
MICHAEL KARANICOLAS: Thanks, everybody, for joining us for this kick-off call for the Work Stream 2 Transparency Subgroup. My name is Michael Karanicolas, and I'm one of the two co-rapporteurs for this group with Chris Wilson.

Because we've got a fairly manageable-sized group, it might be useful to just start the recording by going through and just have everybody briefly introduce themselves. Maybe we can go alphabetically down the left side of participants if that works.

So it would be Athena – sorry?

CHRIS WILSON: Sorry. I'll add for folks to briefly just give their name and their representation, the institute they're with, I guess, either within ICANN or certainly external to ICANN. That would be nice. Then we'll get started talking about the subgroup work. To Michael's point, Athena, perhaps you can just provide your introduction real quick, and then we'll work our way down to Barbara, and then further down the list.

[You] might be on mute, so if you're on mute, please try to unmute your line.

MICHAEL KARANICOLAS: I think there might be some technical problems at the top of the list. Should we go down to Avri or Barbara?

AVRI DORIA: I joined late. Are we doing these introduction things?

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

MICHAEL KARANICOLAS: Yeah. Just very briefly.

AVRI DORIA: Right. Okay. Yeah. I'm Avri Doria. I'm in the CCWG. I'm the ATRT expert, and I'm a member of the GNSO and CSG.

BARBARA WANNER: Hi. I'm Barbara Wanner. I work for the U.S. Council for International Business. We are participants in the ICANN Business Constituency. Thank you.

CHARLA SHAMBLEY: Hi. Charla Shambley. I'm staff with ICANN and the Multi-Stakeholder Strategic Initiative Department.

CHERYL LANGDON-ORR: Hi. I'm Cheryl Langdon-Orr. I'm one of the members of CCWG, sent from the At-Large Advisory Committee. I'm also a member of the Non-Commercial Stakeholders Group, and I've been around since, well, time immemorial in ICANN. And I don't why I'm in the [list-wise], but I'll only introduce myself.

CHRIS WILSON: Thanks. Chris Wilson speaking. I work for 21st Century Fox in Washington D.C. in the Government Affairs Public Policy Office, but I also chair ICANN's Business Constituency. Through that, I've been engaged with the CCWG's work for the better part of the last year-and-

a-half. I'm happy to be able to serve with Michael as a co-rapporteur on this subgroup.

MICHAEL KARANICOLAS: David McAuley?

DAVID MCAULEY: Hi. This is David McAuley speaking. I just joined. For some reason, I was having trouble getting in. I'm an international policy manager with Verisign, and I also an involved in the CCWG in Accountability, and I'm happy to be part of this group. Thank you.

MICHAEL KARANICOLAS: Ed?

EDWARD MORRIS: Okay. Yeah. I'm Ed Morris from the NCSG and GNSO Council. I've been fairly active in the CCWG.

CHRIS WILSON: [inaudible] listen-only mode and she's post it in the chat. And staff.

MICHAEL KARANICOLAS: Okay. Farzaneh?

FARZANEH BADI: Yeah. Hi. My name is Farzaneh Badii. Can you hear me? Yeah. Farzaneh Badii from NCUC.

HIBAH HUSSAIN: Hi, everyone. This is Hibah Hussain. I work for Google and I'm on the [BC] as well.

UNIDENTIFIED MALE: Hello? Can you hear me?

CHRIS WILSON: Yeah.

MICHAEL KARANICOLAS: Mandy Carver?

MANDY CARVER: Hi. Mandy Carver. I'm in government engagement for ICANN. I'm a staff member.

MICHAEL KARANICOLAS: Hi. My name is Michael Karanicolas. I work for an entity called the Centre for Law and Democracy. We focus on freedom of expression and transparency issues, and I'm one of your co-rapporteurs.

Raoul?

RAOUL PLOMMER: Hello. My name is Raoul Plommer. I work for Electronic Frontier Finland, as well as the Open Knowledge Finland Network. I'm a member of the NCUC.

SAMANTHA EISNER: Hi. This is Samantha Eisner. I'm Deputy General Counsel with ICANN. I've been supporting the CCWG for Work Stream 1 and will continue supporting in Work Stream 2.

CHRIS WILSON: Sarah? Maybe listen-only mode.

SARAH KIDEN: Hi. My name is Sarah Kiden. I'm with At-Large.

MICHAEL KARANICOLAS: Sonigitu? Okay. Maybe we'll just move on to Tatiana.

TATIANA TROPINA: Hi, everyone. Tatiana Tropina, NCUC.

CHRIS WILSON: Tijani?

SONIGITU EPKE: Hi. Good evening, all. My name is Sonigitu Epke. [inaudible].

CHRIS WILSON: Phil Corwin, would you like to introduce yourself?

PHIL CORWIN: Sure, Chris. Phil Corwin. I'm a member of the Business Constituency and one of their two GNSO Councilors.

MICHAEL KARANICOLAS: All right. I think that there's people joining all the time, so maybe rather than going back and having everybody introduce themselves as they come in, maybe it would be best to move on, if that's all right.

CHRIS WILSON: Yeah.

MICHAEL KARANICOLAS: Welcome, everybody, to this meeting. I'll pass it over to Chris to begin an overview of the subgroup's work and timing.

CHRIS WILSON: Thanks, Michael. I appreciate everyone taking the time to be on today's call. As I think everybody should have received, I sent along maybe a week or so ago a PowerPoint presentation that was given on July 27th, and we had a Work Stream 2 Subgroup Leadership call with the CCWG Leadership Team. Within that PowerPoint, there's a lot of information about structure, format, and, of course, timelines.

Hopefully you all had a chance to take a look at that. If not, we could circulate it around. I don't know. Brenda, do you happen to have a copy of that?

BRENDA BREWER: I do. I can upload that. It'll just take a moment.

CHRIS WILSON: Please. That'd be great. Thank you. We can take a quick look. Basically, what we're tasked with here is beginning work now and working ourselves through early next year, roughly speaking, on our particular issue. That's of course true with other Work Stream 2 subgroups as well. Each of course is unique, and each has their own challenges and so forth. But the expectation is that we would be able to start getting down to brass tacks, perhaps even by as early as September of this year, and moving forward bit by bit until we got a full package of recommendations.

As you'll see hopefully momentarily in the PowerPoint, every group's got its own deliverable we all have working from a common framework with regard to how our work product is to be formatted with executive summary, description of issue, recommendations, and assessment of these recommendations, all to be given to the CCWG for its consideration and review and hopefully approval down the road.

With regard to – we'll get down to this a little bit later – our work, Work Stream 2 transparency issues, they have been laid out, at least generally speaking, in the CCWG Accountability report back at the end of February, with four key focal points for the group to look at, in particular looking at enhancements to ICANN's existing Documentary Information Disclosure Policy (DIDP) with the transparency of ICANN's interaction with governments, improvements to the exiting whistleblower policy, and transparency of the Board deliberations.

So those are our four core focal points for us going forward. I'm not taking it necessarily as that is the exclusive list, but I think we really have to, in the interest of time, probably focus mostly on those four core areas and see where we go from there.

We expect that there will be a background paper from ICANN staff on the transparency issues to be published momentarily or hopefully within the next few days ago. Last time I checked, it has not been published. Other Work Stream 2 subgroups I know have received theirs. But we have ours that's still in progress.

I don't know if anyone from ICANN staff on this call may have further insight on that. They can post info in the chat. If not, we'll be on the lookout for the background paper – thank you, Bernie. Bernie says, "Not yet." That will help also I think guide our deliberations when we get that as far as information and certainly background information for us, but certainly for those that were not perhaps part of the day-to-day discussions on the CCWG Work Stream 1 work product.

I think people should be unsynced in the Adobe Connect room, so you can scroll within the document itself and perhaps maybe go to Page 3 real quick for folks. You can see the timeline that's been presented. I should say that this timeline is not set in stone. I'm actually looking at Page 6 – sorry – of the PowerPoint. It's not set in stone. It's meant to be simply a guidepost for us.

I think obviously the goal is that each subgroup to begin reporting back to the CCWG on a regular basis on our work product and progress. I know the next CCWG call is August 9th. It obviously is just next week, so I don't expect we'll have much to report back to them then, but I know,

as we get into the fall months – fall here being in the United States – then we’ll expect there’ll be more to say. And certainly we’ll expect to have something to produce leading up to the ICANN57 meeting in Hyderabad in early November.

With that, I think some people come to this subgroup with a particular area of focus that they have expertise on or a particular interest in. That’s fantastic. I hope we look forward to utilizing that expertise. Michael and I are here to shepherd this. Obviously we have our own interests and expertise, but obviously we want to shepherd this subgroup along, if you will, and provide opportunity for people to weigh in on these various issues.

Before we turn to Item #3 on the agenda, maybe we should ask: are there questions about timing? I know I’m speaking in generalities, but are there questions about timing and format, etc., from anyone right now in this subgroup?

I don’t see any hands raised. We will obviously, as we move along, as we have further engagement with the CCWG, the CCWG and Leadership will be able to hone timelines further. I think that the coming months are important months for all subgroups, especially ours because we have a fair amount of ground to cover, all things considered. So we look forward to starting that now and getting moving in the fall.

Michael, maybe I’ll turn to you for Item #3. We can start homing in on the particular issues of interest and focus.

MICHAEL KARANICOLAS: Right. Thanks very much, Chris, for that. As Chris mentions, there's four categories that have been laid out in the previous report. I was hoping that, as part of this discussion, we could just foster a brief conversation about each of these issues so that people can briefly identify any areas that they think would be relevant or important to look at within that. Obviously, we'll have a written consultation to identify issues as well, but I think it might be useful just to foster an initial conversation if possible.

As we go through these issues, maybe think about: are there any areas of concern that have to do with these issues, areas where ICANN could do better, things that we'd like to see addressed, suggestions for avenues of better practice, or even guidance for where we should be looking in terms of finding better practice, in terms of parallel organizations or national models or whatever that you think could an important source of guidance or standards for ICANN to follow.

The first of these four categories, which is I think the broadest and most sweeping of them, is improving ICANN's Documentary Information Disclosure Policy, the DIDP. If anybody has anything that they want to share about either areas of focus or areas where we should home in on for our recommendations, we'd welcome hearing from you on that.

I'll start off by saying that some of the areas that have come up in conversation on this issue previously include the DIDP's interpretation of exceptions, the processes for proactively disclosing information, the process for appealing against refusals, as well as the categories of information that are proactively disclosed.

I see Edward Morris has his hand up, so why don't we turn it over for comment from him?

EDWARD MORRIS:

Hi. Thanks, guys. First of all, thanks for taking the time and taking the rapporteur positions. It's going to be a big job, and I very much appreciate you doing it.

The proposal I had way back when we were at Helsinki in the lightning round is, as we take a look at the DIDP, I think the key, when you look at some of the studies that have been done, it's perhaps the overuse of these fine conditions of non-disclosures. There are twelve conditions under which ICANN can refuse to give a – the default is supposed to be openness and provision of document, unless the request fits into one of these twelve categories. Then there's the public interest balancing test, so even if it fit in one of those twelve categories, ICANN is supposed to say it is a public interest so big in releasing this information that it overcomes the presumption that, if the document is in one of these twelve categories, it should not be released.

The idea I had is: Sam is here, ICANN Legal has been operating this project or the DCND within the DIDP for some years, and rather than have to reinvent the entire operation, my suggestion was, "Why don't we turn to ICANN Legal and say, "Take a look at these 12 non-disclosure requirements or possibilities. Are there any of you as the folks that have been denying information don't really need now, and can you justify why we needed the ones you believed we do need?"

We start with a basis. This is what the folks who've been operating the scheme think about the denial provisions already in place. Rather than us going and saying, "We like this. We don't like this," why don't we talk to the folks that have been operating it, and perhaps in a way that folks like myself say, "Why are you denying this information?" That might be a little bit more of an efficient use of our time going forward.

Then we react to that and try to see: are these reasons legitimate? Are there other reasons we should deny information? Should we say, "Hey, this is not a good reason for denying information, we don't accept what ICANN Legal says"? Or rather than starting from a confrontational viewpoint saying, "We just want to get rid of all this stuff. We want to look at other practices. Why don't we take a look at the practice we have now and let the folks who've been running it let us know what they think about what they've been doing."

Thanks.

MICHAEL KARANICOLAS: I certainly agree that reaching out to ICANN Legal is a very important part of this process. I'm not sure if doing that at the outset might potentially box us into a discussion on certain categories, as opposed to others they feel are more important. But we can discuss the proper process of that going forward, and certainly we can reach out to get feedback from the outset, I think.

I see Phillip Corwin with his hand up.

PHILLIP CORWIN:

Yes. Thank you. Number one, I second everything that Ed just said. I think that promises a constructive approach. But I have to say that, in my own attempts to use the DIDP and in speaking with others who have used it, it tends to be a very frustrating experience. While the official policy is to have a bias towards disclosure, the practice seems to have been to find one or more of the 12 categories for denial.

I have to question whether, at the outset or at least if there is a dissatisfaction with the disclosure, whether there should be an independent party – maybe the ombudsman or someone else – to really look at whether the justification for non-disclosure is sufficient, because, frankly, we have a situation where ICANN may be attempting not to disclose information that would be embarrassing or have some other negative consequences. Legal staff may be part of that action, and there needs to be someone who doesn't have a bias toward defending what's going on, to take a look at what exclusions are justified.

Thank you.

MICHAEL KARANICOLAS:

Yeah, I absolutely think that an independent review and discussion of a proper review process is going to be a very important part of this conversation. Literally I don't think there's a single effective access-to-information system in the world that doesn't operate without an effective appeals and review process. So that's great to bring up, and that's certainly something that we'll brainstorm a little bit more closely as to how we want that to be structured and whether or not the ombudsman is the best place for that and how we would want to see a mechanism like that instituted.

So I think we've identified some initial issues on that. Unless there's anyone else who wants to discuss this, we'll move on to the second topic.

Okay. Our second of the four topics is transparency of ICANN's interactions with governments. Again, partly this is going to be related to the first topic in the sense that people will make requests, potentially, for this kind of information. So obviously that ties into the review process. If anybody has any thoughts on areas that we should be examining to do with the interaction of governments and specific stuff that should be put out there, it'd be very welcome.

Chris?

CHRIS WILSON:

Thanks, Michael. Actually, I think there was some discussion on the CCWG list, I guess, in this regard, not too long ago, maybe within the last two weeks or so, in particular looking at disclosing, with regard to ICANN, contracts with third parties for, well, lobbying, but also expenditures that don't necessarily per se constitute lobbying that are meant to influence or engage with whether it be the U.S. government or other governments and getting additional transparency above and beyond what is required, at least in the United States, under the Lobbying Disclosure Act, which those that work in the U.S. and interact with that statute know that works in a fair amount of generalities rather than in the [really] specifics.

Obviously ICANN files reports under the Lobbying Disclosure Act. There's a benefit to that, but I think with at least initially speaking, we're

looking at what more can be gleaned above and beyond that for purposes of the community.

So that's where my thought would be, at least generally speaking, and I welcome others who may have other thoughts. Again, I know there's been some chatter within the CCWG I think focused looking at the financial disclosure that Xavier had been producing. I know there some members of the CCWG who were interested in a little bit more information, and I think to some extent that information has been unable to be presented perhaps due to non-disclosure provisions within contracts that ICANN has signed with third parties. But it's something that I think we should move to dig a little deeper into and get a better sense of what we can get and not get.

So that's just my initial thought on that.

MICHAEL KARANICOLAS: Sure. I particularly like the mention of the non-disclosure agreements very much because it raises questions about the kind of agreements that ICANN themselves is getting into and that they should be structuring their affairs in a way that maximizes disclosures. So I do think that's a very important thing to look at.

Is there anyone else who wants to mention on interactions with governments?

Okay. The third major theme to discuss is improvements to the whistleblower policy. This is going to be an interesting one to dig into, I think, because it presents a lot of interesting standards from around the world that we can look at in terms of thematic guidance. South Africa

has a very bold policy on whistleblower protection. The U.K. has a reasonably good policy.

Does anybody have any input into our whistleblower protection? Avri?

AVRI DORIA:

Thanks. One of the things that has been a pending recommendation that was approved the Board from the last ATRT, ATRT2, was the fact that there should be a review. There is currently a whistleblower program, and we had asked for or recommended a professional review of that whistleblower program after ATRT2. That has been approved.

During ATRT2, there was a confidential breakout of some of us reviewing the program and talking to members of staff and such as that. From that grew the recommendation that there should be a full review of what exists before trying to change it because, at the moment, if you say we need a whistleblower program, the answer you get is: we have one. It's not called whistleblower, but it's got a similarly euphemistic name. So that had been made.

I'm wondering whether one of the things that this group can somehow motivate is the doing of that, and then somehow get a professional review done, which is something that has been agreed to for years, and then take those results, and from there, work on how to improve, based upon the world's standards as they're developing.

It's a thought I've had. It's something that I would have wished would have happened by now. I've been nagging Board members and various staff members about it for years.

But before we decide to change what's there, I think we really need to have what is there evaluated. As I said, it had a volunteer at ATRT review, and from that, we decided that it needed a proper and professional review.

So I just put on that the table for consideration. Thanks.

MICHAEL KARANICOLAS: I'm seeing in the chat that Samantha I think is saying that the review has been completed.

SAMANTHA EISNER: This is Sam Eisner from ICANN –

AVRI DORIA: The external review of the whistleblower has been completed? I have never seen that report, so maybe I just –

SAMANTHA EISNER: Yes. I believe it was posted fairly recently. The review has been completed, and it actually had two phases. It had a review of ICANN's existing policy and recommendations for improvement of the policy to meet current best practices, as well as an assessment of the feasibility of extending the policy out to third parties beyond contracted parties or vendors.

There are two parts, and we're going to get the link so that we can get that put up for you guys.

MICHAEL KARANICOLAS: Okay. That's great. I think we'll certainly look forward to reading that. That'll probably be a key thing to think about as we're conducting our own work here.

I do want to say, though, that I do think that review is itself part of our job and what this group is going to be doing taking things forward. Our aim, I think, is to develop recommendations for reform, and we can't do that without reviewing existing policies. The fact that a review has been done and there's been recommendations developed is great. We can certainly review that and consider that, but I'm hoping that this group itself will undertake its own robust review of the existing policies and make some recommendations about what changes should be made.

The fourth area that was identified is transparency of Board deliberations. Does anybody have areas that they wanted to see prioritized or discussed as part of that aspect of the review?

Sonigitu? Hello? Sonigitu? I see that you're muted. Do you want to – oh, there it goes.

SONIGITU EPKE: Okay. Can you hear me, please? Hello?

UNIDENTIFIED FEMALE: Go ahead.

MICHAEL KARANICOLAS: Yes, we can hear you. Yeah.

SONIGITU EPKE: Hello? I was just saying that I think it's important for the Board meeting to be recorded deliberately and presented to the public, unless for very [self]-important issues that relate to money payments. By this, it will [inaudible] deliberate actions to us [with] transparency, I think.

Thank you.

MICHAEL KARANICOLAS: Okay. Great. I think I see Farzaneh asking: what are the exceptions to Board transparency? Certainly, where to draw that line between what should be disclosed and what shouldn't and how to set up a policy of proper review – establishing that information should be open by default and that there should be a reason whenever anything is withheld – maybe establishing time limits on when information, if you're restricting information how all that should last for. This is certainly one of the things that we're going to hopefully discuss in more detail as the consultation goes forward. So thanks very much for that.

So those are our four topics. Does anybody else have anything to add or any questions on any of the things we've discussed so far?

Okay. There was a request early on about background material on some of these issues. Obviously we've gotten some reports from Samantha, which will be very useful, but Chris and I can volunteer to distribute some interesting background materials to inform understanding of this that will hopefully help the discussions going forward.

On the subject of logistics going forward, I'll pass it back to Chris to take on Subject #4.

CHRIS WILSON:

Thanks, Michael. Also, before we do that, real quick I would suggest, if there are, for those that may not have had a chance or desire to speak on the call today, obviously we welcome further input and feedback. You're welcome to do it offline to the e-mail group list. That's obviously helpful.

I think Phil had mentioned his own personal experience working, in his case, with a DIDP request. I think it'd be helpful if Phil or other who had done the same thing to put down on paper their experience and frustrations, for example, with any of these topics to help flag an issue spot, if you will; things that we should be thinking about.

I know it's easy when you look back in your own head and say, "Oh, it was frustrating," but maybe it'd be a helpful exercise for folks to put that on paper and go through. That might be helpful as well as we – and hopefully share it. If you're willing to share it everyone, then we could start thinking these things through a bit more deeply. That's just some initial thoughts off the top of my head.

Logistics going forward. I think the first topic we need to think about is whether the group wants to do a weekly call going forward here, and certainly for the near-term, the near few months, or whether we want to limit the calls or just do the e-mail, etc., engagement via just e-mail.

My first instinct is that I suspect sometimes weekly calls may be too much and people may find it overwhelming, especially in light of the

fact that we all have day jobs and have other things we're doing. But maybe at least initially perhaps it's worth considering a weekly call, at least for the first go around, but then thinking about, after a month or so, whether we want to do the bulk of the engagement via e-mail rather than doing an actual call itself.

I see Dave McAuley suggests maybe a call every other week and see how that plays out. I'm certainly open to that. On that threshold question, I'd like, as I said, feedback from folks here in the subgroup on what their preference might be. We're happy to take whatever the critical mass prefers to move forward.

I'm not seeing any hands raised, but I see that Ed agrees with Dave McAuley's proposal. So maybe we move with calls every other week and then see how that goes for the first few calls. Obviously, again, e-mail engagement should not stop just because we're doing a call every other week. We expect that we'll have lots of good engagement and sharing via e-mail, but I think we can work on every other week.

The next logistical issue then is: is this day and time – Thursday at 19:00 UTC – amenable to the bulk of folks? I know we have members of this subgroup from all over the world, and I want to be cognizant of time zones and so forth. Also, I don't want to reinvent the wheel, necessarily.

Dave suggested to be around the clock. I'm open to that, but I want to have other people provide their input and feedback on day and time.

As you will see earlier in the slide – I don't know exactly what page it is – right now there's three time zones provided, time windows provided, that ICANN staff can be around to facilitate calls: nine one-hour slots

per week, three UTC time zones. This is obviously the 19:00 UTC zone. We're framing it within what ICANN staff can support, in case you didn't already know that, so we don't have a full range of times per day.

I'm open to, if we want to set the next meeting for two weeks from today – are Thursdays better than any other day, or should we just stick with this Thursday? I'm sure it's difficult for anyone to home in on that, but I think we may just stick with Thursday and then move the timeframe around for folks.

Is that amenable to everybody? I don't see any objections, so maybe we'll just go ahead and do that: stick with Thursdays. Also, by the way, I was under the assumption that some timeframes have not already been claimed by other Work Stream 2 subgroups, so we will have to be a little flexible with regard to day and time of day because I know other Work Stream 2 subgroups are now locking in their call schedule as well.

So we'll take it that we'll work on Thursdays every other week with a rotating timeframe. If something needs to change because of conflicts with other Work Stream 2 subgroups, then we'll work around that and notify everybody of that. Michael and I will be in touch once we've finalized an initial call schedule for folks. I think we'll plan on scheduling at least through maybe September, and then we'll reassess at the end of September if this needs to be changed or not.

Any thoughts, concerns, or questions about that?

Okay. Great. I think that's it as far as logistics going forward, unless there's additional logistics things people may want to raise. I'm sure as

we proceed we'll have additional questions, but I think as of now we're in a good stop.

Okay. Michel, maybe I'll just go ahead and turn it over to you for Any Other Business.

MICHAEL KARANICOLAS: Well, you just asked if there's anybody else that has any questions to speak now or hold your peace. But unless anybody has anything specific that they want to raise, we'll have our next call in two weeks, and we'll communicate via e-mail in the meantime.

Does that sound good?

CHRIS WILSON: I know some folks didn't receive the [MSS] Secretariat's calendar invite. I know a few people got back to me saying they never got it. Please, if you didn't get it and didn't notify me or Michael, let us know. We'll make sure that you get it in the future. Perhaps it may have ended up in a spam folder. I don't know, but you should all be receiving that when these calls are scheduled, etc. You should be receiving that from the Secretariat. You wouldn't be receiving it from me or Michael. So be on the lookout for that in the future.

Okay.

MICHAEL KARANICOLAS: All right. Great. Well, thanks, everybody, for joining us, and we'll look forward to taking this forward.

CHRIS WILSON: Thanks, everybody.

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