

RAW FILE
ICANN
MAY 23, 2017
2:00 P.M. CST

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(Beep.)

>> BERNARD TURCOTTE: Hi. Can we ask who is on the phone with the number ending in 4154?

>> Oh.

(Talking at the same time).

>> BERNARD TURCOTTE: Thank you.

(Beep.)

>> BERNARD TURCOTTE: Hi everyone this is Bernie. I'm trying to track down our Rapporteur. And I'll get back to you as soon as I do. Thank you.

>> MICHAEL KARANICOLAS: Hello. Can you hear me? Hi. So thanks to those of you joining us. I'm sorry about the delay. I had a couple of problems connecting. It is indeed an avenue rather than a path. We want to be ambitious here. It is going to be a bit of a short meeting today because I don't have the full materials for a broader discussion on the four major issues that we have isolated as I will get to in a second. But I wanted to offer just sort of an update about where we stand now. And just a discussion of where we are going to --

>> This meeting is now being recorded.

>> MICHAEL KARANICOLAS: I wanted to offer an update of where we stand and where we are going and what we have in front of us. So the first thing to update you on is the departure of my co-Rapporteur Chris Wilson. Chris was let go of 21st Century. Since he has been engaging as a representative of the business constituency and that has book handed his involvement in this. That raises a bit of a challenge for us because we had a bit of a -- oh, sorry. I'm see Bernard telling us that we only have four participants.

>> BERNARD TURCOTTE: Yes. Let's not worry about it Michael. And continue with your updates since you are framing this more as an update to those that did join. Thank you.

>> MICHAEL KARANICOLAS: Yeah. Okay. Great. So the first thing that I wanted to ask and I will put this on the list as well, Chris' main area of focus was on ICANN's -- on transparency with regard to ICANN's interaction with governments and he took the lead on further revising what Barbara had developed in terms of whistleblower protection. Is there anybody who would be interested in sort of taking a stronger role in harmonizing those sections based on the inputs that we have received?

Okay. So I understand. It could be potentially a big thing to throw out there. I could potentially take that on myself, before we go that, I am going to send an e-mail out to the list and see if anybody is interested in stepping forward on those issues specifically. Particularly on I guess we could probably get Barbara back to look at the whistleblower protection stuff again but the interaction with Governments is what Chris was focusing on. It would be very helpful to have somebody else step forward on that. I will look in to that. As a last resort I can take those two on as well myself. But let's -- it is a much better situation if we can balance it out both from my perspective and from the perspective of ensuring that there is a -- there is different -- I'm not too involved in all the different moving pieces. So that's our action item for that is that I will send an e-mail out to the lists asking if anybody would be interested in picking up from Chris.

In terms of the revisions to the document based on the impact -- inputs that we -- the revisions to the recommendations based on the inputs that we received throughout the consultation process. I had a phone call last week from from Sam Eisner and ICANN legal and we had a very positive conversation on providing more clarity to the objections that they raised. And there is a few areas that she has asked us to provide a little more information and a few areas where she has promised to provide a little more information on their own thoughts on the matter. And I do want to emphasize it was a very good conversation and I

really -- she was providing really good engagement I think on the issues that ICANN specifically had raised. So just to move forward -- move through those four main issues to let you know where we stand. In terms of the duty to document, she had indicated that they are open to that and it actually sounds like they are very interested in that in terms of a business administration perspective that I mean really what we are looking for in that recommendation is making sure there is a paper trail left which is just sound business practice. And so she seemed to be on the same page with us on that but requested a little bit more information on how that practically works and how these duty to document rules practically works. So I have had some students at my shop here looking at that and I will share that with the group as well as I guess in advance of sending it on to her. And that's the main area that we stand on duty to document is they are open to it. They think it is a good idea but want more concrete information about how practically that would work. The second major one was about attorney-client privilege. On that discussion again we both -- so I -- she mentioned ICANN's four different practice areas, basically where our conversation went was we agreed on the need to provide more clarity and transparency around what ICANN legal does and that we needed to have a bit of a dialogue or a talk through -- have some conversations between ICANN legal and the working group to establish a good avenue to improve transparency. They had expressed some unease on this precise scope of our recommendation as it stood but seemed committed to taking some steps in that direction.

So what she mentioned is that ICANN has these four different practice areas and that she is going to talk to some of the other lawyers there and to look in to areas that could be opened up and come back with some proposals of her own for improving transparency. The flipside of that that she asked of us is that she asked that we provide any suggestions for specific areas that could be specific types of information that should be released. Our initial recommendation was more of a structural rule that would -- we would use going forward, mainly like a place where the line would be generally drawn but she wanted a little more specifics about that. So again I'm going to -- unless anybody has any first of all, if anybody has any thoughts on that now, I would -- we would very much welcome that. Otherwise I'm going to send an e-mail out to the lists for further recommendations about pinning down a little more about what kind of transparency we want to see out of ICANN legal. I will open it up for a second. I will ask anybody if they have any thoughts at the moment that they want to share on transparent at ICANN and otherwise you can comment. Okay.

Great. So Sam was actually to get back to me with a little further information last week. That I think that she said that last week she could tell me when she could get me the information. I spoke to her two weeks ago and she said by last week she could get further information on when she could get further information. Timeline for it. So I will follow up with her and ask for more information and when we want to see from ICANN legal in terms of transparency. In terms of the discussion on open contracting, again they said they are open to it but a big part of that would be to clarify the rules around how nondisclosure agreements are signed about contracting parties. I think that everyone in the Working Group is in agreement that where an agreement -- if ICANN commits to a third party to a nondisclosure agreement they have to be true to their word and honor their contracts and that's fair enough but then the question backs what are the rules around these nondisclosure agreements how should they be signed and what circumstances should ICANN be entering in to them. So again Sam agreed to provide a little bit more clarity on their policy towards MBAs. So I think that that's an area of engagement that we can look in to how MBAs are developed and how they are established. And discuss that as a potential way to open up contracting going forward. So again we are waiting for more information from Sam and I go back to her after this meeting to look in to further information about what their process is and maybe we can discuss how that can be improved. The final area which was about confidential business information that's not an area that are we actually -- that I actually discussed too much with Sam. That's the fourth major area of discussion for the Working Group regarding DID revisions, pardon me. That's the fourth major area for the Working Group on refine of the DIDP but the objections to that were mostly from -- weren't really from ICANN as much. The objections were there from the business constituencies and registries, et cetera. So that's less stemming from the conversation from Sam and more about a conversation that I need to work to tee up among the Working Group to try to discuss refining that specific recommendation. So that's something that I have to do and that I haven't been able to get to myself yet. So that is due for discussion but I am -- but I'm not ready to bring that before you guys now. And seeing as we don't -- we don't have a very high turnout at the moment that it is probably best to kick it forward anyway. So are there any comments or any questions about this? Like that's the update that I wanted to give in terms of the process and where we stand now. Are there any questions or concerns or comments that maybe wants to raise connected to that? Yes, David.

>> DAVID MCAULEY: Michael thanks. In the discussion with ICANN legal about open contracting and things of that nature, I'm sure Sam will probably think of this but when there is a discussion about broad -- contracts with broad groups such as registries or registrars keep in mind that there will be some things that some bits of information that may be shared and I'm speaking from a personal Point of View here because I don't work in this area at Verisign but there may be areas where there has to be certain things kept confidential so that there is due observance antitrust regulations and people aren't sharing pricing information in inappropriate manner. So it seems to me when in is a discussion about open contracting with broad categories, there may be some policy implications in that from the ICANN standpoint that I want to note.

>> MICHAEL KARANICOLAS: Thanks for that. The conversation on that was brief. We are I think all in on the same page about working to ensure that trade secrets and legitimate commercial interests are properly protected and I think that we all share that interest. The one thing that I would also -- but in terms of the antitrust thing specifically that's actually not something that we had considered before. So thanks very much for bringing that up. That's another area to consider in terms of business information as to whether there are any potential antitrust issues. So we will -- so thanks very much for that and will consider that as part of the process when we have that conversation. I think we will -- yeah, and we really as the Working Group need to have a robust conversation about how the recommendation on -- how we want to craft the recommendation on business information, how we want to refine it from where it currently stands.

So unless I'm assuming that David's hand is just a remnant of that prior comment and you can correct me if I'm wrong, but unless we see anything I want to move on to the discussions of our avenue forward. Our avenue forward. So part of those are action items that I have already mentioned whereby I'm going to try and seek a replacement to take the lead and tee up some discussions on the list. In terms of our we have another call as Bernard mentioned on May 31st. But I should mention that my schedules for me personally are very crazy through June. I have a three different international missions that I need to do before ICANN. So I don't think that I will be equipped to -- we have set a meeting for the 31st potentially to discuss anything that we have gotten back from Sam if we have heard things back and I have set another one for near the end of mid to late June where hopefully we can a bit more of a substantive conversation but I want to a little bit careful about committing to that because June is very crazy for me and especially if I am taking

on Chris' share of the work as well. Thank you June 20th, 1300 thanks. It might get a little bit challenging. So just to let you know that it is unlikely that we will complete the revisions to the recommendations. We certainly won't get through two readings of those before Johannesburg, mid to late June is ICANN 59. We are unlikely to get through those revisions -- I will do my best to get through the -- to help shepherd us through the revisions before ICANN 59 but certainly we are not going to get through both readings. So in terms of ultimately finalizing all of this it will probably be passed -- it will be passed ICANN 59. We are still way ahead of I think the other groups. So I don't see a particular pressure on us there but I just wanted to let you guys know about my situation there and that it is going to be -- that we I think need to gather more information from Sam and ICANN and as well as my own scheduling challenges that could push us back a little bit as well. That's the last thing I wanted to inform you about but in terms of future meetings we have got one at the end of May that is hopefully going to be discuss what we got back in ICANN legal, if we have gotten anything back at that point and then beyond that we have got one in June which will hopefully be more of a substantive one to take forward some these revisions. So that's where we stand on the process. Again I'm going to ask if there are any questions or comments based on anything that we have discussed. Yes, David again.

>> DAVID MCAULEY: I'm wondering as you search for some help if you have talked with Chris about pressing on in his personal capacity. Is there any requirement that he would be from the BC or from a constituency or could he do that -- if he is interested in his own capacity?

>> MICHAEL KARANICOLAS: So Chris -- no requirement says Bernard. But I could go back to him but I believe that as a representative of sort of -- somebody who is sort of back stopped by Fox and was paid to do that and as that representative I am not sure how interested he will be but I can go back to him. And inquire. I think it is a -- it is a slight difference maybe between him as a business representative where he's sort of representing -- he is there representation Fox and is kind of expressing a position there for Fox where different representatives like me I am sort of a free agent even though I am representing the center for -- I'm not -- right. A lot of us don't really have strong -- it is a bit of a situation for some but I think with Chris it is more he was here much more in an institutional capacity. But that being said I can go back to him and gauge his interest. I would be a little surprised especially because, you know, he is sort of on the job hunt at the moment which I think is -- I imagine a bit of a stressful

situation. So it is -- it is a challenging situation for him. But I will -- I can reach out if -- but I will reach out to him and see if there is any interest. Maybe I will do that after I go out to the board or go out to the lists. Just to sort of see if we can have somebody who is here taking the floor first.

So that can be our action item there. All right. As I said this is going to be a bit of a short meeting because I wanted to offer some updates. Does anybody else have anything they like to add? I didn't put any other business on the agenda. Anyone else want to chime in, please do. Yes, Bernard.

>> BERNARD TURCOTTE: Sorry. Getting off mute. If it is just some straight writing assistance staff can give a hand if that helps. I'm just offering.

>> MICHAEL KARANICOLAS: I appreciate that. I think it is more because the document is base -- is quite close to completion, I think that it is -- that the debate is really around policy. As I see our work going forward there is a little bit of wordsmithing that needs to be done to tidy up some of the minor objections that were raised and we have to have good conversations about those ABC and D that are sitting there on the agenda and try to find a good mutually agreeable avenues forward for those four. And that is -- that's a policy question more than a question of writing. Because again the actual volume of that stuff is going to be fairly small. But I do appreciate the offer. And I I also say like June is very hectic for me but it is going to clear up after that. And so in terms of I actually will have a lot more time to devote to this after that. So I'm just sort of facing a limited crunch at the moment. So I do appreciate the help. Is that a new hand?

>> BERNARD TURCOTTE: New hand. Just a note, depending on how we are doing with framing these four policy points, you may want to think about using the opportunity of the face-to-face meeting in Johannesburg to propose to the Chairs that the Plenary weigh in on this and you would get, if you will, a two for one in that you could get -- you will have people in the room and you will have the attention of the crowd. I know we are not massively loaded on the agenda and I think it might work out that you can get some quality input while we are in Johannesburg if you want that.

>> MICHAEL KARANICOLAS: I think that that's an excellent idea. Thanks for that. I think it would be excellent if we can devote the next month or so to try and sort of dig up back ground and getting examples and having the background to those discussions dug up and getting that information back from ICANN legal and then maybe just have a great conversation or a robust conversation in Joburg about that. That sounds a like an excellent idea to me. Is there steps that need to be taken to

reach out to the Chairs?

>> BERNARD TURCOTTE: If you are comfortable with that I can take that on and provide some assist with the background digging. We are really here to help you and get this moving.

>> MICHAEL KARANICOLAS: I would appreciate that. I think that's an excellent idea. Unless anybody has any objections I think we should proceed on those grounds. Great. Great. Okay. So that's very good and I think that certainly helps to provide more clarity to the process. I certainly feel better about having working towards that now as a concrete discussion point. Unless there is anything else I'm happy to wrap it here. Does anybody else want to chime in? Great. Thanks everyone for joining. Sorry for this was sort of a short meeting but I'm looking forward to working with the rest of you going forward and we can discuss again in a week. Thanks very much.

(Session concluded at 2:29 p.m. CST)

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