
ICANN69 | Virtual Annual General – Engagement Group on Internet Governance (EG-IG): Session on Digital Platforms and Regulation
Wednesday, October 21, 2020 – 15:30 to 17:30 CEST

GISELLA GRUBER: Guten Nachmittag here in virtual Hamburg. Good morning, good afternoon, and good evening to everyone around the world. Welcome to the Engagement Group on Internet Governance Session on Digital Platforms and Regulation on Wednesday, 21 October, at 13:30 UTC.

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With that, I will hand the floor over to our moderator, Olivier Crépin-Leblond. Thank you. Over to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Gisella. Welcome, everyone, to this Engagement Group on Internet Governance call hosted by the ALAC which means that we will have full use of both text transmission for questions and comments but also voice. So you'll be able to queue up when asked to do so and when we can start the discussion.

We have quite a full call today which is going to last two hours in length. This of course is a virtual meeting. It's the first one of the Engagement Group on Internet Governance in itself as it has pretty much taken over the discussion platform and mailing list of the Cross-Community Working Group on Internet Governance which has by now been disbanded.

The Engagement Group on Internet Governance is there to provide a platform for all people in ICANN, so individuals in ICANN, to be able to exchange points of view and information about all kinds of Internet governance, of course as it relates to the ICANN mission and with a particular focus on that. Not only among the community but also with

the Board Working Group on Internet Governance and with ICANN staff.

We are all—and I’m saying “we” as in you and I and everyone else—are all encouraged to participate in the works, on the mailing list, sharing information that sometimes we might as individuals have access to that others might not have access to, especially when you are following a process very closely.

So it’s just a discussion platform. And usually at every ICANN meeting it was customary for it to meet and have two calls or two face-to-face meetings. One face-to-face meeting was a public session, and that usually focused on a single topic or discussion. The other one was more of a working group session to discuss internals.

Because this is a virtual meeting, we have not got the need for having smaller slots. So we opted for having a two-hour session that would be able to cover both. And of course you’re all welcome to be in it for the whole length of the meeting or just part of the meeting. But what you are encouraged to do is to take part in the discussion. This hopefully will be quite interactive in its scope.

Today’s agenda is going to start first with a discussion on Digital Platforms and Regulation. Now the key here is more regulation than digital platforms. Digital platforms are just an entry point to show and provide examples of how these are in the process of getting regulated on a national level in several parts of the world because content is

possibly the first thing that governments immediately have an idea for regarding regulation.

We'll have an example from Holly Raiche with her presentation on the Australian Competition Regulator followed by a presentation from Bruna Martins Dos Santos who is going to speak to us about the Brazilian Platform Regulation Concerning Fake News.

Swiftly after that we will then move into the second phase of this discussion which is about the potential impact of regulation on ICANN. We'll start with another example that is much closer to home for ICANN and that's to do with the Digital Services Act consultation and regulation that seems to be in the pipeline in Europe.

We'll have an intervention from Elena Plexida who is Vice President for Government and IGO Engagement that will be focusing on ICANN's Response to the Digital Services Act Consultation and from Suzanne Taylor from RIPE NCC who will be focusing on RIPE NCC's Response to the Digital Services Act Consultation.

As an additional guest we also have Pierre Bonis from AFNIC who will be joining with us and sharing with us other kinds of regulation that some country code top-level domain operators have been subjected to. Many of the members of the ccNSO are subjected to national law, and this has moved in recent times.

But on top of that Pierre is also leader for the liaison group on Internet governance that the Country Code Names Supporting Organization is running. And they had their call last week which I hope many of you

have attended. Very exciting. Very interesting. Pierre will be able to reflect on some of the discussions that have happened last week.

After this if you're still alive—and that should be about an hour of discussions, hopefully heated discussions and good discussions—after that we'll have a discussion with Tripti Sinha who is the Chair of the Board Working Group on Internet Governance. The Board has its own working group that is focusing on all the issues that we're going to be talking about today and perhaps even more. So that's our usual interaction that we have, and Tripti will be spending the time to share what the Board has been working on and also take questions and discuss topics with all of us.

And then finally, last but not least because it's really important to have updates about what is going on around the world, we will have updates. IGO updates from staff and participants. Primarily ICANN staff working in different component parts of the Internet governance and Internet government organizations around the world with an update from the European Union with Elena Plexida, the UN Cyber Related Discussions that Veni Markovski will be speaking to us about, the Virtual Internet Governance Forum (IGF) coming up in a month's time that Vera Major will be explaining to us and sharing ICANN's involvement in this, the World Summit on Information Society with Laurent Ferrali based in Geneva speaking to us about what's happening there, and the Global Symposium for Regulators with Laurent again speaking to us about this, and finally the World Telecommunication Standardization Assembly (WTSA) where Veni,

Vera, and Mandy Carver will be able to share what's happening between ICANN and the input and the things that might affect ICANN in those processes.

And of course anything else that you as a participant in this discussion may wish to share with us and that we have not included in the current listing. And that should take us a full two hours.

I've already taken a bit more time than I originally expected, but I thought it would be good to have a good introduction on this. I wanted to thank Lori Schulman for having attempted her best to get some additional speakers from companies, corporations to speak regarding this regulation topic. But as you can understand, the issue is not only complex but very sensitive as well. So we have not been able to secure any company or registrar or registry to speak officially about what they have been dealing with recently. But I really invite any members of those organizations that could be on the call right now to speak to us and to bring their input both in the chat and also in the discussion later on.

Now without any further ado we'll start on Digital Platforms and Regulation, and that is of course a very hot topic indeed. COVID-19 has put the world in a situation where going to the office is not a standard thing anymore. We are working more and more remotely and virtually, and we are more and more relying on the Internet for our everyday lives. Not only just for fun but also in being able to access work just as we are doing at the moment.

This of course has at the same time really changed things. Really changed things in the world in that we are looking at our reliance being so important. Many governments looking at the Internet as a critical resource that has had its fair share of problems, of regulatory problems, of security problems.

We can see even by the way that we are running our Zoom meetings at ICANN whereas in the past we had Zoom rooms that would just support our face-to-face meetings and would be just open for everyone to use. And now that there has been a real focus, not only Zoom has become a multibillion dollar company, but at the same time more and more people have used it and more and more people have heard about what ICANN is doing.

There have been new problems arising such as a thing that's called Zoom bombing which has required us to tighten up the way that people access these meetings so as for them to not be able to attend them totally anonymously while this was completely possible in the past. Of course, today the process is not perfect, but at least we are able—hopefully able—to run meetings without too much interference from those people that are out there to just cause havoc one way or another.

So this is one of the things that governments have of course been very alerted to. The rise in cybercrime. The rise in a number of other problems, child pornography. The whole situation of content being shared online at an unprecedented than before has brought several governments to look at things and decide that they would implement

some regulation. And not just light regulation. Regulation at a certain [base].

And we're not looking at just some countries, the usual suspects as one would call it where strong regulation has always been in effect. Let's talk about China for example where we know the Internet is highly regulated. No, we're speaking about countries which would have looked at very light regulation in the past. Look at Australia on the one side. Look at Latin America/Brazil on the other side. Look at the United States, the whole TikTok story. We'll touch on that just for a quick moment after our presentations. Look at Europe of course.

It's not this thing where it's free-for-all now. Things are changing and we need to see how that might affect our future collective businesses in the future. Not only the end user access and things that are going to happen to the end users but also to the providers of these services.

Now as I said, we have two examples of regulation that have come up that have had an impact on the Internet. We'll start first with a presentation from Holly Raiche who is joining us from Australia. Welcome, Holly. Holly is going to speak to us about the Australian Competition Regulator because things have moved quite a lot in recent times. So without any further ado, over to Holly. Holly, you might have to put your camera on and to unmute yourself.

HOLLY RAICHE:

Sorry. How many times in a Zoom meeting do we say unmute yourself?

OLIVIER CRÉPIN-LEBLOND: Welcome.

HOLLY RAICHE: Thank you. Okay, this is the Digital Platforms: The Australian Experience. It was an inquiry by our competition regulator, the Australian Competition and Consumer Commission that I will refer to as the ACCC from here on in. May I have the next slide, please?

This is to remind us where we were about 40-50 years ago. It's also to say we're not there now. May I have the next slide, please?

This is from a very recent paper I was reading. It's mainly about Facebook, but I love the sentence: "I am seeking to establish that the issue with Facebook"—and for that read "other platforms"—"is not that it is unregulated but that it is underregulated." Which is really picking up on Olivier's point about the fact that there is more regulation.

And can I say from the outset the regulation that we're talking about in this context is about the governance of platforms. This is not about the traditional regulation of the names, the IP addresses. The sorts of things that ICANN talked about and indeed the original discussion about having this talk at all, there were probably 50% of people who thought it was a good idea, 50% said it has no place in ICANN. But I'm here, so perhaps one half won. Next slide, please.

The inquiry was about digital platforms. Let's start with a definition about what we mean. The definition focuses on commercial. This is something that was in both the preliminary and the final report of the ACCC talking about what they called a two-sided market. On the one side you have consumers like ourselves, users as ourselves. In exchange for services, we are supplying something of value, and that is the data about ourselves, about what we're doing on the Internet, about what we're interested in, and so forth. And it's valuable because on the other side of the two-sided market you have advertisers that are willing to pay for the information about us. So in these commercial interactions on the one side you've got suppliers and advertisers; on the other side you've got suppliers and consumers.

The focus of the inquiry which started, it commenced really in 2019, were on three types of these platforms: search engines, social media platforms, and other forms of the digital content aggregations platforms. Next slide, please.

The final report covers many topics. I will only look at two of the topics, but it's a very extensive final report. There's a lot of reading with that and all of the submissions and the interim report as well. Lots of, as you would expect, recommendations on privacy, on issues of strengthening requirements for consent, on strengthening the requirements for actual collection of data.

I will talk about competition. One of the recommendations was actually the strengthening of our merger laws, about notice of acquisitions, changes to some of the technical services. There's some

discussion about copyright, the possibility of a mandatory takedown code. Now I know France has gone in this direction, not necessarily successfully, but it's certainly looked at.

There are consumer protections. But I will talk particularly about journalism, including what we've developed as a bargaining code. Because it was really journalism and the impact of the platforms on journalism that really began this whole inquiry. Next slide, please.

Before I get to the journalism, just a mention about because competition is one of the two really big issues, one of the things that has happened subsequent to the final report there is now within our competition regulator a specific section in the mergers and acquisitions area simply called adtech and they are running this inquiry. This is to address many of the submissions that were made about the competition practices of the platforms, about the opaqueness of the algorithms used, the information they provided.

So the inquiry that is now [inaudible], the interim report is not due until December of this year. But as you'll see from the terms of reference this will be covering a lot of the competition issues that were raised about the competitiveness and efficiency of markets, about the ability particularly of advertisers and publishers to get information that the digital platforms are not providing about the advertisers and the users of the services.

Concentration of power in those markets. I was just reading or hearing about the U.S. move to take Google and platforms to court over

competition issues. Very much the same thing here, the concentration of power in those markets that the platforms have. Other obvious issues, mergers, the behavior of the suppliers which is the platforms, and looks at the corporate structures, the digital display advertising, and how competition in the markets impacts on competition. So it's a full-blown inquiry. The final report is not expected until December 2021. Next slide, please.

However, the actual beginning of this inquiry started off with a senate select committee looking at public interest journalism and the impact of platforms on journalism, particularly on the press. This is one diagram from that senate select committee report talking about what's happening, the "Death Cycle."

With the loss of revenue, the content quality is impacted. That impacts on the credibility of the press. That impacts on both its influence and circulation. They're less profitable. They can spend less money on content which then impacts on credibility, etc. So for the report, this was the death spiral that has resulted from a loss of advertising revenue by the press. Next slide, please.

This is from the interim report. It was repeated in the final report. When I saw this picture, this graph, I thought well really you don't have to say any more. If you look at the impact of advertising expenditure with the rise of digital platforms, you'll see there's been very little impact on radio, television, outdoor advertising, and cinema.

But if you look at what's happened to print media, just by this graph you can see that in probably about the ten years from 2008-2018 \$8 billion has moved from the press to the digital platforms. It has had a huge impact on the press. The reason for the inquiry, this comes out of the senate select committee, the impact on democracy, on a free press and it's ability to continue to report well. Next slide, please.

The response just to this issue was the development of what was called a bargaining code. In fact, it's a draft legislation. It has been out for public comment. It will presumably be past when [parliament] next meets. The impact of it was the essence of this code or really this piece of legislation is, first of all, there are bargaining rules. These will be requiring some designated digital platforms because the treasurer will designate those platforms to be covered by a code.

Each of the designated platforms must come forward with what they call their proposed new news business and indicate their intention to bargain. Part of that indication must include suggested rules on revenue sharing.

The next part of the code is compulsory arbitration. If the parties cannot come to a negotiated agreement—and I would have to say the likelihood of that is just about zero—then there will be compulsory arbitration. And it will be on payment for news on a designated platform. Those rules would be set by an arbitration panel selecting between the final offers that the designated platforms and the registered news businesses will have come up with.

The minimum standards from that legislation must include most particularly algorithmic changes. This is an issue that was raised by several of the submissions to the initial inquiry, particularly a news corporation. Much more public information, particularly information to the news businesses, about the platform's collection and availability of user data which right now is not transparent and it's one of the major complaints of the [new submissions] being made.

And advance notification of changes that affect the display and presentation of the news. Again, the lack of transparency was a huge bone of contention by the news, particularly the news corporations that made submissions to the inquiry.

The final piece of this legislation will be that the designated digital platforms will not be able to disadvantage any particular news business based on whatever. There will have to be a transparency and equality in the ways that the Australian news businesses are treated. Next slide, please.

Okay, this is the last slide, I think. Importantly with this bargaining code or piece of legislation there are some really important elements to it. First of all, the platforms to be covered will be designated by the treasurer. They must be either an Australian company or a subsidiary. Then they must be registered. That looks like a very small sum for a designated news business operation, but the point is to include many of the rural and regional news outlets that are severely disadvantaged by the loss of revenue.

OLIVIER CRÉPIN-LEBLOND: Have we lost Holly?

GISELLA GRUBER: Holly?

OLIVIER CRÉPIN-LEBLOND: I wonder whether we have lost Holly. One of the problems of course with remote participation is you get this sort of problem where someone's screen freezes and they drop out of the call.

While we're trying to get Holly back, I note that there are quite a number of comments being made and questions being asked in the chat. I have tried to answer some of them. Of course, everyone else is welcome to join in the chat and also answer these questions. This is not just a discussion between me and everyone else. This is supposed to be there for all of you to speak together.

There was a question regarding the parallel between the platform regulation and the Internet identifier system. Indeed how the two can be even compared might be something completely different. One is content; one is not. One is mostly private; the other one is a resource that is a global resource. So certainly there are some differences between them.

I note also other comments being made regarding algorithms, an entirely other story, the whole thing of algorithms. First, there is no

transparency at all regarding algorithms. I guess one could say rightly so for those companies that are involved in running algorithms because at the end of the day they consider this as being intellectual property. So a completely even more complex scenario here and I don't think we should go in that direction.

And then there was also a comment in the chat made by Andrew [Campling] on regulation of platforms. I wonder whether Andrew is able to maybe take the floor to just take us through that because that was a long comment.

[ANDREW CAMPLING]: Yeah, hi, Olivier. I can do that if you can hear me okay.

OLIVIER CRÉPIN-LEBLOND: Yes, absolutely.

[ANDREW CAMPLING]: Okay, well, just for accuracy let me read out the comment that I posted and then if appropriate I can expand on it if it's unclear. What I actually posted was that I think that the emergence of digital sovereignty and the gradual introduction of national and regional legislation and regulation that applies to the Internet and to services using it is on balance a good thing.

The digital economy in all of its guises is far too significant now to ignore, and the norms that may work in, for example, the U.S. will not

work everywhere else. For example, there are different expectations relating to privacy as a case in point. In my view, I think this is likely to presage a gradual divergence of the Internet into at least three separate but interconnected blocks centered around the U.S., the EU, and China.

And just reflecting on that, as with other aspects of our lives the rules in each of those blocks that apply to the Internet are likely to be quite different and, in my view, that's not a bad thing. I appreciate that others may take a wholly different view, but I think the Internet has now matured and to expect it to somehow be separated and separate from [all the other] markets is completely unrealistic and is partly why the balance between good and harm that the Internet is bringing to our lives is shifted quite negatively of late. That needs to be redressed, and my view is that more regulation, more oversight is the right way to go about that, more accountability.

OLIVIER CRÉPIN-LEBLOND: Thanks for this contribution, Andrew. Thanks for sharing this with us. I've heard that from many people that are saying things have gone too far. And I guess governments are not just going in this direction by saying, "Oh, we want to regulate." I guess there is demand also from some parties that there is more regulation. I guess this is the reason why we're having this discussion here as to how that could impact our work in the current context.

I am waiting to see if we have—do we have Holly back on the line? If we don't, then we do have to move on and then we might just finish up with Holly afterwards. I'm not seeing Holly at the moment, so unfortunately we do have to move to—well, not unfortunately for us of course. We can continue with Bruna Martins Dos Santos. She's in Brazil. She'll be speaking to us about the Brazilian Platform Regulation Concerning Fake News. Over to you, Bruna.

BRUNA SANTOS:

Thank you very much, Olivier. Hi, everyone. Good morning, good afternoon, or good evening, depending on where you are. My name is Bruna, as Olivier stated, and I'm also the incoming chair of the Non-Commercial Stakeholder Group. But I'm speaking at a different capacity here which is my civil society advocacy work here in Brazil.

My idea today was to experiment a bit about what is this act called Brazilian Act on Freedom, Responsibility, and Transparency on the Internet or as we kindly call it the Fake News Bill. This is an ongoing legislative process on its platform regulation and mostly focused on fake news.

For starters, it is important to mention that Brazil already has an [inaudible] liability regime as stated in the Civil Rights Framework for the Internet. This regime states full immunity to Internet connection providers and partial immunity to Internet application providers who can be held liable if they fail to comply with a court order demanding the removal of a third-party content.

But this discussion that I'm going to talk a little bit about today is mainly focused and inspired by the whole disinformation discussions also here in the U.S. As you might know, in 2018 the Brazilian electoral process was vastly influenced by disinformation. And there was a significant [uptake] on [WhatsApp] and this platform as the main place for sharing [inaudible] content and disinformation about other candidates.

So this bill seems to be an immediate response to what happened in 2018 and also to this kind of closed spaces sharing not-too-reliable information kind of dynamics. But speaking on the bill, this is a process that has started in April this year and has already gone through the senate process. Brazil has two chambers for legislative discussions. So it has gone through the senate and is now at the house of representatives.

The idea for this one is [apart then] on just presenting an answer to the disinformation event, it's mostly focused on identifying and preventing harmful criminal lies on the Internet as well as just fighting disinformation.

Mark, I'm going to post on the chat the name of the act just so everybody is aware of what I'm talking about. Also, a Google translation of it because we don't have yet an official of it neither a translation.

But then speaking of the bill in more practical terms, it is and it was based in broad and [inaccurate] concepts, such as identifying the

accounts, social networks, and also has a direct application for Internet application providers but mostly social media, messaging apps, and now search engines.

And then the main idea for it was to kind of build upon the lack of provisions on [inaudible] with regards to content moderation and now force these platforms to be more active in terms of moderating fake news, hate speech, and whatever other category of content that it might find or our politicians might find useful.

But it started with some requirements on user identification. So it listed a possibility of cases in which social media should require users to confirm their identity and also some provisions as regards to [IPs] saying that application providers should keep those [passive] records of access to Internet applications, including the ones that would be able to individualize the user of an IP in an unambiguous way. So it also [inaudible].

Speaking also about private messaging apps, it had a provision on [traceability]. The idea was to compel private messaging apps to retain the chain of all communications that have been massively forwarded to the purpose of any potential criminal investigation or prosecution. This had also very little or no concern about any risks to encryption and it was focusing on mass broadcasting of content. That's also a concept that hasn't been—anyway it was all developed here in Brazil.

In terms of content moderation, as I mentioned already, [inaudible] does not hold any provisions on moderation or governance or anything near that. But it also does not prevent social media companies from doing so.

But this bill kind of goes one step up and requires—it has some due process related provisions and decides that application providers should use mechanisms for appeal and due process that states that they can designate obligation of notification. And it states some cases in which they can designate this obligation of notification that’s on the bill right now.

The cases in which platforms should [dismiss] this notification would be a serious impairment of the usability [inaudible] of the application, violation of children’s rights, crimes regarding racial discrimination, and also information or user security. So the main idea is that for every single content the platform should notify users about the removal. But if that’s between [the status] that I am mentioning right now, the platform is allowed and should remove the content immediately because it would involve some sort of harmful kind of situation [and conflict].

I think another relevant point about this bill would be the actual cross-border implications because it has some provisions on data localization [inaudible]. The [Article 22] [inaudible] aims to solve the recent cases of ISPs challenging [resident] court orders demanding data disclosure. The general argument that private messaging applications, the data should be stored in [resident] subsidiaries.

So the bill now says that every single social media application or private messaging application should have [partners] in Brazil and appoint legal representatives in country and also have access and maybe even provide access to third parties to [a remotely stored] database for content in the situations regarding the bill and with regards to any court orders or anything like that.

So this was how the bill was so far. As discussed, this is ongoing and also changing. We're now seeing the inclusion of some new points to it. So there is an exemption for journalistic platforms and online encyclopedias. The bill is generally social media, private messaging, and search engines with over 200 users in Brazil. But now we are also [inaudible] online encyclopedias such as Wikipedia.

Right now there's also the inclusion of a definition of what should be profiling and micro targeting categories, especially related to electoral content in social media. There was a recent exclusion of the WhatsApp traceability and user identification provision.

But as Holly was explaining the whole journalistic content process, Brazil also was inspired by the Australian and also the EU directed decisions on copyright and journalistic content as well. Some provisions with regard to an attempt to halting the concentration of power in digital platforms and also thinking about a public interest journalism are also in the bill right now. So we are focused in on offering some sort of [inaudible] to journalistic content to companies or professionals.

This bill is also now focused on advertising revenue to be carried out by companies with representatives in Brazil. This is also a restriction on that matter in that an additional liability possibility which says that application providers can be held accountable if they do not require any identification from advertisers.

I think that can be an overview of this bill. There is a lot to talk about it, but I can stop right now. I will post more informative links about it on the chat. Thank you very much, everyone.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for sharing this with us, Bruna. Certainly not just a small single bill but a whole string of bills and a very complete set of recommendations and legislation that is being passed. And I guess this is something we'll see in other countries.

Speaking of another country, let's have a look at, before we move on, look at TikTok. I think I've got a slide that staff can share briefly. We wanted to actually get someone from TikTok to speak to us about what's going on and the whole story that we've all read recently regarding the United States.

But what I did a month ago was to look at the terms and conditions. You can see here—now I'm not sure if you're all able to see this clearly—but in the legal page it actually already has different end user licensing agreements for different parts of the world. This is not something new, but it's something which struck me here because you

have the usual residents being the location that defines the end user licensing agreement that you are likely to follow.

So you've got residents in the U.S., European economic area, Switzerland, India, etc. I gather this might be something that we'll see in other services. The question is really, are we seeing more and more localization of legislation and regulations requiring providers that provide an international service to customize it to each regulation regime?

To discuss an example of regulation that's impacting on ICANN, we've got Elena Plexida who is the Vice President of Government and IGO Engagement. She'll be able to speak to us about ICANN's Response to the Digital Services Act consultation. Over to you, Elena.

ELENA PLEXIDA:

Hello, Olivier. Thank you so much, and hello to everyone in the session. Much has been said already. We all witness increasingly more Internet related legislation and regulatory initiatives. As Olivier said at the beginning, governments worldwide because of the pervasiveness of the Internet in our lives are taking steps or are considering legislation, rightfully so, to protect the citizens of course. The Internet is an amazing tool, but at the same time there are real threats on the Internet—the problem is not the Internet itself—that of course need to be tackled.

The issue is that often we are seeing legislation that, while well intended, could have adverse effects such as even disconnecting users. It goes without saying that this is unintended.

As an example in the [inaudible] space before I get to the DSA, we've seen the European Data Protection Board which is the authority who is responsible for interpreting and applying the GDPR taking the following position. That the processing of data such as the domain name and the URL by Internet access services providers for traffic management [inaudible]. Now I mention this as an example because if regulators embrace this interpretation, there could be [inaudible].

OLIVIER CRÉPIN-LEBLOND: Elena, I think we might have a problem with your microphone. It's swapping between one and the other. Today, we have a date with the technical critters of the world. Elena, are we back?

ELENA PLEXIDA: Can you hear me?

OLIVIER CRÉPIN-LEBLOND: Yes, now we can hear you. Go ahead.

ELENA PLEXIDA: Thank you so much.

OLIVIER CRÉPIN-LEBLOND: It seems that it was dropping between your headset mic and the computer mic. So let's try again.

ELENA PLEXIDA: Let's try it. I tried to disconnect it. I'm sorry for that. I apologize for that. I was trying to give an example of an interpretation that the European Data Protection Board is taking with respect to domain name and URL that if adopted could have some significant impact on basic fundamental functionality that [inaudible] are expected to provide.

Now currently there are important initiatives unfolding at the [inaudible] level, and one of them is the Digital Services Act. It's a very good idea and great all of you that you decided to discuss and highlight this during this session.

But before I get to it, let me briefly say what is ICANN Org doing exactly in view of the increasingly more Internet related legislation that we're seeing? My team, the government engagement team, has taken a number of steps. First of all, we're trying to keep track of the legislation and keep the community informed.

Such a step is for example the [very important] legislative initiatives developing around the world. It goes without saying that we are heavily relying on our colleagues in the GSE team and also on the community itself. And then we're also drafting papers containing a more comprehensive analysis of important initiatives. Once this paper has been [inaudible] the paper of the Digital Services Act.

In terms of engagement, and I need to highlight that when we engage it is only to provide technical information. So ICANN is a technical organization at heart. We have no say or view on the direction that any policy will take. What we want is to provide our technical expertise and make sure that the Internet remains one, single, [interoperable]. So in other words, it is none of our concern if the regulators wish to regulate gatekeeper platforms. But if in the effort to do so they effect unintentionally some fundamental functionality of the Internet, then it is our concern.

Turning now to the Digital Services Act itself, the Digital Services Act (DSA) is a legislative initiative launched in the EU space in response to growing concern over the roles and responsibilities of online platforms. It aims to update elements of an existing directive, a so-called ecommerce directive, including the liability provisions for intermediaries. It is expected to introduce updated rules on removing illegal content online.

Why should the ICANN community pay attention to this initiative? Well, to begin with, the consultation that was launched by the European Commission on the initiative indicated that the commission is considering measures that might be applicable to DNS services. I'll also mention that the [questionnaire] included questions on the WHOIS.

Then another reason is that the DSA will apply to companies operating in the EU regardless of whether they have their headquarters in the

[block] which you can understand is similar to the way that GDPR works.

Now for example in the DNS ecosystem registrars could be affected. ICANN's registrar accreditation agreement already provides that registrars shall be able to receive an [inaudible] notification of providers of illegal content when this is from law enforcement. Under the DSA this obligation could be extended to the general public.

ICANN Org responded to the public consultation on the Digital Services Act (DSA). In our response we highlighted the following points summarized. It is important that those that are drafting legislation understand that the DNS service does not host or have visibility into content. The DNS should be seen more as a way to find servers hosting that content.

So from a legislative standpoint it is critical that those [factions] do not become [conflated] with intermediaries with a greater degree of control over the data and content. It is critically important not to conflate the [inaudible] infrastructure and operations with applications that [inaudible] the Internet.

We also tried to explain that it's important for policymakers to make a careful assessment of which categories [inaudible] have enough visibility so that any monitoring obligation should be proportionate and effective. Because failure to strike the right balance could hamper the function of an open and [interoperable] Internet.

Now some members in the ICANN community have also responded to the consultation. All the technical organizations of the technical ecosystem family have done the same, and we will hear from Suzanne in a while. I would encourage you on my part to engage and take opportunities as they become available to continue engaging on this. The legislative proposal is expected at the end of this year, and that's not the end of the story of course. Then there are negotiations and more.

I'll stop here, Olivier. Thank you so much.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for your intervention, Elena. We'll turn over to Suzanne Taylor from the RIPE NCC. They have also responded to the Digital Services Act consultation. RIPE of course allocates IP addresses. How does the Digital Services Act affect RIPE? Over to you, Suzanne.

SUZANNE TAYLOR: Thanks so much, Olivier. I'm part of the external relations team at the RIPE NCC, the regional Internet registry for Europe, the Middle East, and parts of Central Asia.

We've been following this regulation not necessarily because it affects us directly, although we did respond to the consultation, but we also follow regulation that has the potential to impact our nearly 20,000

members and the Digital Services Act certainly falls into that category. We report on regulatory developments to our membership.

The other thing we try to do is act as a source of technical expertise, as Elena was also explaining, for policymakers [in Brussels] and across our service region so that we can try to help them develop the mostly technically sound policy possible.

With the Digital Services Act open consultation we knew what we wanted to contribute. We decided to respond to the consultation in two different ways. We first responded to the questionnaire about how the DSA would affect us, the RIPE NCC, as a regional Internet registry in our own operations.

But we also thought that this was maybe a little bit of an opportunity for us to take a step back and also develop a position paper that gave a more high-level overview of some of the main concerns and focus areas that we felt needed to be addressed with the DSA. Because as a regional Internet registry of course we interact with a lot of different Internet actors in the ecosystem and have contributed to Internet development in Europe for nearly 30 years. So we felt that maybe we had a little bit of a unique perspective to share.

We also wanted to hear the perspectives from the RIPE community, the technical community across Europe. So we held an online discussion in July that was open to the community to hear different perspectives.

What we heard from that was, first of all, complaints about a lot of ambiguity in the current ecommerce directive. Ambiguity over some of the terms that are being used, over how different types of service providers might be covered by the different categories laid out in the liability exemptions. For example, how DNS providers might be classified. There's ambiguity about what constitutes illegal content and what it means to "adequately try to stop it." So a lot of terms that need to be better clarified is what we heard.

We also talked about questions about whether a new European body for oversight and enforcement of the DSA is needed or whether existing agencies might be able to take on this role. We discussed the role of a possible good Samaritan clause that has been discussed. We also talked about the burden that additional regulation places on small companies and the effect that this could have on European competition.

So there were a lot of different aspects that we tried to cover. We quickly realized that an hour was not nearly long enough to do all of that. But I would say that the main takeaway from this community discussion was really the role that the technical community can play in the policymaking process. We have such a wealth of expertise and experience to share with those setting the policies that are going to affect us all, and we really encourage our community members to share their opinions.

We did respond, first of all, to the questionnaire which focused on how we as the RIPE NCC manage third-party content. For us, that means

RIPE Labs which is our public blog and the RIPE working group mailing lists where the policy is developed that addresses IP addressing in Europe.

We gave very detailed explanations about how we handle potential issues about content from an operational perspective in the questionnaire. Then our position paper which is the one that took a more high-level overview of the DSA and its potential implications had a few different main messages.

The first one of those was that the core is not the content. We urged the European Commission to really make a distinction between the content and the applications that they are trying to regulate and the underlying technical infrastructure and operations that allow for that content and those applications to exist. That we really need to clearly define the separation between the two and that we need to protect the core of the Internet.

Another one of the messages was that we need to ensure liability on both ends of the spectrum. So both on those requesting action to be taken and those actually taking the action. And that if the requested action would affect the core operations or infrastructure, we argue that there needs to be a higher threshold in place, a higher level of standards that need to be met in order for people to go ahead and respond to requests for action.

In order to do all of this, we argue that we need much clearer definitions and guidelines from the European Commission on how

different operators at different levels of the Internet need to respond under different circumstances. We also argue that this common understanding needs to be developed alongside the technical community.

So our final message in that position paper was that regulation should support innovation, not stifle it, and that there are some existing processes in place within the technical community that work well at the moment that don't need to necessarily be overregulated.

I'm going to end there in the interest of time. I'm happy to take questions and to discuss the other major regulatory themes we see coming out of the EU, but I know we still have another speaker to get to in the meantime. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Suzanne. Thanks for this approach, sharing the approach that you're having as part of the I* organizations as one could call them, the current organizations that run the Internet.

We have one more speaker and that's Pierre Bonis who is the Director General of AFNIC. Pierre also is, as I mentioned earlier, the convenor or chair of the liaison group of the ccNSO on dealing with Internet governance issues. Of course country code top-level domain operators have been subjected to a regulation in various ways. Over to you, Pierre.

YESIM NAZLAR: Olivier, if I may?

OLIVIER CRÉPIN-LEBLOND: Yes.

YESIM NAZLAR: [inaudible] Pierre. I'm sorry for interrupting. Just a kind reminder for our speakers to please speak slowly because our interpreters are having a hard time following. Thanks so much, and back to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you for this, Yesim. So over to you, Pierre, without any haste.

PIERRE BONIS: Hello, everybody. Thank you very much, Olivier, to have invited me to this very interesting session. First of all, I would like to share some very quick information about the IGLC meeting that happened last week where one of the topics discussed, and later discussed also during your session organized by Sebastien on the European vision on Internet governance, this main topic was about the rising of the digital sovereignty topic since the beginning of the COVID-19 crisis.

So as I know some of you have attended these sessions already, I'm not going to give the presentation once again. But what we tried to discuss and I think in both sessions, whether it was IGLC or a EURALO session, that was interesting to see that this is a topic that is [worth it

to dig into today] and this digital sovereignty approach seems not to be only a way to justify censorship or fragmentation of the Internet but is more and more seen by various stakeholders as a way to make sure that your digitally capable of a certain amount of independence. While at the same time this sovereignty cannot be the enemy of the interoperability of the Internet and the free flow of ideas and goods.

So I think this is something that we will have to discuss again, and surely we will keep on working on it on the IGLC which is a group that is internal to the ccNSO. By the way, everyone can imagine that for a lot of CCs this idea of digital sovereignty that is not the enemy of a global Internet is somehow at the root of our engagement as country code top-level domain operators. So that was just to tell you all that that was on the table and that would continue to be on the table.

And now very quickly to answer the more specific question asked by Olivier about the regulation that can affect especially the CCs but maybe not only the CCs, I would just like to share two main examples. The first one is known in Europe as the Nice directive which is a regulation aiming to strengthen the global digital security all over Europe.

One interesting fact is that I think for the first time since the beginning of the European regulation ccTLD registries have been pointed out as in charge of a critical infrastructure in Europe. Which in a way is something that most of the ccTLD managers were happy to read because they were already convinced that the DNS is very important and in a lot of countries the CC is very important also. That was a kind

of recognition of the crucial role of this part of the Internet infrastructure in all the countries.

Just after this happen [inaudible] we discovered that it came with a lot of responsibilities of course and in some cases heavy regulations. I think this is an important point. We are facing now a moment where people recognize the importance of the ccTLDs or of that digital player, but with this recognition of the importance of it always comes some responsibility. We see it also in ICANN with the discussion about the abuse.

What we are facing in a way is a kind of pressure to change a little bit of what we are saying since a lot of time which is we are not [into] content. We are into DNS. We are not dealing with—we are not in the business of knowing if something is right or wrong. We are here to make sure that things are working perfectly. And the judges and the justice is here to decide whether a content is good or a bad one, not us.

I want to share the idea that this position is less and less acceptable by a lot of our stakeholders and that we are facing a kind of difficult time because we don't want to be censors. We don't want to deal with content all day. But this argument about the kind of technical autonomy that has nothing to do and no responsibility at all in the sharing of malicious or illegal content is something that is not understandable by our stakeholders. And particularly in France this is less and less understandable also by the legislators.

So we have these new responsibilities given, for instance, by the [inaudible] directive when it comes to the security of the infrastructure. But also given, and this is another example, by the customer protection authority's cooperation regulation. That is a European one also. That gave a few months ago new powers to the customer protection authorities all over Europe, and especially a new power that is to ask the registries to delete and transfer some domain names without going through a justice process.

So it's one step forward. We have new things to do. We have to obey the law. We have to obey in this instance the customer protection authorities. But there is still room for debate, and I will finish with that. On this very point the European recognition states that the customer authority protection may ask for deletion and transfer. Those of you who are very aware, which is the case of most of you into ICANN, about how a registry works know that it's pretty difficult to delete and transfer. Because once you have deleted a domain name usually anyone can register it. So you are not sure that you are going to be able to transfer to anyone, and this is written in the law.

We had this discussion with the customer protection authority in France, and the translation of this law in the French law states now that they can ask us to block the domain name for three months. And during this three months they will decide and maybe give us more information if they want it to be deleted, and there is no more question about transferring a domain name. Which is fortunate

because it prevents us from making blacklists of domain names that could not be registerable after.

So it seems that there is a way in the dialogue with public authorities to give technical sense to the political approach of fighting the abuse on the Internet. I will finish with that saying that maybe instead of trying to explain to the legislators that they should not deal with [technics] we should take the opportunity to try to explain how they can implement what they want to [vote] and what law they want to implement giving them some technical solutions instead of telling them that they cannot do anything.

So with that, and that was mostly food for thought, thank you very much, Olivier, for inviting me to share that. I give you back the floor.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Pierre. Very, very interesting. We are somehow a little behind time on our agenda items. I'm a little concerned about opening the floor for questions and comments. What I would say is let's have them in the chat, and I'll continue with now the next part of the agenda.

And that's our discussion with Tripti Sinha who is the Chair of the Board Working Group on Internet Governance. She'll be able to take us through her presentation and update. Because unfortunately, she has a hard stop at the top of the hour, so we need to move forward with that.

And then we'll continue, as I said, the discussion in the chat. And if we have a bit more time at the end of the call, we can have vocal discussions.

Over to you, Tripti, and welcome.

TRIPTI SINHA:

Thank you very much. Olivier, first I'd like to say on behalf of the Board's Internet Governance working group, thank you so much for inviting us to the session. This has been quite the agenda, spanning some very important topics in the Internet ecosystem, and the discussions have been very engaging.

As Holly pointed out earlier, just the value of data and the fact that we have consumers and service providers of the data and how that has changed the ecosystem. The opinion that was expressed earlier that maybe there is a need for regulation and some legislation, and in fact somebody even stated that the three segments of the Internet—the United States, EU, and China—is one way of looking at the Internet today and that's just the way that things go.

But I'd like to scope my presentation from the perspective of what this working group within the Board does. By the way, this particular session that you just are hosting falls very much in line with how we would like to remain informed. The work of this particular Board is driven very much by the engagement of two groups within ICANN which is government engagement led by Mandy and the global

stakeholder engagement led by Sally Costerton. So we rely heavily on that group.

So really what it all begins with is ICANN’s mission and remit. We are a technical organization, and our technical coordination of the Internet’s unique identifier systems, and of course to ensure the security, stability, and resilience of its operation. As has been stated many times this unique identifier system is a foundational element of the interoperability of networks and speaks directly to ICANN’s motto which is one world, one Internet.

So keeping this view in mind our focus is really on three key elements. That is, one, to ensure that this single, unique namespace is kept because this indeed underpins the single Internet and it’s very important that we ensure this because it keeps fragmentation away. There are opinions being expressed in this space and we don’t want to pass a value judgment on that at the moment, but that is indeed our remit and we ensure that this is preserved.

Because of the nature of the Internet and who it serves, the multistakeholder model of governance and policymaking is very important to the Board. As you know, the Internet doesn’t belong just to industry, just to governments, or end users. It belongs to all of us, so it’s important that no one speaks just on behalf of the DNS or unique identifier system as the single authority on this. It is the collective of us.

And partnerships, the ecosystem, we work in a broader context with other organizations. So it's very important that we partner with other key organizations within the Internet ecosystem and that we ensure these relationships are healthy and working. If you look at ICANN's strategic plan, Objective 4 speaks directly to our focus on geopolitics. So the work of this particular committee within the Board is tied directly to that particular objective.

One way of looking at our work here is to look at the Internet landscape from two views. I'll briefly touch upon these two views because these anchor right back to the remit of ICANN.

The first would be the geopolitics landscape. Much has already been said about this, but in particular just keeping our eyes on what's happening in the legislative and regulation areas and how they impact DNS and the technical underpinnings of the Internet. I think Suzanne touched upon that as well very clearly. When we focus on that, it's like where is that impact on ICANN's remit?

And also to make sure that there is a very clear understanding amongst the global ecosystem and the Internet ecosystem on what ICANN's mission and remit is so that there's absolute clarity on that.

As I said earlier, this is a multistakeholder environment or engagement, and participation is in the interest of all stakeholders and in the public interest. So that too needs to be maintained.

It's important for us to build alliances in the ecosystem and with our sister organizations, the I* organizations in support and coordination

of the identifier systems and DNS policymaking so that this is all well understood.

Digital sovereignty has been mentioned many times this morning and in this session as well. We don't want to pass a value judgment on that, but we need to keep our eyes on how this could potentially be harmful to DNS and the identifier system. So that is where our focus is.

Now the other slice or the other view of the landscape is the technical landscape. This again goes right back to the identifier systems. What are the legislations that could impact the technical underpinnings and the infrastructure? And as was stated before, the core infrastructure that operates this network?

With all this goodness that comes with the Internet comes the good, bad, and the ugly. I'm referring to the abuse and cybersecurity issues that manifest themselves in different ways. It is a collective responsibility of all stakeholders to deal with these threats. So we each have a role to play in mitigation, and it is important that we understand and partner in our respective roles.

As was stated earlier, technical autonomy perhaps is not a reason to say this is not for me to worry about. But I think it's really important that we come together as an Internet community and look at these issues and see how we can collectively mitigate this. Of course ICANN comes from the angle of the technical infrastructure and how that could [be impacted].

Now we'll just go through a few more slides and explain exactly how the work of the Internet working group within the Board manifests itself. Next slide, please.

We see our role as three in this space which is, one, there are clearly roles where we take a leadership role. Then there are areas where we actually collaborate and participate in partnership with others. And then there's something we call selective engagement. Once again, this is something that impacts our remit directly, and we do a much deeper dive in how we engage in this area. This is something that has been fully endorsed by the full Board in how we interact in this particular space. Next slide, please.

In leadership matters it's really where ICANN takes the lead role because the issue has some direct impact on our mission and technical remit. Also, we engage, we assert, and protect its role both globally and regionally in this Internet ecosystem. We also look to see where governmental and intergovernmental proposals would directly impact the DNS or unique identifiers. Once again, this focus is very much on the technical underpinnings and the technical infrastructure that currently is our mandate and our mission. Next slide, please.

This is where we take on what we consider more of a secondary or supporting role where we want to partner with our colleagues in the ecosystem. Here are some examples of ICANN's role within the promotion of the multistakeholder Internet governance.

We collaborate with other I* organizations in the WSIS process and certain ITU plenipotentiary events and the WSIS forum workshops and the OECD and security working groups and also the IGF and its evolution. This is where we believe that we collaborate with these different organizations with our eye on legislation and regulation and so forth. Next slide, please.

This is where it's selective engagement where clearly there is something that is happening or percolating in the horizon that directly impacts our mission and mandate. As we all know so very well, GDPR and all the issues that come with information privacy and data protection, clearly there's an aspect of this that impacts the DNS. And so as Elena said, as you all know, she's so deeply involved in this. And this is when we have to actually be very focused and ensure that we have a voice at the table and how this is evolving.

And then discussions on cyber policies and norms and law enforcement that may affect ICANN and just in partnership with our colleagues in the ecosystem is how do we mitigate issues, bad things that happen on the Internet. We don't believe it belongs in any one particular area. No one can really just declare that this is not us, it's you, but we have to collectively come together.

Other events and resolutions or trends in the geopolitical and economic environment that may affect ICANN in the future. These are being faced in the evolution of the Internet. And there are technologies that are percolating that we have to keep our eyes on that and understand what exactly is being proposed. As you know,

there's a new [IP] and other such things that are happening, so we stay very much focused on that. ICANN Org is our partner in that and we do have our finger on the pulse of those developments. Next slide, please.

This comes right back to our technical remit. It's the technical Internet governance. I don't know if governance is the right word here, but it is our engagement in this space and ties directly to what we do.

So the questions we ask ourselves when we look into technical issues that are going on in the Internet are: What is the impact of this proposed process, regulation, or resolution on the management of the unique identifier system? Specifically, is there an impact on management of the DNS? And how does this indeed impact the technical underpinnings of the Internet's core? And ICANN's particular focus would be the identifier system again. In this manner is how we scope our focus and our activities.

I believe this is my last slide. I know we were ready to take questions from the audience. My colleagues on the working group are here on the call. But, Olivier, I must say we have a hard stop and I will need to depart. But I did want to say this. Thank you very much for putting this session together. It keeps us informed. It's right within the remit of this particular working group. And clearly there's so much going on in this space—some out of our scope, some within our scope—and we appreciate you organizing this.

OLIVIER CRÉPIN-LEBLOND: Yeah, thank you very much for this, Tripti. And thanks for making yourself available. I know you've got a very compressed schedule daily as a Board member. It's quite busy. I know you need to leave in about a minute's time. While you were speaking, there's quite an extensive discussion going on in the chat regarding smart regulation and engaging with policymakers and with governments to produce smart regulation rather than being subjected to regulation and that the time has gone when one used to say, well, we don't want regulation at all. I think that there appears to be quite some discussion on that. Any thought on this? I mean, is ICANN likely to continue its engagement, even perhaps expand its engagement?

TRIPTI SINHA: I think we will continue our engagement. I don't see us walking away from this because, as I said, this is a complex ecosystem. We all rely on the technical underpinnings, any regulations and legislation that comes down the pike that impacts us. So, yes, we will continue to be engaged. So rest assured that will not stop.

OLIVIER CRÉPIN-LEBLOND: And there was just one question from Andrew [Campling] that came up to mind. I'll read it quickly. I know it's your last minute on the call. It's to do with ICANN's being quite unusual when it comes to governance. Andrew mentions that recently the Internet Architecture Board has introduced RFC 8890, The Internet Is for End Users, but to date there is no formal requirement for the IETF to undertake

multistakeholder views into account. Do you agree that there is a real need for a multistakeholder governance body that is able to drive the agenda for the development and governance of the Internet as a whole? Or do you not agree? It's kind of a straightforward question.

TRIPTI SINHA:

This is—okay, I've got literally a minute—but I will share a personal view. The Internet is for everyone. As I said earlier, it is for end users, it's for industry, it's for government, it's for everyone. So I think it would be almost foolish for us to develop any future evolutionary technologies that ignore a certain segment of society. This is for the collective, so I think we have to preserve the multistakeholder model. And this has to be—we have to have a weighing in from all these different constituencies and sectors. So that is my short response to you, Olivier. This could be a much deeper and longer conversation and would love to have it again in the future.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, Tripti. And hopefully in a future ICANN meeting we'll be able to dig more deeply into this topic. I'm sure we will, and thanks for being there. I know you need to go. Several other people have also left [inaudible] had another meeting.

But for us we still have half an hour to cover, well, continue the discussion in the chat of course. That will be saved obviously. We are now going to have half an hour or maybe even a little less of Internet governance updates. That's the next part of our agenda. In this

Internet governance update we will be touching on pretty much what's going on in intergovernmental organizations primarily because there's a whole department in ICANN that follows this.

We'll start with what's happening in the European Union with the updates from Elena Plexida who spoke just a bit earlier but here she might have some additional things to share with us.

ELENA PLEXIDA:

Thank you again, Olivier. I will try to speak much slower this time. I would only shortly in the interest of time refer to the key initiatives that our team is following at the EU level. We will not refer to the Digital Services Act anymore. It is in the list as you can see at the top of the list that we explained that earlier.

Another initiative—and before I go to the initiatives, let me just say we are monitoring those initiatives that could potentially have an impact on the technical underpinnings of the Internet but as well those initiatives that simply have the DNS or DNS operators in their scope or refer to them.

So another initiative that we're following is the NIS directive review and here earlier referred to it. This is for the very, very simple reason that it includes DNS operators under the operators of essential services. That's how the NIS directive is calling those operators. Those operators have extra obligations. Now this is an existing directive and is being reviewed.

As I said, DNS providers are included in the existing NIS directive, so many EU member states have already identified operators of essential services in the DNS. What is the review going to do is to harmonize the criteria for identifying operators of essential services because each member state is following a different direction.

Another initiative that we're following is the ePrivacy initiative. This one we follow very closely. The ePrivacy directive is an existing piece of legislation, and now it is being negotiated to be updated as a regulation. It addresses various privacy related topics in relation to electronic communications within the EU. It would be, if adopted, a *lex specialis* to the GDPR.

Now why we're monitoring that is because it has the potential to have some impact on technical underpinnings of the Internet. It is an initiative where we have already engaged with legislators. Just to mention briefly at the beginning, the very, very initial proposal that came out contained a provision about cookies which had the potential to affect the routing of the Internet. So we pointed that out at that stage. But we still follow that.

As I said earlier at the point when my connection from my earphones not working, there is a discussion and an approach taken by the European Data Protection Board which is viewing in a particular way domain names and URLs. It is saying that you need consent to process them. If followed in the context of this piece of legislation, there could be an impact on the [key functionalities].

Another piece of legislation we are following is the eEvidence directive. This is again under negotiation. Negotiations on this piece of legislation are going really slowly. The purpose of this proposed regulation is to lay down the rules under which an authority of EU member state may order a service provider in another member state to preserve and send electronic evidence regardless of the location.

We are monitoring this for the simple fact that Internet domain name and IP numbering services such as IP address providers, domain name registries, domain name registrars are within the scope of this regulation.

There are of course other initiatives that we're following. Just [inaudible] I will tell you that the European Commission has recently launched a call for [tender], so that means that the study will also be launched for a study of the DNS abuse.

We don't know much detail apart from what the commission has already announced. The idea is to see whether there could be policy measures that could be taken at the level of the EU to help combat DNS abuse. You might have heard [inaudible] in the course of this meeting, the ICANN 69, refer to it.

Another piece of legislation I would like to bring to your attention finally is the so-called eIDAS. It's a regulation on electronic identification and trust services. It exists in the EU since 2014. The reason why I'm bringing this to your attention is that the commission in the context of eIDAS is thinking of the new [horizontal] [inaudible]

possible ways of electronic identification for citizens. In this context, they're considering whether the .eu TLD can play a role.

I will stop here with the EU initiatives. Thank you very much.

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Elena. Quite a lot happening in Brussels obviously. Let's go across the pond over to New York where Veni Markovski will be speaking to us about the United Nations Cyber Related Discussions. Over to you, Veni.

VENI MARKOVSKI: All right, thank you. I hope you can hear me.

OLIVIER CRÉPIN-LEBLOND: Very well.

VENI MARKOVSKI: All right, I'm going to start talking fast as Elena. No, just kidding. But I put the link in the chat—and because it was maybe a half hour ago I will repeat it in the moment—with all the publications of the government engagement team. There are two publications about the UN cyber related discussions.

There are three groups that we are following closely: the Open-Ended Working Group (OEWG) on cybersecurity, the Open-Ended Committee

of Experts (OECE) which is supposed to draft a new UN cybercrime convention, and the Group of Governmental Experts (GGE).

We've also put other UN developments because there are a lot of discussions going on at the different UN general assembly committees. The first committee deals with security in general and also cybersecurity. The second committee deals with [inaudible] development, and every once in a while they touch on Internet governance. I mean, it's in [inaudible] Internet governance and the WSIS [inaudible]. And then the third committee is the one that deals, among other things, with cybercrime.

What we are trying to do, and in response to some of the questions I've seen in the chat, we do regular briefings for the permanent missions to the United Nations.

Our last one back in April which was also the first virtual one was attended by about 116 diplomats from New York and Geneva, all of them dealing with cybersecurity and cybercrime. We had David Conrad, the Chief Technology Officer [inaudible] from IANA who is now moving into [being the regional] vice president for North America.

We tried to provide as much as possible technical information on what ICANN does and how the Internet works so that the diplomats when they go behind closed doors to negotiate their resolutions have some ideas about what is happening.

There are also diplomats who actually have gone through the IETF meetings and that has been very helpful for them as well. And also,

there are some diplomats and some foreign ministry officials who actually participate in the GAC meetings of ICANN.

So all this put together provides us with an opportunity to actually have a continuous educational effort at the United Nations to educate them about the ICANN world. Now we also do what I'm doing now which is we talk to the broader ICANN community about the developments at the UN and trying to explain how the discussions there and the topics which are being mentioned have something to do with ICANN's mission.

Mainly you will see in some of the papers that I [wrote] on the UN developments, and we are preparing a new one which will also touch on some of the national policies and how these national policies reflect on the developments of governmental policies at the UN, you will see that there are a number of countries and a number of nongovernmental organizations which are discussing the public core of the Internet. And some are mentioning that the public core includes the DNS. We tried to explain to those folks what it is and how actually the Internet works and what's included in the ICANN mission so that they understand how they can impact or influence even ICANN's work through the governmental advisory committee.

There is a link between the work of the governmental advisory committee and what's happening at the United Nations. We try to build that link to be even stronger so that the foreign ministry officials talk to the governmental advisory committee representatives. In some cases, this has been a very successful effort because they actually

manage to—the experts who are members of the GAC can talk to the foreign policy officials who are diplomats [inaudible] and also tell them what they are doing and how they are doing it.

So I don't want to go into details about the three groups because, as I said, I'll send you the link in the chat about the developments there and you will be able to see it. I just want to bring your attention to the fact that the two groups, the GGE and the OEWG, they work in consensus and they are supposed to issue reports. The OEWG [draft zero] report will be published early next year and should be accepted if there is nobody objecting to it in the beginning of next year, sometime in the spring. And the GGE is supposed to issue their report by the end of next year and present it to the general assembly.

Obviously, COVID-19 and the restrictions at the UN, there are no meetings at the UN. And the only meeting space is the room of the whole of the general assembly. It's providing a lot of challenges for the diplomats who in other times are used to work in so-called informal settings which is not in a formal setting being webcast on the UN web TV. We will see how this is going to change their possibility to reach agreement and reach consensus.

And I will keep posted. We have a new person actually in New York helping me, working with the government engagement team. So we will keep you posted, and I'm very happy to have the opportunity to address this group.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this update, Veni. Just one small question for you. Are these processes multistakeholder in New York or is that purely multilateral?

VENI MARKOVSKI: It's multilateral. The UN is working as a—it's a multilateral organization. So what they have done, both the GGE—well, the GGE not so much but the Open-Ended Working Group chair, Ambassador Lauber from Switzerland who was the permanent representative to the UN in New York and just moved recently to be the permanent representative [of Switzerland] to the UN office in Geneva, has tried to—he has reached out. He organized an open session where more than 100 organizations showed up and interacted with the governments last year in December. And they provided statements and had the opportunity to also get some questions. But the actual negotiations as one could expect from the UN are multilateral only.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for these updates, Veni. Now in contrast, the Virtual Internet Governance Forum is multistakeholder, and for an update on this we'll have Vera Major who will speak to us about the ICANN sessions at the Global IGF next month. Over to you, Vera.

VERA MAJOR: Thank you, Olivier. Hello, everyone. I'll be speaking on the Global IGF and ICANN's engagement in this IGF. The Internet Governance Forum,

for those who don't know, is the only multistakeholder forum that is held by the UN. It reflects ideas and initiatives that have been developed in national and regional IGFs around the world.

This year is was supposed to be held in Poland, but like with everything else the meeting went virtual so the new host is the UN. The main theme for this year is Internet for Human Resilience and Solidarity and the motto is Virtually Together. The Multistakeholder Advisory Group (MAG) to this forum has developed themes for the workshops that will be held: Trust, Inclusion, Data, and Environment.

The 15th IGF is scheduled to take place online. It will be held in 14 days between the 2nd and the 17th of November. Because there will be so many sessions, it has been divided into two phases. The first phase will be between the 2nd and the 6th of November and the second phase between the 9th and the 17th of November. All the sessions will be held between 6:00 AM UTC and 22:00 UTC to cover all time zones.

The UN kept the parliamentary track as well as developed a new use track. So during the first phase there will be all the introductory sessions, the four thematic tracks that the MAG has developed. The open forum, [the youth] summit, best practice forums as well as pre-events. The pre-events traditionally were held on the Sunday before the IGF started, but this year they will be spread out during phase one. The Polish hosts had already planned some of the pre-events, so these will also be held during the first phase.

During the second phase there will be the opening ceremony, the parliamentary roundtable, a high-level leaders track. And all the workshops are also scheduled during that time. The IGF will end with concluding sessions on the four main thematic tracks and a closing ceremony.

I will be posting the agenda. The schedule can be found on the IGF website, and I will post it after my intervention in the chat. Registration is open. I will also be posting a link for that. It is free to attend. And because there are no travel costs, it is virtual.

The expected outputs for the IGF will be in the form of messages that are getting disseminated in the different networks. So there will be four messages in total: one coming from the parliamentary track, one from the high-level track, and one from the workshops which are in the number of 162, and there will be a last one about the introductory webinars.

I have listed sessions of interest here. The opening and the closing ceremonies, the high-level leaders track, and the parliamentarians roundtable. On the high-level leaders track there will be four different tracks with the overarching theme of Internet governance in the age of uncertainty. They will be focused on emergency situations and Internet governance implications.

The expected participants on the panel are from a ministerial rank, high-ranking representatives from the EU or the UN institution CEOs, so on and so forth. There will be four sessions that address different

themes: health implications, impact on the economy, security implications, and development. And they will be held in different time zones so all our participants can benefit to attend a session in their own time zone. Göran Marby has been invited to speak on November 13 on the security theme. Can I have the next slide, please?

I have listed here all the ICANN organized sessions. We have two sessions on DNS Abuse in the Age of COVID-19, one a workshop and one a pre-event that is intended for parliamentarians but of course everyone else can attend.

We'll also have an open forum on the Technical Internet Governance, a workshop on Universal Acceptance, and another pre-event intended for the [youth on] Internet 101.

I hope that I will see all of you at our sessions. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this round up, Vera. Certainly great to see the Global IGF moving forward with its enhancements and toward an IGF+ and of course with this crazy situation that we have this year with the COVID making it all virtual. But a great opportunity to have more people participate. So if you haven't—and I'm speaking to everyone else, I'm sure you have registered, Vera—but if others have not registered so far, please do so as soon as you can.

Now there is also another process that has gone online and that's the World Summit on Information Society. Laurent Ferrali is going to

... speak to us about this process that is now online for I think many months while they used to just happen within one week in March. Over to you, Laurent.

LAURENT FERRALI: Thank you, Olivier. Can you hear me well?

OLIVIER CRÉPIN-LEBLOND: Yes, absolutely. That's fine.

LAURENT FERRALI: Thank you very much. Yes, and [good morning to] everyone. Yes, you're absolutely right, Olivier. Instead of having one week this year, the WSIS Forum 2020 was organized during the summer by the [inaudible]. It was a virtual meeting of course because of the COVID-19 pandemic.

For those of you who are not very familiar with the WSIS Forum, the WSIS Forum is an annual global [inaudible] meeting [facilitated] [inaudible] WSIS action line. [inaudible] action lines. ICANN [inaudible] to this meeting every year. This year, as you explained, Olivier, the WSIS Forum was April 9 because of the COVID-19 pandemic.

The title and the motto of the meeting this year was Fostering digital transformation and global partnerships: WSIS Action Lines for achieving SDGs.

Many sessions this year were focused on how to connect the second half of the [work operation] and how to use digital technologies to tackle some of the most important issues the world is facing now, such as [inaudible], access to [inaudible] the digital market, access to [web] services, climate change, etc.

ICANN Org was a panelist in two WSIS Forum sessions this year. We had [inaudible] several workshop sessions [inaudible] as a panelist. The first session was organized by ICANN on 31 July with ITU-D. It was a session on capacity building activities for governments. The aim of this session was to give n overview of our [inaudible] activities [inaudible] ICANN [inaudible]. It demonstrated the [complimentarity] between ICANN and ITU when it comes to [inaudible] government in terms of [inaudible] capacity [inaudible] technical capacity.

[inaudible] session we'll talk a bit about [inaudible] impact on [inaudible] workshops because you know that in the past ICANN [inaudible] used to organize [inaudible] workshops for government, but when COVID-19 happened it changed a lot the way we communicate with government, the way we organize capacity building activities with COVID. That was the [inaudible] 31 July.

Then in September ICANN took part in the high-level session for partners [inaudible] because this year ICANN again is one of the sponsors of the WSIS Forum 2020. This session was focused on collaboration between stakeholders in the context of [inaudible] [SDG] achievements.

During this session, ICANN [inaudible] develop [inaudible] access for all [inaudible] future differences, making the Internet more multicultural and multilingual [inaudible] issue. [inaudible] the idea was that [inaudible] with the Internet [inaudible] to take into account the different language and culture to [inaudible] multicultural Internet. [inaudible] ICANN efforts. When I say ICANN, ICANN [inaudible] of course. ICANN [inaudible] develop IDNs and [inaudible].

That's all I have for the WSIS Forum.

OLIVIER CRÉPIN-LEBLOND: Thank you, Laurent. You can continue with the GSR, this forum for regulators, something we haven't heard about before.

LAURENT FERRALI: Yes, of course, Olivier. [inaudible] IGF [inaudible] ITU [inaudible] to take part in one major [IG] meeting in 2020 and it was right before the COVID-19 pandemic as you know. So at that time there were a lot of [inaudible] available, but because of the pandemic it was not possible [for the UN] to take part to the ITU [inaudible]. So during [inaudible] the Global Symposium for Regulators (GSR) for 2020.

For those of you who are not very familiar with this meeting, GSR is an annual meeting organized by ITU-D and government regulators [inaudible] sectors, companies, and [NGOs] are in the [inaudible]. But ITU is used to invite [inaudible] companies, senior officials, and

[inaudible] to guide [inaudible] and to bring some information to the regulators.

I think it was the first ICANN [inaudible] to a major ITU meeting since ICANN has been [inaudible] last year. I think it was the first ICANN high-level [participation] to a GSR meeting as far as I know. Again, this GSR meeting was held online for obvious reasons. The discussion was for [inaudible] regulation for digital transformation and how to connect with [inaudible].

On September 2, Göran Marby took part in Session 2 of the GSR 2020 which [inaudible] on competition in the digital era, a collaborative and cooperative approach. This session offered an opportunity to clarify ICANN's role and demonstrate ICANN's willingness to share its technical expertise with [inaudible] governments and all stakeholders.

During the session Göran explained that ICANN wasn't a regulator. It was important because it's [inaudible] for regulator. This was important to underline that ICANN is not a regulator and [inaudible]. And then Göran mentioned the [inaudible] ICANN [inaudible] when it comes to [inaudible]. And Göran mentioned ICANN's [inaudible] and the need to [inaudible] dialogue and [inaudible] technical community. It's important for regulators to [inaudible] community when it comes to thinking about new regulations. ICANN [inaudible] panelists.

OLIVIER CRÉPIN-LEBLOND: Okay, thank you very much, Laurent. We're very pressed for time. There was still a section on ICANN upcoming IGO possible

engagement. Can we do just 30 seconds on this? Because I do know that we need to close in the next minute.

MANDY CARVER:

Olivier, I want to say one quick thing about the GSR. One of the issues—and this goes back to what Tripti was talking about and the emphasis on technical engagement—one of the efforts that government engagement and ICANN have been moving forward is working with other governmental bodies that we may not previously have interacted with because they are touching on things that could have an impact.

And so in this instance, as Laurent has explained, the GSR, the global regulatory body, was a new setting. It is likely that there will be an invitation to participate in 2021 as well. But it also follows on work we've done with regional regulatory bodies such as [FRATEL] where they had an interest in the technical impacts. And we've also done work with [CTEL]. ICANN has provided briefings through OCTO, [IRIS], and others. So just quickly that is following on that. We are monitoring where dialogues and initiatives are taking place that could impact the technical core of the Internet, those pieces that impact ICANN.

And just very quickly because I know we're out of time, WTSA, we won't know what is going to be covered until the [IQ] council can meet, that will be in November, and where they're going to be. The likelihood is it will not be in Hyderabad. The likelihood is it will be either an online meeting or some form of hybrid. But of course this will

be impacted the COVID-19. So they're looking at sometime late February/early March, probably Geneva based.

Again, we won't even know necessarily the content until the study groups and the work groups finish their work in December. So at this point it's a monitoring situation. The I* organizations are coordinating and sharing information and we'll know more when we know more. But there really isn't anything at this point to report.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Mandy. Thank you for these updates. Thanks all ICANN staff for these IGO updates. We've run out of time. The two hours have gone so fast. So it's basically time to thank our interpreters for the amazing job that they've done today. Thank you to all the participants that have provided updates, all of our presenters. Hopefully we'll be able to repeat this at the next ICANN meeting in the future very soon. And of course thanks.

If you are interested in continuing the discussion and you're not on the mailing list, drop me a note. Drop me an email—ocl@gih.com is my email for those of you that don't know it—and I'll forward it over to the relevant staff to add you to the engagement group on Internet governance mailing list. Thank you, and that's pretty much it. So this call is now over and out. Bye-bye.

[END OF TRANSCRIPTION]