline for the record. My personal view, but of course I'm open to hearing others, is the language has been softened in the most recent version and it also narrows the scope and so Stephanie has said that the role of the GAC should be limited to the identification of law enforcement agencies in their country, and I think that that language is quite neutral.

Tatiana Tropina: Yes, Tatiana Tropina for the record. I want to support what Ayden said because I think that this is very clear and I think that this is the message that we should be sending; the role of the GAC here and why ICANN should rely on the GAC because it's not up to ICANN to identify who legitimate, like who actually should have the power of law enforcement. It might be different in many countries and ICANN here cannot and shall not identify them on its own. So in this way I think we're very clear in this message. If there is a need we can (reinforce) this language but I believe that we don't have time and it's clear now.

Farzaneh Badii: Can I just - Farzaneh Badii, sorry... So, my point is that, yes, this is clear that GAC can come up with a law enforcement (list), that's fine, but we're coming out with the tier access model was our position that GAC cannot on its own come up with a (unintelligible) access model without consulting with the community, right? Good, that's fine.

Rafik Dammak: Okay, so that's why I wanted to read the text, so we're clear. So because what it says, for this reason we respectively (unintelligible) that this scope of their activity and the (chaired) access to be limited to identification of law enforced agencies where they certainly have expertise.

Farzaneh Badii: Hi, Farzaneh Badii speaking I'm very happy with this language. Thank you very much.

Ayden Ferdeline: Thanks Ayden Ferdeline for the record. Indeed in the following paragraph, just sort of reinforce that Stephanie mentions that the community should be - that access to data should not be unrestricted, that the community should be involved in determining what level of access is once legitimate law enforcement agencies have been identified. So the community should be involved at the following discussions in ascertaining that. Thanks.

Rafik Dammak: I mean, also we need to have in mind that all (this still going), so why not - it's not ending here and another thing maybe we want to prepare is for the cross-committee session tomorrow because it's not just we have Stephanie on the panel but we need to (is there) the time for the Q&A how we should enter (to) enforce the message and to show support. So maybe later, (unintelligible) because you were involved in the preparation for the (decision) maybe you can give a heads up what's the agenda and so on. But, back to the letter. So I guess we get this done today, we (say like) should within 24 hours it's really - we are within 24 hours. So if we can get - I mean, I hope that everyone in the policy committee in particular had a chance to check the latest version that was shared on the list, so you will find it's red line to highlight the latest (unintelligible). So, yes Ayden?

Ayden Ferdeline: Thanks and I did identify this on the list. There is - a few times now. There is one section that I think is incomplete under the heading anonymous email mechanisms, there's an ellipsis and the sentence is missing something.

Rafik Dammak: Which one, anonymous - okay.

Ayden Ferdeline: The heading Anonymous Email Mechanisms.

Rafik Dammak: Yes.

Ayden Ferdeline: So if we scroll down, I don't have the page number on my phone.

Rafik Dammak: It's on page five, four.

Ayden Ferdeline: Yes, so see following - in particular this mechanism can be used to constrain full access to it - in a tiered system. One of our biggest concerns, ellipsis's access rights. So I think we might need to insert something there. It's in the final sentence. It just appears incomplete to me but maybe it isn't.

Farzaneh Badii: What do you think is missing Ayden?

Ayden Ferdeline: I - that is very true. I don't know in particular what is missing, I just think there is a word or a sentence missing there.

Rafik Dammak: Okay, so I mean, let's maybe agree that we (endorse) like the general idea to send this letter, we can do the small edits just to correct and (unintelligible). I mean, it's not going to change the substance but I want to really get the sense of - since we are here, and also sensitivity (since it's) so short time and not having enough but we were forced to do so because how things are (handed to) the GDPR and so we have to respond to that. Okay, so just checking, Ayden, as you went through this document, is there any other changes that you need to highlight?

Ayden Ferdeline: A very small type - if we go to the following page, Page 4, and the second bullet point, I'll just find it.

((Crosstalk))

Ayden Ferdeline: Maybe it is the following page actually. Sorry, I know this is not ideal. Maybe the following page, this letter is longer than I remember.

((Crosstalk))

Ayden Ferdeline: Just look at (them), I'll comment in a moment.

Rafik Dammak: What did you ask that I couldn't hear?

Farzaneh Badii: No, we are trying to find the word in the document, we (unintelligible).

Rafik Dammak: Adobe Connect doesn't work but okay.

((Crosstalk))

Rafik Dammak: Okay. I have the document, so what we are looking for exactly...

Ayden Ferdeline: It's quite possible that someone has already fixed the typo.

Rafik Dammak: I mean, I'd say Ayden, I think the typo, small chance we can handle that later.  
I mean...

Ayden Ferdeline: It's simply the case of an extra period being between - it's like domain, period name. Maybe someone fixed it already but also in that same sentence the word or and I think we meant to include the word nor which kind of does change the meaning of the sentence.

Rafik Dammak: Okay, one thing. Since I – Farzaneh will send the letter, can you find out and do those last changes before sending?

Farzaneh Badii: On - protect my reputation. Sorry.

((Crosstalk))

Rafik Dammak: Okay, I mean, it's good to have fun, it was challenging it's just how to cover this. I understand maybe everyone is not on the same page because so many versions but the whole idea is that (unintelligible) many times and we need to respond and so we (walk them through) several points but it's not the

end, it's still going on and I'm not sure what would be the next step, something maybe we need to discuss an internal strategy because it's - we heard like from (unintelligible) that the ICANN organization discussing with the (DBA) and they expect to get guidance from there but Article 29 working group cannot keep any legal advice on this matter. So, we are still on this discussion, so we may need to think how we can influence on that side. As we send them a letter before and there is with the (Berlin) paper. So maybe thinking how we can more use that area to influence since it seems that the ICANN organization is expecting to get more guidance from them.

We have a session tomorrow but we may also - in case we need another correspondences, something else, that we want to bring another issue. So, all of this open for discussion. Okay, so - yes Farzaneh - okay Farzaneh and then we go to...

Farzaneh Badii: Farzaneh Badii speaking. Can I get rid of end user in the document and just put non-commercial domain registrants or domain name registrants instead of end-users? Because I saw on the screen there was an end user but, I mean, it's just a minor change. It depends like I think we are advancing the interest of domain name registrants, so if we could do that that would be good. But if you just allow me to do that I will just do it and send it?

Ayden Ferdeline: I think just registrants I would have no objection to. Yes, so I wouldn't put necessarily non-commercial but just registrants I would have no objection to, thanks.

Ozan Sahin: Ozan Sahin, for the record from ICANN org. We had a comment from Renata in the chat box. She's pointing to Page 4, second bullet point. Why can't we see it on the screen?

Ayden Ferdeline: I think that is the bullet point that has the typo.

Ozan Sahin: Oh yes, so you can see now. In the final sentence it says but that does not mean that ICANN should (necessitate) that nor that the use of registrant data are in the public (top) interest. So, this is the point where Renata has raised in the chat box.

Ayden Ferdeline: This is the typo. That's good, that's the typo, okay, thank you for helping us find it Renata and just following that, that or is meant to be nor.

Rafik Dammak: Okay, so it seems we need some quick proofreading later. I don't think it's really the most effective exercise, search meeting or search setup but I think just Farzaneh...

Farzaneh Badii: Yes I will...

Rafik Dammak: Yes, I am happy to volunteer you. Okay. Okay...

Man 6: (Unintelligible).

((Crosstalk))

Rafik Dammak: I have no interest on to leaving, to let you go early but okay. Okay, so...

((Crosstalk))

Rafik Dammak: Okay. Okay, so I think for the letter now we have this letter, the last version, we highlighted the latest changes and I think we presented the spirit and what we are trying to achieve just in terms of proceeding to have this kind of made clear just to - in particular for policy committee members I want to see if you are supporting that we send this letter if there is no objections I want to do this kind of for now. Just for the record, I think because - I think (unintelligible) is not here because he's in Puerto Rico. Also (Nick) so maybe you can give them - sending them that we did this for this reason but I think

we have most of the rest of the policy committee members here. So, I want to check if there is no objection the most easy way. Okay, no objection?

((Crosstalk))

Tatiana Tropina: I just want to make a reservation here that there is no objection but the proofread to...

Ayden Férdeline: And can I just clarify who the recipient of the document is?

Tatiana Tropina: Oh yes, that is a...

Rafik Dammak: I think you should send to - I mean, you can send to Göran, to (Theresa), (Jeffery), John Jeffrey or - I mean, also the board if you want. So I mean, it's not a problem, you can (spam) many people if you want. There is no issue with that.

Farzaneh Badii: Yes, Farzaneh Badii speaking. So, I think we can send it everyone that Rafik mentioned but also I'm going to CC (Borda) because then they are going to publish our correspondence under the Web page so I think that...

Rafik Dammak: Okay, and we can also use other venues to remind that we send this - since we are here, it's a good time to do some lobbying as well. So, you can use the letter as kind of talking points. So, that's a possibility to - since we are all here, it's a good opportunity to influence and just sending a letter even if it's an official process. Okay, so just to be (here), we are here agreeing, endorsing that we are sending this - agreeing that we will send the proofread version. We highlighted what changes needed to be done so Farzaneh and Ayden can do that later and they will send the latest version to (unintelligible). So everyone is aware about what we are sending and why. Okay, so I think there's no objection. Should we tell her that there is no objection, so send that... Hi Stephanie. Yes (unintelligible).

Arsene Tungali: Yes, just for the records...

((Crosstalk))

Stephanie Perrin: Sorry about that and sorry for being late. I got dragged away on a conversation on the GAC stuff so I lost track of time. But you didn't miss me so...

Arsène Tungali: (Unintelligible) for the records. I mean, I have no objection, I have to confess, I haven't had a lot of time to go through the whole document but I think based on the discussions we had here and we trust our subject matter experts, I think I'm okay with the document. Thank you.

Rafik Dammak: Okay, thanks (unintelligible), that's on the record. Okay, so let's outline how we will go forward and we will keep everyone on the update. So Farzaneh, follow-up with this as the NCSG chair. Okay, (unintelligible), since we are sending so many letters, maybe just to remind people, if you can resend all of the letters that we send. I think now it's three, three for the first comment and then Article 29 on this one if I'm not missing any - yes Ayden?

Ayden Ferdeline: No, sorry. You're absolutely right but there's one very small addition if we could add today's date to the letters because we haven't been doing that so far and it might be just a good practice to add the date. Thanks. The date that we send the letter.

Arsène Tungali: The email has the date in there.

Ayden Ferdeline: Email does but sometimes when they just open the PDF it...

Rafik Dammak: It's a fair point for documentation because we will put it in the (wiki) but for someone to go back in the future. Yes?

Stephanie Perrin: Is it worth following-up or asking Maryam to follow-up and send the things through snail mail? Particularly when we're talking, the (unintelligible) and the Austrian data protection authorities, I'm not dead confident that that email isn't going to get lost at the reception desk, you know? I think there's a risk where the letter will make it to that person's desk.

Rafik Dammak: Just to be sure, you're talking about Article 29, working group. Yes, we can snail or whatever animal you made. So, okay, it makes sense I think, official communication with the government or state organization. Okay. I think that was done. Can we maybe move to the next and discussing about the whole week but in particular tomorrows session? Farzaneh and then (unintelligible)...

Farzaneh Badii: Farzaneh Badii speaking. So, I just wanted to - so tomorrow morning we are going to have an NCSG meeting with the GAC and we are going to talk about several things. First is the convergence of some of the NCSG values with the GAC which I will cover and the second is privacy, the (unintelligible) which Stephanie is going to make a couple of comments on that and then we are going to open it to the floor for a discussion with GAC and then we are going to go to the (risk protection) which (Cathy) is going to discuss about due process and for use and trademark over (region). So this is what we're going to do for tomorrow. Should I go through what we are going to do for our opening session meeting or not? Yes, okay. Yes (unintelligible)?

Tatiana Tropina: Yes, Tatiana Tropina speaking for the record. Farzaneh, after today's meeting of GNSO and GAC I want to ask you a question. Did GAC confirm that they're going to discuss this or are we just coming then - yes, because I thought the GAC was just going to (unintelligible) the meeting with GNSO's so I'm just wondering, I'm (since) wondering how it's going to go tomorrow?

Rafik Dammak: It's like (unintelligible), the GAC lost one of their best players, that's why they didn't (work) today.

Farzaneh Badii: So yes, I sent the agenda three weeks ago to GAC and right after the GNSO meeting I discussed with Manal what we are going to say and the only comments I got was that you know, we only have 30 minutes. So, rest assured we are going to discuss this but last time we were really good with our time so hopefully tomorrow we're going to be as (good).

Tatiana Tropina: The last two (unintelligible) they managed to discuss quite a packed agenda with GNSO on these meetings.

Farzaneh Badii: Okay, so Stephanie you have your hand up?

Stephanie Perrin: Yes, Stephanie Perrin for the record. I'm always reluctant to talk strategy on a recorded conversation and this is for the benefit of new members, don't forget that all of our other stakeholder groups are reading our transcripts. So, I'm going to be opaque, talk to me later if you don't understand what I'm saying. We have a whole page in there about how we don't want the GAC to accredit for the tiered system. I don't even think we need to fight that fight because I'm not sure they wanted this. So, we don't need to go in with guns blaring, okay? Just putting that out there. So, that's all I have to say.

Farzaneh Badii: Stephanie, it's not GAC, the (PA)'s have told ICANN, as I've told you, that GAC is the legitimate player to do this. This is what I have heard in my discussion with Göran.

Stephanie Perrin: Maybe for law enforcement. For law enforcement but not for the rest of the community.

Farzaneh Badii: Farzaneh speaking. So, what we need to do, we have to clarify with Göran and John Jeffrey whether (DPA) is saying that GAC should be in charge of the tiered access as a whole or just the law enforcement. So that we should discuss.

Stephanie Perrin: Yes, but as we say in Canada, (unintelligible) on this, you know, let's not get anybody inflamed including some of the other stakeholders.

Farzaneh Badii: Farzaneh speaking, you are in charge of that segment, so if they're inflamed or you know, something burns somewhere there, you are going to be...

Stephanie Perrin: It's all my fault is basically what she's saying. I'm just teasing, I'm just teasing. No, actually I'm talking actually, Stephanie Perrin for the record, in terms of our strategic questions from the floor, I mean, there's nothing worse than having the whole thing fall flat and having no questions but - well actually there is something worse and that's getting a wrong question that upsets the careful job you did of managing things in the talk that can ruin things. So maybe we should spend a little time and think about what questions should we ask?

And if nobody has any questions to ask, I'm going to start talking about (COSO) compliance so if that doesn't motivate you, I don't know what will, because I can talk for quite a while about maturity models and (COSO) compliance and how it's going to make our lives better.

Rafik Dammak: Thanks. Thanks so just ask Farzaneh and maybe to remind us what purpose, as you end this (unintelligible) from the cross-committee session tomorrow. You discussed with...

Farzaneh Badii: All right, so I'm just going to pull up the agenda here. Basically (Steve) and GAC and (Steve) were in charge of this session. And it kind of like went co-organized by GAC and (BC). I kind of like throw us in there and I said we want to be involved too but what they did was that they just like added me to the description and the agenda and I kept checking with Stephanie whether this agenda is okay.

And - so what is going to happen tomorrow is that we are going to have 15 minutes of presentation of the (entry) model by (Marvi), Göran and John

Jeffrey. Then we are going to have the (GAP) analysis. So there is going to be - the registries, registrars, law enforcement, business users of who is for cyber security they manage to put in like two representatives there which is like (unintelligible) (Chan) from (domain tools) and (Patrick) from (unintelligible) online accounts. I tried to fight that but I'm a little bit exhausted so I'm sorry.

But then we have Stephanie as the non-commercial user, as the non-commercial stakeholder group and is going to talk about the (GAP) analysis from that perspective. And then we are going to have at large (Internet choices).

Now, the moderator is going to have - the moderator is going to be (Steve) and then if we'll close with a quick reminder about community work still to be done and these are going to be discussed efforts and privacy updates so ICANN procedure development of a new policy framework to support potential next generation registration directory services.

So, I think we can - we have opinions on that. The thing is, I do see that we have 20 minutes of community discussion, so that's where we are going in after Stephanie, after the session goes to that segment.

Now, what are going to say and which points are we going to emphasize on, who's going to say it? These are the things that we have to strategize on and decide. Do you want to do it now or...

Rafik Dammak: I'm not sure about the last part. No, I just want to say that (will all depend) from the beginning. We handle the letter and then we prepare for the session. Okay Stephanie?

Stephanie Perrin: I think I have a - Stephanie Perrin for the record. I think I have a total of about five minutes, that's if nobody goes over time. Steve DelBianco is going to keep us to time. He's got a timer, he's supposed to cut people off because

I'll be towards the tail-end but, I mean, basically I think it's pretty easy. We need to highlight the things that we've highlighted in our letter, really, we don't want the GAC accrediting.

You know, I'm brain dead at this point in the day because we had this discussion already and I think I'm going to forget everything. However, we can talk about the tiered model. We need to make the point that there's a very tiny little one-liner in there about the reputed difference between tiered and layered, that's a whole new definition. Layered being all you can eat. Tiered being a discrete limited, according to data protection law targeted approach.

I think we need to talk about - and I'm sorry for those who aren't necessarily in agreement with this but the standards idea is getting quite a bit of traction in various areas. It's a long-term development process in the absence of treaty law, the way you solve international disagreements is through standards. There's only so much you can do with the standard but you can do something and the treaty law we kick over to the Budapest Convention. There is no way ICANN is circumventing the Budapest Convention by coming up with procedures here with no due process. Okay, over to Todd.

Tatiana Tropina: Yes and I also would like to say the Budapest Convention itself doesn't provide due process from mutual legal assistance and access to data. It actually leaves everything to the bilateral agreements depending on the national level and ICANN cannot either substitute Budapest Convention or create new frameworks. But in a way, I also see the (rationale) here, so it's a bit of a slippery slope because without the GAC, ICANN is not able to determine the multitude of players who have power according to the national law to access data. And we have to be careful here because we can't exclude the GAC even - whether they want it or not, they really have to provide the list at least of law enforcement agencies.

And you know, to be honest, I (unintelligible) I'm sorry that I'm taking time from this session but from my perspective who is working with law enforcement all of the time and I'm (unintelligible) process, I perceive it as a big nightmare because even if I'm working on the projects with three or four countries, it's a completely different setting for each one and we have how many here? I don't want to think about it.

Stephanie Perrin: Yes, and this is Stephanie again, totally agree, but there's nobody else that can take that job on. You know, when I was with the (EWG) we presented this to the GAC and one of the countries stood up and said, well we don't know who our law enforcement agencies are. Well, if you don't know who they are how the heck is the registrar supposed to know whether he's dealing with a crook or an accredited law enforcement agency. So, there are models. I talked at the jurisdiction meeting with (Malcolm Huddy) who said that the Brit's, whatever we think of the (REPA) ACT from a civil liberties perspective, they have come up with a single point of contact with an encryption mechanism, please.

Tatiana Tropina: Yes, the beauty of the U.K. and a couple of other countries that they have centralized not protected with safeguards national security architecture where all of the law enforcement enlisted in one law, like (REPA) for example. And they have listed their like - law enforcement policy, custom services and whatever take Germany or take Sweden, or take Switzerland or take Sweden, you have a multitude of laws governing the national architecture and they're all law enforcement with the right to access data for different purposes but lawful access and like really good luck to us and good luck to GAC in this sense.

Stephanie Perrin: Yes, but I mean if anybody thinks this is new, our privacy act in Canada, 1982 had the same schedule. If you weren't on the schedule you didn't get access. Tough! You know, so I'm - I promise I won't say that in those words but this is our message. I mean, come on you guys, shape up.

Rafik Dammak: Thanks Stephanie. I mean, I - okay. I think we got it. It's - even if it's the GAC we do - we have a lot to do it will be not easy. I mean, you can just say good luck, but that's it. I mean, okay, so but - that's just really one thing, what you are talking about (unintelligible), that's - we don't want them to (hand it) and so I think that's why in the letter we talk about having a community driven work on this matter, it's not just the small group even wishes to (unintelligible) GAC only but we want to be involved in the process that we...

Tiered access, another point, it's maybe if we are in a sense talking about (pizza calzone) it's either a la carte or the same model, but tiered is a la carte and a al carte and layered is the (beefy) model but...

Stephanie Perrin: Can I tell my joke? As far as I'm concerned this is the spaghetti model because it looks like they threw it against the wall to see if it would stick, and it doesn't. But I won't, I promise I won't say that.

Rafik Dammak: Okay, so let's not make fun of the Italian cuisine. Okay, that's it. So, for tomorrow even - I mean, seeing the agenda and even they say it will take just five minutes or something for each (intervention), it's quite a busy agenda. It may take much more time. So I'm not sure how much we'd be really left to the audience. I mean, that we can intervene on. So base it on what we did last cross community session. Another thing maybe, it's knowing what Steve DelBianco wants is really that we - the idea that we are the community come together and work so we can just (wilt) on that.

So but it's good to say the community worked together but I'm also worried that we should - to work on the kind of modalities for that. It's not just left to ICANN to define because if you recall that didn't work at all. It was - there was no activity really there. So - yes Stephanie?

Stephanie Perrin: Stephanie Perrin again. We will have to kind of play it by ear. If all of the proceeding speakers line up and talk about public interest as a purpose, I am going to have to, what's the word, deal with the concept of public interest as a

legitimate basis for processing; it isn't. You know, you cannot justify an all you can eat database under data protection law under the (guys) of public interest. That all has to be limited and specific. Now, I don't really want to miss the party tonight getting chapter and verse on the GDPR to refute that. But, I will refer to those principals. Okay? Make sense? But, we'll have to be sort of dynamic in that we'll have to counter whatever comes before us.

Farzaneh Badii: Farzaneh speaking. So, we also talked to Thomas Rickert and Thomas said that a lot of the reactions of GAC majorly when it comes to public interest or legitimate interest is more of a policy (stance) than a legal-based stance. And maybe we can make that point. I think we could make that point in our meeting with GAC and we can - yes...

Rafik Dammak: I recall what you said, use case doesn't mean a purpose. It means a legal ground for that and I think what is missing, like, they just have the - the (unintelligible) what they want to do but it doesn't mean that they can do it. They have - the need the legal ground behind that so...

Stephanie Perrin: Oh, this is why there's so much emphasis in our letter, Stephanie Perrin for the record, on not starting with use cases. This is not the way you do data protection analysis. You start with ICANN's purpose, not third party access to information purposes. I mean, if you did that, banks would not be banking with banking privacy for the user. Every man and his dog wants to know how much money you've got in the bank or whether the check is going to bounce. We've never agreed to doing that for banking, why are we doing it for the Internet? Anyway...

Rafik Dammak: So, you think we have kind of a clear idea how we will deal with that, with tomorrow's session and does Ayden want to add a comment? Yes?

Ayden Ferdeline: No, sorry. Just a very quick question. I was wondering which of our friends from the (at large) was speaking and if we know what argument we'll be (advancing)? Thanks.

Farzaneh Badii: Farzaneh speaking. Alan Greenberg will be speaking.

Ayden Ferdeline: Okay, so it won't be in support of the position that we're putting forward.  
Thanks.

Stephanie Perrin: We cooperate a lot with Holly Raiche who is on the (RDS). I have already sent her the draft of our letter, she has not gotten back to me with any new added items but she hasn't had time to go through the model. I've also sent it to Thomas Rickert. So they're aware of it. I think if we missed anything, we'll be hearing overnight, it will be too late if we send it today but still, you know, we can always bring it up. So, the thing about (ALAC) is they're fundamentally split on this issue. There's the law enforcement side, the cyber crime chasers and then there's the - a couple of data protection folks and I do mean a couple. But, you know, Erich, I don't know whether Erich - I'm going to mangle his name, I apologize to the Germans here, Schweighofer who is an Austrian law (prof). He understands the GDPR stuff and I think fairly well and also understands standards because he's doing some of the (ISO) standards work. So, if Erich is here, that might be very helpful. On the other hand, if all of the cyber crime guys in ALAC show up, it will be the other side, it will be Holly and the cyber crime guys. So it's too soon to tell.

Farzaneh Badii: Thanks, Farzaneh speaking. I just have a very short remark. I thank you for pointing that out in the following meetings I'm going to make sure that the panel is balanced among the views of - and I will make (unintelligible).

Rafik Dammak: Okay, thanks. So since we don't have much to say more about tomorrow's session, we got an idea what the agenda, what we can expect and what we should bring. So maybe just putting through kind of talking point, to be sure that we capture them. So we get the letter done, get this and we have 30 minutes left in this meeting. So we kind of skip it going through the council agenda and I'm not sure if we can - I mean, just we want to keep it about GDPR but I think we kind of - we spent fair time on this just we don't want to -

I mean, there is not much more we can say but I would say it's usually we also try to get updates from working groups. Unfortunately there is one working group having its session already and going to RPM but maybe - I mean, maybe we should note - I mean, we don't need to use the 30 minutes left but maybe if there is any topic we should discuss or anything that maybe we should prepare for the rest of the week, so it's a good time to do so. But, maybe just Farzaneh, I think you brought up about the meeting with the GAC but still we have the meeting with the board. We have I think five topics but it's not likely we'll cover all of them.

So, also another change is that for the first time we'll start Tuesday with the board, meeting the board at 8:30 or 9:00 so maybe change the whole dynamic that we usually have for meeting with the board so they start with us. We will set the tone for the whole day for them. Okay, so maybe just reminding about the topic but I mean, if we need some preparation or question about that.

Farzaneh Badii: So we will have one hour with the board. Is it normally one hour?

Man 11: Yes.

Farzaneh Badii: So I have noticed that our friends in commercial stakeholder group have an hour and a half, I don't know why.

((Crosstalk))

Farzaneh Badii: Oh, right. It's because I'm a newcomer of course. I don't understand the dynamics of their group. Right, okay. So...

Ayden Ferdeline: I think we only got 30 minutes in Abu Dhabi with them, right?

Ayden Ferdeline: One hour.

Ayden Ferdeline: And now it sounds generous to me this time.

Farzaneh Badii: Okay, so let me just look up the questions that we have. One, the first question is going to be about GDPR, Stephanie is going to raise that question and we have reworded it in a way, and Stephanie can correct me if I'm wrong, but we are going to say - we are going to tell the board what do they think about adopting Model 3. Would we raise that?

Stephanie Perrin: Yes, and that's in the letter now I believe. Basically until there is a decent accreditation system they're going to have to go with Model 3. The accreditation system for law enforcement can be fixed up fairly quickly for the legitimate actors who normally are already working because, I mean, most registrars know who they deal with. You knew, some of these things are well organized already, we're not starting from zero. Others are not, okay?

In terms of cyber crime (fighting), same thing. The solid players are known, they, unlike ICANN, have been working on GDPR compliance, (another was) the (APWG) has already prepared. So, I actually think some of the legitimate actors in cyber crime can start accessing fairly soon. Now, whether we want to throw that bone out to the crowd tomorrow or whenever this meeting is, I don't know that's...

Farzaneh Badii: So the question - so you know the GAC, I'm sorry, not GAC, board prepares the answers. So let me just read this question. You could in follow-up just mention the points that you want to raise but this is how it's (framed). ICANN and GDPR compliance, there's still issues with compliance models. (Offered by) ICANN such as lack of data minimization maintaining (fixed) data and giving more power to GAC to come up with a tiered access and certification. That supports (unintelligible) aspects of the model that's problematic. We would like to know the opinion and then the board is going to say, no, they are not - no, and you follow-up on the question.

So we just read this, we hear their views and then we can argue with them. Now, this is in order of priority these questions and they told me you sent five questions, you asked four questions. So... Yes. So the second question is about the jurisdiction group. The jurisdiction group came up with these recommendations for sanction really for some countries and the responses of boards, I should stop calling board GAC, the responses of board is very like - very - they are not really opposing but they are not really accepting either and discussing, they're saying, oh, some of the recommendation there might be some like costs associated with it or some - or in one of the comments which was absolutely I think - I just thought they had written the comment was that, (throughout the report) was that they said we need more background research on this and I have been doing research on this issue for the past year and a half and we have strict cases of the issues that people face towards jurisdiction problems. So, these are the things - of course I'm not going to be talking about it in this tone but this is what I'm telling you what the problem with the board comment is, but in general - do you want to say something Rafik?

Oh no, I'm fine.

Rafik Dammak: Okay, thanks (unintelligible). I think it's an important topic and maybe the whole context about work stream recommendations, the board commented for all of the subgroups and they always bring about the budget, the cost for the implementation. It seems they kind of - that's whatever you say (shares) it's what's the cost, what's the budget, and seems that even for jurisdiction to some extent. So that's maybe something we should have in mind and how we okay it. We understand about the (concept) but we are talking about accountability to not be budget oriented at the end. So...

Okay, (anything to add) for this topic?

Farzaneh Badii: So I'm going to read that question and then we have a question about the budget which Ayden is going to read.

Ayden Ferdeline: Sure, Ayden Ferdeline for the record. So the question that we're going to ask the board and I sort of paraphrase the (NCC) chat, this is (accrued) budget because within the draft, FY19 budget there are a number of cuts that have been proposed that will either directly or indirectly hurt us and that's where we're going to draw attention to the (unintelligible) - our success depends on many factors including the availability of resources and likewise a lack of resources can also result in our failure and our failure of costs brings into question the legitimacy of ICANN and the whole multi-stakeholder model. So, we're going to be specifically identifying the fact that the additional budgetary request envelope has shrunk by two-thirds. CROP has been entirely eliminated and at the same time, headcount is growing by 25%, personnel costs are growing by 11% and in total personnel costs and professional services come to 73% of the budget. So surely if the budget isn't balanced it makes sense to look at where the majority of the budget is being spent and not only at the small sliver of the budget that we receive.

So that will be the gist of our comment. It will be a bit more diplomatic than that and we're simply going to be asking if everyone on the board agrees with the proposed cuts to community support, whether they know the impact that it will have on our activities and I'll make sure the comment on - quite clearly what is that impact going to be, what do we see happening?

And again, I'll be a bit more diplomatic than this but I would certainly make it clear that due to the significant cuts that have been proposed to the support we receive, and the very generous increases in support going to ICANN staff, it certainly suggests that (unintelligible) work is not valued by the organization and, again, I'm going to be a bit more diplomatic than that because I know the answer already but thanks.

Farzaneh Badii: Thanks Ayden. Farzaneh speaking. So one answer to this question is that, yes, we have provided you with the Excel sheet to tell us where we're going wrong or which program should be cut and I think our response would be

that, yes, you should consider our comment. (A promise) that you're actually going - it's going to be effective because we write all of these comments and if they don't consider it then...

Stephanie Perrin: Stephanie Perrin for the record. Not to bring up (COSO) compliance again but I did have a chat with (unintelligible) after bringing it up in the GNSO meeting, he understood what I was talking about on (COSO) compliance. Those of you who have never worked with this, it's an internationally recognized system of setting up frameworks for measuring how an institution is complying with requirements. So those requirements they cover security, they cover ethics, they cover human rights, they cover basically all of the kinds of things that we care about and that are not now measured. That's why we should be interested in getting this framework in place and one of the reasons I was late was stopping to talk to an (ESAC) person who totally understands this. So for instance, defense contracting already complies with (COSO) because it has to be measured across a whole bunch of things including human rights.

Now, what I didn't know Matt Shears told me that after the (IANA) transition, the (NTIA) actually measured the accountability framework that we came up with against (COSO). So, that's kind of a stepping stone to do this. Why would we want this? Why would we burden ourselves with this bureaucracy? Because it situates our asks, our demands, in a well known framework where the metrics have been worked out in various situations. So instead of us going, nah, (AMAC) gets more money than we do, you're cutting our travel, we've actually got that in a framework but says if you're doing this properly and you're supporting civil society, you have to have this portion of the budget or this, you know, and we have to measure ourselves in terms of our professionalism, in terms of our output and all of the things that we get going. So, trust me, you're going to love this and I am not a process bureaucrat. Rafik you'll back me up that I am terrible on process but sometimes you need a process framework to get what you want and I would suggest that we need this. Thank you.

So there's a maturity model thing, I will send it around if anybody is interested. Thanks.

Rafik Dammak: Okay, thanks Stephanie. You mentioned many things like (COSO). I don't think everyone knows that - I think it's risk management that framework is by ICANN and they - but since you are mentioning so many frameworks, I'm not sure that everyone is familiar with this depending, they experience the corporate (world) but if you can summarize those points or elaborate more, that will be helpful just to - or even sharing some links.

Stephanie Perrin: I'll come up with a two-pager for you, how is that?

Rafik Dammak: Okay, I'm taking note of this and maybe what will happen too is if we talk about the budget and we tell ourselves to just process working with the community to shape the budget and there will be finance and budget (position) in this meeting that we should attend or at least to participate. (Unintelligible) one of them is (crashing) with the public, meeting for the GNSO but they're a venue for us to participate in the process not just stopping with the public comment. So maybe to have that in mind I think this is possible answer from the board to be ready for that.

Okay?

Farzaneh Badii: Yes, Farzaneh Badii speaking. Also we have two more questions, (unintelligible) I don't know if we get the time to do this, just to let you know it's - one is about (unintelligible) a review implementation of the outcome. We didn't - we posed a lot of the recommendations of that review and they're very concerning. So, we are asking one question about that, that would be (unintelligible) response and then - sorry, who will ask the question.

Yes. And then Tatiana will talk about - will ask the question on GAC advice has been given on (GO) attention.

Rafik Dammak: Okay, thanks. Oh, sorry.

Ayden Ferdeline: Can I ask in these words or can I make it a bit more diplomatic?

Farzaneh Badii: You can make it more diplomatic (while) I submitted this question so they know... Yes, of course. So, we are not really - as long as you - yes, keep the spirit, you don't have to keep my beautiful words. But, also we might not get to these questions to be answered because we might not have the time. What I'm going to do is I'm going to send them these questions, if they don't answer I'm just going to ask them why we didn't get these questions answered, so answer them.

Rafik Dammak: Okay, thanks Farzaneh. I'm hearing that - we are - we will say it in a diplomatic way, we'll be diplomatic, that's good. We are not trying to push the (board) but also thinking how we can really engage them because depending on previous experience that we talk that just really short of not committal answer from them. So, we need to have in mind how we can really get that (unintelligible) with the board. I mean, even if it's just to cover one or two topics but we have engaged discussion and hearing from many board members that will be the success for us. Yes Tatiana?

Tatiana Tropina: Yes, I think that we can learn a lot from these GNSO sessions with the board today that it shouldn't be, you know, like strange exchange of information like almost in - we can try - I don't know, for this meeting or for the next meeting I totally agree with you that we have to think about having a meaningful conversation with the board. So for the GNSO would (be playing) the board because they ask this kind of vague question about what's your goal or something, doesn't seem that they did a (lot) before and then we get longer presentation from sharing. I mean, it's hard to have a discussion, okay, that's nice to know what you are doing but they - yes Ayden, I'm not (avoiding) you.

Ayden Ferdeline: Oh, I didn't think you were Rafik, but thank you. Ayden Ferdeline for the record. I was wondering what we think about distributing say a hard copy of our comment on the budget, one for each board member while they're there, something they can take away with them?

A hard copy of that comment on the budget.

Farzaneh Badii: Yes sure, we can just send an email to - (unintelligible) Ozan, do you know how we can print things here?

((Crosstalk))

Farzaneh Badii: Thank you. Okay, and we are now done with the questions and I wanted to make another comment but...

Rafik Dammak: Thanks for that. I think we are done with that meeting and we have like less than 15 minutes left and I think we covered - yes, so...

Farzaneh Badii: It's not to my benefit to be here because we have to work on the (unintelligible) can I make one more comment?

Rafik Dammak: Okay, let me finish first please. Okay? So we covered like for GDPR, I mean I know maybe it looks like a message because we changed it in the last minute to come up with kind of urgent issue, but I think we did - we achieved something for today. So I guess what you want to bring, it can be under any other business. Yes?

Farzaneh Badii: Yes, so we are going to discuss I believe our goals like long-term goals and short-term goals and as we discussed yesterday, I'm just going to talk about what our plans are, what our values are, I'm going to tell them I don't know what you mean by goals, I'm just going to come up with a paragraph. I'm going to come up with a paragraph and I'm going to share it with (PC) before sending it, before saying it, at the board meeting.

Rafik Dammak: Okay, I know it was a long day for everyone and I don't want to keep you more. We tried to cover as much as possible so if there is no other point that we want to talk or any other issue that we should discuss, I can say that we can close the meeting for today and have a nice evening. Yes...

Farzaneh Badii: (Unintelligible) I just wanted to say that I am very grateful to Stephanie for drafting all of these letters and I think we have been very, very effective and really influence the process and you have been very active and it's very noticeable. Thank you Stephanie.

END