

ICANN

Coordinator: Maryam Bakoshi
May 17, 2016
8:00 am CT

Niels ten Oever: Thank you.

Maryam Bakoshi: Thank you.

Niels ten Oever: Thank you very much (Sarah) and Maryam and all participants welcome very much to the call of the Cross Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights on 17th of May at 1300 hours UTC.

We have a six-point agenda in front of us that's on the screen. Does anyone already have any additions or questions or suggestions for the agenda? I see nothing in the chat. I see no hands. So let's go ahead and do a quick - short evaluation on where we are in Subgroup 1. Vidushi, come in.

Vidushi Marda: (Unintelligible). If I ever saw a (unintelligible) one (unintelligible) you have circulated the first draft of the (unintelligible) the graphic designer has given us. And if (unintelligible) these comments. Niels, (unintelligible) that you have (all) suggested (unintelligible) for the update for the (unintelligible).

Niels ten Oever: Yes. That is true. But also based on the comments made and an introduction with the interaction designer I quickly made a short glossary of all the abbreviations, gave a short explanation of what ICANN is. I (added) here - so I gave her some more information and she is coming back this week and I expect it to be today or tomorrow with a next version.

Vidushi Marda: (Good).

Niels ten Oever: So that is where we are on that so I...

Man: You want to listen back to it.

Niels ten Oever: ...have a next version or...

Woman: To record it, just press 3.

((Crosstalk))

Niels ten Oever: ...something like that.

Man: If you decided you don't want to leave a message, press 4.

Woman: To change the confidentiality setting, press 5.

Man: Delete this message and end the call, you can just hang up.

Niels ten Oever: Maryam, an audio from an interactive voice menu.

((Crosstalk))

Niels ten Oever: So there was...

((Crosstalk))

Niels ten Oever: ...(from me).

Man: ...one if you want to listen back to it...

((Crosstalk))

Man: If you decided you don't want to leave a message, press 4.

Woman: To change the confidentiality setting...

((Crosstalk))

Man: Delete the message and end the conference...

Niels ten Oever: Maryam, it seems that this is something that is not originating from one of the speakers on the call, so. Okay. It's over. Vidushi back to you.

Vidushi Marda: Yes. Yes. (Unintelligible) that of the (unintelligible). (Unintelligible) welcome that. (Unintelligible). I'm working (unintelligible) a document for different people to see (unintelligible). With respect to (unintelligible) we decided not to (unintelligible) PDP as we did before.

And we think because (unintelligible) that they (unintelligible) PDP. (Unintelligible) just who are (unintelligible). (Unintelligible) which I have to get on the next call. (Unintelligible) for the next call, which is on the next Friday. Thanks.

Niels ten Oever: That is great Vidushi. That is really good stuff. And I will be coming back to you on this point. So now we'll continue to Point 3. That's the update on Subgroup 2, the Cross Community Working Group Work Stream 1 and Work Stream 2 process.

And for that I would like to invite Tatiana as usual to give us a short update on the progress and events that are going on in the CCWG. Tatiana, please go ahead.

Oh, Tatiana needs a dial out. Oh, so there are some technical issues. So let me try to give an overview on where we are. And that is that we are in the middle of Work Stream 1, namely on the draft bylaws.

The comments on the draft bylaws period is almost ending. That will be on May 12. And there has been a very interesting discussion in the CCWG. All the comments of the CCWG on the draft bylaws there has been one comment filed under human rights.

And that is because of the second issue that are there under the bylaw comments, namely that the draft bylaw (text is) implied that all SOs and ACs needs to agree with the proposal that would be made for the framework interpretation.

But we have already agreed that we would follow the process as it was agreed in Work Stream 1. So that will be - we hope that that will be changed accordingly because it was in our report.

If you will have a quick look at the link or I can send you the long link here now in the chat, is that Tatiana and I cooked up a short comment on the issue

of the SO and AC consensus, which is a bit more elaborate than the comment made by the CCWG itself.

So have a look at that. It also has an edit point, which was brought up by Seth Johnson and that was that the text included that the FOI would not come into effect unless and until a framework of interpretation is approved.

And that seems to be inconsistent with the CCWG proposal because the proposal reads the core value is not enforced until the FOI is developed.

So there is unless and is edit and it has been pointed out on the CCWG list that this is common lawyers speak. But unless seems to imply a totality and until seems to imply a temporality so we would like to push for dropping off unless and - because we think that we just have a period of time to develop the FOI and that makes sure it come into force and there should be no question on whether and if this should happen.

So that was a short overview from me and just in time to now give it over to Tatiana to ask if I've missed something. Tatiana, please come in.

Tatiana Tropina: Oh, thanks Niels. Well, you actually gave a very good overview and the only thing I might add is that first of all we are trying to prepare - as Niels told, we made a draft of the comments so we would really like to ask any of you to go through them. And if you agree with them, just submit them to CCWG. We really need the force of numbers here. So if you support, just comment on these. Thanks.

Niels ten Oever: Yes indeed. I should have made that a bit more clear. So I would like to invite people to also submit their comments on the proposal. And it would be great if you could use this draft as a template for that.

It doesn't matter if the same comment gets shared several times. I think that will just reinforce the opinion. So that would be great. Other issues under consideration might of course also be (welcome) and interesting.

So now I would like to continue a bit on the work that (they) have been doing in Subgroup 2; namely the drafting on how we would think a framework of interpretation - what do we think it would look like.

And Corinne made (a statement) on the list. There have been some reactions to it. So I'd like to invite Corinne to give us a short overview of what she's done if she's - (she comment) on one of the discoveries that she made.
Corinne, please come in.

Corinne Cath: Thanks. Can you hear me? All right. As you guys have seen, I have had two different stabs at the FOI, the first more like sort of scoping the background, looking at where it was used before both outside of ICANN and in ICANN.

And then this morning I sent you an overview of some of the work I've been doing recently, which where I also indicated that I've been running into a bunch of snags because it's just very unclear to a certain extent what an FOI is within ICANN and what it means. So I was a little bit lost.

Luckily there's been a lot of like very positive feedback on the list that I can use with (Monica) suggesting that I should go into like try and do less instead of more, to just try to focus on like what I means for ICANN to respect human rights and also to clarify what's outside of the scope of ICANN's responsibility.

And Niels' going into even a little bit more details so looking at what does it mean not to enforce, what does it mean to respect and then reference all the different applicable instruments.

So yes, if anybody else on this call has any sort of suggestions, stuff that I should look at or what they believe in FOI (unintelligible), that would be great.

Niels ten Oever: Thank you very much for this overview Corinne. And I would like to ask others, the people that have been active in the CCWG but also definitely those who are not what they would think this framework of interpretation should look like.

Should it be an explanatory report or something else? And I see Tatiana hands coming up. Tatiana, please (come in).

Tatiana Tropina: Thanks Niels. Tatiana Tropina speaking for the record. Yes. I see that in the beginning when we had all these discussions in the work in Project 4, we were thinking about writing an explanatory report for the bylaw. So what the bylaw means.

But it came out that we had very little time. But we still wanted to get this bylaw language. So I think the framework of interpretation was - would be kind of expansion of those discussions. So as Corinne already said, what does it mean to respect human rights?

Which instruments are applicable? What does it mean not to enforce human right? What does it mean not to, I don't know, wherever or not to go outside of the ICANN mission. Do we have to get some additional documents like for example do we need additional policy? Do we have to develop some policy

document human rights policy with the ICANN? Do we need human rights impact assessment?

But again, there has already been discussion on the mailing list. And I believe there was a very good point made there that the more - the less would be more in this case because we do have some of the active participants of the Working Party 4 who definitely could take part in the Work Stream 2 like for example Greg Shatan and some others.

And I believe that this framework of interpretation would be a community exercise. And these people definitely can contribute. So I'm wondering if there is any chance that we can cooperate with them either before the ICANN meeting in Helsinki or we can just start these discussions in Helsinki. But this is definitely something where we can suggest our approaches, our interpretation.

But I'm not sure that we can really come up with something that is in fact community exercise. So I believe that the initial discussion, which we have on the mailing list, is a supper good starting point. But yes, the less would be the better in this case. Thanks.

Beth Bacon: Hello. This is Beth speaking if I could get in the queue.

Niels ten Oever: You are on top of the queue. Go ahead.

Beth Bacon: Thank you very much. I hope you all can hear me. I'm just a person sitting through the phone and not Adobe. So if you can't hear me, please let me know.

I'm new to the group. I'm with the Public Interest Registry. I've joined your mailing list. And I just wanted to offer a little bit of perspective. I was involved in the FOI Working Group from the ccNSO. And I will agree that I think - I'm not 100% clear on the process that you all are envisioning.

But I would imagine that the bylaw will be incorporated and then an FOI Working Group would be formed - a community working group to develop the FOI and what Corinne has done on the list, which I think is a very good start. And as you have all noted, a lighter touch is usually a good kind of framing and scoping to guide the discussions of that working group.

And note what that working group will be looking at and what their goal is but not necessarily prescribing at the outset what exactly the outcome will be. It may not be policy. It may be policy that may just again be the way a guidance document for, you know, when these questions come up. This is how this bylaw is interpreted.

And that's very much what the FOI in the ccNSO was. And I would very much encourage everyone (who had) already sent it around and it's - I think that is very much what the ICANN community views as an FOI. And that's what they would be using as their filter when they eventually come into your conversations more as that working group gets started.

And again, I'm new to the list but I just wanted to offer this historical perspective. And I'm happy to help in any way. But that you very much for these calls. They're very helpful. And I think you guys have really done an excellent job and really good discussion. Thank you.

Niels ten Oever: Thank you so much. That's exactly actually the knowledge that we've been - and experiences we've been looking for. And first of all, of course, welcome to the list and welcome to the group.

So we might be - and I might be speaking ahead of my turn but I think Corinne, also people working on this will be coming back to you with work on this to see if it also fits the previous experience so that we are not trying to reinvent the wheel.

And the group that will be working on this will not be a separate working group but it will happen in Work Stream 2 of the CCWG. So that is the working group under which it will work.

But that is very helpful. And we'll continue drafting this (narrow scope). It's - I'm very happy actually that we're going back from a very big scope to a much smaller scope so that makes the work far more (complementable) and also sizeable and concise. That's great.

Is there anyone else who would like to comment or discuss anything about this? No? Then Tatiana, please come it.

Tatiana Tropina: Thanks Niels. I also think that it's just when I saw the email from Corinne and I saw all the great job she did, I thought that maybe it would be also useful for us to somehow summarize the discussions like people like you, me or like Aarti who were in the Work Stream 1 and the Working Party 4.

And some of the points like for example that we have to be super careful with Ruggie Principles. Like if we come with anything related to the Ruggie Principles, they would be trashed almost immediately in that group, in that particular context.

I thought that maybe it would be useful for us - for all of us - for those who participated from the very beginning just to provide a short summary of what we decided to be (that in terms) - what we decided to be very careful with.

So we will always build the same (pace) and also not reinvent the wheel and not just coming back to the arguments, which were already kind of solved or where the decision was taken. What do you think about this? Would it be helpful for us?

Niels ten Oever: I think that it will be tremendously helpful because I definitely also think that in the CCWG we also do not want to go back on discussions that were already had because I think it's a best practice and it also doesn't help for constructive continuation of the (negations) and discussions.

So I think that's a great idea. And do you think that - and this is a bit of a mean trick, but do you think you and Aarti perhaps could do that under the work that you would be doing under applicable instruments? Because I think there it might fit and especially the Ruggie discussion that was quite intense but was still - can take parts from (that) because it's also using Ruggie inspired text.

So that might really help Corinne and others who are working on the FOI forward. Can I ask Aarti and Tatiana to take a shot at that because you are also part - and a participant in many of those discussions? So would you people be able to do that?

Tatiana Tropina: Oh yes, sure. I mean we have not started yet. Also because - I mean in our subgroup. Also because I think that we have to get some starting points. I mean we can't just put the cart in front of the horse if you know what I mean.

But sure. I mean it's not only about Ruggie. It's not about instruments. It's also all those discussions - endless discussions we had about enforcement for example. And the discussions we had about whether we have to refer also to human rights and the reference to corporations and all these.

Of course we can summarize and make a kind of document with the points and it would be part of our work. At least I can see how we can start, you know what I mean. So we - yes, I would be happy to do this with Aarti.
Thanks.

Niels ten Oever: That is great. Then perhaps let me try to ask it like this because concrete always helps. Tatiana, could you perhaps like start a document with a short overview of things that happened, decisions that were made and we'll (run up) with some links to emails from the archive maybe? And Aarti, could you perhaps have a first shot on applicable and relevant instruments and documents?

Tatiana Tropina: Tatiana Tropina: speaking. Yes, I can start the document apparently and can start applicable instruments and documents. I think a good format from our archives to start is actually could be all the discussions about Ruggie. Those discussion which include Paul Twomey for example and Nigel Roberts and all these guys.

And the second point - I told already on the previous call - you might remember. I told that - remember when they had this flash mob with people voting which instruments we have to get, either declaration of human rights or three other instruments.

So as I told this might be good - a good start for us. But again, as with the framework of interpretation, interpretation I think in this case we shouldn't

overdo these because there would be discussion in the working group in any case.

But I think the summary of previous discussions would be very helpful. At least we can always refer to particular emails to who said and what to the fact that we already reached consensus, you know what I mean. So yes, I think this would be a wonderful job to do. So yes, I can start the Google doc, no problem.

Niels ten Oever: That'd be great. And then if Aarti could indeed do a short start of UDHR, ICCPR, ICSCR and global compact, the Ruggie Principles and also the sector guide for ICT and give the plus, the minus how well and not. And there are also some suggestions I think in an earlier report. We did an Article 19. And just listing those I think would be great.

Aarti, is that something that you could take on? I think it's all a part of something we wanted to do in Subgroup 2. But I don't want to push it on your plate without consent of course. I see Aarti is - okay. Great. Okay. Great. That's great Aarti. Yes indeed. List Tatiana as her - as your institutional memory. That's great.

Do you people think that we could be having something by the end of this week, beginning of next? Or am I pushing it?

Tatiana Tropina:: Niels, this is Tatiana. I'm sorry. I can't. I can't do anything till the end of this week. I'm in the U.S. In the beginning of next week, yes. But till the end of the week, I am off. Thanks.

Niels ten Oever: Beginning of next week. I'm sold. Wednesday. Perfect. Thank you very much. So at the same time (unintelligible) is also still - and (Lucy) is still working on

making a more narrative document of the questionnaire or - in which we have been listing all kinds of documents and policies.

And I believe that there has been some discussion with staff as well. We'll try to get that in a bit more narrative form so it's a bit more than the list of links that is it now.

So there's quite some activity in Subgroup 2 but we also of course do not want to dominate the discussion. So if I have nothing more from Subgroup 2, let's go over to Subgroup 3 that has been working on following the PDPs. And I think Aarti is a member there.

But I've also been talking to (Marilia) who is excusing herself because she's very busy and in the process of moving, which was quite a complex international move. So she hasn't been as active as well. But this also seems to be the matter a lot of the PDPs are still in their administrative and starting up phase. So there is not that much information to share.

So we might need to see and discuss how this SG can be relevant or we simply let this SG stay around until there is more activity in the PDPs and people will flock there. In Helsinki we can also think about that; putting it together with Subgroup 1 because there is quite a lot of activity there into research into development topics. Rafik, please come in.

Rafik Dammak: Yes. Hi. Hi Niels. Regarding the working groups. So we have three PDP working groups who just started this year. And some of them are really just starting like for RPM. And or either they are still working there in kind of initial phase like for the RDS and doing review like for the new gTLD subsequent rounds.

So I do think we'll have much more visibility about the status and progress in Helsinki. So that we'll have like really several working sessions there. So I would expect that we can really have a better way to do planning just after Helsinki. But it's likely that we can do that before.

Niels ten Oever: Well, that's a great overview and a great suggestion Rafik. And I think we can go with that. It seems you have a really great overview of everything that's going on.

Such an overview, you know, like quickly like an outline email about all the PDPs that are going on and their timeline I think would be very helpful though. So if you just could quickly write down the things you said that - just as also a bit of institutional memory, that would be - that would be really great.

Rafik Dammak: Are you volunteering me - yes.

Niels ten Oever: Yes, all right, Rafik. I just did.

Rafik Dammak: Okay. Okay. Sure.

Niels ten Oever: Great. Great. So that is then the overview of the different subgroups. And then we come to Point 5 and that it have a bit of an assessment on what documents we can look forward to agree upon before Helsinki. So do we want to have - do we want to keep working on documents or do we think we already have some documents done?

And if we have documents done, we also need to agree a bit on what we need to (a plan) that everyone is happy and confident with the documents. So let's first make a quick analysis of what we think - expect can come through before

Helsinki and if and how we want to publish it on our Web site or we want to do some presentations for other SOs and ACs as we've done in the past for the ISPs and IPC and the Document Working Group on Human Rights and International Law.

So let's do a quick overview of Subgroup 1 and 2. So we'll (go to) Vidushi. Do you think we'll have something done?

Vidushi Marda: (Hey). Yes. I think that we'll certainly have something done but I think we might have (unintelligible) a session in Helsinki or not. I think we can - yes (unintelligible) just to get us (unintelligible).

Niels ten Oever: Yes. So the session is a bit of a long shot because I heard that there will be very few sessions, very few slots but I found if we do not ask, we will definitely not get it. So I sent in a request for a slot, which is (I'm sure) normal, so 60 minutes. Also to give us a time to publicly discuss where we're going.

If we won't get it, I will definitely organize a side session but then we would not be able to present much. So this is where we - this is where we are now. So it would - it's going to indeed also be pending that. So that's where we are.

Vidushi Marda: Okay. Good. Thank you. (Unintelligible) I have (unintelligible). I think that (unintelligible) (some good one). So I (unintelligible) to have just the report I think. But I have a document that (unintelligible). (Unintelligible) once I speak to her. (Unintelligible) I think that maybe we have (unintelligible) just for Helsinki.

Niels ten Oever: Okay. That's great. So I think that the process should be that first we agree a bit in the subgroups. Then at least two weeks before Helsinki but before these

few weeks we share the documents on the CC human rights list and open it up for one week for discussion, one to redo comments and then one week to finalize the document. And then it can be brought out on the Web site and discussed. Does that sound like a - that sounds like a good process. Okay.

That's - Vidushi seems to agree. That is great. Other people also have comments to this. Rafik, is that an old hand or is that a new hand? That's an old hand.

So let's go ahead with this working mold. I think we can also go ahead with the framework interpretation document. Perhaps that also (unintelligible) document for the working in Work Stream 2. And I don't think we want to seem like pushing the people from - in Work Stream 2 in a specific direction.

So perhaps we could first float this and see what other people think about it and share it more as an ideas document. So we might be able - we might need to do a bit more strategizing in Subgroup 2 on that and some on the human rights impact assessment.

So that is all that. Then one final point, which is also under the any other business, is that I am working on redoing the Web site or doing a Web site for the Cross Community Working Party because I get a lot of questions from people like what are you doing, how can I engage.

But when people look at the current Confluence Wiki, they are not necessarily inspired. There are a lot of acronyms. It's quite complex. So I will come up with a proposal for the Web site. Then I will fly by you and look forward to your comments of course to hear what you say.

I do think though analyzing the Web site that the current Web site has pretty much all the information that is needed. Or some of our products could be highlighted a bit more but I think the assets like the documents, the reports, the members, the subgroups, the meeting times, the (core) times, that is pretty much what should be on the Web site.

And some example of (micro facts) that people could engage in. But that in a bit more executive format could perhaps improve participation. And I might interview some of you with a small camera in Helsinki to see us have some nice photos and the videos of people who are engaged in this.

So that's - I might be doing that. So if people do not have a problem with that, I'll also continue that work. Is that okay? And the wild cheering from the crowd ensued. That'd be good.

Okay. So that leads me pretty much at the end of the meeting because we're through the agenda. Are there any other issues people would like to bring up? No? Oh, Rafik, please. Go ahead.

Rafik Dammak: It's only (unintelligible). Maybe I missed that. But did you make a request for a meeting in Helsinki?

Niels ten Oever: Yes. I made a request for a meeting in Helsinki for 60 minutes.

Rafik Dammak: Which time slot did you (specify)?

Niels ten Oever: I have said that I was extremely flexible. So I did not give a preference if I am correct.

Rafik Dammak: (All right).

Niels ten Oever: Because I know they're tight, so I thought every 60 minutes we can get is...

Rafik Dammak: Okay.

Niels ten Oever: ...nice.

Rafik Dammak: Sure.

Niels ten Oever: Did that indicate end of your sentence Rafik? Okay. So let's see where we get with that. And I'll of course keep you posted on any progress that's made there.

So on this note, I'd like to thank you all for participating and ICANN staff for facilitating and looking forward to hearing you on the next call and the work we're going to do together and meeting you in Helsinki. So thank you all very much and enjoy this sunny day.

END