ICANN79 | CF – Joint Session: GAC and CPH
Monday, March 4, 2024 – 1:15 to 2:30 SJU

GULTEN TEPE: Hello and welcome to the GAC meeting with the GNSO Contracted Party House on Monday, the 4th of March at 17:15 UTC. Please note that this session is being recorded and is governed by the ICANN expected standards of behavior.

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With that, I will hand the floor over to GAC Chair, Nicolas Caballero. Over to you, Nicolas.

NICOLAS CABALLERO: Hello. Thank you, Gulten. Welcome, everyone. I hope you enjoyed your lunch. Welcome to the GAC meeting with the CPH (that is the Contracted Party House). I have the pleasure to introduce you to Sarah, Chris, Ashley, Owen, Samantha, Beth, and my distinguished GAC vice-chair from Colombia, Thiago. Welcome, everyone. This session will be running for 75 minutes, and then we'll have a short 30-minute coffee break right afterwards. So welcome.

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Again with that, let me give the floor to Ashley Heineman, a very good friend of mine and former GAC USA representative, by the way. Welcome, Ashley. The floor is yours.

ASHLEY HEINEMAN:

Thank you very much. Thank you, everybody, and for giving us the opportunity to be here today. We hope to encourage as much discussion as possible because we would like to better understand our respective perspectives.

But with that, I'm going to turn it over to Sam. I'm with the Registrar Stakeholder Group, just to make sure that's clear. Thanks.

SAM DEMETRIOU:

Thank you, Ashley. And once again, I'm Sam Demetriou. I'm the chair of the Registry Stakeholder Group. I also want to thank the GAC for having us here today. Hoping for a really productive and dynamic discussion.

I also want to thank the GAC members who joined us for the capacity-building webinar that we held during prep week, which provided an introduction on what registries and registrars are and what we do. One of the GAC vice-chairs during that session suggested that it might be helpful to give just a very short intro while we're here together in the room.

So if we could go to the next slide, please, we have just a couple very short slides here, which I think give a really good graphic representation of what registries and registrars are in the context of how a domain name gets registered and then gets put onto the Internet and becomes

an active part of the domain name system. So the registry sits at the highest level of this chain, and it's responsible for operating as the authoritative database for all of the domain names in a given top-level domain—so in our case, a generic top level domain.

When a registrant, who is the individual or organization who wants to use a domain name, wants to go about acquiring one, they work with a company called a registrar. Sometimes a registrar operates with a third party who sells the domain name, but the registrar's responsibility is to register the domain name on behalf of the registrant by making changes to the registry. So you start with the user level here with the registrant, they go through a registrar, and ultimately the change gets made here at the registry—the top level, if you will.

If you go to the next slide, please, this next slide, it's the same graphic you just saw, but it also incorporates ICANN. And this is to give you a sense of how ICANN fits into this equation and the relationship that we as gTLD registries and accredited registrars have with ICANN, which is that on the gTLD side, we have to have a contract with ICANN in order to operate a generic top-level domain. Similarly, registrars are accredited through a contract with ICANN, and registries and registrars work together in relationships that are also governed by a third set of contracts. So a lot of paper goes into this.

And if you'll go to the next slide, please, this next slide here gives a little bit more overview into what a registrar is. And for that one, I'll turn back to Ashley.

ASHLEY HEINEMAN: Yes, and it's been touched on a little bit already, but just to note a few things here and a couple of clarifying statements for these slides. So not all registrars are contracted with ICANN, but ICANN-accredited registrars are contracted with ICANN. So just know that there are registrars out there who are not contracted with ICANN and so therefore don't have to follow the rules that are set up here.

As a registrar, we may choose to offer or not offer any TLD. So it's not a requirement that we serve all of them.

Big typo here. We do not enforce consensus policies. We follow consensus policies. A little bit of a problem there. So we'll correct the slides where they're circulated, and we are accountable to ICANN Compliance.

And as Sam mentioned, there's a whole array of different types of registrars and business models, whether they're retail, wholesale, corporate, aftermarket. So don't assume we all operate the same way. We do things differently from each other and we're all in different sizes as well.

So I'll stop there and go to the next slide, please. We'll keep going through. We'll go straight through unless there's any burning questions. But. So if you have any questions, please note them and we'll get to them at the end. But I'm going to turn it now to Chris Disspain—oh, sorry, Owen. So I'm going to turn it to Owen first. Owen is the registrar. Chris is the registry.

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OWEN SMIGELSKI: Maybe one of these years I'll learn how to turn the mic on. Hi, I'm Owen Smigelski. I'm with the registrar Namecheap. I'm also vice-chair of policy for the Registrar Stakeholder Group, and I was co-chair of the DNS Abuse Amendment Team for the registrars.

So I'm going to cover first starts of the DNS abuse. What comes next? Well, what comes next is the DNS abuse amendments are effective April 5th—so just over one month. And so we're all getting ready for that. I think that's going to be a significant change. It's going to raise the floor so that all registrars and registries have to comply, do a certain thing, with regards to DNS abuse. It's going to provide a meaningful baseline for all registrars and registries to take reasonable and appropriate action to disrupt and/or mitigate DNS abuse, and then also allow ICANN Compliance to enforce those obligations. Those were some of the concerns that led to this, that Compliance might not be able to do there as well.

And also, one thing that's really good is it actually defines what DNS abuse is. Previous to that, there was no definition of what abuse was, and so it was open to broad interpretations. So DNS abuse is going to be malware, botnets, phishing pharming, and then spam, but only when spam is being used for the other four types of DNS abuse. There's a delivery mechanism, because you can get a phishing e-mail along those lines, which itself may not be the phishing, but it's promoting and targeting phishing. And again, these are baseline. Other registrars and registries can go above if they want to define what a phishing is, or if they want to take additional steps above that.

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Another big thing, especially for me as a registrar that I'm very happy about, is that this will allow registrars to require abuse complaints to come via web form. Right now, the existing obligations are an email address, and boy does that cause a lot of problems. The email address is published in the RDAP or WHOIS output, and it just attracts a lot of spam.

Coincidentally, it gets contact for registrant contact details, and sometimes you'll get an abuse complaint that says please take this website down and that is the only information you get. I didn't believe it until I started working at a registrar. So what it will include though is the ability to have a form, because registrars and registries will only have to take action for evidence-based abuse complaints. And so having a web form will allow the registrar to ask for a screenshot or make sure that there is a domain name included in there and an explanation of what the abuse is. So that should hopefully make it a lot easier for registrars to action abuse and then also to not have to do as much follow up asking somebody, "Oh, do you really mean to report this?" or, "What are you reporting?" et cetera.

But the big impact is: how are the amendments going to impact overall DNS abuse? Is this going to you, Chris, or do you want me to keep going? Okay, I will keep going. And so that's a big question. We really don't know what's going to happen. It's possible that nothing could change and it's the same. It could be that suddenly there's a lot less of the DNS abuse.

One thing that is hoped is that there are some registrars and registries that are known for taking less actionable approaches to DNS abuse,

that they may look the other way because under the current obligations of the contracts, they don't have to take action to stop or otherwise mitigate. So that's certainly my hope: that there will be less DNS abuse and then also that Compliance will have the ability to enforce these obligations.

Next slide, please.

CHRIS DISSPAIN: Can I just interrupt for one second? I just want to mention that I think some of you may have been in the room yesterday. Susan certainly was. We had an open session yesterday with the community to talk about this, and we had representation on our panel from all the other parts of the GNSO, from the Business Constituency, IPC, et cetera. And I think everybody kind of agrees that really the next steps are built around seeing what happens, seeing what Compliance does, and working closely with Compliance to help them to enforce the obligations. And I think you have a session this afternoon where you're going to be talking to Compliance, so they'll be explaining to you what they're intending to do. Thanks.

OWEN SMIGELSKI: Thanks, Chris. And so that's the big question now: what do we do next? So for the contracted parties, we want to first see what impact is there from the DNS abuse amendments, because it's possible there could be a significant improvement with that. So there are data sources out there. There are some that are … I don't want to say trustworthy [but] reliable ones that we believe are more accurate in terms of representing

DNS abuse. And so ICANN is calling it now domain Metrica. I think that name is being announced this week. It's also formerly known as the DAAR. So that has some good data.

And with the RDAP amendments that went into the RAA recently, there was a change so that registries could provide registrar data, so that the DAAR will be able to show more registrar data where previously that was not as easy for them to do.

ICANN Contractual Compliance will also be able to provide metrics. It's my understanding they're making some significant changes to their forms and their complaint processing tool to allow them to collect more data and metrics so that they can be able to report that to the community. And, goodness, it might be also nice if we see a breach or, who knows, a termination over DNS abuse. So seeing that type of data going forward will certainly help inform that.

I also know that I see Graeme in the back, the DNSAI compass. They monitor data. They are currently reporting they've had a pretty good baseline. I can't speak on their behalf, but I do know that they're considering some changes as well, too, to improve or expand what they're reporting. So we'll be able to have a number of data sources where we can see what type of success we're getting out of these amendments.

And also share with us what you're seeing. We want to know what you're hearing. There are some DNS abuse groups on the contracted parties, and we are meeting with various ICANN groups, but we always want to hear what's going on. What are your experiences? What are you seeing? Obviously, not every anecdote is representative of everything,

but if we can kind of see some general trends, it's there. So please do share what's there.

So, moving forward, the contracted parties are supportive of focused or narrowly targeted PDPs or other policy initiatives. Concerns are that some of these ICANN policy things are … I guess the phrase people use is to biol the ocean, wanting to solve absolutely every single possible problem out there. And the concern is those things take a really long time. They're measured in years. And if we're trying to solve some problems, going for years on end is not necessarily the approach we want to take. So we do want to kind of target them and move fast. But what we do need to know exactly what they are.

There needs to be an issues report. ICANN does allow for what's called an EPDP, an Expedited Policy Development Process. However, that skips the issues report. And so that can only be used when there's a very narrow specific thing that they want to do, such as when there was the temp spec and they had to address that under ICANN. So we would hope that the things moving forward would be focusing on abusive activity rather than some red herring or content issues, things that may not necessarily be something that can be solved with an ICANN.

 And then one thing to also keep in mind (and this was something that became very clear to the registrars a year ago at the Cancun meeting) is that the bad guys are listening. We didn't realize this, but at that meeting we announced what's called acidtool.com. And that's a free tool that the Registrar Stakeholder Group launched, which allows you to look up registrar data as well as get hosting data so you know how to go to contact a host to work on that. Within days of announcing

acidtool.com, it got hit by a DDoS (Directed Denial of Service) attack. A plugin or two on our site was hacked. We ended up having to take it down and move it to a brand new dedicated server. And we know that they came after us because A, it was a brand new server and also B, it was sharing the same IP address as the main Registrar Stakeholder Group website. So there was a clear intent to take down a tool that could help combat abuse. So that's one of the concerns of having these PDPs: they're recorded, they're open, they're published. And if we give a roadmap of what we're going to be doing, there's the concern that that could be giving the bad actors the opportunity to adjust and get around those.

Next slide. I think that's it for me.

NICOLAS CABALLERO: Thank you so very much, Owen. Certainly an important detail: the bad guys issue.

Let me pause here for a while and see if we have any questions for Samantha or for Ashley from the floor or online. Any hand up? And I see the USA. Please go ahead.

SUSAN [CHALMERS]:   Thank you, chair. And thank you Sam and Owen, for your presentations. And I also appreciate that background and context regarding PDPs. In Cancun, the GAC had requested a set of listening sessions on the proposed amendments with the community, and that was responded to by the Board with a proposal instead for listening sessions on the potential scope of PDPs.

So, recognizing that the implementation of the amendments and the effective date is April 5th but [that] there needs to be some time to be able to measure progress under the amendments in order to understand how to move forward[,] what are your thoughts on potential areas for any very specifically targeted PDP? I know there's been discussions about malicious versus compromised. There's domains and other areas, but we're having our DNS abuse session this afternoon, and we will also be discussing draft communique language, so we'd welcome any thoughts on potential topics that could be addressed there. Thanks.

CHRIS DISSPAIN: I can take this. Thank you. Susan. Look, I'm in danger here of sounding evasive, and I'm genuinely not. I think it would be premature to put forward suggestions as to what may happen next because they tend to get up ahead of steam and become "The CPH said this should happen next, and we think it should be this and maybe it should be that." And I think that's going to detract and deflect us from doing what we should be doing, which is to concentrate totally on what we've done and how that is now dealt with. I'm not avoiding the issue. There are other things that need to be done, but I think the sort of decisions about what comes next really need to be made in light of what happens over the next six, nine, or whatever-it-is months of reasonable time.

And ICANN, to some extent, is the arbiter of that, inasmuch as Compliance needs to be able to say, "We now have enough to say this." And then we're able to say, "Well, it's obvious that the next thing is this," or, "It's not obvious, so let's talk about what it should be."

But to do so now, I think, would be counterproductive, although I do understand the reasons why you might want something to happen. I just don't think it's going to be helpful at this stage. Thanks.

ASHLEY HEINEMAN: And I think moving forward [inaudible] us trying to do too much too soon. So I appreciate the desire and discussing "narrowly targeted" because that will be important. But let's not rush. Ink is not quite even dry yet (what is dry?) but [will] be implementing and enforceable in April. So thank you.

NICOLAS CABALLERO: Thank you for that, USAN. Thank you, Chris and Ashley. I have Indonesia, Iran and Bangladesh. Ashwin, please go ahead.

ASHWIN RANGAN: Thank you. Ashwin from Indonesia. Yeah, that's interesting for the gTLD mitigation (sorry, what to call it--the problem of DNS abuse mitigation system, the new regulations) because Indonesia we do not have gTLD operator yet and for the second round we are going to promote in country for the new gTLD operator. So that's one thing.

But secondly, I want to know (rather different), how about the DNS abuse for ccTLDs? Can be the new regulation … I know it's not yet implemented, but I just want to know how the use of this DNS abuse mitigation for ccTLD operators [is]. Thank you.

CHRIS DISSPAIN: I can respond to that. Thank you very much, Ashwin. Nice to see you. So, at the top level, the ccNSO has a Domain Abuse Standing Committee which is talking in the ccTLD community about best practices in respect to domain abuse. But of course, as you all know, every ccTLD is sovereign, and therefore how they deal with abuse is generally a matter for them in their own territory. The fundamental difference between a ccTLD and a gTLD is that the ccTLD sits underneath the law of the territory that they are in. And whatever that law is is the law they need to operate by. Our experience is that … So it has nothing to do with this. It has nothing to do with the CPH DNS abuse stuff.

That said, outside matters like the framework for DNS abuse which exists and registries and registrars sign on to (ccTLDs have signed onto that), you'll have heard the mention of the DNS Abuse Institute. Graeme and Marina are at the back of the room there. ccTLDs are involved in that.

So there is work going on, but it's not ICANN's role in ICANN to decide what ccTLDS do in respect to domain name abuse. It's a matter for the ccTLD itself.

That said, the ccNSO is working as an umbrella body to talk about what best practices might be. Thanks.

OWEN SMIGELSKI: I just want to speak as a registrar. When we get an abuse complaint, we don't look and say, "Oh, it's a gTLD," or "It's a ccTLD." We'll act based upon the ccTLD. We have one abuse queue for processing. So because of these types of requirements, it's possible some registrars may take

these obligations and apply them to ccTLDs, assuming there's no conflict or anything like that. But again, that's not a requirement, and it's based upon each registrar. Thanks.

NICOLAS CABALLERO: Thank you, Indonesia. Thank you, Chris and Owen. We'll take two more questions, one from Iran, one from Bangladesh, and then for the sake of time, we'll move on with the presentations, and then we'll take questions again, if that's okay with everyone. Iran, please go ahead.

KAVOUS ARASTEH: Yeah. Thank you very much. Thanks for the presentation. My question is simple. Is this amendment measurable in terms of KPI of the outcome—not output but outcome. And if it is really enforceable or not, I am not seeking any response to the measurability or KPI now, but after some time, we should look to see whether it meets the requirements for which it was amended. Thank you.

SAM DEMETRIOU: Thank you very much for that question. I'm going to split this one into two parts because I think I heard the question asked about measurability of the impact of the amendments, but also enforceability of the amendments themselves.   And I'm going to address the enforceability part right up front because that was a very key driving factor in how we worked with ICANN Org to negotiate these amendments. It was paramount that they needed to be enforceable.

The CPH has looked at the amendment process as the first step in a much larger road on the topic of DNS abuse mitigation and improving DNS abuse rates within the domain name system. And the driving factor behind negotiating an amendment was to help ICANN Compliance have a tool to take action against actors who either systematically don't take action on abuse when presented with evidence of clear cut cases of DNS abuse or don't know how to take action on DNS abuse.

So from that perspective, the enforceability of the amendment to the contract was one of the main concerns in making sure that we achieved that in executing these amendments.

So I hope the answer to that question is a very simple "yes, they will be enforceable," and I'm sure ICANN Compliance can answer further questions about how that enforcement will be undertaken.

And then, on the measurability point, I think we've touched on that a bit, which is just to say that the CPH is also going to be continuing to work on this and having data and metrics that show the impact of the amendments going forward. That's going to be an ongoing discussion. So thank you very much for the question.

NICOLAS CABALLERO: Thank you for that, Sam. And on the point, we'll have a session with ICANN Compliance at 3:30 today. So I have Bangladesh and then I need to close the queue so that we can go on with the presentations and then we'll take some more questions. Bangladesh, please go ahead.

BANGLADESH: Thank you, Chair. This is [Shamshudwar] from Bangladesh. Two very quick questions. The first is that maybe it was a bit short of knowledge for me, but my understanding was that we have registry then registers accredited by ICANN and then they have resellers under them. But now we have heard that there are registers who are not accredited by ICANN. So is there any statistics on the number of registers who are not accredited by ICANN but are operating as a register? So this is the first question.

The second thing is that, when you are talking about the DNS abuse or the amendment of the RDRS probations and this and that, it is related to the revision of the registered accreditation agreement, RAA. So if there is a revision in those agreement, what is the consequence of those agreement for the guys who are not accredited by ICANN? And if there is no consequence or no impact for them, then how it is actually mitigated or addressed by the community. Thank you.

ASHLEY HEINEMAN: Happy to have Owen correct me if I get it wrong. So to offer gTLDs, you have to be ICANN-accredited. There are some cases where a cc does not use an ICANN-accredited registrar. So for the sake of these amendments, all ICANN-accredited registrars who have to be accredited to serve gTLDs must implement this.

OWEN SMILGELSKI: And then just to clarify, if it's a reseller who's selling gTLDs, it's ultimately the registrar that's responsible for that. So all gTLDs will be

covered by these amendments. Some of the ccTLDs might not because there can be non-ICANN-accredited registrars on the cc's. Thanks.

NICOLAS CABALLERO: Thank you. Bangladesh, is that an all? Oh, you're good. Okay, thank you. So back to you, Ashley.

ASHLEY HEINEMAN: Actually, I'm going to turn it over to Sarah Wyld to talk to us about registration data request service. Go ahead.

SARAH WYLD: Thank you. And we'll have the next slide, please. Okay. Hi everyone. I'm Sarah Wyld. I work with Tucows. I am from Canada and I am the registrars' representative on the RDRS Standing Committee. So glad to be here with you all today.

So we will start with a bit of background on the RDRS. The Registration Data Request Service is a pilot project that will run for, at most, two years, gathering information about the volume of requests for the disclosure of previously public gTLD domain name registration data. People who have a reason to know what the domain ownership data is can use the RDRS to submit a request, which is then routed through to the appropriate registrar for consideration. If the registrar's determination is that the data should be disclosed, then that disclosure happens outside the RDRS. Similarly, if the registrar needs to ask the requester for more information, which happens very frequently, any

back and forth conversation happens outside the system, not part of the RDRS. Once a decision is made, the registrar carries it out.

So they provide the data if that was the decision. Again, separately from RDRS, they provide the data directly to the requester, and in the RDRS, the registrar documents the outcome of the request. What happened to it? Was it approved? Denied? Was the data already public?

At the end of this pilot project, the ICANN Board will use this data, the volume information, to inform their decision as to whether it is in the best interests of the community to build a full SSAD, a Standardized System for Access and Disclosure, which was recommended in the EPDP phase two and required this additional information to determine if it's worthwhile.

Throughout the pilot project, ICANN publishes metrics. There are already two reports available on their website. We have links in the slides that I think have been distributed or will be soon. In those reports, we see information like how many registrars and how many requesters have signed up for the system, how many requests have been submitted, what were the outcome of those requests as of the time when the report is generated?

And during this process, the standing committee continues to meet to review the reporting data, consider what improvements could be made in the short term, and consider if there are specific lessons coming out of the RDRS to help inform the Board's decision.

Much of the feedback that we've seen from registrars so far, which we will also discuss at tomorrow's session, is about usability. And lately

I've heard from some registrar colleagues that we often, as I said, need to request more information before a decision can be made. So one of the things we will do as a stakeholder group is sit down and look at what is mandatory, what is optional, what is not included, and how does that match up to what we actually need to see in a request? When we set up the system as a group, we thought it was everything we needed. But one of the benefits of a pilot project, one of the purposes, is to continually consider how we can improve it as we go. So that's something that we're going to look at.

From the requester side. I've also heard system usability concerns. Actually, I'm going to pause for a second. Thank you to the GAC team for submitting your feedback, for sharing the feedback so proactively in the small team. It's been so great.

So, system usability concerns. We're seeing also a desire to include ccTLDs in the RDRS, a desire for the reveal of data behind a privacy or proxy service, and a desire to get data confidentially without informing the domain owner. So these are interesting because these needs make sense, but they're actually out of scope for the RDRS, and that's one of the things that we're going to talk about as a standing committee.

So with all that background, context, and for these few minutes that we have here now, I would like to hear, how's it going? What can we do as a group to help ensure that the RDRS is successful in gathering this information that the Board needs to inform their decision about how to move forward with the SSAD? Thank you.

NICOLAS CABALLERO: Any questions at this point? I have the USA. Please go ahead, Susan.

SUSAN [CHALMERS]:   Thank you, Chair, and apologies for not flagging my question through Zoom. So I want to thank Sarah for the presentation. I believe just for GAC representatives' awareness, we will also be discussing the RDRS during the registration data session, and so we can formulate further questions.

The US—we just hope it will generate useful data to help drive discussions at ICANN about next steps on a possible centralized request mechanism for domain name registration information, such as the SSAD. We support continued efforts to educate requesters on the uses and limits of the RDRS.

I think if there is a message for requesters that the Contracted Party House might suggest in terms of submitting requests, if there are any thoughts there, we could also save that for later on during the WHOIS session. Thanks.

NICOLAS CABALLERO: Thank you very much.   US. I have the UK, Iran, the European Commission, and India. UK, please go ahead.

NIGEL HICKSON: I'll come later. Let others take their place.

NICOLAS CABALLERO: Perfect. Thank you so much, Nigel. Iran, please go ahead.

KAVOUSS ARASTEH: Thank you very much for the presentation of this part. I see that 74% were denied. That was unjustifiable. What was the main reason for that 74%? And could we inform the community the way that they request? Perhaps it would not be very productive that 100% of the request comes, and 70% are denied because they are not justifiable, taking a lot of time for verification and response. Could we have some sort of future efficiency measures in order to avoid such examination which leads to 74% being denied? Thank you.

SARAH WYLD: Thank you, Kavouss. So I'm hearing a desire for more granular stats or details about why requests end up the way they do. And I think that's something first that the standing committee can think about, but also, of course, it's important to remember that each registrar has to make our own determination to balance those needs of the requester against the data subject. So it is a legal determination based on our local legal obligations as well as ICANN policy requirements. And my expectation is that they were denied because the requester did not demonstrate a basis to access the data. Thank you.

NICOLAS CABALLERO: Thank you, Sarah. I have the European Commission. Go ahead, please.

MARTINA BARBERO: Thank you very much. And thank you, Sarah, for presenting this slide. I think it's very interesting just to acknowledge the importance of DRS

and the fact that governments and we are working on promoting the use of the tool, because as more data we gather, the better it is for the end of the pilot.

In that respect, a feedback that we got from some users is also in terms of the feedback they get when a request is denied, for instance, in terms of the reasoning or the explanation that is provided to them, which is not always extremely detailed and which prevents them then from improving the way they request the information the next time. So it's something that we might discuss tomorrow within the GAC, but just for bringing for consideration, I think that would be interesting for registers to provide as much detailed feedback as possible on the reasons for denial so that could be considered for future requests. Thank you.

SARAH WYLD: Thank you so much. Yes, we heard some of that yesterday in a similar session, and it's absolutely valuable feedback, and we'll see what we can do to improve that kind of information. Yes.

NICOLAS CABALLERO: Thank you, Sarah. I have India next. Please, go ahead.

INDIA: This is [Santosh] for the record. Thank you, Sarah, for the good presentation on RDRS. So, in India, there are many John Doe cases in which the details of the registrant is not known. And the court is asking who is the owner of this domain? Now, where shall one go? So lots of—about 50—John Doe cases are there in our codes.

So my request is that RDRS has to be a pilot. Okay, it is still two years, but it has to go further. The SSAD has to be in place. Thank you.

SARAH WYLD: Thank you. I'm so happy to hear such strong support for the process.

And I just wanted to go back to a previous question about details for why requests are denied. I've been reminded that there is more granular information about that in the reports that ICANN has published. So please take a look at those reporting. Thank you.

NICOLAS CABALLERO: Thank you again, India. Thank you, Sarah. I have the UK and then I have to close the queue in order to be able to go ahead with the presentations. UK, please.

NIGEL HICKSON: I'll be very brief. Thank you so much. And this is indeed really great material and it's a pleasure meeting with you. So thank you. Just one point and one question, if I may. The point is that clearly, as you put in the slide, the issue of privacy/proxy, which I know is complex and is being discussed elsewhere, clearly is a factor in this. So at some point it'd be good to get your view on how the best way to move forward on that is.

But the more detailed point is on the denial of requests on confidentiality grounds (I know that's one of the grounds where some requests are denied) and whether there is scope for doing something about that (I mean, it was an issue, as you know, before the RDRS was

put into play), whether we can enhance that particular problem or whether we can do something about that problem during the trial itself. Thank you.

SARAH WYLD: Thank you. You asked two questions and I'm going to give the same answer for both of them. Registrars require due process before revealing customer data, such as the data of a user behind a privacy or proxy service. There might be some kind of a middle ground between a polite request and getting a warrant, but right now we haven't seen anything happen in that middle space. So we're not seeing a due process to reveal that data. And I'm not sure that that's in scope for this project, but it is definitely a question that comes up a lot. Thank you.

ASHLEY HEINEMAN: And just a note on the confidentiality that's a little bit separate is that it's not that they're being flat out rejected. They're being rejected in RDRS, but in many cases, those law enforcement who are requesting confidentiality are being redirected to establish processes that allow for additional scrutiny because, again, as part of a pilot, RDRS wasn't really anticipated by some registrars to be used for confidential requests. So that could be something that could be explored in the future, but at this point, I know a lot of registrars are beholden to give extra scrutiny to those particular requests.

NICOLAS CABALLERO: Thank you so much, UK. Thank you, Ashley, for the clarifications.

And at this point, I guess I'll turn it over to you, Sam, if I'm not mistaken. Please go ahead.

SAM DEMETRIOU: I hope this is the right order. Can we get the next slide to make sure? Yes, it is. Good. So at the last ICANN meeting, ICAN 78, when we were together in Hamburg, the topic of transparency in statements of interest was something that came up within the Generic Name Supporting Organization (GNSO) Council discussions. And it was a topic that the Contracted Party House had a good deal of interest in and, I would say, a pretty specific viewpoint in. It was something we actually discussed with the Board during our bilateral meeting with them in Hamburg.

We understand that this was a topic that was similarly of interest to the GAC members. And so while we're here together today, we hoped to hear more from you all from GAC membership about your views on this topic. And once we kind of establish what those views are and to the extent that they are similar to the views that we have in the CPH, we'd also like to think about ways that this is a topic that could be worked on at a community level potentially going forward.

So that's really the question here: GAC members, we'd love to hear from you about your thoughts on statement of interest transparency within the ICANN context.

NICOLAS CABALLERO: Thank you for that, Sam. So at this point, let me open the floor in the room and online in order to have an open discussion about SOIs or

Statements Of Interest. And I have Switzerland. Please go ahead. Thank you.

JORGE CANCIO: Thank you so much. I'm not sure if I can say something new. We already shared our point of view with GNSO Council in recent meetings, and also with the ICANN Board.

At least for me, as a representative of my government, of the Swiss government, it's very important to know whom we are talking to when we are in a room, be it a virtual room, a real room, or a combination of both, because otherwise it's difficult to ascertain what's the structure of interests we are dealing with. So transparency is really key, and it's something that we should all abide by at the highest level here in ICANN, as we do in other fora. And whenever it doesn't happen in other fora, we also have to try to improve things there.

So that's basically the point. After all, this is not a GNSO-only question, because I have my SOI, I like to participate, engage in the community, to be in any PDP working group or EPDP or whatever PDP variants we have, or also in the cross community working groups. You have to have your SOI, and this should be as transparent as possible.

And something I learned, I think, already, quite many years ago, is that in issues like transparency and accountability and legitimacy, (and this is what we are talking about here), it's almost as important to abide by the rules than it is than the perception of that people are abiding by the rules. because even if it's 0.1% of the cases (and of course there is information and there are statistics; no, there are lies, there are big lies,

and then they are statistics, of course, as the saying goes of the statisticians), even if there's a very small number of cases where people use some exceptions for not explaining whom they are working for, even if it's just ten people out of 1000 participants, this already tarnishes the whole of the system.

So I leave it by that. Hopefully this is useful to you also. Thank you.

NICOLAS CABALLERO: Thank you so much for that. Switzerland. Would you like to answer? Can we have more questions, but if you would like to go ahead and answer Switzerland, please feel free to do so.

SAM DEMETRIOU: Thank you, Nico. I mean, I think the fact that it elicited an applause means that it also merits a response. What I did want to say before we get back to the queue is: Jorge, thank you so much for bringing up the word "legitimacy" because for us and on the Contracted Party House side, that is what this entire issue turns on. We believe in and we are strong supporters of the multistakeholder model, but in order for a model to be multi stakeholder, you need to know who those stakeholders are. It is inherent in the entire system and the definition. So thank you for touching on that point. And happy to go back to the queue.

NICOLAS CABALLERO: Thank you so much for that, Sam. I have Iran, the USA, and Egypt. Please go ahead, Iran.

KAVOUSS ARASTEH   Thank you very much. The issue of the statement of interest was raised by United States, so the United States is requested kindly to further develop the matter. They bring it, and many GAC members supported that. But if the contacted house wants more clarification, perhaps the US would be the best one to clarify the issue and the essence of this matter. Thank you.

NICOLAS CABALLERO: Thank you for that, Iran. I have the US. Go ahead, please.

SUSAN [CHALMERS]:   Thank you. Thank you to our colleague from Iran. And I'm happy to describe the work that the GAC has undertaken on this, but I'm happy to do that after if Egypt would like to take the floor first.

NICOLAS CABALLERO: Thank you, US. Egypt, you have the floor.

CHRISTINE ARIDA: Thank you. No, it was just to actually convey also probably the temperature in the room, I think: that we join our colleagues also and we conquer with the statement of our colleague from Switzerland. And transparency is, I think, of utmost importance also the basis for the trust in the multistakeholder model. So I won't say more. Thank you.

NICOLAS CABALLERO: Thank you, Egypt. US, please go ahead.

SUSAN [CHALMERS]: Thanks. So the US did suggest correspondence between the GAC Chair and the ICANN Board, and I would defer to our Chair if he'd like to speak to the status of that. But on the GAC list, we saw broad support from across a variety of different countries for transparency. It was very kind. One of our colleagues translated our letter into French to be able to further engage other French speakers on this issue.

So just to note that I think it's fair to say, very safe to say, that there is a consensus around the importance of transparency within the GAC. Thank you.

NICOLAS CABALLERO: Thank you for that, US. And as a matter of fact, the letter has already been sent (I'll make sure) to Tripti Sinha, Chair of the Board. So I'll have GAC staff recirculate the letter to the full GAC, and apologies for not having done so yet. Overloaded, I would say, at this point. So thank you so much for that, US.

Any other comment question in the room or online? I don't see any hand up. So with that, let me give the floor back to you, Ashley.

ASHLEY HEINEMAN: Thanks. Next slide, please, because I believe it's the last one, if there even is one. Hey, wrap up and open questions. I don't know how much time we have, but if there are other questions—

NICOLAS CABALLERO: We still have a good 22 minutes. So we're good.

ASHLEY HEINEMAN: So happy to have them because we would really like this to be a dialogue, and we hope so we can do this more frequently. So any questions?

NICOLAS CABALLERO: I do have a gentleman, Reg levy, to close or something. Go ahead, please. Go ahead.

ELLIOT NOSS: Hi, it's Reg actually joining the queue for me. It's Elliot Noss from Tucows. I wanted to bring us back, if I could, to Sarah's presentation, where Sarah was quite polite in responding to some of the questions.

I want to provide a little more background on where we are with these data requests. First, Tucows was the first registrar, I believe, to set up a system to receive these requests. We did that, I don't know, five, six years ago. We have been collecting data and publishing data since then on this system. It is important to remember, when we look at the success of this system, of this whole process, to remember the wrong that has been corrected here. We had an untold amount of fraud and abuse of the WHOIS system, and that has been eliminated and cannot be measured. That change is a fundamental benefit that simply cannot be outweighed by the data we're looking at.

Second point. The most remarkable thing about this system to us, from the beginning until now, with years of data, is how little it's been used.

If the number of requests in this system could be measured as energy and would be compared to the amount of energy that ICANN and the ICANN community have put against this system, it would be shocking. There is so much effort and hand wringing and so little actual use of the system. And remember that I say that as somebody who pushed to stand up the first system of its kind and has been operating it and publishing the data transparently.

Third and final point. The number one reason for refusing requests is because the requester does not provide information sufficiently. This is not complicated. It is essentially a web form. Like all web forms on the Internet, it is subject to abuse. There are implications to removing privacy. What I think we should look at when we look at the large amount of refusals is clear indication that people are using this system to try and abuse it, not to solve actual harms.

So those are three points that I want you all to hear in this context. Thank you. And if there's any questions on any of that, boy, am I happy to take them. Thank you.

NICOLAS CABALLERO: Thank you, Mr. Levy. Any question? Any comment? Any reaction to Mr. Levy's remarks in the room or online? I don't see any hand.

ASHLEY HEINEMAN: Just a quick clarification.

NICOLAS CABALLERO: Yeah, go ahead.

ASHLEY HEINEMAN: It's actually the CEO of Tucows. He was just using Reg's Skype thing.

ELLIOT NOSS: Yeah, I said I believe it was caught on the record, so it'll be in the transcript. Thank you.

NICOLAS CABALLERO: Thank you again. The floor is open. I see the US. Please go ahead.

[LAUREEN KAPIN]:   I wanted to thank everyone for their perspectives and Elliot for his usual strong and concise views. And speaking in my capacity as a member of the Public Safety Working Group, I just wanted to give a few reactions to the three points.

I definitely take the perspective and the concerns raised by the prior system, which made everything publicly available with no safeguards. So indeed, that is something that has now come into a better balance with privacy concerns.

At the same time, there still does (and I think this is what the community is struggling with) need to be an effective system where the people who are entitled to lawful access can get that. And I think we're still figuring out that balance and I'm assuming the good intent in everyone involved, even if there are disagreements.

As to your second point about demand, I'd say that is something that is very hard to measure right now. We have just launched the RDRS. We're

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just getting feedback about some user experience challenges. So while I agree with you that there's a tremendous amount of hours and energy (and I can speak personally to this) that has been expended in all these policy development efforts, I don't think we're at the point where we can say, well, when you compare the energy expended to the demand, it's just minuscule. We can't say that because we don't know, because we don't have a system, actually, that is a final system. And even the pilot program that we have has just been launched, and there are bugs to be worked out. So that would be my response to the second point.

And the third point about reasons for rejection. I mean, that's an excellent point. If people cannot justify their request, if they cannot state the reasonable basis and provide the requirements so that the registrar is in a position to evaluate it based on the information they've gotten, it should be rejected. And honestly, I don't think that's debatable. I do think you want to make sure that whatever system you have in place clearly delineates and communicates and makes it easy for requesters to provide that information. Thank you.

NICOLAS CABALLERO: Thank you so much for that. Us. I have Theo Geurts from Realtime Register, and then I have … I have it as Reg Levy from Tucows. I don't know if that's the right name.

[ASHLEY HEINEMAN]:   That's Elliot.

NICOLAS CABALLERO: Oh, that's Elliot—speaking of transparency and SOIs. Anyways, so, Theo Geurts, Realtime Register, please go ahead.

THEO GEURTS: Thanks. So at Realtime Register, years ago, we developed a system to track cybercrime on our platform. Every piece of intelligence we could find on the Internet, from reputation block list, from trusted notifiers—we've been tracking that for years, and with good reason, because we wanted to measure DNS abuse or cybercrime, in this case, on our platform. And we don't distinguish between what that cybercrime is. Is it phishing? Is it investment scams? We don't really care. We track what's happening on our platform. So over the years … And I got a database full of incidents where cybercrime has happened again and again. And of course, we've taken care of that cybercrime by turning off the domain name.

But at some point, I was asking myself the question, why isn't law enforcement coming to me with information where they request information about these cybercriminals? I mean, I got plenty of information about these criminals. We need to lock these cybercriminals up, but that's not happening. And that is why you see a low turnout on what Elliot has been suggesting with his low numbers on his system that he has created many years ago. And that is what we're seeing now within the ICANN pilot that we are running. And I think there's a huge gap between what law enforcement should address and what is actually happening. And with the current issues going on on a global level, where the United Nations and Interpol are sort of waving red flags, raising the alarm, where cybercrime is

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increasing, that is sort of going to be hard to measure when it comes to registrars combating cybercrime, because if there is no enforcement of cybercrime, then we have a bit of a problem here, because cybercrime will continue to grow and there is no enforcement there to keep it in check.

So when moving forward in these discussions, we should keep that in mind: that there is, in my mind, my opinion (I'm not speaking for the Registrar Stakeholder Group), I think there's a gap on what law enforcement can do and what they should be doing. And there's something, I guess, something from the governments to look at what's going on with our law enforcement agencies. Are they funded enough? Do they have enough people? And so on and so on. Thanks.

NICOLAS CABALLERO: Thank you. Mr. Geurts. I wish I could give you an answer. I don't work for any law enforcement agency, unfortunately. But anyways, well noted. Thank you for your comments.

Again, I have it as Mr. Levy from Tucows, so I'll give you the floor. Please go ahead.

ELLIOT NOSS: Thank you. It is Elliot Noss. Reg has a laptop. I just have a phone. So she's getting in the queue and putting the hand up for me. So, Laureen, I want to say that was great. I agree completely with your comments. You agreed with my first and third point. I want to clarify on the second point. I was only talking about our system, not the RDRS. I was saying that for the five, six, seven years now that that's been in operation, I've

been amazed at the low volumes. And I completely agree. We would love to see every registrar implementing a system like this. We would like to see this standardized, and we think there's a lot of work to do in the community. So now I think we've agreed on all three points, which is fantastic.

But that was not the main thing I wanted to say. I wanted to pick up on Theo's point.

NICOLAS CABALLERO: Please be brief and straight to the point. We're running out of time.

ELLIOT NOSS: I agree with everything that Theo said, except that this is about law enforcement. I've been back in ICANN for the first time in five years. I saw so much momentum around domain name abuse. We are going to make real progress on that. And when we do, I want to be clear that that's going to bring the problem right back into this room. Theo was talking about law enforcement. The issue is multi-jurisdictional problems. We all know where the problems are. People are simply unable to enforce them. That is a problem in the current nation state structure, and it can only be solved in this room. Thank you.

NICOLAS CABALLERO: Thank you for that, Tucows. I have Papua New Guinea and then Indonesia. Please go ahead.

RUSSELL WORUBA: Thank you, Chair. We have our dot-pg ccTLD, and we are looking to go out to market for registrars to outsource that function. And based on the discussions thus far, it seems that without this sort of mechanism in place, we will be law enforcement agencies. As has been mentioned by Theo and the rest of our colleagues. It seems that mutual legal assistance could be one of the main resorts for countries that don't have registers at this point. And if the main registries are US-based, then it would be taking us six months to get reprimanded or something on this form of abuse. So that's the reality facing nation island states like Papua New Guinea in the Pacific.

So it's basically a comment and it's basically a clarion call for us to take this really quickly as possible. Thank you.

NICOLAS CABALLERO: Thank you so much for that, Papua New Guinea. I have Indonesia and then the UK.

CHRIS DISSPAIN: Can I just respond, please?

NICOLAS CABALLERO: Be brief and straight to the point.

CHRIS DISSPAIN: Yeah. Sorry. Hi. I'll come and talk to you at the end of this session and we'll take that offline and have a chat with you about ccTLDs and this stuff. Is that okay? Thanks.

NICOLAS CABALLERO: And sorry, Chris, to cut you short, but we're running out of time, basically. So Indonesia, and then I have the UK. Please go ahead, Ashwin.

ASHWIN RANGAN: Thank you. It's very interesting to listen to the discussions, especially when you talk about what the law enforcement can do and what they should do—I think not only law enforcement but also regulators and so on and so on.

And I just wonder, actually, Nico, because being the regulators, I think it is very useful for us when in other organizations we got something like Model Law with this WTO, the UN-something, the UN IT, or whatever it is. When they make some sort of new development on science, technology and new systems, for example, then they also propose something like Model Law. It is not a template. It is just model. If you like, you can do it. If you don't like it, you can [chase] it. We only do it as a reference. So perhaps, I do not know about ICANN, but perhaps this type of model law can also be useful for the work, I think at least for the GAC members, for example, to get to "Okay, we have this new gTLD, this one, this one. Perhaps we have to do some more regulation or we have to change, we have to amend our regulation, and that type of model law can be useful as a reference." Thank you.

NICOLAS CABALLERO: Thank you for that, Indonesia. I have the UK.

NIGEL HICKSON: Thank you very much, Mr. Chair. Just bringing the discussion back, I mean, we've verged into law enforcement, which is something which I think is interesting. And of course we will hear hopefully in our DNS session about the incredible valuable work that the Public Safety Working Group does in this respect. And there'll be a time to reflect on that.

I just really wanted to bring us back to the RDRS. I asked about confidentiality, I asked about privacy proxy, and I recognize that one is operating within a system and there are issues, although I think, on confidentiality, the buck was passed to an extent and we need to go back to that as governments.

Also, I wondered what more can be done and what is being done and how can governments help to an extent? What can we do about the people that are not in the system? So this is not to do with legitimate, if you like, denial of requests,, where he requester is unable to give validation to their request. And I fully appreciate that if an agency comes along and they're not presenting the right information. No, this is to do with the registrars that aren't taking part in the system at all.

And I think, to some of us in the GAC)and I've talked to some new GAC members on this) … I'm not going to give a perspective on this. I'm, if you like, too old in the tooth. And I know my feelings on this, but it's like sort of judging a race. It's like some of these tennis matches or these tennis tournaments where they say, you know, this person won the tennis tournament. You say, who is that? They say well, I don't know.

Well that's because all the hundred best players didn't turn up for the tennis tournament. That's why someone won.

So we should be going out on the streets, shouldn't we? We should be saying to these registrars, you need to be in this system, because if you're not in this system, we're going to stand up and we're going to stand up on the platform and ask why you're not in this system, why are you not taking part? That's what I want to know.

SARAH WYLD: Thank you. Great questions. I have a couple of thoughts on that one. Requesters who want to request data for a domain that is registered with a non-participating registrar can still use the form to fill it out in the format that is so far the best, and they can download that form and send it directly to the registrar. So it's not as simple, but there is some assistance. That's one.

Next thought.   Under the new policy that is now going to be implemented (so, great)[,] separate from what brought us to building an SSAD but the new registration data policy[,] registrars are required to publish information on our websites about where and how requesters can submit disclosure requests directly to us. So that will help requesters also know how to contact those non-participating registrars.

Beyond that, yes, I agree. We are doing everything that we can to bring more registrars into this process.   We continue to work with our communications and outreach team and I am very happy to say that more than 50% of gTLD domains that exist are represented in the RDRS.

So for now, I think we're doing pretty good and we're going to continue to work on improving this as we go. Thank you.

NICOLAS CABALLERO: Thank you for that UK. Thank you Sarah, for the answers. And we need to wrap up. We still have exactly one minute for any final question or thought. I have Lebanon and then the WIP. Lebanon, please go ahead.

LEBANON: Hello everyone. This is [Wahar] from Lebanon. Actually, I want to say that there's no need to pronounce that we all support the transparency issue. But this is not my question here. My question is what kind of promotion have been done to this RDRS? How should law enforcement or whoever can benefit from this service know about it? Because we had a situation in Lebanon, and the law enforcement was not aware that they can use such service to request information. So as a GAC member, I took the responsibility and shared the info about the system with all the security forces and the law enforcement in Lebanon. But there should be some kind of campaign in order to promote the service.

SARAH WYLD: Yes.

NICOLAS CABALLERO: Thank you for the very simple and straightforward answer. I have the WIPO. Please go ahead.

BRIAN BECKHAM: Thank you, Chair. In terms of the topic of granularity, in terms of the responses for a refusal to grant disclosure on the basis of a request came up … And one of the things that we've seen anecdotally (and this goes a little bit to the percentage of denials and also to the question of continued use of the system) that some of the reasons given are there's no website to which the domain name resolves or this is a fair use, or this is just a generic term. And I candidly struggle to find support for a rejection on those basis in the regulations. Nothing in the GDPR or similar regulations immunizes someone from being contacted if there's a claimed infringement about their behavior.

And it strikes me that it's for a court or, in the case of the work that we do, a UDRP panel who should be the one to make a determination if something truly is fair use or if the fact that there's no content means that someone is acting in bad faith or not. I don't think I need to tell anyone here that the fact that there's no content on a webpage doesn't mean that it can't be used for bad things like phishing.

NICOLAS CABALLERO: Brian, please, we're already overtime. Please get to the point. Sorry to interrupt you.

BRIAN BECKHAM: So the point is, it would be helpful to understand what the specific statutory or regulatory support for the types of rejections I've mentioned [is]. So lack of website content, something being a generic term or something being potentially fair use[—]where do those find

support in the relevant regulations such that registrars are rejecting requests submitted by IP owners on those basis? Thank you.

SARAH WYLD: Thank you. I think we've heard a few times that more granularity around why requests are denied would be helpful. So we can certainly take that back and see what we'll do.

NICOLAS CABALLERO: Thank you very much. I saw Iran's hand up. I don't see it anymore.

So with that, we need to wrap up. Thank you so much to the Contracted Party House (CPH), Sarah, Chris, Ashley, Owen, Samantha, Beth. Thank you so very much for being here. Thank you for the presentation and hopefully we'll have the chance to be together again in Kigali or intercessionally and certainly for Istanbul, I guess. Thank you so very much. We'll reconvene, ladies and gentlemen. We'll be back in the room at … Let me see. 3:00 p.m. Thank you very much.

[END OF TRANSCRIPTION]