

ICANN Board with WHOIS Review Team Session – Costa Rica
14 March 2012

Board Session with WHOIS Review Team
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ICANN Meeting
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>>EMILY TAYLOR: Good morning, ladies and gentlemen.

Steve asked me to get started, so I will do that.

On behalf of the WHOIS review team, we're really delighted to have this session with the board here and to discuss with you our draft report.

Because we did that preparatory work and we had the call and I'm well aware -- and thank you -- many of you did attend the public comment forum the other day, we thought that the best structure for this session would be to leave it as open as possible.

I've got a couple of remarks to make at first, but really then we're very interested to hear from you and to have full engagement and to have this session as dialogue, rather than show and tell.

We're very happy to take specific points on the recommendations which are there really as a reference for anyone who can read them. I can't, but I have -- Steve and I have a printout here.

There's just a couple of things that I would like to say before we start the ball rolling, and first of all, that is to thank ICANN and the ICANN staff who supported the review team who are of the very, very highest caliber. Really world-class support from Alice Jansen and Olof Nordling. The support they gave us was outstanding. But I think the support of the entire process, the way -- I think ICANN often doesn't get enough credit for this, the way that we were supported in -- both in the nitty-gritty of travel support, but in the way that the meetings were organized, that it is very easy to do remote participation. All of this I think is truly world-class and something ICANN should be justly proud of.

The fact that all of our meetings are transcribed and recorded and, blah, blah, blah, is a very important part of the credibility of the process because this is an independent review, and anyone who's interested in what we did or what inputs we had, looking back, you know, from the future, will be able to have a very rich resource which is there, open, and transparent on the record.

And this is essentially -- essential for the credibility of the independent process, but of course through that, the credibility of ICANN itself.

We've spent this week having feedback from the community, and in fact, our comment period has been open for several months. We've met with the GAC, the GNSO Council, and we had a session with the community.

In general, we've had some -- we've been made aware of areas where our language on certain recommendations hasn't been as clear as we intended. That's great to know, and we will address those as priorities, but in the main I think it's fair to say -- I'm, you know, interested in your views, of course -- that the response has been, in the main, very positive. And in particular, this report has been viewed by many from across the different ICANN constituencies and the landscape as a breakthrough on a seemingly -- what seemed to be an intractable issue.

And we hope it can be seen -- viewed as not the last word, but as the first step in the right direction towards a positive process, a positive outcome.

You know, we would be the first to acknowledge that like anything that's written by a committee, it would not hold up its head alongside the great works of literature. However, I think the fact that coming as we did from across the community with very, very different views coming into the process, that we can all stand by every single one of the recommendations unanimously is an enormous achievement and a great tribute to the members, each and every member, of the review team.

So before taking your substantive points on the recommendations and findings and of course any other comments, there's one thing, in discussing it with the review team before we came in, perhaps we could start our discussions on a slightly more strategic level about the role of these Affirmation of Commitments reviews as a whole, because they're now becoming part of the life.

I think that probably from the board's perspective, from now on there will either be one of these reviews just starting or just reporting or in implementation or just about to be formed at any one time, and I think that, you know, it's a continuing process and yet I'm not sure -- from my perspective and from those of us on the review team, we won't exist anymore in a few months' time, once we've done -- we will evaporate, thank goodness, I'm sure, for many of you.

But what -- what is the process, and how is progress against the recommendations, if adopted, how is that going to be measured, by whom, to whom will there be the reporting.

If it's -- you know, if it's the community, fine, but can we just perhaps spend a few moments on that issue.

>>STEVE CROCKER: So thank you, Emily. Thank you, everybody, on the team.

Ray, you want to get in before I launch into an extended sequence here?

>>RAY PLZAK: Yeah. I've got a question and then I have a -- hopefully a level-setting comment.

The first question is -- and several of the board members have discussed this -- is that we would really like to know what's the objective of this session, what does the review team expect to take away from here, what are you really after besides just the generic things you said about getting our comments.

What is it that you really expect to take away from here? And then I have a comment after that.

>>EMILY TAYLOR: Okay. We'd like your views on the draft report. We'd like your views on the -- the whole -- the high -- your high-level views on the Affirmation of Commitments reviews in general and the board's relationship to them, how you maintain the momentum after the -- after these review teams have reported and hopefully some or all of the recommendations are taken up.

>>RAY PLZAK: Well, you realize you're only hearing from individual board members. You're not going to get anything from, quote, the board.

>>EMILY TAYLOR: That's fine. I mean, we've been hearing from individuals throughout --

>>RAY PLZAK: Well, I would hate to, later on, see something sent, "Well, the board said this, the board said that," when the board hasn't really said it yet. So --

>>EMILY TAYLOR: That's clear.

>>RAY PLZAK: Okay. And the other thing I had to say was looking at the recommendations in the report and hearing the sessions and so forth, it's clear that the whole thrust of this is related to one specific WHOIS application, and that's the application of WHOIS in the GNSO. It has nothing to do with the multiple WHOIS directory services being run, for example, in the address registries.

So this is strictly a GNSO WHOIS, and so I think that this report should be clear in its distinction. In fact, I would almost look at the title of it to include the reference to the GNSO, just so that there's no ambiguity.

>>STEVE CROCKER: So let me suggest that's a relevant comment that applies to substance. We want to deal a little bit with the high-level aspects that Emily talked about and then move into the substance in an orderly way.

Sebastien.

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>>SEBASTIEN BACHOLLET: Yes. Steve, I think the people around the table don't know each other. It could be useful to have a roundtable quickly, because I think it's important to know who is who in this --

>>STEVE CROCKER: Fair enough.

>>SEBASTIEN BACHOLLET: -- WHOIS review.

>>STEVE CROCKER: How accurate will the --

>>SEBASTIEN BACHOLLET: By the way, I am Sebastien Bachollet.

>>STEVE CROCKER: We'll do that. Bertrand, in sequence now or later?

>>BERTRAND DE LA CHAPELLE: Thank you, Steve. Bertrand de la Chapelle.

Just one point regarding having an exchange with the review team on how do you see the articulation between the recommendations of the review team and the discussions that are going on in the registrar accreditation agreement, because there are sort of parallel paths.

>>STEVE CROCKER: Excellent. I'll say a few words and then we'll put that as part of the discussion.

So let's do -- sorry. If any of you who are sitting behind want to participate, you're going to have to stand up and make a lot of noise or something. We can't keep track of -- you're welcome to, but you're going to have to work at it a little bit.

So let's do identify yourself, so give your name and affiliation, and also include whether or not that's the real information or whether that's a proxy and indirect.

[Laughter]

>>MIKHAIL YAKUSHEV: Okay. I am Mikhail Yakushev from Russian, .ru, .rf, member of the board, and I was designated to the WHOIS review team by ICANN's CEO.

>>STEVE CROCKER: Yeah.

>>BERTRAND DE LA CHAPELLE: I'm Bertrand de la Chapelle from the International Diplomatic Academy and a member of the board.

>>SARMAD HUSSAIN: My name is Sarmad Hussein. I'm a professor at a university in Pakistan.

I am part of the WHOIS review team on behalf of SSAC.

>>SEBASTIEN BACHOLLET: Sebastien Bachollet, member of the board of ICANN and maybe proxy from at-large. I don't know if it's the right word.

>>SETH REISS: Seth Reiss. I'm a private practitioner from Honolulu. I'm in the at-large and one of the at-large delegates to the review team.

>>WILFRIED WOEBER: Wilfried Woeber, employed by Vienna University. Also operating the Austrian Research and Education Network. I am on the address council and as the address council member on the review team.

>>CHRIS DISSPAIN: Chris Disspain, ICANN board.

>>BILL GRAHAM: Bill Graham, ICANN board, or as my WHOIS entry says, "Privacy protected."

>>JUDITH VAZQUEZ: Judith Vasquez, ICANN board.

>>SUSAN KAWAGUCHI: Susan Kawaguchi, and I'm the CSG rep and I work for Facebook.

>>PETER NETTLEFOLD: Peter Nettlefold from the Australian government. I'm the Australian government GAC rep. I'm the GAC chair's delegate to the WHOIS review team.

>>KATHRYN KLEIMAN: Kathy Kleiman. I'm vice chair of the WHOIS review team, hail from the United States, and I was appointed as the representative of the registry stakeholder group.

>>EMILY TAYLOR: Emily Taylor, chair of the WHOIS review team. I was designated by the ccNSO.

>>STEVE CROCKER: Stephen David Crocker, born in California --

[Laughter]

>>STEVE CROCKER: -- chair of the ICANN board.

>>BILL SMITH: Bill Smith. I'm employed by PayPal. I was selected as an independent expert for the WHOIS review team.

>>ALICE JANSEN: Alice Jansen, ICANN staff.

>>BRUCE TONKIN: Bruce Tonkin, on the ICANN board. Also a registrar for gTLDs and ccTLDs, and also an operator of WHOIS services, both forward and reverse.

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[Laughter]

>>MIKE SILBER: Mike Silber, ICANN board.

>>GEORGE SADOWSKY: Gorge Sadowsky, ICANN board.

>>THOMAS ROESSLER: Thomas Roessler, technical liaison to the ICANN board, day job at the W3C, have done WHOIS stuff in the past.

>>RAMARAJ: Ramaraj, ICANN board.

>>CHERINE CHALABY: Cherine Chalaby, independent director of the ICANN board.

[Laughter]

>>RAY PLZAK: Ray Plzak. I am retired, which makes me gainfully unemployed, and member of the ICANN board. I'm also independent, like Cherine.

>>GONZALO NAVARRO: Gonzalo Navarro, ICANN board.

>>OMAR KAMINSKI: Omar Kaminski from Brazil. GAC delegate and also a lawyer specializing in cyber law.

>>STEVE CROCKER: Do we want to -- you guys want to do this? No. You just want to be quiet back there.

>>KUO-WEI WU: Steve?

>>STEVE CROCKER: Oh.

>>KUO-WEI WU: Kuo-Wei Wu with the ICANN board and I was elected from the ASO, and at this moment, I have no, you know, interest in the domain name IP anymore. Should be independent.

>>STEVE CROCKER: Thank you.

All right. Thank you all. The -- so I'm going to try and remember a series of things that I wanted to cover.

Emily asked about where this fits in the Affirmation of Commitments and the general Affirmation of Commitments process, so that's a good place to start.

So as I think we all understand, this review is one of -- I think I've got the count right -- three that were embodied in the original Affirmation of Commitments, and it is the second of the three, so we are -- we have all the work -- do I have this wrong, Sebastien?

>> (Speaker is off microphone.)

>>STEVE CROCKER: Four.

>>SEBASTIEN BACHOLLET: There is four. There is one who must start one year after the introduction and --

>>STEVE CROCKER: I see. I see. All right. So then we have the fully complete example set of the cases that Emily was describing.

We have the previous ATRT that is under implementation. The report's done. We have this report. And then we have the SSRT -- the security stability resiliency review team -- somewhat behind where this one is but moving along. And then we have one more to look forward to in the future.

And the posture of ICANN as a whole, and certainly the board in particular -- and in this case, Ray, I will speak for the board without asking us to pass a resolution -- is that we take this stuff quite seriously and that we're fully supportive and want to make it work. Full stop. That simply is the way it is. These are very important.

Let me now fill in a little bit, but not all of the answers to the questions about what the relationship is of the kind of work that you've done. Enormously hard work. We all know what it's like to sit in these meetings and try to tease out the issues and broker opinions. And what happens next.

There will be a consideration of the recommendations and -- as well as, you know, a lot of comments on the report itself, and I won't -- I don't want to dive too much deeper into that, but I'll jump to the next step.

We have learned from the adoption of the recommendations for the ATRT report that it's good to be kind of orderly about prosecuting them, about moving things forward.

Denise Michel has -- is the overseer of this process inside the ICANN staff, reports directly to the CEO, and this is -- she's directly responsible for this.

She does a first-class job of orchestrating all this, managing all this.

When I became chair in -- last year, I realized that it was going to be -- that not only were these reports important, but it was going to come right back to the board and, hence, to me as the spokesperson for the board, to be able to speak to where we are, and so I'd better -- I'd better have the answers straight out.

So I worked with Denise, and she has evolved a tracking system that started with trying to tease apart each of the recommendations and report on progress that was

measured in nominal, 25% done, 50% done, so forth, and I pushed on this to say, "Well, it's hard to know what that actually means so why don't we break it down into observable, specific, concrete subgoals, milestones, in each one. A small number, not a huge number, three to five. And the last of them, no matter what the others are, has to have the following property: It is the embedding of the result into our standard process."

And that idea has two versions. Larry Strickling has spoken very forcefully in one aspect, and I have a slightly different one.

His question is: If we come back a year later and ask people what are they doing differently than they did before, they should know the answer to that. My question is actually -- sounds quite different. It is: How do we embed this so deeply into the structure of what we do that there is no distinction between the reasons we do something for -- based on these reviews and the way we do anything else.

But the reconciliation between those two things is that I'm actually looking further than just a year out. I'm looking for the time when people arrive on the scene and have no sense of the history but they just see how we do things.

So it's probably closer to a five-year view, if you want to try to match those two things.

But driven -- both his statement and mine are driven by the same thing: How do we make this a non-transitory, non-ephemeral kind of operation?

So the last of the handful of milestones in each of the cases -- and this is what we did for the ATRT -- speaks to when is it implemented so that it is part of the operation.

Usually that means, depending upon what it is, embedding it in the procedures manuals and operating procedures and so forth. Or, you know, it's a generic requirement and so you've got to tailor it to whatever it is.

You know, one that's near and dear to our hearts, of course, in the last one was pay the board members.

And so, you know, as soon as the checks are flowing and all of that, then we can check off that last bullet. Not quite there yet.

>> (Speaker is off microphone.)

>>STEVE CROCKER: Yeah, not quite embedded.

Anyway, so that's one piece of machinery which we will put in place. It's -- I think it's been successful and it will happen here.

I came back and pushed even harder.

The reports that Denise prepares have now two kinds of information in them with respect to accomplishment of the -- each of the goals.

One of them is which goals have actually -- which milestones along the way have actually been accomplished.

The other is: When is the expectation for the remaining ones to be accomplished?

And then we do something extremely unpleasant. We keep track of those estimates.

And when we ask for the next estimate, we plot the previous estimate against the current estimate, and against the times at which they're made, and it makes a chart that once you get used to looking at it can be quite uncomfortable because it very clearly shows whether or not successive estimates are the same as before, and that means the project is under control, or whether or not the successive estimates are slipping at the same rate as the calendar.

And so it's always out there. You know, "90 days, I think we can do it," and then 90 days comes and you say, "Well, I think we can do it in 90 days." And that shows up so vividly that people physically squirm when they have to see those results plotted in front of them.

So we've begun that process.

So you can look forward to the -- to that experience, and you'll be in the privileged position of having -- of watching other people have to implement it and you just are knowledgeable about what those issues are.

So that's, you know, a -- what I consider to be a very strong engagement. You know, not just pro forma. So we're going to take this on, we're going to make it trackable, and we're going to make it very clear that we will be --

And the dynamics of that kind of process are, you know, that there will be an early phase where some things get done, there will be a middle phase where there's a bunch of stuff, and then there will be that interesting final phase where there are some stragglers or there are some difficult problems and then there will be a focus on trying to nail each one of those.

So that's the overall arc of that, and I want to -- I'm taking this much time to tell you about it, not only setting expectations but wanting to make it clear that we're not casual about this at all. We take this on board and make it happen.

>>EMILY TAYLOR: That's very clear and thank you very much for describing it in that detail because I think many of us have had the -- the painful experience of trying to operationalize policy or independent review recommendations and sometimes they don't turn out to be as practical as the authors first think.

And perhaps, you know, the -- the general view that I get from your comments is one of an organization which is serious about learning, and perhaps as part of that learning process it would be useful to get some sort of feedback on -- from the review teams, maybe ourselves and the ATRT once we've finished, to say from our perspective "For the next, guys, what would be -- what would be good if it -- if it changed or if we could learn from that."

And so our offer, my offer, would be to work with Brian Cote or to work with the vestiges of the ATRT to see if we can provide that for you as part of your learning -- organizational learning process.

>>STEVE CROCKER: I think that would be excellent and I think that there are probably multiple forms of that.

What you've suggested and then, you know, sort of maybe informal sitting down and saying, "How did that work out?"

So this is the perfect segue to the part that I deliberately glossed over about the transition from the report to the implementation process, and I know this is the -- the part that is of high interest.

What happens to the recommendations.

And generically, two things, basically, have to happen.

One is a consideration of whether or not to accept each of these recommendations. The bias, of course, is very strongly in favor of trying to accept the recommendations. And worse yet, the precedent set by the ATRT process was we actually accepted all of their recommendations.

It's obligatory for me to say: That does not create an absolute requirement that, therefore, whatever is written therefore we'll accept.

There will be a constructive, thoughtful process that -- about that.

Another element which is closely related, but I want to flag it as separate, is an objective assessment of if we accepted the recommendation, who would implement it, what would the resources be, can we actually implement it, is it feasible.

The practical stuff that when you -- when the decision is made and you toss it over to operational people for execution, what would actually happen.

And that assessment, I think, is very important and it should be fed into the process as early as possible.

So I have already asked Denise to initiate that process and provide a scorecard, if you will, of if we were going to implement this, what would the consequences be, do we understand it, is it clear what it is, what your words translate into in what we're going to do.

We do not have that yet, but it is in process and --

>> (Speaker is off microphone.)

>>STEVE CROCKER: Other side. So I'll just ask you right out here in public.

What's your estimate of having that set of assessments of the recommendations in the report?

>> (Speaker is off microphone.)

>>STEVE CROCKER: Yeah.

>>DENISE MICHEL: So I think first the recommendations would need to be finalized. We have some general idea of the different implementation paths, potential implementation paths, for the recommendations. First they need to be finalized and then we'd work cross-functionally because the recommendations involve a number of different ICANN departments. And also seek input from the communities involved and then lay out a potential implementation path and potential resource needs for the board's consideration.

And of course we need to factor in things like potential GNSO PDPs, the RAA negotiations, and things like that.

>>EMILY TAYLOR: May I just interrupt and ask a question there.

>>STEVE CROCKER: Absolutely, absolutely.

>>EMILY TAYLOR: Because as part of -- you know, we've all been here with operationalizing stuff, and would it be helpful to have a kind of feedback loop within that process --

>>STEVE CROCKER: Absolutely.

>>EMILY TAYLOR: -- with us to say, "Well, actually what we had in mind" --

I mean, we had a very useful call with the staff to try and explore what we meant, but there's nothing like seeing the plans and, you know, sometimes it's like some huge great big enormous thing when actually what you had in mind was something a little bit more directed or --

We would be very willing, I'm sure, even if we don't exist anymore, to provide that sort of feedback loop to make sure that we are in alignment on -- on your finalization.

>>DENISE MICHEL: Right. So as you're finalizing your recommendations, it might be useful then to have another meeting with -- with ICANN staff, or a call, and walk through the implementation options.

>>STEVE CROCKER: Well, let me push a little bit.

The -- I'm thinking a useful question is: Given the recommendations as they stand, two interrelated questions. What can you say about the implementation, if you had to do it, and what questions do you have about clarity or about choices and so forth. And that feedback is what will be needed and very helpful for them to finalize.

And so that's -- that's feedback that can be provided, I think, just with what's in front of us.

>>DENISE MICHEL: Right. And we have -- and then we're finalizing some written input on the draft recommendations and noting things that would be helpful to have clarification on and noting some different implementation paths that we're exploring. So we have that.

>>EMILY TAYLOR: We'll have that soon, will we?

>>DENISE MICHEL: Yes. Before your 18th deadline.

>>STEVE CROCKER: So 18th is the --

>>EMILY TAYLOR: That's the closing --

>>STEVE CROCKER: Of what month?

[Laughter]

>>EMILY TAYLOR: Of this month.

>> (Speaker is off microphone.)

>>STEVE CROCKER: No, no.

>> (Speaker is off microphone.)

>>STEVE CROCKER: March. So four days from now.

Okay. So -- so that's great. So that's the answer to your question about when.

>>EMILY TAYLOR: That's great. That really helps us.

>>STEVE CROCKER: Thank you. Yeah.

So that's the pure process. We haven't talked substance at all yet.

That, I think, is the essence of the pure process issues and there may be a little bit more to say, but we should move into substance pretty quickly.

>> (Speaker is off microphone.)

>>STEVE CROCKER: Yeah.

>> PETER NETTLEFOLD: I will be extremely quick because you probably did cover what I was going to say. It strikes me that this review team in terms of the recommendations and the work which it had to look at is somewhat different to the ATRT and there are a lot of the recommendations were focused on the board or ICANN organizationally or the GAC. I'm involved in that obviously. Whereas, this one -- And we've been particularly mindful of this. We are actually looking at areas that are going to potentially require PDPs or contracts and so on. We are actually looking at things that are not directly under the control of ICANN, the organization. So implementation then becomes a different prospect. So we've been very mindful in that end in drafting this.

And probably now is not the time to do it, but in our mind, it actually raises some interesting broad-level questions about the status of these review teams. And we've had questions from the community. And we are not a policy development process. What are you? How can you actually even make this recommendation? It shouldn't be directed to the board and so on.

I think it is an interesting thing. I'm sure the board has already thought about it, but these things are essentially now rolling reviews. It is every three years. By the time this one is even halfway implemented, the next review will be underway. This is an ongoing part of the landscape.

And the way that it fits into the existing structures in -- can be dealt with procedurally and, obviously, in practice will have to be. But it is something to be mindful of. We certainly have been in doing our work.

One of the things today in the way these recommendations are phrased, it would be useful from input from the board or board representatives from the particular communities that may be affected to know if we've phrased or directed these appropriately. That's been a learning experience.

>>STEVE CROCKER: Chris.

>>CHRIS DISSPAIN: Thank you, Steve.

I want to pick up on what Peter said because I think it is absolutely right and I want to use a specific example.

If you look at the recommendation in respect to WHOIS accuracy, I think it says 50% reduction in something within 12 months, there is a couple really important layers here.

The first thing to remember is in parallel with your review and these recommendations, we've got sensitive negotiations going on on the RAA, which Peter is very well aware of as probably everybody else is, too.

We've got WHOIS verification things happening and so on. And all of those things have to dovetail together. And it may well be -- and this is just -- I'm just making this up. But it could possibly be that in the negotiations on the RAA, a set of -- as part of those agreements, steps are being put in place to improve WHOIS accuracy which are actually at odds with your recommendation from a timing point of view. There might be a negotiation that agrees, for example, that you could do this over a period of two years. It wouldn't be that way, but you understand what I'm saying.

So I would rather see timelines set as goals -- as a goal, you could consider in trying to do this rather than "We recommend that you do this" because it makes it very, very hard to be seen to be accepting a recommendation that is so firm on a timeline when there is a whole heap of other stuff going on.

>>EMILY TAYLOR: It makes perfect sense, Chris.

And I think in a way you are pushing an open door on this because really our objective is to very firmly say, you know, these records which are so bad that no contact can be made through any means ought to be a priority and you ought to be setting yourselves stretch targets very aggressively.

What those are, we are very willing to recognize that we're not at the operational coalface, that there are many other ingredients in this particular soup.

So, obviously, if we can get feedback from staff -- I know a lot of this isn't within your control. We all recognize that. And so I'm sure you would also recognize as a

corollary that we don't want to just sort of have a "let's all do better" kind of recommendation because that doesn't give anyone anything to aim for.

This isn't about coming back in a year's time and beating everybody over the head with firm "You failed, you failed, you failed." The part of the way we've tried to structure these recommendations is to say, Look, this is what we think you should be working on. Can you come back with some metrics, because we don't have these at the moment, some metrics in how you did in the first year and then let's all have a conversation about what is a realistic improvement.

We hope that the next review team will have a lot more information than we were able to have. A lot of that will come anyway because the studies as ongoing will have reported, we hope, by the time they start but also if they can look back over a time period and say, Well, as of 2009, the data accuracy looked like this.

Now, as a result of our interventions, we're on a -- you know, we're kind of getting there. This is all positive, and that's the spirit in which we're making this recommendation. Is that --

>>STEVE CROCKER: So I have Bruce, Ray -- unless you need -- go ahead.

>> BILL SMITH: A quick response on that is, certainly my view on this is that -- And we've discussed this amongst ourselves in the team. There's lot going on in this space with respect to WHOIS. But we have to -- we have a job to do, and we have to sort of say, Well -- it is like a balance sheet. This is the state of the world today. We're going to take a look at it. I think I certainly recognize that things will be overcome by events, okay? Our recommendations may be overcome by events.

On the accuracy thing, we chose the specifics that we did because they were, in some regard, pretty easy to target, go to the NORC study, look at this, make some significant improvements in that in a relatively short period of time, please.

Speaking for myself, okay, if that -- if that metric wasn't met a year later or 18 months later but there was significant accuracy -- were significant accuracy improvements, measurable in other areas, that would be, from my perspective, a very good thing. And I think actually would be meeting the recommendations. It's moved the bar significantly.

>>STEVE CROCKER: I will jump in at some point there. But let me pick up others who want to speak. Bruce, Ray and then Kathy.

>>BRUCE TONKIN: I just want to, I guess, pick up and perhaps reinforce a couple of things. Steve's talking about tracking, and part of what he is talking about tracking is that there's some date that we're trying to achieve and then we're tracking towards that date.

Peter, though, has also raised the issue that, I think, needs to be very clear from a community point of view, is there are some things in this list of recommendations that the board and the organization, being board and staff, let's say, have the power to do. And there are other things that we are restricted through our bylaws and also restricted through the contractual arrangements ICANN has with stakeholders, that changes need to come through a consensus process.

And the same issue which came up in the GAC yesterday and probably previous days, but people say, What's the date when your negotiation is going to be complete? What's the date when the GNSO is going to come up with a consensus on this? The reality is that those things take time.

I think what the board can do, just picking one of your recommendations, is obviously it can provide resources for compliance. The board can also provide resources in terms of ensuring that the policy processes are staffed and there is sufficient resources to do that policy work. But the board can't commit and say, "This idea that you have is going to be implemented by date X" because there is a series of steps that would have to happen.

So I think just to be very conscious that there are some dates that we can give and manage, as Steve's talking about, tools to manage that, and then there are other things that are really going to require community work. And then from that perspective -- and this has been sort of a general discussion -- who should you be talking to? Is it the board? Is it the community?

I think very much you're doing an external review of ICANN, so I use the word "ICANN" here in that context. And I think that's fine. But then when you are within ICANN, it is really sort of thinking which parts of ICANN would have to implement this. And let's say GNSO is one part of it and really engage with them and try and think about -- they'll probably kick off working groups. You might want to think about how would this team provide input into a working group that looked at a particular issue.

>>EMILY TAYLOR: We've been very fortunate within the review team to have members who are extremely experienced with ICANN and all of its arcane processes, which I have to say I'm not. We fully recognize, and I think as Peter said, there are some things that are completely within the board's control and there are others that aren't.

However, we were asked to do this by the board and that is to whom we are directing our recommendations. And I think that while we completely accept that there are processes which must be respected and must be gone through, this is the - - the board has the overarching responsibility to ensure that things are done, even if they are not successfully done but that you commit to the process and you ensure that it is properly resourced and you also ensure that it is done in a timely way to the best that you can.

You have that responsibility and, therefore, we do not see that it is our role to go out and start to negotiate with different aspects of the community.

>>STEVE CROCKER: Definitely not, no, no, no.

>>EMILY TAYLOR: (indiscernible).

>>STEVE CROCKER: We take that on board, but there is a relevant point to nail down. We'll get to that in just a second.

Ray.

>>RAY PLZAK: Thank you, Steve. First of all, I do recognize that you can always speak for the board. That's why we elected you.

[Laughter]

Picking up on what Chris was saying and what Bruce was saying, I see very early on what the board has to do with the assistance from staff, is to analyze this entire report looking not only at the direct tasks that are obvious but also the indirect and implied tasks. And part of that early process work, the board has got to clearly identify where policy work has to be done so that the board can give appropriate policy guidance and direction primarily, I would think, to the GNSO.

And so that is going to be probably one of the biggest hurdles that has to be accomplished in the beginning, is to identify that type of work because that's going to be the longest part of the process of implementation because after you do get through a policy process on any one particular item, then you're faced with the chore of implementing the policy.

And at some point in time, I would expect to see some sort of a review to make sure that the policy was in compliance with the recommendation. Or if, in essence, it rejected the recommendation, that has to happen as well.

It is going to be a complex issue in regards to implementing this. I think it would be well worthwhile that the board also consider at some point in time, as Bruce had suggested, some sort of an oversight working group or something to help shepherd this along. And that's just me writing on the whiteboard in the air.

There is a lot of process work that we have to get into place, and we have to make sure that it is lightweight, that it doesn't impede things, and become too bureaucratic. At the same time, it has to get be effective and providing the oversight that's needed to implement the recommendations in this report.

And as the last thing real quickly, I would like to say, Emily, I would like to compliment you and your team. It is evident you have done a lot of great work here. It is greatly appreciated by me personally and I'm sure by fellow members on the board.

>>STEVE CROCKER: Chris and then Kathy.

>>CHRIS DISSPAIN: Thank you, Steve. I just wanted to come back to this sort of recommendation topic very briefly and just draw a line from the ATRT because I was on the ATRT. We were really careful in our recommendations to ensure that if we wanted them to be interpreted, we left room for them to be interpreted. But if we didn't, we didn't.

And I think to say, I would be satisfied if you did this in respect to a firm recommendation that has numbers in it is really not going to work. You need to allow us -- if you want us to be able to interpret, you need to allow us, to give us the room to do that. Otherwise, people are going to look at those recommendations and they won't know this conversation has taken place, okay?

>>EMILY TAYLOR: Thank you for that.

>>STEVE CROCKER: Good.

Kathy?

>>KATHRYN KLEIMAN: Just a few quick notes on a few things. One of the questions we're talking about now has been asked us to by the community repeatedly where they've said you're asking the ICANN board to do something. That belongs to us. So we're hearing it from other sides as well. We said, No, no, this is the ICANN board pursuant to its bylaws to delegate the tasks and share them as appropriate. So we've been part of that education process as well.

Regarding some of the implementation details, I just wanted to share with you the refrain we told ourselves many, many times as we wanted to go down the path of the implementation details. And we said, No, we are a review team, not a policy-making body. We just kept repeating that.

If you see a bright line and think we should have gone a little farther, let us know; but we drew the bright line on purpose. And, hopefully, we picked the right place to draw it. But we're a review team. The details of this belong to the community and to the board.

And that's it. Thank you.

>>STEVE CROCKER: And Bill?

>> BILL SMITH: I believe these recommendations are not absolute. These are recommendations to the board. As I understand it, the board is to review those recommendations and make decisions. I certainly would expect if there is an issue with the recommendation that we have made, that either the board comes back and asks us questions, clarification, et cetera. And when it comes time to make decision regarding those recommendations, the board has the ability and the authority to make changes and put them in a form and format that makes sense for the organization if we, as a review team, have got it incorrect.

Another thing is I hear repeatedly within ICANN that this group can't do something, that group can't do something. There are contract limitations. There are bylaws limitations. I hear it so much that it is -- it causes great concern.

When I hear a board saying, "We are limited, we cannot do something because our bylaws don't allow us to," the board has the ability to modify its bylaws. So if that's a problem in the organization, I suggest that the board should take action, modify its bylaws so that things can be done properly.

>>STEVE CROCKER: All right. So let me step into this. Yeah, we get viewed as omnipotent which is sometimes a substitute for being omniscient. I will let you ponder that for a minute.

So the common sense, and an important step, which is the step right now actually that is taking place at the current time is to work out the consequences of accepting the recommendations, what does that actually turn into? And so I want to recap all the things that we've said here, some of which I said and some of which have come out.

Do we understand what's intended? That's one layer. We want to have that discussion. We want to see if the way we read it is what you meant or if we have any confusion and we get that sorted out and that's part of response to your draft and that, I think, will be very helpful in general. That's maybe a top question: Do we understand it?

Next question is: Is it implementable? And that has the complexities that have been pointed out here that some of the implementation may require going through a policy development process. Some of it may require other parts of the organization that are part of the volunteer structure of ICANN. And so we will reach out and try to get those assessments. There is actually two different kinds embedded in what I said, so let me tease them apart to be even clearer.

Some things are within the scope of one body or another. Maybe within the board's own scope, maybe within the scope of staff, maybe within the scope of some particular group. Just as matter of good management, before we make a commitment to take those on board and say we will get those done, we have to go

ask the people who will be responsible and say: What do you think of this? Are you going to be able to do it? Would you do it? And get their feedback and fold that in.

The other kinds of things that may have to happen are full-scale community processes, policy development processes, in which case we want to know which ones those are and we want to identify those and our response to the recommendations has to be couched in terms of those processes.

To your point of we have bylaws, the board can change the bylaws, there are some limits on this. The change of bylaws itself requires a community process and is not a lightweight thing, not an impossible task, and we do it from time to time, usually around very specific items and aspects that have been prepared along the way.

I don't know that any of these recommendations would bring us to the point of having to examine or change our bylaws, but I haven't thought about it before. If that's the case, then that should be brought up to the surface during this initial examination period where we do the assessment of feasibility and implement -- and I don't have any bias on this. I just want to make sure we don't find ourselves saying, oh, yes, we'll do this and then discover there are deeper traps there that we did not take the time to sort out in advance. Is that okay? Or does that sound like a wishy-washy, wallowing answer?

>>BILL SMITH: Yes.

[Laughter]

Well, on the one hand, it is okay, if that's -- I do understand that some things may need to go through a community process, okay? I'm just conveying -- as a member of the review team and going back and looking at a problem that has existed for over a decade, pointing out that responses like "Well, we can't do this," "someone can't do that and we have to go do that and it is going to take years" is -- it is a frustrating response to --

>>STEVE CROCKER: Well, we haven't given that response yet. I'm just feeling out the space.

>>BILL SMITH: I understand. But I'm trying to convey that I, individually, hear that a lot. "We can't do this." "Your recommendation requires that." I'm suggesting that the organization move -- (dropped audio).

>>STEVE CROCKER: -- in general tends to think more broadly and more boldly because we're not stuck with, This is the way we've always done things. So I think you will find more warmth and more empathy than you might be expecting. I hope so. Anyway, we'll see the way that comes out.

Bertrand and then we should move into some specific -- Oh, okay. So the sequence here, all on this side. Bertrand.

>>BERTRAND DE LA CHAPELLE: Thank you, Steve. To build very quickly an institutional framework, the respect of the rules is a prerequisite, i.e., the respective responsibilities. And if it is something that prevents the solution, then it should be revised.

But the point I wanted to make is actually a more provocative question towards the review team. Because of the framework and because of the terms of reference and the approach, you have -- and correct me if I'm wrong -- addressed the issue of WHOIS as is.

And Judith yesterday, or the day before yesterday, used this word that has now gone around the community of labeling WHOIS as a "museum piece." The question I want to ask you is: Isn't one of the problems we're facing and why it is dragging so long is because we're considering it like a Swiss Army knife?

It is something that is supposed to be used for -- we know that, but at least for the technical contact, security of the Web, for marketing purposes, for user simplicity and potential access of information of who is actually running a site and so on.

What struck me in the two parallel exercises that we're conducting is that you have taken the approach of making the existing WHOIS better and what is emerging in the discussions and sometimes tense discussions in the RAA is this notion that we're beginning to distinguish the different functions a little bit more and the different modalities of access and the different types of datasets.

So how do you see this? And how constraining was, for the group, the requirement to basically address WHOIS as is as opposed to opening up the space and how can we reconcile this?

>>EMILY TAYLOR: Thanks for asking that. I can see already that several of my colleagues want to come in on that. But I am just going to just have first go.

Yes, we've actually heard that comment about WHOIS being a museum piece. You're correct in saying that on Monday it clearly directed us to working at the current thing.

And also my personal view is I think to say it's a museum piece or it's just worn out and it's doing what it was never intended to do, blah, blah, blah, is a cop-out, if I can use an English piece of slang, because it absolves of responsibility of fixing the problem by saying we should be creating a new something or other.

And absolutely we've had wonderful interactions with SSAC all the way through this process that we're aware of two replacements, protocols that have actually been

approved over the years but not implemented. Let's just be real here. WHOIS is what we've got for the time being until we've got something better. So let's try and make it better in a pragmatic way with the approach that, Well, we didn't really have much choice about it and that's the reason why, I think, we were very willing to be constrained by that choice.

Of course, the protocol can be improved, but that is a very long-term job and that wasn't part of our scope. And we really are encouraged to see that there's still thinking on that and hopefully that that will come to pass in years to come.

In the meantime, we have a problem.

>>STEVE CROCKER: We have a queue. Seth, and there was a hand up -- Seth, Judith, Ray, and Kathy and Bill.

>> SETH REISS: My comment actually was to the earlier point. I don't know if we have left that already.

But very briefly, I was concerned with the suggestion about changing the bylaws. I think that the obstacle of getting this done is basically a will on the part of the organization to get it done. I don't think the bylaws are what's obstructing it.

One observation is the fact that there are so ongoing studies and so many concurrent discussions is one aspect of (indiscernible). And if there is a realization of that and there's a will to implement, I think you can make great progress.

>>STEVE CROCKER: Thank you. (No audio).

>>JUDITH VAZQUEZ: I'm not copping out. I called it a museum piece and it is. What law enforcement today -- Let's look forward. The creation of a universal database that captures the critical data around -- of course, the domain name, registrants, registrars, the registries and very critical is the I.P. address because many of the DDOS attacks happen when I.P. addresses are spoofed. And what is attacked is the DNS constellation. Don't forget that. That is a threat.

Now, that having been said, I was exceedingly encouraged when Australia yesterday suggest the probability of a separate organization that may handle enforcement and compliance. It was a suggestion.

U.K. said thoughtfully aloud: Is it possible to externalize compliance function? Was this ever considered? If not, why not? And so I'm saying I'm not copping out.

So the question is -- And, of course, our chairman responded and Steve said, If an external group is set up, where does funding come from?

If I was willing to be this external party and I was willing to fund it, how much time am I given to go live?

>> EMILY TAYLOR: Can I clarify. I was not intending to make any personal attacks. And if I insulted you in any way, I would like to apologize for doing so. So apologies, Judith.

>>JUDITH VAZQUEZ: (Speaker off microphone).

>>EMILY TAYLOR: This is something that Australia did mention yesterday, and I think it is resonated through various parts of the community.

>>JUDITH VAZQUEZ: (Speaker off microphone).

>>EMILY TAYLOR: I can see and I think that your CEO immediately pushed back on a kind of won't so much change, let's just see how we're doing first. I think that, yeah --

>>JUDITH VAZQUEZ: Mr. Chairman, may I? I'm not speaking as ICANN. I'm saying if as an individual external party seeing the need for such a database, which will help the Internet community in general because, of course, investments are required. The infrastructure, the data, the gathering of it, the validation of it, data collection, validation, keeping it updated, how much time am I given to go live is the question. "Live" meaning the infrastructure.

>>STEVE CROCKER: So this --

>>JUDITH VAZQUEZ: This is a concept --

>>STEVE CROCKER: Sorry, this is a very intriguing discussion and I can see that we can get drawn into it. It is also 10:19. This room will be filled up with other people shortly at 10:30. So let's do a very quick continuation of the round. Cherine, I have got you added. Ray, Kathy, Bill, Peter, Cherine. Boom, boom, 30 seconds.

>>RAY PLZAK: Okay, thank you, Steve. First of all, I know that Judith has been quite firm in calling WHOIS a museum piece and Bertrand even referred to it as a museum piece. I don't think they intended to call you a museum piece because of your early involvement in the development of the protocol.

[Laughter]

Having said that, Emily, I recognize that the charge of the team was to review the current WHOIS. One of the recommendations could clearly come back and say it's broken and it should be replaced. And you could have recognized the work that's been done over the years in the IETF. In fact, they have developed protocols to provide directory services. In fact, that's what WHOIS is.

Inside that work in the WHOIS that the IETF has done, it could easily go back to them and ask them, for example, to include work to take care of IDNs and so forth.

So I don't think it is beyond the purview of your team to have recommended replacing it and also then to recommend patches that could be put in place until such time it could have been implemented.

>>EMILY TAYLOR: Take that point. Thank you.

>>STEVE CROCKER: Good. Kathy.

>>KATHRYN KLEIMAN: I would like to ask Denise Michel when she has time to circulate 9.3.1 of the Affirmation of Commitments. Our starting point was its first line: "ICANN additionally commits to enforcing its existing policy relating to WHOIS subject to applicable laws."

You will find in our report that we had lots of trouble finding what that existing policy is because it is scattered. It is not that it doesn't exist; it is in all sorts of different places. But we did not take evaluating the whole museum piece, and no one would like to stop talking about WHOIS more than me after a decade. But we took as our starting point that you committed and the Affirmation of Commitments to enforcing it. And that was our starting point.

Just a quick note about the RAA, we said the first week we were assembled that setting the system in motion is very difficult. And it has become much more in motion than even it was a year ago.

But I was very pleased to find that the RAA session that I attended showed many, many similar overlapping themes, especially in the middle, not at the extremes but in the middle. So I heard the same words being talked about: Contactability, low-hanging fruit as a very reasonable goal and invited everybody to our follow-up session, to say if you want to continue talking about the things I heard you talking about here at the RAA session, come to ours.

So I think we're having a convergence. After all these years, hooray, we are finally having a convergence.

>>STEVE CROCKER: I think you are right.

Bill?

>>BILL SMITH: I would like to echo Kathy's comments. Especially at this meeting so far, I have seen very positive reaction to our work. If not specific words, at least overall which is what is important certainly to me and I think the team.

I also appreciate Bertrand's comment about do we need something new and did we consider that.

I think it is fair to say yes, we did. I agree that it is in many regards a museum piece. Unfortunately, it's the museum piece that we have and it is the only thing we currently have, okay?

Now, I do ask you to take our recommendations as a whole because if you look at some of the recommendations with respect to IDNs and internationalization, we suggest that there needs to be work done.

As Emily pointed out, there are already specifications at the IETF, IRIS and CRISP that could be used. I'm not suggesting that they be used or required because history has demonstrated that they aren't used, right? That's how the Internet works.

Protocol is developed. They either get used or they don't.

What we are saying, though, as a way forward, we will require domain name registration data model. One is lacking. This is in the SSAC51 report as well. There needs to be a protocol. There will need to be policies as well.

How they get developed, that's up to the board, the community, to determine. But things like what data must be there, for what purpose, this is not a new suggestion. This goes back, I think, to about 2004, maybe 2007. I don't remember exactly. There were a couple of letters from the Article 29 working group to ICANN suggesting that it define purposes for the data to be in compliance with the data protection laws.

If we assume change happens, okay, with WHOIS or some next generation of WHOIS, it's going to take years to be developed, implemented and deployed.

In the meantime, we have massive amounts of data that is inaccurate, okay, waiting for -- expecting the new WHOIS before we start attempting to improve the data.

As an engineer and computer scientist, as a practical matter, that's just a non-starter. Do both in parallel, and I think -- I believe, at least it is the recommendation of the review team, to go do a -- get a next generation of this because it has to be done through internationalized domain names and internationalized registrant data.

>> (Speaker off microphone).

[Laughter]

>>STEVE CROCKER: Thank you very much, Judith.

Peter and then Cherine and then we're in the awkward position but we are going to have to wrap up.

Peter?

>>PETER NETTLEFOLD: I will be very quick. Kathy and Bill have said what I was going to say.

>>STEVE CROCKER: Cherine?

Wow, so, I had hoped that all of this was the -- just clearing away the brush before we dived into the content. And we touched on content, but we haven't really gone through the full set of recommendations and had the debates about it.

We are making progress, lest you go away feeling unsatisfied. As I said, it is an active process to absorb all of the recommendations and understand if we said yes, what would the consequences be.

She changes my bylaws.

[Laughter]

Yeah?

>>KATHRYN KLEIMAN: Can I ask you a quick question? Can you help us understand our time frames? Our head we get our final comments on Saturday or Sunday, the 18th, and we wrap everything up, finalize it, dot all the Is, dot all the Ts by the end of April.

>>STEVE CROCKER: Well, exactly. So the public comment process is running and is almost over. Denise has said we will have a preliminary assessment we can feed back, which is the feasibility and clarity from our point of view. Those two things, I think, will be very key feedback to you.

We will organize the board time. You got 20-odd people on the board, and some are deep into a particular subject and others are focused elsewhere. But we will concentrate our attention in a useful way within the board. The board is not capable, it is not structured to be an implementation body. It is an oversight and decision body basically.

We will take the inputs that come from the feasibility issues and will ask the questions about coordination with other things that are going on, folding it into the law enforcement RAA interactions, which obviously are timely and taking place and try to get a coordinated view of all this.

With respect to the attitude question really, I think, that you are pushing on very hard, Bill, which I'm quite empathetic. Our attitude is we are in complete agreement that WHOIS needs to be changed, that as creaky as it may be and perhaps that there ought to be something different, it is, indeed, what we have. It doesn't need to be made better. And the work that you guys have done will be -- Ah, I remember what I wanted to say.

There was this comment about whether it was different from high literature, from works -- what's the term? Work of art.

Maybe not, but it will be read much more widely. I suspect the readership for this report will be much wider than any of the fine pieces of literature, if you go sample school children throughout England.

>> (Speaker off microphone).

[Laughter]

>>STEVE CROCKER: So I think this is landmark work. I think this is very, very important. I think that this will help make the significant change in a very complicated and creaky system that we've all struggled with for a long time. So I think there is enormous empathy.

I would not expect to see the same sort of bureaucratic response, too big, can't handle it and so forth. That's not -- that's not our model.

So I apologize that we haven't been able to get further, but I don't want to revisit this discussion the next time many of us get into a discussion.

>> PETER NETTLEFOLD: Just a quick follow-on question. Thanks for talking through the process and so on. Just to be clear, so after the public comment period closes, obviously we have to review all those. And they are important inputs. Do I understand we will be receiving something from staff on feasibility. Is that something that will come to the review team or to the board? I wasn't clear on that.

>>STEVE CROCKER: The answer is question formally I have asked for it and it will come to the board. We are not going not waste a lot of time. You will see it. We are not going to hide anything. My.

Purpose in asking that was to cause it to exist and it has got to be used. It is not a secret here. We are just trying to get the pieces out on the table so we can work it. Thank you. We are adjourned.