
ICANN73 | Virtual Community Forum - ICANN Public Board Meeting
Thursday, March 10, 2022 - 16:30 to 17:30 AST

MAARTEN BOTTERMAN: Okay to start the recording.

Recording in progress.

WENDY PROFIT: Hello -- Let me do the housekeeping items real quick.

Welcome to the meeting of the -- public meeting of the ICANN Board for ICANN73. Please note this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

This is a formal meeting of the ICANN Board, and, therefore, we will not be taking any questions from observers.

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With that, I turn the floor over to ICANN Board Chair Maarten Botterman.

MAARTEN BOTTERMAN: Thank you, Wendy. Thank you for that. So, welcome, everybody, to the special Board meeting of the ICANN Board, March 10, 2022, at the end of ICANN73.

We have today for you a consent agenda, which is really about the appointment of an audit firm. And the main agenda obviously will go into the deferral of the third review of the security, stability, and resilience and on the GNSO policy recommendations on EPDP phase 2A, and the consideration of the Afilias domains No. 3 Ltd. with regard to .WEB independent review process final declaration.

Before we begin, we'll do a roll-call. And if people have -- at the start of every subject, we'll check whether people have a conflict of interest. And after that, we'll go into introductions of the

subject. We'll go into the Resolved. And then we will see whether there's any questions or discussion.

After that, we'll go to a vote.

So with that, Mr. Counsel -- Mr. Secretary, sorry. Can you please do a roll-call.

JOHN JEFFREY: Certainly. Maarten, I will mark you present. Leon Sanchez.

LEON SANCHEZ: Present.

JOHN JEFFREY: Thank you. Harald Alvestrand.

HARALD ALVESTRAND: Present.

JOHN JEFFREY: Thank you.

Alan Barrett.

ALAN BARRETT: Present.

JOHN JEFFREY: Thank you. Becky Burr.

BECKY BURR: Present.

JOHN JEFFREY: Thank you.

Edmon Chung.

EDMON CHUNG: Present. And I didn't -- was I supposed to raise any conflict of interest here or when we discuss the matter? I didn't catch that. Sorry.

MAARTEN BOTTERMAN: We will ask later.

EDMON CHUNG: Okay. Thank you. Sorry. Just present then.

JOHN JEFFREY: Thank you.

Sarah Deutsch.

SARAH DEUTSCH: Present.

JOHN JEFFREY: Thank you. Avri Doria.

AVRI DORIA: Present.

JOHN JEFFREY: Thank you. James Galvin.

JIM GALVIN: Present.

JOHN JEFFREY: Thank you. Manal Ismail.

MANAL ISMAIL: Present.

JOHN JEFFREY: Thank you. Danko Jevtovic.

DANKO JEVTOVIC: Danko is present. Thank you.

JOHN JEFFREY: Thank you. Akinori Maemura.

AKINORI MAEMURA: Akinori is present.

JOHN JEFFREY: Thank you. Göran Marby.

GÖRAN MARBY: Present.

JOHN JEFFREY: Thank you.

Mandla Msimang.

MANDLA MSIMANG: Present.

JOHN JEFFREY: Thank you. Ihab Osman.

IHAB OSMAN: Present.

JOHN JEFFREY: Thank you. Patricio Poblete.

PATRICIO POBLETE: Present.

JOHN JEFFREY: Thank you. Kaveh Ranjbar.

KAVEH RANJBAR: Present.

JOHN JEFFREY: Thank you. Katrina Sataki.

KATRINA SATAKI: Present.

JOHN JEFFREY: Thank you. Matthew Shears.

MATTHEW SHEARS: Present.

JOHN JEFFREY: Thank you. Tripti Sinha.

TRIPTI SINHA: Present.

JOHN JEFFREY: And with that, Mr. Chairman, we have everyone in attendance.

MAARTEN BOTTERMAN: Thank you very much for that. So that we will start. With that, there is one item on the consent agenda. Anybody want to move that to the main agenda? I don't see any hands.

So with that, who wants to propose the consent agenda?

SARAH DEUTSCH: This is Sarah. I'll propose.

MAARTEN BOTTERMAN: Thank you, Sarah. Do we have a second?

IHAB OSMAN: I do, Maarten. Ihab.

MAARTEN BOTTERMAN: Thank you, Ihab. Second. All in favor please say aye.

[Chorus of Ayes.]

All against, please say nay.

[No verbal response.]

I hear no nay. Any abstentions?

[No verbal response.]

No abstentions.

This first point passes the consent agenda as passed with full votes.

Thank you for that.

Now we move to the main agenda. On the main agenda, the first subject we want to talk about is the deferral of the third review of security, stability and resilience of the domain name system.

Avri, can I ask you to introduce the motion?

AVRI DORIA:

Certainly. Thank you, Maarten.

Okay. So in this motion, basically, the bylaws stipulate a certain timetable for reviews such as the SSR3 review. However, for several reasons -- part of which is the ATRT3 recommendation that this review be postponed until the next ATRT has met and discussed it but also because the work on SSR2 is still continuing. And there really hasn't been enough time to evaluate the progress that has been made, which is a big part of any of the review processes.

So basically the OEC looked at it and has consulted and really thinks that it is not prudent to -- excuse me -- to do that at this time and, therefore, are putting it off until either the ATRT3, once prioritized and the bylaws have been redone and ATRT3 -- ATRT4 has gone or if there's any other exigent circumstances, we're basically saying let's delay this for now and, you know, put it on a

normal rotation again once we've worked through all of the ATRT3 issues and the SSR2 implementations.

So having gone through the reasons for it, let me read the Resolved.

Resolved, the ICANN Board defers the SSR3 to allow the ICANN community and organization sufficient time to plan for and implement pertinent ATRT3 recommendations once prioritized for implementation. The Board acknowledges that the bylaws state that the SSR review should be conducted every five years. The Board also acknowledges the ATRT3 recommendation to suspend the SSR3 review until the next ATRT makes a further recommendation on timing. The Board will oversee the implementation of the ATRT3 recommendations and determine whether the timing of SSR3 should be re-examined based on the changing environment, including various dependencies.

Thank you, Maarten. I hand it back to you for questions, answers, and such.

MAARTEN BOTTERMAN: With this, it's a subject that's been on our agenda and it comes to the Board where we now have Board action. Any questions of the explanation by Avri? I see no hands.

In which case, who was willing to propose this motion?

AVRI DORIA: I would like to.

MAARTEN BOTTERMAN: Avri proposes. Do we have a second?

DANKO JEVTOVIC: Danko.

MAARTEN BOTTERMAN: Danko is the second for this proposal. All those in favor please say aye.

[Chorus of Ayes.]

Anybody against please say nay.

[No verbal response.]

I hear no nay.

Any abstentions?

[No verbal response.]

I hear no abstentions also. This resolution passes in full order. Of course, in the virtual room it's much more difficult whether everybody said aye, hence, the follow-up to the nay and the abstentions.

With that, we get to the next subject on the agenda, GNSO Council policy recommendations on EPDP phase 2A. Our liaison to these efforts are Becky Burr and Matthew Shears.

I ask you to introduce it and follow up.

Just checking, is there anybody with a conflict of interest on this one? If so, please raise your hand now.

I see no conflicts. So, Becky, Matthew, please proceed.

MATTHEW SHEARS: Becky. Would you like me to?

BECKY BURR: Yes, please go ahead. I am the owner of the next one.

MATTHEW SHEARS: That's true.

Okay. So GNSO Policy Council Recommendations on EPDP phase 2A.

So the Board is being asked to approve the policy recommendations from the expedited policy development process team's phase 2A final report.

The full phase 2A recommendations relate to the topics of differentiation of legal versus natural person's registration data and the feasibility of unique contacts to have a unicorn anonymized email address.

Let me just summarize what the recommendations are. The first one is a field or fields must be created to facilitate differentiation between legal and natural person registration data and/or if that registration data contains personal or nonpersonal data. This field or fields may be used by those contracted parties that differentiate.

The second recommendation is that contracted parties who choose to differentiate based on the person type should follow the guidance created in the final report.

Recommendation number 3 is if a GDPR code of conduct is developed within ICANN by the relevant controllers and processes, the guidance to facilitate differentiation between legal and natural person data should be considered within ICANN by the relevant controllers and processes.

And the final recommendation is contracted parties whose choose to publish a registrant-based or registration-based email address in the publicly accessible RDDS should evaluate the legal guidance obtained by the EPDP team on this topic.

And if we could move to the Resolved. There they are. Resolved, the Board adopts the GNSO Council EPDP phase 2A policy recommendations as set forth in Section 3 of the final report.

And Resolved, the Board directs the president and CEO, or his designees, to develop and execute an implementation plan for the adopted recommendations that is consistent with the guidance provided by the GNSO Council and to continue communication with the community on such work.

Maarten, back to you.

MAARTEN BOTTERMAN: Thank you for that introduction and explanation also. This is a subject we've been working on several sessions, and we now come to this point of action. Any more questions from the Board at this point?

I was told I had to wait for 20 seconds. But I'll stay with them.

No questions. Who would be willing to propose this motion?

MATTHEW SHEARS: I would like to, Maarten.

MAARTEN BOTTERMAN: Okay, thank you, Matthew.

Do we have a second?

BECKY BURR: I'm happy to second.

MAARTEN BOTTERMAN: Second from Becky. All in favor please say aye.

[Chorus of Ayes.]

Any nay, please say nay.

[No verbal response.]

I hear no nay.

Any abstentions, please say "abstain."

[No verbal response.]

I hear no abstentions. Thank you. Also, this motion passes with full votes. Appreciate it.

So the third subject on our main agenda is consideration of the independent review process final declaration on the Afilias Domains No. 3 subject related to .WEB.

Asking for -- if there's any conflicts, please raise your hand.

Edmon, please.

EDMON CHUNG:

Yeah, this is Edmon. I'd like to just note that in light of the potential conflict of interest, given the relationship with DotAsia

and -- DotAsia's back-end registry provider and Afiliast -- well, I will state this, and I will plan to abstain for the moment.

MAARTEN BOTTERMAN: Thank you. Thank you, Edmon. Jim.

JIM GALVIN: Thank you, Maarten. Jim Galvin for the record.

JIM GALVIN: I believe that I have a conflict with my employer with this issue. And although I don't vote, I do -- I will and as I continue to recuse myself from discussion on this topic.

MAARTEN BOTTERMAN: Thank you very much. And please noting for the file that on subjects like where we know this happens, we do this all the time, and we also take this very serious. So appreciate your openness here.

Ask Becky to introduce the motion and read the resolved.

BECKY BURR: Yes, thank you very much.

As you'll recall, the final declaration in the Independent Review process, in the .WEB Independent Review process became really final on the 21st of January in 2021, and the Board at its next meeting on January 16th considered the final declaration, and it resolved -- it accepted some of the findings in part, and it resolved that further consideration was needed regarding the panel's recommendations to stay any and all action that -- regarding the delegation of .WEB, and to consider the opinion -- the opinion, the recommendation of the panel that the Board consider and pronounce upon the question of whether the agreement between Verisign and Nu Dotco violated the Applicant Guidebook and also to review and consider whether -- how to next proceed with it.

The Board Accountability Mechanisms Committee has met, and it is recommending, with respect to these, that we take several steps.

First, that we recommend that the Board direct org to stay any and all efforts to delegate .WEB until final resolution of this matter. Second, we're recommending that the Board ask the BAMC to undertake a substantive review of the claims made by Afilias regarding the agreement -- the agreement between Verisign and Nu Dotco and its compliance with the Applicant Guidebooks, and also to look into the allegations made by other

parties and interested parties regarding the behavior of Afiliias during the blackout period.

So that's what we are recommending to the Board. And I'll read the resolved.

Resolved, the Board hereby asks the BAMC to review, consider, and evaluate the allegations relating to the domain acquisition agreement between Nu Dotco and Verisign and the allegations relating to Afiliias's conducts during the auction blackout period. Asks -- b), asks the BAMC to provide the Board with its findings and recommendations as to whether the alleged actions of Nu Dotco and/or Afiliias warrant disqualification or other consequences, if any, related to any relevant .WEB application, and c), directs ICANN org to continue refraining from contacting for -- contracting for or delegation of the .WEB gTLD until ICANN has made its determination regarding the .WEB application.

And as a reminder, what we are doing today here is asking the BAMC to take a substantive look at these issues. We are not making any findings regarding the issues that the Board is asking the Board Accountability Mechanisms Committee to look at.

Maarten, I will hand it back to you for questions.

MAARTEN BOTTERMAN: Yes, thank you. Thank you for this one as well.

Checking whether there's any questions at this point. Again, a subject that has been on our meetings several times, and it's progressing, and it's now ready for this action following the report from the IRP.

I see no questions; in which case I ask who would be willing to propose this resolution.

LEON SANCHEZ: I would like to propose, Maarten, if I may.

MAARTEN BOTTERMAN: I think I hear Leon? Is that correct?

LEON SANCHEZ: Yes, that's correct.

MAARTEN BOTTERMAN: Okay. Do we have a second?

BECKY BURR: I'm happy to second.

MAARTEN BOTTERMAN: Becky is the second.

All in favor, please say aye.

[Chorus of ayes]

Any nay?

I hear no nay.

And the abstentions, Jim and Edmon, you indicated you were abstaining from this vote, correct?

EDMON CHUNG: That is correct. This is Edmon. I will abstain as noted.

MAARTEN BOTTERMAN: Any other abstentions?

Okay. Thank you.

Please note the record that Edmon and Jim abstain, and other than that, we have full votes. So also this motion passes.

So with that, the motions have been dealt with.

So very last on the agenda is the AOB. Any other point for business?

If not, then thank you very much for this, and thank you all for listening into this meeting of the ICANN Board, the meeting. What you see is the conclusion of long processes and the very final discussion, and then official voting of something that is considered in depth, and these are the results for today.

So thank you all, and this meeting is closed.

BECKY BURR: Thanks, everybody.

Thank you.

Thanks, everyone.

[END OF TRANSCRIPT]