

**ICANN  
Transcription ICANN Copenhagen  
GNSO Commercial and gTLD Registries Stakeholder Groups Joint Meeting  
Saturday, 11 March 2017 at 3:15 CET**

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Greg Shatan: Hello and welcome to the joint meeting of the Commercial Stakeholder group and the Registries Stakeholder group. I'm Greg Shatan the President of the Intellectual Property Constituency.

And our of the three constituencies it's the IPC's honor and privilege to coordinate CSG activities at this particular meeting which is why I'm sitting here and causing some sort of deep hum in the room. I'm not sure why. Perhaps...

Woman: Your sonorous voice.

Greg Shatan: It's my sonorous voice. We'll get Jonathan Zuck in here then. Okay, in any case I think we should go around the room and introduce ourselves so that we know, you know, which one - who we are and also whether you're

Commercial Stakeholder Group, Registry, or both, and which constituencies you're in. So I've introduced myself so why don't we go to Tony.

Tony Harris: Tony Harris with the IS BC Constituency. And just for the record, I'm also Registry.

Steve DelBianco: Steve DelBianco with NetChoice and with the Business Constituency.

Chris Wilson: Chris Wilson. I work for 21st Century Fox and I Chair the Business Constituency.

Denise Michel: Denise Michel, Facebook and the BC.

Jimson Olufuye: Jimson Olufuye, (unintelligible), BC.

Rubens Kuhl: Rubens Kuhl, (unintelligible), Registry Stakeholder Group.

Heather Forrest: Heather Forrest -- pardon me -- poster child of jet lag. I am - I wear very many hats here so I am a member of the IPC, represent the IPC on the GNSO Council, and currently serve as the Non-Contracted Party House Chair on the Council.

Keith Drazek: Hi, Keith Drazek, VeriSign, Registry Stakeholder Group and Counselor to the GNSO Council.

Anne Aikman-Scalese: Anne Aikman-Scalese. I'm a member of the IPC.

Wolf-Ulrich Knoben: Wolf-Ulrich Knoben. I'm a mere of the GNSO Council and I'm the Chair-Elect of the ISPCP.

Tony Holmes: Tony Holmes, Chair of the ISPCP until Tuesday.

Jonathan Robinson: Jonathan Robinson with the Registry Stakeholder Group.

Man: (Unintelligible) Mayer Brown, IPC and RySG.

Karen Day: Karen Day from SaaS - RySG.

John Berard: John Berard with the Business Constituency.

Jim Prendergast: Jim Prendergast, The Galway Strategy Group and I participate in the Registry Stakeholder Group.

Barbara Wanner: Barbara Wanner, U.S. Council for International Business. I'm with the Business Constituency.

Hibah Kamal-Grayson: Hibah Kamal-Grayson, Google and the BC.

Luca Barbero: Luca Barbero, Studio Barbero, IPC member.

Jon Nevett: Jon Nevett, Donuts, Registries.

(Chantal Dixon): (Chantal Dixon). I'm the Secretariat for the Commercial Stakeholder Group.

Cherie Stubbs: Cherie Stubbs. I'm the Secretariat for the Registries Stakeholder Group.

Sue Schuler: Sue Schuler. I do data management for the Registries Stakeholder Group.

Stephanie Dushesneau: Stephanie Dushesneau. I'm with Google, and in the Registry Stakeholder Group.

Rahael Seifu: Rahael Seifu. I'm Counsel for Google and I'm also with the Registry Stakeholder Group.

Samantha Demetriou: Samantha Demetriou. I'm Vice Chairman of Administration in the Registry Stakeholder Group, (unintelligible).

Reg Levy: Reg Levy, Mind's Machine with the Registries.

Paul Diaz: And Paul Diaz, PIR and Chair of the Registry Stakeholder Group.

Greg Shatan: Please don't let that be the last time that you announce your name before speaking, for transcription purposes.

((Crosstalk))

Tim Smith: Tim Smith, Canadian International Pharmacy Association with the BC.

Greg Shatan: And if there are any - this is Greg Shatan for the record. If there are any other members who are - haven't found a seat at the table, there are I think, a couple of more seats. On the other hand if you just want to observe, please you know, feel free to do so. I'm sorry that you're looking at my back, those in the room.

In any case let's take a quick look at the agenda which brings us to Item 2, review of agenda.

So this is a selection. We may not get through all of it. If there are things that want to be - people want to prioritize, we should make sure that they're not last. But hope - I don't know if we'll get through this whole list.

First is Compliance Data - Access and Transparency. Second, Universal Access. Third, the GNSO Standing Selection Committee Charter.

And the next three are basically the ideas - the state of the discussion for us to discuss amongst ourselves how we think these working groups are going.

And what we might be able to do to help them get on track and get to their end result faster which is everybody's goal except for those who I think want

a permanent job being on the same working group for the rest of their lives.  
So, I don't know who those people are.

And last, under AOB we have a nomination for AOB. Amendments to the base Registry Agreement. So that's the list. If there's anybody who wants to elevate something or add something or say we shouldn't talk about something, now's the time. Everyone seems to be happy with this.

Anne Aikman-Scalese: Hang on Greg. It's Anne Aikman-Scalese for the transcript. Should we add the letter that (Wes) send to the Board, and more recently added in terms of staff working relationships? The letter that talks about the Registry's frustration with staff implementation issues?

Greg Shatan: We could. We could if we get there. Let's also put that under AOB.

Anne Aikman-Scalese: I think it was fairly recently distributed. And so it might be good for one of our Registry folks to summarize it whenever we get to, you know, if it's last on the list; whatever.

Greg Shatan: Fair enough. We'll of course mention that this does not involve staff in the room. Keith?

Keith Drazek: Yes, thanks Greg. In response to Anne's comment, to be clear, the letter that was submitted that she referenced was a joint letter from Registries and Registrars and a contracted party house to ICANN. The Registrars are not with us in this room. So I'm not sure if there's harm in discussing it, but I wanted to at least put that marker down, thanks.

Greg Shatan: We do have a time later in the week when I think we'll be with the Registrars - at least the ex-comms will be together. So we can decide whether we want to talk about it here, there; both or whatever.

So why don't we launch into the first item, Compliance Data - Access and Transparency.

BC relatively recently sent a letter to the Board regarding the lack of access and transparency to compliance data and the ability to derive any, you know, meaningful metrics from that. So that's where this item comes from. So I'll just open the floor at this point.

Chris Wilson: So, Chris Wilson with the BC. I'm going to exercise my position as Chair and delegate authority to Steve and Denise who, they would like to speak to this letter and perhaps give - for those who haven't had a chance to read it, give a little bit of quick overview. And then welcome further comment and thoughts from our colleagues. Steve, maybe start?

Steve DelBianco: Yes, then I'll turn it over to Denise. It's Steve DelBianco. The BC recently had the good fortune of acquiring a new member who had a lifetime of experience on the inside of ICANN, and that's Denise Michel. Many of you know; you worked with her for years.

And Denise is now with Facebook. But entering the BC she brought on board such an intimate knowledge of - I think of how things work more on the back end of ICANN.

It gave us some insight into ways in which we need to phrase our requests for things that we think that ICANN has and that we'd like to see but, we perhaps weren't asking in the right way.

So Denise has helped us immensely in that regard. And I'm not suggesting that means we always get what we ask for. But I think everyone around this table would probably be interested in a more rapid and uniform comprehensive look at the data around compliance, ranging from complaints to actions taken, to breaches so that we can be more fact based in

subsequent procedures or fact based on recommendations for the next round when it comes to consumer protection.

And again, BC's position is representing business users and registrants, consumer protection and compliance issues become key.

But we are trying to be fact based and not just jump off the handle on anecdotes or stories about compliance problems. But really base it on how comprehensive ICANN handles the data.

So Denise, tell us a little bit about that letter and what kind of reaction we've gotten.

Denise Michel: Sure. Denise Michel for the record.

It's posted under ICANN correspondence. I was sent - it's actually a letter from the BC, the ISPs, and the IP Constituencies - all three constituencies. It was sent January 5 to the CEO and the Chair of the Board. We have not received any response to date.

I think the letter is fairly self-explanatory. We called for public access to data sets in a number of areas. And we'd be happy to talk about details if you'd like. But this underscores a couple of initiatives that ICANN has had in the works for a few years now.

We'd like it to be a higher priority and we'd like more resources and attention paid to it. I'm happy to answer any questions you guys might have.

Paul Diaz: I'll jump in on the questions. It's Paul Diaz from Registries. Denise, you said you sent the letter to (Yuron). That's just the appropriate thing to do.

Within the ICANN bureaucracy, (Jamie) would act on it. Whom else from your perspective, would we need to speak to see that this actually gets addressed?

Denise Michel: So the January 5 letter highlighted the need for data sets in a number of areas. Compliance being simply one of them.

So the - as you noted, compliance is an important area where data sets need to be provided. The SSR staff would be also a really critical area and likely GDD staff as well.

Greg Shatan: Jeff?

Jeff Neuman: Thanks. Jeff Neuman. Two questions. I guess the first one is -- and we read the letter. And even though you asked for certain data on let's say compliance, what I was not very clear on is, what data, in addition to what's already being provided, are you looking for?

And then - because there is a lot of data that they do make available in presentations.

And then to what extent have you thought about the balance between having certain data out there, but also contracted parties, confidentiality, and not wanting certain data to be out there, especially I situations where things have been resolved relatively quickly?

Denise Michel: Thanks Jeff. Good questions. So we actually hoped to, in sending this letter and raising this issue multiple times with the CEO and the Board, we hoped to engage in a discussion and evolve the work in this ar. That really hasn't happened yet but, we're used to that and will not be giving up.

So the BC has a long history of asking for a variety of compliance actions. And we can follow up with more specific asks over the years.

We don't find the current data that's provided to the public from Compliance to be insightful or useful. I really have no idea what people do with the data point that X Compliance actions were taken on a particular continent.

But I think there's a lot more than can be done here while also respect the appropriate confidentiality of Registries. And a scenario that we'd like to work together with other interested parties, certainly and ICANN staff too, raised the utility and transparency of the Compliance Department.

Greg Shatan: Reg?

Reg Levy: This is Reg Levy from Mind's Machines. So you said that you don't know what anybody does with the data points that are currently being released.

Denise Michel: I was just talking about the data points they provide on - by continent. They have a continent by continent whole number that they release which I don't find particularly useful.

Reg Levy: So my question to you is, what data points are you interested in specifically? And what would you be doing with them? Because from the standpoint of protecting the confidentiality of the Registries, if it's being released to the IPC, confidentiality is blown. Because it's, quote, unquote, public at that point because anyone can get at it.

But I'm happy to work with you guys to accomplish shared goals. And if there are data points that are useful to you, then I'm happy to work with ICANN to actually help release those.

Denise Michel: Sure. So I did not know this was going to be on the agenda. I don't have the list here. Happy to follow up with you though.

Greg Shatan: The purpose of this meeting is to start a dialogue so, that's good. Stephanie?

Stephanie Duchesneau: In the spirit of Reg's comment about shared goals, one problem that I have with the kind of presentations and the narrative that we get from Compliance is that there is - I mean there's been a huge growth in the Compliance Department. A huge growth in the money spent on it.

And when we look at the metrics that they use to justify, they point to like raw ticket volumes. Like the number of tickets has gone up and we're closing these tickets. Look at us closing these tickets.

And I'm like so many - most of these tickets are ICANN generated. So it's not clear if there's any relationship between the tickets and the actual problems.

Rubens knows the data a lot better than me. But there's this like huge fraction of it. It's like 60% of them where the coding is that - like its erroneous and it shouldn't have been opened in the first place.

Like I really want a different narrative from Compliance also. Like I want a narrative around what Compliance is doing to make the world a better place. Because I think there's like an opposite tendency that like the more minor the issue is, the more likely Compliance is to like open a ticket about it because they're more likely to be able to easily close it in a fast timeline that like suits their SLAs.

And I think that's a problem. And I think that's a problem that is frustrating both to the Registries and to the Commercial Stakeholder Groups. So maybe there's a way that we like change the narrative around how Compliance talks about itself. I know this is a little bit of a tangent, but I think it's actually a shared problem.

Greg Shatan: (Unintelligible).

Denise Michel: If I may. I couldn't agree with you more Stephanie. That's been an issue to BC. And frankly this is of issue to many others and to groups within ICANN as well. At-Large is interested in this. The GAC, and Public Safety working group are interested in this, in addition to our constituencies and probably more.

It's been our experience as well, they run a process that often is disconnected from the real - what should be the real objective of Compliance. And you know Facebook itself has had numerous instances where when a legitimate ticket is submitted, it's opened and closed without being addressed. And then it has to be reopened again.

So even within those substantive tickets, not clear that the correct numbers are coming through and being recorded.

So I think there's a lot of fruitful work that can be done in this area and we would love to work with you guys on it.

Man: Stephanie I'd just say that I think your topic was actually right on point. Because I think underlying this is a lot of concern about what I would call, maybe a little bit uncharitably, junk stats that are generated. And also generating nice looking infographics that you know, take the junk stats and make them pretty.

Denise Michel: We hate the PowerPoints too. I think we hate the PowerPoints.

Man: Oh god, that's exactly it. You can't drill down on them. They're the wrong stats. All they are, are you know, somebody playing around with shapes and pie charts and stuff. But it's not the right data and its data you can actually work with because all it is, is pretty pictures. Sam?

Samantha Demetriou: Thanks a lot. This is Samantha with the Registries. I just - I wanted to also, in the spirit of cross-community collaboration, wanted to mention that I

think it was two ICANN meetings ago, a group - a subgroup from the Registries and a subgroup from the IPC formed a Discussion Team that's been meeting fairly regularly since then. And one of the topics they're looking at is the kinds of information that ICANN Compliance publishes.

They're working on a list of recommendations that are going to be discussed at a meeting here in Copenhagen. And it's really specific stuff in terms of like, you know, what we'd like to see published, what kind of data, how to treat the data; things like that.

So as far as I know, that's an open session so, if others want to go and observe. And maybe there's an opportunity to get other groups involved beyond that.

Man 1: Even if it isn't open, I mean send it over to the CSG colleagues if you can, too.

Man: Yes, I'll talk to you about that.

Greg Shatan: Anybody else. We've got a standing room only. Nobody behind me need to come to a mic? Jon, sorry, go ahead.

John Berard: John Berard.

Greg Shatan: John sorry, go ahead.

John Berard: Sorry, thank you. John Berard with the BC. The willingness to cooperate between the Constituency Stakeholder Group is great. But historically we have relied upon workarounds when in fact we should be asking for real substantive changes in the organization.

So yes, we - maybe there are some instances where we could collaborate and figure it out ourselves. But it needs to be a much more routine part of life

inside ICANN. And perhaps with the current re-organization of Compliance with new players and new places, there may be a receptivity to this that hasn't existed in the past.

But workarounds are great but they don't really offer the kind of long-term benefit that I think we are all looking for.

Barbara Wanner: Hi, this is Barbara Wanner with the BC. I'm wondering, when we met with (Jamie) at the Intercessional, I believe he expressed interest in forming a working group on Compliance. Would this be suitable for discussion within this working group, I'm thinking, as a way to elevate it?

Greg Shatan: I'll take a stab at it. Possibly, Barbara. The mention that was made in his blog post, I'm not sure how much he may or may not have expanded on it at the Intercessional. He was a guest at our last Registry biweekly call. Didn't go into much detail.

We have probably more concerns about the framework of that potential initiative and we would need it to be explained a little better before jumping in. But I guess potentially that could be an area.

Along those lines the Registries invited Compliance to come speak to us Tuesday morning -- Constituency Day -- so that we could have a follow-ons from our sessions and they rope back and stuff like that. But they still have a lot of questions.

You mentioned they have not responded to your letter. But do you have any sessions scheduled with them or the other departments this week? And maybe we just compare notes later in the week to see was anything - any meaningful progress made.

Chris Wilson: I just -- this is Chris. We have (Jamie) scheduled to come and speak at the BC meeting. And I think he's coming to speak at the IPC meeting on Tuesday as well, albeit we only have him for about a half an hour.

But you know - and frankly I mean, during the course of the Intercessional this issue was raised with him both collectively. But the whole group you know, NCPH, (unintelligible), CSG and the engagement with him. So I think there's a collective interest in getting - improving in this area.

So certainly it's - to the extent that it comes up in that limited time that we have, then I expect it will. Then we can share, yes.

Steve DelBianco: And since the ex-comms as Greg noted, will be getting together Wednesday afternoon, great time to touch base. You want to go to the next one?

Greg Shatan: I think that's it. It's been a helpful discussion and starting some further discussions. Why don't we move on to the next topic, Universal Access, Tony Harris?

Tony Harris: Yes, I'll start off with this subject. It's something that our constituency really supported from the beginning. I think we were probably instrumental in getting this thing going. And of course the Registries have been very - participating very actively.

I don't think the Universal Access Steering Group has the sufficient highlighting it should have in ICANN meetings. It seems to have a very meager set of presentations.

And I also don't think they have enough support -- budget support -- to do a bigger job. A lot of great work is done - has gone into producing some very pertinent documents. As Registries, I think you might all be interested in this being really widespread since that's a problem that we should solve.

From the perspective of the ISPs it's a potential source of class to our call centers complaining about domains that don't resolve. I've seen this happen in South America and Argentina.

And I think more support should be forthcoming to very good work that's being done in this group. Thank you.

Greg Shatan: Jeff?

Jeff Neuman: Thanks. This is Jeff Neuman and I also agree with you. I think there is important work being done by the UASG and not enough attention being paid to it.

But I would argue, at ICANN meetings, that's not the place to pay attention to it because we're not the intended audience of the UASG. I'd rather have them all spend much more money and outreach to the ISPs directly or to those types of meetings than coming to an ICANN meeting and spending money.

So it doesn't bother me that it gets a little short shift at an ICANN meeting, as long as we can give it more resources to do things outside of the ICANN meetings with the groups that ISPs and others participate in.

Greg Shatan: Steve?

Steve DelBianco: Steve DelBianco. I don't follow that group too closely but, I can personally attest to the problems of Universal acceptance.

But my question to the CSG and Registries is, has this been an example of a group where we have completely aligned goals in increasing the ability of browsers and tools to take the new TLD names?

Are we aligned in our goals and have we been cooperating between CSG and Registries on this project Tony?

Tony Harris: Definitely, yes. If you look at how the Universal Acceptance Steering Group is constituted; who the members are and the Chair and Vice-Chair, we're all there and we're all working very hard together. Thank you.

Greg Shatan: Denise.

Denise Michel: So on the Facebook platform we do a manual add from INO list on new gTLDs.

I'm curious as to whether the Universal Acceptance discussion and effort, within that has there been any discussion about potential problems of a small number of new gTLDs who have a very high percentage of malicious or abusive domains?

And the separate incentive is asking the world to accept those along with all the ones around this table and others that don't have a high percentage of abusive domains and comply with their contracts. And provide them money and resources to keep their TLDs clean.

Is that an issue that's been addressed in this group or, is there being - any discussion about this?

Greg Shatan: Tony, do you have - do you?

Tony Harris: As far as I know. I'm not able to participate in all the calls. But this is a technical group and the concern here is, resolving - getting the message out to programmers and developers all over the world that there are new TLDs.

And that they should blacklist or whitelist them when they program in such a manner that when a new gTLD is used in an email or looking for a Web site, it is not immediately rejected by what they program.

I don't think -- although as I say, I haven't participated in every single call -- I don't think that what you are pointing out is part of the way they are looking at this. It is strictly technical and is strictly solving that problem. But perhaps somebody else can - from the group can tell you.

Greg Shatan: Brett? Brett Fausett.

Brett Fausett: Brett Fausett from Uni Registry. I can't talk about what the group has already done, but I think what you identified is a huge issue. And I think third parties such as Spamhaus that are effectively rendering some domains inoperable are a huge problem for acceptance.

I know - I mean we've been in dialogues with them because they've erroneously categorized one of our TLDs as one of their top ten. They view every domain sold by a certain registrar as a spam name.

And so if we have a high incidence of domains with that registrar, they all get counted as spam. And Spamhaus would rather have a very high incidence of false positives than allow one spam to go through.

So they've got an intolerance for spam that is so strong that they will disable tens of thousands of domain from legitimate customers rather than let a single spam come through. And I think that's - you know as long as we have these people sort of I think, over-reacting to problems, it's going to be a cause of Universal Acceptance issues for our users.

Tony Harris: You're right. But in the case of Spamhaus that is a voluntary action. Whereas programmers and developers who exclude new TLDs, it's

involuntary usually, and ignorance. So there is a slight difference of approach there.

Brett Fausett: But I think, you know, if I am a customer of an ISD that subscribes to Spamhaus, that's not my choice. You know my ISP has not subscribed to Spamhaus and its keeping my stuff from resolving.

Yes, Spamhaus made a voluntary choice. But the ISPs that are relying on Spamhaus are getting punished, and that wasn't their choice. And they may not understand that their ISP has made a choice to adopt Spamhaus' rules.

So I do think that we need to speak to some of these third parties. And you know - look we've tried. It's very difficult to work with some parties who have a belief about the way the world should work. But I would like to see the industry get more involved with them.

You know, Registries should be more proactive in handling abuse. But the people who are monitoring abuse need to be better about responding to those activities.

Tony Harris: You're quite right. In Argentina we have a lot of instances where entire blocks of IB addresses are invalidated. ICANN even sent an email to Sony Homes for example.

Greg Shatan: Okay, Denise and then Jeff.

Denise Michel: So Facebook and other global platforms have a different perspective on this. It's not a belief about TLDs with a high percentage of malicious domains. It's based on data and facts.

We don't rely on Spamhaus. We would rely on a very strong team of security and data scientists at Facebook.

So - and I would say it's not simply a technical issue because we manually add new gTLDs from the IANA list. And we really haven't gotten the response or the support. We meaning, I think, global businesses and platforms like Facebook and many others, in addressing the problems that we see in a small number of new gTLDs. So I would disagree with you and...

Jeff Neuman: So I don't - I guess I don't understand how Facebook uses SLDs and new TLDs, and what - how you interact with malicious names.

And so I guess if I - I'd love to talk to you more and understand how Facebook handles SLDs and new TLDs, and what - and why you would ever need to do something about that. Because I guess I don't understand, you know, because people are interacting - my view is that people are interacting with Facebook over the Web and through you know, your own app. And I don't understand how you interact with other things.

Denise Michel: So I don't want to take up a lot of time. It's a much longer conversation. But just one single domain name yields an exponential number of FUDNs, linked from our platform.

So - and it proliferates across platforms and those are blocked by Facebook on a, you know, per domain basis.

We're not alone. I mean this is a global business problem. And as the malicious abuse and spam, etcetera increases, particularly in the new gTLDs, I think what I'm saying is that that is not going to be divorced from, the ask, here of Universal Acceptance.

So I think collectively there's more that we can do to use the tools that we already have and implement the contractual obligations that we already have to do a better job with the small number of new gTLDs that I think are heading in the wrong direction.

Greg Shatan: Okay, John.

John: Okay just - I'm not following that Denise. We have a Universal Access Accessibility issue that, especially the ID TLDs that have a problem that Tony, rightfully so, is trying to address.

By linking it to a small number of TLDs that we have - the global communities today has issues with, doesn't that harm the public more than help the public? I guess maybe I'm missing what you're saying. How are they related?

Denise Michel: So I think we took a turn into Universal Acceptance from Universal Access. But I think for a small number of TLDs there is a - so there's certainly a public service and ensuring Universal Access and Universal Acceptance of the TLDs that are added to the root.

But for a small number that have a high percentage of abusive domains, there's also a public service in not resolving them if it gets - to protect the public. I think is the issue that's being discussed. I just wanted to surface that.

Steve DelBianco: Okay, are we pretty good with this issue? Any follow-ons? Okay, Greg.

Greg Shatan: I think we're good. I think we can move on to the next item which is the GNSO Standing Selection Committee Charter. And why don't I slide it down the table for that. Wolf-Ulrich.

Wolf-Ulrich Knoben: Yes, thank you Greg. Yes, Wolf-Ulrich speaking. The reason why I put that to the table is we have to decide upon this charter on Council level next week. There's a motion on the table and you are discussing that internally in your (unintelligible) we are discussing.

The Selection Committee is to be established in order to make a recommendation for the selection of for example, a review teams and all teams which are to be established under the new empowered community rules.

And so it's really helpful to have such a community in place - such a committee in place then. But the issue we have with business is that at the time, being there are two options for this charter. How to fill out this committee. Just let me briefly explain it.

It's - the one option is stakeholder group based within the GNSO. And the other option would be, Constituency based. So these are the big differences to fill that charter.

So what we would like to raise here and to make clear in front of you is, that our position is very strictly, we are to make that committee on the basis, (unintelligible) on the basis of where the Constituencies are represented as used to be in the past. And not to start a slow process towards a more stakeholder group related establishment.

So one of the reasons is that we see that the question, whether committees to be filled in a different way, is to be connected to, in a broader sense, to a future maybe, structurally view of the GNSO as a whole. And shouldn't be - while be taking measures in advance before we have such a review.

But if there are additional comments from Tony, I would be happy if Tony could have some.

Tony Holmes: Okay, thank you Wolf. The issue really is here, we just wanted to try and put the rationale for why we feel strongly about that. Because we've been pushed into this Commercial Stakeholder Group, what you actually have is a group of Constituency, although we get along pretty well and rub shoulders

together okay, there are some fundamental differences between the views that we have.

And it's incredibly difficult to represent them at a stakeholder group level on some issues.

And certainly the focus of those constituencies across the ICANN ecosystem is really in different areas. So the point to make here is that there is no way that we wish to unduly influence or add weight to any particular view. And certainly nothing to challenge the ability of other parts of the community to contribute on the same level.

But just so that you really understand, for us to be permanently represented in this way, it puts us in a position where it poses real challenges for us as an organization in getting across a diverse set of views on any particular issue.

So when you have your deliberations around taking this forward -- this motion -- we just wanted you to understand that it isn't meant to challenge anything. It's merely meant as a way that we can actually contribute in the ways that represent our stakeholders and our particular constituents which we cannot do if we're pushed down that single path. And I don't think that's healthy for us and it isn't healthy for ICANN either.

Greg Shatan: Keith?

Keith Drazek: Thank you. Keith Drazek. Thank you, Wolf-Ulrich and Tony, for bringing this up; bringing this to the attention of the group. This is certainly something that we've talked about on Council and that we will continue discussing.

I think -- just and I'll speak personally here -- I think the, provided whatever solution, you know is reached, provided it doesn't presuppose you know, any sort of structural change and that there's a continued respect for the two-

house structure; the bicameral structure, then you know, I personally have some sensitivity to your comments and to your suggestion.

So I think if there was a way to you know, have a, you know, sort of a numerical balance while allowing or enabling you to have the constituency level representation on this committee which again as you noted, is a committee that will be tasked with assigning members to review teams, to CCWGs presumably. And so this is a new thing under the new accountability structures and the new bylaws and the empowered community.

So I think as long as we can -- just to summarize it -- as long as we can maintain the bicameral structure and not have this as necessarily, a precedent that presupposes the outcome of any future structural review, then I guess that seems pretty reasonable to me.

That's my personal view though. Obviously we have to discuss this quite a bit more.

Tony Holmes: Okay, thanks. Tony Holmes. Certainly Keith, I think we need to separate the whole issue of structure and the bicameral approach. And certainly we don't see any impact back on that through that mechanism.

The point you make about keeping the balance and not impacting the balance, totally in accord with that though, for this particular committee. The ability to be able to contribute is the main thing which we don't have.

If ever we get down to those terrible situations where we have to vote, then we have to respect the structure. There's no question about that. But in terms of being able to take part in that and contribute on the same level, that's really the force behind that argument. Thanks.

Heather Forrest: Thanks Greg. Heather Forrest. I'm - I would like to raise a point actually, and it's more Registry point, and just air that so that we all as the CSG have that in mind. And perhaps an opportunity to offer our comments to it.

One of the concerns that's been raised by Donna - Donna Austin. And I'm not in any way speaking out of school because this is something we've discussed in the transcript at length, is the concern about having this committee be sufficiently nimble and sufficiently small, if you like, that it isn't so many heads in a room than can't decide. So that's really been the primary, I won't say objection, but perhaps I'm - and it's not pushback. I don't want to come up with a negative word here but, you understand let's say, where I'm going. The primary concern I suppose, in terms of having the representation be as you've suggested Tony.

And so I take Keith's comments on board. You know, his personal remarks let's say. And I certainly haven't had any sense in the discussion that we've had on Council, that there's any hesitation in relation to the representation point. And my colleagues on Council can correct if they've heard differently.

I certainly haven't heard anyone suggest anything disparaging about our interest in representation.

One of the things that I, rather than - I'll try and get out of that ICANN trap of pointing out a problem and not offering a solution. The way that that charter is currently drafted is there are a number of people - it isn't small let's say, what we're envisioning.

If we have the three members of the CSG on there, we also have the NCAs on the committee. And we have Council leadership as ex-officio on there. And one of the options that I've posted to the IPC list, and I'm happy to share in this group, is to say that perhaps there's some work to be done in cutting those positions. In the spirit of representation, that if we want to meet all of

these objectives that perhaps we look at - there's no reason for example, that Council leadership has to be on there.

Do we move those folks? Do you have different ideas in terms of ex-officio, and so on and so forth?

So I raise those concerns because I think they're valid. We want this thing to be effective. It's really one of our key goals for Council for this first half of the year is to get this thing up and running. And at the same time, you know, we have this objective of representation. So I'd like to see us achieve both of those. Thank you.

Greg Shatan: I've got myself and then Tony. My remark is that I see this to some extent as, you know, emblematic of the larger issue of continue to clone the - either clone the shape of the Council as being the shape of the GNSO. And then to do it at the stakeholder group level which for all solutions relating to the GNSO, even when they have nothing to do with Council.

And you know with only one representative of the CSG, we essentially end up disenfranchising two constituencies because there are issues on which we diverge greatly. Or, aren't even - or tangential to each other's issues. And there's no homogenized view from all three groups will be useless.

I'll throw out for - just to complete speculative spitball idea might be, to solve representation versus balance issues by using weighted voting. That way you can have representatives at the table. But if it comes down to a voting issue then you can have a - then you go back to having the balance - current balance be respected for so long as that is the balance.

Tony Holmes: Tony Holmes again. I was going to build on what Heather said. But having heard Greg then I'll build on both of their comments.

I'm aware that this is going to come up on the Council discussion for the Council meeting. So I just want to say, if within your deliberations you have any thoughts around this, and there's any way we can exchange ideas that alleviate some of the problems we have, please talk to us. We'd be pleased to have that conversation either with the Leadership Team or with our Council. Thank you.

Greg Shatan: Wolf-Ulrich?

Wolf-Ulrich Knoben: Thanks. Wolf-Ulrich Knoben speaking. Thank you for the comments. So we'll take that into consideration.

But to make it clear to the people who are not so close to that, the figures. I think it varies between 8 and 11, isn't it? So that was - so that is the question of ours, you know. Eight members or 11?

So in the past I would say, we could manage meeting with 11 or we could manage meeting with eight. So this is not really the problem of managing a meeting about that.

And so the question is really, shall we go into this let me say, really contentious discussion with (unintelligible), so in that way, or rather than say okay, this is not - this is really a question about that. Thanks.

Paul Diaz: Just a general question for our counselors. It's on the agenda but it won't be decided here in Copenhagen, correct? Heather?

Heather Forrest: Thanks Paul. Heather Forrest. One of the challenges that we have - I mean it is on the agenda. It's not on the agenda as...

Man: As a motion.

Heather Forrest: Yes, it is a motion. It is a motion. So - and the problem that we have in terms of timing is, we've been discussing it since Hyderabad. We've had several review teams that have come up that we've sort of cobbled together a thinking about how we put people on this.

It's very much the intention that this get off the agenda here in -- where are we?

Man: Copenhagen.

Heather Forrest: Copenhagen. I love it. Excellent, (unintelligible). It's very much the case that we have to get this off the agenda for this week. If we don't, we have our representative to the empowered community that's held up by this. We have several things let's say, that are held up. And we're only going to have to cobble together a procedure that's some sort of halfway house of what we have on the table anyway.

So it is indeed -- thank you Wolf-Ulrich -- it is indeed a motion and we really need not to defer it. We put ourselves in a difficult position to the extent that we defer it. Thank you.

Paul Diaz: Okay, I was just asking Greg, the joint ex-comms will meet Wednesday. But I guess it's after Council has had their session? So we'll try to have some discussions and even...

((Crosstalk))

Paul Diaz: Okay. Because obviously Registrars are not in the room right now. So we'll try to have this conversation and hopefully can move it forward.

Greg Shatan: Where are we on our agenda?

Paul Diaz: Move on to the next issue then?

Greg Shatan: Yes. I think that brings us up now to the trio of working groups. These are in no particular order, but I thought it would be helpful to see how we think these are going. We might as well use the order that's on the agenda since there's a green arrow pointing at it now.

And that brings us to the state of the discussion in the Next Generation RDS Working Group which some of us left to come here. And perhaps that was merciful, either to that group or to those that left.

So, I'll just open the floor for comments on how we think this group is going. And if there are ways that we can collaborate to help the group be more efficient and effective and less tangential and whatever else it may be.

Paul Diaz: Exactly. I don't know. Does somebody want to offer something? I'm not going to try to summarize where the current status of these three different initiatives are, but can anybody who sees points of departure highlight them? Maybe we can determine if there really is less distance between us.

This is tricky for me because I'm not prepared to speak to these in any depth. And really don't feel prepared to speak on behalf of the Stakeholder Group. Because as a group we have not drilled down in our biweekly updates to any degree that we could say hey, we need to do this. We need to not do that. So, looking for some help here. Brett?

Brett Fausett: I just wanted to note that I think all of our members who are members of the next - of the RDS Working Group are meeting down the hall in the C Section right now. So probably not the best time to have that discussion.

Greg Shatan: I think that's true. That's the one that obviously would be the lightest because, you know, I left a number of our members back there.

I guess what I would say as a general framing of this concept is that as the Commercial Stakeholders Group, we're commercial and you know, tend to try to be pragmatic and not dogmatic. And to try to reach solutions.

And I, you know, personally am a Transactional Lawyer. And getting to yes is what gets me paid. Not beating you but meeting you. So - and then beating you. But that's a different story.

In any case, the idea I think here is - and my overall view is that sometimes these groups get paralyzed by two things. One is, people that won't take themselves off the wall and start approaching consensus.

And second is, being (unintelligible) or having a sort of a passion or a cause that you must embrace from morning until night and from cradle to grave. And that you're going to do that through the entire working group, come hell or high water. I don't think that's anybody's approach in this room.

Obviously everyone has red lines in any negotiation in any situation. But I don't think - I think the red lines that come from passions and causes tend to be harder to negotiate than those that come from pragmatic considerations and protecting of interests.

That's my view that hopefully you know, kind of cooler and more commercial heads can sometimes help these things get from beginning to end. Because as long as we're in a working group, nobody is accomplishing their goals.

There will be you know, no RDS until the group finishes. There will be no change to the RPM until the group finishes. There will be most likely, no new round or round of new gTLDs until the group finishes.

So if these things drag on and on and on, that benefits no one including those who want to - for whom this is their business. Steve.

Steve DelBianco: Steve DelBianco. As a technologist, not a lawyer, after yes there's always a comma, but. You know yes, but what about? And the implementation is everything.

And while we talk about this RDS future; this planning, something else is happening outside of the room and it's an increase in data protection legislation by national governments; regional governments that does have an impact on a lot of what we do, including what we do with respect to RDS.

In Council this week, Item 7 on your agenda is a response to the thick WHOIS Implementation Review Team, and Council is considering drafting a letter to ICANN Legal.

And I would just invite those of you who are on Council to take that opportunity to be sure we learn enough about data protection legal issues, that it will inform not only the thick WHOIS implementation, but will adequately inform the RDS planning. Because these are all going to have to convert at some point.

So a red line drawn in a room where there's no governments there, is very different than the line the governments will draw on top of anything that we do.

Greg Shatan: Thanks Steve. Did you have someone down the hall? Keith?

Keith Drazek: Thanks Greg. Thanks Steve. Yes, (Eric Ahmen) took the first cut at I think, a very effective document or basically a statement, justifying why the GNSO Council should in fact request an update to the 2015 legal memo that was produced by ICANN for the - you know, consideration on the whole thick WHOIS question. Obviously a lot of change as it relates to data regulation and legislation since 2015.

And you know obviously these issues impact the thin to thick transition. But the thin to thick transition is moving forward. This really, I think, is important for that RDS, PDP working group to be able to you know, take advantage of some expertise that it currently does not have as it relates to these data transfer concerns. So thanks.

So just again to summarize, I think this is something that the Council will discuss. And I think on our biweekly calls there's been -- sorry -- the monthly GNSO Council calls there's been pretty broad support for advancing that. I haven't heard any strong statements to the alternative.

Greg Shatan: Thanks Keith. Anybody else? Anne?

Anne Aikman-Scalase: Thanks Greg. I'm sorry to disagree with my President of the IPC, but I believe that passions in causes are okay. And I think that this is a forum where these passions and causes can be discussed. Because I can say that I know folks in RDS that are very passionate about the privacy on free speech causes.

And yet I also think that - and actually for whom, I have a great deal of sympathy when it comes to expressing political opinions, free speech, comments on women's rights; that sort of thing. And those are things that in my personal life I would feel also equally passionate about.

But I'm also very passionate about consumer protection. I'm passionate about protecting against counterfeit, you know, doing what's right. Passionate about the interest of my clients who are indigenous peoples, and things being copied that are called, you know, by the names of those tribes. But they are not actually things that are manufactured or endorsed by those tribes.

And I don't think there's anything wrong with passion in causes. It's just that they all require balancing.

And so again, as I commented in the RDS meeting, it's very important to balance situations where goods are being sold or drugs are being sold. And the Registries have already recognized this. They've had meetings with Pharma right, to work out these types of issues.

And that is very different from a pure, free speech issue where someone needs their privacy protected because what they're speaking about is, you know, an activity that's illegal in their country. And they don't want police coming to their house to put them in prison for it.

I mean there are countries where it's illegal to say things. So those are just at opposite ends of the spectrum. It's okay to be passionate at both ends of the spectrum. And you still need to arrive a compromise and balance interests. Thank you.

Greg Shatan: Thanks Anne. I don't actually think we disagree. I have no problem with passions and causes until they get in the way of consensus and balancing and finding some place where you can have a meeting of the interests.

You know anybody who is maximalist, whatever it may be, and isn't going to move off that position, is going to get in the way of consensus building. And may also, you know, not share information that could help build consensus.

And I agree with Steve 100% that more of us need to get smarter about, you know, data protection laws and privacy laws. Some groups have more people with knowledge about that than others. And so you know, it is a fact of life that we're going to have to cope with.

But at the same time there are solutions to a lot of the problems raised by data protection laws that can allow the thin to thick transition to go forward. And allow an RDS to be developed appropriately that's neither, you know, violate of the law nor hidden from all you.

There are you know, issues, there's consent, there's various things - I mean lawyers are problem solvers. Laws are problems to be solved. You look for ways within the law to accomplish something. But if your goal is to maximize privacy and minimize, you know, any availability of data, then you're not going to say well, the data can be available if we have a clear, expressed consent at the time of X, Y, Z. You're going to kind of keep that to yourself.

I mean so my concern is that we all have to work together to try to find the solutions that allow these things to go forward and no violate the laws. That's my soapbox moment. Thank you.

Anything else on any of these three working groups where we think there might be something we can cook up?

Or again, as this is kind of, you know, a discussion starter - rolling discussion, think about ways you know, over time that we may be able to recognize points where maybe we can bring things together. And obviously not just with those in this room, but those that aren't in this room, we're necessary but not sufficient amongst ourselves to generate consensus.

So you know, let's just try to keep thinking about what we can do in these groups to bring them - keep bringing them forward.

And speaking of bringing forward, unless there's anything else on the big three working groups, we can move on to the - move the big green arrow all the way down to AOB, Anne Aikman-Scalese.

Anne Aikman-Scalese:       Sorry, Anne Aikman-Scalese for the transcript. With respect to the RPM Review Working Group, I'm trying to recall, the report we got recently on TMCH by the outside experts, was that relative to RPM Review in any way? Because I read through the report and one of the statements in the report on Trademark Clearinghouse was, this report should not be used to

make policy which I thought, gosh how come we're paying for reports that can't be - that's not useful in making policy.

And they talked about the problems with the data. And one of the issues too, and the problems with the data is that there was apparently a fair amount of data requested both from Registries and Registrars to which they received no responses.

So I'm - you know I'm trying to understand how that report is useful or is not useful in the RPM Review with respect to the Trademark Clearinghouse.

And I know there are others much more familiar with this issue than I. Perhaps Susan well could comment.

Susan Payne: Yes, Susan Payne for the record. I can comment really briefly which is, it was commissioned by the CCT Review Team because obviously they were also tasked with considering the Trademark Clearinghouse.

And it also had a background in the GACs requirements that certain particular elements of the TMCH should be reviewed at a certain period of time. So that was the purpose of the report being commissioned.

But you're absolutely correct. It's of some limited value given that they couldn't answer a number of the questions they were precisely tasked to answer due to lack of data or for whatever other reason. So, it is what it is.

Greg Shatan: Thank you Susan and Anne. Phil Corwin?

Phil Corwin: Yes, thank you. I'll just speak briefly in my capacity as one of the three Co-Chairs of the RPN working group.

In regard to the Analysis Group report, we just received that very recently; the final report. They can put whatever disclaimer they want on it, but you know

the working group will probably use that most probably in conjunction with our review of the trademark claims notice. Because the earlier, preliminary reports showed a very high abandonment rate when the Trademark Claims Notice was received.

They don't have the data to tell us whether that was abandonment of intentional infringing - potentially infringing registrations or, abandonment by less sophisticated parties of what might have been a completely legitimate registration. But we'll take it into account and use it for whatever purpose we wish.

Let me just finish this statement then you can get back. In regard to the timeline of the working group, the Co-Chairs held a call earlier this week before (Kathy) and I came to Copenhagen. And we are committed to completing Phase 1 on the timeline.

As I stated in the meeting earlier today, we're probably going to step up the weekly meetings from 60 minutes to the 90 or 120 minutes to stay on that timeline and do more critical prioritization of issues. So we spend the time required on the important issues and quickly discourage the ones that don't require additional discussion. So, I'll stop there. Thank you.

Anne Aikman-Scalese: Just a very quick follow-up to that. This is Anne again. With respect to abandonment rate, the Analysis Group observed that the data could have been more useful if they knew the abandonment rate in relation to the attempted registrations or inquiring into registrations subsequent to the 90 day period.

But they did not have that data and they said they asked the Registries for data - and Registrars for data in relation to abandonment rates so that they could have a comparison. Because the abandonment rate during the claims trade, was very high; above 90% I think.

But they said that they asked Registries and Registrars for data of abandonment rate after the 90 days and didn't really receive any responses.

And then the other item was they said that they were somewhat concerned about the data because there was evidence of downloading registries from - of bulk data. Sometimes to the point of - from the Trademark Clearinghouse, sometimes 20 names at a time.

And they weren't able to determine whether each download that they were counting was in fact an abandoned registration because they didn't know exactly who was downloading.

Phil Corwin: Yes, thank you. Again, that final report was just received very recently. The working group has not reviewed it and discussed it yet to decide what we need to do further.

In regard to the data, the data - whatever data there is besides what the Registrars and perhaps we can contact at least some of the larger Registrars and see if they're willing to provide us with some additional information that would help us make some policy decisions.

Anne Aikman-Scalese: Thank you.

Phil Corwin: Thank you.

Greg Shatan: Thank you Phil. Maybe another reason for the high abandonment rate is people trying to reverse engineer the Trademark Clearinghouse. But that's just speculation just like every other possible reason. I think that brings us to Jordyn.

Jordyn Buchanan: Yes, I just wanted to make another quick comment with regards to the TMCH review.

I think while - I think you shouldn't over-read the caveat that the Analysis Group put into that report. It doesn't say that it's not useful for making policy anywhere. It says there are certain specific portions of the report that would be difficult to build policy on.

But for example the data around the, for example the defense of registrations I feel like is actually quite solid. And it wasn't particularly caveated, so I think you want to read carefully and not just say oh, I say this sentence in one part of the report and therefore I need to apply it to the entire thing.

Anne Aikman-Scalese: And just a follow-up question. Are you speaking of their analysis of Sunrise versus when you say defensive registrations, are you speaking of the Sunrise analysis?

Jordyn Buchanan: Correct.

Anne Aikman-Scalese: Thank you.

Greg Shatan: Thanks. I think that now brings us to AOB. Does anybody have any reg items to bring into AOB?

Reg Levy: Reg Levy, Mind's Machines. I'm looking at the schedule and it appears that on Thursday there is what is listed as (Janice)'s Stakeholder Group/Constituency Leadership Meeting. It is a closed session for I believe, a subset of the people here today. Do we need that?

Greg Shatan: I think it was very helpful to have it in Hyderabad. It was actually a very good session. Is there a reason not to do it?

Man: Is there (unintelligible) on Thursday?

Reg Levy: Because it's the end of the day on Thursday and there's nothing else during that day. Perhaps we can reschedule it. Or also - I mean if we're done then you guys can piece out and we can stick around for...

Greg Shatan: A lot of the people we would have in that meeting aren't in this meeting.

Reg Levy: They are not. I thought they...

Greg Shatan: Well why don't we keep in touch on that and we'll figure out...

Reg Levy: I thought they were here today so, my apologies.

Greg Shatan: No, some are here; some are in the RDS meeting. Some are - one is flying in from San Diego because he had to go to a partner meeting for one day on his way from Chicago to Copenhagen. We know how that is.

So you know, let's see what we can do about that. I would still - I think it's still a very useful group to get together. But I understand that there's nothing like last-day-it is to make a meeting less than palatable.

We do have one more item of AOB for this meeting which is the amendments to the Base Registry Agreement that was brought up by BC. So I'll turn to Chris, although I assume that the Registries have a thought or two about it also.

Chris Wilson: So this is Chris Wilson for the record. Yes, I think we want to just to bring it up and sort of flag the BC (unintelligible) comments in July in response to the proposed amendments to the base new detail - the Registry Agreement.

Some of you may have seen our comments; perhaps not. But it would probably be good to sort of raise it here and bring out some of the issues that we talked about in our comments. And obviously get responses and so forth.

So again, I will use my power of delegated authority and turn to (unintelligible) and Denise to help do the heavy lifting and the drafting in the comments. And then of course if Steve wants to chime in as well, that's fine. Denise.

Denise Michel: Why thank you. Denise Michel for the record. So I think in case you're not familiar with the Business Constituency; the Intellectual Property Constituency, and a number of other groups within ICANN, and I think individual entities as well, commented on the proposed changes to the new Shelby Base Registry Agreement.

I think the Commercial Constituencies and perhaps others, but just since it's a CSG meeting, had both a process issue with the way the proposed changes were developed and socialized, as well as, substantive problems with the proposed agreement.

It seemed like an obvious omission not to raise that since the CSG is meeting with Registries. So in terms of process, I think having a meeting simply between the staff and a group of Registries without any transparency or visibility or understanding on the part of the rest of the community is not an appropriate process to take with the base agreement.

So I think there's that process issue. The public comments that were provided on the draft agreement were not fully and adequately responded to and responded to late.

So I think those - at a high level those are some of the issues that we have. I know we don't have time to go through all of the issues - substantive issues that the Commercial Constituencies raised. But wanted to kind of raise this as an issue. Steve did you have...

((Crosstalk))

Steve DelBianco: Thanks. Steve DelBianco. The genesis of this probably was I guess surprising and maybe even pleasing to the Registries around the table. Because the BC had concerns that the renegotiation; the renewals of some of the Registry agreements were becoming opportunities for ICANN and the Registry operator to adopt provisions, make modifications to fees and arrangements.

And where that included the adoption of something like Uniform Rapid Suspension or URS, the BC's process point was well wait a minute, we haven't done - that's not a consensus policy. That wasn't something we developed through a PDP. We're about to look at it now. Is it really right to be adopting those in agreements without having had the community do any input or development of the process?

And I'm waiting for all the cheers from the Registries that that was a very principled point that we put together.

Now practically speaking, we understand though that ICANN will enter a two-party negotiation with the Registries seeking to renew. And at the end of that two-party negotiation, ICANN publishes the contract as a perfunctory matter.

And honestly, to our view it doesn't take any account of comments that come back. And at that point, because it's already been negotiated and we weren't a party the negotiation, you can't - you probably can't appreciate how unsatisfactory that is to the community who should have had something to say about what was negotiated.

So maybe the process point we need to focus on is for the community to give priorities to ICANN before they enter negotiations with you Registries on the base Registry Agreement.

And have those priorities be reflected in how that two-party negotiation goes so that they don't learn what our priorities and concerns are until after the

contracts have already been done. Because it's so hard, after they've negotiated with you over a long period of time to undo something that you've worked on together. Because the comment period happened in reverse order.

So the Base Registry Agreement is certainly a more public development than sort of the bilateral agreement of those of you going through renewals. We get that distinction.

But our lesson learned is that we care about process. We want to see bottom up policies implemented and not things that get cooked up in Compliance. And we want to see the priorities of the community understood before you begin your negotiations, if that makes any sense.

Greg Shatan: Thanks Steve. Jon Nevett?

Jon Nevett: Sure, a couple of points. I'd share the working group for the Registries that negotiated the base agreement from pretty involved.

It is not a policy process; one point. If we wanted to do a policy change, we know how to do that you start a PDP. This process is different. This process was followed to the letter of the contract.

So if you don't like the process, don't complain about it now. It should have been complained about when originally, I don't know, 2011 I guess, when that went in.

So the process for this, for clarifications; for the two parties to the contract get together.

Now I understand the concern and I can appreciate where you're coming from. And it's a good idea to get input to ICANN before. And I'm totally cool with that. That makes sense.

We had concerns about other parties being at the table because that's not the way that the contract reads. There's a working group for the Registries and negotiating with ICANN. It's clear in the contract. If you read the provision of the contract, we followed that process.

And to the extent there are policy issues, I don't want to intertwine renewals with URS and stuff like that. We need to deal with anything like that. You know that is a valid point and we should talk about renewals maybe separately.

But for the Base Amendment process under the 7.5 of our agreement that's the process we followed.

Now could there be more transparency, more checkpoints along the way? Sure. And we could talk about that. If we ever go through this process again which I assume we will, we'll talk about that and how best for ICANN to collect that information from you guys.

But it's not an opportunity for pet policy issues because there's a PDP for that. It's an opportunity for the contracted parties to get together to come up with clarifications and issues like that. And absolutely the public comment period is important.

And to your last point about it being late coming back, I'm not sure how it was late. And so I had a question for you on that. Thanks.

Denise Michel: Yes, so the - there's a prescribed timeline for responding to public comments that are filed. And so the - ultimately the response that came back on the public comment; the summary and response to the public comment was quite past that timeline. In addition to some of the responses being erroneous or quite superficial.

So, the points that we - that the Business Constituency, and I think also (unintelligible) the Intellectual Property Constituency raised regarding the proposed changes to the Base Agreement were not policy. They were specific - they were specifically in response to the proposed changes requesting additions or changes to those changes or, additional changes to the Base Agreement.

And I think there was - and so I understand that you feel that you followed the letter of the bylaws on this. Of course there was nothing.

So similar to how the RAA 13 - 2013 RAA was negotiated between staff and the Registrars, there were notes from every meeting. There was much more transparency. The community - the staff and Registrars had significant engagement before those negotiations started.

There were a number of community groups that had substantive input to the negotiations before they started. They were able to follow the negotiations as they were ongoing.

None of that happened with this Base Agreement. So we have pretty clear examples of a better way to do this. So I think the Commercial Constituencies were quite disappointed that none of those, you know, I think now, barely common activities were not undertaken.

And then there's the lack of substantive response and substantive engagement. And kind of a disappointment that we see that many of the comments were fully addressed. And the agreement seems to be going forward despite the concerns.

((Crosstalk))

Jon Nevett: Just - let me just reply. Yes, thanks. I'm looking at the BC recommended changes. There's one on public interest commitments related to farming.

There's one about techs adding ICANN compliance actions related to the Code of Conduct. There's one related to Compliance audits. There's one related to legal rights of third parties.

So I would characterize those policy issues that could be raised, possibly through the PDP process. So I would recommend you go back and look.

If there's some issue here that you wanted to get in that - this requires unanimity in this process. You know if there was an issue that ICANN disagreed with, it was thrown out. If there was an issue that we disagreed, it was thrown out.

This was just for one mechanism for us to get together and say all right, there's a problem here. Let's try to fix it. But otherwise if it's, you know, a broader issue and you want to raise a farming issue or a policy issue like that, you know let's go through the PDP and deal with that.

Or, feel free to you know, provide those inputs. Maybe we're all in agreement and there's a short circuit way to do it.

Steve DelBianco: We'll go back and look at whether all those issues would actually fit within the picket fence of the consensus policies because, I'm betting some of them don't, okay.

And for those that don't, it's a bilateral negotiation between Registries and ICANN. But ICANN at that point is representing the interest of the global Internet community and stakeholders, other than the contracted parties sitting across the table.

So on principle I'm sure you'd agree that ICANN should have entered that negotiation, understanding what the priorities were of the people on behalf of who it was negotiating.

And I'm surprised to hear you characterize the process as unanimity. So that if the Registries wanted something that ICANN didn't like, it got vetoed. Or if ICANN asked for something the Registries didn't like, it got vetoed.

Maybe it was that simple that it had to be unanimous. But I would imagine there were some things were priorities. You had priorities in mind. ICANN may have had priorities in mind. And maybe there would have been a tradeoff from time to time to get through there.

You end up with something that's a consensus document. But the two sides might have started from a different place.

Our problem is probably more with ICANN than it is with you. That ICANN failed to solicit and recognize - well, what else is new. But ICANN failed to solicit or listen to the prior comments we had submitted about how to form the priorities of their negotiating strategy going into the process.

Once we missed that window, everything else we're trying to do is after the fact in trying to rescue a situation that is almost in many cases, too late to be rescued.

So, help us make that work better because, it doesn't work to come in after you've negotiated and ask for changes. We get the kind of resistance that you're showing now. But I think you'd acknowledge, they should have started with the community priorities.

Greg Shatan: Steve? Thank you Steve, Phil Corwin.

Phil Corwin: Is this working or do I need to sit down again.

((Crosstalk))

Phil Corwin: Yes, I have a question about the fee reduction provision of the proposed agreement. And there's a personal question.

You know the BC position which is actually be tied to abuse mitigation. I have a more basic question.

We have a new TLD program which is supposedly a market based program. ICANN would not set any price restrictions. And it seems to me that the flip side would be that new TLDs live and die in the marketplace and not be subsidized by the corporation.

And now the proposed contract as I understand it, allows staff to waive any or all of the fee - we're talking about 25 cents per domain, right.

((Crosstalk))

Phil Corwin: Well, that's my understanding. But there's some reduction in what the Registries should normally pay compared to other Registries. It's totally the staff discretion with no objective criteria.

It could be down to zero. It could be for an indefinite period of time so that Registrants would be paying fees through the Registrar to the Registry. And none of that's - or not the normal part is being passed on to ICANN with the fee reduction. So the normal fee would not be paid.

What is the rationale for a fee reduction where there's no objective criteria; no time limitation? It would seem to distort the marketplace and be at the expense of the successful TLDs.

Jon Nevett: There's just so much wrong with what you just said.

Phil Corwin: Well tell me what.

Jon Nevett: Yes, I just wanted to clear up, for anyone who was looking at this record. One, Registrars - Registry fees are paid to ICANN directly. They are not passed on with a direct charge through our Registrar.

Registrar fees to ICANN, the 18 cents, often many Registrars pass that on in a direct charge. The 75 cents in Dot Net for example. Some Registrars pass it on. Some don't.

But the ICANN fees that Registry pays; the \$25,000 per registry is different in that process. So, and let me clear that.

Second thing is, this fee waiver provision is just like in the Registrar Accreditation Agreement where if you don't have this provision you or ICANN cannot make this change without a contractual change. Without a contractual amendment.

Whereas in the Registrar Accreditation Agreement, through the budget process, the original per charge for a name for Registrars was 25 cents. It went down three times to get to 18 cents.

So we don't want to have to go through a three year negotiation if there's ever a case where ICANN wants to maybe, perhaps use some of the excess application fees that we already paid to get some money back. Something like that. So we don't want to go through that application; that amendment process.

Two, we asked for a provision that said, the fee waiver would be done in an open, transparent, and objective manner and they said, no. And they said no because their position was, we have to operate transparently anyway.

So put it into this provision, we're going to have to put it in every other provision so, they didn't want it. And the objective criteria they said, we're going to do that anyway so, we don't need it in here.

Phil Corwin: Well I appreciate the answer and I'll look into it further. But what I heard - I think I heard you just say is that the Registries would support changing the agreement so that any fee waivers were done in an open, public and transparent manner. And that ICANN was...

Jon Nevett: We asked for that. We gave them a red line with that language.

Phil Corwin: Thank you for that information sir.

Greg Shatan: I'd like to thank everybody from both the Registry and Commercial Stakeholder Groups side for their participation in this meeting. I think this was very fruitful and should serve as a starting point for a lot of conversations to come.

This meeting is now adjourned and the recording can be turned off. And we all need to get out of here real quick because there was another meeting starting here two minutes ago.

END