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LOS ANGELES – Board with the Commercial Stakeholders  
Tuesday, October 14, 2014 – 11:15 to 12:15  
ICANN – Los Angeles, USA

KRISTINA ROSETTE: If I could ask all the CSG members to please take their seats. I understand that the board has a hard stop, so we would like to get started very soon. Thank you.

STEVE CROCKER: Soon is now. Let's crank it up. We've got a hard stop at the end of the allocated time. So I will just jump right in. On behalf of the board, we're pleased to be here. As I have said many times, we want to use this period for substantive, direct, candid, even brutal sometimes so let's just jump right in.

KRISTINA ROSETTE: Thank you very much for the opportunity. We, the CSG constituencies, had identified two topics that we would like to speak with you this morning. One is the current and future role of business interests in the ICANN structure -- non-contracted business interests in the ICANN structure, and ICANN accountability.

Before we did that, though, we thought it might be helpful to provide a little bit of background information for those of you who may not know us very well, to just identify the three constituencies and how we're different. I will go ahead and then Elisa and one of my ISP colleagues will speak.

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The intellectual property constituency of which I am president, their -- our main objective under our bylaws is to represent the views and interests of IP owners around the world. And that means content owners, brand owners, and patent owners, particularly their trademarks, copyrights, and other I.P. rights and the interaction with the domain name system.

Our membership is actually quite broad and I think much broader than perhaps many realize. We have international I.P. organizations such as the international trademark association, the international anticounterfeiting coalition, local state or national I.P. organizations, corporations, law firms, and individuals.

Taken collectively through our members, the IPC actually represents more than 500,000 intellectual property owners, service providers, and individuals around the world. So with that, I will hand off to Elisa.

ELISA COOPER:

Thank you, Kristina.

So I'm the chair of the business constituency. My name is Elisa Cooper. And I think oftentimes there is some confusion about how the business constituency differs from the other two within the Commercial Stakeholders Group.

The business constituency is really the voice of business. We are concerned with ensuring that the Internet is a safe and secure place for businesses to conduct their business and that it's safe for their consumers as well.

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So in terms of sort of our approach and what we're really focused on, we want to ensure that businesses can make their consumers understand that this is a safe place. We want to ensure that any policy developed is making sure that the Internet itself is technically secure. So this is different from the IPC where their concern may be more focused on I.P. Of course, we have some focus on that; but the technical, security, and stability is also of great concern to us.

We also want to ensure that there is a competitive supply of registries and registrars. That's actually also in our charter. So, again, just to kind of highlight, we are sort of an overarching approach to protecting business on the Internet.

And I will turn it over to my colleague, Tony Holmes.

TONY HOLMES:

Thank you, Elisa. Tony Holmes, chair of the ISP constituency. Certainly from our perspective, the members that we have are the people that build the networks, build the infrastructure, and do all the good things that make the technical realization of the Internet possible. A lot of them come from an engineering background but do appreciate the reasons for having policy.

Having said that, if you get to the stage where the policy issues are not only going to dominate but be subject to a lot of iteration before their views can even be heard or in some cases make it through that process, then we've certainly seen there is a reluctance to engage in that manner.

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And that has a real effect. We have recently done some outreach in the ISPs. One of the problems we have is that they want to move into something that's a slick process. Certainly, the lesson we learned is if you get a whole bunch of engineers who are really keen on doing the things that underpin the Internet, put them in a roomful of lawyers, then you better lock the door because they leave pretty quickly.

KRISTINA ROSETTE:

And on that note, let's turn back to the first topic, the current and future role of non-contracted business interests in the ICANN structure. We have three discussion leaders on this topic. Steve Metalitz for the IPC, Elisa Cooper for the BC, and Tony Holmes for the ISPs.

Steve, if you wouldn't mind kicking things off.

STEVE METALITZ:

Okay. Thank you. Thanks, Kristina. Steve Metalitz for the transcript.

As the constituency leaders have just indicated, the ISP constituency, the intellectual property constituency, and the business constituency are coming together to present to you and dialogue with you as the Commercial Stakeholder Group. We know there's an administrative convenience to doing this, and we're very glad to do it. We've done it every ICANN meeting for the last several years.

The concern that we have, a growing concern, is that this label of the Commercial Stakeholder Group, a label adopted as a matter of administrative convenience, has not only expanded its role throughout

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ICANN but I think it's really calcified and hardened into a reality that is starting to really impact on our participation within the organization.

I'm talking here -- we've talked about -- in our group about marginalization, but it is almost getting to the point of the virtual elimination of our constituencies as players, actors, and effectively stakeholders in ICANN. Everything is done at the CSG level, or we are being told to do everything at the CSG level.

We know this is bad for our constituencies. I hope that we can also persuade you that it is bad for the organization as a whole, even though it provides some administrative convenience. But it really helps -- it quiets or almost to the point of silencing some of the diverse voices that I think are needed in order to have an effective multistakeholder model.

Can I start with a little bit of history? Because whilst some of you have been involved in ICANN longer than I have, many board members were not here six, seven, eight years ago when the Commercial Stakeholder Group structure began. It was a result of a restructuring of the Generic Names Supporting Organization.

Under a lot of pressure from the board, we had to reduce the role of non-contracted commercial sectors to parity with those of the non-contracted noncommercial sectors. The house -- the Council was divided into houses, the GNSO Council. And for voting and selection of a board member, board seat 14, this CSG structure was created and the house structure was created, again, as an administrative convenience.

From the outset, we made it very clear that this CSG structure that was forced upon us was not for the purpose of policy development, not for

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the purpose of providing input -- substantive input. It has no secretariat. It never has. It has no budget. It never has. It is a very lightweight entity. And that everything else should continued to be done at the constituency level.

I think if we fast forward today, we see there has been a radical shift from that. CSG seems to be the only entity that ICANN wants to recognize and deal with on these issues. This comes up on matters as trivial as figuring out who is a speaker on a panel -- this happens all the time -- and includes populating working groups such as cross-community working groups and perhaps at the highest level populating the review teams that are really such an important part of ICANN accountability.

We're told at most you're going to get one for the commercial stakeholder group. Don't come to ask about constituency representation, one for the commercial stakeholder group. Sometimes we get none, and that's another issue. But at most, we get one.

So what is the problem from our perspective? This just creates an enormous amount of friction and demands a lot of bandwidth and energy from us that we think is not necessary. Again, we have to negotiate and -- or allocate or in some way figure out who from our three diverse constituencies, who's going to be representing us on any of these activities. We have to build in some mechanism for that party to report back because when someone from one of the other constituencies is supposed to be representing my constituency in one of these groups, we need to know more what they're doing. We have to have a whole separate reporting structure.

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It just -- and on each individual case, this may not be a big burden. But when you add it all up, with all of these activities, just the time and the bandwidth and the resources, one of the reasons we feel -- and you've heard this complaint many times, that we feel so overwhelmed and kind of adrift in a sea of issues is because there is all of this unnecessary work because of the CSG -- the imposition of the CSG structure.

I have to say also as someone who has spent many years trying to get more people in the intellectual property world involved in ICANN, this is not helping my efforts. I had a story to tell ten years ago that we were one out of eight in the Names Council that dealt with both country code and generic names issues. Then we became 1/7 of the GNSO. Now we're 1/3 of 1/4, or 1/12, of the GNSO. And it is just getting -- if you just do the math, I know this may sound very simplistic, but it is just harder to credibly represent to people that they should get involved because their input can make a difference.

We know that for us, this is a situation of greater complexity and we think needless complexity which is a lot less efficient for us.

Now, I understand there is some efficiency for the board because it reduces the number of channels of input, but I think there is a qualitative loss because as you have heard already from the brief descriptions of the constituencies -- and you'll hear further, I think -- our views are diverse and we often disagree quite sharply. And I think you would benefit from getting more of those voices rather than fewer.

Now, I'm just going to close with one specific here. One thing that has really driven this -- or increased the volume on this is the proposal from the board working group on the recalibration of the Nominating

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Committee. We appreciate the chance -- that we had a chance to meet with the board working group. We had a good exchange with them, or several members of that board working group. So I don't want to pursue that particular one now.

But coming up in the very near future is the Affirmation of Commitments review of the new gTLDs. This is obviously extremely important to us as non-contracted parties representing the commercial entities, intellectual property owners, and ISPs.

And if it's -- once again, know that your stakeholder group is getting one person on there, I think you will find a great deal of unhappiness from our groups about whether our voices are really being taken seriously.

So I think we have a lot to contribute to that review, a lot of diverse viewpoints to contribute to that review.

So I hope that as you -- or as the CEO along with the chair of the GAC constitute that review team that we will at least have one representative from each of our constituencies actively on it. So that's one concrete ask that I personally would put forward. But we did want to bring to your attention the growing concern about what we perceive is a marginalization of our constituencies because of the calcification of this Commercial Stakeholder Group label. Thank you.

I will now turn it over to Tony, I believe will be next.



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BRUCE TONKIN:

Thanks, Steve. I certainly heard from the Commercial Stakeholder Group on this point earlier this week. If I take a particular example, I'm just interested in your response.

So there was a meeting on -- yesterday morning, I think it was the AC/SO leaders. And there was quite a bit panel, and they covered a range of topics. In that scenario, they were always trying to get representatives from the different groups.

And I think as sort of a methodology for selecting people, they obviously went with five people from ALAC, so thought we will get five regional coverages. We'll get four people from the GNSO. I assume they probably had one from the ccNSO and one from the ASO, which was Louie.

In that sort of scenario, one of the difficulties I see there that the staff is trying to do when they are balancing the panel -- you obviously have a panel of everyone in this room, and it is a scouting issue.

If everyone in this room wants to talk on a topic for five or ten minutes, that means you need a longer slot of time. So in that -- if I use that concrete example, would you prefer then that you have maybe just -- take, for example, ten people from the GNSO on that panel. Does that mean that they then talk for 30 seconds, or would you say we should actually be allocating bigger sessions so that we get those perspectives? In other words, that might have been allocated for an hour and a half or something?

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Would your preference be that we have fewer topics and spend three hours on them and we do get as many people to speak on it or some other methodology? Just using that as an example.

STEVE METALITZ:

I will just provide my -- Look. I think the population of panels is the low end of the spectrum. It is the trivial end of the spectrum, relatively speaking. And so I think there's obviously ways to accommodate that. And that I think is the least harmful part of this, having one CSG speaker. It becomes much more significant when people are actually helping to develop policy, helping to work on the working groups and on the review teams.

So I agree with you, there is administrative convenience to only having one. And I don't think it's fatal if our IPC viewpoint is not going to be heard on each of those.

But -- and if that were the extent of it, I don't think we would be --

BRUCE TONKIN:

The reason I raise it, Steve, because it is an example that permeates the organization. If we were to form a review team, do we have a review team with 50 on it or do we have a review team with 10 on it? That's why it ends up being that convenience because they are sort of saying right about ten seems to be a manageable group size to work on an issue. And then they start allocating the ten slots for the parts of the organization.

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STEVE CROCKER: This is a vital issue, but let's -- let's -- unfortunately, we do have -- let's go around, and then we'll come back to this.

KRISTINA ROSETTE: I understand Fadi would like to comment briefly on this, and then I would like to get back to my counterparts from the BC and ISPs who I understand have additional views on this topic.

Fadi?

FADI CHEHADE: Yes. Steve, thank you very much for your contribution. We had a late meeting yesterday with Kristina Rosette and Elisa and also Tony from the ISPs. And I must say they made an equally passionate plea for us to understand when we organize things, that you have really three very, very substantive constituencies with -- I wouldn't say different interests but very different viewpoints on the matters.

I think they have achieved making this very clear to my entire global leadership team. So it was very well-received and very appreciated.

And each of them passionately explained why your voices must be heard.

The commitment -- the ask we took and we will get back to you with specific commitment, that in all of our organization, all of our approach to things we need to think of the various views you offer on any subject and to ensure as much as possible that we don't put you into the bureaucratic loop of trying amongst you to figure out who should represent three different views and then you meet later to

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resynchronize after. So we heard this very clearly, and I'm actually very appreciative that Kristina, Elisa and Tony made these points last night. Hopefully you will start seeing a change in our approach and behavior and understanding as we go forward.

KRISTINA ROSETTE:

Thank you, Fadi.

I understand that Tony, you have some additional comments on the topic?

TONY HOLMES:

Well, just briefly, after Fadi's intervention, which I really appreciate that we have reached that stage.

And I would just like to conclude on this by saying I wouldn't want anybody to listen to this discussion and think this is just a griping session from the commercial stakeholder group. It really is not that.

This is about ICANN's accountability and having the views of all parties in the multistakeholder model heard.

What you're getting at the moment is just a fragment of that, because we've found, trying to make this current situation work, what you get is a very, very moderated view, and it's not a situation we can easily expose and give you examples of, but I can tell you that we get to a stage where somebody has to represent three diverse groups of people.

And what happens, we go through a process where the people with the strongest views are never acceptable to the other constituencies, and

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whenever we appoint somebody to represent us, we then go through an iterative process where we have to tell them what they can and can't say. And what comes out of that mincing machine at the end is a very, very moderated view from three very diverse groups, and if ICANN's going to be fully accountable, that isn't acceptable.

KRISTINA ROSETTE: Thank you, Tony. I think that's an excellent segue into our next topic, unless --

I'm sorry?

STEVE CROCKER: I don't think we want to leave the topic but --

KRISTINA ROSETTE: Okay. All right.

STEVE CROCKER: -- is there more to be heard from the business constituency as well?

ELISA COOPER: I think everything's been expressed. I don't think I have anything further to add.

STEVE CROCKER: Well, then if I might, and then I think we'll be along.

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As Bruce said, you know, at the core of all this is a scaling problem and you can repack the problem whichever way you like. You still have some tradeoffs. You could have a lot of people in the room so that everything is represented and then you have an extended process of how many people get to speak and how long that takes, or you can just have it -- just have processes that take years instead of months or decades instead of years, but it's a fair question. It's an absolutely fair question.

And at any given time, we have an organizational structure that is a best guess as to how to deal with all of that.

I take -- Steve, you spoke at length so I'll just speak to you but I understand, Tony, you're making the same point, and Elisa the same for the business constituency, and Marilyn has been very vocal about this in the past, I want to acknowledge.

The challenge is, is the organizational structure appropriate for the needs of the day. And we've had this organizational structure in place for a while and it's perfectly reasonable to ask that question.

We have the GNSO 360 review coming up, and so there is a first-class avenue for --

Now, it's structured as what is the effectiveness of the GNSO, it's not structured as -- it's not framed as a structural review, but the two things are inter- -- are obviously quite intimately related. If the -- if the effectiveness isn't there, then what's the root cause of that? And one of the root causes might be structural issues.

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So I'm -- just speaking for myself, I think that that's an approachable topic. Does not have instantaneous, easy answers. It has very easy answers from any particular point of view. More people from the intellectual property constituency is a complete answer for the intellectual property constituency, but it's not a holistic answer.

And incidentally, I have a button that I wear proudly that says, "I love intellectual property lawyers," so I know how to walk the walk and -- or at least talk the talk anyway.

So it's a challenge problem, and I think we're in a period where it's quite appropriate to bring that to the surface, to have some serious discussion and a full range of proposals.

And I -- speaking again not on behalf of the full board but just for myself, I wouldn't have any problem having an open discussion that goes down to -- all the way to the bottom and says -- and says, "Well, let's pull the pieces apart and change it."

You know, one piece of this is it bubbles up to two positions on the board, Bruce and Markus coming in, and Bill departing, you know, and there's -- there -- is that appropriate or what is the right way to tear this apart and put it back together again.

And I -- we should have that discussion and we should have it in depth and look at it.

But scaling is at the root of all of this, and particularly as we move more people into it, the scaling problem gets harder and harder.

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FADI CHEHADE: Kristina, may I just say something about what my boss just said?

KRISTINA ROSETTE: Certainly. And then I see Ray and Marilyn.

FADI CHEHADE: Yeah.

KRISTINA ROSETTE: Okay. Then -- absolutely. Fadi, and then Ray.

FADI CHEHADE: So I'm not going to get into the structural issues. My chairman addressed this and that's something beyond my pay grade.

I mean, in terms of staff and organization -- and Steve spoke about scaling -- I think the importance of having the input of the ISPs, of the intellectual property rights community, and separately of the business constituency at every level into our work is paramount at this stage of Internet evolution.

So it's very, very important. And so from my perspective as someone who will be just facilitating the processes of the community, I will do everything I can to make sure that the input of your community, in your case, Steve, but also the other communities, is actually at the table. Because if it isn't, increasingly where the Internet is going, we actually are missing a very important component to make the right decisions.



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Structurally, that's a different discussion and I'll leave that to the full board discussion.

KRISTINA ROSETTE: Thank you. Ray?

RAY PLZAK: Thanks, Kristina.

First of all, that title, "Current and future role of non-contracted business interests in the ICANN structure." So I take it from that title that you're very comfortable and would live to the end of the earth with the future role of the non-contracted business interests in the GNSO structure.

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RAY PLZAK: I know it doesn't say that. It says ICANN. I'm saying you're very comfortable then in that, and that's a rhetorical question. I don't expect an answer (indiscernible) what I'm about to say which is to reinforce what Steve said.

KRISTINA ROSETTE: If I may, I can tell you that there has been discussion for several years --

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RAY PLZAK: Well, I --

KRISTINA ROSETTE: -- in the IPC as to whether or not the GNSO is the appropriate place for us.

So I don't think -- to the extent you were asking can I take this as a baseline reference to the GNSO, I think the answer unfortunately is going to have to be no.

RAY PLZAK: Okay. Fine. That's good to know, because it actually helps along what I'm going to say.

First of all, as far as what your role in the GNSO is and so forth, there is a way to make tweaks and so forth to what's existing today, and that's in the charter amendment procedures that are there in terms of scoping the way you do things and the way you act and what you're capable of. But the bigger issue here is the organizational effectiveness review that's being conducted right now of the GNSO, and there -- as Steve said, there are a number of things that when you start looking at the way things are done, the effectiveness of the organization, the root cause of the dysfunction could very easily be pointed to the structure.

And in addition, that 360 review also had the catch-all question in the end that said, "Is there anything we didn't ask you that you want to talk about? Say it."

Now, I will tell you that I, as a member of the community, did complete the 360 review, and I will tell you that I spent a considerable amount of

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time and everyplace I could to comment on structure. There was never asked a question of structure but I was pointing to structure as being a fundamental cause for lack of effectiveness of the organization.

Now, unlike the last review, which was a top-down-directed restructuring, I fully expect the GNSO, through the use of its working party, to take a look at those recommendations and say, "Where do we need to make structural changes?" I fully expect the GNSO to resolve its structural issues and to come back to the board with, "This is the way we want to do business."

In fact, to tell you the truth, it would actually be suitable to me if the GNSO goes off and says, "Here's the way we're going to structure ourselves and here's the role of the GNSO in ICANN and here's what we need to do to do that," and by the way, our policy process comes out of the bylaws because they're ours and you as the GNSO create something that's a little bit more semiautonomous and you actually do work for yourselves and don't rely upon the board to do things for you.

I would not be surprised if you said that, and in fact, I would probably support it.

So take the advantages given to you with the review and do the bottom-up thing. Say, "What is the best way for all of us to do business? What is the best way for us to appoint people that we can mutually trust, that we can mutually hold accountable to do what we want done?" And let's figure out the best way to do that and let's figure out the best structure to do that.

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If it says we don't want two houses, we don't want two houses. Now, if we want to buy four houses and a hotel, fine.

But the point is, it's your structure. Make it reflect you, make it reflect the current situation, and make it reflect what you think it may be 10 years from now. Thanks.

KRISTINA ROSETTE:

Thanks, Ray.

I suspect that there are probably some CSG members that might be interested in commenting on that.

Marilyn, go ahead.

MARILYN CADE:

Marilyn Cade speaking.

Ray, thank you very much for urging us to consider self-empowerment and self-analysis, and I can promise you we will.

I would just recall that when we launched ICANN we started every meeting with a town hall that we ran. Not the board.

We ran it. And we launched the -- and it was not panels of people, it was a true town hall and highly interactive.

So I think there's a lot for us to think about in terms of, you know, do we need to go back to -- I think we have found, and I'll just reinforce some of Steve Metalitz's point, that perhaps for convenience topics that are actually about the governance of ICANN or the overall budget of ICANN

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or other general topics which should involve a cross-community dialogue from the very beginning have somehow gotten shoved into dialogue in a gTLD policy council or some other structure by nature of expediency and good intent but less-than-optimal outcome. So we have work to do ourselves to ask ourselves and others from the broader ICANN community --

There's a number of brand-new attendees from business here, from Africa and from other countries, Afghanistan, who are here for the first time -- I'm just mentioning those that I know about -- and they're very interested in becoming involved in ICANN and they have a -- you know, we've got to figure out how we design this to be so much more inclusive.

So thank you for the invitation.

KRISTINA ROSETTE:

I have Bruce and then Tony and then I think -- I think we need to close off on this topic to make sure we can get to accountability.

Bruce, go ahead.

BRUCE TONKIN:

Yeah. Just very quickly, that was kind of the direction I was heading when I was asking Steve that question, because my sense at the moment is we have too many topics on during the week. We'd be better off focusing on fewer topics and then using more of a town hall format, so that we do get everyone's point of view. Because that -- what we're doing is I've got half an hour for each topic, I can only afford

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four speakers, I've got to pick four, you know, rather than a half-a-day topic and then I can hear from a lot broader spectrum.

KRISTINA ROSETTE: Thank you, Bruce.

Tony?

TONY HOLMES: Thank you, Kristina.

Well, in response to Ray's comments, certainly in the ISP constituency, we have had some thoughts around the structural issues.

I will add that we were somehow disappointed with the form that the GNSO review took; that it specifically didn't focus on the structural issues.

We will certainly take this up. Maybe not particularly within the GNSO review, but we'll certainly have discussions around this and will come back to you with where we think this should go. In saying that, it will come as no surprise to you -- in fact, it just emphasizes where we are -- to say that I believe when we get into these debates, there won't be any agreement even within the commercial stakeholder group about where we go.

So that's rather a long process and it's a needy process, one that we need to work on, and I accept that the results are not going to result in immediate change. It's work in hand. We will certainly contribute to that.

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What I would ask -- and I think we already have the assurances, for which I really thank Fadi for -- is that in that interim period there will be some consideration to the concerns that we've expressed and that we will see measures put in place that help us get to that further point when maybe we have the complete answer. Thank you.

KRISTINA ROSETTE: Go ahead.

RAY PLZAK: Quickly responding, Tony, that's why I said you need to take the opportunity that's afforded by the review to do those kinds of things that you're talking about, and in the interim, yes, I agree, things have got to be done. So while we're waiting for the egg to hatch, there's some other stuff that needs to be done and it can be done as an interim, and I think that that's well taken and we should look at ways of doing that.

KRISTINA ROSETTE: Thank you.

I would now like to turn to our next topic of ICANN accountability, and we view this from both the perspective of its context with regard to the IANA stewardship transition, but we also see it as being broad enough to encompass issues such as compliance, where we all were very pleased to hear the new developments regarding the new officer in the compliance area. But kind of reverting back to the enhancing ICANN

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accountability process, we were all very appreciative to see the revised proposal.

We think it's an important development on many levels.

Of course there are some outstanding questions, not the least of which is the role of the board in relation to acceptance of the recommendations, as well as how the streams will be handled.

So what I'd like to do now is turn the floor over to members of the CSG constituency who would like to share their views on these topics with you.

I see Steve DelBianco.

STEVE DelBIANCO:

Thanks, Kristina.

I think this will be brief because it's mostly an acknowledgment and appreciation how management and staff -- perhaps with some board encouragement, management and staff really did listen to the community's consensus call to say, "Don't organize us with the two structures. Let us have a cross-community working group. Don't impose experts who could influence decisions in an undue way. Don't force us into a charter that limits our scope." And frankly, was delighted on Friday to read that staff and management were able to come around on that. And I know this is primarily a board interaction, so it must be gratifying to hear your staff and management being praised for I think listening to the community.



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It shouldn't have come to such a degree of difficulty to do that, but I hope this will set a precedent for doing it better in the future.

As Kristina noted only briefly, there are two open issues. One is this notion of the two streams. It makes sense to prioritize for things that have to be done before the transition and then things that can be implemented, perhaps, after the transition, and I think that -- from the standpoint of the business constituency, we went on the record back in May with our comments with six relatively implementable, we believe, accountability enhancements. I won't get into the details here or we'll run out of time but I'm glad to share those with any of you. But we believe there are six things that can be done prior to the transition, and potentially within the September 2015 deadline.

That's a matter of how hard we work, and our community is already beginning to work on our part.

And the second issue Kristina mentioned is absolutely correct. The community had been clear about making sure that the board -- once the cross-community working group finished all of its recommendations, we were very concerned that the board might refuse or cherry-pick them, in a way, and naturally the board might be inclined to do so if the measures were exceedingly tough in terms of being accountable to the community.

But I understand the board will make that decision, not staff. That's not something that was part of the staff purview.

So we're looking forward to see what the board will come up with as a mechanism for that and I do hope this will help us to move ahead in a

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positive way. So thank you again for the turnaround and we look forward to how the board wants to handle the recommendations.

KRISTINA ROSETTE: Go ahead, Bruce.

BRUCE TONKIN: So firstly, Steve, it's interesting I hear you characterize the argument sometimes that the board's not going to accept an outcome because it will be made more accountable.

I think you've got to remember that the board's actually appointed by the community. We're either elected by people such as yourselves or the board is appointed by members of the nominating committee, which -- and the nominating comprises yourselves. So the board's from the community. It's not some independent thing that's trying to run its own -- own program.

To answer your specific question about how the board will deal with input coming from the cross-community working group, the board has discussed this in a workshop on Saturday, and the general sense of it is that we'll use basically the same process that's in place in the bylaws for handling policy recommendations from the supporting organizations.

So from the ccNSO, GNSO, or ASO.

Now, the text in the bylaws is slightly different across each of those, so by Thursday we hope to provide clarity on the exact process, but at a high level, the process would be if the board believes that it's not in the global public interest to accept the recommendations, it would send it

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back to the working group for further work, and it would set a time frame when the board would meet with the -- with the working group to go through those issues, and then the working group could send it back to the board, and again, only if there was a two-thirds vote would the board be able to reject that.

And the other thing we are looking at adding is from the ccNSO bylaws which actually states that the board can't intellectually change it and make up its own accountability mechanism. So that's a little different -- I guess a refinement to the GNSO policy process. In other words, we would be pushing it back to you and saying, This is an issue. We need you to solve it. We're not going to sort of take it, make some changes, and then send it off to some other party. So that's at a high level how the process will work.

STEVE DeBIANCO:

Thank you for that. In the spirit of what Secretary Strickling said in last night's session, let's not have any surprises. We hope the board will be participating and watching this open cross-community working group. You can read already what the BC submitted in May. And if you already know there are problems with some of our measures, tell us now so that we can begin to work on solutions. That will speed it up dramatically over playing ping-pong between the board and the CCWG.

BRUCE TONKIN:

We completely agree. This is just a last resort. It has never actually been used in the bylaws for any of the supporting organizations. But we get you want to know the certainty. I would be highly surprised that it

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would be necessarily used because we will be engaged. We are part of the community.

KRISTINA ROSETTE:

Fadi?

FADI CHEHADE:

Thank you, Bruce, for the clarity on how the process will work.

I want to remind everyone of what Secretary Strickling said in Istanbul because I think it will give us some context. The first, he reminded us that the outcome of the accountability group that is related specifically to the stream of things that are necessary before the transition is output he is expecting to come alongside the ICG proposal. So these -- all the discussion we had with the community as to whether these two things are linked, they are linked. He made that clear.

On the second point he made as well, which is very important, is that if the board receives input in this regard that it decides for some strange reason that as Bruce said is not in line with how the board functions and the board operates. But let's assume the board gets a recommendation from the community that is -- that they decide not to abide by, that Larry Strickling said would not be consensus and would not be acceptable. So I think Strickling gave all of us, as a community, the comfort level that from his perspective the board must work according to its bylaws in alignment with the community and that bylaws aside, if we, the board, and the community are not in consensus on the proposal we're sending to him, it doesn't work. So I think this is a very important safeguard that should put us all at ease that we're going to work

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together to make sure that we have a proposal that the U.S. government would accept and would allow us to move forward in unison toward the end of the contract.

KRISTINA ROSETTE:

Thank you. I understand based on our previous discussions within our CSG meeting immediately preceding this that there are some members of the ISPs and IPC who might wish to speak on either of these issues.

No? All right. I see Wolf-Ulrich.

WOLF-ULRICH KNOBEN:

Thank you, Fadi.

--- and how the board shall engage in the consensus building for the proposal.

--- he's going to comment on that ---

FADI CHEHADE:

Steve, this may be a question that is better addressed by you. But just to clarify because the audio wasn't super clear, you are not speaking anymore about the accountability working group. You are speaking about the ICG proposal.

Indeed, NTIA has informed the chair of the ICG that once the proposal is ready from the community from a procedural standpoint, that proposal has to be submitted to NTIA via the ICANN board because ICG obviously doesn't have a legal relationship with NTIA. We have the contract. So it was a procedural comment.

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Your question is: What will the role -- what will the board do with that ICG proposal? Is that correct? Yeah. I think it's best I ask our chairman or our vice chairman to address this specifically.

Let me just say this while they're thinking. The same comment I made earlier about the accountability applies here, and Larry said that in Istanbul. In other words, if the community is not in consensus on what is being proposed to the U.S. government, we fail the key tests he has put out, period. So I'll let the board leaders answer this from a bylaws or a legal standpoint. But from a practical standpoint, the U.S. government will not accept a proposal that does not reflect the consensus of the community. So I hope this gives us the safeguards we need. Larry was superbly clear on this multiple times.

BRUCE TONKIN:

I'll have a crack at responding. I think that the approach would be fairly similar to what we just discussed with the accountability working group. In other words, if the board thought there was something that wasn't in the global public interest that came from that working group, we would send it back to that working group to try and resolve before passing it on. I think that's as clear as we can be.

FADI CHEHADE:

And we do have a liaison on the ICG, who is reporting to us. So there should be, as Steve was saying earlier, no surprises. We are not operating in a dark room. We are listening. We are understanding what you're doing. And I'm actually growing very confident that we are going

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to get there together in an orderly way, in an united way so that we can meet the test.

KRISTINA ROSETTE:

Thank you. I see Chris Disspain and IPC member Jonathan Zuck want to speak, and I think we will then probably have to close.

Chris.

CHRIS DISSPAIN:

Just to add to what Fadi said and Bruce said, to go back to the beginning of this, the whole point of the ICG was that it was supposed to take the input from the various parts of ICANN, so simple terms from the ccNSO, from the GNSO, supposed to look at what the RIRs were doing, and so on and were supposed to knit all of that together into one piece. And that was going to be the thing that went up to -- as the recommendations.

Now, the second role that they had was to oversight what was going on in each of the silos to make sure that we weren't heading for a train wreck because one side was heading in a totally diametrically opposed direction to another to try and bring them together.

The board is also part of that because the board is also observing on what's going on and adding input. I don't think we should -- we as board members should be excluded from having opinions in this process. And I certainly worry my CC -- as my ccTLD hat, can assure you that I will be contributing to the ccNSO's work on this.

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But I think it would be extraordinarily unlikely to find a circumstance where you have got a report having come up from all of these different bodies sewn together by a group that's been elected, chosen by all of these bodies, and then coming to the board and having the board change it. I just -- it's so far outside of my paradigm that I can't even imagine it happening.

If we had a problem, we would say so. And I would say so with my ccNSO hat on, if I had a problem. So I think it's -- I think we're about as good as we can get on that score.

KRISTINA ROSETTE: Thank you. Jonathan?

JONATHAN ZUCK: Yes. Jonathan Zuck from ACT and a member of the IPC. I think the other thing I just want to say -- it sounds like I may have the last word -- is just to remind everyone that none of this is personal and none of this has anything to do with the currently seated board. These have to do with scenarios that might occur in the future, things that might be considered worst-case scenarios, what DelBianco referred to as stress tests, et cetera.

There should be a little bell that goes off every time someone says "stress test" now I think.

The bottom line is not about this board and its participation in the community, et cetera. It is about strengthening the organization and creating operational accountability for the community.



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And I don't think, again, Bruce, on your point, I don't think that the voting of board members amounts to operational accountability because of the sort of glacial nature of bringing about reform in that way.

So I think people are looking for operational accountability so if something happens in the future in which the community really does need to stand up and kind of retake the environment, that those tools are in place and that's to replace the sort of hypothetical or abstract role that's been played by the Department of Commerce to date.

So, again, it's not about this board. It's about some board in the future that somehow ends up at odds with the community's perspective.

KRISTINA ROSETTE:

Okay. Thank you. I understand that Steve wants to make some closing remarks. And I know that the board has a hard stop. On behalf of the CSG, not only would I very much like to thank you all for your time this morning, but we would particularly like to thank Bill Graham for his service on the board as the board member elected by the non-contracted party house in which our stakeholder group sits. We've been very appreciative of his dedication, excellence and willingness to communicate and get up very early on Sunday mornings to meet with us. And we're also very much looking forward to working with Markus Kummer.

So, Steve.

[ Applause ]

STEVE CROCKER:

Let me just echo that. I have been on the board for a while and have been really thrilled to work with a really stellar quality of people who have been put on the board from GNSO in total and from the non-contracted parties house in particular.

The topics we were talking about here, I think, are unquestionably very vital. And, as I said, there are some trade-offs that are just difficult. They don't have simple answers. But that doesn't mean they shouldn't be addressed. And it is quite reasonable that the approach might change over a period of time as ICANN goes through its evolution and changes.

There is -- I want to toss in one brand-new thing that hasn't been mentioned that was triggered by a comment Elisa made about technical security.

And so this is a shameless plug for DNSSEC. We have done a very, very good job at the implementation of DNSSEC at the top level domains. We have not done so well at the implementation of the signing at the next levels down.

So there's a statement directed at the intellectual property constituency and at the business constituency. And we have done also not a good enough job at all on the validation side, and so that's a comment directed at the ISP constituency.

So let me suggest that there is an agenda item within each of your constituencies that I would ask that you take up. And the time is quite appropriate now because a lot of the substructure, a lot of the

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infrastructure has been in place and the proper place for the action is in each of your constituencies. That is perhaps one of the rare things for which there is a commonality across the commercial stakeholder group that I can offer to you.

Thank you all.

[ Applause ]

[END OF TRANSCRIPTION]