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BRENDA BREWER: Good day, everyone. This is Brenda speaking, Happy New Year. And welcome to the NCSG monthly policy call on 9 January 2023 at 11:30 UTC. Today's meeting is recorded, please state your name before speaking and have your phones and microphones on mute when not speaking. Attendance will be taken from Zoom participation. And with that, I will turn the meeting over to Tomslin. Thank you.

TOMSLIN SAMME-NLAR: Thank you, Brenda, Happy New Year, everyone. And welcome to our first policy meeting for 2023. And considering that it is the beginning of the year, there isn't a lot yet on the Council's table, and it's made even worse for this meeting, we had to bring it a week earlier, because next Monday will be a public holiday in the US. So we had to bring the meeting a bit a week earlier to be able to accommodate staff and folks in the US as well.

That meant that the Council agenda itself is not yet complete. But having said that, looking at what is currently proposed, it's very light. So I don't think it will be as packed either. And hence, we'll be looking at some other aspects of policy that came out of the strategic planning session councilors had in California in December.

I wasn't able to attend myself, but there were discussions about how to improve inter-stakeholder group and constituency relationships especially on two aspects of this. One was how to improve or advance the work of the Council. And the other aspect was generally the two

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stakeholder groups, the Commercial Stakeholder Group and NomCommercial Stakeholder Group improving their relationship.

And so today, I did include on the agenda, specific to advancing the work of the Council, a discussion on how we could work with the NomCom-appointed Noncontracted Parties House councilor. And I believe that is in the person of Paul McGrady, first of all, and I believe Manju extended the invitation to him to come to attend this meeting as well. I don't believe I have seen him here. But I wanted to see especially Manju and councilors who are in attendance in the US whether they have anything in particular to add to this, to what I've said before, we have a discussion. Open the floor for a discussion on this. So I don't know if Manju, if you have anything to add, and any other councilor that was in attendance. Please go ahead.

MANJU CHEN:

Yes, thank you, Tomslin. I think I'll start and I'll let Stephanie [inaudible] whatever I failed to mention. So I think first, so we had this kind of breakout session during our Council SPS session with CSG, so the NCPH, Noncontracted Parties House, we had this kind of discussions about how we could improve our work. And of course, as Paul, he was the NomCom appointee to the NCPH, he was in this discussion to. Like you said, I did, for our policy call, invite him. But he didn't reply to my emails.

And one of the emails he has been sending to the Council list was that he was traveling so it's hard for him to attend meetings and stuff. So I guess probably that's because of that, because we did tell him that the

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policy call is usually the same week, on Monday before the Council meeting, so probably he kind of assumed that we're having the same this month. So I'm not making excuse for him, just like speculating what's happening.

So in LA, we kind of had this discussion of how do we improve our— especially collaboration between CSG and NCSG. Of course, we expressed why we have been having trouble to trust each other and all kinds of stuff. And then we talked about how we should kind of rekindle our relations, because there's still stuff we need to work together. For example, we have to elect our board member from the NCPH. Also, we have to elect our Council leadership, so two of the most important things, we have to cooperate to make things work. And like this year, Council leadership was actually not a very smooth one, because we kind of felt [inaudible] a surprise and those kinds of stuff. So we were talking about how we should really enhance our communications.

And one thing we have identified is that so for example, we have our monthly call, once a month, but for some constituencies, for example, IPC or BC, they have their calls like once every two weeks. And then they have a CSG call once every month. So they were saying that it might be hard for us to schedule a monthly call, because their schedule is kind of very packed for their own constituency and the CPH calls.

But we did talk about how we should at least for every ICANN meeting, we should have a session together. And Stephanie has brought up about some like intersessional kind of face-to-face meeting. I'll let her explain

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the idea because she knows better than me. And also, we are trying to explore some other light—maybe not totally policy relevant topics, but something we can still work together.

For example, I think we talked about how to create more newcomer or more female friendly environment in ICANN and those kinds of stuff that we actually, like, super quickly come to agreement. And yeah, I guess that's about it. We didn't really talk about how to work with the Contracted Parties House, because there was more within the Noncontracted Parties House discussion. And I guess that's it. Stephanie, anything to add? Thank you.

TOMSLIN SAMME-NLAR: Thank you, Manju. And I see Rafik's hand up as we wait for when Stephanie will comment. But Rafik, you first.

RAFIK DAMMAK: Okay, thanks, Tomslin. And of course, happy new year to everyone. So I understand we were discussing about how to work with the other side of the Noncontracted Parties House, which is the CSG. So I think it's important maybe to have in mind maybe what might be achieved and maybe it cannot. I think in the last years, we observed that in several policy topics, we have quite disagreement with the CSG on those topics. And to be honest, it's unlikely that we will reach any agreement with them.

But I think that's okay. That's why we have this diversity in the end in the Noncontracted Parties House. But I guess what we can focus on

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that, maybe what should be, is related to some of the—to the extent where we can describe them as administrative, like what Manju mentioned, like the election of—not sure the seat number, but the board member from GNSO, from the Noncontracted Parties House, and that's coming.

I just want to remind the policy committee that there was a process previously agreed with CSG, and that it's written down regarding the nomination and how to vote the Board members. So I advise to check that before starting any discussion with them to understand what we agreed with them previously.

Because also, it's important to know the history that we had, like for two board members, they could not be reappointed. In fact, kind of Matt was the first that he was reappointed for a second term. So it's important for the councilors and other members to catch up regarding those.

But anyway, those are I think kind of what really matters. The idea of intersessional is something maybe you can explore. To be honest, personally, I have a lot of concerns about it and how, is it something realistic for us to do? Because it's additional meeting that can be a burden for the leadership, in addition to all the ICANN meetings or the GNSO Council meeting, the SPS one.

So yeah, we can check how we can work with the CSG, having more regular meeting, having maybe some session during ICANN meetings, or some regular calls, and so on, and try to work with them. But just to end up here and to finish, I think in some of policy topics, we really just need

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to lower our expectation. I don't believe we will reach any agreement with them on those kinds of topics. And that's fine. I'm so sorry for being long here. Thanks, everyone.

TOMSLIN SAMME-NLAR: No, thank you, Rafik. And you're absolutely right. Because from what I've heard, as the suggestions for ways we can work together. It was really about focusing. And you mentioned about what we can realistically achieve, and it was focusing on those areas where we could agree on and not focusing on the areas where we disagree, because we will, like you said, always disagree in a lot of policy topics. And Matthew mentioned a couple of those. And I think one of those areas was also advocating for a more responsive and proactive ICANN Board of directors in general outside the specific seat that we will nominate with them. But I'll pass the mic to Steph.

STEPHANIE PERRIN: Yes, thanks. Thanks for that reminder, Rafik. Where are the records of those conversations that we had with the Noncontracted parties about the board seat protocol? I hope we don't have to go through emails back to the Dublin meeting to dig them out or post Dublin. I just don't know where those would be recorded. But yes, we have to make sure we don't reinvent the wheel there.

I think members should be aware that part of what is prompting this whole thing is that we have a very active NomCom appointee in, in Paul McCrady. And I think most people like Paul. He's a nice guy, even if he does represent the intellectual property constituency most of the time.

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But of course, now he's the NomCom appointee. And like our GAC representative, our GAC liaison, Jeff, between the two of them, they were probably the most active contributors at the Council SPS meeting in Los Angeles.

And I don't mean to sound overly critical. They're both working hard and managing processes and being spokespeople and all the rest of it. But I think the onus is on us to become more active ourselves as councilors just to keep up, frankly, because otherwise, we will barely get a word in edgewise at these meetings.

So I think that's one of the issues we need to think about. When the proposal was made to invite Paul to our meetings, I think there was some valid criticism on the list that if we are trying to hatch our own policies and discuss different positions to take, we really don't want folks from the commercial side of the house at our meetings.

Fair enough. We have to also look at the fact that we have so much joint membership with ALAC that we regularly have a ALAC members attending our meetings. So it's a little hard to draw that dividing line and say, sorry, guys, you can't come.

Of course, if the average noncontracted party, or rather, the average commercial member tries to join as a member of NCSG, in all likelihood, they won't be accepted if their membership application is properly filled out. So that's a bit different than ALAC members.

But it's something to keep in mind, this whole business of, okay, if we don't want non-NCSG people on our call, then we have to be pretty

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clear about how we stop non-NCSG people from joining NCSG. So just a little reminder of that issue.

Other than that, I'm of the view that while I understand completely what Rafik is saying about more meetings being a burden, particularly to leadership, I do think it'd be a good idea around this problem is to meet with them separately.

Now, Manju mentioned the intersessional meeting that we floated a couple of times. That was, I believe, the subject of an additional budget request to do that. And I think it's a pretty valid ABR because we're stuck in a group with folks that are diametrically opposite from policy perspective. So the least we can do is have some sessions where we try to coordinate how we manage business on the administrative side.

So maybe just a meeting, a Zoom call prior to face-to-face meetings would be feasible. Personally, I find that we are so crowded at face-to-face meetings that wedging in another meeting with the Noncontracted Parties House just for the sake of it seems kind of pointless. Possibly I'm in the minority there. Anyway, I think that's all I have to add. Manju did a great job summarizing, as did Rafik, on the issue of prior stuff. Let's see if we can dig out the records for that agreement that we have with him, just so we all know what we're talking about. Thank you.

TOMSLIN SAMME-NLAR:

Thanks, Stephanie. Rafik, I saw your comment on chat. I wasn't sure if I understood what you're saying. Did you say what you're referring to was in the GNSO operating procedure? Or was that a separate document?



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RAFIK DAMMAK: No, [inaudible] it's in the annex of the GNSO operating procedure, the selection process.

TOMSLIN SAMME-NLAR: Alright, thanks. I don't know if anyone else has any comment to make on this topic about improving our relationship with CSG. If there are any other ideas or suggestions on how to go about it—I liked the suggestion from Stephanie regarding having a Zoom meeting just before the face-to-face meeting to avoid that usual packed agenda of the face-to-face meeting, but would like to hear whether any members have any other suggestions or anything else.

Alright, then. So that conversation there covered those first two items. I don't believe we've really discussed the first item specifically on how, like Stephanie mentioned, how to work with the NomCom appointed CPH councilor.

I think when we were discussing this, there was a suggestion that if Paul attends, then he could help explain how he believes the role functions and how the role can help NCSG in the Council. But unfortunately, he's not here today. So we'll probably have that conversation later, outside this meeting. And if anything else comes, then maybe we'll provide an update. Stephanie, please go ahead.

STEPHANIE PERRIN: Thanks, Tomslin. I forgot to mention that just in case some newer members are unaware, the other members of the noncontracted

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parties do not let other people into their regular meetings. So as Matthew said, the commercial guys meet every couple of weeks, they agree on all of their policy positions and what they're doing. So that's quite a process. And those are closed meetings.

And you will have noticed at face-to-face meetings that similarly, usually their business meetings are closed to outside folks, unlike ours are always open. So that's a distinct difference. And we should be mindful of that if we're talking about opening up our discussions to outside folks. Thanks.

TOMSLIN SAMME-NLAR:

Thanks, Stephanie. And that is pertinent, especially regarding the fact that the proposition from the NCPH NomCom-appointed councilor has always been that at least from what he's written before is that he would like to know if either NCSG or CSG are putting forward or any of the consequences for that matter that make up the NCPH would have put forward any motions in the Council and if he can help broker positions, basically. That's what his emails have always been about.

So that point you make there is quite important and interesting to me, because that's why I thought it will be good to hear from Paul himself, how he intends to do this considering such concerns you have right the about the other side being closed and ours being open. I see Julf's hand and then I'll go to Arsene.

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JULF HELSINGIUS:

Thank you. I am in the interesting position that I actually did have Paul's position earlier. So I have some perspective on it. And it is interesting how—well, the NomCom appointee is supposed to be neutral. But of course, because of their background, they never are perfectly neutral or at least not perceived as being perfectly neutral. I mean, from the start, when I actually had that position. I was struggling with the fact that people saw me too much as liaised with the noncommercial. So there was a bunch of places and occasions where I didn't feel welcome in the [inaudible] of constituencies. They were going, "Oh, are you just coming here to spy on us?"

But on the other hand, there were also a lot of occasions where they really wanted to involve me to at least explain their point of view. And I think that's how we should work with a NomCom appointee, make sure we don't give away strategic information, because that's what the other side is not doing either, but try to explain our point of view and try to see if we can at least get partial support.

So yeah, I was also going to point out that there is also a crucial difference between us and other constituencies in that we don't actually bind our councilors in a vote. But they do. You know that they will vote as one block. So they will not have councilors doing their own thing. And I think we need to be sure that when we have important policy points, we actually talk to our councilors and make sure everybody sort of is on board with our own policy points and not suddenly go outside the box. Thank you.

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TOMSLIN SAMME-NLAR: Thank you, Julf. And Arsene put down his hand, but he's put his comments on chat. And I'll just read them out since he mentioned he's driving. So he says, "I think the NCSG is so welcoming to everyone, which is probably not that bad. But can we also make sure our policy positions are defined in a closed meeting? And then during face-to-face meetings, we just discussed general matters." Rafik.

RAFIK DAMMAK: Thanks, Tomslin. So I think maybe instead of focusing on attending meeting or not by the [NCA], I guess maybe what we can offer to him is just we can try to coordinate with him. Doesn't need to be in our meetings, because I think maybe one element to have in mind is that when you have someone external, it's not easy for people to discuss freely. We are open. Our recordings are available and so on. But it's different when you have someone outside joining and being able to listen and even probably can intervene. So instead of that, we can suggest it's about coordination, to try to work more with the [NCA].

And back to what Julf tried to explain. But I think Julf, your case is quite different, even if what people perceive is not true, because you're independent. This thing here in the case of Paul, he was a councilor for the IPC before. It's really hard to not have that in mind. And it's one of the concern, I think, about the NomCom selection. It's not about the person. But it's kind of a problem that having someone who was in the other side and being now in the position that can be a tie breaker. And that's what you should have in mind, that the [NCA] can be a tiebreaker in terms of voting, in particular, when [the threshold] allow that.

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So it's not a comfortable position for sure. We're not judging the people or having any judging their intention, but it's not comfortable and it's quite odd, to be honest, it's not what's supposed to be the case for [NCA], it's supposed to be someone kind of external, independent, that can be in that position. But it's hard to understand how the NomCom make their election in the end. So we have to deal with that anyway.

But again, we can offer not to join our meetings, because what can be an influence in the dynamics of our own discussion between members when we are talking about internal matters or policy issues, and we can just offer to coordinate.

The same if we want also to coordinate between CSG and NCSG, we should have in mind there is also the vice chair from the house, that also supposed to be a person of [inaudible.] It's not something we leveraged before, for different reasons. But maybe it's also someone who's supposed to help at the end here.

TOMSLIN SAMME-NLAR: Thanks, Rafik, and good point about the vice chair as well. Stephanie?

STEPHANIE PERRIN: Maybe I knew this and have forgotten, but I'm trying to recall whether Paul has recused himself from attending, as an IPC rep, the IPC meetings. I don't believe he has, because of course, he's still working as an IP lawyer. So he's still a member entitled to attend their meetings. He may not be supposedly representing them on Council. But I suppose his volunteering to attend our meetings might be interpreted as

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fairness, if he's in attending theirs, he should attend ours and see what our perspectives are.

And it would take a really competent person. As Rafik says, Julf's case was a little different, because he really was more independent, in my opinion, anyway. I certainly was fairly critical of the other NomCom appointee that we had that was working as a telecom regulator while he was our noncommercial or Noncontracted party rep, because I think that was quite a conflict. But Paul, he's certainly in a conflicted situation if he's still attending the other meetings. Anyway. Enough on that. Thanks.

TOMSLIN SAMME-NLAR:

Thanks, Stephanie. So I suppose the definition of independent here, as you and Rafik mentioned or referred to Julf is the fact that they were not previously in a leadership position of their stakeholder group or constituency before being an [NCA councilor.

So I guess that goes to what Arsene has written in the chat. That is critical, and that makes it challenging naturally to ignore that fact, that it's someone who used to be a soldier for the other side.

I don't know if there are any other comments on this. If not, we'll probably proceed to the next item on the agenda. I guess just to wrap up this before we get to the next item, we do have one action point here, is to possibly look at the Zoom call before a Cancun meeting, perhaps for NCPH. I guess we'll probably flesh that out on the mailing list later. But that is I suppose the action that I saw came out of this conversation. And the other was we seem to all agree that we shouldn't

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invite the [NCA] to our meeting, but rather engage with him or her from a much more holistic level in terms of our policy positions, rather than being present when we are debating or discussing the positions. I hope I captured everything there.

We'll move on to the next item then, which is the Council committee for overseeing and implementing continuous improvement recommendations report. And Manju will help us here, because she's the new chair of this group. So I've had the opportunity to put her on the spot to explain the report to us.

But just as a way of introduction, this is work that was assigned to this group by the Council to review the GNSO Working Group self-assessment requirement. And this report is, as a result of the work that group did, the report, from what I read, proposes some updates to the GNSO operating procedures. And the group also developed two new tools if I'm not mistaken, a periodic survey document and a survey tool technical requirement. But since Manju is with us, I'll let her speak into the report in more detail.

MANJU CHEN:

Thank you, Tomslin. I don't think I have to like share my screen on and go through the report line by line, right?

TOMSLIN SAMME-NLAR:

No.

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MANJU CHEN:

Okay. Cool. So the report is pretty self-explanatory. There was a major change, which was before, there will be only working group self-assessment after the PDP is done, after they published the final report. And what we changed is that we added another set of questions where when the Council see fit, they can ask the working group to do this self-assessment before the PDP is finished. So after they published the initial report, if the Council feels like there's a need to ask the working group to do a self-assessment, they will commence this self-assessment to the working group to know what's going on within the working group, like what do they feel about the leadership, what do they feel about the liaison, what do they feel about how everybody's working together? Do they feel it's hard to build consensus? All kinds of questions.

So that's the major difference. Before, there was not this kind of self-assessment during PDP. Now we're adding it if we see fit as Council. So that's the biggest change. And we kind of go through the questions and we developed the questions that we feel will be useful to assess what is going on within the PDP. So that's really what this recommendation report is about.

And actually, I don't think we're going to discuss this during our Council meeting next week, because I will not make the meeting next week, we have a Lunar New Year holiday starting today on the Council meeting, I have to excuse myself.

And I talked to Marika, because we kind of wanted to have this with another thing that we were doing, it's the statement of interest task force. That's a different thing than CCOCCI. I don't think it's represented by councilors, I think it's every constituency and stakeholder group, they



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can appoint someone to that taskforce. And what they're doing, the statements of interest taskforce, is to review what's currently in the statements of interest that's required for every, I think, GNSO participant, if you're in one of the stakeholder groups or constituencies, and they created another more specific statements of interest for when you want to join a working group or a kind of representation body, for example, or scoping team or a committee, that they will know more about a conflict of interest, or let's say just statement of interest, because in GNSO, we all have different interests.

And they will be finishing their report on the new statement of interest and we will vote for this report, the self-assessment and the statement of interest together probably in the February meeting. So for the January meeting, we probably won't be discussing about this. But as I said, the report itself is not controversial. It's very self-explanatory.

So that's about it, and the statements of interest taskforce, they aim to publish a report before February, so we can vote on both the self-assessment and the statements of interest report in the February Council meeting.

TOMSLIN SAMME-NLAR: Thanks, Manju, for that update. You mentioned that we'll not be able to discuss it in next week's meeting, because I brought it today since it was proposed as a potential discussion for next week's meeting. And I thought it will be an opportunity to get that update so that both members and councilors could ask questions, but yeah, I suppose we have more time then to look into this.

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To your question, Ephraim, I don't have it in hand, but I have forwarded the link to the report on email to the NCSG mailing list. If you just search by CCOICI, you'll find it. I don't have it on hand to provide it on the chat right now. All right. Are there any other comments on this or questions for Manju? Doesn't look like it. Alright. Thanks again, Manju, for that update about that. It's not a long report. It's easy to read, I think.

Moving on to our next agenda item, that is the public comments. I did share two of them on the mailing list last week, just coming out of the holidays. I think the one that's really new is the draft FY 24 to 28 operating and financial plan and draft FY 24 operating plan and budget, open for comments. And that's going until February.

We still don't have a volunteer to draft the comments for that. We have as NCSG in the past draft a comment to this. So if anyone is keen to lead this, please ping me off list so that we can coordinate and have a comment to the plan and budget.

The other, which like I mentioned in email, I only picked it up a little late when I got back from holidays, and that is the final report from the EPDP on specific curative rights protection for IGOs. I believe there are only about probably eight days left now for this.

And I know Peter mentioned on the mailing list that since there is such a short time left for the comment, and considering that councilors approved it, a councilor could potentially take up the pen to draft a comment here for this one, or we could just share a little bit about it.

And I thought I'd share a little bit, three lines about what this was about. And we had the opportunity to discuss this as well before the Council

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voted on it. And our members who were part of this working group at the time mentioned that there were no concerns. There were no NCSG concerns to the recommendations.

However, quickly, I think the recommendations covered some things related to the possibility that an IGO may enjoy jurisdictional immunity in certain circumstances. And then the other was that it should not affect the right and ability of registrants to file for judicial proceedings in a court of competent jurisdiction, whether following a UDRP and URS case or otherwise.

And I think the third one was that it recognized the existence and scope of IGO jurisdictional immunity in any particular situation, is it a legal issue to be determined by a court of competent jurisdiction?

I believe those were the three main things that recommendation covered. And yeah. I see Arsene's—or that for the first one. I'd like to support you for the first public comment. All right. Thanks, Arsene.

So for this one, like I mentioned, when we discussed it in the policy meeting, there were no concerns that came up for this recommendation. But if anyone believes they are able to draft a comment on behalf of NCSG for this proceeding, please let me know off list as well. That is all I had about public comments.

I think the next item is AOB. If Julf has anything to add here administratively, please go ahead, or if anyone has any other business to bring up, he has nothing to add.

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EPHRAIM TUNGALI:

Hi, maybe I can add something. So there is a course I shared in August, a course that the Cross Community Working Party on Human Rights, we developed. So I asked for feedback. I got some feedback. Well, I'm just curious if there's any more feedback before we push for it to be published.

Basically, it's a course that tries to introduce the linkages between DNS and human rights and ICANN and human rights and why it's important, and the bylaw. And yeah, the framework of interpretation. So I'm just curious. If there's any more feedback, let me know.

I shared the link I think two or three times and I spoke about during the meeting in Malaysia. I'll be happy to reshare the link if someone reaches out to me personally asking—if they've lost that email, I'll be happy to do that. Thanks so much. I hope to publish by [the end of] January, if possible, because this is a process that we shared—we've been working on it for a little over a year now. And we opened up for public comments in August. And I'll be hoping to work with Andrea to finalize and publish it hopefully as soon as possible because it's been dragging for long. Thank you.

TOMSLIN SAMME-NLAR:

Thanks, Ephraim. Yeah, I don't know if anyone wants to comment to that. I don't think I have any comments to that one specifically. But thanks for reminding us about it. I think, personally, I'd already forgotten about the course. Yeah. It'll be nice to see it published. I think there were very many interesting comments and feedback about how nice it was for members. So looking forward to it.

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Well, I don't know if there are any other things members would like to bring up. I don't intend to keep you all here unnecessarily. Happy to give you back 30 minutes of your life if there's nothing else. Stephanie, please go ahead.

STEPHANIE PERRIN:

I was just wondering if people had any thoughts on travel to the next meeting. They are, of course, hounding us to give travel instructions back before Christmas, and I am guilty of not fulfilling that requirement. Unfortunately, up here in Canada, we have a bit of a surge in COVID cases right now. And travel has been an absolute, complete and utter nightmare. Mostly winter related. So the thoughts of traveling to Cancun are troubling me. And I'm wondering if anybody had any thoughts on how ICANN has been managing this at the meetings. Most of the old geezers like myself that I know caught COVID traveling to visit their families over Christmas. So I just wondered if folks had any comments.

TOMSLIN SAMME-NLAR:

Personally, I don't have any comment, especially the fact that have to travel 30 hours every time. No, I have no comment. I see Julf's hand up though.

STEPHANIE PERRIN:

Yeah, I was just going to comment that's judging by both at The Hague and the meeting after that, it seemed that for each meeting, the standards were getting looser about how people would actually comply

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with COVID restrictions. I expect Cancun to be even much looser. So if you worry about COVID, it might be a stressful experience. And of course, travel is never fun these days. But the most important thing is if you actually already know that you won't travel, let me know because then we might be able to reassign travel spots.

TOMSLIN SAMME-NLAR: Thank you. Does anyone else have a comment to that? If not, thank you all for joining the call today. Appreciate it. And we'll see you all next month for the call, and some of you at the Council meeting next week. Thanks.

**[END OF TRANSCRIPTION]**