
ICANN76 | CF – Joint Session: GAC and the GNSO Contracted Party House
Sunday, March 12 2023 - 16:30 to 17:30 CUN

JULIA CHARVOLEN:

Welcome to the ICANN76 GAC meeting with the GNSO Contracted Party House on Sunday 12 March at 16:30, local time. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior. During this session, questions or comments submitted in the chat will be read aloud if you put them in the proper form. If you're remote, please wait until you are called upon and unmute your Zoom microphone.

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MANAL ISMAIL:

Thank you very much, Julia. Good morning, good afternoon, and good evening, everyone. Welcome to the GAC bilateral with the GNSO Contracted Party House. The meeting is scheduled for an hour. Thank you very much to the Registry and Registrar Stakeholder Groups for reaching out to the GAC to update us on the ongoing contract negotiations. Without any delay, let me pass this over to you Ashley and Beth to introduce everyone and get us started.

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ASHLEY HEINEMAN: Thank you very much, Manal. I'm Ashley Heineman, and I'm chair of the Registrar Stakeholder Group. Thank you very much for letting us be here today. This is something that we hope we can continue to do on a regular basis so we can share ideas and thoughts and where we are on different subject matter issues. Also, great to be here on your final GAC session. Well, not session, but GAC adventure at ICANN76. I guess we'll do a quick set of introductions and I'll get us kicked off with an overview of what we want to talk to you about today. I already introduced myself, I'll turn it over to Beth.

BETH BACON: Hi, everyone, I'm Beth Bacon. I'm the Vice Chair for Policy of the Registry Stakeholder Group, and I also work for PIR, and we'll be covering a bunch of issues. I also want to add my huge thanks to Manal. Thanks much for your time and for having us.

REG LEVY: My apologies, I thought I wasn't being introduced until much later. My name is Reg Levy. I am from Tucows, and I'm also honored to be presenting to the GAC today.

OWEN SMIGELSKI: Hi, my name is Owen Smigelski. I am Vice Chair for Policy with the Registrar Stakeholder Group, and I am with the registrar Namecheap.

CHRIS DISSPAIN: Hello, everyone, Chris Disspain. I advise on Identity Digital on policy matters. Good to see you all. I had the honor of serving on the Board with Manal, for what seems like a lifetime. It's delightful to be here today, in a sad way, but also in a good way.

JAMES BLAISDELL: Hi, I'm James Blaisdell. I am a registrar participant on the DNS Abuse Contract Negotiations as well as other groups. Like Chris, I remember joining the GNSO, about the same time Manal became Chair of the GAC. I left the GNSO Council many years ago, and the Council is probably better for it. You stayed, and I think this organization is better for it. Thank you, and congratulations on your successful term.

ASHLEY HEINEMAN: So back to me, and apologies for not having an agenda slide for you. I think we had some wires crossed. But to give you a little overview of what we're going to be raising with you all today. We're going to start off first with an update on where things are with respect to the DNS Abuse Negotiations that are currently underway between ICANN and the Contracted Party House.

We're also going to talk a bit about a tool that the Registrar Stakeholder Group has put together called ACID Tool. We've presented this to you before, but we want to make sure that you are aware of it and hear how it's being used. Because we do think this is something that's really helpful to those who want to know, for example, who the host provider is. That sort of thing.

Then we're going to go into something that we wanted to bring to your attention, and it has to do with Statement of Interest discussions that are currently underway in the GNSO, because we think they're particularly relevant to what's going on in the GAC as well as what this multi stakeholder model is all about. And that's transparency. But for the time being, we're going to start off with DNS Abuse Negotiations, and I'm going to turn it first over to Chris or Owen.

OWEN SMIGELSKI:

This is Owen Smigelski on the registrar side, I'm one with Chris. We are two of the co-chairs of the Negotiation team. I want to give you a little update on what's going on with the DNS Abuse amendments that the registrar's and registries initiated with ICANN in December. This came out, in part, in response to the GNSO Council Small Team on Abuse, where ICANN Contractual Compliance indicated that the current wording of the contract, they do not have the ability to enforce registrars and registries to take certain action to mitigate or disrupt DNS abuse.

A lot of the registrars and registries that are here in this room participating are certainly engaging in that, but we want to make sure that there's a level playing field that all registrars and registries are meant to do. And also, very importantly, that it's something that ICANN Contractual Compliance can enforce there. Some of the high-level points on this is that the purpose of the negotiation is to make a safer DNS that's not going to completely get rid of DNS abuse. We want to make sure that we're keeping this with some realistic expectations.

Not sure where eventually everything will go, but one of the reasons why we're doing this through the amendment process is because it's a lot

quicker. ICANN processes are good there. They get feedback and input from everyone, but they can take a while. We've been able to come up with and identify some areas where we can do some reasonable, achievable, enforceable obligations. And through these negotiations with ICANN, we hope that we can possibly get that done within 12 months of the trigger, which will be beneficial to the entire internet ecosystem.

We're defining some very targeted changes to the RA and the RAA. This isn't something where we're doing an exhaustive review of all sections of it. There are some sections in both agreements which deal with this, and some slight modifications to that can certainly go a long way in helping to reduce DNS abuse. We also want to understand that there are other boundaries in ICANN policies and processes, so there are other things that could happen after this negotiation process.

Also, another thing, as part of this negotiation process, there will be a public comment period. My recollection is I think we expect to have a red line prior to ICANN77, at which point we'll be able to share and discuss that with the community and incorporate feedback. One other thing is that we're setting out a floor, a minimum, that we would take registrars and registries take, not a ceiling. So, registrars and registries can go above and beyond. But there are some who aren't doing what we think their obligations should be. This will allow ICANN to ensure that those registrars and registries will have to do that.

Another thing to keep in mind here, and this is my understanding, this is the first time that the registrars and registries have triggered a negotiation through ICANN processes. We don't want to punish ourselves. There's a lot of good actors who are already involved in the

ICANN community. There's a bunch of abuse initiatives that the contractor parties have done, jointly and together. There's the DNS Abuse Framework. So there's a number of things already in process, and we don't want to punish those who are already doing those types of actions. What we're looking to do is incorporate those types of things into the agreement so that this would be something that'll be enforceable across all registrars and registries.

ASHLEY HEINEMAN:

Okay, thank you very much for that. What I would like to do is pause. We do have quite a few things on our agenda but if there's anybody that wants to ask a question or two now, happy to do so. Otherwise, we can come back at the end after we present the rest of the agenda. Quiet bunch. All right, well, I'm going to turn it now over to Reg who's going to go over the ACID Tool and what the acronym means as well, because it sounds quite scary at first blush.

REG LEVY:

Thank you, Ashley. So acidtool.com is the Registrar Stakeholder Group's response to the fact that very often, people come to a registrar when they should be going instead to a hosting company or perhaps to an email services provider. If you put in ICANN.org, it will very nicely spit out information about who the hosting company for that domain name is, and you can contact them directly. It also has the email service providers slightly lower down.

Even further down, you will in fact find the whole complete Whois output -- and you're used to what that looks like. That includes information about the registrant, if they have chosen to make that public. It includes

information obscured about a registrant, if they have not chosen to make that public. Or it may include information about a privacy service that they are using. It also includes information about the registrar themselves, and information about how you can contact them to address DNS abuse.

As a reminder, in most cases, DNS abuse that people find on the internet is in fact content abuse, and more rarely is it DNS abuse. It is the first two indications -- the hosting provider and the email services provider -- that are most likely going to be useful to somebody who is looking to make a report on a domain.

This is the information that we think most people are going to find most useful. However, there are some edge cases. If you could put in, and this is a weird one, regipsaloquitor.com This is a domain name that I own, it redirects to a different domain that I own. If you see a redirect, you're going to see information about the domain that doesn't seem correct. It is, however, going to show you the correct information that is going to send you to the company that does the redirection.

It doesn't have a hosting provider, which is why it doesn't show up. You can try ICANN.com if you want, but unfortunately, ICANN owns the name servers that it redirects to. So it can be confusing to someone because they're going to see what looks like an [ERA] output because the IP addresses are owned by or distributed by [ERA] and owned by, in this case, Tucows. It's a different abuse contact. If the redirect itself is abusive, you can contact this party or you can contact the registrar directly, because they are going to want to terminate the abusive redirect.

Again, this is for redirections. This is a bit of a crash course in how the internet works. Again, we're looking to improve this. If anyone has suggestions on what we can add to this, what might be additional useful information. We want this to be a tool that anyone can use to find out who to contact about a domain that is doing something that they do not like online. If it is DNS abuse, you should go to the registrar. If it is merely content abuse, you should contact the hosting company or the email services provider. Does anyone have any questions about our abuse contact identification tool?

ASHLEY HEINEMAN:

I'd jump in one quick second and maybe bring it down 10 levels. Oftentimes you might hear, "Why can't the registrar take action against this domain?" The reason why we'll say we can't take action against the domain is because we're not the closest to the content. If it has to do with content, the party that's best placed to deal with that issue is the hosting provider.

And then the question naturally is, "Well, then who is the hosting provider?" This is often information that's not easy to find, and we recognize that. So we thought it'd be helpful if we had this tool that you could type in the domain and when you get a response from us, "Well, we can't do anything about it, find the hosting provider," there's a resource that you have available to find that information. Because we realize it's frustrating. So this is intended to help you there.

MANAL ISMAIL:

Thank you very much, Ashley. I can see a hand up from Chris Lewis-Evans, UK PSWG co-chair, in the Zoom Room. Please, Chris, go ahead.

CHRIS LEWIS-EVANS:

Thank you, Manal. Reg, thank you very much for that. In the GAC Capability Workshop that we had yesterday or day before, we heard the importance of being able to identify the right point of contact to take action, and, as you say, the one closest to the abuse. So it's really an important aspect. But one of the things that we've said as a GAC is being able to identify the right registrar. And within the registrar business, there's lots of different types of registrars. And to pick on yourself a little bit, Tucows are renowned resellers. That is your business model, I understand. Will this tool identify a reseller for us to be able to go to the right point of contact to take action against that domain? Thank you.

REG LEVY:

Thanks, Chris. I appreciate the question. It is the case that Tucows is a wholesale registrar. If this is DNS Abuse, Tucows has a responsibility. We take action against DNS abuse. We usually send it to our reseller first to give them the opportunity, but you don't have to do that. However, in the case of content, we are going to say, "You should be talking to our reseller."

At this time, ACID Tool does not support the output of reseller information. For my company, I know that's available on our website. I don't know how other wholesale registrars handle that. That's definitely a wonderful recommendation, I'm going to take that back to the team and see if that's something that we can add in here -- whether or not it's relevant in each case and, if so, how we can get that information for you.

UNKNOWN SPEAKER: So this is a softball, Reg, for folks who may be interested in providing this information to their law enforcement agencies or consumer protection agencies. But using that wonderful voice we heard yesterday, can you tell us how we can access this great tool?

REG LEVY: It's acidtool.com. We chose that because it sounds fun and a cool -- ACID Tool, it sticks in your brain, especially if I say it a lot of times. It stands for Abuse, Contact, ID (Identify). It's an acronym that is reasonably easy. I know that everybody here in the ICANN community loves our acronyms, so here's another one. Acidtool.com is something that you can distribute to whomever you think needs to know information about a domain name, whether or not there's something bad on that domain name, they want to buy that domain name, some reason they want to contact the appropriate party for hosting or for email. It also includes Whois information. I do not see anyone else so I'm going to turn it over to Beth.

BETH BACON: Thank you. We wanted to bring up something that we thought would be of interest to the GAC and it's an update on the GNSO SOI discussions. The SOI is a Statement of Interest. It's something that, as a member of the GNSO, if you are going to participate in a PDP, you disclose who you are and who you represent in order to increase transparency.

There was a recent GNSO Operating Procedures Working Group, and a task force within that group has made some suggestions to improve that tool and increase transparency. While that process is still going on -- and wrapping up, hopefully, soon -- the issue of transparency in the operation of global stakeholder policymaking organizations is one that I think the

members in this room are very familiar with, both in ICANN and others, and would be supportive of transparency within the community. Transparency is one that's foundational to the multi-stakeholder model in general. Our transparent participation can only contribute to an increase in trust in our outputs from the multi-stakeholder model.

I'm going to open it up a little bit to questions. We know that you've been discussing this a little bit internally but we think it's an issue that's important to the entire ICANN community. We can always do better with regards to transparency within our policymaking processes. If there are more detailed questions, we have James Blaisdell on the panel as well, and he is a member of that task force. So if we have some more questions, happy to direct them his way.

JAMES BLAISDELL:

I can provide a little bit more context. As Beth mentioned, the GNSO as part of a broader review of some of its operating principles is taking a look at the Statement of Interest process. I think that this has flown under the radar a little bit as an effort, it's not attracting a lot of attention. It is important not only for the GNSO but for anyone who participates in GNSO policy development.

For example, if someone were to come from the GAC or from other parts of the community to a GNSO PDP to participate, they would also participate in this process of disclosing their interests and their background to ensure full transparency and to eliminate any conflicts of interest, real or perceived. This work kicked off and has come to some preliminary recommendations. One of which was, is the GNSO SOI still working? Is it still fit for purpose? Does it still have value? I think the

answer fairly convincingly across this taskforce has been yes, that this is still a useful policy for upholding our commitment to transparency at ICANN.

There was another proposal that the SOI can sometimes become very complicated and so that perhaps it would make sense to have a generic SOI for the person and then a specific SOI for that particular working group or policy or perhaps elected office so that you can be a little more specific on how your interests align with that particular piece of work. And I think that's also fairly non-controversial. Where I think we have gotten stuck as a task force is on a question of transparency for participants in GNSO policy development that may be acting as representatives on behalf of other parties, other entities, other individuals.

I think there are some very clear voices, both from the registries and the registrars, that we would like to see a disclosure of the clients or the benefactors or whomever it is that has sent that person to the GNSO policy as their representative. Others within the GNSO have noted that this might create a confidentiality question between them and their clients and have asked for an exemption for lawyers or consultants or other sorts of paid advocates. Our position, I think, has been very clear since the first outset. We don't think there should be a two-tiered approach to transparency, that everyone should be held up to the same level of scrutiny, that everyone should be as forthcoming as possible on this issue.

I think there was some excellent work done by PIR, During the first public comment period, Brian Cimboric, who's is in the audience, wrote an excellent comment and noted that most governments around the world

including the US government and the EU, have similar requirements when you engage with those policymakers, that you must disclose who you are representing. I think that this is a good and noble requirement for participation in ICANN policy development as well.

The last point on this is, if there is a way out of this it would be to simply ask these advocates to go back to their clients and get their permission to disclose their identity, then the problem is solved. If a client refuses, then I think that's a pretty clear signal that we probably shouldn't have them participating in ICANN policy development if their condition is that they require anonymity. This is something that's gotten the Working Group a little twisted up here.

As far as where we go from here, we're going to meet briefly. I don't expect that we'll have another work product put out between now and the end of ICANN but there is discussion now for perhaps a second comment period before these recommendations are submitted to the GNSO. But this is something I think that has been slept on a little bit, maybe some folks haven't been paying much attention. There's a lot more interesting topics than the SOI, but in the last few months, and particularly in response to the blog post and the public comment from PIR, there's a lot more attention being paid to this issue as we get towards the end. Hopefully, that was helpful context. Thank you.

MANAL ISMAIL:

Thank you very much, James. I see the USP. Susan, go ahead.

SUSAN CHALMERS:

Thank you so much. I think there are a number of excellent points, James, that you made in your intervention. It seems that the recommendations that have been issued from this exercise within the task force at the GNSO fail to require participants to disclose who they represent at ICANN policymaking processes. I think, from our perspective, we fail to understand why this is an acceptable practice. Engagement at ICANN should not be anonymous, and I'm happy to offer some further thinking on why that is.

First, the importance of transparency is outlined in ICANN's bylaws. Second, ICANN, speaking as a government that fully supports the multi-stakeholder approach, transparency is incredibly important to ensure the trust and confidence of governments in the multi-stakeholder process. ICANN's processes must be fair and transparent. Earlier today, we flagged this issue as a question to raise in our bilateral with the GNSO, so we intend to address it there. But thank you again for your presentation of the issue and we would welcome any further comments from GAC colleagues during the session if there are any further questions. Thank you.

MANAL ISMAIL:

Thank you very much, Susan. I also see support in the chat from Nigel from the UK. Are there any further questions or comments? I see Australia also supporting in the chat. Yes, James, please go ahead.

JAMES BLAISDELL:

Thanks, Susan. I wanted to respond. Someone mentioned in the chat that that was a one-sided summary and commentary. Applicable laws require confidentiality in certain contexts, for example, to protect

attorney-client confidentiality. So, just a couple of notes. First of all, this is the position of the Registry and Registrar Stakeholder Groups, the contracted parties. And we are 100% aligned on this issue. If I sound one-sided, it's because I'm presenting the side that I was sent here to present. I hope that's clear.

Then secondly, I'm not a lawyer, but I'm sure that there's plenty here in the room. The identity of a client is usually not subject to confidentiality. What you advise a client or how a client asks you to advise may be subject to different. And that's, I know, specific to US and other jurisdictions, and not always understood globally. But what we're asking for disclosure of is identity, not the subject matter, not the positions, not the advice given, not the advice taken. None of that. Just, who are you?

And I think as we move towards a more representative model in a multi-stakeholder model, and we have so many seats assigned in a policy development for registries or registrars or ISPs or non-commercial, we have to be sure that the person who is occupying a registrar seat is the registrar. It wouldn't be clear if everyone were sending their advocates to policy work. So I wanted to address that particular comment, particularly the part about it being one-sided. It absolutely is one sided. In fact, its two-sided, registries and registrars are aligned on this. Thanks.

CHRIS DISSPAIN:

I just wanted to build very briefly on one point that James has made. I think the key point here is, it's not that you are obliged to say who your client is, it's if you want to involve yourself in the process you're obliged to say who your client is. You can come along to an ICANN meeting and act for anyone you like, and you have to say that. But if you want to be

involved in the policymaking process and you want to be involved in working groups, etc., it has to be that you say who you're acting for, who you are. Otherwise, it doesn't make any sense. And it applies just as much to a government client, for example, as it would to a commercial client. Thank you.

MANAL ISMAIL: Thank you very much, James and Chris. Beth, is this to the same point? Because I have two other requests for the floor. Okay, then I have Switzerland and then Canada. Jorge, please go ahead.

JORGE CANCIO: Thank you. Great to have you here with the GAC. I think this is a very interesting conversation. Thanks also for raising this point about SOI and transparency. I think, at least most of us, or those who have spoken out about this seem to be in violent agreement with what you were expressing before. Perhaps the practical question is beyond raising this also with the GNSO Council, which we will do under any other business, is whether there are any practical steps we can take as GAC to chime in into this conversation. Thank you.

MANAL ISMAIL: Thank you very much, Jorge. I have Canada next. Jason, please go ahead.

JASON MERRITT: Thanks a lot. Thank you for coming here and giving us a bit of an overview of what's been going on there. We fully appreciate it. to be brief, and say that, as Canada fully supports this notion of transparency, and we

would to see what we can do to help this process along the way. wanted to get on there and say that, thanks very much.

MANAL ISMAIL: Thank you very much, Jason. Beth, over to you.

BETH BACON: I'm actually raising my hand on behalf of Brian Cimbolic who's in the back and doesn't know how to do it.

BRIAN CIMBOLIC: Hello, everyone. I'm sorry for that. Brian Cimbolic, PIR. So, to the point -- and thank you, James, and thank you for the work of everyone participating on this -- the notion of confidentiality, obviously, that's an important thing, as an attorney, that we have to keep in mind. But it has essentially become normative around the world in policymaking bodies that disclosure of client identities is required prior to participation.

While, yes, confidentiality is key, in those bodies, what happens is the attorneys gather informed consent, they get the permission from the client, they disclose the identity, and they engage in the policymaking process. I don't understand any good reason other than convenience or a preference for anonymity that we would require any less from ICANN. The ICANN bylaws require that, I quote, "ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner."

The OECD has published standards on transparency and policymaking. The European Union, the United States, these are attorney-client

relationships that require informed consent and the attorneys get that informed consent. If a client is unwilling to have its identity disclosed, it should not be participating in the ICANN policymaking process, for the sake of transparency so that we can trust the results of the multi-stakeholder process.

MANAL ISMAIL:

Thank you very much, Brian. I would ask everyone to please speak slowly for the interpreters. I have a hand up from the US, Susan, please go ahead.

SUSAN CHALMERS:

Thank you, Manal. I'm, by way of a thought experiment, trying to imagine negotiating a position in a multilateral setting where my flag says Somewhere From the Western Hemisphere. I think that probably would not work for us. I'm just trying to put that in a context that perhaps we can all appreciate the importance of transparency and the role that it plays when we are in negotiations.

I did want to circle back to Jorge's question, which I thought was very helpful. Given that this site sits within the GNSO and it's in this particular process, I think Jorge does raise a good question of how we could discuss GAC input, if it could be regarded procedurally. So I think that is worthy of further discussion. I was also hoping that since we have some more time, I would like to circle back to the negotiations. I know that is a topic of high interest to the GAC but I was remarking how notable it is that the contracted parties themselves triggered the negotiations. And I was wondering if you could share some further thinking on what instituted that proactive step. Thank you.

MANAL ISMAIL: Thank you very much, Susan. Chris, would you like to respond?

CHRIS DISSPAIN: Susan, thank you. To go back to your first point in respect to transparency, you first need to hear the other side of the argument. As James has pointed out, this is a one-sided discussion, and I'm sure that there is another side. But I do think that it's always open to you to make comments and it's always open to you to say what you think, and telling people directly doesn't do any harm either.

In respect to the negotiations, in essence, a small group of registries and registrars were discussing this and came to the conclusion that the floor could be raised usefully and relatively easily. Then had a wider discussion with a larger group of registries and registrars and there seems to be a general consensus that entering into some discussion with ICANN to negotiate would be a useful thing to do and, as has already been said, would be quicker than any other process. That said, it is also the only process because it is a contractual matter. This particular side of it is a contractual matter. That group of registries and registrars approached ICANN and said to ICANN, "Is this something that you think would be worthwhile and you'd be interested in talking about?"

And I have to say that the response from ICANN was immediate, helpful, and embracing. And so, we step forward into that process. The first formal part of which -- I think I've got this right -- was the formal letters from the registries and registrars to ICANN initiating the process. And since then it has been a negotiation in the same way that most things are a negotiation between two parties that have a contract. Is that helpful?

MANAL ISMAIL: Thank you very much, Chris. Yes, please go ahead, Ashley. I recognize UK's hand up.

ASHLEY HEINEMAN: Just to follow one the questions, just in case it's not clear to everyone in the room how this process works. In order to enter into negotiation, we have to do -- it's articulated in our contract that there must be this trigger letter and it must include certain information. That's why you saw that formalized exchange of letters. The first time being that we initiated the trigger. In the past, it's been ICANN initiating the trigger. That explains why you saw that very formal letter.

MANAL ISMAIL: Thank you very much, Ashley. I have the UK and then the European Commission. Nigel, please go ahead.

NIGEL HICKSON: Yes, thank you. Perhaps the European Commission should go first, and I'll come after. Thank you.

MANAL ISMAIL: Thank you, Nigel. Gemma, please, if you would like, go ahead.

GEMMA CAROLILLO: Thank you, Manal. Good afternoon, colleagues. Greetings from Brussels. I'd like to thank Susan for bringing back the topic of the contra

negotiations. This was the first one on the agenda but I must say it went very fast so I wasn't able to intervene earlier. I have a question concerning the expected outcome of the negotiations in the sense that, of course, we take it you cannot share much details about the specific details that are being negotiated.

But this is a topic which, for the GAC, is extremely important. It's been years that the GAC intervenes on the topic of DNS abuse. Also, we take it this is very important that both parties are willing to reopen the contract, which again, is not something which happens regularly. You accept a series of adjectives like reasonable, achievable, measurable, enforceable, but how would you define success for these negotiations? What's good enough, from your side -- from the Contracted Party side -- since this is a one-off into this exercise for this moment? Thank you.

MANAL ISMAIL: Thank you very much. Chris, please go ahead.

CHRIS DISSPAIN: Thank you for the question. I think it's an interesting question and I think there are two answers. The first answer is we will measure success by the fact that the two parties agree. A clause is to be placed into the contract and at the end of the process those amendments are made and the contract is signed. If what you mean is how would we measure success about what happens after that in respect to the new contract, I don't have an answer for that question. It's way too complicated a question about what will happen in respect to DNS abuse and involves me going into much detail on the way that the contract is written.

However, what I will say -- and I hope it's been made clear already -- this is not the end of the process. The process is about getting this done, raising the floor, and then looking at the rest of the stuff that needs to be looked at from a community perspective. Because no one is suggesting that all of the stuff to do with DNS abuse should be done in contractual amendments. We're taking this as a first step and then we'll take on a whole series of other steps in order to deal with the details.

OWEN SMIGELSKI:

Thanks, Chris. I think success can also be measured by giving ICANN Contractual Compliance the ability to enforce these obligations to take action against DNS abuse. When we refer to DNS abuse, I know there's a number of interpretations and definitions, what we 're thinking is defining that as things that have been discussed already within the Contracted Parties, within the SSAC, it's phishing, farming, malware, botnets, and spam when delivering those other four types. This is not going to be covering content or registration data accuracy for spam not related DNS abuse. The goal is to get that so those types of abuse will have to be actioned and ICANN Compliance can make registrars or registries have to take the action to mitigate or disrupt that type of abuse. Thanks.

ASHLEY HEINEMAN:

I'm going to give one quick add on to that and point to a letter that Sam Demetriou -- who's on maternity leave at the moment, congratulations to her, who is the chair of the Registry Stakeholder Group -- and myself wrote to Göran when he was the CEO. And it articulated a number of

things, including some of the rationale for why we were entering into these negotiations.

If you look, for example, at the registrar's contract, there's language in there that said that we needed to respond to DNS abuse reports. If you look at that at face value, it sounds like all we have to do as registrars is say, "Thank you, we got a report. We responded to you. That's our response so we are therefore in compliance with our obligations."

I think what we're looking at specifically, as an example as registrars, is how can we tighten that up so it has some language that requires us to take action against abuse, as opposed to responding to an abuse report. And I think this is exactly what the community has been asking for. I know it was a focus of the Small Group Report on Council. This is our effort to take concrete action to see that we are held responsible for taking action against abuse.

MANAL ISMAIL:

Thank you very much, Chris and Ashley. James, do you want to add, please go ahead.

JAMES BLAISDELL:

To the question of motivations that Susan raised, registries and registrars, for the most part are businesses. I know that some are nonprofits. A lot of them have made extensive investments in the people, the training, the tools and the technology to detect and mitigate DNS abuse. The desire to, as Owen put it, raise the floor, I think comes from a place of wanting to protect that investment and not allow other areas of the community

to continue to operate on equal terms without having taken those responsibilities and factored them into their business.

As one of the old dinosaurs that worked on the 2013 RA, this is exactly what this provision was designed to do, to allow for an expedited change to the contract when both ICANN and the Contracted Parties agreed that a change was necessary, and not go through a multi-year-long drawn-out process to expedite those changes through direct negotiation. So I'm quite pleased that it's working as designed.

MANAL ISMAIL:

Thank you very much, James. And thank you very much, Nigel, for waiting patiently. I have Nigel, UK, and then Gemma from the European Commission. Nigel, please go ahead.

NIGEL HICKSON:

Thank you very much. Nigel Hickson, UK GAC Rep. First of all, I'd like to thank the panel for one of the most constructive discussions I've witnessed in a long time. I think it is so essential, necessary, and really good of the -- and good is one of those words that we use which doesn't convey the message -- but for you to come and tell us about what's going on in these very important discussions. And it's even more gratifying to hear from Chris Disspain. He said, to an extent, that you came to the table and voluntarily stepped up and entered into these negotiations to enhance the fight against DNS abuse. I think it's all credit.

For the UK, we're not going to ask any questions about how the negotiations are going. It's not our business. Probably the GNSO will report to the GAC the discussions that we're having with the GNSO, and

probably the Board will also discuss this with the GAC in terms of how gratifying it is for these discussions to take place.

And the point I want to make on this, because I think sometimes what can be misconstrued for whatever reason, we totally agree that the subject of your discussion might be apples and pears and we're not going to ask about how you're cutting this apple up or how you're peeling this pear. That's your business, and we'll be very pleased to hear the public consultation before Washington, or whatever.

But as Chris says, we might come back and you might say yourselves, "Well, we've peeled the apples and pears and we recognize we've got to do something about the bananas." But that's going to take a bit more thought, and we might need a different process for that or whatever. I am not going to speak on behalf of the GAC but the impression I get from other GAC members is that we'd like to know what's going on but it's your business, and we're very happy that you're here today to talk to us. Thank you.

MANAL ISMAIL:

Thank you very much, Nigel. I have Gemma from the European Commission, and then Jason, Canada.

GEMMA CAROLILLO:

Thank you, Manal, for giving me the opportunity. I want to thank the speakers and the panelists because they took the time to answer. I wanted to say two things. First of all, from our perspective, the European Commission, it's very good that these negotiations are proceeding swiftly. This is what we have been hearing today. We heard it at the

briefing as well. Of course, for us the conclusions of the negotiations is not success, per se. It will depend on what is agreed on in the negotiations.

I understand again, these are not details we can discuss today but two things which were mentioned by the speakers are very important. First of all, I understand very often we get reports and then what we are going to do, say thank you very much? One very important point, from our perspective, is that there is some impact in terms of the preventive measures. Because this is one key point. A reaction only, it's clearly not effective in mitigating DNS abuse, and especially in preventing DNS abuse.

And then the other element is that there has been much investment and there are actors who are showing excellent practices. This is another element which makes me say it is very important, from our perspective, that there is something which provides incentives to those who have good practices in place. It's not only a matter of coordinating those who are not [inaudible - 00:52:32] which of course, it's a very important objective. It's also a matter to incentivize, to promote the adoption of very good practices.

Once again, since this is a key moment, important enough for two parties to discuss the legal basis, the contractual basis, it's important that this is also one possible successful outcome of the multi-stakeholder process. This is not the multi-stakeholder negotiations. Not all parts of the communities are, of course, involved in the negotiations but if the negotiations between the Contracted Parties and ICANN prove to be successful and effective, I think this is something which will bring the flag of the multi-stakeholder model very high. Thank you very much.

MANAL ISMAIL: Thank you very much, Gemma. Canada, please go ahead, Jason.

JASON MERRITT: Thank you very much. I'll be very brief because I think what I'm going to say has probably been articulated in some way or another. We respect the fact that this is a contract negotiation. So that's something that's not lost on us. We also appreciate the narrow scope that's intended to potentially move the needle on something that is really important to the organization and to the GAC on addressing DNS abuse. I think all of these things together, it's a fantastic initiative that's underway and we're very optimistic and hopeful that it moves forward. So, thank you for that.

MANAL ISMAIL: Thank you very much, Jason. Any final requests for the floor, or final notes from your side? Kavouss, please go ahead.

KAVOUSS ARASTEH: Thank you very much. I'm asking myself is the term negotiation the proper term in this respect? When you negotiate, you give something, you take something. But DNS abuse is not something that we take something and they give something. We want to mitigate that. Perhaps the use of the term negotiations in your discussion with the other party, but not on the substance of the mitigation of the DNS abuse.

So we have to be a little bit clearer about that. Because the term negotiation has very broad meaning, a way through or an approach to reach agreement on a difficult subject, and so on and so forth. So I don't

know whether you want to reach an agreement on DNS abuse or you want to mitigate the DNS abuse. What is the situation quite clear of the term negotiations? Thank you.

MANAL ISMAIL: Thank you very much, Kavouss. Chris, please go ahead.

CHRIS DISSPAIN: Thank you, Manal. Thank you, Kavouss, and you're absolutely right. We're not actually negotiating what is DNS abuse, we're negotiating the terms of the contract. The discussion, the agreement about what DNS abuse is is not what we mean by negotiation. We simply mean negotiating the wording of the contract. So in that context, the term negotiation is correct. In every other context that you refer to it wouldn't be. Thank you.

MANAL ISMAIL: Thank you very much, Chris. Any final comments from the panel? Beth, please go ahead.

BETH BACON: I just wanted to take a moment and say thank you very much. I know that the GAC has a very busy schedule, and you spent a lot of time digging into all of your topics and making time for us. It's very much appreciated. I also wanted to express our appreciation of the give and take, it's been a great conversation, we learn a lot from you. And this is our opportunity, I think, to have those open discussions. So, just a big appreciative thank you very much.

ASHLEY HEINEMAN: Plus one to what Beth said, but also, as it is my hope that we continue to do this on a regular basis, if there's ways that we can improve this dialog to make sure that we are having discussions as opposed to us talking at you, we're certainly welcome to do it. Because again, I think there's a lot of value in having us exchange ideas and understanding our different perspectives. Thanks again for having us. Thanks again, Manal, looking forward to seeing you all at future ICANN meetings.

MANAL ISMAIL: Thank you very much, Reg, Beth, Ashley, Owen, Chris, and James, and thanks to my colleagues for the active participation. It has indeed been a very good discussion. Thank you very much for reaching out and for this timely update. For GAC colleagues, we will be meeting tomorrow after lunch here in the room and this would allow you time to attend the ICANN76 welcome ceremony and the Q & A with the ICANN executive team. Both will be held the first half of the day. Please be here in the room tomorrow, 13:15 Cancun time, 18:15 UTC. Thank you very much everyone.

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