

ICANN

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

Greg Shatan: So we - this is Greg Shatan. And we - you have the assembled CSG Commercial Stakeholder Group team here. And we are ready for our discussion with you. So I'll let you open if you'd like that.

Göran Marby: Yes. I was thinking, Greg, maybe not everybody are aware but in between the ICANN meetings I nowadays have a habit of talking to all of the constituency leaders. And so I make a round of calls which I think is now 21 calls. And I do this for several reasons. One of them is because of the interaction and the other one is to be predictable to what I do. So I always share the same things with everybody.

So if it's okay with you Greg I can just share some of things that we talked about also to give an insight on how we do things. And one of the things that I -- and I'll tell you the same story I told everybody else -- a couple of months ago I was sitting in my office together with Teresa Swinehart. And I said to her that I sometimes have a problem understanding how the processes for policies and reviews actually works in practice. And I also to close shot of them with all of the bits and pieces pulled together and especially I was interested in the sort of decision points or the rubberstamp.

And it may not come to a surprise to you that when we actually have blown them up into something that could be readable they were a couple of meters long each which tells me something. And by the way what we're doing right now is not in the purpose of anything else but for clarification. And we do that clarification because I think it's important that we can explain to ourselves and also to newcomers how the process is for policies and (unintelligible) actually are handled and who make decisions within that so people know that. That is a sort of transparency thing. But it's also if you understand it its make sure that nobody can hide it.

We are - we decided that in Copenhagen I have an office there. And I'm going to post those things on the wall as a starter. We're not (unintelligible) yet there are many things that we still have to look into. But then probably in Geneva we will more formally present them for comments. And on our previous discussion I think that one thing that comes out of that is that if there is a misunderstanding somewhere how the processes are supposed to work then we can, you know, talk about that and take away those misunderstandings.

And it also may not come as a surprise to you that we may be detecting some holes in the processes or areas for improvements where I think it's important that we discuss how to make it a little bit more easy for everybody involved. And I'm thinking more about you than me actually. And I also served places where we probably should think about how do we take the discussions back to the community for instance if there is a what I call it an impasse where we and I'm thinking of the ICANN organization together with the community GNSO thinks that this may be this was not the best checks and balances how we formally can bring - we don't end up in a situation where it kind of negotiated in dark rooms.

So that was one of the things I talked about and I'd love to take questions about it. The other thing I talked about is also I don't know if you've seen that but the second time in a row we now produced what I call the CEO Report to the Board. This is a fairly new thing because there were no CEO Report to the Board before I joined. And I decided to make that as well to make sure that the community and interested parties have the same information.

If you haven't seen it it's on the President's Corner on our (eastbound) internet.org. icann.org. But that has also raised questions of course which it should be. So we proposed in Copenhagen as a test to do an open session together with me and my sector team where people can ask questions about what I'm doing, and my team is doing based on the report or anything else because we didn't want to impose this is a high interest thing. I think it's on (unintelligible) right now. I know it's going to be some sort of competitiveness with some other sessions but I hope if you think this is something that is good to ask me questions in that form we can maybe look forward to institutionalize this going forward. That is the things we talked about wasn't it? With that I open the floor for questions and I hope you enjoy Iceland.

Greg Shatan: It's a little warm but other than that it's nice. So I don't know if first before we get to the questions that we have I'd like to see if there are questions in response to what Göran was saying. And I think we also talked about some concrete ideals for dealing with what might be holes or how - when it's not clear what a policy decision has - is or that there's some sort of missing link in policy implementation. So that's I think was a - I remember some discussions along those lines as well. But I'll open the floor generally before we kind of turn our - on to our questions to come to you. So does anybody have a follow-up to what Göran just said? Chris.

Chris Wilson: So just - Chris Wilson with the BC. I just - to the second point you made Göran with regard to the board report. I think just generally speaking I think we're happy to see it glad to see it. But certainly goes to the general notion of more transparency that the community gridlock has been talking about. I think we're still in the throes of digesting its effectiveness and for us. But I think just wanted to say we appreciate you doing that. And I think it's important to continue to do that and help us. And it certainly informs the community of what's - about what the board is considering and what your interactions with the board. So simply wanted to say I think that's a good start. And as we see more of them perhaps we'll have better and more at least getting feedback to you about what can be improved, et cetera, on those reports. But I just wanted to let you know we do think they're beneficial to have an appreciate it.

Greg Shatan: Jimson?

Jimson Olufuye: Yes thank you. This is Jimson.

Göran Marby: Thank you.

Jimson Olufuye: Thank you Göran for that. I just wanted to follow with Chris. Is there anything like report to the community to the board and to the community or the same report also for community? Thank you.

Greg Shatan: I'll let Göran answer that.

Göran Marby: No this is my as you know I make the - just for clarification and maybe I'm too stubborn on this. I'd do this difference between the community, the board and what I call the organization. And the reason I do that is actually we have different roles according to the bylaws. And this is really what I do to support the community and to implement what the board has told me to implement. I

there is nothing like it I think for the whole community. And I don't think it would be my place to do that, to say because a lot of that is (unintelligible) that you're having should and would be for you. But if any part of the community would like us to help you to write a similar report we will of course do that.

Greg Shatan: Thank you Göran. And I think just to follow-up on that. Obviously the report is being made transparent and available to us. So I think in a sense we're at least kind of a CC on that. And we should look at it as I think, you know, and Göran knows that we're reading it too. So even if it's written to the board it's not kind of ignoring the fact that this is a communication that's going out into larger channels. At least that would be my view of things. Anybody else with a point for Göran based on the - on what he's been talking about? We seem to I don't know if it's jet lag or...

Göran Marby: Sorry and I know there's a time delay. The - it was important for me that I share the same information to the board as I share with you. So that's the kind of actual basis of the report.

Greg Shatan: Thanks. I appreciate that. I think we all do. Why don't we turn to the questions that we have for you. I believe that, you know, the IPC sent you a list of a dozen questions which would be far too many to go through even if we had three hours. And the Business Constituency also sent you a couple of questions as did the ISP and Connectivity Providers Constituency. We realized that we needed to come up with some priorities and cut some of the questions out.

So we've selected basically five questions out of the total or six really but the - they break down except for the last one into really two focuses or foci. The first is organizational effectiveness and the second is organizational

responsiveness. And it goes to the issue of how we the community work with each other, how we work with the staff, and the board, and the org in this system that we have here or ecosystem.

There were two specific questions they're shorts I'm going to actually mention them together but then maybe you can give your thoughts on each separately and the larger question of organizational effectiveness that is kind of underlies both of these questions. The first is what are your views on the relative roles of the GNSO and the GAC relating to gTLD policy development?

The second question is what are your thoughts regarding the diminished role of the CSG in the GNSO moving from an equal constituency with registries, registrars and non-commercial to - and being three constituencies equal to those other three constituencies to being reduced to a single constituencies a single stakeholder group with each of us essentially worth 1/3 of what we were at least in terms of GNSO Council voting. So it's particularly is an issue on the GNSO Council and when the GNSO is represented outside of the GNSO. So those are really the two questions the relative role of the GNSO in the GAC and essentially the relevant role of the CSG to every other part of the GNSO and the ICANN ecosystem?

Göran Marby: Thank you Greg. I may disappoint you with my answers because the - you asked me this question before. And first of all I would like to say that I'm, you know, when people ask me what surprises me with ICANN as a whole system I always say that one of the things that surprises me is that despite different agendas, despite different, you know, notions or understanding different parts of the community comes together and forms consensus. The transition is one of them. And then (unintelligible) sometimes you work in very mysterious ways but it seems to be working. I'm really respectful of that.

When it comes to the, you know, how the community sets up itself and how it works within the GNSO I think that's a very important (discussion) to have all the time. But I also think that it very much belongs in your corner of the world as you are a part of the community. So I can ask back to you, you know, how can I help you in that discussion rather than coming with, you know, pre-notions if I actually have a solution? So I will, you know, I will take up a mirror and ask you what do you think should be the way going forward?

Greg Shatan: Well this is Greg. And then I'll take a queue. But my first response is that when you say how the community set itself up and I suppose it's true that the bylaws came from the community in a sense that they were revised by the community but not - the structure was not. And one of the things we realized talking amongst ourselves is that in - reviews that go silo by silo and SO by AC by SO really missed the gestalt of the ICANN community or the ICANN ecosystem.

And that what is needed is a holistic review. And that really we never set up this structure per se and there's lots of stories about how it came about. But, you know, the relationships are somewhat fluid over time. But in a sense we need to take a look at the bigger picture of these organizational pieces how they fit together and what they're doing. At the same time, you know, recognizing the essentially the remit of each of those pieces which, you know, goes to, you know, questions about how the GNSO, you know, which is the policy development body for gTLDs relates to other communities when it goes to that part of ICANN's processes. So that's my thought. Steve.

Steve DelBianco: Hi Göran, Steve DelBianco. What will come out of this is a simple request for you and your team as well as the Board's...

Göran Marby: Hi Steve.

Steve DelBianco: ...Organizational Effectiveness Committee to be open to some suggestions in the next year or so will begin to tee up for yet another GNSO review. These are mandated by the bylaws. In 2019 is when it would kick off.

And it - this is the review where an external party is asked to look at the effectiveness of GNSO. And effectiveness isn't defined in the bylaws it's defined in whatever the RFP that's put out by ICANN. We are going to try in the noncontract party house potentially in the entire GNSO try to come up with a broader scope of what the word effectiveness means so that it's not just an internal view of the effectiveness of the constituent parts of GNSO but also the effectiveness of the GNSO at achieving its goals within the broader ICANN community, a community where most of the resources are dedicated to gTLD space issues and where nearly all of the revenue comes from the gTLD registrants and the contract parties that follow it up to ICANN.

So we may undertake an ambitious goal to come up with a better definition of effectiveness that incorporates what happens to gTLD initiatives when they get thrown into the broader scope of the ICANN Board and community and if we do that we'd love to have an open mind on the part of you and Rinalia as committee to incorporate those effectiveness definitions when the RFP goes out.

That's at the beginning of a long process that may yield an external review that suggests changes to the way gTLD supporting organizations fit into the broader ICANN Board and broader ICANN community. And (Wolfgang) talks about it as Work Stream 3 right or ICANN 2020. We're trying to be nuts and bolts engineers about how to tee up that conversation at the right time. So

we're looking for a reaction that says you'll be open to that effectiveness definition if we can come up with one.

Greg Shatan: We have a time delay. So I'm going to see if Göran wants to respond to that before we move to the next question.

Göran Marby: You know, I - sorry about the time delay. My initial reaction is I think it's very valid and very good to continue to discuss how things are set up within the community and how we handle the policymaking process. And I would of course if asked participate in those discussions. Also knowing that it's important that we - the - I think that part of the problem will be how to define the problem and find an agreement on what problems there are so we actually know what (unintelligible)?

My father once told me that you know what just because someone says it's a problem it is a problem. I think here is something that we jointly have to understand (unintelligible). But if you want to have reactions if you invite me to be a part of that as a major group within the community I would of course do that. I'm always open-minded. But I want to stress the fact that I don't want to interfere myself if not asked in something that I think belongs very much in the life of the community or in this specific case also the GNSO.

Steve DelBianco: Göran we have a time delay. And it could've - it could be the cause for a misunderstanding. The process we're identifying is a process that is your process not ours. It's the board mandated process of organizing structural reviews every five years. We are asking you to be open to our input so that when you conduct that process next time in 2019 that you instruct the reviewer to have a broader definition of what effectiveness means. So and Rinalia can help me to explain this to you as well.

Rinalia Abdul Rahim: So Göran this is Rinalia. If you don't mind I'll just interject here. There is...

Göran Marby: Sorry for that...

Rinalia Abdul Rahim: ...a process in my committee which is the Organizational Effectiveness Committee where discussions about how to improve the process of reviews are continuously conducted. And I think that we would definitely be open to improving the process.

And the agenda for holistic review of ICANN which Greg mentioned earlier is actually on the work program with my committee it's just in stasis at the moment because we're waiting for a time in which ICANN is more stabilized. We just went through a transition process. It's a little turbulent. And we just need to stabilize a little bit before we can kick off the process of reviewing ICANN as a whole and seeing whether or not the way in which we're all structured is the right way for balance of interest and for the best outcome in terms of the work the ICANN does. So I will not put the CEO on the spot. I would just say that I would take this up and my committee will handle it.

Greg Shatan: Thanks Rinalia. One more point and then Phil Corwin has another. I think that this is something that came up while we were preparing for this is trying to find the right places for the community to consult or to be consulted as things are developed. So I may be wrong but I think the impression we had was that the scope of the last GNSO review was decided without input from the GNSO. And we ended up with a scope that left out structure. And that's what we - and that was in part because of a lack of consultation or maybe we were consulted and weren't heard. But I think the point is that we want to make sure that we find a way that the community can consult with your committee

and vice versa as this process rolls forward to find those touch points where things can be brought out and then taken back. Phil.

Phil Corwin: Yes thank you Greg and hello Göran. I'm Phil Corwin from the Business Constituency and member of the Council. But first I wanted to speak to the relative roles of the GNSO Council and the GAC. But - and Greg had asked you about that but your response was mostly about effectiveness. So before I speak to that I want to know if you had anything to say on that specific issue of the respective roles of the council, and the GAC and setting policy? And then I'll - I want to give you a chance to speak to that before I make my statement. Thank you.

Göran Marby: There are - I could say that I have the same sort of questions as you have. I mean it is ICANN tries to question back to you how you think - how do you think this is going to be working now after transition especially into the light of the empowered community because I think that question. And I think it's a very good discussion to have. But I don't think - I don't have the answer to it. And we - GAC and the GNSO are critical pieces of the ICANN community. I also learned that you've been able to work together over, you know, together to solve very important issues. But with the new framework of the - as I said about the empowered community I think there are, you know, there are discussions to be held.

Phil Corwin: Well thank you for that. And responding further I think there are differences between the GAC's role within the empowered community which is an established process for holding organizational ICANN accountable in which the GAC has discretionary authority to join or not join with the empowered community on a particular challenge to a board decision in the policymaking role. And I think any fair review and objective review of the bylaws makes

clear that the council has the primary proactive role in setting policy. And that the GAC has an important but secondary reactive role.

The Council is not required to reach consensus to render policy advice. And the board is generally required to accept that policy advice unless it believes it's against the global public interest whereas even the revised bylaws make quite clear that the GAC essentially must be unanimous in providing advice for the board to be required to accept it and the board has broader discretion in accepting or rejecting GAC advice. So both have important roles to play but I - and but the unique character of ICANN since its inception is that it was to be leadership by the private sector, civil society, academia with governments in a secondary role. And that would be my personal view of what the bylaws maintain. Thank you very much.

Göran Marby: I asked if the - they could take away the videos to see if we could take away the time delay. But do you think that we need a further clarification on the value the formal value of GAC advice and the broader understanding what it actually is supposed to mean? Is that what you're trying to tell me on a bad line?

Phil Corwin: We've lost the video. Do we...

((Crosstalk))

Phil Corwin: Oh, okay. No I don't - given the intent of discussion during the CCWG Accountability phase 1 of about the role of the GAC under the revised bylaws and the Steve DelBianco is much more familiar. But the Stress Test 18 and the long discussion about which GAC advice the board would be required to respond to I do not believe that we should revisit that issue at this time. I

believe that we should live with the new bylaws and see how things work out over the next few years.

And we have a test case right now where there's been some long-standing disagreements between council and GAC regarding permanent protections for IGOs and the new TLDs. We have an ongoing PDP about curative rights for IGOs, curative rights process and I'm the cochair of that working group. And we have an open comment period on our initial report. And I think we should the IGO issue will to some extent test out the revised relationship under the new bylaws. But we shouldn't be tinkering again with the bylaws at this point of - in time in my personal opinion. Thank you.

Göran Marby: Thank you. I - has the time delay improved by the way?

Greg Shatan: It has improved. It's maybe...

Göran Marby: Okay.

Greg Shatan: ...three seconds instead of...

Göran Marby: Apparently not.

Greg Shatan: ...seven. So we're little better off.

Göran Marby: Anyway thank you. I can't say anything else that I agree. Let's continue to look into it and work together on it. I don't know if Rinalia would like to comment from because this is partly a board question as well.

Rinalia Abdul Rahim: I will not comment on it. Thank you.

Greg Shatan: This is Greg. I have one more comment on this and then we'll move on to our next...

Göran Marby: Okay.

Greg Shatan: ...question section. I saw this coming two, three years ago when these - the GAC advice came down. And my nickname for this issue of having directly contrary GNSO policy recommendations and GAC advice was a policy clash. This is when we were talking about name collisions so this was sort of a policy collision and it's been a slow rolling train wreck ever since.

And I think what the bylaws contemplate is that the board will either accept the GAC advice or will, you know, if it rejects it then it will try to come up with a mutually acceptable solution. And if that changes the GNSO recommendation then I'm actually not quite sure what happens there or if they reject the GAC advice completely they accept the GNSO recommendation. But the advice to the board and the long term development of policy are very different types of processes. One of the solutions to this is GAC early engagement in GNSO working groups because GNSO working groups are managed by the GNSO but they're not populated solely by the GNSO.

You know, part of the problem is that the board kind of held both of these in controvert these mutually exclusive concepts in their hands for a couple of years, instituted the suggestion of the GAC on a temporary basis which has now taken the entire first round so question what temporary means. And now has - is looking to try to have negotiations between the GNSO Council which is really a policy management body not a policy negotiation body and the GAC. And so that seems to not recognize the difference between the bodies and also the fact of course that the GNSO is not the GNSO Council and vice

versa. So there's a lot of sort of mismatches of the way things flow. That's my comment on that.

(Tech): I think we're disconnected. I got a note from Göran's office that he couldn't hear you.

Greg Shatan: Oh okay. Well I'm not going to repeat that. Hopefully...

Chris Wilson: For those participating remotely we're waiting for Göran to get connected again. We unfortunately lost his connection.

Greg Shatan: We're waiting for a live stream of Göran.

Göran Marby: Hi. Can you hear me?

Greg Shatan: Yes.

Barbara Wanner: Thank you.

Göran Marby: Does anyone have had the feeling when you want to stand up from your desk and take your PC and throw it out of the unopened (out of frustration)?

Greg Shatan: I think many of us have had that.

Göran Marby: I'm feeling that...

Greg Shatan: Göran I don't know how...

Göran Marby: ...feeling right now.

Greg Shatan: Göran I don't know how much you heard of my intervention before you went off-line. How much did you hear?

Göran Marby: I heard that you don't really know what you do next.

Greg Shatan: Yes right. Yes that's true. But what the board wants to do next if it doesn't reject the GAC advice and has - and so how do they deal with the GNSO policy recommendation? That's an interesting question you need to look into. But the overall theme I think was policy collision, policy clash. And the difference in the roles of the GNSO and the GNSO Council on the one hand and the GAC this long term policy advice that is managed by the GNSO Council long term policy recommendation and development process that's managed by the council.

And then you have advice on the completed work by the GAC. This may be a process that's designed to fail if you think about it. And one of the, you know, one solution is GAC early engagement so that by the time the policy recommendation comes out the GAC we have at least, you know, GAC on board in a way. But this is kind of the overarching problem was that the board kind of held on to both the GAC advice and the GNSO policy recommendation and didn't resolve it for a long time. And then we are now where we are. So I think that was what I was trying to say.

Göran Marby: I mean again what you're addressing is an essential question how the processes are supposed to be working including (unintelligible) GAC advice or anything. I - instead of just taking up one of those and that's why I'm going back to the manual of (unintelligible) view and implementation processes is that by making this visible and sharing it amongst everybody maybe we could find some of those things that we have to make a decision upon how it's

supposed to be working or making sure that we have the same interpretation of what we are supposed to do.

I think we will over the next year we will come back to this question many times. And coming back to Steve's comments and this is really about effectiveness as well. And I'm not talking about corporate effectiveness because that's another thing. But really to understand how the process appears to be working? How we interact? Where are the decision making points? And how are we supposed to take from one decision to the next level all the time? So appreciative of the discussion and I think we're going to go back to it even broader and that - and I welcome you into my room in Copenhagen where you can support beautiful artwork of our current understanding of the processes as well.

Rinalia Abdul Rahim: Thanks (unintelligible). My sense of the - of where the board is on such issues based on the last discussion that we've had and the last discussion was in LA. If it is an impasse that's related to policy the issue will go back to policy the policy body. The assumption is that there will be consultation in order to figure out a solution to it. The steps of it we're trying to figure it out. And Göran is trying to visualize the steps and make it clear for everyone through his process flow. So I think that we're moving towards the right direction. And I think when everyone is on the same page it'll be easier to do this. Thank you.

Greg Shatan: Thank you Rinalia. Anything from anybody on this general topic before we shift to the next general topic? Seeing none I will move to the next general topic which we put under the heading of organizational responsiveness. I'll read the long question that the BC drafted. The BC, IP and other members of the community provided detailed substantive input to the proposed changes to the new gTLD registries base agreement. But ICANN staff and the registries

have failed to address our points. And staff is driving forward on an issue over which there is serious community disagreement rather than allowing the community to try to resolve it. There has been little transparency to the staff process on this. What are you going to do about this?

Göran Marby: You've pointed to something that Rinalia mentioned before and I'm going to mention again and that's the impasse if it's true we have to where we are in that specific process. I've come to realize that there are occasions when something comes - let's go back to one places. The community makes - the GNSO makes the decisions about the policies. It comes to the board and the sides that I - and my organization should go and implement something.

And then we kind of enter a phase where we have to take the policy for instance a contracted arrangement. And there's been occasions as I mentioned before that the policy that the thing that comes out maybe was not the thing that the community wanted (unintelligible) or there's some problem with it. The problem we've had so far is that we've got, you know, after we go back to the community and try to figure out a middle way of something that is maybe a compromise in the beginning that maybe it turns out -- and I'm talking general now not a specific item -- that the community doesn't really - hasn't reached 100% consensus about it or there is something else there's no checks and balances.

And the problem is that I have to do something. So I propose to the board and we're discussing it is that when the community together with ICANN organization realized that there is no real consensus how to do this in a certain way because we can - sometimes, you know, there are diverse opinions because of where you come into discussion how something will be implemented. We should not go and implement something that everybody is

unhappy with. We should instead through the board take it back to the community for further discussions.

And this is something that we have to do together with the community not something that I will, you know, have the opportunity to say that I think it's right to put something back to the community because I don't think it's good enough. It's really where we reached the point where the community and ourselves agrees that maybe we have to do something additional.

Maybe it wasn't 100% because I want to avoid and I'm speaking generally is that we don't have that capacity today in order to have negotiations too much to sort something out outside the systems. It has to be transparent in the discussion really belongs within the community rather than the board or the ICANN organization. This is what I called an impasse because - and I'm trying to mesh including into the processes as well. I hope that was a half answer to your question how to avoid going forward how to do things without of course saying without knowing the specific enough to know (unintelligible).

Greg Shatan: This is Greg Shatan again. I have an observation and then I'll see especially if any members of the BC but all of us could we're, you know, a follow-up on this since it was a question that came out of the BC. My observation is that the definition of what the community is, is in a sense it can be used to mean different things at different times. And I think when you talk about a lack of consensus within the community if we're - let's talk about gTLD policy for a second. If a GNSO forms a working group any member of the community can join that working group. And through the process the GNSO the working group comes to a consensus. Working groups must come to consensus in order to present recommendations that go first to the council and then the board.

So the community has come to a consensus in the working group. Then the GNSO Council votes by a majority or super majority on the consensus of the working group. And then that goes to the board. So in a sense - and then the GAC gives advice that contradicts that. Is that an impasse in the community, or is it the GAC disagreeing with the community, or is the GAC in the community but they just decided for GAC reasons that they can't participate in the GNSO Working Group. And they're going - and this is how the process works that we have a piece of the community that gets asked afterwards if they agree with the consensus of the rest of the community?

So, you know, impasse has to - and if there's a true impasse within the community it will occur within the GNSO Working Group and there won't be any recommendation to talk about. So we're - we all - when we have a policy recommendation that itself comes out of a consensus building process. So we go - we can't go from consensus to impasse in that sense. So that's what complicates all of this is the process and where the community is supposed to build consensus. If the community is already built consensus then you - how do you call the thing that happens after that where there's disagreement an impasse? It's just perhaps it's a puzzle that we need to solve...

Göran Marby: Right.

Greg Shatan: ...and do it here. But that's...

Göran Marby: Good.

Greg Shatan: ...my observation.

Göran Marby: May I?

Greg Shatan: Please.

Göran Marby: So it is after the board has made a decision not before.

Greg Shatan: So at that point we have implementation is going on which is typically a staff process and hopefully with an implementation oversight team at least if it's gTLD policy we would have an implementation oversight team of the community to interact with the staff.

Göran Marby: I'll give you two examples. One of them is not a policy but I'll give you an example anyway. And that is the Spec Level 3B is that the right acronym about abuse? I know it's going forward but I'm just going give you an example that it's something that we've been discussing for a long time. But we are having problems of having - we can define the community we would want. I'm doing this not because I'm trying to hide something trying to bring a discussion to the surface. So where we have a, you know, where we have something to do where we spend a lot of time trying to figure out a way of finding this middle room in this working how do we then if we cannot do it what to do then? And that is one of the examples.

Another example I would say is the - and forgive me now for being wrong and I'm not judging by the way about anything that has been done, or said or the expectations of it. I'm just sort of seeing it from an outside perspective. The other thing I'm, - is the domain name transfer policy something sorry. I still have problems with acronyms where we apparently ended up with something that the GNSO didn't think was the best thing to do. And I asked myself if everybody knew that why - what happened in the end because when it reaches the board I have to do it. And I think that is the thing I'm trying to figure out how to bring back the discussions if there are any discussions and not judging

between GAC and GNSO for instance but on those occasions a mechanism for that. I hope that I've clarified some things.

Greg Shatan: Thanks Göran. I think you've clarified a lot with that. In the case of the Section 318 of the RAA which I think was the first thing you were referring to that's kind of post implementation and now we're into operations. We're into how do we deal with this language that came out of earlier processes and where community takes very different views depending upon the you ask about how the - how ICANN org should deal with these sections of the agreement in terms of compliance and noncompliance.

So I think that's a definite - that's I think highlights where we have this kind of impasse. So it's really at the operations it's when the train is on the tracks of policy design. The train implementation builds the train...

Göran Marby: That...

Greg Shatan: ...and then operations puts the train on the tracks.

Göran Marby: Exactly what I'm meaning if I was no open about that

Greg Shatan: Oh no, no, no it's, you know, it's just exploratory. And then I'm going to site and probably missite Mark McFadden about who remarked and I'll say more generally sometimes the community and these processes we have design things that don't work or they don't work as well as they should. And then we have to figure out kind of what went wrong, you know, we're building airplanes in the air and we have, you know, we're kind of - we have to go back and learn lessons from what we've done. So I think that sometimes what happens is we end up with a process that didn't actually - it yielded a good result on paper perhaps but then when you try again back to operationalization

it doesn't - it did not operationalize well. So again you have a kind of impasse well what the heck did we mean when we said that? I'll shut up now and see if the BC has something on this point?

Göran Marby: (Unintelligible) home sell to parachutes.

Chris Wilson: So this is Chris Wilson with the BC. And I think to some extent we've touched on both 2A and 2B of these questions. So, you know, I don't see the need to belabor it other than to suggest that at least inherent with 2A there is the micro issue of when and how community input is taken into consideration? In this particular instance we're talking about negotiations for registries and taking into consideration new change amendments to these registry agreements.

And then negotiating those and then asking for public comment post facto rather than seeking community input public comment before those negotiations take place because we - we're finding that, that it's really too late after the negotiations have taken place to then be asking for public comment because in reality those negotiations are done and closed. So it's something I think we're, you know, I guess at this point sort of flagging for you as far as a concern from this community and just to more of their process concern than as much as anything else. So hope - I'm happy to turn to you I guess if you want to comment on that.

Göran Marby: I have no intention to make it worse. My intention is to make it more open and give avenues for the community to look about and then especially then GNSO to be specific on things that when we are trying to implement it don't work out. But I also want to make sure that, you know, I'm not going to judge on those things. We are not going to judge on those things.

It's when we reach a common understanding together that we have an impasse. That we have to make sure that the discussion is held at the right place rather than in sort of negotiations. It's when everything else has failed that's where we need this impasse. And it's not the biggest thing because many things works very good. It's just an example of the things that we need to address. And we need to address it together or, you know, we can use the word effectiveness but I also think for transparency reasons.

Greg Shatan: Thank you Göran. Maybe we should move on to 2C and Chris maybe you should read this. I'm sick of the sound of my own voice you must be too.

Chris Wilson: So Chris again with the BC. I think just this is - this may be an easy question to answer. I think I won't read out - read it out exactly but basically I think you would know the CSG wrote a letter to you and the board January 5 seeking a response with regard to sort of improvements to access to data to a range of data. And in the letter it outlines specific types of data that we as the CSG would like access to but then also recognizes that there may be data that exists that we don't even know exists. And how and to what extent the board and you can improve well our access to that to better - so we have better data to educate us and better inform us as part of the broader community. So really the question is, is there a status update on responding to that letter and if so what is that update?

Göran Marby: I'm going to break down the answer (unintelligible) about the letter itself. I'm sorry that you haven't received an answer. The process of answering letters coming to the CEO and the board will be improved. It's one of those processes that should be working and it doesn't. So - but that's something we're taking into account going forward as well and working with the full board advisory registry as well. So I'm sorry for that.

The second part of the answer is that we are not a corporation a profit driven corporation. And therefore the information that we have if it's not legal, or privacy reasons, or specific business reasons or other ones not us should be made public. And we have the Open Data Initiative which David Conrad doing. And currently he's doing an investigation internally on what material do we actually have? So and we are in plans to do that and to build appropriate APIs to build the data (unintelligible) about that. So - and I know that some of that information you would like to have is - it should be available to you.

Then there was positive of - negative things counts. And that is we have for - we have a problem with the actual documentation management system within ICANN which you could probably see just trying to figure something out on the icann.org Web page. I can dance around it but I can also say that we don't have a document management system at all. And that is the cause of the problem. And I think and my team thinks and I think everybody thinks that we need to address this. We have to have a more structured way of organizing all type of data in a more proper way because the problem with, you know, the information material we have is that how do you know if it exists?

Is not only that you know what it is. You know about some data and you can go and search for it but how do we tell you in a more structured way what you don't know? So what we do know is that we have for a couple of months we looked into this. We have - and that we're working on that I'm we talked to the board about it. And I think in Copenhagen we're going to address it a little bit more. It's a substantial investment to make this happen with the amount of documentation and information we have.

And that's going to take a couple of years to build something in practice. It's not an easy thing to do to go from a nonstructured way of storing data with 28

different Web sites that we're currently running into something that makes sense and is usable for everybody. But I think that we need to investments sooner than later for the point that you addressed of half of that. And that is that how do we tell you what's there other than you have to go looking for it. But the innovation is there to share data in a more - in a better way and not only PDFs of something but actually the actual data so you can do something about it. It's your data much more than our data. And - but there is a cost and limit and practical issues to it right now. Any comments over that?

Mark McFadden: Göran, its Mark McFadden from the ISPs. First of all I'm sure all three constituencies here are going to welcome the implementation of a document management system. It's probably about 15 years overdue. And I hope it solves a larger speaking for myself personally I hope this solves a larger problem for ICANN than simply this data request. But let me say a few words about the second part of what you talked about.

We are very happy that David Conrad is moving forward to start to identify data sources and what is going to be required to make them publicly available. But I think the three constituencies would hope that you not wait until you've implemented a document management system for actually starting to make the data available. And the second thing I would do is I would - you asked at the very beginning of this call you said well how can I help you?

Well here it comes. One of the things that you could do is direct the CTO to work with the constituencies as - on an incremental basis as collaborators in the process so that when it comes time to figure out the formats of the data and let me stress the we are much, much more interested as constituencies in a community in the raw data rather than PDFs that are reports that would have to be converted in some way using middleware. We're very, very interested in that raw data.

And if what it takes is an incremental evolutionary approach to getting access to that data that would certainly be something acceptable. I don't think that there should be a flag day at which we say okay ICANN's public data is suddenly there and widely available. I think no what I would encourage you to do is two things is have an incremental evolutionary approach to this problem. And second of all encourage your CTO to work collaboratively not just with our three constituencies but with the whole community on prioritizing which data is available, if we're going to use an incremental approach and then working collaboratively on things like formats and means of access.

I appreciate Göran that it's not an inexpensive process. But as we said in the letter remember that there are models that ICANN can work on work from. The IR - RIRs do this routinely make their data publicly available. There are other - the IETF makes its data publicly available. And I think there are ways to do this in a manageable way that's both incremental and evolutionary.
Thanks.

Greg Shatan: Thank you Mark. Göran.

Göran Marby: Thank you. First of all I'm - we don't know what data we have either as a collective aggregated level. And that's why we're trying to figure out which data we have. And that's where we are in the process. And to no we are not waiting four years or three years to have this out. We need to figure out how to do it and be more open as we go along. We're not going to wait for one day when everything is going to be public. And I know that David is working with different parts of or with people rather than the community about how to do this in an effective way right that suits everybody. I want as many as possible. There is no solution that's going to fit everybody.

Yes and we have a cost restraint. So we try to balance that of course. But the intention is not to hide anything it's to open up more and more as we go along because as I said it is the source data which I think it's important to come out and not only the PDFs. So the - and to your point yes this should have been done 15 years ago. And now we're trying to catch the train, and come onboard the train and then eventually do something with it. But it's one of those things that we have fairly high on our agenda. And but I'm sorry again that we haven't answered your letter in a more formal way. It's on the way by the way that answer I checked that just yesterday actually.

Greg Shatan: Thank you Göran. We have a few minutes left for the final question. And I think it's only appropriate that I ask this one given my side job as the rapporteur for the jurisdiction subgroup of the CCWG Accountability. This last question is do you have concerns that ICANN is subject to United States law and jurisdiction of the United States courts?

Göran Marby: ICANN, this is a many faceted question. You have decided or someone has decided it's been decided that the ICANN bylaws is based on California law. And so we are California based. We have thousands of contracts that is all done California law. So that's the structure. I think that one thing to realize is that because of the (unintelligible) even if we moved it should be - it would be someone else, you know, system. We will always contain ourselves in a system and different countries have different systems. My understanding is that the, you know, without judging on this California law is not a bad law for you to have a nonprofit in because the ramification if I did - if I went rogue is quite hard from a legal perspective.

I also think that which is a major concern to me is - which I will not answer your question but I have a concern about many countries right now are looking into different kinds of laws when it comes to things like visas,

traveling policies because of their expectations of threats so in the what they sometimes are referring to are cyberspace or freedom of speech. But I don't, you know, personally I don't know if I'm allowed to speak in a personal capacity probably not. But personally I think we have as an ICANN system we have discussions that we have to hold from a holistic perspective when it comes to all of those moving pieces. It's hard to see us bringing up the US legal system and you have to compare it with 192 other potential legal system. But the underpinning of ICANN is openness. The underpinning of us is sharing and consensus building. And I'm not - I think it's important to address that and how we can work with that going forward from a general perspective. (Unintelligible) and to make sure that we can keep this openness going forward.

Greg Shatan: Thank you Göran.

Göran Marby: What do you think Greg?

Greg Shatan: And I think that is a - what do I think? I'm a neutral rapporteur. And my thoughts are not going to be expressed at this time. My thought is that any transparent open fashion that a group of people need to discuss this fully. But at the same time it's a CCWG on accountability that is having the current discussion. So any result clearly has to enhance ICANN's accountability. And it's also Work Stream 2 of a - of the same work group.

And it would be unusual to say at least for Work Stream 2 of a workgroup to tear down the work of Work Stream 1 of that's a workgroup but none of that is to prejudge any results but just a couple of observations as we move forward. And of course, you know, things all sorts of strange things that can happen that have a very small chance of happening even viewed on the on November 7 things could happen that you might not know. Jimson.

Jimson Olufuye: Yes, thank you Greg for raising that. We're just - this is Jimson. Just to quickly to add to that, that there is some of concern that transition is usually challenge but as a way of balancing, you know, those concerned maybe there could be some kind of immunity provision okay? Immunity provision so for some aspect of education.

Greg Shatan: I'll leave you with this question Jimson. How does immunity enhance accountability?

Jamie Hedlund: I'm all for it.

Greg Shatan: That's our new Director of Contract Compliance. Jamie will be kicking back at the pool if we have immunity.

Göran Marby: All right the Blue Lagoon I hear is very beautiful this year. Maybe you should take Jamie there. The ICANN community I'm struggling to - can I go back? I read a very important blog about ten months ago or nine months ago by a guy called Greg I think it's called where he talked about the different aspects of this new CEO coming in. Do you remember this blog Greg?

Greg Shatan: I do.

Göran Marby: It was a very good blog. And some of those things I took to my heart. And one of those things you pointed out was this trinity of things. You have the community, you have the board you called in Inc. I just call it org to make the point that we're not profit driven Inc. And it's important that you hold those roles with the new bylaws. And so even if Jamie wants to be immune no way I can be that because I have to be accountable to you and to the board what I'm doing.

So I - in that respect I think that I - there - I that enhances my accountability that I - you have the empowered community. You have the right to make policies. And you have working with the checks and balances to make sure that I implement the right thing that I'm ordered by the board. And to be honest again I think that, that is the way it should be. There are things that we have to tweak to be better. We have to improve. But that session I think it's important because it creates this potential for accountability and not only accountability to someone to point to be accountable and as I said before I'm actually the most accountable person when it comes to this trinity that you designed Greg, a very good blog.

Greg Shatan: Göran I - well thank you. I've just posted the link in the chat. Hopefully I'll get a few more page views. Unfortunately I don't have any advertising on there. It is not my blog. I was trademarked online. Jimson I know I asked you a question so I should give you the chance to answer.

Jimson Olufuye: Yes, thank you Greg. I like the question. Actually immunity can lead to impunity, you know, so that is why really it's a quite interesting question. So there's a chance it could lead to impunity. And we don't want that kind of impunity. So it's a very fair question. We need to push back. So you know the situation. You need to push it back.

Greg Shatan: Thank you Jimson. And we're now passed 6:30 here in Reykjavík which means it's been dark for about two hours maybe three. So I want to thank Göran for participating in this group fica. And thank the CSG, BC, IPC for all participating in the questions. Thank Jamie, and Rinalia, and Julf, and Markus for sitting in although Julf was half CSG and half man half monster sort of thing. So we...

((Crosstalk))

Greg Shatan: No, it depends on which room you're in. So any way I'd like to thank you all. I think this was very fruitful. And I think we were able to, you know, overcome some technical difficulties. And I hope that we will be seeing you in person very soon. And with that I will adjourn this meeting and let Göran say goodbye to us. The meeting we're...

Göran Marby: Thank you.

Greg Shatan: ...we'll say goodbye to Göran. He - there he is.

Göran Marby: Hey Greg excuse me...

Göran Marby: Oh I'm here. Thank you Greg and thank you everybody for a very good presentation. Can you hear me?

Göran Marby: Are we going to try to...

Greg Shatan: We hear you still. We hear you.

Göran Marby: Oh yes. Okay I just want to thank you. It's been a very (interesting to) have very good questions. And I'm looking forward to continue to discuss with you. I just want to mention that you're actually one of my favorite citizens in your world. I really love Reykjavík. It is an amazing country with an amazing history where you can, you know, learn a lot about looting, and stealing, and all of the that is dear to Swedish people.

I also want to say - end up with I asked one of my best friends who is - happened to be Icelandic on when the summer arrives in Iceland. And he says

the 3 July if it doesn't rain. So appreciate the weather because if it's only dark then you have very good weather. With that have a nice evening.

Greg Shatan: Thank you, bye.

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