ICANN Transcription – Abu Dhabi

GNSO Non-Commercial Users Constituency (NCUC) Outreach Meeting Part 1

Saturday, 28 October 2017 15:15 GST

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On page: https://gnso.icann.org/en/group-activities/calendar

Farzaneh Badii: Okay, great. Hi, everyone. Welcome to NCUC/At Large Outreach Event. So today we are going to… My name is Farzaneh Badii. I am the Chair of Noncommercial Users Constituency.

I'm the - we decided to do this session with At Large because we get a lot of feedback from the community that they don't know what is the difference between At Large and NCUC and also our mission and values and how different they are. And also we want to tell you more about what exactly we do on policy development, on contributing to domain names policy.

And so for the first segment, I'm going to tell you a little bit about the Noncommercial Users Constituency. And then we will have the At Large intro, which is supposed to be done by Olivier, but he's not around. He's coming, okay. But we have At Large members here who can cover that.

And then we are going to have an intro to IGF, Internet Governance Forum. I'm sure a lot of you are familiar with that. Why do we have by Chengetai Masango, the Head of the IGF Secretariat and why do we have that because a lot of times people cannot distinguish the difference between ICANN, IGF and how different the two are because ICANN mission is very limited and it has some aspects to it that doesn't really relate to IGF. So that is why we have Chengetai Masango. Also we have him because he was my former boss so I should be nice to him. So okay.

So for the NCUC, at NCUC we work on - we are a bunch of civil society activists and individual noncommercial users that work on various policy topics at ICANN. So and then we are a part of the Noncommercial Stakeholder Group.

That is a complex issue as well because people say oh, I don't know what Noncommercial Stakeholder Group is and what is the difference. So you have to consider a Russian doll. And then, so we have NCUC and NCUC is a part of the Noncommercial Stakeholder Group. So it is - Noncommercial Stakeholder Group is the overarching stakeholder group of constituencies. So there's NCUC and there's another constituency. I'm not going to name it because you are going to get confused.

We contribute to the generic top-level domain name policy. This is - so we are the generic - this is exactly what we work on. So - and what do we mean by generic names? It's - so as ICANN - domain names of our various kinds. For example, like you have country codes like .UK. These are not - those are not the policies that we focus on. There's another organization at ICANN that does that.

But what we do, we simply focus on domain name policymaking and generic domain names. So I think I have confused you enough.

And we advocate for noncommercial users. What does that mean? It means that if you have a business interest in domain names, NCUC is not the place to advance that interest. We work on civil society advocacy and freedom of expression. We fight with trademark overreach and we work -- and this is a very important point -- we work… Hello? Yes.

So we work on access but we don't work on access to Internet infrastructure-wise. This is very important. A lot of people come to us and say do you - so we want development of Internet in our region, can you help. No.

Our mandate is very limited. We do domain name policy and access to domain names. So if ICANN can do something about access to domain names then we can get involved with policy processes and maybe make that happen. But we can't provide the fiber optic.

So that's about it. If the At Large person, Olivier is here. No? Is there any questions, just ask me. Any - do you have any questions? I hope that was clear. So if any At Large - Tijani, would you like to discuss?

Tijani Ben Jemaa: Thank you, Farzaneh. At Large. What's At Large? At Large and ALAC is the At Large Advisory Committee. At Large is the end users at large. It means that anyone using Internet is - we are looking for that - we are defending their interests. We are not representing them. Nobody can represent how many billion users. But we are defending their interests.

How we do that? As you know, we are an advisory committee so we give advices to the board about the policies that have developed by SOs, by the supporting organizations, and about other things. And all our advices are synchronized with the interest of the end users.

So it is through our advice to the board. Also, we do a lot of things. We participate in working groups to defend the point of view of end users, at least what we think is the point of view of end users. And also, we make a lot of

capacity building for our community and also for people, for local people where we go and where we have the meeting in the place where we have our own general assemblies in general. So we did that several times.

It is to raise awareness of the end users about the importance of make their voice heard. They have to participate. And we are pushing very strongly to make the end users participate in ICANN discussions. And we do also, as I said, outreach so this point of outreach.

So this is more or less what we do and what is the purpose of At Large.

Farzaneh Badii: Thank you very much, Tijani. You have a question. Yeah, go ahead?

(Tom Sling):   Tom Sling for the record. I'm a bit confused between the words "not representing but defending" the end user.

Tijani Ben Jemaa: Yes. Do you think there is any execution or person or association or anything that can represent as many billion users in the world? It is impossible. First, they are very diverse.

And second, we are - what we are defending is the public interest by opposition to the commercial interest and the political interest. So our mission is to defend the interest of end users not to represent them. We cannot represent them. Nobody can represent them.

Man 1:   Maybe I can also add something to that. Actually, the involvement of these end users to the processes of even defending them is also making it more legitimate. When you decide, for example, some organization decides that they should defend someone's interest, it might be, for example, not correct or this end user might not need such kind of protection, as it - to see as it is doing a state in some countries.

But if you have an organization that is open and that involves the users that can also tell you in which way to represent their interest, what is their problems, etcetera, it can be a valuable one. Not to protect for the protection but to protect because you understand their needs. Thank you.

Tijani Ben Jemaa: May I? This is exactly what we do. We are not the representatives of those people so we are defending them. No. We are defending the interest of end users with the end users. Everywhere we go we try to reach out to the end users in the country, in this country, out of ICANN, people who never listen or heard about ICANN.

We do that also through our structures because our structure are growing and we have more and more people coming. So this is how we are not representing. We are not protecting. We are only defending their interests.

Farzaneh Badii: There's another question.

(Eduardo): My name is (Eduardo) from Paraguay. I have a question and is within the At Large group, have you been thinking in strategies in which you can, I'm not sure if the word is, democratize the debate because sometimes it feels that it's only on high level.

And since we are - the scope of the At Large group is to represent the interest of the end user, I believe there should be mechanism in which the information and the knowledge that is being produced should be more accessible to the people that are interested at least.

Tijani Ben Jemaa: You are absolutely right. And this is what we do. We have LSes all over the world. And representative of those LSes who come to ICANN and who attend - who participates in ICANN debate, their duty is to bring this knowledge and this information to their people there on the ground. So this is exactly what we do.

Farzaneh Badii: All right. So we have a couple of more questions. The thing is that we are short of time. We are also - started late. Let us go to the next agenda item, which is the difference between At Large and NCUC and then we will do another round of question.

Olivier is here. Olivier, would you like to start the battle?

Olivier Crépin-Leblond: Yes, sure, absolutely. Thank you, Farzaneh. Olivier Crépin-Leblond speaking. I'm the Chair of the European At Large organization so that's just the European part.

One of the questions that always springs up from newcomers and in fact from even seasoned participants in ICANN is what is the difference between our two communities that seem to be - or two constituencies if you want, that seem to be serving the same community.

And the difference is actually, I think, Tijani spoke a little bit about it. At Large is - goes into an At Large Advisory Committee. And an advisory committee is part of the organization that is able to comment on pretty much anything that happens at ICANN. But the word there is the comment part.

We comment into the policy processes after they have been developed in the Generic Name Supporting Organization, but we also can comment on country code issues. We can comment on pretty much anything and everything that takes place. We send our comments to statements that go into the public commenting process but we can also send our comments directly over to the board.

We have some people that take part in the Generic Name Supporting Organization policy development process. But the NCUC is more into that because that's the focus of the Noncommercial Users Constituency, is to make policy and to also vote on it later on.

So that's a bit of the difference between the two. I believe the NCUC is more civil society oriented. While the At Large also has a commercial component to it, not all of our organizations are civil society as such.

We have some academia and we also have some commercial organizations that have a direct link with end users. And so the end user component for us might be a bit less - a bit more diverse, I would say, when it comes down to the variety of opinions that we have in our community.

I think I've covered it in some way. Perhaps should you say a few more words about NCUC, how you on your side see the differences.

Farzaneh Badii: Farzaneh Badii speaking. So please remember to state your name at the time of making intervention.

So the difference, if you hear a lot about end user At Large, what we say is noncommercial users at NCUC. So that is the main difference. End user can cover multiple users. It can cover business, can cover civil society. But we primarily and exclusively focus on noncommercial interest.

And of course, as Olivier said, our role in ICANN governance structure is different and we are located in a different place than At Large is. At Large we get involved with policy development on generic domain names. We can of course make statements or comments on various aspects that might not be related to generic domain names but we don't make policies about those.

And that's about it. I think that was - oh, there's a remote intervention.

Olivier Crépin-Leblond: Farzaneh, could I also just add before any other questions a couple of more things. We are not mutually exclusive. What I mean by that is, okay, At Large has some at-large organizations so at-large structures which are, I think Tijani must have told you, I don't know, Internet society chapters and other end user organizations.

But we also now accept directly individuals in all of the five regions of the world. Many individuals are actually part of both NCUC and At Large. Many organizations…

Farzaneh Badii: Noncommercial.

Olivier Crépin-Leblond: …are actually part of NCUC and At Large as well because they find a different angle in which to attack the ICANN problems that are put before them and problems and, well, challenges should I say, that are put before them. So, you know, there's this spirit of collaboration and the choice that is there is not mutually exclusive as such.

Farzaneh Badii: And that's an important point but we should remember that the individual organizations that are member of both NCUC and At Large have to be noncommercial in order to be a member of NCUC.

The other thing that maybe we can point out is our values. At NCUC, as we said, we are civil society activists and we care about freedom of expression. And trademark - if there is trademark overreach, we fight with that and we protect freedom of expression. We also care a lot about privacy and we are very active with that regard as well.

These are our values. And Olivier, do you want to?

Olivier Crépin-Leblond: Yes. In At Large, due to the variety of members that we have, we are not as, which how do I say, polarized as civil society. Is that the right way, polarized? Polarized in that way. No, we do have consumer groups in our - in At Large that do ask for strong authentication through, well, Whois for example, etcetera. So there are some issues that we would say might disagree with specifically on privacy. But there are other issues that we would be much more aligned in. Yes, that's basically it.

Farzaneh Badii: So we could wrap it up as they are moderate, we are extremists. So there is a remote intervention.

(Ovan Schein):   Thank you, Farzaneh. This is (Ovan Schein) from ICANN organization. And we have an online question from Narine Khachatryan. So this is a question to Tijani. How do you know what are the interests of the end users? How they decide which interests to protect?

Tijani Ben Jemaa: I think I answered this question. I said that the At Large people are defending the public interest in opposition to the commercial interest and the political interest.

Man 2:   It's quite interesting because this question came also from Armenia and I'm also Armenian and it's also mentioning that.

Farzaneh Badii: Okay. Are there any questions? Yes, go ahead.

(Enas Feive):   I do have a question about membership in At Large. Can we join At Large as an individual without being the representative of an organization? Thank you. (Enas Feive), sorry.

Olivier Crépin-Leblond: Yes. In some regions, it's very recent but yes, that is the case now.

Farzaneh Badii: Okay, there is another question so we quickly answer that and then we have to go to Chengetai. Please, go ahead.

(Walit):   It's (Walit). My question also about membership. What if an alias of an At Large organization, a member of an alias of an At Large organization would like to be a member of NCUC, can they be a member of NCUC as well? And don't you think that there would be a conflict of interest between both?

Farzaneh Badii: As I said, only if they are noncommercial and want to advance noncommercial interest in domain name policy. If they have business interests in ICANN work, then no. So that's the - that is a very - that is a big difference.

So we do not accept, for example, GAC members. You could work for your government on an unrelated field and be an individual member of NCUC. But if you are a Governmental Advisory Committee member, you cannot be a member of NCUC. That will be a conflict of interest.

Milton has a comment. And then we are going…

Milton Mueller: I just want to address this issue of conflict of interest. So strictly speaking, there's no inherent conflict of interest between being a member of At Large and being a member of NCUC. In fact, there's a lot of overlap.

I think the only time is when these - there could be a conflict, no so much of interest but of positions, is when At Large and NCSG would have to take a position as part of the empowered community, in which case At Large could take a collective position that would be maybe different from what the GNSO would take. And then we might be debating these different positions within these different structures and one side might win in different parts of the structure.

But there's no inherent conflict of interest. We are not like, you know, separate interest groups. We are different structures fulfilling different functions within the ICANN structure.

Farzaneh Badii: Sorry, I have to go to Chengetai. We don't have time. I really love this enthusiasm but we're under time pressure. So we go to Chengetai and then we can take a couple of other questions. So Chengetai tell us how IGF is going to save the Internet.

Chengetai Masango: Right. Yes, I mean, the reason why the Internet is still here is because of the IGF. No. I'll just be very brief because I know you've got a lot to discuss.

But the IGF has got a broader focus than ICANN. And the IGFs mandate is derived from the Tunis agenda after WSIS, the World Summit of Information Society when 97 heads of state endorsed the creation of a forum, a multistakeholder forum, for - sorry, a forum for multistakeholder dialogue on public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet. I just like saying that but.

Farzaneh Badii: Oh, that was short and sweet.

Chengetai Masango: I haven't finished.

Farzaneh Badii: Oh, you are not? Sorry.

Chengetai Masango: So, I mean, it's therefore dialogue and we do discuss a broad range of issues -- security, openness, privacy, access. We have things like artificial intelligence now, human rights on the Internet and Internet governance and trade, so it's a whole broad range of issues that ICANN doesn't. Finished now. Thank you.

Farzaneh Badii: Okay, that's great.

Chengetai Masango: We just kidding around.

Farzaneh Badii: Thank you very much. So the main message here that we wanted you to hear is that our mandates and mission in ICANN is very limited. It's this little thing called domain name. Of course, there are numbers too but we don't care about those. But we do care about them but not directly.

Olivier Crépin-Leblond: At Large does.

Farzaneh Badii: Yes, I know. At Large cares about a lot of things. So our mandate is very limited while at IGF, they discuss a variety of things. And they do not have binding power. They don't make binding decisions. They just go there and talk. But here, we actually make policy but not to save the Internet. IGF saves the Internet. We make policies about domain names.

You have an intervention, Chengetai?

Chengetai Masango: I'm just saying that talking is important but that's not the only thing that IGF does. We have best practices principles the whole lot.

Farzaneh Badii: Great. You see? So if you want to save the Internet, you go to IGF. If you want to actively effectively make policy at ICANN about domain name, you come to ICANN and NCUC. And if you want, you can go to At Large and advise.

There's a remote participation then we'll take the other questions.

(Ovan Schein):   This is (Ovan Schein) speaking. So I'll jump to the online question but before doing that, I'd like to kind of remind all the speakers to introduce themselves before speaking, not only for our participants in the (unintelligible) but also for the transcription purposes.

So our online question is coming Shahul Hameed. Shahul is from ISOC Trivandrum. The question is: Can organizations join NCUC or is it just individuals? I thought organizations should join NPOC instead of NCUC and NCSG. A bit confused here.

Farzaneh Badii: The answer is both individuals and organizations can join NCUC. And the difference between NPOC and NCUC, I don't think I want to go there. But so NCUC, you need to look at our mission. We have a different mission from

NPOC. But we are both not for profit, noncommercial but we have a different mission.

So what I suggest you do, if you want to become a member of NCUC and if you - because when you want to join NCUC, you have to first go through NCSG because remember the Russian doll. So it's the big doll. So we have the Noncommercial Stakeholder Group. You go to that application. You have to choose between the constituency, either NPOC or NCUC.

How do you decide? There are paragraphs that tell you what each group does and then you see where if you have an NGO, you might want to go to NPOC if you have operational concern. But if you are - but also, you can join NCUC if you - you know, if you care about freedom of expression, human rights, privacy protection, all sorts of things. Or you can join both groups. I hope that answered the question.

Adam Peak: May I? Adam Peak from ICANN staff. The thing about NPOC is that you can - the difference is that only organizations can join NPOC, and organizations and individuals can join NCUC. So the question is, the questioner, the commenter is partly right. Organizations, only NPOC, both for NCUC.

Farzaneh Badii: Thank you for that clarification, Adam. Tijani, you had an intervention. I'm sorry.

Tijani Ben Jemaa: It was just to say that here we are, we are talking about the governance of the Internet technical resources. ICANN is about governance of the Internet technical resources while - and IGF, it is about anything related to Internet, especially the content.

Farzaneh Badii: Yes, Arsene.

Arsene Tungali: Yes, Arsene Tungali. I'd like to mention an aspect where NCUC members can also be part of the IGF MAG because it's a process. And NCUC as a civil

society group, there's a way for civil society members to nominate themselves in order to serve on the IGF MAG. And the nomination process is currently on.

Should I explain more about the MAG? Because currently, yes actually it's the Multistakeholder Advisory Group, yes, which has mandate to participate in the programming of the IGF as the conference, as the forum. And so there is currently a process going on at the NCSG level where NCSG members, as a civil society group, can nominate themselves in order to be elected and be part of the MAG which is planning the upcoming IGF.

Farzaneh Badii: So as a civil society group, we do various things outside of NCUC and NCSG. For example, we organize sessions about Internet governance and civil society but that doesn't - and sometimes - and there's a process that NCSG can nominate a candidate for MAG. But let's not get into that much detail because this is going to be confusing.

So let's - I saw a couple of question down there and I think I - we did not manage to get them. I think if - okay, oh yes, it was (Ergis). No, that's not (Ergis), is it?

Man 2:   That's okay. So while we're talking that IGF and NPOC is quite different but there is similarity and the necessity of joint activities in some cases. Like for example, in Armenia, we have the IGF and we have the Internet Governance Council. But between these IGF meetings, between these IGF annual gatherings, there should be real work to do.

And there is where these organizations can contribute a lot because there should be for example something like an action plan between these meetings. And we should consider their efforts. We should understand how they can make an impact to really contribute to the implementation of these IGF decisions or recommendations or whatever we have here at IGF. Thank you.

Farzaneh Badii: Okay, great. Thanks. So we have to go to the next… Okay, Olivier has a comment and then we have to go to the next agenda item.

Olivier Crépin-Leblond: Yes, thank you, Farzaneh. Olivier Crépin-Leblond speaking. So the - I think Chengetai did mention that there were some best practice forums that were in place between the IGFs and there's a lot of work going on in those. There are all also some dynamic coalitions on various topics and they also do work in between the IGFs. I think that both should be strengthened. And it is true, everyone asks for them and says… Sorry?

Man 2:   National and regional IGFs.

Olivier Crépin-Leblond: And the national and regional IGFs as well, of course, yes, the whole structure of national and regional IGFs. Everyone asks for them. But when they are there and they ask for people to volunteer in them, there are not enough people taking part in them. So if you are interested, and I'm saying that to everyone here, if you are interested in intersessional work between IGFs, please go on the IGF Web site, IntGovForum.org, and look out for these and sign up for these because they require your help and they require your…

Farzaneh Badii: Olivier, NCUC/At Large outreach is not about IGF.

Olivier Crépin-Leblond: I just thought I'd be nice to Chengetai. He was nice to you.

Farzaneh Badii: So thank you very much. Okay. So now we go to the next part, which is issues of interest. What do we do? What are we working on at the moment? What are we passionate about? What do we want to make policy on?

The first is privacy protection in Whois. I don't know if you are familiar with Whois or not. I'm going to get Stephanie to tell us about privacy protection

and her work. Stephanie is an NCUC/NCSG member. And then we will have an At Large member that will, yes, contribute. Okay, go ahead.

Stephanie Perrin: Thanks, very much. Stephanie Perrin for the record. I'm an NCUC member and a member of the GNSO Council for the NCSG. I better slow down, I'm slurring here.

The whole issue of privacy and data protection has been kind of front and foremost with the NCUC for many, many years, starting really with the inception of ICANN and the development of the Whois database.

What is the Whois database? It is a public directory of information about the registrants of domain names that was originally part of the setup of ICANN.

It was one of the preconditions set by the U.S. Commerce Department when they created ICANN - or permitted it to be created, that there would be a public directory with information about the registrants of domain names, continuing a tradition that had been going on since about 1974 or '77, something like that where there was a directory, which made sense when it was a research network of insiders attached to universities.

But it doesn't really, at least to the - in the perspective of the NCUC, make sense now that it - the Internet is a global thing and we are trying to get all kinds of individuals to register domain names because of course, anyone who is either an individual, a small business operating out of their basement selling things or possibly a free speech advocate or a human rights defender in countries where that might be dangerous to your health, they would like to register domain names without having their address and phone number out on the Internet to anybody who wants it.

So that's the fundamental argument that we have been attempting to get adjusted since the inception of ICANN. And of course, as one of the fundamental precursors to the establishment of ICANN, naturally ICANN has

been maintaining the status quo despite the fact that data protection law has been in existence really decades. And when the European directive was passed in 1995, it became mandatory for all European countries now.

Now, as you may be able to tell, I can go on for hours about this. Where is this happening at present at ICANN? There is a particular policy development process that many of us, certainly not just me, and including my colleague Holly here, who's going to speak right after me, there's a policy development process going on at the moment to try to figure out what we should be doing with registration data. And that means the data of registrants.

It's been marching around in the desert for the last year. I would have to say progress is slow. How about slow? I think we…

Man 3:   Seventeen years.

Stephanie Perrin: Well, 17 years, that's a whole other separate story. And I would have to say that the data protection commissioners have been writing to ICANN for 17 years, saying you're breaking the law. And yesterday, the Dutch Data Protection Authority found, and anybody who knows Dutch, unfortunately I don't…

Woman 1:   We've got a Dutch person here.

Stephanie Perrin: Yes, a Dutch speaker in the room, yes. There's was a judgement yesterday finding that ICANN was violating the current data protection law and the new GDPR, which is coming into effect in May of 2018. GDPR stands for General Data Protection Regulation, which basically transforms what was a directive, a requirement from a policy perspective you might say, that was put into effect with national law… It is now a regulation that is…

Woman 1:   International law (unintelligible). It is (unintelligible) Australian national law.

Stephanie Perrin: It becomes consolidated in other words, yes.

Farzaneh Badii: Stephanie, if you could elaborate on NCUC position on privacy at Whois.

Stephanie Perrin: Basically, the NCUC position is that end users have rights. And not all of those rights are spelled out in data protection law. Some of them are spelled out in constitutions and charters of rights and in the international instruments such as the U.N. Declaration of Human Rights and the U.N. Covenant on Civil and Political Rights. That's what protects people with respect to free speech and political activity and due process to a certain extent.

So these are interlocking rights. And at least in my country, which is Canada, your due process rights are in the charter rights. The same would be true in Europe.

So we defend both. However, most of the emphasis in the current RDS is on data protection and what it says about the data protection rights of individuals who have registered names. But we do care deeply about small business, for instance.

And these are competition rights, too, you know? The registration of a name that says something about my new device that I just invented, my miracle snow shovel that I'm going to make my million on, the minute you register, somebody knows what you're up to and your name and address. And there's reverse directory procedures going on all the time run by bots so that there is data being collected about market use of names all the time.

So it's a complex issue. It doesn't quite explain why we've been wandering around in the desert for the last year but we do accept that progress is slow on this. But we live and hope, don't we, Holly? Is that enough? Shall we, over to Holly?

Farzaneh Badii: Is that enough? Did we understand the issue here? Okay. Yes, Holly, go
                  ahead. Oh, there's a question in the back. Go ahead, please.

(Francis Mokila): Good day, everybody. My name is (Francis Mokila) from Nigeria,
                  (unintelligible) nation. Okay, I'm so much interested about this Whois and
                  privacy. And I have a question.

                  My question is, is this Whois privacy applicable to all domains because
                  there's actually an app I'm actually developing with my team and I wanted to
                  buy a .ng domain and have actually digged the Internet and discovered that
                  the registrars don't allow you to buy a .ng domain. That is, if you buy the .ng
                  domains actually, you cannot see use the Whois privacy. That is my big
                  problem.

Stephanie Perrin: Yes. There is a big distinction between top-level domains and country code
                  domains. And the ICANN only sets policy for the top-level - for the generic
                  top-level domains. The country codes set their own policy.

                  So for instance, in my country, you have to be a resident of Canada to have a
                  .ca registration. There are plenty of restrictions like that. Some countries will
                  not allow you to have what is called Whois privacy, is really privacy proxy
                  services where the registrar puts their data into the Whois instead of you
                  putting your data into the Whois.

Holly Raiche: Sorry. And this - one of the many reports on Whois, it was the final report,
                  pointed out the difference between privacy proxy and service. And one was
                  where in fact you have, for example, an agent. And this is the case for, say,
                  small business when you don't want to give away, as the example that
                  Stephanie just gave, which is such a good one, when you don't want to give
                  away information about what you're up to.

                  You will have a lawyer or an agent register something not connected with you
                  at all and that becomes then a way for an agency to handle rather than

having your own personal name. And again, that's only in relation to GTLDs, not country code top-level domains.

Stephanie Perrin: And if I could just follow up because I only talked about the RDS who is as a discussion that's going on at the moment.

A couple of years ago, we had a policy development procedure on the privacy proxy services. That went on for an incredibly long time as well, two years I think it was. Yes, it felt like more. And then once we get a policy through, it is approved by the GNSO Council on which yours truly sits.

And after that, it goes to the Implementation Review Team to have the actual procedures developed. And so there is another working group struck to help with that. And that process is ongoing at the moment in the case of the privacy proxy services.

And quite frankly, although I shouldn't be telling you how difficult and how much work this is, it would be dishonest not to. We need volunteers for that. There are weekly meetings and we don't have enough people to help who can continue to, you know, fight for our values. That is one of the problems. We don't have enough people who can commit the time to staff this and who can take the time to read all the documents and understand all the issues because as you have found out yourself, it's not as easy as it looks, yes.

Farzaneh Badii: Please state your name before you speak. And also please refrain from using too many acronyms. Thank you.

Please, Holly. Holly, maybe we can, after you're done with the general introduction, maybe we can also talk about the position of At Large on privacy issues.

Holly Raiche: My first comment is if you don't like acronyms, my goodness, you have a steep learning curve to sitting anywhere in this building. The whole debate starts and begins with acronyms.

One of the issues, and this is a follow-up from Stephanie that - and I'm going to talk not about privacy but we're really talking about data protection. And there's a whole heap of issues that are about privacy and surveillance and all those sorts of things. That's not what this is about.

This is about personal information. And if you look at the definition of personal information in any of the EU directives or indeed some of the decisions of the European court or indeed for that matter, Australian decisions, you'll find online information, such as an IP address when used with other information can amount to personal information. So we're actually talking about information that can be combined to identify somebody.

One of the issues, one of the myriad of issues that are around with the Whois is consent and the, what I would call, the misapprehension that if you as the data controller or collector wants to collect particular information, you're allowed to if the customer consents. And that's actually the wrong way to look at the issue in terms of data privacy. And I'm talking really not only about the EU directive but about basic OECD principles dating back to 1980.

You start with a corporation, an organization, whoever's collecting information that could be considered personal information. They should only collect the information that they need. It's a data limitation principle. You don't go fishing.

That then limits the information. And it means that when it comes time to ask for the consent of an individual to the information that's being collected, that individual will have an understanding about why the information is collected, what it's going to be used for and who will have access to it. Otherwise, the consent is not deemed to be consent.

So that one of the many debates is really wrong and that is you cannot create the right to collect information just later on in the piece saying oh, well, we forgot to tell you we were going to collect this bit of information but we're telling you now. And if you're happy with it, that's fine.

There are some other issues that arise for consent. One for example, is any time you buy software, a new program, whatever, how many of you actually read all of the 40 pages before you click I Agree? Right? Do we understand that consent is perhaps not freely given? That's one of the many issues that we haven't grappled with.

Another consent issue is of course the more times you buy something online, you have to fill in all the boxes whether you want to or not and whether they're needed or not. And that relates back to the basic privacy data collection principle, which is you should not be collecting information that's not necessary. That's honored in the breach in this particular electronic environment.

So there is some issues about data collection that still haven't even been grappled with. Luckily, they're not part of the who is issue. What's part of the who is issue, though, has if the consent is one that's come up. You and I have talked about it. There will be other issues but the main one is one where in fact you've had a range of individuals who over the past many years have built businesses based on the fact that they had access to who is.

And by the way if you really want the definition of who is information, what it is, look in the registration - the registrar's accreditation agreement. It's about clause three, seven something. And that's the list of information. One of the requirements is it must be freely available to the public. So that's where your problem lies, that clause.

And the debate in all of the groups that Stephanie and I populate is that people who have made their business cases on access to information are

now saying but it is - has been considered a legitimate use to have that information. And the thing that Stephanie and I and many others have to say is no wait a minute. We have to start from basic privacy principles going back to you the data collector should not be collecting information except as is necessary for your purposes. It's a data limitation principle and it's while it's not relatively new this is because you have a very strict requirement in EU particularly with heavy fines.

People are suddenly having to take it very seriously. And the whole issue of freely available database as Stephanie has pointed out based on a very different set of circumstances has been used to actually provide an economic base for a lot of people who are now very unhappy in the fact that we're going back to tolls, going back to first privacy principles and saying you should not be collecting this information in the first place or if you are, you should be significantly limiting who has access to it in terms of what is reasonable, whether it's law enforcement, a regulatory agency, or whatever. But those are the issues and I expect we will be talking about them for some time.

Farzaneh Badii: Okay. I don't know if we have time. Okay so (Olivier) short then Stephanie and yes. Okay go ahead.

Olivier Crépin-Leblond: Thank you (unintelligible). Olivier Crépin-Leblond speaking. So one thing which hasn't been - might have not been totally made clear where perhaps some of the different angles that we look at the problem with the - in the at large community in - on the ALAC. Stephanie very much told you this who is thing is a, you know, it's an internet old problem.

It's a one size fits all scenario where all of the registration data goes in the same database and is accessible to all. And I think that's one thing. We're very much aligned with. It's got to change. It's not something that is valid anymore.

However, we do have a significant number of our end users that wish to have proper identification of the owner of some domain names, especially those that are using ecommerce sites where they might at some point when they're putting the credit card details online, etcetera, wish to make sure that whoever they're dealing with is actually who they actually are and not who they report to be. And that's I think one of the differences.

The problem of course with today is that there's absolutely no way for a registry or a registrar to find out whether a domain name is registered to an individual or registered to a company because there's - it's not actually mentioned there. Tick the box if you're a company. Tick the box if you're an individual. And that's why the registration directory services working group is also working on something that is completely different. And that's also work that is in progress. I don't know how many more days, months, years, centuries they'll on that.

But I think that's one of the differences because I think that from (Stephanie's) viewpoint or from the NCUC viewpoint it's - you very gladly get rid of who is altogether if I understand correctly in that large. There are some who would go up and, you know, be very upset.

Holly Raiche: I'd like to clarify something. We - I didn't go into detail but there is a - there was a thing called the expert working group. What they did was sit down and with a variety of constituencies behind them say who has access to what, how and for what purposes and come up with a solution that would have said for the general public there's a very limited ability to look up any information. If however you are say a regulatory agency, you will get more agent - more information. If, for example, you're law enforcement, you will get more information.

Now all of those things have to be thought through very carefully. How do you define particular terms? How do you test people and so forth? But the idea is that you have basic information available, limited but then have a way

of ascertaining for whom it's reasonable to get access and for whom it's not and then find a way to allow limited access based on the identity of the requester. Thank you.

Stephanie Perrin: Thanks, Stephanie Perrin. Just to respond to (Olivier's) comments, I think I can say with some confidence that the NCUC position on this is there's a bright line between the architectural parts of the domain name system, which ICANN is responsible for, and the Web site. We don't get into content. Yes, registrars will take down a domain that has been shown to be acting in a criminal manner if that's the way to do it.

But the actual content control, so who you're dealing with, the system has grown immensely. The person who registered that domain name may have nothing to do with who's actually operating the commercial site. The allegation that who is useful for Joe consumer to look up and see who they're dealing with is I would suggest pretty close to nonsense nowadays, particularly in the case of criminal behavior where they have no incentive to have a bright - a straight line between who's running the fraudulent Web site and who registered it.

So we do part company in terms of supporting this and it's not because we want consumers to be exposed to fraud and criminal activity. It's because this is not ICANN's part of ship as they say. Maybe I should rephrase that. This is not ICANN's turf, you know. That belongs somewhere else and the fact that that somewhere else has not materialized does not mean ICANN should leap into the breach and fill it in our view.

Ditto for law enforcement. They come with a court order or whatever passes as a legal instrument in the particular country of applicable law, fine. Then the Web site is taken down. And when we argue strenuously on these grounds, it is not because we don't appreciate law enforcement or that we are scofflaws. It is because we believe firmly in those instruments that I talked about earlier that set out proper procedure and civil rights.

Farzaneh Badii: Thank you Stephanie. Sorry we don't have time. So we have to go to (unintelligible) item. Remember that we are here to tell the attendees what we are doing in simple terms. We are not going to argue over positions. So just remember that and don't go on for too long. Okay. So I have Robin here. Oh okay, Robin. Great. So Robin is going to tell us about the geographic table of domain names and there is a working group that is making - developing policy on that. And the question is should government have them all. Go ahead.

Robin Gross: Hi. My name is Robin Gross for the record. So as Farzi said, we're going to talk a little bit briefly about geographic names. And what do we mean by geographic names? So we're talking about words that refer to countries and rivers and lakes and continents and valleys and deserts and regions and sub-regions and the list goes on and on and on about what could be considered a geographic name.

So why that's relevant here at ICANN is because governments through the governmental advisory committee at the GAC really want to control who can use words that are considered geographic names in domain names. And so even though there's really no law - international law or no treaty that gives governments these kinds of rights to control people's use of words on the internet, particularly globally, ICANN is a one stop shop place to go to get global policy. So there's a lot of pressure on ICANN from the governments to create restrictions with respect to people's use of geographic names on the internet.

So what we're really talking about is censorship. I mean we don't - when people can't use a word that refers to, for example, I'm from Michigan and so Michigan is known as the Great Lakes state and the Great Lakes region. And it would mean, you know, I wouldn't be able to - none of us would be able to use the words Great Lakes in a domain name. So that's sort of a practical application.

And this is a - basically a policy of censorship that we're talking about. People - we have great concern for freedom of expression in the non-commercial users constituency. People have the right to use words on the internet even if a government doesn't want you to use those words.

The government wants to use them for - exclusively for themselves or block certain particular individual use of those words. That contradicts freedom of expression rights which is globally recognized under Article 19.

So in addition to basic concerns about freedom of expression, there's also very practical concerns about allowing governments to control the use of geographic names on the internet. Who gets to control shared words, words that communities, countries, regions, whatnot, share? Which words are we talking about here?

Words have different meanings in different parts of the world due to different languages. These are real practical considerations that we'll need - would need to be baked into any sort of policy and I think the practical considerations in addition to the free speech sort of make the whole concept unworkable.

Furthermore, this kind of - these kinds of restrictions really stifle innovation. If you have to go get permission from a government in order to use a word or blocked entirely, we're talking about building sort of a permission required internet which is really the exact opposite of permissionless innovation, which is one of the reasons why the internet has been able to really flourish and grow and is because it's been able to promote the free flow of information and ideas without requiring permissions from governments and without allowing governments to veto people's use of words.

Another problem with this kind of a proposal is that it really invites politicization into the domain name system which is really unhealthy for the

DNS and the growth of a - the free and open internet. So we've got a lot of pressure as I said from governments to bake these kinds of restrictions into new GTLD policy, top level domain policy.

And so there's a new working group that's being set up right now. It's part of the new GTLD subsequent procedures working group, which is ongoing. But this is a sub track in that called work team five. And it's just being created basically this week. So there's a session on Wednesday, November 1 from 8:30 to noon. It will be the first meeting of this new working group, work team five, where this issue of geographic names and how we're going to allow governments or not to control and manage people's use of those words on the internet.

So I would like to encourage people who care about freedom of expression, who care about innovation and building a free and open internet to participate in this working group. We really need people who will be in there.

Again this is work team five, the new GTLD subsequent procedures working group. And it'll meet Monday - or excuse me Wednesday morning for the first time. So if you've got any other questions about that, feel free to contact me and I can send you more information about how to sign up for that working group.

But it's open to anyone and it's just getting started now. So now is the time to get in there and get active and get some positions on the - in the discussion, particularly that are promoting freedom of expression and recognizing people's rights to use these words in the domain name system. So I will stop there and see if there are any questions on this.

Farzaneh Badii: Great. Thank you very much Robin. So at NCUC, we don't like government overreach when it comes to generic names especially. So we are against that but I don't know what at large thinks about it. (Olivier) just be short. Thank you.

Olivier Crépin-Leblond: Yes. Thank you Farzi. Olivier Crépin-Leblond. So thanks for the intro and for actually calling for people to take part in this working group. I think it's really important and one of the concerns that we often have is, you know, everyone talks about it but then the working group itself ends up with five people bearing the weight of the whole world on their shoulders.

In at large there - we don't have quite a consolidated position on this actually. We do have people that think exactly the same of what - as what you've said. We also have people in some regions that have been affected recently with a company that started to sell books and that I shan't name and is selling all sorts of things now that are actually very militant in the other way and saying no, no, no. We, you know, the geo regions have to be the property of the population that is there and the population that is there has to ask their government to fight for it.

So I'm not quite sure which way it's going to go. We've had our - this is another one of these topics that we've had in our part of ICANN for a long time. But I absolutely agree with you that we need to have a lot of people in that working group. Everyone has to have a lot of people so that not only all views are seen or and are expressed but that a solution can be found. Thank you.

Farzaneh Badii: Go ahead (Jen).

(Jen):   Thank you presenter. Yes. We can also see this issue from another angle. Suppose we have a geographic name, a city, a city for example let's say Mombasa in Kenya. These people in this city want to have their identity on the net. And another company wants to make money behind it. What do you do? I think that if the community wanted, the community has the priority and it should be the community not the government. The government is only one element for the community.

Farzaneh Badii: Okay great. Thank you very much. Oh. Action item. A question is that. So (Sonya) okay go ahead and then there's another one. Okay. It's just that one of our speakers has to leave. So that's why I'm kind of rushing it. I'm sorry. I'm normally not like this, you know. But go ahead with your question please.

Woman 1:   There's a mic here (Sonya).

(Sonya Herring):   (Unintelligible). Hi. So (Sonya Herring) here. From the discussions before obviously it only made me think of the .Amazon thing going on right now. And what - does the NCUC maybe it doesn't have a homogenous stance on it but how does it see the discussion and how should it result? What should it result in? I felt like everyone was avoiding it.

Robin Gross: Well I don't think we have a universal position on this issue. It's, you know, I don't think it's something that we've taken any position on actually but I can sort of tell you what I think. I think that the .Amazon application it went through. It followed all of the rules that the GNSO and the board had established. And it paid its fees and it did everything it was supposed to do.

                    And then after the fact, you know, some governments come along and say oh but we want that word and we don't want you to have it. And so now we're seeing, you know, this tussle between governments and in this case an industry organization over the use of a word in a TLD. So personally, I think that application should go forward and that the policy that was developed by the board and the GNSO should be followed.

                    I don't think we should be bending over backwards now to give governments these kinds of rights. I feel like it will create a terrible precedent for the next time this happens. Somebody who plays by the rules and follows the policies and the procedures and pays the dues isn't - gets blocked at the last minute just because a government doesn't want them to have that. So that's my personal view on that particular issue. I don't think we have a - we've really discussed a constituency view.

Farzaneh Badii: Okay. Thank you. Bruna you have a question. Just go ahead and then.

Bruna Santos: Just a quick comment. Bruna Santos for the record. That it's not only we are talking about government overarching but we're also talking about some sort of I'm not going to say it as a complete disregard for civil society's opinion but like the rest of the multi-stakeholder model opinion. So if you have this overarching we do not consider like everybody else's takes on the matter. So just this great comment.

Farzaneh Badii: So okay. So here we talked about the - these are like - these topics are based on the working groups that are going on right now. So if you want to get active, you can just join this working group. Go attend their meetings this week. It's going to be overwhelming. You're not going to understand a lot of things in the beginning. But it will - you will get there. You will get there. It just needs a lot of persistence. And I've been there. I know.

I was a fellow by the way fellows. So and so these are the working groups and I so there's a privacy working group. There's a geographic. There's a what is it called, the thing that you just - new GTLD subsequent procedure. And I'm going to go back to the other two items. But one of our speakers is going to leave, so I'm going to go to Tatiana to talk about human rights at ICANN.

Now, what is the difference between these two topics? These are the working groups that we developed policy with regards to domain names. This is about ICANN structure and governance and how we can make ICANN itself accountable so that when we make these policies they don't just, you know, not implemented or be accountable to the community.

So this is the segment of our work that we work on like internal ICANN governance structure. And we have been doing - there's this group that has

been working on. It's got of course come in as a working group. Has been working on various aspects of ICANN accountability.

One is human rights which Tatiana is going to talk about and tell us what she has done and what the group has done. Thank you Tatiana. Go ahead.

Tatiana Tropina: Thank you very much. The (unintelligible) is speaking for the record. I'm sorry for those who can see me because I'm going to look a bit silly. But I really want to put my rock star glasses on to say that we rock, we are rocking, and we are going to rock when it comes to accountability work team two and human rights, why and how.

Well Farzi said that I'm going to cover what I did but I believe that this is very much of a group work. It is a long, long story at the NCUC and it is a long, long battle. And Robin and (Metin) who is going to talk later and Avri Doria who is now on the ICANN board, everyone has been contributing to bring in human rights into the spotlight for many, many years.

But they really came into the spotlight to be documented and embedded into the ICANN structure during the accountability process because when ICANN was transiting from the government oversight when communities started developing accountability proposals, there were many voices that human rights should be respectful. Human rights should be a part of these accountability process that are voices against.

So we had a big battle for around like more than a year trying to put forward a proposal for the bylaw for ICANN where the respect for human rights would be officially stated and documented. I will not go into details because it was a big barrel of different constituencies and ICANN board had different views on these issues. So it will be good at the end of what was called the work stream one, I will talk about work stream two in a minute.

So we got bylaw which says that with the next mission and as a core value, ICANN is going to respect but not enforce human rights as required by applicable law. It is a kind of compromise text because I mean we talked about ICANN not saving the internet. ICANN cannot save human rights. ICANN cannot be a human rights watchdog. And this is one - was one of the arguments in the accountability working group, that putting this - taking this into the human rights bylaw, we'll open the door for different claims against ICANN to enforce human rights against the third parties.

So we had to provide many limitations in these bylaws with an ICANN mission required by applicable law. But the main compromise -- and here I'm almost done with the work stream two -- was that the law is going to stay dormant. It was a sleeping law which is going to wake up only after framework of interpretation for this law would be developed.

What does it mean? So the law stays on paper now but the cross community working group had to explain what does it mean to respect human rights. What does it mean within ICANN mission? What does it mean required by applicable law? And all these, you know, pieces of the bylaw, all these pieces of the puzzle, we have to take them and explain them literally word by word.

So first of all we provided the literal interpretation like what applicable law means but they were also points for consideration like, for example, how exactly supporting organizations an advisory committee are going to respect human rights. And so we came up with a second document saying that, for example, for GAC, for a - for governmental advisory committee, for non-commercial or for generic top level domain names supporting organizations, each organization shall use the framework.

But they are going to develop their own processes on how to consider the human rights in their policymaking or advice providing activity for one simple reason because all these groups are functioning in a very (unintelligible). The

policy development process in GNSO would be completely different from the development of the advice by at large. So we couldn't develop and we shouldn't have developed. Now we are not expected to develop the one size fits all solution.

So right now this framework went through the second reading and we really hope that the bylaw will come into force. So, you know, half a year ago I would have like advised anyone hey, hey join our working group. We are going to rock there. We need people. We need people for drafting.

We - even joining for understanding the entire process because we talked about limited mission of ICANN. And in this group you exactly understand how limited the mission of ICANN is, that we are not saving the human rights on the internet but we still have to consider them in each step we are making towards the development of any policy or providing the advice.

Right now I would say you - it doesn't make sense to join work stream two human rights. What you can do if you are interested because each supporting organization and each advisory committee including GNSO and ALAC are going to take this and develop their own processes. They have to (unintelligible) human rights into their, you know, normal policy development or rights providing process.

So I will advise that if you are interested in human rights, this process is going to start soon. NCUC and NCSG, for example, are kind of hosting or at least supporting the cross community working party on human rights at ICANN. And I know that the process of developing some recommendation on lead discussions have already started there. And I believe that this process will take time.

So you can join anytime if you're interested in this issue. You can always drop me a line. You see my name there but I'm also I believe that you can

see my email in my statement of interest. So welcome and if you have any questions either ask now or just approach me later. Thank you.

Farzaneh Badii: Yes Collin. Go ahead. State your name please.

Collin Kure: This is Collin Kure from Article 19. Just to elaborate to follow off of what you were saying, one way that we are trying to operationalize this human rights bylaw is developing a human rights impact assessment, a method for analyzing the impact of different policy development processes. This is something that is very new and very much under development and we would very much appreciate any kind of feedback that anyone could give. And we'll actually be giving a presentation tomorrow at 3:00 pm in the GNSO session if you'd like to attend.

Farzaneh Badii: Okay thank you very much. Are there - yes please. State your name please before.

(Jacqueline Achenshuler): Hi. My name is (Jacqueline Achenshuler). I'm here as part of the next gen ambassador. Just a quick question. In addition to respecting human rights is there a scope to promote human rights rather than enforce what you said would fall outside the mission?

Tatiana Tropina: Well about promoting human rights, I - if we are talking about ICANN by law, right, it's totally outside of the scope in this sense. But I believe that for us as for NCUC it is a very, very important topic of promoting our values including human rights at ICANN policy development process promoting and defending them in a way. Correct me if I'm wrong. It's just what we are doing normally.

Farzaneh Badii: We can talk about it. But…

Tatiana Tropina: Yes. But it is outside of the scope of the work stream two because it is very narrow. It is just how you take them into account. How you respect them,

how to promote them. I mean ICANN is not the, you know, human rights which one is the international. Now way.

Farzaneh Badii: So what we need to consider is the limited mission of ICANN, which is we are talking about and also NCUC. We are talking about domain name policy. So if you see in the working group you can advance human rights values. Like, for example, privacy protection is something. Privacy could be - could have some kind of like principles of human rights there.

So as long as it fits the framework of these working groups and policy development processes, yes. That's what NCC is doing. But if it goes outside of that or wants to like broaden ICANN's mandate to protect human rights then no. That's not going to happen. Yes please.

(Hal Cipian):   So, (Hal Cipian). Actually it goes more and more interesting being already second time ICANN's fellow because it's really more and more interesting and understandable issues. And also this (unintelligible) what…

Woman: (Unintelligible).

(Hal Cipian):   Yes. What is the question itself? Once we get these bylaws, ICANN bylaws, we know that also governments are represented there. So do we follow or do we have any practice of bringing these principles to the states itself? I mean if the government is accepting these ICANN bylaw do they go to the national level of legislation and accept this legislation or bylaws on the national level. Do you follow these or are you satisfied that these bylaws based on the ICANN level?

Tatiana Tropina: Well let's say on the ICANN level the - I mean I've thought about this, right. I got asked these questions several times. So again we are coming to what governments are doing here in their mission, right. And there are two - it's these issues - has two dimensions. So first of all governments even at ICANN they consider them on date in relation to human rights different

because ICANN cannot enforce human rights. NSO and AC cannot enforce human rights.

But governments still consider themselves as a bearer of this responsibility to enforce human rights. So there was some fight in this working group as well about this. But now back to the essence of your question. The human rights bylaw has influenced only on governmental advisory committee providing the advice. How they are going to use this human rights core value in providing the advice is still questionable. But they are not providing the advice as individual governments. They are providing this advice as an entity, governmental advisory committee.

So probate would be a very consensus thing. So it doesn't have anything to do with them taking these core values and transporting, you know, transporting them, making a transposition on the national level to their laws. But, you know, according to the international law, governments when they sign to - sign up or ratify any human rights treaty, they are supposed, you know, embed it into their national law here and there, be it criminal law or labor law or whatever. And they're doing it differently so it is hard to answer this question anyways.

(Hal Cipian):   Maybe I'm misunderstanding but GAC is not running intergovernmental, international body. So these decisions they decide cannot be translated to the national governments - national government, yes.

Tatiana Tropina: No absolutely no. This is why I say that there is absolutely, absolutely no connection. But they - but when they come t ICANN like for example at the work stream two, they submitted this sanctioned opinion about and I'm not going into details here because it is a very big issue. We got rid of these dissenting opinions. We came to a compromise.

But they wanted to use some of the instruments which were developed by the United Nations for businesses and in a way not applicable to ICANN. But

they considered themselves as human rights protectors, you know, as governments. We have a problem here.

(Hal Cipian):   I see but once you have these bylaws that is also agreed with GAC, for example, we can use different instruments to put it also in national regional levels like IGS, for example.

Tatiana Tropina: Well, you know, what is going outside of this - I mean the group has never discussed this and I mean it doesn't - if it happens, it happens.

Farzaneh Badii: But had - how…

Tatiana Tropina: Yes, I mean I'm just I'm trying to understand the context. The bylaw is about ICANN and core value for the ICANN mission and (unintelligible)…

Farzaneh Badii: It's about domain names like it's related to ICANN…

Tatiana Tropina: It's about domain names (unintelligible). And it's very limited. It is super limited. The capacity of the governments doing something with human rights, be it good or bad, is much, much wider than we have in ICANN bylaw.

Farzaneh Badii: Great. Thank you. (Olivier) and then we have to go to another.

Olivier Crépin-Leblond: Yes. Thank you very much Farzi. Olivier Crépin-Leblond speaking. Tatiana has provided you with some NCUC perspectives about the topic of human rights. Our lead in at large is (Tatiana Trumpina) and she has been pretty much having the same view in at large which is great. So there's alignment in this issue between at large.

Tatiana Tropina: No I'm sorry you can't just steal her like that. She contends to use these words.

Olivier Crépin-Leblond: Well she is an individual member of (Euraldo) and so as that, she's been doing the same thing…

Farzaneh Badii: No she's doing this as an NCUC member. You can of course view.

Tatiana Tropina: I think there's intervention. I believe that government didn't win with that opinion because we managed to ILOC support in our position. So it's good that they stole me for a while.

Farzaneh Badii: So you managed to convince yourself to support the - okay great. So now it's the break but I do suggest that we sit for another if you are not too tired, we sit for another five minutes to talk about trademark overreach and the working group that is working on the rights protection mechanisms that Louise is our key participant - NCUC key participant in that group and she has a lot of knowledge about and going to tell us. And she's probably the youngest person that - of NCUC that's attending this group. So go ahead Louise.

Louise Marie Hurel: Okay. Well first of all I'd like to say just a shout out that even though I'm a key participant from NCUC I think it's nice to highlight that well Louise over here. It's nice to highlight that Kathy Kleiman is one of the co-chairs of the Rights Protection Mechanism working group and along with (Jayce Cott) and Philip Corwin.

So the idea is mainly like what are rights protection mechanisms, right. I'm not from a law background so I as (Priscilla) was like what are rights protection mechanisms, right. Where am I getting into? And I think first of all it's interesting just to note that the rights protection mechanisms they have been there and at - here at ICANN since practically its conception.

However, with the new GTLDs, new rights protection mechanisms were developed and they are mostly to protect intellectual property rights and well more specifically trademark rights.

And then we might think to ourselves what do we mean about rights and what do we mean rights to whom, right. And then I think that in this context, especially with the new GTLDs and the development of new rights protection mechanisms which I will call RPMs just for not saying that all the time.

But RPMs they include the trademark clearinghouse, the sunrise periods, the trademark claims notice, so all of these different procedures and mechanisms so that trademarks might - in a conflict they might have some kind of resolution to it.

So and more - one of those mechanisms that have been in place since the conception of ICANN is the unit from dispute resolution process. And right now what we have been doing in the RPMs working group is divided into two moments.

So the first moment we're looking at these new - reviewing these new rights protection mechanisms -- so what I said especially the trademark clearinghouse -- and seeing actually if they are taking into consideration freedom of expression, if they're taking into consideration interests that are not only big companies interest that normally just have the capital to actually enforce their marks over other users or other registrant's interests.

So this brings me actually to what we are doing at the NCUC level and it has been quite a struggle I have to say. And I'd just like to also reach out to any of you who have either the expertise or are just interested in this topic, especially because we have very few people involved.

But over at the NCUC I think while the driving question of the review of the RPMs is are they actually being effective in the level of the NCUC, I think the question we go into is how do we strike the balance between trademark rights and the rights for others to have access to domain names.

So mostly how do we revisit this question, right. And the review is not restricted only to cybersquatting or mainly for those of you who do not know what cybersquatting is. It's actually when a company feels or sorry when a trademark holder feels that they have been actually harmed by use - a certain use of a domain name that is related to their trademark. And most of these mechanisms have been in place under the discourse of protecting trademarks against cybersquatting.

But it's not only about that and I think NCUC brings this other side to it which I think is pretty much crucial and especially in this moment that we're doing the review which is actually to debate about the right of words, having sure freedom of expression and fair use and actually not only - it's not because we're entity trademark. It's just because there are other things at stake that come together with this and especially it also includes innovation in some sense.

So I think I'd just like to reach out to all of those who might be interested. We have a session on Monday at 3:15, on Thursday - well we had one now but we're here. So we have one also on Thursday at 1:30. And well if you're just interested, come talk to me. I'd love to introduce a little bit more about the RPMs and the complexity of all of the discussion.

But I think if we can save one very important aspect to this review process and what we have been doing in the working group is actually to just try to make this balance work because it's really hard to be in a group where there are only trademark lawyers and there's almost no participation from non-commercial because either people are just intimidated about the whole ecosystem of just talking over there or they're just simply not interested which I can't understand.

But on the other hand, there are other things within NCUC and other processes such as through a vision of the applicants guidebook that directly influenced what we're doing with the RPMs and it's just it is connected to

other things. And I'd just like to highlight that. We can talk more about this because it's really just opening up into our thoughts. But yes, thanks.

Farzaneh Badii: Thank you very much Louise. So we have another segment which will start at 5:15. We can take like one question if there's any question or we can go for a break and then come back at 5:00.

Louise Marie Hurel: Wait I - well I'd just like to call Jeremy if he can. Thank you Jeremy for waiting. But I'd just to like to comment really fast because he has been helping us a lot in the working group and EFF has a whole has been helping us a lot in this process not only within ICANN but just like translating all of what - of the struggle that we have been having in the working group. So like people who actually don't know but they are affected by it when they are trying to register a domain name. So can I just ask him really fast?

Farzaneh Badii: Yes. Sure.

Jeremy Malcolm: I don't have anything prepared to say but yes one thing that I think EFF can add is to try and help with outreach to the broader community as people who don't realize what's going on within ICANN and yes trying to simplify it and trying to sound the alarm where things are getting out of control.

So I don't regard myself as much of a expert in some ways. I mean compared to a lot of people I am but compared to people in this room I don't think I am in terms of the minutiae of the working groups. But at least I can sort of be a bit of an interface with the rest of the broader internet community. So that's one of the things I try and do. Thanks.

Farzaneh Badii: All right. Thank you very much, so.

Louise Marie Hurel: Just one last thing. Just to highlight the - in the previous meeting over in Johannesburg while we were preparing for the working group there was a joint letter that was - it's an EFF Web site. And it's really interesting because

it's a channel for us to voice these concerns and it was very important for the balancing the discussion when we got to the meeting. So I'd just like to point that out. Thanks.

Farzaneh Badii: Thank you very much. If you want to fight with trademark lawyers, you join that group. So let - for - we can go for break now and come back in 15 minutes and we have a very interesting agenda here. So please come back. And yes so we are probably not going to cover all the hot topics for all of it. It's going to be ICANN is not a content regulator and GNS app use which (Patrick Fulstrom) is going to be here to talk about. And I might cover sanctions what we have. See you at 5:15.

Man: And just before the break, does anyone have the attendance sheet that was being circulated? Okay. Thank you.

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