

SAN JUAN – Joint Meeting: NCSG & ICANN Board

Tuesday, March 13, 2018 – 08:30 to 09:30 AST

ICANN61 | San Juan, Puerto Rico

MATTHEW SHEARS: Good morning, everyone.

First session of the constituency day. Non-commercial stakeholders group and the ICANN board.

I think, for the purposes of the scribe, we need to go quickly around the table so everybody knows who is here.

So, if we could start with Stephanie.

STEPHANIE PERRIN: Stephanie Perrin, non-commercial stakeholders group.

FARZANEH BADI: Farzaneh Badii, non-commercial stakeholder group.

TATIANA TROPINA: Tatiana Tropina non-commercial stakeholders group.

RON DA SILVA: Ron da Silva, board.

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AYDEN FERDELINE: Ayden Ferdeline, non-commercial stakeholders group.

BECKY BURR: Becky Burr, ICANN board.

GORAN MARBY: Goran Marby, ICANN board.

CHERINE CHALABY: Cherine Chalaby, ICANN board.

CHRIS DISSPAIN: Chris Disspain, ICANN board.

MATTHEW SHEARS: Matthew Shears, ICANN board.

RAFIK DAMMAK: Rafik Dammak, NCSG.

KHALED KOUBAA: Khaled Koubaa, ICANN board.

LEON SANCHEZ: Leon Sanchez, ICANN board.

AVRI DORIA: Avri Doria, ICANN board.

GEORGE SADOWSKY: George Sadowsky, ICANN board.

MATTHEW SHEARS: Okay. Thank you very much. We're going to go straight to the questions. But I'd very much appreciate it if we could have a discussion rather than just dealing with the question and moving on. If there are follow-up issues we want to discuss, then let's do so.

We do have five questions from NCSG. So, hopefully, we can touch on all of them. But, if we don't, then please feel free to submit them.

And I understand that you would like to answer the Board's questions first. Is that right? Thanks, Farzi. Turn over to you.

We'll answer the first question and then we can have a discussion.. Thanks very much.

FARZANEH BADI: Thank you, Matthew. Farzaneh Badi speaking.

So I'm going to start with the second question. What are your most relevant longer term goals? We at NCSG -- so our longer term goal is we actually operate based on our guiding principles, which is keeping the DNS abuse definition limited and technical -- prevent ICANN from becoming a content regulator, keeping it a transnational organization and keep the role of GAC advisory, as much as we can, and tackle trademark overreach, achieve global privacy protection in WHOIS. So these are our longer term goals.

And for the shorter term we would like to -- we normally monitor the groups and various issues that are going on in ICANN. And we try to infuse our values in these PDP -- various PDPs.

We care about the adoption of the WS2 accountability recommendations, all of them. And we also -- we also -- this year we want to enable our members to become more involved and engaged with policy making. We need more volunteers, so we want to build our capacity. We have an NCSG policy course that we will work on that.

And that's about it. And, of course, the overarching goal is world domination. That was a joke.

MATTHEW SHEARS: Thanks, Farzi. Anyone else want to add to that list of -- yes, Stephanie.

STEPHANIE PERRIN: She left out world peace in there.

MATTHEW SHEARS: Okay. Thanks.

Any comments from anyone on the Board on the relevant longer term goals and key goals from 2018?

I have a question, however.

So, when it comes to aligning with the -- aligning with the community's priorities, how do you ensure that you do that and how do you ensure that you touched upon the issue of resources? How do you ensure that you have adequate resources to do so?

FARZANEH BADI: We comment on the budget cuts, and we tell you not to cut our budget so that we can carry out our voluntary work.

And we also do not just sit there and not do anything. We look for resources to support our work.

And we also have -- we try to be strategic when we submit our additional budget requests in line with our mission and what we envision to do during the year.

MATTHEW SHEARS: Goran.

GORAN MARBY: May I ask questions? I don't want to repeat the same things I said about the budget so many times the last couple days.

There's one thing I'm thinking about more and more. You and I have actually sort of in the corridor talked about it.

For everybody, just to put back on it, 80-85% of our budget is fixed by a previous decision made by someone. Everything from meeting rotations, translations -- I'm not criticizing. I'm just saying that's a big part of our budget. It doesn't change year-over-year.

Within those 85%, for instance, are the cadence of reviews. And one thing that is coming up during this meeting is that, for instance, next year, in the budget we're supposed to run nine reviews, including starting a new review for accountability which is in the budget \$700,000.

We've done a calculation that, if we streamlined the reviews, we will end up having four -- we can have four reviews per year. That will save us approximately \$1-1.2 million per year. Because, on the other end of the reviews, we have support people. We can't hire people for 11, 12 reviews. So, therefore, we have a skeleton crew for reviews. And then sort hire external consultants, and then we reallocate people when we have drops because we can't fire them every year either. I don't want to anyway.

So my question to you is twofold. One of them -- how do you think about moving the cadence of the reviews -- there is another thing to it, which I shouldn't take away, which is, since I joined ICANN, all of you have talked to me about fatigue when it comes to -- fatigue when it comes to reviews. Too much time of navel gazing and too little time of actual policy work.

So my question is twofold. One of them is what do you think about this thing? This is in the 85%, which we have to have a dialogue about changing. Because we are actually talking about a bylaw change. And -- and that's -- that's something that I think is a -- that's we need to have a dialogue how to do

And the other thing is do we have other thoughts about potential things in the 85% that we should now be discussing?

Anything from meeting strategies to anything? Please let us know. Thank you.

And I think that in my -- our world you have a lot of world dominance, by the way.

MATTHEW SHEARS: Stephanie.

STEPHANIE PERRIN: Thanks. Stephanie Perrin, for the record.

Chris will probably perk up his ears here.

I'm on the WHOIS review team. And I think it's really a waste of time to be doing that right now and a waste of money. I don't know about Chris, but I am totally fatigued. And, to spend my time on that thing when we're also trying to provide what I consider is more meaningful input, we're moving on WHOIS finally. So why the heck -- I mean, if we want to go over the checklist we had in the last review, let's do it after we sort this problem out.

And we are short -- I wouldn't say short staffed. We've got tons of members. But we only have so many people who have deep expertise in certain areas. And, if they have to be on five blessed committees because you can't go and do the WHOIS review

team and leave out the RDS tug of war, so -- you know. Not to mention the conflicts with law. Now, I don't want to keep talking about WHOIS, but this is nuts. You wouldn't do this in a normal business. You would say right. Only one review this year. Maybe two next year.

Then we'll do the other seven or whatever it is. Thanks.

FARZANEH BADI:

Farzaneh speaking.

As far as the review -- and this is my personal view -- as long as we are not -- if the bylaws require us to -- require you to carry out the reviews, then there has to be, like, a timeline. And then you should carry them out.

Now, I don't know at what period of time, Goran, if something is pressing and a review has to be done according --

GORAN MARBY:

Well, they're in the bylaws. I think that we shouldn't spend all this meeting talking about that. But, just to answer the question, there is required by the bylaws to start certain things in certain times. And I don't think that when we did this, we sort of accumulated on top of each other instead of viewing the spreadsheet of all of them. And sometimes things take longer.

There has been -- organizational reviews has been taking four years and has to be done every fifth year.

It's like we do in Work Stream 2 now. That's not done. And then we don't have a time for implementing it yet and then start implementation and then check it. And, in the middle of this, we start a new accountability, checking on the things we haven't implemented. So I think when we did this -- and it's a joint thing. It's no one's fault. It's a question of we never checked the timelines. And I think it's sort of a maturity discussion for us as an institution that we should probably look into this.

But what we're doing right now is we -- on this -- we're always talking about the 10, 15% money we move around every year. We rarely talk about the 85.

So I take your criticism for the budget. It's no problem. That's what we're looking for in this process. We want to -- but I'm raising the questions, the 85%, which are in the bylaws and the policies, results of reviews. Because some of those things you come up to me and talk about.

Like, "We can't do this." It's -- you -- I'm Swedish. I can't use the strong words you sometimes do. So I just want to have your opinion about it.

This is not a decision. This is me asking you, if we will do this, we will produce a paper for public consultation to get all the inputs into it.

Thank you.

MATTHEW SHEARS: Tatiana.

TATIANA TROPINA: Thank you very much. Just a brief comment about the reviews. I certainly think that we can take a more pragmatic approach. Because, once you draft bylaws and you adopt the bylaws, you sometimes don't know what's coming next. One of the examples is the ATRT3 review. Because we are, on the one hand, in the midst of new accountability frameworks, Work Stream 2, which is not confirmed yet where we have to start the review. And the call was already last year, right?

But I think, on the other hand, there should be an early warning. Because you were talking about the volunteer fatigue. And these two things are mutually reinforcing.

There was a call for the review team. People applied last year.

But they don't know any more whether they will be available, whether they still have time to serve.

So I think that the community and the Board and org can have an open and honest dialogue about these. Like, look, can we postpone these? Can we consult? Because, honestly, as someone who participated in the accountability process, I do think we can postpone this review until we at least adopt the Work Stream 2 framework.

MATTHEW SHEARS:

Thanks, Tatiana.

Any more questions on the Board's questions? Or comments, I should say.

Just one last point. As you know, we're undertaking the longer term planning and strategic planning as per the second question. And very much hope, if you haven't already, that you'll contribute to the strategic trends and strategic planning trends work that Theresa is doing at MSSl. It would be incredibly helpful. Thanks.

I think we need to move on to the questions for the board, if we can put those up.

You want to introduce these or -- who's going to be taking the first -- introducing the first question?

STEPHANIE PERRIN: I'm, oddly enough, going to be leading the first question. And, if you don't mind, I'd rather have a bit of a discussion about this rather than kind of be wooden.

MATTHEW SHEARS: Absolutely.

STEPHANIE PERRIN: First can I tell a terrible joke? Goran got to tell terrible jokes yesterday. So he's busy.

I'm actually calling all of your models the spaghetti models, because it kind of looks like you're throwing stuff against the wall to see what sticks.

And, as Thomas Rickert said yesterday, actually quite a bit in this model has stuck, you know? It's way better than the earlier models. So we thank you for that.

I'm not sure whether it's because you're listening to us or because you knew better all the time and you were just kind of drawing us out with the crummy first models. But oops. I didn't just say that.

There are a few things that we already pointed out on the cross-community panel yesterday that need a little work, and I guess I don't want to go on and on and on about giving the tiered

access to the GAC. But let's just briefly hop through a couple of things.

I hear a rumor that people are making some sort of a discrimination between a tiered access model and a layered access model. Layered is all you can eat at each layer. Tiered is, you know, a discrete and -- discriminating attack at certain data. I don't -- I think that's a new definition, and if somebody's adopting that and accepting it, let's get it defined because that's not the way we look at it and it's not the way DPAs look at it. So just putting that on the table. But how do you actually see this getting developed? We said yesterday that it's not going to be done soon. We want it to be multistakeholder development. We only think that the GAC should be doing law enforcement agencies. That's a huge job. And that's going to take them quite some time. So that's enough for the GAC to be working on. The rest of us should be doing the other layers and the other actors and players, including the cybercrime enforcement guys. We think standards is the way to go. How are we going to get there, knowing that it will take five years to get an ISO standard, and I still think it's worth doing, but what's the approach.

GORAN MARBY:

I guess that you want to start, Matthew? You want me to start?

MATTHEW SHEARS: I'm going to turn it over to you or Becky.

GORAN MARBY: Oh, thank you. I thought you were going to take all the questions today.

MATTHEW SHEARS: After you.

GORAN MARBY: Okay. Thank you. So let's do my standard sing and dance about this, but let's talk about the GAC specifically because I know you raised questions. There is nowhere in the plans to make GAC operational. We asked them to do two things. One of them is to be a letter box. We don't ask the GAC to make any decision about law enforcement. We ask the countries to make that decisions. And then through the GAC give us that information, so GAC has no part of that decision-making process whatsoever.

The other thing is that what we ask the GAC in this -- and I'll come back to why -- is not to be operational but actually come up with a Code of Conduct, a sort of set of rules for organization that is not police forces to have access to the information. And that Code of Conduct and behavior of that could be checked by organizations such as WIPO. I should probably speak to WIPO

on this because I haven't, but that's the sort of thought about that. So it's not operational like GAC.

A couple more things because this is important. In this sense we're not -- we often talk -- we talked about it as the GAC is a member of our community with special rules about them but it's really the other thing. We understand from what we know today, and that could change, that the DPAs, which is a part of governments, they are a part -- they have the same salary systems as the polices. They are part of governments in many places. And they see ICANN as a self-accreditation. If ICANN would do it, they probably would see us as an organization which is very close to self-accreditation. And our understanding so far -- but this could change or we could have misunderstood it -- is that they want to have government involvement. So we have an entity called the GAC that consists of governments.

But here's the other thing I would like to point out, why do I do this? The reason is because we have policy sets in the contracts set by the community that I have to go by. We -- I personally may like them or not like them, but I can't take sides on that. On the other side I have the law. So I have to find a middle point between those two. If, for instance, the policies wouldn't exist or the contract arrangement set by the community, I would probably -- I could choose another way. And that's the sort of thing that's the balance I have to have. You don't have to have

that balance. But if you want to change policies, that's what I've been talking from the board and everybody else, we should continue the policy process because we're going to end up having a misfit by what the policy set by the community and what we can enforce for GDPR. That's not good.

So forget WHOIS. Let's say that we're doing WHOIS for the first time now. There is no WHOIS. Who what? So there is a line that starts with what we could call model 3 which is due -- you have to have due process. You have to have a court order to be able to get any information or access to information. When we are looking at the policy set by the community, we are trying to move ourselves away from that. And listening to the DPAs, listening to as much as we can, that's -- that's the sort of line we're trying to move in between. We are now in a place where we actually said we're going to be eight months ago. I think that we've done a fairly good work when it's coming up to a hybrid model, also to the fact that not everybody agrees with it. But the -- as you've seen, the disagreement are on both sides. And yes, someone offered me yesterday to print a T-shirt saying that I distribute (indiscernible) evenly.

So that's where we are. And what we're doing right now because we're trying to be transparent is we sent this cookbook over to the DPAs, also published at the same time. In that cookbook, all the questions that we have not been able to reach

conclusion of in the community, we raised that, as you see. Because we don't have the answer to them either. And we're going to add some questions that comes out of the sessions yesterday, and we're also trying to put an extra session on the schedule, but don't know -- I don't really know how that's going, but we'll try to, where you can ask specific questions about the cookbook itself to J.J. And then we're going to carry on the discussions with the DPAs.

Whatever happens, there is no time for implementation. There is very little time for implementation. And if we don't get firm guidance from the DPAs before the law is enacted, there is a risk that we will have a fragmented WHOIS. Because if we don't know what the law actually says, if there is a debate about that, and remember, not even the old law that sometimes I hear people says yeah, but it's forbidden against, you know, the old law as well. It's -- that's a way of saying it. The other way is it's never been tested in the court of law. And we've been around for more than 20 years with WHOIS and nobody has tested it from the Europe perspective from the law. So we basically don't know. But we have a good interpretation what the law actually says.

So we need that now. And that is actually -- and the questions -- that's what we're saying to the DPAs. That's what we're -- the risk we put out to the DPAs. And we also asked the DPAs -- and I

have to say that we have a good relationship with them now, we are very respectful of their hard work -- that we're looking forward to have more information from them before the law is enacted, which I think what everybody wants. Thank you.

BECKY BURR:

So if I could just add on the timing. I don't -- I think we are getting closer, but we all don't know what's -- what is actually required and how it's going to be enforced. And you also know, more than anybody, that we've been talking about WHOIS in ICANN for 20 years and there have never been incentives to come to the table and reach agreement. The GDPR at the very least provides an incentive to -- to come to the table to have a -- an informed conversation to reach agreement and the law, the law is there in the background that says, you know, there are certain things you can't compromise on once we know what the requirements are, the law is the law and ICANN has to comply with the law.

I take your point, though, that once we get some clarity it's still going to take time to put this together. And I think that's part of the conversation that org is having with the DPAs.

Now, the critical aspect is, can we get the DPAs to engage in a meaningful and clear way, give us -- give us guidance, answer questions as we go along and inform the policy development

process so that we don't have people standing on either side of the room and saying GDPR says -- means this and somebody saying on the other side of the room saying GDPR means the exact opposite and having no ability to solve it. So to me -- and I've been a little bit of a broken record on this -- we need the DPAs in the room. We -- they have to be at the table.

STEPHANIE PERRIN:

If I may follow up on this and I hope everybody on the board realizes that if we speak directly to you it's because we appreciate your time and your integrity in hearing what we're saying. I'm just sort of cross-porting over to the discussion we had at the -- excuse my voice, blame it on the gala -- at the GNSO the other day on PDP and burnout and how long it's taking to get through a PDP. And the fact is, there are players there who are being paid by clients to wait out the clock, and that's fair enough. They are representing a point of view. I represent a point of view. They probably -- only difference is I'm not getting paid, you know? But can we afford that in this situation, you know? Just go on and on and on forever. And I watch enough cop shows, remember I'm not a lawyer so, you know, I depend on my legal knowledge of this on cop shows. But, you know, at some point the judge says, you two, in my chambers now, you know? And we kind of need that. Because it's really unfair to just continue this for another ten years. And we need something

or that's what's going to happen because on the RDS group, bless Chuck Gomes. He hasn't been able to get people to stop ignoring the facts, doing the la, la, la, la, la, la, la, la, no, I'm not going to read that document. That's just ridiculous, you know? This is urgent. We have to comply. So I -- and I'm impressed that you've got the DPAs to even listen after such a long time of not listening to them, so that's great in terms of diplomacy and getting their engagement. But can -- I don't think legally they can come to ICANN and participate in the PDPs and fix the RDS. And I don't think they're going to give us a frame, are they?

GORAN MARBY:

You're right. Legally it's hard for European governments -- I mean, it's the same -- it's the same problem as the GAC actually, individual GAC members, to participate in PDPs legally. Because being an old civil servant, you are paid by taxpayers' money to represent your country and therefore, you get instructions from someone in the government with decision-making powers. And you're not allowed to walk away from that. So you can't wing it during your PDP. And that is by respect for taxpayers' money and the parliamentary democracy. And that's -- and DPAs and other European authorities have special rules about that because it's the question about -- it's a question about you have to treat everybody equally. You hear it, this is a song I know. I've been doing it for seven years.

But what the Article 29 group can do is act as a collective. And especially after the new law is enacted when the collective is actually in the law, it is called a board, data protection board. They can -- right now it's a voluntarily -- it's a voluntarily arrangement. So they send letter to us from the Article 29 group which we -- in hindsight we should probably started the dialogue earlier. When the board -- the data protection board, they have more legal powers when it comes to the individual DPAs. They actually agree on something. So you're right, they can't participate. But it's not because they are not knowledgeable or want to, but there is a format. And if I may just say that I think that we also, as an -- ICANN as an institution have to figure out better ways for interactions with governments so we understand what -- there is something we want or need to be able to protect within our mission, how do we actually interact. There are forums, there are ways to do it so we can make sure that we're in the room when things are discussed where we can have an interest from our technical perspective. But also making sure that ICANN is not a political organization.

MATTHEW SHEARS: Any comments from anyone else on GDPR? All right. So we'll move on to -- Cherine.

CHERINE CHALABY: But Stephanie, I thought I heard you talk also about something else, about membership of PDPs and the effectiveness and the timeliness of that or not. Were you addressing that issue as well?

You said there are too many people getting involved, people are getting paid. Time is not critical in everybody's mind, yeah? Was this --

STEPHANIE PERRIN: It's a fundamental flaw in my view in the multistakeholder model, that if you are representing -- well, I hate to pick on the intellectual property guys but, you know, why not? Sure. They're there to represent their clients. They are often being paid to represent their clients. They have associations that are representative. That's all part of our model.

They have zero incentive to compromise, and there is no easy way that we can get people to come and say, Okay, I need this, this, this, and this but I'm willing to give on that because that's not what they're getting paid to do. They're getting paid to get everything, you know?

We're not doing plea bargaining here, you know? Okay, we'll settle for, you know, two years and house arrest, you know? That's not what we're doing here.

So how do we get around that? Because on the RDS, I have to say it's frustrating. You give them a document that has been labored over by the -- for instance, the Berlin group. Those are all data commissioners. They all are independent authorities. And the validity of the document is being questioned.

Well, come on. The clock is ticking here and the registrars and registries are going to have to shut off the WHOIS if we don't come up with a compromise that works. And we're not going to accept any old crummy code of conduct, let me tell you. It's got to be good. We recognize that their interim solutions before we get a standard are going to be codes of conduct. But they're not going to be weasel, words. Let me tell you. There's got to be audit. There's got to be strict protocols. There's got to be people limited. None of this all you can seat for everybody that's in a law firm. None -- I could go on and on and on, but you get what I mean, right?

I mean if it isn't us, it's going to be civil society that do not want to waste their time coming to ICANN who are going to go for the low-languaging fruit and that's going to be either a registrar, who don't -- they don't deserve this. Or perhaps one of the value-added services, I don't think they do either because law enforcement use their products. And we need to help them figure out how to get accredited --

MATTHEW SHEARS: Stephanie, I'm sorry.

STEPHANIE PERRIN: -- to continue to scrape the data.

MATTHEW SHEARS: Stephanie, we really need to move on.

STEPHANIE PERRIN: Yes, I can go on for hours. It's a real problem.

MATTHEW SHEARS: Farzi, would you -- yes.

FARZANEH BADI: I actually want to comment on GDPR. So we are not very hopeful that you can get the tiered access in place before the law goes into effect. And we have been saying this in many of the letters we've been sending to you, that -- and we are worried also about the fragmentation of the practice of WHOIS. So we wonder how much of a chance do you see that you can go with Model 3 before the law goes into effect? And then after the law goes into effect, then we can come up with a tiered access model. We can see what the role of GAC is going to be in coming

up with that model, and then the community won't have -- won't voice so much concern about this tiered access model as it is doing now.

Because doing the tiered access now in a rush, we fear that it's going to remain -- the tiered access is going to remain as such and not improve later on and just become permanent. So I wonder how much of a chance do you see that you just go with model 3?

CHRIS DISSPAIN:

Goran, can I just have a go at that for a second.

Farzi, just very quickly because we do need to move on. It seems to me there are three possible outcomes, right? The first outcome is we -- we're all going to work together to come up with a model; and in the meantime, the status quo is maintained. Now, that's possible. It's a possibility, right?

Second possibility is that we get guidance from the DPAs that allows us to make -- a small number of easy-to-make changes in the interim while we're working on the model.

The third possibility that is nothing happens. We get no guidance. We're basically without any form of help. And what happens then is if, in my view, in essence model 3 because what happens is that you take refuge in the -- as a commercial entity,

you take refuge in the most closed environment that you can because that's the safest place to be.

The problem is that, in effect, fragments because what you've got, then you've got some people who will close everything and other people that will close some things and that's dangerous.

But the problem is right now we're not in control. We're waiting for people to come to us and provide us with some information.

But we need to move on to the next question. I'm conscious of time.

MATTHEW SHEARS:

Thanks. Farzi, do you want to introduce the next question or do you want to go straight to our comments?

FARZANEH BADI:

I just briefly say the background of this. We worked on the jurisdiction recommendations a lot at the Work Stream 2. And we brought an issue that had not been discussed at ICANN from the community about the sanctions and how it affects DNS access. The recommendations -- some of the recommendations of this jurisdiction group actually facilitates access of domain name registrants and other DNS customers.

And we think that this is within the mission of ICANN, to facilitate access of customers to the DNS. And it should do everything in order to alleviate any kind of impediment over this access.

So when we came up with the recommendations -- and I was a part of that group and Tatiana and a couple of other members. And our members fully support the recommendations. When it came to the public comments -- and we had talked to several members of the board before about the recommendations, and we requested that they look favorably into it and see if it's possible to adopt this fully. Then the public comment period, after the public comments come in, the Board responses to the recommendations, especially about OFAC license, is not very positive.

So we were a bit puzzled, if the mission of ICANN is facilitating access to the DNS, then ICANN should be doing everything it can to facilitate and to do its mission. So we were surprised by the very kind of not very positive -- if you look at the analysis of the public comment, the Board comments -- so the orange kind of color means, yes, we support but with some concerns. And almost all of the comments of board is kind of orange-yellowish. It's never green.

[Laughter]

So I just wanted -- we just wanted to know that -- why and what are you going to do? What are your plans about this?

MATTHEW SHEARS: Thanks, Farzi. We will turn it to Avri and have a discussion.

AVRI DORIA: Thanks. I think that that answer on the opportunity that goes across all of them really relate to the fact that the Board and ICANN org are going to need to see all of the recommendations together to understand how one even does all these things and that there will be a process where they'll be studying to look at how do we do them. And then once we know how do we do them, how much time will it take, how much cost, et cetera, and then start to weigh everything through in a priority.

I don't think that the answer was meant to say, "We don't favor doing it." I think the answer is -- more is: What does that take? How long will it take? How difficult is it? What is the process? How will it -- you know, how will it affect others?

So I think that was more the respect of the -- it's not that the Board didn't support it per se. It's just that one doesn't even know how one does that yet. So there will have to be initial studies while figuring out the costs of how, of how long, of how much.

MATTHEW SHEARS: Thanks, Avri.

Follow-up?

FARZANEH BADI: Yeah, totally. I'm glad you are in charge of answering this question.

[Laughter]

Thank you. This is a positive response. However, I don't think when it comes to access to DNS -- people in these sanctioned countries, their domain name sometimes it gets confiscated. Or when it comes to the OFAC licenses, registries, some of the applicants cannot become registries. So we think that that is in ICANN mission. And you should not consider opportunity costs for that. You can consider, of course, how much it's going to cost to go through this very -- and I know it's not a certain process. No one knows how to get a general OFAC license and how much effort we have to put into this.

But having, like, all the time saying that, yeah, "But we have to look at the cost of this," I think it's not -- I think -- I would appreciate a more moderate approach to this, that, yes, these

concerns are valid but we have to also consider that this is an uncertain process. Thank you.

AVRI DORIA:

Yeah, there may have been a better word -- the opportunity cost is really a very businessy way to say, We have to weigh the cost of everything and see what it is we can do and what we can do within a period of time, what is practical, what isn't. But yes.

RAFIK DAMMAK:

I don't want to give you a hard time, Avri. I think maybe if we take about the whole recommendation from Work Stream 2 is because as far as I explained it, if we see the comments for each subgroup, there is this kind of talk about the budget, the cost, and so on. So this has kind of raised concern. Are we going to get this implemented or not? So if we can get assurance from the Board that -- yeah, we understand there is some cost in budget. And we were reminded (indiscernible) and subgroups that we have to take that into account when we are working on our recommendation and in particular going into specifics for the implementation. So if we can get assurance that it will happen, we know that it maybe takes more time than expected, just the guarantee that it won't be just budget as a criteria to approve or not the recommendation.

MATTHEW SHEARS: Thanks, Rafik.

Cherine?

CHERINE CHALABY: Yes. So the board is going to meet with the WS2 co-chairs and the rapporteurs this week. And the purpose of the meeting is twofold. One is to discuss the recommendations over all of them and see if the Board comments are consistent with the recommendation. If they're not, where are the differences and how do we -- how do we address those? We don't think there are many differences, right? We don't.

We went through this exercise. There are two or three areas where we really think there is an issue of principle, particularly with regards to does it meet the global public interest or not. So we will talk to -- and then have an open and frank discussion frankly. I mean, as I said, always -- we're all together in this. I mean, nobody wants to delay something or not do something -- there's no reason why not to. So that's the first thing.

The second thing is to talk about implementation, right? We had passed a resolution -- I don't remember when -- at one point saying -- regarding WS2, that in principle we will accept all of the recommendation subject to, A, they meet the public interest.

And if we're against a recommendation, there has to be really -- almost a 2/3 majority of the board that has to vote for that, right?

So what the Board is saying is that we also need -- before making any final decision, we need a costed implementation plan from our CEO. So, for example, let's say -- let's assume we agree on all the recommendations. Do you implement them all in one go irrespective of the cost? Or do you -- or irrespective of the availability of resources? Or do you do a plan and sort of schedule them over two or three years or something like that? I don't know yet because I haven't seen the totality of it.

So we're saying, by and large, we are -- there's general agreement. There's a couple of areas which we feel uncomfortable, and we need to be sensible about the implementation. So I think there's a positive mood around rather than a negative one.

And we need to do this collaboratively. And when we sit with them, hopefully we will come up with an understanding of what's the next step and what's the way forward.

MATTHEW SHEARS: Goran, quickly so we can move on.

GORAN MARBY: Sometimes I get accused of being structured and processed. But they actually come from the bylaws in how you set things up.

The truth really is that Work Stream 2 things will be put in -- you know, has to be in a budget proposal for the community to decide on.

So it's very hard for the Board to say that, yes, this is the way it's going to be done which is actually -- it's always -- if it's money, it goes back to the budget and the budget has to be approved by, in the end, the community through the empowered community process.

So I think that the message I would say is that it's not -- it's not only a budget issue, it's an issue how we can have a dialogue about it as well.

Timing. Some of those things could be even more work for the community.

So I think we need to dialogue across the different parts of the community about the implementation. I just want to add that to what Cherine says.

MATTHEW SHEARS: Thanks, Goran.

Cherine.

CHERINE CHALABY: One more thing, just for you. On WS1, we dug deep into the reserve fund to fund most of it, almost to the tune of 36 million; right?

I don't think now the reserve fund has been completed so much. We're not going to dig deep into the reserve fund now to fund WS2. So it's going to be able to -- we have to be able to do this out of operations. So -- or we have to find a different way. So there are limitations in terms of timing rather than, say, I think it would be irresponsible for all of us to say let's go and take everything out of the reserve fund and fund WS2. That is not a fiscally responsible thing to do.

So we have to find a different way of planning this and be sensible about it. That's all we're saying.

Do you disagree with that?

FARZANEH BADI: No.

CHERINE CHALABY: No? Okay. Thank you.

GORAN MARBY: Let's continue to discuss it, then.

MATTHEW SHEARS: Let's move to question 3, though, since we've already been touching on the budget a number of times. Farzi, who wants to introduce question 3? Ayden. Thank you.

AYDEN FERDELIN: Thanks. I apologize. I know you fielded this question already at the public forum yesterday and we've touched upon it briefly already but in the draft FY19 budget there were a number of cuts proposed that will directly and indirectly affect our policy work, and our success depends on a number of factors, one of which is having the resources available to be able to participate in policy development processes. So we just wanted to draw your attention to the impact that these cuts would have on us if they were to go ahead.

So in the proposed budget, it would see the additional budgetary request envelope shrunk by two-thirds and it would also see the elimination of CROP. And these are two programs that we depend upon to inform our members and to inform other interested parties of the status of various ICANN policy issues. We use these programs to build our own capacity, to further engage in ICANN policy issues, and we also use these

programs to recruit further volunteers to participate in ICANN's multistakeholder model.

And we think that the success of these programs is apparent if you look at our outputs over the years and the increase that we've had. For instance, last year we issued 31 public comments. The year before, we issued 7. And I'm not saying that the only variable here was CROP, which we used fully in FY - - in the past financial year and which we did not in the past and we did use budgetary requests more than we had in previous years. I'm not saying those are the only variables, but I am saying that those have been resources that we've been using to upscale ourselves.

And we are not saying that we should be immune, as the NCSG, from cuts or the community should be immune from cuts. Not at all. We simply believe that cuts should be happening across the Board and across the organization and not only impacting us.

So what we would like to know is whether or not the Board agrees with that sentiment that cuts should be happening fairly and not only to -- not predominantly to the community.

Thanks.

MATTHEW SHEARS: Thanks, Ayden. I'm going to go to Ron.

RON DA SILVA: Well, to answer your question directly, does the Board agree with the cuts, we haven't actually taken it up as a matter. Where it lies in the process is, you know, the organization has put this proposed budget in front of the community. It's getting all this feedback. We'll take that feedback into consideration, as well as the ABR request; right? That's another thing also going in parallel. And revise, where needed, the proposed budget before bringing it through the Finance Committee and then, lastly, to the Board to get that endorsement and approval.

So it's still pretty early in the process, so the Board really hasn't taken it up.

But I think just to speak to a couple of the points, specific points that you raised, because I think for this community some of the funding topics are dependent -- dependencies for -- for this part of the community. The Fellowship Program, the CROP funding, and ABR.

In the core -- I think one of the things the organization did in their initial proposal was to focus on the core requirements of community participation in ICANN events. So CROP is generally used for things outside of ICANN. And then also the expected

cost for the locations and the venues in FY19 are anticipated to be a little higher. So in order to make sure the 48 funded GNSO members can still attend the ICANN meetings, there's an increase in funding needed to offset that, as well as across all the constituent travel.

So, really, this proposed budget focuses on making sure there's sufficient funding for the core constituent travel.

And another way -- So there's proposed and there's some cuts to offset that. Some of those cuts that aren't being highlighted, and I think Goran mentioned this a few times yesterday, is there are less staff members that are going to attend the meetings to help offset some of these expected increases in traveling cost. So there are cuts happening across the Board. Just to name a couple of examples.

Back to your original question, we will as a board pick it up and look at this with all seriousness, and definitely appreciate the sentiment here and the concerns across the opportunity and specifically for this -- this part of the organization.

So thank you.

MATTHEW SHEARS:

Ayden? Do you want to come back on that, Ayden?

AYDEN FERDELINE:

Yes, just a quick follow-up, and thank you for that, Ron. Just a few comments. One, the community does not choose the location that meetings -- for when meetings are going to take place, so the fact that more expensive locations have been chosen was completely outside of our hands. CROP was a part of the core budget; however, it did disappear without any community consultation, and that, on a procedural front, was something that we found unusual.

And, third, I changed the question slightly because I thought it was slightly unfair to ask what you think about these cuts, but just the sentiment in general. Do you believe that cuts should be happening fairly and equitably and not -- it is at least my perception that personnel costs are increasing whereas the support to the community is not similarly increasing.

The perception that some have had is that ICANN org does not value the work that volunteers do. I'm not saying that that is -- I'm not saying that's something I subscribe to, but that is at least the optics that exist at the moment.

Thank you.

GORAN MARBY: That's good because it gives me the option to change some of the optics.

First of all, it's not up to -- The meeting rotation is set in decision from the community, and it says we have to travel the world. And there are places that are more expensive than others. And I've -- you know, we've never been, to my knowledge, in Japan before, not in modern times, anyway, as we were the first time in Arabic countries last time. So that is something that, you know, it's on the table for the community discussion, dialogue with us, if we should change the meeting rotations. And it comes up nowadays.

One of the big costs is also that -- And that when I say those things, it sounds like I'm actually (indiscernible) but I am not.

But in this room right now we have our fantastic translators sitting here. We actually have 299 sessions here, many of them with translations support. And because we -- sometimes we start, it means, at 7:00 and then I have to have the people there at 6:00, and because they actually need to get some sleep. So the meetings itself, it's very, very important.

The second thing is that everything we do, mostly, we have what Sally is doing, what David is doing, what the meeting team is doing is active support for the community multistakeholder model. But when you have a limitation in money, we have to

choose. We want to have the ICANN meeting here, I think it's important, and there's a cost attached to it. And -- so proposals like take one day off on a meeting, intersessional meeting. So everything we do, I don't -- it's not like ICANN org exists for any other purpose than support the community.

But just to give you some numbers. We're actually increasing travel support for the community next year with more than -- I think it's 13%, and we're decreasing the travel support for staff with about 10%. And one of the mechanics of this, it's more expensive to go to certain places. So in numbers, that's what we do.

This year, in the budget for FY19 we're actually decreasing the cost internally for about eight and a half million. That's six and a half percent of the total budget. In efficiency gains, we do things differently, we moved around things.

And next year we're not adding -- FY19, we don't add that much people. We're actually adding people this year for projects decided by the community.

This sounds so mechanical and defensive. I'm the first one to recognize we have never had the opportunity to have this discussion and dialogue with the community in the right way, and I would love to figure out a better way of doing this, because the mechanics of this is that I'm supposed to throw out a budget

proposal, and then it's not a decision. What we actually do is to go and ask you to give comments, which ended. Then we in the board look at all those comments, try to encompass them, and try to look into them, doing all the balancing, and then we come back with a proposal from the Board and setup with the empowered community. So it is in the context of that. And it sounds on paper great. The more and more I discuss this, my proposal is to make a two-year budget process so we have time to enter a dialogue about the priorities of ICANN as an institution. Because personally, and now I'm speaking on a personal capacity, if I may, is that we're putting too much effort, putting too much mechanics into this for the community. You don't have time to react. And I don't even have the time to also do all my work first, because the timing is so -- we take 15 months to make a 12-month budget on this, because we're also doing the IANA budget, which -- first, and we ask you for comments on that, which is actually part of the total ICANN budget. I think we have to rethink about it.

So the dialogue is all the time, but it's too compressed.

Thank you.

MATTHEW SHEARS: Goran, thanks.

Cherine, just a quick comment, and then we have to, unfortunately, wrap it up.

Do you want to comment now? Yeah? And then Cherine.

FARZANEH BADI:

Thank you. I just wanted to mention that there has to be some measure like a mechanism that you look into the impact and usage of services and then see if those services are not being used, then we can cut the cost, of course. For -- that could be for interpretation. If interpretation is not being used and if you can measure it, then you can reduce it.

And of course, we are going to be sensible and understand things when we see numbers, when we see that there is a measure there that shows us that we are not really using the service.

Thank you.

MATTHEW SHEARS:

Thanks, Farzi.

Cherine.

CHERINE CHALABY: I am going to be quick but I am not going to do service to what I wanted to say.

What I wanted to say is that if I were to sit in your shoes, then I would understand fully your position, because you're sitting there and you see your area and the things that you need, CROP, whatever is being cut and you say, "Why me? I can't do my job." And I would feel the same if I was sitting in your shoes.

Now I want you to sit in my shoes or his shoes. He's got the whole world telling him exactly the same thing --

GORAN MARBY: No. Different things.

CHERINE CHALABY: Different things. Different things. There are concerns everywhere. Fair enough. And whenever there is any reduction in budget, there is real discomfort because everybody -- everybody is trying their best to do their job. It's not like they're doing it for fun; right? It's painful.

So something has to improve in the process. I do agree with you. But now put yourself into Goran's shoes and our shoes. This time round we're going to pick all the comments, and every comment is going to be taken into account and we're going to

try as much as possible to strike a balance between fiscal responsibility and our desire to make sure that the community participate, mostly of volunteers, participate effectively in ICANN and you're able to do your job.

It's not going to be hundred percent perfect but we have listened, we hear, and we take all the concerns into account.

Thank you.

MATTHEW SHEARS: I'm afraid we're at time.

Stephanie, if you have ten seconds. Very quick.

STEPHANIE PERRIN: Ten seconds. Stephanie Perrin. I've been told I can't talk about COSO frameworks anymore.

What we need here is some kind of dynamic return on investment assessment so that we can move quickly. Instead, all of our evaluation is tied up in these stupid reviews, and then we don't do them properly.

We need to very quickly assess things like translation services and -- and fix it. Not fix it in five years.

Thanks.

MATTHEW SHEARS: Thank you very much, Stephanie. I apologize that we weren't able to make it to the last two questions, but we'll -- we'll -- yes, we will get back to you on those two questions.

Thank you very much.

GORAN MARBY: Could I -- I really appreciate this dialogue. This was a very, very good dialogue. Thank you. Even for being so early in the morning.

MATTHEW SHEARS: Okay. Thank you very much, everyone. We're done. Thank you.

[END OF TRANSCRIPTION]