

**ICANN**

**Moderator: Nathalie Peregrine  
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Tony Holmes: Okay, I gather we're ready to go on this next session which is looking at the GNSO future and the issues around the structuring. So we thought initially it would be helpful just to run over exactly how we got where we are today.

So are you controlling the slides, Chantelle? Okay, so just a quick recap - initially structural changes were considered out of scope and there was certainly a (bid) to change that in the early days.

I know from the CSG side we did have meetings with the board members responsible for getting the review underway and made the point quite clearly that we felt this have to be at the heart of any GNSO review that took place.

We were told, at that time, things seemed to be working well which we didn't actually get (too well). And it was set out in a way that it was going to include the issues of structural reform.

That was added at a later stage, so we can move on. This is what the GNSO review said later, so claiming that it works well and then getting 120

unsolicited comments in a survey saying that structural issues needed to be covered, I think speaks for itself.

There were a lot of comments about the actual structure and, on the slide, are some of the comments that came out that were recognized by the review team themselves.

The one I would like to point to is the last one, really, that (has) the two (house) structure. It was a vehicle for voting, for the life of its own. So I think it was even recognized by the review team that the reason we have this structure is purely about voting it we keep being told the voting should be such an issue, that basically with the working groups, the drive for policy changes should come out of those groups and it should be reduced.

That was also depend when they set out this (bicameral) structure in the early days - well, voting will be such an issue. But I don't think we've ever really gotten to the stage where that's been the case.

Okay, so some of the views that were expressed to the review team, I don't want to do on any of these are really just point out, if you look at these comments, and it shows the difference of opinion that exists right across the board and makes it a very complex issue to deal with.

That isn't to say that we don't need to do it, so moving on. The points noted by the review team are particular pertinence, I think, to the next discussion and some key ones in here, as well.

Certainly the GNSO working in silos is one of those key points and there're a number of things down here that I think need to be considered as we move on with our discussion today.

So we can move on. So against that, all the comments received, the recognition of all the different issues around complexity, working in silos, finding it hard to actually get an understanding of the GNSO outside of the GNSO, even being a barrier to engagement and entry for newcomers, the conclusion was that they weren't convinced another round of structural change was warranted.

And I was pretty aghast when I saw that come out against the level of evidence that was presented from the review team itself. Also, the claim that the structure itself really hadn't been in place long enough to be assessed.

Again, it seems we've been struggling in this structure forever. And some of the discussions we had here today, this morning, not only this afternoon, pointed to some of the difficulties that we currently have with the structure despite the fact its well (vetted) in and it's been there now for number of years itself.

So out of that, the question is whether we should tackle this just as GNSO or whether we're looking at a broader review. And I would like us to discuss that this afternoon as well.

So accepting these conclusions and moving on, it's worth pointing out one of the recommendations that did come out about restructuring GNSO council, and that is that the council should transition from being a legislative body to a strategic manager overseeing policy development.

And when that goal was set out in the early days, and I think all the GNSO review team have done is endorsed that position, that was one of the tenants on which they made a statement, "All voting should be such an issue."

I would argue that the GNSO council has never moved to this body at all. I think that's why it's been picked up by the review team. So that's another key issue that we need to consider going forward.

So for this session, that would really like to do is to see where we agree, and there're, I think, a lot of different views around this table as to how we can move forward.

Probably they can lock us in for a month and we would struggle to come up with a proposal that resolved and we get agreement on it everywhere we go. Don't even want to try and go there, but we can try and determine where we do have agreement and then look at how we can move this forward, and I think this would be a meaningful result from this session.

And to find do that, just wanted to (pose) some questions that people might want to pick up on as we work through. So the first ones in here, or do we all agree that the current GNSO structure is broken to the degree that it requires urgent attention?

And that was why I asked the question in the earlier session about do we just respond to the recommendations or do we need to look at resolving some of the bigger problems that that review doesn't fix?

We can move on, Chantelle. Could be fixed the current problems within the two-house (bicameral) structure just like tinkering around the edges with some of the elements that we currently struggle with, bearing in mind that we are just talking about one house in particular?

I would suggest that the other house that's part of the GNSO doesn't suffer from the same concerns in the same difficulties that our particular house does. So - so thanks.

The issue of transitioning again from being a legislative body to a manager, I think that would solve some of the problems the how far with that go in resolving the greater concerns that we have?

What does it mean for the role of working groups? What sort of empowerment would you need to give those working groups if you do make that move? There are a number of issues around this.

So if we move to an approach where we adopt this strategic management, what does that mean for the two house model? Is that enough? Again, questions around the cross community working groups and how they can be in a broader sense.

And this is where we come to issues of what is particularly pertinent to that GNSO? And in some cases, what should be dealt with in a much broader way for ICANN?

So if the GNSO just concentrates purely on gTLD policy, then there may be a different way that all of us, whether we're constituencies or support organizations, can engage in some of the broader issues.

It isn't a case that everything has to go through council, which for all of us involved in the GNSO, it seems to be the way things are done at the moment. There aren't very many issues where GNSO council doesn't take a view.

Now is that warranted if they are just a manager of the process rather than engaging as well? And finally, what are the best answers we can come up with and how is the timing for this?

I would suggest that the problem that are so proliferate within the GNSO, that they do require some attention now. And if we just get into a process where we have another GNSO review under the current bylaws, it's never going to solve the problems that we actually have.

And we need to think about whether we can fix our own problems in-house at the GNSO level or whether it's timely to look at the role of the support organization, some of the GNSO parties.

Christian alluded to some of the concerns we have as ISPs. There may be different ways of doing this, but is the time right to do that? And how would we go about that in the longer-term?

So we can start looking through some of these questions and finding out where we agree and where we disagree and, of this meeting with some initial direction that we can then take forward in future discussions, that's probably going to take us a huge step forward.

And finally, Chantelle - this was raised in the earlier session and I think it's a very, very good question. If we're going to talk about changing the way we do things, whether it be at the GNSO level, whether there's a need to stand back, take a big picture view and look at ICANN as a whole, one of the things we need to be aware of is what are the challenges facing ICANN?

Because I think that really does help steer us towards an answer. So with that, everything is open for discussion and I'd like to open up the floor now for comments. Thanks.

Tony Holmes: Yes, (Phil).

Phil Corwin: Now I have the mic. Phil Corwin. I'm - I'd like to focus in. I'm - the way I see the council now, it really is more of a manager than a legislator. I mean, but it may initiate a discussion of whether a particular issue for gTLD should be subject to a PDP.

But once the PDP - once they, you know, get the feedback and decide to adopt a motion to set up a working group and agree on its charter, all the legislating, all the recommendations are formulated in the working group and it doesn't really come back to the council until the end point when they decide whether to pass on those recommendations to the board.

So I'm not clear on what would change that would make the council even less involved and really legislating that is in developing a detailed policy proposals that are eventually may be sent to the ICANN board with a recommendation for adoption to become consensus policies.

Tony Holmes: Just a brief answer on that one, Phil. The way it works is exactly as you described, that you charter the groups. They go and do the work. They come up with a series of recommendations. They go to GNSO. And then the council will sit around the table and they vote.

Is that the correct way that that should work for a body that basically just sets (the) strategic role for the GNSO, that it comes down to that same old

question, remembering the comment earlier from (Westlake) - it's just about two houses. They're just there for voting.

So everything, again, comes back to council, comes back to voting which makes any change to the way council operates really, really difficult. We're left with that problem that we've always struggled with, which is getting what we would consider to be in a quality of voices when it comes down to the final (furlong).

Phil Corwin: Yes, I would just respond that each working group is kind of an ad hoc creation and the membership of a particular working group may not be broadly representative of the council, much less the broader ICANN community.

So if you took the council out of the review and approval roles, after the working group, there would be nothing to really make sure that all the different constituencies, all the different groups that make up the council would have any real role in reviewing those recommendations before they go to the board.

Now, there's a separate question of whether the separate - certainly the contracted parties are still contracted parties, but there are - let me give you an example.

I'm on the part of the working group within the BC that's revising our charter and one of the issues where we're struggling with and couldn't reach a decision, we're going to let the full membership (opine) on it, is we've got a GNSO council policy, and overall policy, that (binds) all the stakeholders and constituencies that says you can't be a voting member of more than one stakeholder or constituency.



But it doesn't say within what time period, so that brings up can you vote in the BC one week and if you're company organization is a member, say, of the registry stakeholder group because you've got a new TLD and you're on the BC because your business but are also on the IPC because you trademark concerns, et cetera, can you vote in one, one week, and then the other one is we?

What is the timeframe? And we couldn't come up with an answer but it really brings up the bigger question of that's a structure created for a world in which the silos really worked pretty much discrete.

Somebody in the business constituency would never be a registry operator but now that's not true anymore. They could be operating a registry and registrar and be in the BC and the IPC and maybe something else. So that's a more fundamental issue.

Tony Holmes: Just a quick comeback on that, something to think about, Phil, a question I pose that to you and everyone else here is that if you did move to a role where voting was in such an issue, it would probably change the level of engagement in the working groups because there, you'd really need to get in an influencer that was important to you. At the moment, that may not be the case because you can always do it at council. Just a question.

Rudi Vansnick: I see in the queue (Heather) and then Stephanie.

Heather Forrest: Thanks very much. Just a quick comment to follow up on the introductory marks that you made, (Tony), that this is a voting - this is a problem that rears its head in voting.

I've heard it articulated, yes, but only matters in voting, and my response to that always is, yes, and voting is how we get things done. It's the only mechanism under the bylaws to how we get things done within the GNSO. So I've never understood that comment of it - this only matters for voting. Well, yes, but voting is everything. And that brings up the point you just made.

Rudi Vansnick: Stephanie.

Stephanie Perrin: Yes, hi, Stephanie Perrin for the record. I totally agree with what Heather just said. It's - it does seem to me that we need kind of the whole de novo discussion about change and what's going on.

And with respect to this question over whether this is a legislative structure here or not, I think it depends on your home legislature, how you view this. It strikes me that there is no independent chamber of second thought, not that ours in Canada is independent or that it (synchs).

But it would be devoutly to be wished if ICANN truly is the multi-stakeholder organization that looks after the DNS that the end-users are well represented. And it is my opinion, after three years here, that we don't do enough - a good enough job of that, that the - that this structure may have been designed to, shall we say, manage competitive interest at the time that ICANN was started.

And it may function fairly well in that role, but whether it's ready for that broader role, and we better get there fast, I would say, I'm not so sure. Now, how you design something that works that way, I can tell you what I don't think is working better than I can come up with a better way of making it work quite frankly.

But it seems to me, more work needs to be done on transparency and declaration of interest and on fair and equitable distribution of individuals on the PDP and the gets down to that question that always comes back to the GNSO, where the heck do we get the worker bees to work on the PDPs?

And the answer to that is, people who have a vested interest show up on the PDP. And that gets us right back to the competitive problem. So I think this is going to take a lot of fresh thought and I think we really need to lock ourselves in a room, not for a month, but possibly for a couple of days and really think about change management and what needs to be done.

I think a lot of that thought has gone on very seriously and in an honest manner on the cross community working group on the IANA transition with the accountability discussions.

So the time to do this is now file that feeling is fairly fresh. I realize those who are on the CCWG might not feel that way but, anyway, that's what I have to say.

Rudi Vansnick: Thank you, Stephanie. Next in the queue is Klaus.

Klaus Stoll: Klaus for the record. I would like to come back to that last slide, so basically what are the key challenges? And for me it's fairly easy because it's - I can talk in general terms instead of specific things.

I think that we need to do is the GNSO processes and so on needs to be much more streamlined and transparent and clear. You know, as a GNSO counselor and so until you understand the process, until you have everything in there, you're basically - your term is over and so you understand what's going on.

And let alone, the outside doesn't understand exactly how the process is. We need to be more streamlined, and also the need for quicker policymaking and streamline - because the challenges the GNSO and the decisions needs a policy (decision needs) will come more and more rapid and rapid and rapid.

We need to come back. And that comes back to Stephanie's last point, where do we get the worker bees from? We need to really find to - not to pay but to compensate the people who do actually all the work.

We can't keep on waiting for somebody to find the money to do it because we're really starting to become a (unintelligible) where the people with the money can do it in the people who participate in that governance process and those who don't have the money, they're just exclude - I think that's a very that state of affairs. So these are my first suggestion for the list.

Rudi Vansnick: Thank you, Klaus. I'm not seeing any hands for the moment. I have a personal challenge. In regards to the definition that, first of all, the GNSO should have been seen as a strategic manager, while the work the GNSO council is doing is essentially policy work on the fly.

It appears that most of the cases are coming on the table and there is no strategy behind the fact that you get these cases on your table. And when you have to take a decision, what is the best solution to bring forward?

Most of the time there is no time available for any strategy to see how this can result the problem for all the partners around the table and looking into the multi-stakeholder model. It means that every but he should have a voice on what is the strategic approach of the solution that is needed for the problem in front of us?

So I would like to see if there are any thoughts on how to tackle that one so that we can, in fact, look forward, look a little bit in the future, what's going to happen to us in order to avoid that we need to do the policy work more on the fly then by having good thinking up front. Yes, Carlos.

Carlos Gutierrez: Yes, thank you very much. I just want to point out some elements that I see here in the discussion based on my very short life at ICANN. With the enlargement of the TLDs, I get a feeling that the GNSO as along agenda in very marginal policy points based on the overlap that you see here, right protection, mechanisms, subsequent rounds.

So the approach is very, very narrow and I dare to say that that's a problem. That's what policy is such a problem, because the PDPs are not in parallel. They have a time lag and so on, so there might be some repetition and there might be a feeling out there that the TLDs were all out and the GNSO is becoming too slow.

Okay, too slow in finding these marginal solutions, so that's an important part. And maybe, maybe because of that, we have a push now that since the GNSO is a little bit slow, we need more cross community working groups.

And, of course, we started producing cross community working groups before we defined the roles of the cross community working groups. They could be (the) working groups and the GNSO, the two bodies to approach. We would solve the participation issue.

But right now, the cross community working groups are another dragging stone in the speed and I speak about my own experience. We have a GNSO ccNSO working group and it's very hard.

It's even harder to work with these types of cross community working groups. So I see a possible advantage in this causing - okay, the council is strategic and the working groups for these initiatives should be more representative like cross community working group having representatives by obligation from all SOs and ACs.

And we would love these (unintelligible) of are we a strategic group or are we or are we the bees who developed the policy? I hope it's clear that this is just a note - a footnote. Thank you very much.

Tony Holmes: So just on that point, are you suggesting that the determining criteria is speed of resolving the issues because for me, the issue of cross community working groups should be a determination of who needs to be involved in what issue? If the issue is broad enough, and it's broader than GNSO, it should be the cross community working group. It isn't just (speed), so...

Carlos Gutierrez: Sorry, Tony, it's not speed. The fact that we have to deal with a huge increase in the amount of work because the (world) of TDLs boomed. It just happened to have another 1000 or 2000, plus IDNs, plus this, plus that.

It's a matter of efficiency. This was designed when the tail the world was big but divided only and 21 or 30 TLDs and so on. And right now the world has changed and I don't mean speed for the purpose of speed. But if a PDP takes two years to finish in the PDPs are really focused on two marginal issues, it looks as if it was too slow. It might be just inefficient.

Rudi Vansnick: Okay, we have Joan - no, first Mark and then Joan in the queue.

Mark McFadden: Thanks. Mark McFadden for the record. One of the questions that you asked about, Tony, was timing. And I would observe, first of all, I come from a bias

we're someone this morning very, very wisely said that 20 years later, we're working in an organizational structure that looks like the structure we had 20 years ago.

Someone said a very wisely this morning and whoever said that - it couldn't have been you, Marilyn, but anyway, someone said that. I thought that was very wise.

And one of the things that reflect on in my experience in the organization is that the GNSO faces overwhelming issues at many times in its history. It's faced dealing with the new gTLD program. It's faced the IANA transition, and these are issues that occupy the minds of the GNSO.

And I say that broadly. Not just the council, but the GNSO, but - at large, over many meetings for a long amount of time. And I ask myself, and my crystal ball is just as easy as yours - I ask myself, do we have one of those major, overwhelming issues that's coming to us and 2016 and 2017?

And I, frankly, don't see it. I don't see what is the issue that is going to be coming along that takes over multiple meetings over time. That means there might be a pause for the GNSO or the entire ICANN structure to think - to rethink about how it might evolve into something else.

And I would ask you, I would say to you, I agree with one of the comments later that putting people in a room for a couple days - maybe not a month. I think that's extreme, but maybe a couple of days, is a good thing to actually start to work out what some of the structural problems are and start to talk about what some of the answers are going to be in the future.

And I ask you, if it's true, and your crystal ball is just as hazy as mine, but if it's true that there are no overwhelming issues in the near future, and if not now, when? When will we ever come to this?

And so we don't take it by the horns, so to speak, and deal with it at a time when we do have a relative pause in our agenda, and I agree about all the comments about the marginal issues that the council deals with, then I despair that we'll ever come to deal with it.

Rudi Vansnick: Thank you, Mark. Next is Joan.

Joan Kerr: Joan for the record. I'm - just keep looking at the question - the key challenges. Sorry, I have this because I'm cold - facing ICANN. And I wonder if we could take a step back and look - and maybe rephrase the question.

What is it that we're trying to be known for rather than what the challenges are? Coming down to three, we'll have to identify many of them in order for us to say the top three are, and then what do we do about them?

I'm out there trying to do another outreach to not for profits and businesses and whatnot, and one of the things that everyone says to me 100%, is what is ICANN?

They don't even know what it is. And we're trying to solve problems within our own structure and we don't even know what the outside world once us to solve.

So maybe what we should do is we did this morning, was a - is list the challenges and then try to pick from those and try to resolve those as opposed to us coming up with three things. Just a suggestion.



Rudi Vansnick: Thank you, Joan. I have Greg in the queue and then we have Phil.

Greg Shatan: Thanks. Greg Shatan for the record. I would not think we're actually in a relative pause moment and we have (immense) amount of implementation from accountability and stewardship.

We have eight or nine reviews. We have the next subsequent rounds considerations and the like, and actually that doesn't matter because I agree with Mark - there's never a good time for this and there's always an excuse.

So, you know, we need to do is, you know, make sure that we have, you know, some minds that can wrap themselves around, you know, forward-looking, forward thinking questions and deal with them.

And I think that, you know, we - there are so many received and historical issues and problems that we deal with, and I think trying to drop as many of them and really, you know, get outside of the box, is really, you know, what we need to do. So that said, as Avri said first thing this morning, I have no thought.

Rudi Vansnick: Thank you, Greg. Next is Phil.

Phil Corwin: Hardware issues. Phil Corwin for the record. Two points I'd like to make. One, I think the important for this council and the member to make up the council to defend its power and its turf.

If we keep acquiescing to cross community working groups that get into basically policy issues for the gTLD system, and a lot of people who are not -

that's not their main focus our expertise or if it's, you know, the ccTLDs are involved, we have no say over their policies.

We need to defend - we need to improve the GNSO and the council but we need to defend its authority and not see it fritted away to other groups if we want to keep it vital. If we don't care, we can continue acquiescing and that, and presidential strategy groups and this and that, to take decisional power away from ourselves.

But I don't think that's the way we should go. I think there's a - still a good reason to have a GNSO Council in which all the stakeholder groups and constituencies come together and develop consensus policy for the generic top-level domain system.

Second, I think that certainly we want a process that reaches a conclusion, but my own experience and policymaking is that haste makes waste and if you do things too quickly, you feel to foresee foreseeable problems and you wind up creating flawed policies that have to be - that wind up taking more time to correct them and embarrass yourself.

In the interim, I - for example, we have a PDP coming up on a - and it's a perfectly suitable PDP for the council to reside over, review of all our RPMs and all TLDs.

And I don't know, (Cass) will probably address that at our next meeting. Staff has recommended what was pretty much a consensus view that it should proceed in two parts, the first focusing on the new TLD RPMs and then proceeding to review the UDRP and possibly recommend some changes.

That, just by the complexity of the issues and what's at stake, particularly with the UDRP, that's going to take some time and that's - I think everyone involved is going to say it should take time.

It should be something that's thought about it very carefully because whatever changes they live with the UDRP, with you know, works fairly well but different people have different criticisms.

But if we want to - we lived with it for almost two decades and the odds are at such a, you know, undertaking once we make any changes, if we do, will probably live with them for another decade or two, so we want to be careful and not rush forward with recommending changes before they have really been thought out carefully.

So, again, let's defend our turf and the role of the GNSO and the council in making policy for the gTLD system, and let's not make going quick the top criterion, because if you one quick, this is a democratic institution.

We should just have a dictatorship. They make decisions and implement them very quickly and they just impose them on everyone. And that's not what we want. Thank you.

Tony Holmes: Phil, on that first part, just to make it clear, I don't think there was ever any suggestion that what is pure gTLD policy should involve anyone other than the GNSO.

The issue is, I think, that there are number of things you can point to with GNSO, where they get involved in far broader issues outside of the gTLD policy box.

And I think those issues could be looked at in a different way, not everything has to channel through council. It could be through constituency levels. It could be through ACs but a broader community. But in terms of any gTLD policy, absolutely agree. That's (good) GNSO business and has to stay in that box. I totally agree with that one.

Rudi Vansnick: Next is Cheryl and then Christian.

Cheryl Miller: Thank you. I'd just offer a suggestion as we move forward with this whole thought exercise. Perhaps is helpful to kind of just start very basically and go back to what is ICANN's core mission, what are the core things we need to be accomplishing within the remit and go from there as we're trying to identify what the real challenge is our in terms of wading further out into the edges of the conversation. Thanks.

Rudi Vansnick: Christian.

Christian Dawson: So these are some core things we know about the GNSO. We know that there's a certain pe- there are certain people that definitely feel disenfranchised in the current structure.

There are people that don't feel as though they have a home. I want to reflect on the fact that we are - we can take a look at what's happening with the IANA transition and see that it's a relatively amazing action of the community, finding a way to restructure itself.

And we may want to look at that and say how are they achieving what they achieve? They're doing it by carving things up into a series of major tasks and workflows, getting people to assign themselves those workflows, ultimately and the goal of coming up with a comprehensive plan of self-reform.

I don't see any reason why we can do the same thing. It would take a lot of work and a lot of effort and a lot of leaders stepping up to take little pieces, but I think you can get it done.

Tony Holmes: Can I just go back to the issue that Avri raised earlier and asked the question, that when you look at the structure of the GNSO now, to think there is an adequate place for all the stakeholders that need to be engaged in today's model? Are there still people outside of that model who may feel that they are a community that should have some voice and its missing? Christian.\

Christian Dawson: I have no place for my data center and Edge provider constituencies that want to come be a part of ICANN. I have no place right now for my Web hosting constituencies that want to become a place in ICANN. They don't see the broad business environment as fitting their needs.

Marilyn Cade: It's Marilyn. I will - I'll support that and raise you one. I think there is also a gap in the inclusion of - and maybe some of the same people, but the parties were very concerned about SSR. And right now, we don't have a good place for them, and yet, many of the policy decisions that we are making in gTLD policy has a significant impact.

So I would say sort of the technical engineering, right now they are relegated, really, the only place that they can find a good home is that the (SFAC) and that has a limited opportunity for their full engagement.

Rudi Vansnick: Stephanie, your next in queue.

Stephanie Perrin: Thanks, Stephanie Perrin. I think what Christian just said is very important. I think one of the fundamental problems besetting us is that each one of the groups - there may be exceptions.

Maybe Greg's gang all agree on everything, but you can subdivide them into so many different groups may not feel represented in the whole, but it's a fundamental problem, and figuring out the weight.

And I think that's what gets us locked into status quo or what (Milton) calls (pass) dependency, is you're scared you're going to lose the impact that you have as an existing constituency so you don't want change, even though this model doesn't work anymore.

So somehow there has to be enough trust in the system that this will be sorted out equitably. And I think that's a major hurdle. But at least we could look at we claim to represent and figure out what the subcomponents of those groups are and how they're represented. Thanks.

Tony Holmes: Just (booting) on what you said, Stephanie, I think that's one of the issues that came to the fore when people started saying, "Don't worry about voting," because as soon as you start rejigging things, it does beg that question all the time, and that's always a barrier.

Rudi Vansnick: And continuing that and what Christian was also bring up, but I've just figured out is - and maybe it's a question we need to look into also, is do we - are we missing partners in the GNSO they need to have a voice and are valuable in the decision-taking that we're going through?

That's also kind of a strategic approach. Are you looking for partners that are missing in the game today? And do they have value to add to the policy that is actually in place and should be changed? Maybe, Christian, you have some...

Mark McFadden: I believe that there is, but the litmus test for that is, again, to what it is we have done with the IANA transition and there were strong calls for community input.

The community wasn't the ICANN community. It was the general world community. I want to hear from people that could be - have roles here around this table that don't, I want to hear why they don't.

How they could fit into - how they want to fit into the structure and why they feel that they don't. So any process that we engage in should actually have a call for community input that goes well beyond these rooms.

Rudi Vansnick: Thank you, Mark. Next is Greg and then we have Stephanie.

Greg Shatan: I think one of the things that I've been trying to puzzle out is - and I think, you know, Christian helped me kind of focused on this a little bit, is the work - the shapes are all wrong here.

And we end up leaving people have no home. We end up smooshing people together who shouldn't be in the same home. We lose voices. We homogenize voices.

We - and part of that - is in the shape is wrong and I think, you know, we have - we're in kind of quadrants or silos or, you know, the groups. I'm thinking more perhaps - and go with me here for second. Maybe this is going nowhere.

Almost more like brings, concentric circles, kind of in the center ring, to a sense, are the contracted parties who are, you know, directly engaged with ICANN and the DNS.

And then a ring around that is kind of both the ISPCP group and some of the other constituencies that Christian mentioned as well for kind of engaged with the infrastructure kind of on the DNS who are kind of, you know, layers between users and registrants and the DNS itself.

And then the ring around that is kind of, you know, just the schmucks on the outside who are, you know, representing interests and have to deal with this whole - with the rings in between.

So we've got users and registrants and IP owners and content creators and distributors and we've got academics and we have, you know, other people and I'm just - I don't know who else is - you know, the third ring is kind of fuzzy.

I don't know if it's more than one ring itself, but it kind of - as I see it, we're losing pieces and we're - and the problem when people don't have a home, is they don't show up.

So - and the problem is when people look at their home and it's not inviting to them, they don't show up or they don't stay. So, you know, we're missing out on all kinds of stuff.

But part of it is because we - you know, this goes back to a point - maybe it was Heather. It doesn't matter. Ideas are free. They're not own in this room, at least.



But, of course, tangible expressions of those ideas are when fixed in a tangible (format). Anyway, the point is, we're going on a very old model and it really needs to be reimagined.

You know, it's - cars used to look like horse-drawn carriages. They don't anymore for good reason. So let's rethink this whole thing in the shape we can put ourselves in. Thanks.

Rudi Vansnick: Thank you, Greg. Stephanie.

Stephanie Perrin: Yes, I just wanted to raise the point that, to some of us, keeping ICANN very clearly within its remit and out of content is extremely important - to others, maybe less important.

But that - because there is no other form, I'm discounting the IGS as a talk forum that has no real impact, the result is that there are folks showing up at ICANN expecting them to do things that they cannot do.

I think that that is an issue that we have to keep in mind as we look at the new structure and make sure that we, first and foremost, agree on what the remit of ICANN is. Thanks.

Rudi Vansnick: Thank you, Stephanie. I have Christian. I have Simon, then Pete.

Christian Dawson: A lot of those groups that want to keep ICANN out of the realm of content are the same types of intermediaries that I can't find a home for. And so basically I wanted to say I guess I completely agree, Greg, with your point.

The way that would phrase it, however, is that we are in (in an acronym). I think we may be a perfect image of how the Internet 15 years ago but we haven't evolved to reflect the components of the ecosystem that exist today.

And what we need is a comprehensive look at what the ecosystem is, the players are, and what buckets people should fall into. That is going to be a very hard process.

But I do recommend that we start the process internally of going ahead and doing that, and probably start a process of having our own internal reform on a regular basis because we'll fall into this again in the next ten years. The Internet changes too rapidly.

Rudi Vansnick: I fully agree, Christian. Next is Sam.

Sam Lanfranco: Thank you, Rudi. Sam, for the record. I had one point but I now have to based on the last comments and that's with regard to the remit of ICANN. Even moving a millimeter into content with force ICANN to have to completely rethink all the multi-stakeholder model relates to national governments.

That's all I'll say about that, but you can think about that on your own later. There's no - you cannot move in that area without confronting that problem. But that's not the point I wanted to make.

The point that wanted to make was, a response to the question of what problems do we have is we try to move sort of the ICANN machine forward. And I'm going to do like Greg. I'm going to use some similes here, I guess.

I think in terms of Fort ICANN, ICANN as a fortress, okay. It's a multi-stakeholder fortress in the problem with what I do in the not-for-profit civil

society, those constituencies that aren't Internet society chapters and so forth, is that, on those walls of ICANN, there aren't very many bricks and mortar is in very strong.

And what worries me there is that you've got an ICANN that's got some planks that are extremely weak, should the time comes, when it has to defend, not just (what its remit) is but it's great to be the institution that administers that remit.

So in other models, I say that ICANN is like a body with some very weak links, those legs being on certain sides. And I'm just talking about the not-for-profit, non - and civil society (sites).

So - and that's where I and some of my colleagues put a lot of our time, is trying to shore up that side of the multi-stakeholder model here. But at the same time, I worry that, if you're going to be attacked, you get attacked on your weak flank.

Rudi Vansnick: Thank you, Sam. Steve, your next and then Cheryl.

Steve DelBianco: Thank you. To the discussion about ICANN's remit an undertaking the exercise of finding a way to articulate it so that it is limited, we began that 14 months ago. It was one of the primary tasks of the CCWG for accountability.

I can summarize for you in two sentences where we are on that. It's called Recommendation 5 and the CCWG, and each of us will have the opportunity to review it as our (chartering or) the GNSO will review that final supplemental sometime in the next two weeks.

So the first sentence was we tried to tightly confine ICANN by saying that ICANN shall not impose regulations on services that use the Internet's unique identifiers or the contents that such services carrier provide.

So, (staff), this is what you're talking about. So this is work that's 14 months old but it's continually balance against the next sentence - ICANN shall have the ability to negotiate, enter into and enforce agreements with contracted parties in furtherance of its mission.

So where they clash is in the new gTLD program. Many TLD registry operators voluntarily said that their - voluntarily said that they would restrict content and registrants in their TLD, dot bank, for instance.

And other community TLD applicants purposely said they would restrict the registrants to only be bona fide members of that community. Now, when those promises were made, in order to overcome objections from governments, objections from rates owners and to beat their competitors for the same string, well, those promises are in the registry agreement.

So whose job is it to enforce the registry agreement? It's ICANN's job. So there are, in fact, some residual content restrictions baked into registry contracts. ICANN didn't put them there. Their registries did.

Some of them, because the governments insisted that if they didn't do it in certain places, they would object. So given that they live there, I moved to the third elements of this discussion which is - it's a terrible phrase, but grandfathering, being sure that we grandfather any of the registry agreements that have been made that include those kinds of restrictions, that ICANN will continue to be able to enforce them.

So please pay attention to that, those of you who were asking about remit. And I don't think it's appropriate to open a new cross community working group on remit.

We're 14 months into it in two weeks away from GNSO approving Recommendation 5. So let's focus our efforts there rather than take that into a new discussion thread.

Rudi Vansnick: Thank you, Steve. Cheryl, you're next.

Cheryl Miller: Thank you. I agree with Steve on that point, I don't think that we need to necessarily open up a new group. And I think the discussion regarding me that is actually very important.

I think it's good that we're having it. Every reorganization has to have a main purpose, right. We all start off that way. If my organization, for example, started to focus on selling oranges instead of focusing on some of the things that we focus on every day, I think some of our customers would be quite upset.

And I just use that - I don't know that's a very good analogy, but I throw it out there as an analogy. I think with respect to looking at ICANN, it's important not to think of ICANN as you can to fill a job in other areas where there's a perceived gap, whether real or perceived.

In this multi-stakeholder environment, have a tendency, those of us who we're if enhance, to sort of bleed the different issues and overlaps into some of the other venues.

And I'm not sure that's exactly appropriate, but I certainly don't think that we should be looking at this as what does ICANN need to be doing that other organizations perhaps are not doing or that we're unhappy with?

The ecosystem itself, it's still growing and I do believe that there will likely be new organizations and there will be new processes that develop as we move forward and we identify new and emerging issues. So thank you.

Rudi Vansnick: Thank you, Cheryl. Next is Kiran and then Stephanie and then Christian and Jimson.

Kiran Milancharuvil: Hi. Thanks. This is Kiran. I agree with Cheryl very much that the discussion about ICANN's remit is important and I'm glad - I echo her statement and I'm glad that we're having this discussion here.

I will say I'm really concerned about the sort of hyperbolic and alarmist language they get to use around the discussion about content in remit. I think - I always - I said this a lot before and I'll say it again here, that I think it's kind of disingenuous to say that ICANN has never had anything to do with content ever, ever in any of its policies.

We have things like the UDRP. We have things like the (ERS). We have the trademark clearinghouse. We have all these things that actually require us to look at use of the Web site before we can make a determination about the domain name and who owns it and has a right to it?

And I think it would be ridiculous to say that ICANN needs to go back and not be the administrator of any of those processes because somehow they've got their finger in content and that's going to make the sky fall.

We had those policies in place since ICANN was around, or at least, you know, certainly since I've been aware, and in the past history. So, you know, it hasn't changed the structure of ICANN. It hasn't changed government influence.

It hasn't changed authority or anything, and I think that it's disingenuous to say otherwise. So it's become in our discussion about ICANN's remit and let's do real and let's look at where we are, and just kind of decide where to go forward without being so, like, freak out about it I guess.

As far as the silos are concerned, there were a lot of conversations about, you know, silos in the GNSO and I listened to what Christian was saying about this and I thought it was really interesting.

I don't necessarily think the problem is that the way that ICANN and the GNSO, the structure doesn't mirror with the Internet looks like today. I think it kind of does but what - the problem, really, is that there seems to be this sentiment that you can only be in (one).

And that's the problem, is that, we're all over the place now and we all have - like, so for example, (Mark Monitor) has representatives in the registrars constituency, the business constituency and then I represent our interest in the intellectual property constituency because of the unique parts of our business.

And, like, we're sort of internally siloed and so then we're externally sort of all over the place. And so, I guess, I would like to see the sentiment around constituency and stakeholder engagement change more than I necessarily to see the structure changed.

The whole turf war thing, which I guess is what this comes down to, is problematic. The idea that, like, oh, you're in the registrars and the registries because vertical integration happen and that's problematic because you're, you know, working both sides for the middle or you're - like, where is your real identity?

Well, the fact of the matter is, we have become diverse and how we participate in this process and so we should be able to be allowed to participate in all the different areas that affect our interest in the subject matter.

And so I guess, again, it's sort of a question of attitude and perception and optics than the actual structure itself. So I don't know, I just think a lot of these issues have - you know, could be solved by people just sort of getting over the old ways of, you know, me versus you, versus them. Thanks.

Rudi Vansnick: Thank you, Kiran. Stephanie, you're next.

Stephanie Perrin: Yes, hi. Stephanie Perrin for the record and perhaps I should respond to Kiran's suggestion that we stay calm about content. I was actually going to respond to Steve's remarks about content.

It seems to me that there's a very clear distinction between what a name implies and what a trademark implies and then getting into what is going on, on a Web site.

And it seems pretty clear to me that we're marching down that road. Possibly I'm listening to the law enforcement folks little too much, but it seems to me we're heading down that road.



The issue of the restrictions in the new gTLDs, I don't see an alternative if you're going to license something called -- I don't know -- dot attorney or dot bank. But it does get us into that very difficult realm and while I appreciate the work that has gone on for the last 14 months, that line you've got to walk between those two clauses is going to be very, very difficult.

And that's why I think you don't want to crack open the discussion that has gone on over the last 14 months. We need to develop it further because certainly, as someone who's foolish enough to embark on the RDS working group that promises to go on for the next several years, that issue is going to come up.

And it would be good to know what the GNSO's view on the matter is. And it will be good to make sure that we at least acknowledge the differences if we don't agree, because I think this is critical. Otherwise, ICANN is going to turn into one-stop shopping for law enforcement for - globally, and I don't think that is its role. Thanks.

Rudi Vansnick: Thank you Stephanie. Next is Jimson.

Jimson Olufuye: Thank you Rudi. Well you just really got to the future of ICANN staff and I think ICANN is a unique organization, very much like maybe the busy corporate setting we have.

ICANN is for basically global benefits and purpose. In our search if relevance is increasing and we will recognize that. It's critically important, it's increasing day by day.

So in that respect we need to have a very broad mind about ICANN because there have been a lot of saying okay let us focus on just the key things. What

we do yes is important we can have that major but at same time you can also have a minor.

So and it's a question of harmonizing and balancing your remit that you have your purpose in the unfolding scenarios, ecosystem. So I want to say that concerning the future many of us that are involved in other areas like the IGS, like the CSGD or like (unintelligible) enhance corporation we need to take all these areas very seriously because they have a way that it impacts on the ICANN going for what it sells.

So ICANN need to have that mindset, all of us need to have that mindset. We need to focus on the call at the same time embrace the minor and note that ICANN really now continues to evolve down the line.

And secondly, I feel strongly that once an entity enters into an agreement that entity must have a kind of a mechanism to enforce that agreement. So I don't know has that been any - this is the question now has that been any form of say prosecution from ICANN side we got to implementing the agreement so far and of the agreement signed.

Has that been any case study where ICANN has implemented or enforced some say violation of part of agreement? But it's very important to implement and to enforce. Very important otherwise there is no point to enter an agreement.

And finally Steve DelBianco talked about the needs, you know, he call it the major issues. The major thing to delve into that so you want to restructure. Yes we need to restructure maybe with respect to what we have in our hands now it might not be the best time to really go deep into that.

So yes we can note all this and then have it be on our mind. But the key issue before us the accountability and the transition. So that's where I will stop now. Thank you.

Rudi Vansnick: Thank you Jimson. Next is Christian then I have Johan and then Greg.

Christian Dawson: So ever since I showed up at ICANN I've heard a lot of people talking about concerns about board accountability. And the IANA transition was an opportunity for people to get certain things on their laundry list completed.

People have also been talking about problems with GNSO structure since as long as I've been here. What I'm actually - what I'm talking about is using this as an opportunity for cascading work.

I would like to see a GNSO reform structure working group or however we want to position this come together that would try to address a number of different questions.

Kiran came up with a question of whether people should be able to be in multiple constituencies. I could probably write 20 more on the wall from things that I've talked to people about over the years and we could walk through a whole bunch of different things and get to a series of recommendations.

I would make one of the recommendations that we align our scope talks with the work of the CCWG. Of course that's something that would need to be approved by a group once a group was put together but it seems to make sense to me to make this aligned and cascading work.

We took the time to make sure that we did a really good job, or we're doing a very good job on an effort to reform the overall ICANN structure. Now it's time to do the same thing for the GNSO structure, it's only fair and it's a good opportunity to do it in a cascading way.

Rudi Vansnick: Thank you Christian. Johan.

Johan Helsingius: Johan for the recording. I have two separate parts to my comment. Well I have a comment and a question. My comment is that actually when I started with the GNSO I actually got into the habit of always keeping on my laptop a Web page open with the mission statement of ICANN in front of me and I find it increasingly useful to have it.

But I also have a question and this is prompted by Stephanie's comment and about how we kind of been drifted into the content space by having to make decisions about the domains that are restricted in somehow in their use or something.

My question there is to the intellectual property people because I don't know that field well enough is are there any other organizations we could actually point to for that and actually wash our hands from that problem?

Rudi Vansnick: Thank you Johan. I have - you want to respond Stephanie first?

Stephanie Perrin: Well it's related if you don't mind my jumping in here. Stephanie Perrin for the record. I think one of the problems here is once having embarked on this the question is who is going to enforce it.

And ICANN should not be an enforcement agency. I have constitutional rights that we have fought hard for over the years in my country and that includes due process.

And we have mutual legal assistance treaties that don't work well but that is the responsibility of governments to - I can't resist it I'm sorry, get off their butts and get these things to work.

Not download them on a multi-stakeholder organization where my constitutional rights go out the window. So I mean let's have a dialogue with GAC that is meaningful and say, pull up your socks and get working on your cybercrime treaty and whatever else you need to do to come up with mutual legal assistance treaties.

And if there are nation states where these things are not enforceable because they haven't passed laws then start using your trade sanctions to get them to pass laws because we are now in an age when everything is on the Internet and you can't bring your problems to ICANN to solve. Thank you.

Rudi Vansnick: Thank you Stephanie. Greg.

Greg Shatan: It's very interesting how we've meandered into content maybe a day earlier than our third rail panel. I find it odd to think that that's the biggest issue that's facing ICANN.

Maybe it's the biggest issue. I noted the clapping seemed rather non - or rather part of them. But it's - and I don't know where - if we want to spend the rest of this having a content discussion and talking about, you know, what it is that we're really talking about and what we're not in terms of conduct versus content and other issues.

And whether, you know, there is due process or lack thereof. I think, you know, we spent a lot of time in the accountability group talking about this. There are other groups that will be talking about it as well but whether that is a question for how ICANN should operate and how it should be structured, you know, then that gets into, you know, something that really troubles me which is, does how ICANN gets shaped or reshaped, reshape how that discussion takes place.

In which case then the whole shape of ICANN becomes extremely politicized. And that gets really dangerous when you start shaping an organization to one end or another or to one type of, you know, potential result in a set of conversations versus another and that results in entrenchment and in kind of all sorts of other battles.

Now there are - a shared discussion that can be had as opposed to a polarized discussion about, you know, the proper role of ICANN and of different stakeholders and what takes place in ICANN, what takes place around ICANN, what takes place elsewhere.

I think the short answer to Johan's question is no there is no other place. If you want to give it all to WIPO and see how much power to give WIPO. You know, there is an advantage here that is precisely because we are a multi-stakeholder organization.

If we want to turn this into a government problem then I think that's possibly the worst decision we could make. You know, I think that it's a complex question. It's not necessarily the question - it's the question we've evolved into and I'm not going to just sit and watch the conversation without joining it.

But at the same time I think the fact that it can be had in a multi-stakeholder place where, you know, governments are stakeholders and can be held to account and brought to discussion but at the same time where the stakeholders can have a voice that is not just through their government is I think a better place to have it than a lot of other places.

Just like democracy is the worst form of government except all the other ones. This may be the worst place to have the conversation except all the other ones. If we can come up with a better place for it that has the advantages for all the parties involved in it not just those with certain points of view that's an interesting future discussion.

That probably involves, you know, that's even beyond the future of ICANN. That's kind of a big Internet governance question. I don't think it's the big Internet governance question but for some people it is and maybe for some in my constituency it is and others.

But I think, you know, we may need to get this back on the track it was supposed to be on but I'll just close by saying that I think we have actually, you know, opportunities here to talk about this.

But the idea that the first thing we should do is stop, is find a way to stop talking about it is not going to solve it because it's going to actually I think result in a lot of negative stuff happening in response to it.

So I, you know, just that's kind of my view but I was actually interested in the other things I thought we'd be talking about at this time but it's just interesting how this has drifted to this point, thanks.

Rudi Vansnick: Thank you Greg. I have next Phil.

Phil Corwin: A few random - Phil Corwin - a few random thoughts on things I have heard over the last 20 minutes. One, ICANN is not a government agency, it's not a regulator.

It has no authority over anybody in this room. It would have authority over a similar meeting of the contracted parties' house because it has a contractual relationship and both sides in the contract have rights of enforcement. You know, that ICANN is obligated to do certain things as part of those contracts particularly maintaining a stable and secure DNS and the contracted parties have certain obligations.

Second I don't - I'm going to put aside - I don't want to get into the whole issue of to which parties registrars have to respond short of an official court order or subpoena for information requiring them to do something. That's a separate discussion.

But so far as registries go I don't see if a - the point of the new gTLD program is to encourage innovation that can improve the DNS and bring new competition and new models.

And if an organization has gotten, you know, to be the registry operator for community TLD then they ought to restrict the use of the TLD to registrants who are from the community. That's what they obligated themselves to do in the contract.

I don't see enforcing the dot bank registry agreement which since it was intended to create a trusted space for financial institutions that would be undermined if they started letting anybody register a dot bank domain.



So I don't see that as - it's not regulating the content of the Web sites that the financial institution - it's just regulating who can be a registrant. Finally for all this talk about enforcement let's admit that ICANN's enforcement one, doesn't do a very vigorous job of enforcement in the registrar area.

There may be exceptions but almost every enforcement action I've ever seen against a registrar is because they were in arrears on their fees to ICANN. They owed money to ICANN.

It's hard to think of other examples where registrars have been de-accredited and all the domains under their control moved to another registrar. There may be an example but I'm not aware of it.

With registries the one primary example where ICANN took a tough stance was a decade ago the confrontation with VeriSign over dot com where they alleged that VeriSign was in breach with their registry agreement and threatened to put it out for competitive rebid which was an event that actually got me into this whole space.

And it wound up being settled out of court with a heavily criticized contract at the time. Criticized by all kinds of parties including major registrars as a sweetheart deal and that yet that became the model for the new TLD registry agreement.

And the right of presumptive renewal that's in there combined with the steps you have to go through before you can put it out for competitive rebid make it so that a registry if they don't go broke they really have to want to lose their registry agreement to have it put out for rebid because you can be charged with ICANN with material breach not just a breach but a material breach.

And ICANN can say cure the breach and you can say now I don't think I did and I'm not going to. And then ICANN can take you to arbitration or to court. And if you lose you don't lose your registry.

Then at that point you say I guess I did breach it now I'm going to cure it and I get to keep my contract. So it's really difficult to even if ICANN was a vigorous enforcer of the registry contracts and this is the situation we all approved with the new TLD applicant guidebook.

It's really hard for a registry to - it's like the analog would be our enforcement mechanism for accountability is threatened removal of board members. Well ICANN's ultimate enforcement tool for registry agreements is threat of competitive rebid and yet it's very difficult to ever get to the point where they could do that.

So let's put this in a real world context of that the enforcement power when you really dive deep and look at how it's exercised isn't that strong and takes an awfully long time between the date of the alleged breach and when you would ever get to something that would threaten the operator's control of the registry. Thank you.

Tony Holmes: This has been a really interesting conversation. I think we've gone down a bit of a rat hole at times but nevertheless it has been important. I think some of it's hitting on the third round stuff that Greg alluded to and I'm sure we'll pick up on some of that.

So what I'd - we'll take the comments from people who have indicated already to speak but after that I'd very much like to get back on the issue of the GNSO futures and the issue around restructuring as we're heading towards the end of this session.

So unless you're going to come back on those issues can you just pause until we get there and we'll go around the table and finish those that have got comments now?

Sam you were next in the queue do you want to...

Sam Lanfanco: No I'm going to pause. We're tired and we've hit - we've come at this at too many angles in the last 30 minutes for anything to very coherent at this point.

Rudi Vansnick: Thank you Sam. Christian.

Christian Dawson: Can I - I will actually take the opportunity to make one more comment and I am being a broken record but I don't care because this is important. For the purposes of this conversation I do not care about ICANN's remit and I don't think anybody else should either.

I have spent hundreds of hours just monitoring the work of the CCWG and I don't think we're going to get anywhere trying to rehash all this stuff in this room.

Everybody here comes in here with a different perspective and thinks that their viewpoint is very important. I do too and they want to see more of that reflected in the ICANN community.

What I strongly believe we need to take away from this is that remit is going to be - should be one important track on a GNSO driven, GNSO reformed effort that takes a look at all the big picture questions, carves them up and tries to drive towards a comprehensive set of reform recommendations.

I think structure is what we need to be talking about and not anything specific like remit.

Rudi Vansnick: Thank you Christian. I'm picking up on that one I think it's time now to go back to what we have on our slide here and looking to what are the key challenges based on the GNSO review report that we have in front of us.

And as Christian was mentioning that maybe we need a kind of reform working group that would look into these three key challenges that we need to tackle in the coming months in order to adopt the review of the GNSO as it is on the table today.

So maybe it's time to go around the table and have a look at what are the challenges. Avri.

Marilyn Cade: Thank you. So the question says what are the three key challenges facing ICANN as opposed to the GNSO and I'm going to comment about one of the key challenges that I think faces ICANN the community as opposed to ICANN the staff.

I think that we have to be very pragmatic and open minded in understanding what happened in New York in December related to - and earlier in the year both at the (Adasubaba) Financing for D Conference and at the SGG summit about commitments that were taken that a lot of time was spent by governments about the importance of achieving an information society for all following the commitments of the (Wissa) summit.

And I am not suggesting that that is in ICANN's remit but that we are in a larger ecosystem where viewed recognition about the importance of connecting the under connected and the unconnected.

And without addressing the specifics of does that mean we reorganize ourselves. I'm not suggesting we change anything about ICANN's mission but that we understand that there is a much more significant focus a new awareness about the importance of being connected via the Internet and the worldwide Web as basic core infrastructure, critical infrastructure.

And that does have implications for ICANN because when you are connecting 4 billion people and you add another billion you're also connecting a lot of people who are relatively unsophisticated as users and there is going to be a lot more stress put on the unique identifiers and on the underlying infrastructure.

So one of the key challenges I think is going to be how does ICANN maintain its identity, its purpose, its focus while there is a lot of changes going on around it and how do we do this with the fact we have a new CEO coming in and always when that happens in an organization there will be a certain amount of organizational change.

Rudi Vansnick: Anybody else?

Tony Holmes: Okay so I'd kind of like to draw us back to where we were going with this at one stage because one of the opportunities we have from an intercessional or the fact that we come together as a house which we never get to do effectively in an ICANN meeting is to send some key messages out of those meetings.

We did that last time and I think we should look to do it this time. So I would just like to throw out there the key question of really where this started. And one of those elements was are we collectively at a stage where we would

support a call for a structural review because most people around this table had real problems that that wasn't accommodated in the GNSO review.

And if we're going to do that is it purely in terms of a GNSO structural review or is it broader than that and could we get to where most of us would want to go purely from a GNSO perspective because if there is a collective desire to do that it's at these intercessional meetings where you can get some drive to actually take that forward.

So that's the question I'd ask to start with and a follow-up question if it was the case that it seems to be where we want to drive at is the time right to do it now? And we've had conflicting views on that.

Mark was saying there is never a good time. I think Greg said the same thing there is never a good time to do it. Others suggested maybe it's not a good time.

And if it's not a good time I'd like really to understand a little bit more of why it isn't a good time and when they envisage a good time would be. But the question is are we at that stage where to overcome some of the barriers that we have taking account that this is a view from one house that house is made up in a far more complex manner than the other house.

Most of these as we I think agreed were really vehicles for voting. Are we at the stage where we should say this isn't working for us we need to stand back and look at it and if so look at it purely in the context of a GNSO or on a much more broader front which really heads towards I think the question that a number of people highlighted which is how does ICANN look today to meet the needs of its constituent parties compared with a structure that was formed when ICANN began and has barely changed to any degree.

So that's the key question. Are we at that stage where we want to send that message maybe in the form of a communique and how it's taken forward we haven't even really discussed that. There's been some mention of working groups or working group forum.

But are we at that stage where we all are on that same page or is there a view that the issues that we're currently dealing with are so great we should just park this for now. Where are we what is the feeling around the room on that one?

Klaus Stoll: Tony, Klaus for the record, Klaus Stoll for the record. I think this question we actually have no choice. We have to do it because we have a choice between either we do it now and we have control over it or we are in a situation where we're getting to the point where nothing works anymore and we lose control over the process.

So this my answer is I don't think we have another choice. And the other question is, is this an opportune moment or not. Yes there are a lot of arguments against it but on the other hand with work stream two and all that stuff coming up it is a good moment.

I think just now to start with this thing and to start thinking because these things affecting on so many different levels and so many different areas that it's better to tackle it all at once instead of doing one building site and then opening another then opening another. Let's have the building site all together please.

Rudi Vansnick: Thank you Klaus. Anyone else? Greg.

Greg Shatan: I think is we wanted to answer the question you asked about, you know, what this - whether this is working to my mind on the one hand the non-contract party house commercial stakeholder group none of these things really work.

But I don't think we could kind of issue a communique based just on the amount of work we've put in here. I think we could say that they raise serious questions and we need a method for dealing with them and the GNSO review clearly offered us nothing in that regard.

And that, you know, there needs to be a path forward and a path forward now rather than later because the alternative is to see how much better we can make the current structure work for us but it's always going to be a set of round pegs and square holes in my mind.

Maybe we can do better. There's kind of two separate tracks to my mind is how do we use the current structure better and work in it better and the other is, you know, how quickly can we get rid of it.

You know, for the latter I don't think we can come up with a statement other than saying the sooner the better and a path and appropriate support from ICANN and maybe all of that auction proceed money or whatever it is so that we can, you know, see if there is a better governance model for the GNSO and if the GNSO itself is a good governance model as such.

And an entirely separate question which we haven't spent too much time on is, you know, is there a way without changing of the structural stuff that the non-contracted parties house can be more sensible, more useful, you know, hopefully we can at least accomplish the basics of being able to appoint a vice chair and a - and choose a board member better.



But beyond that I'm not sure what we even necessarily want to accomplish although I've always, you know, one last thing is that, you know, if the non-contracted parties house can be more united we can be more powerful in dealing with the contracted parties.

And the setup of an easily aligned house versus a house divided is always going to leave both of our stakeholder groups and all of our constituencies in a weakened position in governance.

So it's to none of our benefits really to kind of live in the current version of the version we have. So I think in the short-term we need to work on a better version of what we have and in the long-term we need to work on a complete remix or remake of this into something different.

But, you know, I'd - one thing we could have focused on earlier is, you know, what are - do we have joint objectives that we want to try to accomplish and can we identify them and see if they can be achieved, you know, in this structure.

Maybe the answer is there are no joint objectives. I'm just - I tend to think that's not the case but we still haven't I don't think really identified them other than not letting the contracted parties kind of walk all over us and to the extent that they do.

I'm not saying it always happens and sometimes we all have things in mind, you know, together but to the extent that the people united will never be defeated we're certainly not united and it certainly makes it easy to defeat us. Thanks.

Tony Holmes: Just a couple of points Greg before we leave that. I'm not sure what you mean by a short-term solution and a long-term solution. I mean long-term to me can be out there in the mixed forever.

So I'm not quite sure how that fits together but the issue I have with the way you phrased that was - and I think quite rightly the board when you give them messages like that they quite rightly say what are you proposing to do about it.

And for us to say well we've got no idea means nothing ever goes anywhere. So if we're going to say that we have problems we have to give them some indication as to how we think they should be addressed or we're just wasting our time we shouldn't even raise it. I don't know whether you want to respond back to that.

Greg Shatan: Well I'd say, you know, short-term versus long-term I'd say short-term is not changing the overall structure of the stakeholder groups constituencies and non-contracted parties house but making it more functional.

And the long-term solution is replacing it by something, you know, largely or completely different. And so that's the kind of split that I'm talking about and, you know, I do agree that saying you have a problem and not coming up with any kind of a solution, you know, is really not constructive.

Rudi Vansnick: Thank you Greg. I have Christian, Matthew and Stephanie.

Christian Dawson: Well that to me sounds like a work stream one and a work stream two issue right there. I don't think anybody will be surprised to hear that I believe that we should call for a working group on this issue.

However I think that it's actually getting to the right scope that we can all get behind is working group effort in and of itself. But I do propose that there are probably enough people in this room that do have ideas of things that want to change that want clarity that we could put together a small group to outline a structure to float by the leaders of the different constituencies and work within their own constituencies to try and get behind something that the entire community can eventually get to the point where they are comfortable moving forward as a formal recommendation.

And I'm happy to be one of those people to just sort of put some ideas on paper to try and get to the leader of the constituencies.

Rudi Vansnick: Thank you Christian. Matthew.

Matthew Shears: So this has been a really interesting discussion for me. I mean I've been following the review on the periphery and I've lived through as a part of our NCUC NCSG the pain and the anguish of the review process in terms of what the questions were, who were approached, what the findings were and everything else.

And then listening and walking through these incredibly useful slides in terms of the outputs of the review and then the questions the three slides' questions that you asked.

And what becomes very, very clear is that unless we as a community take some responsibility for our future and determining what it is we will have another review, another Westlake approach and we'll have the board dictating to us what that future should be.

So I really don't think we have any alternative. Now as to the scope I think that's a different matter for discussion but I certainly would support

Christian's suggestion that we need some form of ad hoc group that can take this discussion forward so that we start to get a little better handle on the houses future. Thanks.

Rudi Vansnick: Thank you Matthew and if I understand you well in fact one of the challenges you are highlighting is avoid another Westlake review. Stephanie.

Stephanie Perrin: I think clearly one of the challenges that face us and in answer to your last question is figuring out how to move forward without looking like we don't have a clue how to move forward.  
And it doesn't seem to me that we have that clue yet. I agree with the working group. I - unfortunately you're going to have to put up with me volunteering to join it and talking about remits so brace yourself.

But I would be loath to have you issue any kind of a communique saying because it's pretty obvious we don't have a clue. So let's try and keep a low profile for the moment until we have something substantive to contribute.  
Thanks.

Rudi Vansnick: Thank you Stephanie. I don't see any hands - Marilyn.

Marilyn Cade: Thank you, Marilyn Cade. I have a clarifying question. I think there is a difference between including in the communique the fact that there were extensive discussions and concerns were - that were identified in a previous intercessional continued and were even elaborated on as opposed to keeping a low profile.

I'm not interested in keeping a low profile. I would like us to - I am with Christian that I think it's time to at least look at whether this car needs eight tires instead of four.

I was there when the original design of ICANN was the best we could do based on the international forum for the white paper and again it was the best we could do.

We - some of the people in this room Mark, Tony, others know that we really struggled with how to create the GNSO policy council, how to create constituencies.

But we've come a long way and I think we - it does behoove us to look at whether we want to propose some changes to the structure. And I don't think we need to make it a - I don't want to be in a position of criticizing any particular supplier.

That puts me in an uncomfortable position and I would prefer we instead think about if there are enough people who are willing to spend a few hours on a couple of conference calls with at least coming up with scoping questions then I still think that would be worthwhile to do.

Rudi Vansnick: Thank you Marilyn. What I've heard most of the time is mission of ICANN and it looks like we are questioning ourselves if we are fulfilling the mission of ICANN somehow.

And that's where I would like to point and bring in maybe a view from somebody that is part of our group, our house and is sitting at another table. It's Markus. Markus who is on the board, what do you think should be or could be a challenge for the GNSO?

Markus Kummer: Well a little bit along the lines of what Marilyn has said I mean the - ICANN really was set up to a large extent American and the Internet has grown and

has changed and the new users of the Internet they come from the southern part of the world and from developing countries.

They have different languages, they have different cultural background so that fundamentally will change the environment. And ICANN as an organization is trying to globalize and to have offices all over the world but when you look at the various structures and the leading figures it is not yet as global as to reflect the global - (globality) of Internet users and I think that will remain a challenge.

But I listen to this quite interesting discussion and I think it's going the right way. If you start the bottom up process of looking at how better to organize you and that can be faced there are some small changes that can be implemented relatively easy and then there is a long-term the work stream two changes and how to have new structure and how that's also looking at ICANN 2.0.

I mean ICANN will be different after the transition. So the GNSO also is appropriate as Christian said to adapt itself to the new ICANN and I think that would be well received by the board but clearly you have to initiate the first steps.

Tony Holmes: Thank you Markus. I think that's a sound way of putting it as well that we'll look to make the GNSO effective in whatever way we can and look towards ICANN 2.0 which probably means a broader study than just GNSO.

And I'd like to thank Matthew as well because I think the point here articulated was a concern I've had all the way through that my fear has been that we will tinker around the edges.

There are some recommendations which have come out of the Westlake review. We'll discuss them in GNSO and they'll be put forward to implement those.

But I've never felt that they tackled or looked to resolve the bigger problems that we have. And that isn't going to resolve all of the concerns that we have but I do believe it's in our own hands.

And I think it is appropriate that we did make the call as a house for setting up a working group. It will be a good exercise because we've never done this before.

So it's the first time we would have come together to address an issue like this and it's a pretty difficult complex one with many sides to it and I think that's come out of the discussion that we've had.

But I am hearing that there is support to do that. I would suggest that we look to form that group. I heard Christian say that he'd be willing to help maybe put a slate on the table that we can use to kick off the discussion around the mission and where we go with that and that's got to be the first step looking at the remit for any group.

In terms of a communique. I do think it's helpful to tell people outside that we've had a lot of discussions as Marilyn said a lot of debate around this. We recognize there's a problem.

And as Markus said, we're going to try and tackle that in a bottom up manner and do something for ourselves to see how far we get. The success of that group it will be interesting to see.

But it's the first time we would have launched anything like this and I believe it's timely. So really just a last call I want to make sure that nobody is vehemently opposed to that and if they are I'd like to understand why because I think out of this discussion if nothing else the need to actually get underneath some of these issues is clearly there.

Okay so can I make a call for any closing remarks from anybody if we look to engage in that manner and as an output from this station take that as a way forward that we can start to explore how we can tackle this as a house?

Rudi Vansnick: Perhaps an additional question. Do we plan to have a first working group meeting in Marrakech so that we don't leave it too far away? It's - I know it's just a month from today but I consider that based on what we heard for the last almost two hours there is a need for continuous work and not just drop it on the table again when we leave Las Angeles.

Maybe we need to put it on the agenda and that means that we have to talk to the meeting team to find a way of getting us in a room and in a time slot that we could all have time to sit together and really start up what we have been kicking off today.

Rudi Vansnick: Christian do you have a comment?

Christian Dawson: Obviously I don't think we're going to have a working group by then but if a group volunteers to sort of draft up what they think should be the scope it could be a good place to have a meeting to talk about what they came up with and get community feedback.

Tony Holmes: I think that's an excellent suggestion because in the past quite often at ICANN meetings we don't even meet as a house. And having been involved in some



of the discussion around that it very often comes back to well what do we need to talk about as a house. We've clearly got something now that we do need to talk about.

So it will be a challenge I think scheduling that but we should certainly do that. And maybe for our mailing list we should send out a call for people who want to engage in that initial discussion that you referred to Christian so that we can actually then go into the meeting in Marrakech with something that's come out of a group activity to recognize that.

Even if we haven't got agreement on it we'll know the issues that we need to discuss further there. So I think that would be a good way forward.

Rudi Vansnick: Perhaps we could limit that to two topics that we want to address in Marrakech and see if then see if there are others that are coming up later on. The two that we really think are more urgent than others to take up before we are going to Panama because tomorrow we will have a session on how we are going to do the work of six and seven days in four days that's another issue.

So I think it's important that in Marrakech we are able or we're going to be able to launch that working group officially in a way that it makes progress before the IANA transition is fully operational because that's where probably most of the changes are going to impact us and we need to be prepared.

Tony Holmes: So I think the first question we have to address is the terms of reference for that working group that's absolutely essential. So to get something around as a draft is really a first step to achieve that and then get some input back on that.

Okay so I think we're almost at the end of this discussion. (Robin) I think we've gained a little bit of time for you but we do have a way forward. When

we get to discuss at the end of the week a communique I would strongly suggest that we just tell the people who aren't here that we had this discussion and we're going to look to take it forward and invite those members of our communities that aren't there to engage.

But also I think it's a message to the broader community as well that this particular house is really looking to start shaping some thinking around ICANN 2.0 which should be a good message to others as well.

Robert Hoggarth: Thank you very much gentlemen I appreciate it. When you noted that you were giving me time back, no you're giving yourselves time back. We're at that point in the agenda where there are anticipated community breakout sessions.

And before I summarize for you all kind of how that's going to work in terms of logistics I wanted to share with you some broader news that I've shared with the planning team via email a couple of hours ago.

I have learned that Fadi can participate with us tomorrow. He has confirmed unfortunately only for one hour from 9:00 to 10:00 am. I have recommended to the planning team that the way forward to approach that would be rather than trying to squeeze in a 30 minute session with each SG is to just opt for a full plenary session for the hour from 9:00 to 10:00 with Fadi and David.

Maintain that plenary session for the next hour giving you 30 minutes with David and 30 minutes with Xavier Calvez the CFO and then give you back and hour from 11:00 to 12:00 for your individual breakout sessions to talk about what happened during those morning sessions or otherwise prepare for tomorrow afternoon.

Does anyone have any objection to that approach? (Denise) would like me to repeat the approach. The approach would be to shift from the breakout sessions in the morning where there were individual 75 minute sessions with the CEO to one plenary session for the hour in which we have him.

Then continue the plenary for a second hour to incorporate discussions with David and Xavier and then give back the next hour to all of you for your breakout sessions as SG's.

I leave open the floor for any comments or reactions and if I hear none then we'll proceed in that direction. Great well thank you then let me now explain to you what happens next.

For the next two hours the planners set up special breakout sessions for each SG. So you're retiring from this plenary session and won't get together again as a group until tomorrow morning at 9:00 am here in this room.

For the next two hours in meeting room C which is just behind this wall the NCUC will be gathering and Chantelle please correct me if I've got this wrong. And in room D the (NPOC) will be gathering.

The CSG will stay as an SG here in this room for the next two hours and what we'll do is we'll flip that tomorrow. So tomorrow when we go to the breakout session the NCSG will stay here and we'll let the CSG relocate.

Then we have some balance and I'll admit I just flipped a coin to decide which way to do that today versus tomorrow and it actually worked out...

Greg Shatan: Actually we'd like to be in a tent. Can we be in a tent?

Robert Hoggarth: We don't have a tent but we have a terrace if you'd like to take advantage of that. So thank you all very much for a very productive and certainly from an observer's standpoint fascinating several hours today.

I wish you well in your individual breakout sessions and I ask that you all come back downstairs at 7:00 pm this evening for the formal reception in the (Culver's) Club room.

That's the private room directly behind the bar downstairs. We have a reception from 7:00 to 9:30. We'll have some staff come over, some other staff are getting off planes so we'll actually have some additional participation.

Some of you have invited guests and so we're ready to accommodate them as well. That's a 2-1/2 hour reception. You can choose to do what you want but we have planned it similar to what we did last year in that its heavy hors d'oeuvres so if you choose to you can make that your dinner.

If you otherwise have separate social or professional plans you can take advantage of that opportunity as well. So thank you all very much and talk to you as a group tomorrow morning here in this room a little before 9:00 am so you can maximize your time with Fadi. Thank you.

END