

---

ICANN69 | Community Days Sessions – GNSO: CPH and NCSG  
Tuesday, October 13, 2020 – 10:30 to 11:30 CEST

MARYAM BAKOSHI: Welcome to the NCSG and CPH session. My name is Maryam Bakoshi and I am the remote participation manager for this session. Please note that this session is being recorded and follows the ICANN expected standards of behavior.

During this session, questions or comments will only be read aloud if submitted within the chat. I will read questions and comments aloud during the time set by the chair or moderator of this session. If you would like to ask a question or make your comment verbally, please raise your hand. When called upon, you'll be given permission to unmute your microphone. Kindly unmute your microphone at this time to speak.

With that, I'll hand the floor over to Stephanie and Donna. Thank you.

STEPHANIE PERRIN: Okay, very good.

DONNA AUSTIN: Okay, so....

STEPHANIE PERRIN: Go for it, Donna.

---

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

---

**DONNA AUSTIN:** Well, I’m just going to say it’s really nice to hear your voice again, Stephanie. It has been quite some time and Rafik. Ashley who is the chair of the Registrar Stakeholder Group is with us as well. The first agenda item we have, our ongoing plans for unresolved EPDP issues, this is not a topic that I am very familiar with, to be quite honest. I manage to avoid it. So, Stephanie and Ashley, I think I might hand this one over to you.

**ASHLEY HEINEMAN:** Hey, Stephanie. I’m happy to just get the ball rolling on this and have other folks jump in. I think it’s just a matter of the Contracted Parties House wanting to get a better understanding of what the NCSG’s thinking is on EPDP Phase 2 and the remaining issues as we move forward. As there are a number of things that are still out there that we have to deal with, including the handling of legal versus natural persons as well as registration data accuracy.

I think we’re struggling with fatigue, to be completely honest, but we’ll figure out a way to sort things through. But just wanted to get your impressions of how you see things moving forward.

**STEPHANIE PERRIN:** Hi. Thanks very much, Ashely, for kicking us off. Well, speaking as someone on the EPDP—and I’m just scanning our list to see if anybody else from my team is here lest they jump in and say, “No, no, I’m ready to do more”—for my part, I’m pretty tired. And I don’t see a sense of

---

urgency to go over either accuracy or legal versus natural because as far as I'm concerned we've dealt with that.

And if we're going to have a perpetual kicking of this can until ALAC, for instance, gets what it wants, I won't be very happy. On the legal versus natural question, I really do see this as your issue. You're the ones at risk. I think I've made it pretty clear that in my view the amount of communications that you would need to clarify those situations we just can't afford to do. It goes for accuracy and it goes for legal versus natural. So it's a practicality issue, not necessarily a legal one. So that's my view. And I'd like some time off before we tackle this again.

I'm a little more concerned actually about resolving the Thick versus Thin issue because in my opinion the Bird & Bird opinion was misguided, and we're moving in a direction that isn't sound if we continue with Thick policy. But that's my view, and I don't know whether I speak for everyone. I see Tatiana is on the call. I wonder if she feels like jumping in. But I think that's where we are. Nobody has any bandwidth to continue this.

ASHLEY HEINEMAN: Thanks, Stephanie. I think where we're at....

DONNA AUSTIN: Stephanie...?

---

ASHLEY HEINEMAN: Go ahead, Donna.

DONNA AUSTIN: No, I was just going to say Rafik has his hand up in case somebody missed it.

ASHLEY HEINEMAN: Okay, why don't we go ahead with Rafik then, and then I'll throw in my two cents afterwards.

RAFIK DAMMAK: Thanks. About the Priority 2 remaining topics, I think we can all acknowledge that there is not so much desire to start soon or to reconvene the EPDP to work on the legal versus natural and the anonymized email.

STEPHANIE PERRIN: I think we're losing you, Fik. At least I am.

KEITH DRAZEK: I heard Stephanie. I've lost Rafik. Is anybody else hearing me or hearing anything?

ASHLEY HEINEMAN: Yeah, we hear you. I think it must have been Rafik's side. So whether don't we go ahead. I know Tatiana had her hand up. Tatiana, did you still want to make a comment while we wait for Rafik.

---

RAFIK DAMMAK: [inaudible] I just want to highlight that because we are putting the burden on the group who expressed interest to do some of their homework before we start anything.

ASHLEY HEINEMAN: Hey, Rafik. I'm so sorry to interrupt you, but you got cut out almost immediately after you started talking. So if you wouldn't mind starting again, that would be great. Can you hear us, Rafik.

RAFIK DAMMAK: Hello. Sorry, I'm here.

ASHLEY HEINEMAN: Yeah, you got cut out almost at the very beginning of your intervention. Is there any way that you could start again? I'm so sorry.

RAFIK DAMMAK: Okay. No problem. Let me, quickly. Just a reminder I think [inaudible] that we had a small team to respond to about the next steps for Priority 2 because there was some pressure that we need to cover that. And I think it's clear we know about the timing issue, so we tried to come up with a kind of compromise.

That's we need to do some steps anyway. It doesn't mean that the group restarts right now. And we put the burden on all the groups who expressed interest in the topic to do their homework before. So the

---

EPDP team will only reconvene when there are immediate steps [that] will be done like appointing the new chair, like all groups confirm their representative, and expecting the groups like we see IPC and so on to come up with a proposal just to move on for deliberation. And then also having a strict timeframe by when the EPDP team to report to the council.

We tried to find compromise because we had pressure we need to start right now and the other side we cannot start. So I know it's not the best option and know that not everyone is happy with that, but that's what we have now. And sorry for the connection issue.

ASHLEY HEINEMAN:

Thank you, Rafik. Tatiana, please?

TATIANA TROPINA:

Hello. Hi, everyone. Nice to see you all or hear you all. Good morning, good afternoon, and good evening. I want to ask the Contracted Parties House, are you treating the accuracy issue as one of the unresolved EPDP issues or are you treating it as a very separate issue? And what is your exact position on this? Because we've heard [some people] saying that accuracy under the GDPR is the right of the data subject and we are going to stand on this position. If our positions are aligned on this, will we be able to coordinate somehow in the future PDP on this?

---

ASHLEY HEINEMAN:

Thanks, Tatiana. I'm going to put your last question on pause for a second and just respond to some of the other things which is what Rafik was mentioning in that we're not terribly happy about moving forward anytime soon. But I think we're all committed to taking some concrete actions. And what we've seen in the council agenda we're going to accept, I guess, at least from the registrar perspective.

Noting that we don't expect there necessarily to be any substantive changes. We're happy to look at the issue at least with respect to natural versus legal. If there is something technical that we have overlooked, happy to consider it. But without any authoritative guidance on GDPR that changes the situation, this is certainly nothing that can change from a policy perspective.

On the matter of dealing with accuracy, I can speak for my personal opinion and I can't speak for the others. But I think the assumption was that this is more of a separate issue. At least that's how it was covered in the EPDP at one point in time and not necessarily an ongoing issue. But again, I need to ask my people on the call or someone from the registries to please clarify what the position was going into it. Michele, I see your hand is up.

MICHELE NEYLON:

Thanks, Ashley. Good morning, Tatiana. I can't speak for all the registrars, but I completely agree with Tatiana's position with respect to accuracy. My view has always been that the accuracy principle works from the data subject's side, not from any third party. So I've never understood how that was being argued. I think some of the

---

other registrars would probably feel similarly, but I think the overriding issue is that with WHOIS data no longer being public I think a lot of us are quite confused as to why this entire accuracy thing is even being pushed around. Because it's not as if you can actually see the data to begin with. I mean, we can see that data; they can't. So I don't really understand what they're trying to do with this. It doesn't make a lot of sense to me.

ASHLEY HEINEMAN:

Thanks, Michele. Yes, and I think for what it's worth we did agree for a scoping team and happy to try and coordinate where we can. Tatiana, go ahead.

TATIANA TROPINA:

Yeah, just to answer to Michele's question, I do think that there can be an argument that could be put forward about [abuse] and need for accuracy and [you name it]. It just cannot be based on the GDPR. So it's just an additional invention of something. I think for what it's worth what we can argue about if our positions are aligned here is that you can scope the accuracy, you can do something about it if you want to, but you cannot frame it as the right of the third party under the GDPR. If you want a legal basis, find another legal basis. Thank you.

ASHLEY HEINEMAN:

Thanks, Tatiana. I'm cognizant of the time. It's moving along quickly. But, Stephanie, you have your hand up, please.



---

STEPHANIE PERRIN:

Yes, I just thought I'd get in the queue here on this accuracy thing. Volker and I suffered through the RDS review together. That's the second review. There was a lot of focus on accuracy during that experience. I am of the view that the argument that Tatiana just raised, this business of whether those who want accuracy will rely on the security and stability of the ecosystem to push it, that's clearly going to be the argument. But does it belong in the EPDP? Is it within scope, or can we move it somewhere else and put it on a back burner? Because there are enough, I guess I should have been a little more distinct here when I was talking about the Thick/Thin, there are enough ramifications of GDPR including as Thomas has raised in his CircleID article the whole issue of the agreements that we do have to deal with in order to move ahead on the final GDPR implementation without throwing in accuracy which I think we can establish is not a GDPR requirement. So go find another PDP and strike one. Let's not try to keep this thing going forever on the basis of accuracy. So I think that's enough from me on that subject. We do have other issues.

ASHLEY HEINEMAN:

Thanks. And there's nothing preventing us from keeping this conversation going, and perhaps we should. With that, I don't know if I should be turning things back over to Donna. But to keep the agenda moving, Donna?

---

DONNA AUSTIN: Yeah, thanks, Ashley. Beth, I saw your hand up, but it went back down. So I just wanted to make sure that we didn't inadvertently leave your....

BETH BACON: No. Thanks, Donna. I put it down because I thought that everything had been covered and didn't feel like we needed to say it [two] more times.

DONNA AUSTIN: Okay. All right, thanks, Beth. I just wanted to make sure. My name is Donna Austin, and I'm the chair of the Registries Stakeholder Group. I've become aware that some people may not know who is talking, so if we can just try to remember to say our names it would be helpful to everybody who is on the call.

So the next item is IRT issues. I know this is a very broad topic and something that has been a challenge for some period of time. I understand the IRT that is looking at implementing Phase 1 of the EPDP is facing not dissimilar issues to what has come up in the EPDP itself with some friction, I guess, amongst some of the members and using the IRT as an opportunity to maybe try to recast issues in a different light. And there are also some issues around Recommendation 7 from the EPDP as well.

So I'm not the subject matter expert on this as well. Beth, I know you're pretty close to it. So is there anything in particular that you

---

think it might be worthwhile having a conversation around on this one?

BETH BACON: I'm sorry, Donna. You said the IRT? You moved? You were breaking up a little bit.

DONNA AUSTIN: Correct.

BETH BACON: Okay, sorry. I've been involved in the IRT and several of the folks I can see on the list here have been involved in the IRT Phase 1. I think when we are talking about IRT issues here, we've learned a little bit about how folks are currently using the IRT as a bit of a battleground to relitigate some issues. So I appreciate some folks have joined later in the game and actually it has been really great to have some extra voices of support.

But I do think that as we move into Phase 2, I think it is important for us to just be aware that IRT has not been shaping up to be simply moving from recommendations to a discernable policy but has been a little bit of a battleground for relitigation of issues. And I think that's important, and keep that in mind when you're deciding whether you would like to just have the EPDP fully out of your life forever and ever or if you can dedicate some time to an IRT.

---

I will say ICANN staff is very thorough and they have been guiding this in an organized way. But I do think that particularly I think we all know the Rec 7 issue is lingering still with Phase 1, and that has been a challenge simply because of the role of the Board in that particular recommendation. And ICANN staff has been holding off on that a little bit simply because they needed guidance.

But again, I think the IRT issues are of help to have us focus on keeping the IRT scoped to the task that it is created for and working to limit the amount of policy discussion and, I guess, development sometimes attempted in an IRT. I will stop talking there, and I see Ashley's hand is up so she has some input. Thanks.

DONNA AUSTIN: Go ahead, Ashley.

ASHLEY HEINEMAN: I just wanted to add to that, I think Beth did a great job covering a lot of our concerns. But something else that has arisen I think out of the last two EPDP phases is also this new situation where we have constituencies who actually have opposed and objected to the report. It has created an interesting paradigm in that you have people that object to report participating, or objected to the recommendations to be more clear, who then want to participate in an IRT.

Which brings an interesting dynamic that I don't think was really considered when the processes and procedures for IRTs were developed. So that might be something that needs to be addressed at

---

some point in time because it's hard to see how people who object to something are in a position to effectively and constructively participate in an IRT. Thanks.

DONNA AUSTIN:

Yeah, thanks, Ashley. I think the paradigm that exists has existed before, but perhaps not as pronounced [in IRTs]. I know it has always been a little bit of a struggle. For the NCSG members, we had a conversation with Russ and Karen from the GDS team earlier today and it's something that they're giving some thought to on IRT issues. But I think while we have inherent problems in the policy development itself, it might also mean that the IRT is going to have similar problems. Pam, go ahead.

PAM LITTLE:

Thank you, Donna. Hi, everyone. I just want to chime in on this IRT/Rec 7 issue. It strikes me as odd that we actually have an IRT [inaudible] whose job is to make sure ICANN Org actually implements the policy recommendation in a way that is consistent with the intent of the policy recommendation. So the IRT in the guidelines or process basically would require someone who has participated in a working group to be in the IRT.

Here in this IRT we have multiple members of the IRT who were also participants or members of the EPDP who should, to me, know exactly what the intent of Recommendation 7 is. But here we are. We are having multiple conversations. Everyone is having different

---

interpretations about what this means, what that means, what the actual intent of that recommendation is. And then it's now back to the council.

And oddly, the implementation review team principles and guidelines and the consensus policy implementation framework all point back to the council to provide guidance to the IRT. Where councilors like myself, we were not in the EPDP team. We really didn't know or we don't have firsthand knowledge what the intent was or the circumstances this recommendation was made or the background. The people who are in the IRT, not only the participants from [NCSG], we also have Org having two staff members there as liaisons. We have two Board members there as liaisons [yet today]. After all these months, no one seems to be agreeing what the intent is. So this is a very unique situation already, our situation we found ourselves in.

The other thing that is not clear to me is the way the PDP cycle works. We have a policy recommendation from a working group, the EPDP team, that has a full consensus designation and then went to the council. Council adopted all the recommendations from EPDP Phase 1, including Rec 7. And then that went to the Board. The Board adopted that recommendation. There was no rejection.

As you know, the Board actually did not adopt one of the recommendations and only adopted partially the other recommendation. Subsequently, there were consultations and correspondence back and forth. But not this one. The Board just provided some points in their scorecard, and that itself is sort of left

---

unactioned or some of them not acted upon and some of them are open for interpretation.

So we have this very murky situation. And that's why I think the process is quite odd. In my mind, it isn't clear what the role for the Board is in this situation. I thought the Board once they adopt the EPDP policy recommendation, their role according to my reading of the bylaws is to instruct ICANN Org to start the implementation, work with the GNSO Council, and work out a plan. You can read the bylaws yourself.

But here, we actually have a Board opining the particular recommendation itself, and that appeared to be what ICANN staff is kind of [seeking] to [inaudible] to say this is the instruction from the Board. I cannot move away from that. So therefore, that's why we have this very odd situation here and everyone is having multiple interpretations about this particular recommendation.

But I just find it really odd because the people who made this policy recommendation are the people in the IRT. I'll pause there. Thanks.

DONNA AUSTIN:

Thanks, Pam. And just to note that there's a bit of a conversation going on in chat, and I think Jeff is probably on the mark. One of the challenges that we have, and it goes beyond the IRTs, is that this inability to reach agreement on issues is becoming a problem beyond IRTs. It's happening in PDPs and it's happening in other areas. And,

---

Pam, on the process issue we're certainly getting really tied up in process these days, which is unfortunate.

So we've got Seb, Sam, Rafik, and three minutes of time left. I don't know if we can go over, but we might have to. So, Seb?

SEBASTIEN DUCOS:

I'll make this very quick. I think that this problem of litigation or relitigation is one that we're going to be plagued with for a while unless we find clear measures against it. And it was something that has already been discussed with our new/future/yet-to-be-elected chair of the GNSO. It is something that we are going to need to work on.

This said specifically for Rec 7, and I think that this goes also to what Beth was saying. Specifically with Rec 7, I think that it's not so much a problem of relitigation. It is, but it's not so much a problem with that as a problem of because of time constraints that subject, let's say the people gave up on it. They never came to an agreement. Everybody left that discussion with their own point of view. I think that we would have had the same problem had we continued to belabor the topic during the EPDP, but there were time constraints and we had to move on.

I think that also that's where Beth was trying to go. Ashley, everybody fully sympathizes on the burnout, on the fact that people have spent way too many hours on all of these topics. But saying we can't deal with this or it needs to be dealt with somebody else just throws the



---

ball out. We need to balance that against using the time or the people that have spent already enormous amount of time and effort trying to come to the conclusions for that last mile might be worth the effort even if it's not immediately. Even if it's in a few weeks or months. But keeping the same minds instead of sending it to another group who will then rehash the same thing again and again and [relitigate it], that's my own input. Thank you.

DONNA AUSTIN:

Thanks, Seb. My apologies, folks. I forgot that we started this at 1:30. I thought it was at 1:00. Anyway, so, Sam, you have 30 minutes. Off you go.

SAMANTHA DEMETRIOU:

Thanks, Donna. This is Sam Demetriou, the vice chair of policy for the registries. I promise I will not take up a full 30 minutes with this. I did just want to note for our registrar and our NCSG colleagues—because Pam brought up the ongoing issue around Rec 7 and the conversations happening at council and the continued churn, if you will, around this particular topic—I just wanted to note that yesterday, is it still today? I don't know what day it is anymore.

The registries, the representatives from the EPDP team actually submitted a rather long communication to the council. Our councilors should have seen it posted to the council list by Maxim last night. But I wanted to just flag that for folks, especially at the council level, as you guys go into and continue to have these conversations. I just want you

---

to know that we're available to clarify anything or to provide additional detail if there's anything in there that's not clear. But we're hoping that can be helpful in trying to press forward with these discussion.

Because I'm very tuned into what Seb just mentioned which is this is an issue that has just really been passed from group to group to group, and I think we'd all really like to see some conclusion reached because I think we're all keenly aware that it's one of the things that's holding up the conclusion of this policy being released. It's just dragging this issue out longer and longer. So just wanted to flag that and reiterate that we're available for any further discussion or questions that you guys might have. So thanks for that.

DONNA AUSTIN:

Thanks, Sam. Rafik? Rafik, we can't hear you if you are talking.

RAFIK DAMMAK:

Okay, sorry. First, I think I agree with Jeff's comment. At the end we have a lot of processes and procedures in place. But there is a lot about a good faith of those who are participating in this process and that's the hard part and how to deal with that. But I want also maybe to highlight since Pam brought the particular issue for Recommendation 7, even if we have [inaudible] to give the framework and how to work on implementation, so we have the position from the staff, the [inaudible] now. But also something that's not usual is the

---

Board involvement in the process and how that creates a situation that makes it complicated for the IRT to move forward.

It's not just for IRT. It also can happen in a working group, etc. When Board members participate, we want it or not, they have some weight and that can influence the process and the deliberation because some members can use what they say, I mean [inaudible] that to use that for their arguments.

So I'm not sure what we can do. I don't think it's a matter of working more on the process, but it's something maybe also for the GNSO Council how we can have more weight in the implementation. Because we are part of it, but maybe we are doing some oversight but we are not managing the process. When we have an issue that is [inaudible] to us, we don't have that much option in how to deal with them and providing guidance.

And I think, as Pam explained, it's also challenging for the council to try to figure out what the working group wanted with this recommendation when you have to do the same like going through the reports and all possible documentation. So I don't have an answer how we can manage that, but just maybe for us to think what can be possibly done without maybe adding more layers of process. Because the existing one looks enough like they are not going to be achieving what we are looking for.

---

DONNA AUSTIN:

Thanks, Rafik. There's some interesting conversation going on in chat about how can we potentially work to change behaviors or who is responsible. And it actually takes me back to a conversation that the GNSO Council had a few years ago that led to the PDP 3.0. Because the council at the time was aware that the PDPs were getting into similar territory, I suppose. So we were looking for enhancements to the process, and that was really PDP 3.0. So maybe there are some lessons we can learn from that.

But I think there's also a challenge in the fact that it is a staff responsibility to implement the policy. And that is a handoff too from the Board to the CEO to go forth and implement. And it's got to be challenging. I don't know how many people are actually on the IRT for the Phase 1 PDP, but it does seem like it's a lot of people. So maybe one of the ways is to restrict the membership. But I don't know. When people don't want to move, they don't want to move. So I think it takes a certain skillset to be able to manage some of those challenges.

Stephanie and Ashley, I don't know. Amr, go ahead. And then I'll come back to Stephanie and Ashley, and we'll try to wrap this up.

AMR ELSADR:

Thanks, Donna. I hope you can all hear me.

DONNA AUSTIN:

Yes.

---

AMR ELSADR:

I just wanted to folks that although staff is responsible for managing the IRT, the GNSO Council also has an oversight role in terms of what Pam alluded to earlier. That the consensus policy language has to be consistent with the intent of the policy recommendations coming out of the GNSO and adopted by the ICANN Board.

So in events of conflict, in particular with staff who are managing the IRT, I don't think the IRT members should be too shy to invoke the role of the council liaison in working out conflicts between members of the IRT or disagreements between members of the IRT and ICANN staff in this situation.

Sebastien has already been really helpful in facilitating communication between the IRT and the GNSO Council. But if problems do persist and if we have problems specifically with staff, not necessarily with members of the IPC or the BC, then we should—this is a conversation I think we've been having, and I don't think we should wait until the draft consensus policy language goes to public comment. I think we should do everything we can before that happens to make sure that what goes to public comment is something that we can all live with. Thank you.

DONNA AUSTIN:

Thanks, Amr. Ashley?

ASHLEY HEINEMAN:

Hi. Thanks. I think what Amr said is very interesting as well and something to remind ourselves of. Because I think one of the biggest

---

problems in addition to relitigating issues is that a lot of time is spent doing so. And I think that's an issue that is universally felt throughout most of ICANN's activities is that things take a lot of time, and these are folks that have day jobs.

There's probably no way to completely eradicate situations in which policy is relitigated. But if there is a way to kind of cut things off at the knees and say this has already been covered and we'll take it to—whatever—the GNSO or someone to reconfirm that. But I think at a minimum, I think there's recognition that there needs to be some fixes to the process or at least recognition of existing mechanisms available to us.

So, I don't know, something that we can table to continue to look at because I think the IRT has become an integral part to policy development, and it's going to be really necessary I believe to get things sorted in the near term. Thanks.

DONNA AUSTIN:

Thanks, Ashley. Stephanie, did you have anything to add to wrap up on this topic?

STEPHANIE PERRIN:

Well, I think that the question of exactly how from a strategic technique perspective we're going to cut these things off, I like the suggestion of using the liaison. Poor Sebastien, that's all I've got to say. But there is a risk that that just becomes kind of a ping-pong with him going back and forth and back and forth to council.

---

The amount of homework, just speaking as a member, the amount of homework that is required to do the research of the innumerable meetings we had and haul up what we agreed on and the earlier debate in order to refute someone bringing the argument up again, it's overwhelming.

I'd like us to agree procedures speedily so that we don't have to do that because it's just going to kill us. Personally, I don't even want to be on anything EPDP related, but the IRT marches on so we have to do it. If we get a whole bunch of new material, it's going to be really imperative that we control this somehow.

And I agree with Ashley's earlier point. I don't think we have what we need to curtail any rearguing. Thanks.

DONNA AUSTIN: Thanks, Stephanie.

STEPHANIE PERRIN: That really wasn't a very cheery wrap-up, but I'm [inaudible] which is DNS abuse. Maybe that will be easier to solve and we can cheer ourselves up. Thanks.

DONNA AUSTIN: Yeah, thanks, Stephanie. So we'll move on to DNS abuse. And it is a cheery story because we have solved the problem. So I don't know that there's anything to really discuss. Seriously, I'll speak from the registry perspective, we have been dealing with this issue. It was kind

---

of the first issue that I got hit with when I came in as chair two years ago because it was in the context of the audit that was being done by compliance.

It was a conversation about what was within the remit of the audit and what was without. So we had many conversations with Jamie about you can't actually ask most of the questions that you want to ask in the audit because they're actually not necessarily outside ICANN's remit but certainly outside what's within the bounds of the contract. So we've been having conversations for two years about that.

But I think from a registry perspective, I think we feel we're in a reasonably good spot. We've had a working group that has been looking at the DAAR, which I can never remember what the acronym stands for but it's the one data point that people in the community come back to to say that abuse is off the charts. What we've seen is that the level of abuse is actually coming down. I think David Conrad said that as well.

So from our perspective we think that we've made some positive steps. Things are on the [downlow], but we still have the challenge coming from other parts of the community to say that we're not doing enough and the responsibility—it seems that the only mechanism the community seems to think is available is to hit contracted parties over the head with some more contractual obligations or some other issue.

So I think we're interested to hear from NCSG's perspective what conversations you're having in this area and what's of interest to you. But I'll go to Ashley first for a registrar perspective.



---

ASHLEY HEINEMAN:

Thanks, Donna. Yeah, very much in line with what Donna just said, just to kind of supplement where I can, I think part of the issue is that we've gotten ourselves in this loop of DNS abuse is bad and DNS abuse is rampant. But we're not being very specific with respect to what we're talking about in terms of DNS abuse. I think we can all recognize now that DNS abuse is a problem and will always be a problem.

But I think narrowing down what it is in the context of ICANN and the scope of ICANN as well as let's look at some concrete things to solve problems, I think we maybe need to go back to the basic level. What do we mean when we're talking about DNS abuse? Are there things that we can develop that are more specific to the issue at hand?

But also, I think utilizing ICANN, propping them up to be a neutral source of DNS abuse information that people trust as authoritative. Because I think we're pulling information from different areas and seem to be—I would like to think that, for example, a registrar has authoritative abuse statistics because that's where we're dealing with it. But it seems that folks don't always want to trust what we have to say. So how to build up a trusted third party to paint an accurate picture so we're all speaking from the same sheet of music I think would be helpful.

But anyway, I will stop there. Thank you.

DONNA AUSTIN:

Thanks, Ashley. Graeme?

GRAEME BUNTON:

Yeah, thanks, Donna. Good morning, everyone. I'll bravely turn on my video. Oh, where's my camera pointing? There we go. Hi. I have definitely not had a shower yet today. Hi, everyone. So I am chair of the Registrar Stakeholder Group's DNS abuse team.

To Ashley's point on definitions, I would encourage everybody to go back to statements I think the registries and registrars put out around ICANN 68 setting out what we believe to be a reasonable, workable definition of DNS abuse. It was the technical components taken from the DNS abuse framework that a number of us have signed on to.

In brief, malware, botnets, phishing, spam only where it's in service of the other three. And so what I would encourage everybody to do is put their—say, "Great. That's a reasonable, workable definition. Let's keep moving forward just on that." It's constrained and allows us to focus the conversation. Because I think, unsurprisingly, many are using the DNS abuse discussion to pour their hopes and dreams into it and issue areas that really don't belong in there. So there is a definition. Let's use it. Let's focus on that.

From my own perspective, especially because I'm delightfully no longer chair of the [SG] anymore, I'm focused a little bit less on what some of the other components are doing and more on what we can do. For us right now, what we're really trying to do is keep our heads down, get some work done. And for the registrars at the moment, that sort of looks like a bunch of white papers and educational initiatives around DNS abuse.

---

Maybe to highlight what that's going to look like, we're working on one right now and I'll be reaching out to NCSG leadership in the near-ish future around incentivization programs specifically related to DNS abuse. Where we're interested in coming up with frameworks that might work so that we can have incentivization programs, but we want to do that in a way that's going to balance registrant rights. And I think NCSG is going to have some really important input to that, so expect a reach out on that issue in the near future.

Broadly speaking, I don't think we're going to get a lot done at ICANN 69 on DNS abuse. I think the large sessions aren't really wildly helpful in moving the ball forward. I would just like to see us use those definitions, constrain the conversation, get our heads down, and actually work toward doing something rather than continuing talking about it for forever. Thanks.

DONNA AUSTIN:

Yeah, thanks, Graeme. I think to the extent that we can—I mean, we're obviously working on the issue. It's in the best interests of registries and registrars to have a clean namespace, so that's what most of us are aiming toward. I don't know what the rest of the community thinks that we can do above and beyond what we generally do now. Because what we hear from ICANN on a pretty regular basis, and this started with Göran, is you guys aren't the bad actors. It's those that aren't in the community. But ICANN has never come to the party and told us who the bad actors are. So we're in this position where we're kind of copping heat for a problem that nobody is able to articulate in any

---

reasonable way that can help us say, “Okay, well, that’s what your problem area is. Let’s see how we can help do something about that.”

So I guess, Stephanie, interested to know from the NCSG perspective whether this is something that is discussed on a regular basis or it’s just, “Oh, that’s a conversation going on elsewhere in the community.” [inaudible] or anyone in the NCSG for that matter.

STEPHANIE PERRIN:

Thanks. I think we tried very hard not to get those abuse general sessions, all three of them, up on the agenda and, unfortunately, lost that argument. I think it’s of great concern to us. We regularly point out that much of this material is outside of ICANN’s remit. I’m not sure that we all agree on the cure. In my view, some of this stuff should be regulated and therefore pulled out of ICANN’s remit.

In other words, the whole issue of legal where you regulate the economic activity on a website and ensure that correct data is available on a website, you get yourself out of this issue where ICANN is dealing with bad behavior as an abuse issue. I think that’s just a no-brainer. Get governments to regulate.

My own view at the moment is I’m quite worried about what’s going on at the Council of Europe’s cybercrime negotiations. Because I understand that the GAC has brought this issue there. The processing of DNS data as a legal grounds, providing a legal grounds through the cybercrime treaty. Which, of course, means countries have to take it back and pass law.

---

So the threats that we've heard about deal with abuse or we will regulate you start coming true when it becomes part of a treaty that goes for signature. So we don't know what's going on there, at least those of us who are not in government and delegates to the negotiations don't know. And I'm concerned about the broadening of the concept of the legal basis for processing. Thanks.

That's my particular preoccupation. You will hear from Milton who is appearing on one those abuse panels, on the post-EPDP one. He may have a different view. I think he's not on this call. Otherwise, I would say, Milton, what do you think? But certainly, I think we need to have an active ongoing dialogue on the abuse question. And I welcome Graeme's approach to get hard and statistical about this. There's too much vague discussion about what it is and not enough about real mechanisms for particular instances. Thanks.

DONNA AUSTIN: Thanks, Stephanie. Michele?

MICHELE NEYLON: Yeah, thanks. One of the frustrations, I think, from those of us who have to deal with abuse on a day-to-day basis is that a lot of the issues lie completely outside of ICANN's remit. And not for philosophical reasons but for very practical ones. Hosting providers, ISPs, network operators, and others aren't bound by any contracts with ICANN. It's the same with a lot of stuff in the country code space.

---

So the assumption that many have that it's somehow an ICANN problem is misplaced. There's no point introducing more policy or contractual obligations on registrars or registries when we can't actually do something about a hosting provider with whom we have no contract.

I mean, my abuse desk has been dealing with a phishing attack for the last seven days. The issue is not with the registrars and the registries. The issue is with several hosting providers who are not taking any action and are ignoring our abuse reports. That's completely outside ICANN's scope. But it's actually having an economic impact both on us as a company and on our clients. And there's nothing that ICANN can do about it, nor would it be appropriate for ICANN to do anything about it.

DONNA AUSTIN:

Yeah, thanks, Michele. I think that's an important point that it is an issue that does transcend beyond our registries and registrars and ICANN. That's something that we need to be mindful of. I do believe that the report that SSAC is going to put out on DNS abuse which I think may be released just prior—I don't know when this meeting kicks off—prior to next week or sometime soon that it might be helpful in that regard, but it goes a bit broader.

We are four minutes from time this time. We really are. According to the chat, we need to wrap up on time. Any closing comments from you, Ashley or Stephanie?

---

STEPHANIE PERRIN: No, but I think from our perspective it would be very helpful to continue this dialogue outside of the IRT, for instance, so that we can make sure that we're educated and aligned. When I say educated, I mean we're not the ones dealing with abuse knowing what you're coping with. And I think there are certainly things happening that we'd like to keep abreast of. Thanks.

DONNA AUSTIN: Thanks, Stephanie. Ashley?

ASHLEY HEINEMAN: I agree. Let's wrap up on time.

DONNA AUSTIN: Okay. Thanks, everybody, for joining the call. I see the participant number is actually at 87 people, which I hadn't realized. So I hope people found it was a good conversation. I agree that it's one that we should have more often. The challenges of not meeting face-to-face do make it harder to be conscious that we should do something to schedule these meetings in between time.

So with that, I'll be stepping down at the end of this meeting, so Sam Demetriou will be the contact. And I believe, Stephanie, you're stepping down and Bruna will be the contact for NCSG.

---

So everybody have a wonderful two weeks at ICANN 69. I think we can end the recording there, folks.

**[END OF TRANSCRIPTION]**