

**ICANN**

**Moderator: Nathalie Peregrine  
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11:15 am CT**

Tapani Tarvainen: We're having a number of interesting discussions that actually I think everybody should be participating in rather than having them between two and three people. So let's give it a shot.

((Crosstalk))

Tapani Tarvainen: Okay, Avri and Dave.

Avri Doria: What?

Tapani Tarvainen: We want to hear what you are talking - go talk in the mic.

Avri Doria: Oh I don't have anything to say.

Tapani Tarvainen: Now that would be something.

((Crosstalk))

Tapani Tarvainen: Yes. Who's in the corner? Kathy, Ed, hello. I see that you are having interesting discussions. Okay, Tatiana, what are you...?

Tatiana Tropina: Tapani, before we start any NCSG session, NCUC session, I actually think we lost half of our constituency and stakeholder group, I would like to ask you I remember that there was something about outreach together with NPOC. Could you please update us where those - I mean on which stage we have these efforts? Do we have outreach this evening or tomorrow? I think there was a bit of miscommunication of the GAC and...

Tapani Tarvainen: No we don't.

Tatiana Tropina: Okay.

Tapani Tarvainen: It failed because, I'm not sure exactly why it happened, but ICANN decided not to fund it.

Tatiana Tropina: Okay fair enough. So it's not kind of any defensive position, I just wanted to know if they're doing something or if we're just hanging around together and discussing our interests.

Tapani Tarvainen: If I understand...

((Crosstalk))

Tapani Tarvainen: Yes I understand that sometime yesterday they finally replied that sorry no money is coming but I'm not sure whose fault it was so I will not explain it anymore. So anyway, we're supposed to have an NCSG session here but NPOC decided to have their own at the same time without preplanning so it's just us.

I was hoping we could continue the discussion we had this morning but it's kind of difficult with half the people missing. And actually even from NCUC people, quite a few are missing. Yet the private conversations go on. I was hoping also that we could look at sessions tomorrow but all - I think all the co-chairs are also missing here.

But let - okay, Tatiana?

Tatiana Tropina: Concerning outreach, I'm just checking my mailbox and I see the e-mail from (Stefana), who is not here, that we might be joined by three interesting locals. So I believe we might have a bit of outreach so at least we can get them engaged.

Tapani Tarvainen: We have a reception tonight yet that's open to our bloggers, and we tried to invite a few. But tomorrow is nothing, as far as I know. But one thing we could do at this point is to have a little fun with Markus, who wants to run for another term in the board. Can you care to tell us why?

Markus Kummer: That's a good question and I thank you for asking me this question. I have to ask myself as well. I mean it actually is more work than you originally anticipate but I mean you all know that. You put in a lot of work with volunteer labor into being active at ICANN.

And well there are various levels. I mean first of all, I do believe in the multi-stakeholder model overall, the Internet ecosystem. I'm a strong believer in that. And then I believe in the importance of ICANN as part of that ecosystem. And I'm happy to contribute to make it work.

Now I do understand that seeing from your side my limitations because I was not actively involved in ICANN policy development before and I was more or less asked as a compromise candidate whether I would be willing to jump in. And I said, "Well okay, let's try it out." And it takes some time, and I made that point to the commercial stakeholder groups this morning. It takes some time to come up to speed at the level of the board.

I mean it's the issues, that's one thing, but it's also how the board works to build relationships. And I think fellow board members George would believe it fact. Now the point was made by the commercial stakeholder group, well if it's one of us then they would have no problem being up to speed, but it's not just that, it's just knowing the board mechanics, how the board works.

And Renalia made the point obviously the sooner you have the board member announced then the incoming board member can participate, which will greatly help. And Renalia and I joined the board at the same time but she had, I think, five months advance of me because I was appointed - my appointment was announced only very shortly before the board meeting. Now I take it that some people may be quicker than others at picking up new environments, new challenges. I notoriously had a bit of a slow start but I rather say nothing than say the wrong thing.

But be that is it may, I think after nearly three years on the board, that I can be an effective board member, but it's up to you obviously to decide and I do - I'm also a firm believer not only in the multi-stakeholder system but also in democracy. And obviously I respect the fact that people have different opinions and may prefer somebody else, that's your choice. But the point I think was made also this afternoon is having a three-year term than of somebody else, you have gained a learning curve to get started and I think giving (unintelligible) to a board member makes some sense.

Also if you as a group want to have an impact, then you want to have a board member who's up to speed and who knows his way around the board and also a board member you feel (unintelligible) as one of yours but board members don't take orders from that group who elected them. That obviously makes sense for them to interact, and there I think we can improve. I did offer right from the beginning to - I'm ready to be in meetings but I never pushed to be in meetings unless asked. Maybe I could have been more proactive in saying, "Look, I want to be part." But I thought it may be better to be more reactive.

I think you, Tapani, were the only one who at one point invited me to be on a call to prepare for meetings but none of the other constituencies or stakeholder groups ever invited me. But I think going forward, should you decide to live with me for another four years, I think we can definitely improve the interactions, again, not to give me instructions but to raise issues of your concern.

We have regular meetings at the ICANN meetings, breakfast, and I do that also with the commercial stakeholder groups. I think it is important to know what your concerns are and, again, this is a very, as the discussion has shown, a very complex, the whole NCPH is a very complex group of very divergent interests, but I think, you know, you can find commonalities, as we have seen in the discussion also today. You may disagree on many issues but on the other hand you do agree on some principles and we can build on that.

Now my personal experience, you know, has been involved in seeking consensus and building consensus in my career as a diplomat and in the UN with the IGS. I have been involved in building consensus. This is something I may not have, you know, the technical experience other people may have but I definitely do have experience in bringing people together and then building

consensus. And I think for this very complex position it's not a bad start to have that kind of experience.

That's my sales pitch. I'm very bad at selling myself, I know that.

Tapani Tarvainen: Thank you, Markus. Yes, one thing that I definitely would like to see improved is more communication between us and board members. And also I'm happy to have George and Renalia at this meeting because we are - we seem to have very little clear interaction with board members of any kind and I'm actually surprised I realized that nobody else had ever bothered to invite you to our calls, but I definitely would be - well whoever is our next board member, if it's you or somebody else, I would like to have them more involved.

Speaking of consensus, I'd like to actually bring the topic of the process of the board member selection. We have quite a number of elections within ICANN. It turned out to be, let's say, not as open as they might be that the election is decided by talking in the back rooms in advance and then there's only one candidate in the end. And I'm not sure if that's a good thing because it has its good sides but I don't like it in principle.

But often it turns out that (unintelligible) see elections, we see that people don't want to run because of whatever reason because they seem to be - it would be against someone else running or they're afraid of losing or whatever. And I have a feeling about the board election process, board member election process, we are facing similar situation, at least to some extent, that people are talking in the back and trying to impress with others to run or not run.

And how should this process be done? I'd actually like to have everybody comment on this. Should we try to make it open? Will that lead to more

antagonistic positions later on if we are to have elections like well let's not compare to some presidential elections that tend to get pretty dirty, but still should we have open stuff? Okay, Dave, you want to comment on this point?

David Cake: First I'd say actually I agree that our thoughts of NCSG elections were a bit of a mess and had some very undesirable things like people withdrawing at a point where it's too late to - for someone to then, you know, someone who may have stayed out because they didn't wish to run against someone and then they withdraw at the last minute so there's, you know, it denies I think to people that - I think it was all a bit of a mess and we should try much harder next time to run an orderly process.

But the board election process is really very different in that it's not a broad-based ballot. It's an, you know, it's much more like, you know, the tiny parliament or something. The rules are explicitly set up to say that the - to say that no single house can elect - no single stakeholder group or even a stakeholder group plus a non-contracted party can be enough to elect a board member. Like a majority is explicitly not enough.

Now as long as the CSG maintained binding votes on their members, then they can block anyone. And if we choose to do binding votes on our councilors, which we normally don't but we did in the last process purely as sort of a counter measure, we can block anyone.

So we literally cannot - we can't - you can't campaign in a, you know, a public way. You're going to have to convince - we're going to have to convince the CSG - any candidate that we will run has to convince the CSG, at least one of them, not to block them, the decision not to block them. So while I think, you know, it's worth people - maybe worth having some internal discussion, ultimately it's got to be a public discussion that involves the CSG and - well

CSG absolutely but should also involve (Yulf). And there's not really not any point in trying to be too secretive about it because there's absolutely no way you can, you know, we will get someone through without convincing the CSG of their virtues.

So there you go. That's my opinion. You've got to - it's not going to help us being, you know, ultimately it can't be - it's got to be an open process. It can be a bit - we can do a little bit of strategizing before we start but - and certainly there will be, you know, back channel discussions and strategic things because that's inevitable to how it goes, but that's not - you know, there's no - I'm not particularly in favor of us doing a lot of, you know, work at the constituency level or anything like that because it can only be a short-term part of the process.

We've got to move to being open and public quickly. Because if you're not talking openly and involving the CSG in the discussion, you're not trying to build that consensus that is necessary to get anyone elected. So there you go.

Tapani Tarvainen: Thank you, Dave. I note that it's possible to be backroom discussions with the CSG though that need to convince that that does not mean that the talks are open anyway. Matthew, you have next.

Matthew Shears: Yes thanks, Tapani. And thanks, Markus, for jumping in and giving us your views. I guess from kind of a process perspective though it seems to me that we have a decision to make which is rather urgent, which is in order for us to kick off this process formally we have to agree on the process we're going to be using, which means we need to agree about what we talked about this morning and the dates and the timeframes that were proposed this morning. And we need to do that first before we actually have a discussion and we have formally opened the nominations or expressions of interest process.



Tapani Tarvainen: Yes we do. I actually spoke with (Klaus) about it, who was chairing that session. We agreed we should do that but I'm not sure when it's going to happen. We tried to get some kind of agreement like overnight or something but we should really get that decided before we leave here, but we haven't yet. So I explained that that session was kind of a failure because it didn't result in the one thing we needed to get done, timeline.

Matthew Shears: Sorry. I guess I'm asking can we agree and communicate that we agree with that to the CSG or is there something preventing us from doing so?

Tapani Tarvainen: Timeline you mean? No, nothing but we have to agree amongst each other of course first. I guess we'll bring it up with (Klaus) again once they get - come back from their own session and try to - maybe now we'll just write the timeline and tell him, "Will you accept that?" and move forward. Anyway, for Kathy and Ed who just arrived, we've been talking about the board member selection process at the moment mainly. So if you want to jump in.

Ed Morris: Yes just a quick question. Shouldn't it be the policy committee that agrees to the timeline, not the constituency and stakeholder group leaders? And as a member of the policy committee, I'm fine with the timeline that's been proposed.

Tapani Tarvainen: You mean the timeline that there was put in by the board?

Ed Morris: That was sent in - we had a timeline sent in overnight, I believe. Are we talking about the same timeline?

Tapani Tarvainen: I understand the session we had was basically concluded. We don't like that but yes.

Ed Morris: Well as a member of the policy committee, I'm fine with the timeline. I agree with what Avri had said. We have two months, let's get it done. This timeline gets it done. The important thing is to actually - two weeks for nominations. If you're not sure you want to be nominated for the board before the two weeks start, you probably shouldn't be nominated. I mean this is something folks should have been thinking about for some time. So I would suggest we just go with the timeline and not spend another month and a half talking about process so then we only have two weeks to do the entire nomination.

Tapani Tarvainen: Well Matthew I noted you introduced yourself as the vice chair of the policy committee, which I'm not sure you technically still are as of early today. But you definitely are in the policy committee, a member anyway. So would you (unintelligible).

Matthew Shears: Tapani, I'm not sure what I am these days. Thank you for catching me out on that one. I just raised it because -- and obviously there are others who want to comment on this -- I just raised it because I think this is one of the key things that we have to resolve over these two days. So that's the reason why I'm teeing it up. Now whether it's a policy committee issue, that's fine but I think we should probably hear others before we get to that point.

Tapani Tarvainen: Yes we have the majority of our policy committee present, unfortunately not the chair obviously. But. Okay, George?

George Sadowsky: May I intervene?

Tapani Tarvainen: Please do.

George Sadowsky: First of all, I want to say that Markus's comment about getting up to speed and the difficulty of doing it in the short time is absolutely correct. I've been on the board for seven years and I'm still not up to speed on some of the aspects of the work.

But, second, the - once somebody goes to the board, it's, according to the bylaws, the person does not become beholden to their constituency but in effect represents all of ICANN. That is this is not a parliament. The board is not a parliament. It's where you have representative obligation to the people who put you there. Given that, I would think that you would want to be talking about what you want to see in a board member that is from your point of view.

Tapani Tarvainen: Ed?

Ed Morris: Yes I'll start with that by, again, to be difficult, I know Markus is here. I respect and like him. But my personal preference is I'll pick up on what Greg Shatan said earlier, I want a member of the community. I look at the CPH and I've worked with a few members of the board that have come from the CSG. Bruce Tonkin used to be chair of the GNSO. I felt closer to him because he'd been where I'd been. And now we have Becky Burr, who I've worked with close. Again, I can approach Becky.

Now I know Markus. I've known Markus when he was with (Afta) many years ago. Exactly. He had a nice little office. Nobody ever visited him and I showed up one day and said, "I'm doing a paper, can you help me?" And he had plenty of materials because nobody ever wanted them. But thank you, Markus.

But the bottom line is, just as a philosophical matter, I really think that we are -- (Bill Graham) before you -- we are missing the boat that we should have somebody who has worked in the community. I agree with Greg. Greg has been talking about this to a few of us. But I do agree with him that I've always been jealous when I got to meetings, even the first intersession. Bruce Tonkin showed up and he was from, you know, it was really nice to have him there.

And I just think that it is beneficial to us in an - and we may not have an ideal candidate because of interesting work there between the two parts of the NCPH, but I do think it's a benefit to have someone from the community on the board on the seat that we select. We have seat number 14. There's a bunch of other seats that other people select but this is the one that we select, so it would be nice to have someone we feel is one of our own.

As (Gerard) said, when they get on the board, even if it's a partisan from the CPH, from the CSG rather, they have a fiduciary obligation to ICANN the corporation. So hopefully if it's a community member from the commercial side, they will recognize they have the obligation to the corporation but perhaps a little special interest to keep us informed as well. So I'm not just concerned about whether it comes from the CSG or the NCSG but I do have a preference for somebody that comes from the community, particularly with the new ICANN, which is an independent corporation, a multi-stakeholder model that should be run by the community. Thanks.

Tapani Tarvainen: Thank you. I think Avri has your flag up longest. Please go ahead.

Avri Doria: Thanks. Avri speaking. First of all, I think saying that the current board member we have isn't a member of the community is a bit remiss. But that aside, I'm very much in favor of following through the timeline and I'm very much in favor of failing to elect someone. I think that as long as the CSG

insists upon voting in a block then there really is no working with them on it. And of course, you know, we can't change the way they vote. So we'd have to see some historical evidence of it.

So I would prefer that we just try to sort of get a continuation of our board member to continue this time. He is a member of the community, has been working with us. I think also in this day and age where we have the EC and we can vote the board member out possibly even because he doesn't wear purple pants, you know, remembering that either wearing or not wearing purple pants is enough reason to vote someone out, that we should just continue with the board member we've got. And I think that that's what NCSG should be putting forward.

Yes I'm a member of the PC for this week but I probably won't be by the time it makes a decision. So I don't consider myself one of the deciders on this. I do agree that it is something that the PC does have to take up. But I really think we have to seriously look at the fact that as long as we're working with a group that does not compromise, we must not compromise. And that has to be something that we get fairly stubborn about.

And so at the moment, I think the only solution that happens without some major compromise on the part of those who will not compromise is to stick with the board representative - the board member that we have now. And I think doing anything else is a bad idea for us.

Ed Morris: Tapani, I just want to say we're supposed to be talking about process, not people. I mean if we want to talk about people...

Avri Doria: You talked about people.

Ed Morris: Yes I talked about community members in more of a generic sense. I wanted to point out that it was not intended to be a slight to Markus. That was my intention. Exactly. And now you're telling us who we should support. I can't - I don't have an opinion. So I'm not going to go there at this point. But this is not what this session is supposed to. Farzi made it very clear to those of us in the NCUC. She didn't want us talking about specific candidates during the session and I want to respect that.

Tapani Tarvainen: Well Farzi is not here and her opinion doesn't really have all that much weight. So if we want to talk about people, we can...

Ed Morris: You're telling me that the NCUC chair's opinion does not have much weight? I have to go anyhow.

Tapani Tarvainen: When she's not here. Okay, Farzi.

Farzaneh Badii: Farzi is here. Farzi is on Adobe Connect. Farzi (unintelligible).

Tapani Tarvainen: Well of course it has weight but it's not decisive and she can't stop us from talking what we talk about, but I'm not saying we should talk about a member we are electing. I wanted to talk about the process mostly now at this point. Anyway, Markus, I think you wanted to (unintelligible)

Markus Kummer: No I do realize I'm part of the systemic problem and I think we had the discussion in the CSG this morning and Steve made the point -- and we actually had a similar discussion last night at an informal dinner -- talking about the GNSO review, which in many ways I know none of you liked it and it looked at the very narrow aspect instead of looking at the GNSO in the broader ICANN universe.

And Steve's point this morning was that essentially you don't have enough seats on the board as the GNSO with two seats as compared to NomCom seats. And, you know, had you at the NCPH two seats, the problem would be solved. That would be very easy. Then you could have one from this end and one from that end, and I fully get Ed's point. I mean I do understand. I'm not part of your community. I was a compromise coming from the outside.

I have certain qualities to offer but I do understand that you would prefer one of your own and definitely Greg made the same point. They would like one of their own on the board and he sort of said, "Look how lucky the other guys are. They could choose between Jonathan and Becky." And I realize I'm not like Jonathan or Becky. So I get it. But this will not happen overnight, you know.

And I think there will be a new GNSO review. In fact, you know, it can look, you can build on looking at it in a broader perspective and I think for you that clearly would be the answer. If you have a non-commercial board member and the CSG one of their own, then the problem would be solved. But that doesn't happen overnight. That is something needing a long-term perspective but we are now ICANN 2.0 and, you know, we can look at the broader environment and at the seats as they are now if it's the right balance. This something that can be discussed. This is my point for consideration.

Tapani Tarvainen: Thank you, Markus. A good point. I think I have Dave next, then Matthew, and then back to Avri, I think.

Avri Doria: I will not say anything else beyond this.

David Cake: Okay so I just - I mean wanted to lay out - both reiterate and disagree with Avri, because I think we both understand the process and the issues very well

and we just have more or less cynical views about the CSG. But the issue is very much that if we cannot get to a useful sort of discussion and consensus sort of or at least partial consensus position with the CSG, then yes we - this time around we have a very compressed timeframe, we can't afford for more than two ballots.

If we have the issue of just being forced to a ballot to see if our, you know, vote discipline will hold, then, yes, then we are going to end up without a board member, which would be terrible. And we need to impress on the CSG that that is the case. We need - if we cannot reach a consensus position and we end up with, you know, two sets of councilors both bound to vote for their constituency candidate, which we did for several rounds previously, then the end result will be no councilor because this time we don't have the time to extend that - we don't have, you know, a few weeks in hand to extend that for an extra ballot.

So it's pretty simple. We either come to an agreement with the CSG or we do not have a board member. And that is, yes, going to be tricky. So I mean I suspect that if we're going to have - there is going to be - if there's going to be a consensus candidate that we might prefer to Markus, they're going to have declare themselves and make a good case very quickly.

The one thing I do think there seems to be agreement that we have rejected the idea of, you know, a rotation of board members, which was pretty much the only solution that didn't force us to come to a, you know, a consensus position each time. So a warning on a process, make sure that we - there is a very real chance that if the negotiation goes badly we'll - the outcome will be no board member at all.



Tapani Tarvainen: Thank you, Dave. I noted that even though the fact that the CSG usually votes in bulk does not really mean they cannot compromise. The very election of Markus is an example of a compromise we achieved with them. So that just means the compromise has to be done before it gets to the vote basically. I guess we have an election process similar to the papal election. Let's put all the CSG and NCSG councilors in the same room and wait for the white smoke. But, Matthew?

Matthew Shears: Yes thanks. Just coming back to the process again because I think we are getting a little bit ahead of ourselves if we start talking about individuals and names and everything else. So. Just looking at this process, the only part that I think that is excessively compressed is the second line on candidate interviews, which seems to be only two days.

Apart from that, I don't see it as a significant - too much of a compression over the rest of the period of time. And if, as others have said, if we don't agree to this and get this started, then we're going to be facing even worse challenges down the road than what we're facing right now. So if people don't have objections to moving this forward, then I'd like to suggest that we do so. My only hesitation is on the, you know.

Tapani Tarvainen: Yes I agree that the interview period should be long enough to ensure that all candidates can be interviewed. If it's just two days, it might happen that they are too busy or in the airplane all the time or whatever. But otherwise it's doable. Nothing - multiple voting periods can work as well. I don't think it's really necessary but it should be doable.

Kathy, no? So for the policy committee members amongst us, take note. We'll move forward with this timetable. And I suggest make a simple change there. Just extend that interview period long enough to make sure that everybody can

be interviewed because two days is really too short. It can happen, you know, that somebody is (unintelligible).

At some point we should also discuss how we possibly seek out for candidates. Should we try to flush them out, persuade people? Because I know it tends to become too much of a backdoor discussion. Should we try to talk with the CSG about a possible compromise? Avri thinks that they don't compromise on anything ever but they might if we talk with them. We have to do it before voting because the voting scheme is the way they do it, breaks things down, because they vote en bloc.

I guess we could ask them to - not to do so in this case, but that's quite futile. They vote the way they want. But talking about a possible candidate in advance is doable. Of course we can just conclude that, okay. Okay, Matthew?

Matthew Shears: Sorry, Tapani. I think we're jumping the gun again. I think we need to get the process in place and we need to either have a nominations process or ask for expressions of interest and then we can come to a point where we can start discussions if, based upon who's interested, right? There may be nobody else - I mean, you know, it may be Markus. There may not be nobody else who's expressed an interest in this, who knows? So I think we just need to get the process down and agree to that before we start to talk about how we're going to address issues with CSG.

Tapani Tarvainen: I'm fine with that. Just noting that. Well by all means let's do it that way. So as I said, I'll drop it to the policy committee. I'll ask Rafik to move forward with it, I guess. And if we can get the process started, the nomination would be starting on the first day. That was the timeline. We have ten days to go. I guess that's long enough.

Okay. I think we don't seem to have anything much else to say about this subject now. But since we have Kathy in here now, Kathy, would you like to talk a little about tomorrow's session where you're co-chairing? Maintaining the GNSO's traditional policymaking leadership position at ICANN. Okay, Tatiana did you have something?

Tatiana Tropina: Sorry, Tapani. Farzaneh, on the Adobe Connect room says that she needs to say something. So I didn't know if you realized (unintelligible).

Tapani Tarvainen: Okay, Farzi. I did not see your hand up, but Farzi if you can speak, go ahead. Or type it if you can't speak.

Tatiana Tropina: Yes maybe she can type and we will read. Farzaneh, you just type and we will see it on the chat. Thanks.

Tapani Tarvainen: I'll point out at this point that our agenda was kind of a mess because NPOC decided to leave this session. I was hoping to talk about the sessions tomorrow but when the - we started we had none of the co-chairs of tomorrow's sessions present so that's why this is a bit of ad hoc discussion. But we're awaiting Farzi. Do you want to type now or shall we move on? I'm waiting.

Okay let's get back to Farzi if you try to connect. In the meantime, Kathy, can you speak about your session tomorrow?

Kathy Kleiman: Sure. This is a session that I think Ed and Phil Corwin might have written the first draft of and then Farzi and I kind of revised it. So what I'm sharing is the revised version. This is a session in Slot L, Maintaining the GNSO's Traditional Policymaking Leadership Position at ICANN. The original title of this was Completely Diluting the GNSO because that's how we feel a lot.

I don't know if other people agree. If you do, you know, nod. But, you know, here we have the GNSO seems to have or will be delegated to the bylaws and the processes to make gTLD policy and then it is - obviously there are advisory groups and others but in some ways, GNSO policy some people feel is being made wholesale in other areas.

So what this is talking about is that, you know, the GAC, the ALAC, even ICANN staff seem to be entering the policymaking process. So what we're going to do is talk a little bit about what the GAC is doing obviously with IGOs and INGOs because they're seeking a position that's opposite and different from what the working group is recommending. ALAC, in its new review, is proposing major inroad into policymaking and policy involvement and so to the extent that people are following that, have read the new review, like Ayden, I'm going to count of you to kind of help with the discussion as we do this.

ICANN staff, you heard Ed mention about the URS, the uniform rapid suspension, being written into contracts even though it was never intended for legacy to level domains. It was only intended for new gTLDs. And that was part of the compromise. It was one of the rights protection mechanisms created through the GNSO process and the consensus of policy development process.

It was created as part of the compromise for the massive rollout of new top level domains, yet it's being written in, contract by contract, in the renewal of legacy gTLDs. Why? Why is ICANN staff writing in consensus policy and in fact something different? And of course the picks and other things that we discussed earlier today. It really seems like there may be major inroads.

So some questions that we can talk about, and we can talk about them now or later or tomorrow, in what instances is the GNSO policy development process being undervalued or undermined? What are the reasons? Is the process usually undermined? Because we, in the GNSO, and not contracted parties because we don't pay attention or because of ICANN, some kind of deficit in the governance structure of ICANN? And what can we do about it? You know, are we concerned and what can we do about it?

I'm concerned because it makes it almost impossible to recruit people now into the consensus process if it's just - you can spend all this time creating a consensus policy and someone can secretly negotiate a contract provision with ICANN and completely undermine it. How can we ever bring anyone into this process again and to the policy development process? So, not that I'm - have an opinion on this or anything.

Tapani Tarvainen: I suspect you do have an opinion.

Kathy Kleiman: But I'd be happy to have a discussion. In fact it would be good to have kind of a dry run on what kinds of questions people want to ask about that, or concerns, anything you want to raise from your experience. You know, is everything copacetic in the GNSO or do you feel a rumble or, you know, is there an interference in the force?

Tapani Tarvainen: Does anybody want to take this on? Matthew?

Matthew Shears: Kathy, do you have - are you going to share with us tomorrow in your session a couple of concrete examples as to how that's occurring? I mean I think it would be very useful to do that so that we have a sense as to the scale of this.

Kathy Kleiman: Yes.

Matthew Shears: I think probably most people would intuitively agree with you but I think it would be useful just to have a good couple of examples.

Kathy Kleiman: Yes. We'll be talking about, quickly talking about GAC, CCWG, ALAC, and the URS, uniform rapid suspension, but that's a really good idea. We're going to start with four concrete examples and trying to summarize them very quickly and succinctly, but four examples of where we see this happening and this dilution happening.

Tapani Tarvainen: Okay thank you. At this point, let's give Farzaneh a word if your microphone works. Farzi, please go ahead.

Farzaneh Badii: Thank you, Tapani. Farzaneh Badii for the record. I don't know if you're recording this but anyway. So on the point about the session tomorrow, as to concrete examples, of course it is important to know how many instances but numbers don't really count here. This should not happen. If even one GAC goes over our process, our process is countered. We have been denied to have a say on generic domain name policy, which is why we are here.

So I don't think that we - we will come up with concrete examples but it doesn't matter how many times it's happened. It matters that it happened and we have been saying this - well I've been saying it for the past six months probably, Kathy has been saying it since GAC was born. So that's one point.

And the other thing is I didn't want to intervene on the board thing because to be honest, I'm not there, I'm not in the discussion, but what we need -- and I'm sorry if this is like totally out of context -- but what I have been - what I have come across is that our board members appointed by the NCPH should look at

the common interests that we have with CSG and we do have points that - and common interests that we both want to defend.

We have it on the two-letter top level domain that we would both agree that it is what - the policy should have not been write up. We have to strategize and find these things, and I'm not very - I'm not - I'm concerned that our board member should also take initiative. Our board member will not be able to take an initiative if our board member doesn't know how we feel about things. So I think there has to be a channel, but whenever I say this they - there is thing in the background that says, "Oh but the interest of the corporation should be protected," which I am - I'm not sure how we can balance this.

But I think that we need to have an active board member and of course whoever the candidates are and, you know, we have to make sure that -- I don't know if this correct or not -- but we have to make sure that talk for us on the board. That's why they are there. Why are they there then? That's why we appoint them there. So I really don't understand where - I mean okay ICANN interests as a corporation but why are we even appointing them then? So that was the point I wanted to make. Thank you.

Tapani Tarvainen: Thank you, Farzaneh. I see that George wants to intervene. Please go ahead.

George Sadowsky: I'm not sure I understood exactly the point but if the point is that the board members coming from the GNSO represent GNSO interests on the board and should represent them and fight for them, I think that's an incorrect reading of the bylaws.

Tapani Tarvainen: Yes it would be. Farzaneh, was that the point?

Farzaneh Badii: So why - okay, so that's incorrect. So what are they there for? What are they there for then? I don't know what they are there for. So why are we appointing them?

Tapani Tarvainen: Okay George you explain briefly.

George Sadowsky: They're there for a number of reasons. They have responsibilities that are in the bylaws but they in fact operate - are charged to operate, in the best interests of ICANN as a whole, not for any individual constituency or SO or AC.

Tapani Tarvainen: And did that help any, Farzaneh?

Farzaneh Badii: So if for example a board member from NCPH actually discusses something that we have told him to discuss with the board and we have told him -- or her, hopefully in the future hopefully one day -- if we tell them, "Okay so we need to discuss this with you and we want you to go on the board and discuss this" does - is that a violation of the bylaws?

George Sadowsky: May I? There's absolutely nothing wrong with that. The concerns of the constituency clearly can be brought up by the people who are - who represent the constituency or who - sorry, who come from the constituency, but the decisions that are made by the board as a board member, each board member should vote on behalf on what he considers to be the best interests of ICANN as a whole, not the interests of the particular constituency from which he or she comes. Does that help?

Tapani Tarvainen: Kathy, you want to carry on?



Kathy Kleiman: Let me try to phrase it a different way, and this is directed to George Sadowsky -- this is Kathy Kleiman -- which is how - it takes a while for this stuff to percolate and bubble up because everyone's so busy with their head down in their working groups and their cross-community working groups and their PDPs and everything else that it takes a while to realize that what you thought you did over here isn't what's being advocated over there. What you thought you negotiated is being undermined someplace else.

So if there is this sense of dilution of the GNSO, of not just legitimate revisions to policy that will come through the advising process, that will come when a policy goes from the working group to the GNSO Council up to the board and out to the community, there will be some revisions, but if there's real sense of diminishment or dilution, for example we've talked about today things that are going into contracts that no one's seen, provisions that actually undercut consensus policy.

There is the sense of the GAC, for example ,and the IGO and INGO, you know, there's real frustration there and we'll dealing with that going - but what can the board do and how can we share this escalated and say, "Look, you know, this goes to almost the undermining of our process?"

George Sadowsky: Well, it's a very good question and there's several ways in which to approach it. One is to say well if this happening, why is it happening. It could be because the bylaws are simply being violated at essentially a power play by one of the ACs or SOs. It could also be that there are underlying reasons in the reality of the world why this should be happening. I'm not saying it is, that's the case, but it could be.

But if there are - if there is a violation of the bylaws, if the board violates the bylaws for example, there are very strong accountability mechanisms that will

have been decided upon in the last year in which the board can be taken to task for it. Maybe what you're suggesting is that there should be similar accountability provisions for which the ACs and SOs should be taken to task for violating the bylaws.

Kathy Kleiman: And can I follow up with what about staff, if we think staff may be violating the bylaws or the underlying principles? That goes to the board?

George Sadowsky: Well I would say first it goes to the CEO.

Kathy Kleiman: Thank you.

Tapani Tarvainen: Okay thank you. We have still 15 minutes or so. And now that we have a few more co-chairs for tomorrow's session, Poncelet, would you like to talk about your session tomorrow or something else?

Poncelet Illeleji: Yes I just wanted to apologize on behalf of NPOC. We didn't just walk out like that. It was a miscommunication. So very sorry about that. The session for tomorrow that I'll be co-chairing with (Mark), I'm proud to comment here. Poncelet speaking for the record again.

We had a discussion in which Kathy helped us - said she was going to support, and (Martin) also. He's in the working group. And (Heather) sent some comments regarding the INGOs that wanted to see if we could be part of the discussion, which we had no objection to it since it was an issue that should be discussed.

Me and (Mark), personally we have not met because I didn't get any particular communication on what specific issues within - to be discussed apart from

what (Heather) said. I think if Kathy wants to add something that I missed out, please help me.

Tapani Tarvainen: So you haven't talked with (Mark) about what you are doing for tomorrow?

Poncelet Illeleji: No. Because when we sent an - I sent an e-mail to send an e-mail that okay from what other constituencies, are there going to be any particular issues to be discussed, nobody said anything, apart from (Heather) mentioning about these INGOs that she wants us to use the opportunity within that session to add it on, yes.

Tapani Tarvainen: Okay, you might want to grab (Mark) on the reception tonight and talk with him about it a bit.

Poncelet Illeleji: Yes, that was what I was planning to do. I was actually planning to do that. So I will do that during the reception tomorrow. But if there's any particular theme within here, within us that you want us to highlight, let me know, from anybody.

Tapani Tarvainen: I don't have anything I want you to do as long as you do whatever you're doing well enough. It's kind of not a surprise to everybody at that point. Kathy, you had any ideas here? No? Okay, I'll trust that you talk with (Mark) and make a good session out of it. Another very interesting session here will be the last one, the presenting one. Joan, do you have any better plans for that?

Joan Kerr: Well first of all, I love the whole idea that we would be last in presenting. It was a challenge to figure out what presenting means. But Steve DelBianco and I are co-presenting or co-chairs, I guess, of that session, and we are meeting right after this session for the evening to discuss what we're doing.

Tapani Tarvainen: Okay. I know that we have our own breakout session in the morning as well. I hope you can then enlighten us a bit, both of you, about what's going to happen. Actually that presenting is something we might want to talk about ourselves already now if you have ideas, what is that all about, what we want to do as NCPH, that's basically the idea, I guess.

Joan Kerr: Yes. Sorry, we have lots of notes between him and I so we'll be comparing them and putting them into some sort of format tonight I hope.

Tapani Tarvainen: Care to share any of them with us now, something that you might want to have feedback from us?

Joan Kerr: Well I don't know if he's going to agree to them though.

Tapani Tarvainen: Yes that's kind of the idea. He might want to hear disagreement to everyone either way. We have about ten minutes ago. We can close this if we don't have anything else, but. Because that's something we may end up in an interesting discussion, I hope.

Joan Kerr: Well I spoke to a few people. So one of the things I was told not to do was to talk about the - we don't want to talk about the replacements or the structure of the GNSO. We're not supposed to talk about that. Is that correct?

Tapani Tarvainen: Yes, it's kind of out of scope. (Unintelligible) for discussion.

Joan Kerr: Okay. So that's something I sent to him, saying that this is what we will not be doing. So restructuring was out. The other - why - the issue of the intersessional, whether or not it's - we'll have that argument, whether or not it will be something in the future. So that's something I sent to him as well. And

what or who is the NCPH to define that. So those were the things that I sent to him to discuss.

Tapani Tarvainen: Okay. So what is the NCPH. It will be interesting to learn about that tomorrow. I...

Joan Kerr: And thoughts from anyone. I'm always open, as everyone knows. I'm new at this and - so. Anything I should eliminate, not discuss?

Tapani Tarvainen: Okay, Matthew?

Farzaneh Badii: Excuse me, sorry. I have one - I raised my hand (unintelligible).

Tapani Tarvainen: Sorry I missed you. Please go ahead, Farzi.

Farzaneh Badii: Yes. So I just want to go back to what George said like five minutes ago about -- oh, I can hear echo. So yes. Okay thank you. So I wanted to say that okay I understand that if there like a ICANN staff decide on something that is really policy and has to go through GNSO and hasn't done so, of course the - oh we have to talk to the CEO. However, sometimes these decisions based on board's resolution.

So the board tells staff to go ahead and come up with a process. And I have an example for that, which we will talk about tomorrow. So also when I was talking - when we were talking to Göran, Göran also said, "Oh some of this stuff is like board resolution and that you have to talk to board." We need a clear indication as to who is doing what so that we won't be like passed around and say, "Oh this is not me, it's the other guy there."

And also, it is not only us, sometimes they don't come up with these things themselves. They are instructed by board to come up with a policy that might even circumvent GNSO process. Thank you. Sorry, I have one more thing to say. Are you talking about now about the future of the intersessional and whether it should happen or not?

George Sadowsky: Sorry, was that last sentence directed at me? If so, you'll have to repeat it.

Farzaneh Badii: No.

George Sadowsky: I don't think it was.

Farzaneh Badii: No it wasn't. It was not. I just wondered if we were talking about future intersessional later on from Tapani.

Tapani Tarvainen: Okay, Joan?

Joan Kerr: Hi, Farzi, how are you? Hopefully it's sunny where you are. No, I was presenting what we would be talking about tomorrow at my session, and that's what I mentioned whether or not the intersessional will be something that will happen in the future. It was just a comment. It will be a discussion tomorrow.

Farzaneh Badii: Okay great. Thank you very much.

Joan Kerr: No worries.

Tapani Tarvainen: Okay, George?

George Sadowsky: Yes I can comment on the first part. You are right in thinking that there's a lot of room for ambiguity in ICANN, and we don't want to be in a position of

just passing the buck. Let me see if I can be clear here. I don't speak for the board here, this is my interpretation, however. The board will pass resolutions from time to time, or has in the past, or past resolutions saying the board instructs staff, et cetera. And what that really means, I think when we do this we do a disservice to the precision of what we say.

We should be saying the board instructs staff through the CEO because the CEO, although he's a member of the board, also is the head of the staff. And so we're not in any way instructing the staff directly, leaving the CEO out of the loop.

Now if you feel that the board is instructing staff to do, through the CEO or directly whatever the wording is, that we're doing something against the interests of the community, then that's a reason to raise your voice and say, "Wait a minute, this is - does this violate bylaws?" If it does, it's really serious. Does it violate what the community is doing at the moment or what some members of the community think? Well that's a different situation.

But that really needs to be brought to the attention of the CEO for sure and also the board advice to - the board takes advice from any constituency, any AC, or any SO. We're obligated to take it from the GAC but we want to take it from the other organizations, and the advice ought to be watch out in doing this, you are doing whatever it is you wish to call to our attention. Does that help you?

Farzaneh Badii: Yes. That's what I wanted to hear. Thank you very much.

Tapani Tarvainen: Thank you. Kathy?

Kathy Kleiman: But, George, following up on Farzi's question, are we in an usual time and space? It's good to know that any SO and AC can give advice or in some cases ask questions to the board, but in referring a question to the CEO, we have a brand new CEO. He's relying on his senior staff right now for their guidance and advice. He's learning from his senior staff. And yet we're going to be asking him to question what they've done when he wasn't there. It sounds like a difficult position to be putting him in and yet we need to. So any guidance you can offer would be appreciated.

George Sadowsky: Well, you know, Kathy, that's one of the reasons he gets the salary that he does. I'm serious. He has the responsibility. If this is an important issue and he doesn't know the history, then he can certainly ask and find out. And he may get different versions of history. That's one of the problems of things that occurred before you show up. I don't have a good answer for you, except that I think it is in the - in his responsibility and also the board's responsibility to respond to advice, assuming that it's reasonable advice that something we're doing is not particularly appreciated.

Now there is another thing and that is you are at a - I think you're at a particular point in history of the DNS and the Internet and that is that even though the GNSO, according to the bylaws, has responsibility for policy with respect to domain names and global domain names, that's quite clear, but the Internet is not the same as it was when that bylaw was put into effect, and there are - I think the - what you might call encroachment on that particular provision is occurring. Why is that occurring?

I think it does reflect, in some respect, the changes in the way the world is thinking about the Internet and about domain names. And that's - I think that's a natural thing. One expects attitudes and policies to evolve. And it may be that at a time in the future, that bylaw may no longer be in effect, that the



domain name system may be considered more of a general public good -- I'm speculating here -- that needs policy input from the GNSO and perhaps other sources. But that's not what the bylaws say now and the board acts, and the CEO acts, on the basis of current bylaws, not future speculation.

Tapani Tarvainen: Thank you, George. Now it's half past six when we are supposed to stop. We can - if somebody wants to have an extra comment, we still haven't come up with - the reception is starting in half an hour but any closing comments? George?

George Sadowsky: About an hour and a half ago, you said that we - you welcomed the board participation in this session. And what I'd like to leave you with is the idea that the board is interested in participating in these things. We find it useful. I'm glad you find it useful. Just ask.

Tapani Tarvainen: Thank you, George. And, Matthew, you want to comment again?

Matthew Shears: Yes thanks, Tapani. So I'm going to contradict what I said earlier on in the interest of transparency about the board situation. And this is because there are rumors circulating and - on Skype and elsewhere. So just so that everybody is aware, I am considering putting my hat in to the race for the board position.

And so just so everybody's aware of that. I haven't finally decided. I'm watching the discussion here with great interest. I realize that, you know, Markus has done a great job and he's also running. So this isn't an easy decision. So, hence my desire to see the process agreed and moved on. But anyway, just so that everybody understands where I'm coming from in case you should hear further rumors to that effect. Thanks.

Poncelet Illeleji: Matthew, sorry. Poncelet for the record. Considering, right? Okay thank you.

Tapani Tarvainen: Well the nomination period hasn't started yet. So at the moment everybody can only be considering. Okay, so with that interesting announcement, I guess we can conclude the session. And thank you everybody. Thank you for George in particular for joining us and Markus, who is not present. But you can convey our thanks to Markus, I trust, and Renalia for being with us earlier, and hopefully tomorrow as well. Okay let's go sit down and get ready for the reception.

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